



Policy brief

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Participatory Instruments for Conflict Resolution in the Context of the Spanish Dam Building Policy: A Case Study on the Water Commission in Aragon

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Abstract

Natural resources conflict can be interpreted as an opportunity to promote policy and institutional arrangements that enlarge public participation in the governance system. However, the extent to which conflict can prompt policy and institutional change, and the effective implementation of "true" participatory management may depend on institutional and power constraints. This paper addresses the above puzzle through a case study on the Water Commission, a forum gathering a multiplicity of stakeholders of dam-building policy in the Spanish region of Aragon. The Water Commission had different goals. One of the most important objectives was to solve the conflict that existed between farmer associations and a movement of local and environmental groups over the implementation of some state dam-building projects in Aragon.

This policy brief suggests that the creation of the Water Commission in 2001 was prompted by the convergence of three facts: the extension of the conflict over dam-building policy, the politization of water issues, and the release of the European Water Directive Framework. The Water Commission's conflict-solving process was relatively successful. Collaboration and mutual accommodation of confronted parties resulted in the design of commonly accepted alternatives to the controversial dam building projects. This could be explained by the mediating role of an NGO in building up common understanding among confronted parties, the existence of an implicit veto power in the hands of local communities and environmental groups and the formal recognition by public authorities of the legitimacy of the Water Commission's decisions.

Introduction

Conceptual framework: Water Conflict, Dam Building Policy Making and Participatory Tools.

A common concern regarding dam building policy is the potential conflict of interests between up and downstream actors. Depending on how dam building projects are designed and funded, upstream actors may oppose the construction of dams in their territories preventing downstream actors to benefit from regulated water. The existence of mechanisms within the policy decision-making process that inform about potential conflict of interests may prevent the emergence of social conflict in subsequent stages of the policy process. Otherwise, government may have to rely on exogenous or ad hoc conflict-solving mechanisms. The more advanced the policy making process the more costly it may be to accommodate new demands. That is why it is intuitive to think that the more integrated into the policy decision stage conflict-solving mechanisms are, the more cost-effective these mechanisms will be.

Participatory instruments can inform about the existence of conflicts of interests at any stages of the policy process. The effective introduction of participatory mechanisms at early stages of the policy process may depend on institutional contexts and power dynamics though. On the one side, the integration of participatory mechanisms into the policy decision-making may need the reform, abolishment or circumvention of previous collective choice rules. On the other side, participatory instruments may empower actors whose interests were not previously taken into account altering power relationships within the policy process. Therefore, those who lose power

with the new instruments may try to prevent the reform.

The Case of Aragon and the Water Commission

This policy brief is based on a case study about dam building policy in the Spanish region of Aragon. The paper shows how the regional government of Aragon and a NGO managed to overcome a conflict between the irrigation lobby and other interest groups that blocked the implementation of 5 central government's dam building projects in that region. The paper explores the political and institutional factors that facilitated the intervention of the regional government and the NGO, key features of the conflict-solving instrument they used and the extent to which that experience might have an impact on the water policy making process in Aragon beyond the arrangement of disputes.

Since beginning the XX Century and particularly during the period of autocracy (1940-1975), dam building policy in Spain has been steered by a sub-government composed of the central government's water agencies, the irrigation lobby and the hydropower lobby. During that period of time, dam building policy implementation was facilitated by the existence of a well trained body of engineers who mastered the required technology, a tight administrative hierarchy and the lack of public accountability. The transition to democracy in the 1970s involved the emergence of a movement of local communities that opposed the construction of more dams in their valleys. During the 1980s, the local opposition consolidated and in the 1990s it acquired a broader scope by allying with environmental groups. In the region of Aragon, the opposition movement managed to block or substantially delay the implementation of almost every new dam building project since the end of the 1980s. In particular, the implementation of 5 dam building projects

remained blocked for more than a decade. This resulted in a public conflict between the opposition movement's actions and the irrigation lobby, main beneficiary of dam building projects.

The central government's water agency in Aragon was supposed to be the venue for solving the conflict; however, the Water Agency proved to be unable or uninterested in facilitating consensus among the opposition movement and the irrigation lobby. In this regard, the regional government of Aragon, which had no powers in the dam-building policy, decided to intervene. The result was the creation of the Water Commission, a public forum gathering dam building stakeholders, from farmers associations to environmental groups and local communities or to the hydropower and tourism industries. The Public Commission on Water has proven to be pretty effective, allowing implementation of new versions of most of the 5 dam building projects that remained blocked since the end of the 1980s in Aragon.

Some Answers to Policy Questions

What facilitated the regional government's entrepreneurship to create the Water Commission?

A Window of Opportunity for the Regional Government's intervention and the creation of the Water Commission

Three main causes facilitated the entrepreneurship of the regional government and the ultimate creation of the Water Commission:

- a. The water agency in Aragon did not have the necessary institutional structure to allow environmental groups and local communities direct access to the decision-making process, which was at the base of the emergence of public conflict.

Only the “water users”, primarily represented by the irrigation lobby and the hydropower industry, can formally participate in the water agency’s dam-building decision-making process. Collective choice rules such as the one about water users’ participation are embedded in congressional legislation and central government regulations, which make them costly to change.

Actors without representation in the water agency such as environmental groups and local communities were able to participate in the policy-making process by means of public comments, only after dam building projects were already elaborated. Once the period of public comments was ended, there was not any ultimate mechanism to make the water agency accountable to outsiders’ feedback. In consequence, outsiders were constrained to use the public arena to promote their interests.

The opposition movement, in particular the environmental groups, had previous experience in using the public arena and courts and proved to be very effective in blocking the implementation of dam-building projects. This capacity and the subsequent conflict with farmers associations extended from the local to the regional scale and from the public arena to the courts during the 1990s, making the situation unsustainable by the end of the decade.

b. The interests, flexibility and political authority of the regional government:

The regional government had powers over agricultural policy, land use management, drinking water management and waste water treatment policy; however, the regional government did not have almost any powers over dam building policy. Resolving the conflict over the dam building projects could give

the regional government enough political credit to start fulfilling a more central role in dam-building policy making.

The regional government was not formally constrained by any rules that prevented the creation of a new participatory forum on water issues in the region.

As a democratically elected body, the regional government had the authority and legitimacy to play a role in the public arena, where the conflict took place, and to increase the scope of public participation in water issues through the Water Commission.

c. External events: In 2000, two events happened at different levels of policy making:

The central government approved the National Hydrologic Plan (NHP). This controversial Plan included water transfers from the main river in Aragon to the Mediterranean regions. That is why the regional government and the general citizenry in Aragon firmly opposed the Plan. The credibility of Aragon’s interests at the national level depended on its water storage capacity, which had barely increased since the beginning of the 1990s due to the internal conflicts over the dam building policy. To the extent that the regional government led the opposition against the NHP, it was also forced to unblock the implementation of at least some of the controversial dam building projects in Aragon.

The European Union issued the European Water Directive Framework (EWDF), which among other requests, required member states to use participatory tools in the elaboration of water-related management programs. This requirement was mainly directed at the water agency since

this one was formally in charge of elaborating the so called Basin Hydrologic Plan. However, the regional government was also implicitly involved since it controlled drinking water and waste water treatment policies, which also were subjected to the EWDF's instructions. Beyond that, the European requirement of using participatory tools facilitated the regional government's intervention in the conflict over the dam building policy. Given the regional government's conflict-solving purpose, the requirement of using participatory tools became a policy solution at hand.

Why was the Water Commission successful in solving conflict?

The credible commitment of political authorities, the facilitating role of an NGO and the bargaining power of the opposition movement

Three main causes can explain the success of the Water Commission:

The Water Commission was created by the regional parliament and the regional government was determined to support the decisions taken in the Water Commission concerning the resolution of the controversial dam building projects. Additionally, the water agency consented to participate in the Water Commission. Moreover, the new national Secretary of Environment in 2004 formally recognized the legitimacy of the Water Commission and of the conflict solving process. All these facts were a source of legitimacy that gave credibility to the Water Commission's conflict-solving process.

The regional government engaged an NGO to work for the Water Commission in building consensus among parties at the ground level, and gave the NGO discretion to apply its

methods. The NGO used the model of the "Initiative of Social Mediation" for water-conflict solving, which had used some years before with relative success. The NGO's role in the conflict-solving process was to mediate communication among parties, not encouraging decision making. If parties did not reach agreement, the NGO would not force it. The mediation was built on the NGO's social capital and operated by a team of 38 public personalities and a minimal organizational structure that gave the team a lot of flexibility to meet with parties. The conflict-solving process was tackled project by project, involving project-specific stakeholders. Indeed, there were as many conflict-solving processes as controversial dam-building projects. In practice, the Water Commission's role was to ratify the bottom-up agreements reached by the NGO.

The local communities and environmental groups, bulk of the opposition to the dam projects and originally less powerful stakeholders, got strong bargaining power through public mobilizations and lawsuits against some water agency's public officials. If the conflict-solving process was to be successful in unblocking some of the controversial dam projects, it had effectively to take into account the claims of the opposition movement.

Which impact had the Public Commission on dam-building policy making in Aragon beyond conflict-solving?

Uncertain policy scenario

Despite the success of the Water Commission, there is not evidence that the regional government or the water agency have made subsequent efforts to capitalize and import that ex-

perience into the regular dam building policy making process.

After tacking the 5 dam building and framing the policy guidelines, the activity of the Water Commission is minimal.

The Water Commission outside the realm of the water agency institutional framework facilitated a deviation from the gridlock that had characterized dam building policy in the 1990s; however, it is important to notice that the circumvention of the existing institutional framework can be both an advantage and a weakness. The Water Commission did not affect existing institutions. In other words, the water agency's institutional framework is still in force. This means that regardless of any Water Commission's positive experiences, the water agency, which still has formal authority over the bulk of dam-building policy, may continue doing policy conventionally.

The water agency is currently elaborating a Hydrologic Plan that follows the European requirements for public participation. However, like in the case of the Social Initiative of Mediation, the process is not owned by the all participating parties, and the basic participatory tool consists of a schedule of meetings in which the agency takes note of the participants' demands. In addition, the water agency is holding only one round of meetings with interested parties, which have been grouped by the water agency itself according to the parties' supposed similar interests, in order to avoid confrontation (i.e. irrigators and other economic actors on one side, environmental groups and social organizations on another side, and public authorities and administrations on another side). Finally, the agency is in charge of the final elaboration of the Hydrologic Plan according to the parties' inputs but there is not a formal mechanism

beyond the traditional public comments procedure through which the final Plan can receive feedback.

Despite this pessimistic scenario, further inquiry is needed to assess the result of the water agency's planning works and clarify possible synergies between the Water Commission experience and the water agency's dam-building policy making process.

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For additional information:

- Ley Ordenacion del Agua [ONLINE] URL: <http://www.lexureditorial.com/boe/0106/11882.htm#ind011188215>.
- Viñuales V., Celaya N., La Iniciativa Social de Mediación para los Conflictos del Agua en Aragón, (2003), Fundación Ecología y Desarrollo, [ONLINE] URL: <http://www.ecodes.org/>.
- Embid, A., (2003), *Uso y Gestión del Agua en Aragón*, CESA: Zaragoza. *Embid A., Tortajada Quiroz C., Albiac Murillo J. (2007), *Gestión del Agua en Aragón*, Pamplona: Editorial Aranzadi.

- *European Water Framework Directive*, http://ec.europa.eu/environment/water/water-framework/index_en.html. *Melgarejo Moreno J. Barciela Lopez C., (2000), *El Agua en la historia de España*, Alicante: Publicaciones Universidad de Alicante.

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