

Regulation, public water management and market environmentalism in Mexico: an analysis from political projects

Normatividad, gestión pública del agua y ambientalismo de mercado en México: un análisis desde los proyectos políticos (2012-2018)

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Abstract

This document aims to characterize the premises and implications that have been given around the debate on water management in Mexico during the sexennium (2012-2018), through the categories of political projects and market environmentalism. In this process, a dispute between two political projects is identified for the definition of water as a matter of public interest. The former subordinates -from the use of representative democracy- such interest to a perspective of favoring the

use of water for economic growth. The second deals with a heterogeneous political project identified as "from below" that resists the processes of privatization and commodification of water, placing as a priority the human right inscribed in article 4 of the Mexican Constitution. The methodological approach is based on a qualitative technique called discourse analysis. The article reviews the debate that took place around the proposed National Water Law initiative. Likewise, the 10 Decrees of Water Reserves published by the Federal Executive in June 2018 are identified, both cases are presented as emblematic of the national debate on water management in Mexico. The review characterizes the domain of the neoliberal political project in water management, which tries to focus on the use of liquid as an input of mega projects under a discourse that even uses as rhetoric the human right to water and an environmental balance.

Keywords: Water Markets, Political Projects, Human Rights, General Water Law, Reserve Decrees.

Resumen

El presente documento tiene por objetivo caracterizar las premisas e implicaciones que se han dado en torno al debate sobre la gestión del agua en México durante el sexenio 2012-2018, a través de las categorías de proyectos políticos y ambientalismo de mercado. En este proceso se identifica una disputa entre dos proyectos políticos por la definición del agua como un asunto de interés público. El primero subordina —desde el uso de la democracia representativa— dicho interés a una perspectiva de favorecer el uso del agua para el crecimiento económico. El segundo trata de un proyecto político heterogéneo identificado como "desde abajo", que se resiste a los procesos de privatización y mercantilización del agua, colocando como prioritario el derecho humano inscrito en el artículo 4 de la Constitución mexicana. La aproximación metodológica se realiza a partir de una técnica cualitativa denominada análisis del discurso. El artículo revisa el debate que se dio en torno a la propuesta de iniciativa de Ley de Aguas Nacionales. Asimismo, se identifican los 10 Decretos de Reservas de Agua publicado por el Ejecutivo Federal en junio de 2018; ambos casos se presentan como emblemáticos del debate nacional en torno a la gestión del agua en México. La revisión caracteriza el dominio del proyecto político neoliberal en la gestión del agua, el cual trata de enfocar el uso del líquido como insumo de megaproyectos bajo un

discurso que incluso utiliza como retórica el propio derecho humano al agua y a un equilibrio ambiental.

Palabras clave: mercados de agua, proyectos políticos, derechos humanos, ley general de agua, decretos de reserva.

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Introduction

The Mexican society is facing a conjuncture in the dispute over the promotion of water management different models. The publication in the Official Gazette of the Federation of 10 Decrees (June 6, 2018) (DOF, 2018) for the lifting of the ban and the declaration of reserves in 295 basins of the country 757 basins (equivalent to 55% of lakes and rivers of the national territory) has again placed the potential confrontations between the use of the liquid towards the human, ecological and economic rights. Such decrees now become iconic examples of the national debate that has existed in the last three decades, whose beginning of the political process we can place in the creation of National Water Commission (Conagua) in 1989. During the federal administration of Enrique Peña Nieto (2012-2018) at least two critical junctures of this dispute can be identified. On the one hand, there is the context of structural reforms (especially energy) and its derivation in the initiative of a new General Water Law (LGA) by 2015 and the current presidential decrees of lifting of closures to reserve in June 2018.

As a background, these public policy actions present a model that subordinates water management to the economic policy agenda from various areas, one of which is the promotion of concession schemes for various megaprojects of the private incentive - and the consequent use of market instruments-. From the economic point of view, the scheme has been justified as the most efficient and suitable mechanism to carry out the water allocation processes; but at the same time as a matter of

public interest according to its contribution to economic growth. For several authors like Toledo (2016), it is about promoting investment projects in areas such as automotive assembly, mining and gas extraction (fracking), all of them with large water requirements that depend on articulation with hydraulic megaprojects such as main sources of supply and the development of markets for the reallocation of water to uses that generate greater added value.

A turning point in the national debate for water management occurred in 2013; when Conagua undertook several meetings with the Legislative Power and "social" interlocutors, mainly businessmen to promote the LGA initiative, called the 'Korenfeld Law' (Caldera, 2017). It is 2015 when the ruling of the draft LGA decree is published in the Parliamentary Gazette of the Chamber of Deputies (approved in commissions in general by PRI, PAN, PVEM and New Alliance) *Gaceta Parlamentaria*, 2015. This attempt to reform the National Water Law (LAN) represented the way in which the federal government, through Conagua, tried to consolidate the "mercantile-environmental" paradigm, which had been developing since 1980s (Aboites, 2009), but that it found resistance from different resistance mobilizations against water megaprojects, civil society organizations and the academy forcing the federal government to postpone the new LGA indefinitely. While everything indicated that the current federal administration would relegate the issue of the LGA to the incoming administration in December 2018, the scenario took an unexpected turn in June of this year with the signing of the afore mentioned Water Reserve Decrees (DRA, by its Spanish acronym) (DOF, 2018).

This institutional architecture of water management, based on the market system, today has a highly relevant component in the national debate between different political projects. The impulse of the neoliberal political project in Mexico is located at the beginning of the 1980s with various State structural adjustments and reforms, but intensified during the present administration with the Energy Reform. The so-called "Pact for Mexico", endorsed by the three main political parties (PAN, PRI and PRD) representatives of the legislative power, approved the structural reforms to favor the use of the market as a guiding principle in the main sectors of the Mexican economy.

Located in this contemporary national debate, this article aims to identify and characterize the premises and implications that have been

given in water management during the administration of Enrique Peña Nieto (2012-2018) as a debate between different political projects to impose/resist market premises. On the one hand, it highlights the dispute over water management models, which is not alien to the discussion of the transformation of the State in favor of the emergence of market institutions.

The document is structured as follows. Section one explains the methodological criteria of the approach. The second section considers the analytical referents of "political projects" and "market environmentalism" which characterize the projects and interests in conflict over water. The third section makes the narrative of conflicts for water management based on the theoretical and methodological structure previously indicated. Finally, the conclusions and the bibliographical references are presented.

Methodological approach

The methodological approach is based on the qualitative technique called discourse analysis; which implies a particular relationship between the instance of the theoretical construction and the instance of empirical operation in which ethical presuppositions and prescriptions are explicitly recognized; thus its association "to a specific perspective on the construction and processing of data" (Sayago, 2014). It is a hermeneutical method. With discourse analysis, the relationships between texts and reality are explored, in order to make the discourses visible from their points of origin; as well as the identification of the context in which the languages of the actors are expressed (Urra, Muñoz, & Peña, 2013), which in this case is expressed in the discourse of public water management.

From this perspective, two components are identified. The first is the one that presents the most concrete or empirical character; consisting of a description of main public policy actions carried out by the Mexican government in terms of public water policy. Emphasis is placed on the collection of information from two types or sources of information: a)

the discourse expressed in written records in an explicit manner; such is the case of legal documents such as laws, initiative of laws, issuance of decrees related to the topic of water management in particular and economic policy in general; b) the context; that is, the text within a set of power relations between social actors, in this case within attempts to reform the regulatory framework of water management in Mexico in the last six years (2012-2018). The second methodological component occurs at a more abstract level from the identification of different ordering categories. In this case, there are two main categories: political projects and market environmentalism. The category of political projects offers elements to address the understanding of the current political crisis of water (Caldera & Torregrosa, 2010; Caldera, 2015), framed by the disagreement between society and the Mexican State for the promotion of the latter toward market institutions.

On the other hand, the category of market environmentalism allows to explain the premises and notions of the commodification of water involved in the neoliberal project. As Bakker (2005) points out, market environmentalism consists of transferring natural resources to the sphere of the market itself, defining them as economic goods and dealing with these rules for their allocation. The privatization, commercialization and commodification categories are key to defining the neoliberal project progress, market category is the most advanced and radical which concretes the incorporated natural resources to the market system in its own logic.

This type of methodological approach allowed us to specify the active role of the actors and components of political-economic tension posed by neoliberalism under its project of market environmentalism for the water axis.

In the next section we will address the theoretical premises from which the government discourse (records) is addressed, where the mercantilizing tendency of water under the neoliberal logic has dominated.

Analytical orientation

Political projects

The concept "governance" has a recent use (not always homogeneous or coincidental) to refer to the change in the management pattern of society in the management of public, it is done from a continuous variant of positions with respect to the deepening of democracy around the relations between State, society and market (Caldera, 2015).

The concept has been used to describe the fact that several social policies and public services have begun to be carried out through formulas that not only include the responsibility of the Government, but also with the action and participation of diverse economic and social agents (Aguilar, 2006).

However, the spectrum of positions, belief systems and conceptions of the world are variant and, most of the time, in conflict for the economic interests at stake.

The interest on political projects is the attention in subjective and social processes associated and identified as the "programmatic beliefs" that operate in the space between the world visions and the specific ideas about public policies that have the actors involved in a public issue (in this case, water management); they are the "public policy nuclei" that provide a set of diagnoses and prescriptions for actions from the actors involved in water management. This way of explaining the actors beliefs and desires is the description of the theories that group and articulate them in a set of understandings of the world, that is, it configures political projects that will be the flag to defend the design of policies and the search for their results (Dagnino, Olvera, & Panfichi, 2006: 39).

We can understand these positions as 'political projects' in dispute around the constitution of the public (where obviously there is the mechanisms design for allocation and distribution of scarce goods, such as water). The political projects are understood by Dagnino, Olvera and Panfichi (2006: 43) as the "set of preferences, interests, world conceptions and representations of what life should be in society, which guide the political action of different subjects". The type of link that is established between political society and civil society is directly related to the coincidence of the existing political projects, which can be - given the Latin American experience - or of an authoritarian, neoliberal or democratic-participatory type.

In this paper, we characterize two political projects related to the water governance approach. These are projects that dispute "the democratic construction" of the present and future of our countries, as well as the paradigms of understanding the possibilities of State-society relations, and of these with the environment through water resources.

The first aspect is linked to the "neoliberal" project, which sees the reform of the State as a transformation "from above", with a society only taken into account in its client dimension, consumer of scarce goods or competitor around uses in search of water management efficiency. On the other side of the spectrum is the "democratic-participatory" political project that seeks to recognize the limits of representative democracy, the potential of the community as a possibility of the sustainability of non-market interdependencies (Santos, 2004) and a balance of relations between it and the environment through a naturalization of access to water for life.

In the last thirty years there has been an intense debate about the best form of "water governance" under this scheme of dispute between political projects (Caldera & Torregrosa, 2010). In this period, the clear confrontation of two defense coalitions based on their conception of the nature of water are identified: on the one hand, the coalition that promotes the vision of water as an economic good (linked to the neoliberal project) and to the market as the best assignment instrument; and on the other hand, the coalition that identifies water as a social or common good, as a human right (expression of the democratic-participatory project).

Although the Integrated Water Resources Management (IWRM) scheme has managed to match a variety of actors on its advantages, the discussion of the instruments and the structure of operation and result are usually part of the tensions for the formulation of public policies. There are coincidences among the majority of stakeholders that management at the basin level is the most appropriate to achieve better environmental development and conservation objectives, but the differences and opinions are determined by the core visions around the nature of water. In this sense, the IWRM, more than being a purely technical discussion, is also essentially political based on the purposes attributed to it. The dispute at this level is about the level of decentralization in the decision-making process and the intervention of

local authorities against the centralized administration and the scope of social participation.

On the one hand, the neoliberal political project starts from the vision of water as an economic good, which makes IWRM understood as the best instrument to create water markets, where actors of competitive uses look for the allocation of scarce resource more efficiently. It is understood that property rights over water should preferably be private or the management of related services should be managed under market premises. Basin-wide management allows the care of natural resources in both capital (resource or productive) for the sustained development of the region (Bakker, 2005). Management at the basin level is seen as a space in which conditions of 'good governance' can be created, that is, tripartite cooperation and partnership schemes (State, market and civil society), and participation of society in a limited way to attack the water crisis and produce desired futures. Under this conception, the central government should seek control of the allocations seeking essentially efficiency, as well as the principles and guidelines of policy to be implemented at the basin level to facilitate competitive exchange between uses, where those involved, essentially users with property rights, participate in a complementary manner.

While the democratic-participatory political project starts from a vision of water as a social good or human right. IWRM is mainly promoted as a means in which the public property of the good materializes at the basin, sub-basin or aquifer level, and that under the principles of equity and social justice, the allocation of water is primarily used to cover basic human needs, alleviate the conditions of poverty, conserve the environment, cover community use and is not just another input for the economic development of the basin (Arrojo, 2006). Care for environment at the basin level is based on an intergenerational commitment for future societies. Public authorities must guarantee the management of the basin, or basically of a social nature, mainly at the regional and local government levels that enjoy broad democratic legitimacy and are conducted under democratic principles. Differential influence capacities of users and government are recognized while the governmental apparatus ensures balance. Local government and community should be responsible in water management, involving them in regulation design, supervising opportunistic behaviors from users and establishing sanctions (Ostrom, 2000).

The basis of the dispute is between being a 'citizen of the State', or a 'citizen of the market'. The neoliberal political project (water as an economic good) in this period has achieved certain hegemony, supported by multinational companies abilities to influence that are committed to this political project, and even a majority of governments, both developed and developing, that adhere to the neoliberal development model. The techniques used by the coalition attached to the neoliberal political project that explain its effectiveness during this period include not only the argumentation in favor of liberalizing water markets and assigning property rights, it even comes to use the categories of the human rights to water to justify megaprojects of extraction, storage and conduction of water to operate them through private ones and obtain partial benefit for the community.

In this sense, it is recognized that water institutions are both the result and the vehicle of political processes, which have shaped the institutional change and its results in water management (Castro *et al.*, 2006). The political processes are related to the exercise of power and can be better understood if they refer to a process of confrontation between rival political projects around the very understanding of the water crisis (understood as inequitable access, scarcity and contamination) and the strategies to face it, that is, public policies.

In this sense, the issues related to water governance that are more disputed are: a) Under what principles is the best water governance achieved? (b) How to achieve it? With whom? (c) With what objectives? With what programs and projects?

The political projects are taken as 'ideal types' of what the actors defend at a given moment, from their conception of the nature of water, of the understanding of the origin or causes of the problems, as well as the solutions and their strategies that are considered as the most adequate to overcome the water crisis. The observation of both the political projects defended by each set of actors and the asymmetries of power in the institutional development and the performance of public policies becomes basic to a good understanding of the governance process.

Table 1. Configuration as ideal types of political projects defended by the actors in the water governance process. Source: Caldera & Torregrosa (2010).

Water as an economic good	Water as a human right
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Water is an economic good and the market is the best instrument for efficient allocation.	Water is principles of equity and social justice must govern a universal and inalienable right, constitutive of human dignity, its allocation.
The allocation problems among competitive uses should be solved, trying to care for natural resources as scarce economic goods.	The problems of inequity in access to water must be solved, overcoming poverty and ensuring the sustainability of natural resources in an intergenerational commitment.
Instruments by basins are a means to efficiently structure water markets and introduces incentives for the care of the environment.	Basin management is a means that allows democratic participation and fair allocation of water Management by basins also makes transparent and sanctions possible actors opportunistic actions.
Participation occurs in public-private partnerships. Water markets exist at the basin level. Property (private) rights over water are necessary.	Civil society ensures participation and democratic control over water management. Public ownership of the water must be ensured.

Recognition of the dispute from political projects defended in the construction of water institutions must be given in the different orders of interaction between protagonists of the debate, design and adoption of policies. At the end, it is about implementing actions to deal with the main problems related to scarcity, distribution, quality, use and guarantee of access to water.

The attributes, broken down in the table, allow to emit a series of analytical reflections of high interest in the confrontation of management models about an entity of public interest: water. It should be clarified that it is not about promoting the issuance of value judgments with a bias between a good versus a bad model. In this sense, the importance of water as a relevant input in economic and social development is not rejected. Rather, it encourages a reflection on the type of decisions made in society to define the implications and distribution of costs and benefits of ethical, environmental and institutional type between management models. In a concrete way, what is questioned is the implication of a market fundamentalism as a criterion to determine the aims of society. That is, it is alerted about the

implications of water management (veiled or explicit) in which the criteria of equity and social justice (for example, the human right to water) are subordinated by the predominance of the function of water. As an input for the accumulation of capital. In other words, the implications in the definition of the rules to transfer the costs of extraction (use and discharges) of water to society and the environment, but with a concentration of economic benefits on an individual basis.

It is being placed as a central point of the debate that the construction of a water management model is deployed based on certain principles that promote the following components:

- a) The recognition of the existence of the society of a set of differentiated valuations of water, from those of cultural type (cosmovision) through those of the human right to water to economic ones.
- b) The importance of building decision-making mechanisms (rules) based on a more deliberative democratic exercise.
- c) Consensually define the priorities in the use and access of water: maintaining higher levels of water stress; ensure the quantity and quality; access, availability of water for human consumption in an equitable manner.

The superior result both to materialize the human right to water, and environmental sustainability, we link to the participatory democratic political project for the reasons that Sen himself (Sen, 2001) valued in the same democracy to achieve positive results for human development and social welfare: First, political freedom is a fundamental component of human freedom in general, and the exercise of political and civil rights, they are crucial for the citizens themselves to demand their social rights; Second, participatory democracy acquires value because it helps citizens not only to express their needs and perspectives in that sense and achieve the attention of government apparatus, but to collaborate in the materialization or to make visible the inequities or to identify precautionary negative results in terms of the public interest.

The following is the theoretical basis regarding the implications of the structure of a market system as part of the neoliberal project, a

necessary component to clarify the nature of the disagreement between political projects in the water sector.

Market environmentalism as a reference for the neoliberal project: ideological and theoretical foundations

The beginning of the neoliberal wave in the eighties brought with it a hardening process for implanting the belief system based on the touchstone that identifies the market as the ideal option because of the incapacity shown by the different governments of the developing countries (whether due to disability or corruption). The recurrent economic crises, with high levels of indebtedness and inflation, evidenced the inefficiency of governments to participate as suppliers of goods and services in response to the demands of international agencies. It was justified under the participation of the private sector in strategic sectors prior to the state priority. This is how the water sector, one of the most interesting for neoliberalism, had the incursion of the private sector through a) the concession of services municipal drinking water and sanitation; b) the development of hydraulic infrastructure with public money for water supply; c) the development of markets for water management (Barreda, 2006; Arrojo, 2006; Balanyá, Brennan, Hoedeman, Kishimoto, & Terhorst, 2005; Castro, 2012).

During the nineties and the beginning of the millennium, there is a generalized dissatisfaction with the modalities of traditional water allocations and the costs incurred by the State, hence, it is seen as necessary to intensify the use of markets as an efficient mechanism in face of state management, since it promises a more efficient use - in economic terms - of "water resource" (Donoso, Jouravlev, Peña, & Zegarra, 2004: 5).

The discourse and the neoliberal institutional pressure allowed the incorporation of the market instrument in different countries, especially Chile and Spain. Cases considered emblematic by the World Bank (WB) (Aguilera, 2008); even displacing other instruments of demand policy,

such as pricing or the modernization of infrastructure, thus placing the market as the favorite instrument of neoliberal governments.

In this sense, market was conceived as the institutional "scope" where the responsibilities of the users are defined and their conflicts are solved, hoping that said mechanism would establish a better allocation, improving the efficiency of the use and rationalizing the consumption of this resource. Concerning its value, it was considered that this should be associated to its opportunity cost and to its physical presence within the river basin (Donoso *et al.*, 2004; Colby, 1988; Lee & Jouravlev, 1998). Under these conditions, then, it could even take values for different uses, depending on the change in quality and quantity, time of year and extreme hydrological situations, whether favorable or unfavorable (Fortis & Alhers, 1999).

The application of market instruments requires the approach of various theoretical conditions necessary to achieve optimal resource efficiency. The following are indicated to assess the structure of the discussion in terms of categories, which are the ones that actors appeal against the incorporation of market in water management.

Water markets: definition and conditions

From the theoretical postulates, a model of water management based on market implies that allocation is based on a given price through free exchange of some type of property title (right, permission, concession, authorization, mercy, etc.) to use and exchange it. It is then the interactions between buyers and sellers of these securities that constitute a water market (Donoso *et al.*, 2004).

For this institution to have the desired results, in terms of water management, it requires the clear and precise definition of the game rules in its institutional structure, as well as a series of economic and social conditions in a context of minimal state intervention, this is an essential condition for an efficient allocation of water (Lee & Jouravlev, 1998; Donoso *et al.*, 2004; Simpson & Ringskog, 1997).

Within the neoliberal framework, its proponents point to environmental and economic goals to introduce market mechanisms in the management of natural resources, which is known as market environmentalism (Anderson & Leal, 2001). The market signs are those that combine economic growth, efficiency and environmental conservation (Hajer, 1995). Within this neoliberal sphere, Bakker (2005) points out three basic concepts that constitute the process to build this market environmentalism for the case of water, that is, to transfer water from the common good to water as an economic good:

- *Privatization* implies a change of ownership, or a transfer in the management of the resource, from the *public* to the private sector.
- *Marketing* implies changes in resource management practices incorporating principles (efficiency), methods (cost-benefit evaluation) and objectives (maximum gain) (Leys, 2001).
- *Mercantilization* implies the creation of an economic good through the application of appropriation and standardization mechanisms, goods or services, allowing the latter to be exchanged at a certain price in the market under the principles of economic efficiency.

These last categories become central to understand the logic of water management in the neoliberal scheme; they constitute a process of market environmentalism as long as the commodification of water is completed, that is, it is exchanged under the principles of efficiency in the sense of Pareto as any other economic good. It is emphasized that there is a fundamental analytical difference between commercialization with commercialization and privatization, which should not be confused, and even if water manages to privatize or commercialize this, it does not imply that the neoliberal project is completed (Bakker, 2005).

Once the reference framework has been defined, the next section will address the conflict of water management in Mexico for the present sexennium, through a narrative based on the approach just outlined.

The narrative of the disengagement in water management in Mexico

The critical junctures of the sexennium 2012-2018

Since December 2012, and in the subsequent 20 months, there was a process of approval of 11 reforms under the political agreement cited "Pact for Mexico", among which the energetic, fiscal, labor, financial and educational reforms stand out.

The year 2015 witnessed a strong confrontation between civil society and the impulse of the neoliberal political project that presented the proposed reform to the LAN, through a new LGA. One of the focal points of this disagreement with the legislative branch was the presentation of an initiative that sought to mimic the process of commodification of water-oriented to various megaprojects through the figure of a supposed human right to water. The reactive response to such attempts can be considered as part of one of the diverse demands for social and environmental water management pushed "from below".

The background of these demands "from below" are diverse. One of them refers to the long process started in 2006, where the Coalition of Mexican Organizations for the Human Right to Water (COMDA), It required constitutionally including access to quality and quantity of water as a human right. This demand had an important international catalyst: in 2010 the plenary of the UN Assembly recognized the human right to water (Resolution 64/292).

From these international considerations, the Mexican government undertook to include such demands in the Political Constitution of the United Mexican States; which was finalized on February 8, 2012 with the amendment to Article 4, to read as follows:

All person have the right to access, dispose and sanitary of water for personal and domestic consumption in a sufficient, healthy, acceptable and affordable way. State will guarantee this right and law will define bases, supports and modalities for access and equitable and sustainable use of hydric resources, establishing the Federation, federal entities and the municipalities participation, as well as the participation of citizens for the achievement of said purposes (Political Constitution of the United Mexican States, 2015).

Subsequently, the transitory articles of this reform implied that in the lapse of a year a new LGA should be promulgated in substitution of the current LAN. However, political pressure due to the sensitivity of the issue stopped the process (leftist parties, such as the PRD, Citizen Movement and PT, even participants of the National Regeneration Movement left the plenary session that would vote, as well as an accompaniment of various social movements that at that time were resisting megaprojects by the aqueduct Independencia in Sonora or the Monterrey IV in Nuevo León and Tamaulipas, academic institutions such as the National Autonomous University of Mexico itself, in the voice of its president). Three are the main components of the LGA that strongly attracted the attention of these actors, detonating in a pressure to stop the approval of the initiative; these are the following:

1. The opening to place the prioritization of a use of water as an input for the development of economic projects and the promotion of the participation of private initiative in the construction, operation and management of works (transfers, ultra-deep wells and desalination) and potable water and sanitation services. It highlights, for example, the permissiveness around the practice of *fracking* (or water fracture) for both mining and gas extraction. Previously the energy reform promoted a year earlier by President Enrique Peña Nieto put conditions of "facilitation" for strong private investment in this sector, and in this sense the issue was of special attention by several groups that had been opposing.
2. The conceptualization of the human right to water, which limits the competent authority to guarantee the allocation to human settlements of 50 liters per person per day. The problem identified is that the obligation is for users connected to a hydraulic network, or in its case to inhabitants who do not live in irregular urban areas. A relevant precedent in this point is the resolution in Amparo of the Supreme Court had been resolved (Revision 2190/2014) in which the sentence is given in the sense that the required daily amount should be 100 liters per person. Linked to this point, the bill initiative excluded the recognition of the social and physical-natural dimensions of the human right, related to cultural (ethnic-identity) and environmental uses.
3. The regulation provision of technical and scientific studies on water availability and quality through Conagua itself, what generated the

attention of the scientific community, mainly of the National Autonomous University of Mexico (UNAM, for its acronym in Spanish), the Guadalajara University (UdeG, for its acronym in Spanish), the Autonomous Metropolitan University (UAM, for its acronym in Spanish), whose rectors supported their community by signing displays aimed at legislators to open the debate and discussion around the new LGA.

Alternate to the process of the federal government, and from two previous years, civil society organizations, together with researchers and citizens, were given the task of analyzing, discussing and developing an alternative proposal collectively (and labeled as a citizen) of LGA (Agua para Todos (Water for All), 2015). The proposal was sheltered by decades of experiences in research and action and with a clarity of developing a sustainable management and in defense of the watersheds and their waters. These actors, grouped in the so-called Water for All Coalition, presented the citizens' proposal to the Chamber of Deputies and Senators, argued that the government's proposal presents the following problems:

1. Promotes the privatization of water, considering it primarily an economic good and not a cultural and social asset.
- 2) Promotes the displacement of people and the death of rivers.
- 3) Widens the margins to contaminate water.
4. Restricts, conditions and sanctions studies, scientific research and water monitoring (Córdova, 2015).

The citizen proposal says to lay the foundations to materialize the constitutional article 4 (Gaceta Parlamentaria, 2015). The document of the proposal emphasizes ensuring equitable and sustainable access to water through mechanisms, agencies and instruments for city planning, management and oversight, based on the principle of social, cultural and environmental rights.

Table 2. Comparison of proposals for the General Water Law. Source: (Agua para Todos (Water for All), 2015).

Topics	Conagua initiative	Citizen initiative
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Where would the water come from?	Large intensive works in energy, private, around large cities: transfers, ultra-deep aquifers, desalination plants; besides overexploited rivers and aquifers.	Restoration and integral basis management.
The human right to water	"The human right to water includes the obligation of the authority ... to guarantee human settlements the minimum vital, that will be granted with the periodicity that allows the endowment equivalent to fifty liters per day per person. " Use of grant pipes will institutionalize.	The Water Social Comptroller, citizen and self-organized, would conduct citizen monitoring, with public financing, of equitable access to quality water. The National Fund for Human Right to Water would finance self-managed systems in areas without access as a national priority.
Privatization of water	Concessions to national waters would be subject to free purchase and sale; It would promote the concession of large hydraulic works, as well as transfers and transferred water; The municipal and state authorities would be compelled to promote privatization of water services and sanitation via contract, grant or public-private association figures.	The water would be considered a common good of the nation, coming from nature, to be handled by community and public sector nonprofit.
Citizen participation	The Water Advisory Council would be the "Citizen Participation Institution". The Federal Executive may request opinions from ANUR (irrigation users mainly for export) and ANEAS (privatizers of municipal systems). Conagua would effectively control the Basin Councils. Only "citizens" guaranteed with voice and vote would be the concession companies. Their agreements would not be binding. To enforce their determinations, the authorities may request the assistance of public force.	The Citizen Councils of Basins, constructed through open participation from the local level, they would agree on binding plans to meet national goals. Recognition and priority would be given to drinking water and sanitation systems organized by peoples, communities or users. The municipal and DF systems would be administered by councils composed mainly by territorial representatives elected in open assemblies, with controls to guarantee equity, effectiveness and

		transparency.
Transfers	Transfers of "public utility," would be considered and would be concessional, together with the transferred waters, to private individuals.	The Master Plans would propose the works and policies required to achieve balance in each basin. New projects of urban expansion in basins in extreme water stress would be prohibited.
Priority of uses	In the name of the "human right to water", the use of "urban public" is prioritized, which includes any use (industrial, construction) of the municipal or metropolitan drinking water system, guaranteeing only 50 liters per day per person for domestic use. Mining would NOT require a national water concession, and therefore these volumes would not be accounted for nor will there be mechanisms to limit their access.	The Citizen Council of Basin would assign the usable volumes prioritizing personal use (domestic and public services) and food sovereignty. The Basin Council would recommend the volumes annually to be used for non-priority uses (industries, export agriculture) according to the availability and its importance for the wellbeing of the basin and its inhabitants.
Financing	The rates charged to end users will have to cover the cost of investment recovery (including utilities), operation, maintenance and expansion of large hydraulic works approved without public review and potable water and sewerage systems. The three levels of government would be forced to allocate resources to subsidize the rates charged to the most vulnerable populations.	It would finance low-cost works and optimal benefits for the most marginalized, through progressive fiscal policies (pay more who has more). It would prohibit contracts with foreign investors that would infringe the country

Surveillance, inspection and sanctions	Voluntary auditing and self-regulation programs are proposed. Serious faults are considered those contained in fractions X to XXVIII, which cannot be sanctioned with a fine of less than 1, 000 days of minimum wage.	The Water Social Comptroller, citizen and self-organized, would have public financing to monitor quality, equitable access, with the power to recommend the revocation of the mandate of unfulfilled authorities.
Study, monitoring and control	Only with authorization from the authority, technical studies (including scientific research) of water availability and quality can be made	The Environmental Social Water Defender would have secured financing to be able to make demands from the citizenship for violation of the current legislation.

This dispute brought an impasse of more than three years in which the two initiatives were frozen in the legislature. However, on June 6, 2018, the President of the Republic published 10 Water Reserve Decrees that essentially lift the existing ban in 295 country watersheds (DOF, 2018). This measure seems to be the alternative route that the Federal Government found to ensure water for the productive uses demanded by the reforms of the Pact for Mexico, that demand large amounts of water volumes. As background, we can locate two, a reserve decree and a 2014 closure ban in the Lerma Chapala Basin and during 2017 the publication in several moments in the Official Gazette of the Federation of the agreements by which they are made known the results of the technical study of the superficial national waters in the hydrological basins involved in the 10 decrees of which we refer for 2018.

The ten decrees can be summarized in the following measures:

1. The closure is lifted in those basins where they were decreed, most of them since the 30s of the last century.
2. A volume is partially reserved for each basin for public-urban, rural or human consumption use;
3. A volume is partially reserved per basin for environmental use or ecological conservation in hydrological basins;
4. The concessions and uses given before the reservation are respected, but which are regularized in the registry of the Public Registry of Water Rights (REPDA, for its acronym in Spanish).
5. Leave volumes available, not committed through the aforementioned partial reserves, so that "they may be exploited,

used or exploited through a title of concession or assignment previously issued by the Water Authority (DOF, 2018).

Immediately the criticisms by several social and academic fronts were made notice through several means of communication that at the 2018 middle of the presidential electoral process generated the attention by public opinion.

The main criticisms are synthesized in the observations made by academics and specialists integrated in the Water for All movement, who immediately made their observations on the decrees known. These observations are transcribed partially (Agua para Todos (Water for All), 2018):

1. The Reserve Decrees (DOF, 2018) remove the closures (last vestige of the previous model of water management, in the hands of the State instead of the market) to extend the logic of the concession system imposed in Mexico through the National Waters Law (1992) as a precondition to enter the NAFTA - above and in ignorance of the multitude of forms of water tenure and belonging to water-territory existing in the country (Not even the US manages its waters through a single system of concessions.)

Although the bans have been systematically violated by Conagua throughout its 29 years of existence, transnational corporations require concessions with legal security, which formally requires eliminating closures.

2. Although they are being promoted as a measure of protection to the environment, they include reserves for urban use, and in some, for the generation of electric power (in San Pedro Mezquital reserve 2000 million m³ / year for CFE for this use -- this is where it has been looking to build the Las Cruces Dam that would affect the Nayeri community-- and just a little over 300 for environmental use.)
3. The decrees are based on the Law of National Waters, which, according to the 3rd transitory of the reform to the 4th Constitutional Article, would have to be replaced in February 2013, with a law focused on the human right to water, which "would lay the foundations" for the participation of citizens

together with the three levels of government for the achievement of "equitable and sustainable access and use" of water.

4. The decrees extinguish the water rights of the agrarian nuclei that were not renewed in time. All the decrees contain this language: "The concessions or assignments granted prior to the entry into force of this Decree will be recognized provided that the title is valid (...)". At this moment, there are 50 thousand "expired" concessions in the country - mainly from ejidos, communities and towns, but they did not imagine that their rights to water would have to be renewed.
5. The decrees do not mention the human right to water, which since the reform to the 4th article on February 8, 2012, will have to be at the center of any water policy. They allocate volumes for "urban public use" as if this use were equivalent to the human right to water. However, the "urban public use" includes any use to which a state or municipal agency would like to concession or contract its waters.
6. They allocate the large allocations for "urban public use" to the state governments, valid for 50 years- each decree specifies the states that must request these volumes, laying the foundations for privatization via transfers and the concession of water and sanitation services (Agua para Todos (Water for All), 2018).

With the participation of the international environmental organization such as the World Wildlife Fund (WWF), Conagua, aims to promote a legitimacy to the content of the decrees; mainly by emphasizing the reservation's argument for environmental use, which is stated as a demand made by them and by several Mexican environmental organizations: "Water reserves are an instrument designed to protect the ecological flow of watersheds and ensure the benefits that ecosystems offer us all. Water reserves do not represent in any way the privatization of the resource, nor the extinction of any right to the use of water in force. On the contrary, they clearly establish volumes of water that must remain intact for biodiversity, which will benefit everyone, starting with the rural and indigenous communities" (WWF, 2018).

Conagua is also in need of issuing a statement and defending its position: "The ten Water Reserve Decrees published on June 6 in the Official Gazette of the Federation (DOF) in no way grant benefits for any individual, on the contrary, they will preserve the environment and guarantee water for human consumption of 18 million inhabitants who are not yet born, in a 50-year projection (...). In conclusion, the decreed water reserves seek that water available in the basins be saved for future generations and for care of the environment, the environmental fate and urban public use are clearly expressed in them, so any contrary interpretation only seeks to disorient and misinform population" (Water reserve decrees do not privatize it, clarifies Conagua after media canard, June 18, 2018; DOF, 2018).

Indeed, the reserve for environmental use is a debt with the basins that did not exist before and that same actors that have promoted a democratic-participative political project have sued. However, in the decrees the reservation is not calculated in percentage (according to the recommendations of the WWF), but in fixed cubic meters. The availability of water is variable and may end up being 'short' with the necessary environmental balance.

Reserve for public-urban use projecting the growth of cities is also positive, since lifting the closures will cause the operating organizations (public and private) to acquire new uses; however, storing and transporting it will involve works with public-private investments that could later compromise distribution service through concession companies.

The lifting of closures means that Conagua can give new rights and concessions to first one that requests them. Reservations described above are not about the total availability of the basin, so it is not reserved in these decrees (respecting the cubic meters concessioned and in order), that is to say valid) can be granted for productive uses, obviously companies. In this case, it is foreseeable that the first to request these rights are the companies that use the resource intensively.

In short, we are not thinking about a comprehensive public policy. Above all, the role of basin councils (participatory mechanisms) has not been made clear as a mechanism of control and supervision to avoid the opportunistic behavior described above (Ostrom, 2000).

CONCLUSION

Since the legislative and federal executive power (2012-2018) has been promoting a series of constitutional and regulatory reforms to reorient the meaning of water as a public good. It is a discourse that places water management with a multiple orientation: to address the human right to water, the environmental capacity and favor economic growth. The LAN initiative and the Water Reserves Decrees (2018) are visible expressions of such actions.

These efforts, seen from a broader context (structural reforms, including energy and mining) and from the magnifying glass of the categories of political projects and market environmentalism, allow identifying other important features to be explicit in the national debate.

In the first place, it allows to identify the existence of two types of political projects. The first named in this article from above, it is commanded by the premises of neoliberal economic rationality. This pretends to base its legality from what was done by the representatives of the executive and legislative power (use of a representative democracy). In this type of discourse there is a double language: aims to justify that the needs of the human rights and the ecological levels of water cycles are being addressed; however, in its central axis of the discourse (context) an attempt is made to identify resignifying water as a public good (and one more factor in production and accumulation) from its strong linkage with the promotion of economic growth from different processes: privatization, commercialization and commodification. Analysis of LAN reform initiative characteristics and the signing of the Reserve Decrees, from the proposed frames of reference, they allow us to see that dominant modality is mainly oriented to a process of pushing water to market environmentalism.

Secondly, the appearance of another type of highly heterogeneous political project is identified: from bottom, citizen project, democratic-participatory or citizen initiative. This political project does not exclude the importance of water as an input for economic development;

however, other aspects are prioritized. From this perspective, special attention is paid to the ethical criteria of justice-equity-sustainability. A management based on principles of economic rationality is not a relevant mechanism to resolve the ethical criterion; on the contrary, it exacerbates inequality not only in distribution of the resource (material) but also of the economic type.

The dominant political project, neoliberal, despite being heterogeneous, its expressions have some common components: they manage to unveil the intention of Mexican regulations to subordinate public water management (as a public interest) to the logic of megaproject requirements: eject the use of public funds, transfers of income and environmental costs, as well as the public good (water) as an input for the accumulation in favor of a small group of private initiative. In this way from the alternative project, the democratic participatory, there is a reply to market environmentalism in its water axis in the components that build it (privatization, commercialization and commodification of water), through a conception that puts water in the center for life (water for human and environmental consumption) and places emphasis on participatory, deliberative and accountability instruments to procure it.

The positive assessment by several actors involved in water management in Mexico for a participatory democratic project it is because of its eminently instrumental potential in polity: the possibility of exercising political and civil rights to achieve social rights (water as a human right and a healthy environment), and materialize decision mechanisms in the allocation where all uses participate, as well as transparency and accountability at the basin level to ensure that these allocations always ensure the social and environmental well-being of the basin.

Finally, three moments of the role of the Mexican Federal Government about a new water management to highlight the relevance of water for economic purposes are recapitulated and the priority of guaranteeing access to new national projects labeled of general interest. These moments are the following: a) Promulgation of the energy reform in December 2013; b) Proposed reform called New LGA 2015; and, c) Water Reserve Decrees June 2018 (DOF, 2018).

These proposals for constitutional reforms and regulations (initiative of law and decrees) have been expressed from those above neoliberal political project.

The Decrees highlight some of the relevant components; among these the following linked with the reforms in energy and mining: maintains the possibility of access to water for economic sectors strategically nuanced from the environmental and water priority for human consumption. They do not pose the commodification of water centrally, but leaves it open to privatization through system of concessions for those who request it in first instance once the environmental, social and energy water amounts have been covered. This management scheme implies an economic devaluation of water, since unlike the commercialization route in the LGA, he decrees withdraw the category of closure, generating a perception of water as an unlimited resource and allowing access to economic purposes that they request, covering only the institutional requirement in process and at low cost for the productive sector (\$3 894.00 Mexican pesos for surface or underground water, as the case may be).

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