

Capitalization of Experiences «Water, Land and People»

Lessons Learned

The process of the development of the Irrigation Law in Bolivia (N° 2878)

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Natural Resource Management
Rural Economy
Local Governance and Civil Society

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“The board was set, now we had to play...”

Process that continues being a process...

This is a process that continues being a process, within this framework the story continues, and many results of these actions will be seen in the near future.

Favourable juncture: Convergence of sector strength and State weakness

A conclusive characteristic in the process, that will most likely not occur again, or at least not in the same extent, is the convergence of interests and social demand (with an uprising, dispute and proposal capacity); also, with a favourable general political juncture (with a strong weakness on the part of the government, and even on the part of the State).

Advantage was taken from this juncture so as to promote regulations that would have a direct impact in the irrigators sector, these actions have partly levelled the regulations vis-à-vis other sectors that use water, however, they could also create an imbalance between peasant agriculture producers.

Not an improvisation, rather high flexibility levels and reaction capacity

This process was not improvised; it rose from clear objectives and a shared vision, in addition to sound planning. However, one of its features was that it was very flexible and manageable in terms of the context changes and the juncture. Many times it has also been reactive, especially to confront the excluding initiatives in the decision-making process of the State and the international cooperation.

An adequate discourse to support the process

A remarkable feature of the process is that it is intended to unite and convince people, it shows a sensible element as well as one that the people can relate to (uses and customs, and water for irrigation), as well as potential threats or fear that the people can relate to (their rights are affected, uses and customs are not respected). This discourse has been very appropriate as the basis to promote the changes desired and as a support to a long, dynamic and complex process.

Adequate, timely and well informed participation as the vital axis for the process

The sector's social participation is a remarkable characteristic of the whole process, similar to a driving thread throughout the process; however, it is necessary to bear in mind the need for the process to make sure that participation ensures adequate, timely and enough information, for only information and knowledge will guarantee a real-effective participation, thus preventing this from just being a discourse instead of a real fact. Although participation can not be homogeneous in processes that are so long, complex and dynamic, and bearing in mind that resources –of all types- are always scarce, a high and effective participation is essential, at least when initially defining the main problems and when selecting the main actions to be taken.



Nonetheless, the consolidation of the irrigators participation is important, not only to establish the regulations, but also to institutionalize their participation in future decision-making processes in different institutions (SENARI, SEDERIs, CONIAG, FUNDASAB, etc.), as stipulated in Law 2878. The effectiveness of this participation will be assessed in the future in terms of the sector's capacity, information and knowledge to exercise their rights.

From a general regulation to a sector regulation, from merely being a regulation to a Law of the Republic. Juncture, opportunity, risks and potentiality.

The process to develop regulations for the irrigation sector began after the failed attempt to develop general water regulations, which in the end only produced irrigation regulations and that due to the juncture and the opportunities resulted in a Law.

The outcome between the development of a General Water Law and an Irrigation Law shows us that it is definitely less complicated to promote and achieve the approval of sector regulations with clearly identified actors, than it is to promote and achieve the approval of a General Law that involves a number of actors and interests. Because of this one can easily be tempted to promote sector regulations rather than general regulations, with a risk of losing the integral perspective of the issue that is subject to a legal regulation.

On the other hand, concentrating in a Sector Law could have a direct and permanent effect over the actors promoting it, but also, and in a parallel manner, to other sectors indirectly related to the issued at hand, thus creating the conditions for future social conflicts.

Legal engineering as a strategy for demands and dispute

The neoliberal agenda ruling during the time when the law was developed had a strong legal component for its implementation, which lead to the awareness of the need to take advantage of those same elements to favour the social actors. Because of the above, the legal strategy was ranked as the main element to achieve the legal security to support and recognize their rights. Within this framework the whole process followed for the Irrigation Law was supported in the legal engineering as the transformation axis of the social reality, through the development of laws.

