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**PROMOTING TRANSPARENCY AND HUMAN RIGHTS PERSPECTIVE IN
MEXICO CITY'S WATER SYSTEM**

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Abstract

Since 2007, the Coalición de Organizaciones Mexicanas por el Derecho al Agua (Coalition of Mexican Organizations for the Right to Water – COMDA) has been participating in spaces of public engagement in Mexico City to advocate for changes in water policy towards the realization of the human right to water. First, we participated in the process initiated by the Representation in Mexico of the Office of the United Nations High Commissioner of Human Rights to write, along with local government and civil society, the Human Rights Diagnosis for the Federal District (DDHDF) which included a chapter on the right to water. Second, we contributed in putting together proposals of strategies and actions for the Human Rights Program for the Federal District (PDHDF) based on the DDHDF. Third, we participated in the Follow-up and Evaluation Mechanism (MSyE) to watch the PDHDF implementation. Fourth, we participated in another process called the Working Group for Transparency (MDT) organized around governmental transparency obligations and the right of society to access information regarding public policies. Finally, we are currently working in a new phase of the PDHDF MSyE under the PDHDF Law.

During each of these processes we have encountered obstacles and different expressions and levels of resistance of public officials from the Sistema de Aguas de la Ciudad de México (Water System of Mexico City - Sacmex). However we have also found opportunities and will that have resulted in some relevant accomplishments. The key question to answer here is what are the elements that allowed progress in some contexts?

The first MSyE for the PDHDF was a space with little, if any, capacity to induce change, while the MDT managed to mobilize political will and achieve some significant changes. Results are yet to be seen in the new participation and follow-up space at the MSyE.

As the PDHDF and the MDT are mechanisms for advocacy not specific to water issues, but also other issues of public interest, maybe the obstacles and possibilities of both mechanisms are applicable to other matters.

Considering our experience, the MDT probably had better results because of the following reasons: 1. the active participation of other public agencies with moral or legal authority towards the Sacmex supporting our demands and insisting in the need to improve in transparency and access to information; 2. the direct dialogue with the General Director of the Sacmex, the participation of high level public servants and also operative staff that could get the job done; 3. the scope of the MDT and the PDHDF are very different; to disclose information and improve transparency in one agency does not represent an equal challenge as the implementation of the human right to water that encompasses much more requiring profound changes in water management. In contrast, the mechanism to follow the PDHDF lacked high level political support and the Program itself and its obligatory nature was unknown by the public servants we were working with, which became serious obstacles to promote change.

Introduction

Water management in Mexico City has historically been a great challenge. The city was founded before the Spanish arrived in the Americas on islands and lakes. After the conquest, the Spanish progressively desiccated the lakes to allow for urbanization. For centuries, the greatest threat to the city regarding water was flooding. However, for a several decades now, scarcity, water quality and distribution inequality are also in the mix of water management difficulties for the city.

Since the fifties, Mexico City started to import water from other water basins to lessen the over extraction of underground water that was already making central areas of the city sink (Evalúa DF 2010). Today, most of the city's water still comes from underground water, but approximately one forth is imported from other basins through very complex and energy intensive systems.

There are approximately 8.8 million people in the Federal District (DF), which is managed by the Government of Mexico City. However, the metropolitan area includes several municipalities of the State of Mexico and one from Hidalgo and has a population of some 20.1 million people. The Sistema de Aguas de la Ciudad de México (Water System of Mexico City - Sacmex) only manages the system in the DF.

In 1993, four private companies, distributed territorially, formed through combinations of national corporations and transnational water giants signed ten-year service contracts with the DF. These contracts have been renovated a few times and are due to be renovated June 2014. The four private companies are responsible mainly for users' registration, water metering, billing and customer service. The involvement has been limited to the commercial system. The results of this private participation have not been documented enough, in part because of the difficulties in accessing relevant information. However, many organizations have questioned their role in water management in the city and

highlighted the frequent overbilling mistakes these companies incur on causing distress on the population (Campero 2011).

Despite the fact that the human right to water is recognized in the local law since 2003¹, there are several obstacles for its full enjoyment by all the population in terms of availability, quality, and physical, economic and information accessibility.

Since 2007, the organizations based in Mexico City of the Coalición de Organizaciones Mexicanas por el Derecho al Agua (Coalition of Mexican Organizations for the Right to Water – COMDA)² have been participating in spaces of public engagement to advocate for changes in water policy and the fulfillment of the right to water at the local level.

The Human Rights Diagnosis and Program for the Federal District

In 2007, a very important process was initiated by the Representation in Mexico of the Office of the United Nations High Commissioner of Human Rights to elaborate along with the local government and civil society organizations the Human Rights Diagnosis for the Federal District (Diagnóstico de Derechos Humanos del Distrito Federal – DDHDF). This initiative involved several government agencies, the local Human Rights Commission, civil society organizations and universities.

It was an innovative participatory process that allowed organizations in the city to expose the many human rights violations that occur including: environment, housing, education, health, access to justice and water amongst other human rights analyzed. The common agreement was to consider the highest international and national human rights standards which resulted in a very complete diagnosis of the various issues.³ COMDA participated in the production of the DDHDF through the dedicated chapter on the situation of the right to water in Mexico City.

The DDHDF documented the many problems that the city has regarding water provision and sustainability. It highlights, amongst others, the inequality in service provision and water quality, the issues around billing mistakes, pollution and the over extraction that causes the city to sink with serious concerns to the infrastructure including water pipes. The diagnosis states that more than one million people in the DF suffer insufficient water provision, where water is only available very other day, for a few hours (frequently during the night or early morning).

¹ The first paragraph of article 5° of Federal District Water Law states: Everyone in the Federal District has the right to sufficient, safe and healthy water available for personal and domestic use, and to water supply free from interferences. The Law is available at:

<http://cgsservicios.df.gob.mx/prontuario/vigente/d1227.pdf>

² COMDA comes together in 2005 as a national strategic alliance of diverse organizations concerned about unsustainable water management, lack of equality in access and distribution, privatization and lack of democratic mechanisms for participation.

³ The full Human Rights Diagnosis is available at:

<http://www.derechoshumanosdf.org.mx/docs/diagnostico.pdf>

In 2008, the Human Rights Program for the Federal District (PDHDF) was the next necessary step after the DDHDF. Again, prepared through a participatory process, organizations and academics were able to suggest how the implementation of human rights could improve. The PDHDF established clear human rights objectives, strategies, committed action points, identified duty bearers and a timeline for each commitment (short, medium, long terms and permanent actions).⁴

COMDA was engaged throughout the processes specifically for the right to water chapter. This included not only the more common elements of the human right such as quantity, quality, affordability, but also integrated a full section on sustainability and one on the supervision of the private water companies that since 1993 manage the commercial area of Sacmex.

In 2010, the Follow-up and Evaluation Mechanism (Mecanismo de Seguimiento y Evaluación - MSyE) to watch the PDHDF implementation started. Although the PDHDF had been declared as compulsory by the City Major, most public servants ignored its content and its obligatory nature. The MSyE follow-up committee on the right to water had a few sessions, but it was soon clear that there was no intention to engage in a meaningful conversation with civil society participants, not even disclose information, much less, to implement the PDHDF action points that required important changes in the way the Sacmex operated. This behavior on behalf of the Sacmex purposely ignored the participatory process to produce the program and the consensus achieved around the PDHDF commitments among all stakeholders, including of course Mexico City's Government. A high level public servant of Sacmex even questioned why they had to fulfill the Program at one of the sessions. Moreover, the person assigned to attend the meetings on behalf of Sacmex had clearly no room to maneuver and was likely not even passing information about the MSyE towards the agency. In a process of dialogue and advocacy of this nature, who sits at the table and their willingness to engage is central to its success.

COMDA decided to stop participating in the Follow-up Committee for the right to water since it was clearly just a waste of time. There were no more sessions. Interestingly, other MSyE spaces for other human rights had similar results and sooner or later came to an end, although others managed to continue working. However organizations that had participated in the process of the Diagnosis and Program were unwilling to let the local government off the hook and we all continued to push for its implementation through a variety of strategies including press releases to denounce the lack of compliance of the local government.

The PDHDF became law in 2011 and various organizations made it clear that they would not participate in spaces that did not promote change to make human rights a reality, but would still push the implementation of the PDHDF.

In July 2013 a new phase for the MSyE started and a new format of participatory spaces was proposed. This is a more formal space with a secretariat that supports the follow-up of specific tasks. Although results are yet

⁴ The full Human Rights Program is available at:
<http://www.derechoshumanosdf.org.mx/docs/programa.pdf>

to be seen for this new MSyE, there seems to be at least more political will to advance some action points of the Program.

The Working Group for Transparency

The Working Group for Transparency (Mesa de Diálogo por la Transparencia – MDT) is organized to promote governmental transparency obligations and the right of society to access to information regarding public policies. It calls and supports a dialogue among organizations specialized in certain topics and the governmental agencies responsible of such issues to improve transparency.

Between 2011 and 2012, COMDA participated in the MDT focused in the transparency issues of the Sacmex.

The Sacmex has traditionally been an agency with very little transparency and unwilling to allow access to information. Just to give an example of how historically difficult the Sacmex has been regarding this issue, as recently as 2004 there was a law proposal, put forward by the City Mayor, to classify water related information in the city for 10 years. This initiative, thankfully, was unsuccessful (Evalúa DF 2010), but it still shows the intent of the local government to keep water issues outside the public debate.

As COMDA we had identified that one of the issues that had hindered any progress with the PDHDF, and indeed, any meaningful participation in water issues, was the lack of transparency and access to information. For this reason, despite the failure of the Follow-up Committee for the right to water, we decided to accept the invitation to participate in the MDT.

The main issues we selected to treat at this space were related to PDHDF strategies and action points. However these were in our organization's agenda even before the PDHDF. These are three very sensitive issues for the population and also for the public institutions involved: water quality, water service tariffs, and the role of private companies in the water system. The status of these three issues in terms of transparency were subject of a diagnosis by COMDA and the document in which we consolidated our findings and proposals became the very base of the MDT process.⁵

Our proposals included, for example, the need to post the contracts with the private water companies in the Sacmex site, give details of water quality around the city and post understandable information on water tariffs and possible discounts that people could access.

In contrast with the MSyE, through the MDT COMDA was able to advocate with more success for some important changes in the transparency of the Sacmex regarding the three issues mentioned above.⁶ Most of our proposals, publicly

⁵ COMDA's Diagnosis of transparency and access to information regarding water quality, water service tariffs and private companies in Mexico City Water System is available at: <http://www.comda.org.mx/files/Mesa%20Transparencia%20COMDA-SACM.pdf>

⁶ COMDAS's Balance of the MDT as of November 2012, is available at: <http://www.comda.org.mx/files/Balance%20COMDA%20MDT%20avances%20y%20pendientes->

accepted by the head of Sacmex as commitments, were carried out, although some of them today require updating (e.g. water quality information). It is difficult to know exactly what makes one process successful and another one to fail terribly. What is interesting in this case is that in both processes, it was COMDA trying to motivate changes in the Sacmex having very different results.

The participation of the Access to Information Institute at the local level (Info DF) was absolutely fundamental as the creator of the mechanism of the MDT and its key role as facilitator of the high level dialogue. Moreover, the MDT was carried out in its headquarters, with media and civil society present.⁷ Also the involvement of the Under Secretariat of Government pushing for transparency at all local public agencies as an agenda from the Mayor of the City was crucial in motivating the action of the Sacmex.

One of the elements that supported the work in the MDT was the fact that these government agencies coincided with COMDA in calling for changes from the Sacmex. This was particularly the case regarding the disclosure of the contracts with the four companies that manage the commercial system, which was actually required by law.

Another element was the direct dialogue with the General Director of the Sacmex, who under the circumstances and the environment provided by the MDT undertook public commitments (the 27 proposals we made in our diagnosis became 27 commitments to achieve). The General Director's involvement encouraged the participation of other high level public servants and also operative staff that could get the job done.

Finally, an element that might have also contributed to the success of the MDT was the fact that it was limited to the arena of transparency in contrast with the human right to water of the PDHDF that includes not only transparency, but many more elements making it far more complex to implement. To disclose information and improve transparency in an agency is a huge step forward in the right direction, but does not represent an equal challenge as the implementation of the human right to water that encompasses much more and requires profound changes in water management.

Conclusions

As civil society organizations concerned about water issues, we are committed to find opportunities for change that can improve the every day reality of millions of people that still suffer the lack of access to water and poor water quality in the city. We are convinced that this will not happen with a Sacmex carrying out business as usual. For this reason, we look for opportunities to engage with government agencies to push for this much needed change always maintaining our independence and critic eye.

[22nov12%5BFINAL%5D.pdf](#) Furthermore, the changes at the Mexico City Water System Website can be consulted directly at: <http://www.sacmex.df.gob.mx/sacmex/>

⁷ See more at: http://www.infodf.org.mx/nueva_ley/22/7/dvs/mesa_dialogo.pdf

Our experience has shown us that while some spaces for participation might be frustrating and useless, others might be somewhat successful even when dealing with the same agency in both contexts. Some central elements we have identified that contributed to a good process for the MDT included: the participation of other government agencies, the InfoDF and the Under Secretariat of Government, which had authority towards the Sacmex and were convinced of the need to improve its performance regarding transparency and access to information; and the presence of the General Director of Sacmex at the start of the process, together with other close collaborators, in a public meeting with the press and high level public servants of the other government agencies that compelled him to commit to our proposals. However, we should also admit that although we celebrate the progress in improving transparency, this is a smaller challenge than implementing the human right to water. The fact that the MDT is limited to the arena of transparency, made it easier for the Sacmex to engage, in contrast with the PDHDF that includes transparency but goes to far more complex issues regarding water management to make the human right to water a reality.

We now need further academic support to take advantage of the information we have managed to make public from Sacmex. This information needs to be analyzed by experts that can suggest specific changes that need to be addressed particularly regarding water quality and the role of the private companies that manage the commercial system.

Unfortunately, with all the efforts that we have made and some significant accomplishments, we cannot say that water provision has improved for the thousands of people in the Federal District that daily suffer scarcity and poor water quality. Engaging in pushing change within the water system is frequently frustrating. We confirm that transparency and access to information is a precondition for meaningful participation and one step towards the implementation of the human right to water, but it is insufficient by itself to change the paradigms of water management. We need to keep the pressure high, diversify strategies and build new alliances to push for further changes in water policy in Mexico City.

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