

Institutional Structures in the Water and Sanitation Sector
Perspectives for a new platform in Honduras

Patricia Phumpiu
KTH- Royal Institute of Technology, Sweden
Department of Land and Water Resources Engineering
patricia@kth.se

Introduction

The water and sanitation sector has been in the eye of the storm, when referring to institutional reforms in Latin America (LA). Concepts and methodologies have been imported from western countries and these have required adjustments in existing policies and regulatory frameworks in LA countries. Have these adjustments resulted in delivering an efficient implementation? What is the degree of dependence to the top-down approach, when the implementation stage comes into place?

This paper focuses on understanding previous and current practices in implementing policies from the water institutional reform currently on the way in Honduras. It as well evaluates the effects of policy implementation in the Honduras water sector. In the paper we examine the impact of the new roles taken by new institutional arrangements on water and sanitation deliveries and stakeholders and consumers attitudes. The analysis of identifying the characteristics, development and persistency of formal and informal institutions in the water and sanitation sector define the policy implementation approach. The consideration of socio-political-cultural aspects are analysed to identify landmarks in behaviour and events that may have led to choices that could prevail in the future of water governance in Latin American countries.

Policy strategy background

Honduras is located in Central America, and it is a key case in Latin America due to the occurrence of socio-economical circumstances that rank the country with high risks for macroeconomic, financial and political instability. In this context, new institutional systems, regimes and technological advances had brought new alternatives to achieve the goal of improving the water sector by improving distribution of water for irrigation and supplying water and sanitation service (WSS). The accomplishment for an integrative approach to water management, including physical and socio-economic dimensions, will be reflected in the performance of distributing and providing drinking water, and the supply of sanitation infrastructure. The socio-economic limitation of Honduras is severe and it is believed that a comprehensive governance is the space or arena to convene stakeholders to assign, monitor and decide upon rules and responsibilities in order to cover up for the socio-economic gap (Rogers and Hall, 2002).. It is argued that these processes are needed for achieving a solution within WSS.

Following the lines of a Weberian state during the XIX and XX century, Honduras took a centralist approach (Schulz and Schulz, 1994; Ruhl, 1996; Mahoney, 2001) that is widely studied in literature about policy strategies in their agricultural reforms. The country continued along the years with the tradition to concentrate power in the 'extreme presidentialism' (Ruhl, 1906) with a strong central executive and state central control or in military regimes during the twentieth century. The rise to power the military force in the 1930s defined a regime period; however, military intervention in politics, only began in the mid-1950s (Ruhl, 1996). 'Since independence, Honduras politics has involved a constant struggle for patronage, money, and power among competing personalistic politicians who are largely unrestrained by the formal political rules enshrined in the nation's constitutions' (Rosenberg, in Ruhl, 1996:35; Mahoney, 2001). This background poses the centralism approach and the dominance of political elites in policy making as the traditional Honduran trend.

Since independence, Honduras managed not to get into internal conflict but neither a 'democratic consolidation due to a very high degree of political dominance exercised by its armed forces and its very low level of economic development' (Ruhl, 1996:34). In despite of the fate of their neighbours, Honduras did not face a revolution (Ruhl, 1996) as did Guatemala, Nicaragua, and El Salvador. Contrary to what the 'banana republic' could imply, Honduras has been a country with a weak democracy (Ruhl, 1996; UNDP, 2002) but rather 'a complex, ambiguous, and often contradictory society that has largely defied North American efforts at classification' (Schulz and Schulz, 1994). However, the capture of power was kept by extreme presidentialism and dominance of military regimes that ensured the prevailing centralism (Ruhl, 1996).

Honduras decided to carry out the State Modernisation strategy in 1990s as a package of measures the country conceded as a component of the Structural Adjustment Programmes, SAPs (SIDA-UNDP, 2001). The objective of the approach was to create new or to improve the existing provider organisations in order to achieve more efficient and effective performance. The progress of the State Modernisation strategy involved institutional and organisational changes that reached effectively the water sector in 2003. The water institutional reform in Honduras (WIR) was carried out with the decentralisation approach from the central government to municipalities to provide public services, including potable water and sanitation (ML, 1990). The decision for a policy 'involves a course of actions or a web of decisions rather than just one decision' (Hill, 2005:7), thus, not only the policy itself to reorganise the water sector and municipalisation of the WSS are of relevant importance, but also the evolution and adjustments according to their own context, which is the stage of policy implementation.

The following sections is disaggregated in the components of (i) institutional framework, (ii) political power of actors during the decentralisation process, and (iii) the trajectory of the policy implementation by examining adjustments and linkages between the traditional top-down approach with the existing local communities organisation. The last section is covered by the (iv) conclusions and perspectives that Honduras has in the short-term future for a WSS improvement in performance.

Institutional framework and Legitimacy

The inauguration of the WIR started with the Municipal Law in 1990, establishing the decentralisation of public services to municipalities, including water supply and sanitation service (WSS). Nonetheless, in practice, the WIR came to an active stage with the enactment of the Framework Law for Potable Water and Sanitation (FLWS) in 2003.

Quickly in time, consultation meetings congregated different actors and civil society groups to enact the General Water Law (GWL), which will include the issues of the water as resource such as preserve the water resources, their maintenance the quality of water at the source, etc. The GWL also needs triangulation with related laws to achieve a broader environmental regulation, as e.g. the Forest Law, Health Law and the Labour Law among others. Due to a change in political interests in 2006, the revision process still continues in 2007 at a long pace.

The newly established organisations for the water sector were the National Committee for Water (Conasa), and the Regulatory Entity for Potable Water and Sanitation (Ersaps); the major existing national actor in the water sector was the National Water Company (Sanaa). The decentralisation approach was supported then by the Municipality Law and the FLWS, in order to transfer the functions of management of aqueducts and WSS to the municipalities. Accordingly, institutions were taking shape and regulations for FLWS with specifications for the new organisations in 2004 (Ersaps, 2007).

Before the WIR, the water sector management was concentrated in the functions of Sanaa. Thus, according to the FLWS regulations, Sanaa's responsibilities were divided in two areas: (i) the operative and technical area to the municipalities, and (ii) the policy and organisational assistance area to the new Conasa. The new component in the institutional framework for the water sector is the regulatory functions now operated by Ersaps.

Relevant issues in the institutional framework for this process are the decentralisation of authority and decentralisation of resources, as well as the delegation and discretion that these new organisms will have in practice. The decentralisation of resources is contemplated in the process by granting the municipalities 5% of the governmental revenues (ML 1992, TitIV:CapV:Art 91) for the purpose of delivering public services, including water and sanitation infrastructure, maintenance and administration (ML, 1992. Titulo III, Art13). On the other hand, the government through the FLWS delegated to Conasa, as the national water authority, the functions of formulating and approval of the plans and strategies for the water sector, coordinator among the organisations involved in the water sector for issues of planning, strategies, technology with national and international organisations, capacity building, improvement of the service and preservation of the water resources, and a methodology to establish the economic value of water (FLWS-Regulation, 2004, CapII). This delegation of duties is subject to interpretation, resources and capacities of respective organisations involved.

The coordination and elaboration of policy strategy and planning were not coordinated at the initial stage of the WIR. At the start of the reform, there were non-existence of a planning authority (Phumpiu and Gustafsson, 2005) or any organisation in charge for national or regional planning role. Relevance and priorities were given to the physical public works planning instead of a comprehensive and national organisational planning (RH, 2003). Thus, a comprehensive Planning of the Water Sector was not the strength in Honduras. There was no organisation directly responsible for the planning, the consequence was no action, and instead a number of patching strategies were performed from several national organisations to face the water sector problems. In this perspective it is interesting to note that national water plans were one of the commitments in Agenda 21, at the Rio Conference in 1992; in which it is stated that by the year 2000 national action programmes should have directed 'appropriate institutional structures and legal instruments', however national water action programmes have got marginal attention from the international community and national governments (Phumpiu and Gustafsson, 2008). Thus, the responsibility of planning is one of the relevant tasks that have been delegated to Conasa.

At the local level, the debate centres in legitimacy. The community based organisations in rural and peri-urban areas, Juntas de Agua (JsA), managing their own water systems, are not legally recognized leaving development in these areas stunted. (UNDP, 2002). The importance of this legitimization is the deprivation of accountability as one of the consequences; financial administration is not fluent in the relationship with municipalities, which is taking care indirectly through other legal organisations.

However, there is ambiguity in the institutional framework related to local water management. Meanwhile the JsA are still illegal for administration to municipalities, they are recognized as an important management entity by been regulated by Ersaps through the Regulation for JsAs enacted in 2006. Thus, they are not ignore completely in the operational and technical level, but for financial purposes they are not legally accountable, which they solve by working with legal organisations such as the 'patronatos', organisations legally recognized by municipalities. In any case, the relationship between politicians and providers of water supply in the rural areas was non-existent, which is the reason why these organisations emerged are precisely due to the lack of interest of dominant political elites.

Actors, functional responsibilities, and political power

In this section the participation and non-participation of main actors is examined under the light of WIR. Their responses to the changing water institutional structures are exposed, as these issues signal approaches in practice to the trends in water policy implementation

The decentralisation approach brought power back to local governments after half century of denial by the delegation of authority and resources for delivering public services (Phumpiu and Gustafsson, 2005). At the time, water and sanitation services (WSS) was provided by Sanaa in main and medium cities and JsA in rural Honduras were the main administrators. This decentralised water system lead by JsA emerged out of necessity, from the inaction of the central government to provide water to remote and peri-urban settlements. From a political perspective, Putnam (1993) and Musgrave (in Rodriguez-Pose and Bwire, 2004) argue that decentralised systems are preferable for their indirect positive effect on efficiency. Along these lines, JsA have contributed to efficiency and development of their own communities since they are the pioneers and administrative entities of water management in their small and medium size communities (UNDP, 2002; Phumpiu and Gustafsson, 2005).

Municipalities are the key actors in the Honduran decentralisation approach. They are now responsible for the administration and management of aqueducts and the provision of WSS (ML, 1992). In small cities and rural areas, municipalities worked in coordination with JsA, where technical and administrative capacity building was offered to municipal personnel, with the aid of international and municipality funding. The idea was that technical personnel assist JsA, as it has been working with Sanaa. Otherwise, programs with capacity building for municipal personnel are quite costly considering that personnel have not been exposed to these new tasks previously, and they do not count with permanent contracts. For the purpose, municipalities compromise to give a contract for a year to the employee that attends the technical and administrative training.

Still municipalities need a clear definition of their tasks and responsibilities, which not only cover the administration of water through the JsA, but the administration of aqueducts, and the extension of service to WSS to areas not serviced at the moment, mostly distant or in a Phumpiu, IWRA 2008.

difficult geographical area for the access of infrastructure. Coordination with regional governments is also required to protect the water resource in the catchment areas, and to plan intake for drinking purposes. The question of the regulation of tariffs and fee collecting of fees is still with unknown answer in peri-urban and remote settlements if municipalities would like to take over the water management. The delegation of finance granted by the central government is not sufficient and administration for aqueducts and systems are not all self-sufficient (RH, 2003), which means that municipalities will need extra finance from their own revenues to comply with the law. Thus, delegation of duties and responsibilities are assigned not accordingly with the delegation of resources.

Sanaa in turn had the responsibility for the aqueducts, the provision of WSS and the management and planning at the national level. In practice, the duties were partly complied and due to limitations in finance did not prioritise the area of sanitation. By 2003, Sanaa did not supply all the municipalities in Honduras and several of the aqueducts are running in deficit (RH, 2003). Sanaa financed their activities through the central government, tariffs that could not be readjusted due to political will, and international donors, lately the European Union with financial support for administrative and technical assistance programs to the peri-urban and rural areas.

The functions of Sanaa were reassigned in two areas according to the FLWS: (i) the operative and technical section included both the management of aqueducts and WSS; meanwhile the second area concerned the (ii) formulation of policies and strategies, organisational structure and planning, quality of water at the source, standards of drinking water quality. The first set of duties was assigned to the municipalities, and the second to the new organisation Conasa. The latter operated at initial stage, and until nowadays 2007, at Sanaa headquarters with the Sanaa personnel including the president which duties are divided for these two organisations. The new responsibility for Conasa, not previously performed by Sanaa, is the formulation of policies and planning of the water sector at national level.

Ersaps functions have not been performed by any organisation previously: the regulation of providers of WSS. The functions include the quality of the service, more than 100 drinking water providers, two of them with metropolitan character, and around 5000 JsA (Ersaps, 2007). At the moment main regulatees are municipalities and JsA, the latter with whom Ersaps is working more closely lately with the new regulation for JsA created in 2006.

Political power is also important in the performance and development of these new and old organisations. It is noteworthy that all the authority levels in the water sector from the Minister of Environment, Departmental Government, Conasa, Ersaps are appointed by the ruling government party, except the municipality, which mayor gets elected directly from the citizens. The political will of the ruling party could be in favour of municipalities according to the party ruling the local government.

There were debates coordinated by the Congress in 2005, in which it was unfortunate that only the private sector was considered a new actor. The argument supporting the position was the financial issue as the main constraint to provide an efficient WSS, thus, the private sector was considered a main economic thriving force. On the contrary, there were no incentives to include individuals representing the civil society in developing global partnership goals. As scholars have claimed, institutions established for monitoring the private sector or regulators in many Latin American countries share principles of their analogous in USA, UK and France, which generally neglect active civil society participation. In Latin America, institutions reproduce some of the procedures used to monitor the Thatcher general privatisation policy schemes in the UK without adapting them

to LA conditions (Gustafsson, 2001; Page & Bakker, 2005). Also, the water and sanitation trade union has also been left out of negotiations and consultation meetings for the WIR programme (Phumpiu and Gustafsson, 2008a). WSS workforce from the Sanaa is the major workforce in the sector with the operational experience difficult to remove considering the lack of cadastral maps for service and not registered documents.

Trajectory: the implementation process

Understanding decision process and implementation responds to a context that includes political will, socio-economic realities, culture, environment among the relevant issues. The question for Honduras concerns if at the implementation stage, the new institutions for the water and sanitation sector are following the top-down approach, or if they empirically tend towards the bottom-up approach. How is the water institutional reform coping with the water policy formulation process and the adjustment of actors participation?

It's important to know the motives of policy transfer i.e. why is it preferred? who wants it?, because they shape what we will be looking for. We should be open-minded but not single source. (Dolowitz, 2003). Thus in this section the WIR evolution is unravelled to understand the decision processes.

The creation of new authorities such as Conasa and Ersaps, fulfils the gap for planning and regulation of the water sector including potable water and sanitation. In practice, at an initial stage, these organisations elongated Sanaa's duties. The creation of these new organisations were provided with limited financial resources, then, a selected high professional group of Sanaa were responsible to organise and design these new authorities. At the same time, the line of action and visions were tied up to Sanaa's vision, and not few politicians and civil society thought that the process was still dominated by the politicians and water engineering professional technical elite. Decentralisation of resources and power from the elite governmental entities were difficult to foresee.

The trajectory of the policy implementation took different courses according to the nature and demography of the area, the more controversial debate is the transfer of WSS to the municipality of the capital of the country, Tegucigalpa. The second city of importance, San Pedro Sula, was not included in the debates due to the concession of the water administration and management to a private company. The transfer of functions from Sanaa to the Municipality of Tegucigalpa began in 2003 and the completion of the process was intended for 2008. However preparations at the Tegucigalpa Municipality were not easily identified. Decentralisation of authority and resources has not been settle between the national government and municipality, and as Rodriguez-Pose and Bwire (2004:1907) claim 'the greater the degree of autonomy, the stronger the scope for enhanced efficiency'. Planning for development of the WSS was not initiated and was not included in the timetable by the second year of the WIR with activities like completion of inventory and characteristics of existing infrastructure, a master plan for development, and financial resources and investment plan. In personal communications at the end of 2004 officials at the Municipality of Tegucigalpa commented that the entity was expecting funds from the IFIs in order to develop master plans for operation and public works (Phumpiu, 2008b), however, they would be granted only after the transfer is complete, which is planned by 2008.

Positive aspects enlisted the events for the WIR, such as the creation of Ersaps. Despite of the technical engineer dominance given at its initial stage, Ersaps is developing towards a multidisciplinary team where more professionals such as lawyers, and economists, and Phumpiu, IWRA 2008.

social professionals are now integrating the leader team. In case privatisation or concession takes place, as it was in the mind of officials for the ruling municipal party in 2004, then Ersaps is preparing its functions slowly to be able to regulate the newcomer private company.

On the other hand, actions of lower actors as JsA in small and rural remote towns are willing to cooperate with municipalities in order to have a better planning for access to water and sanitation. Local governments though are not entirely able to assume all the functions delegated for delivering WSS, because the government failed in supporting with sufficient finance. Municipalities began capacity building for municipality personnel in administration and technical areas, with funds from Prraccagua (European Union funds) and the compromise of municipalities to secure contract to trained personnel for one year. However, replacing Sanaa personnel in the technical operational area, is not sufficient, since municipalities need to provide also the preservation and development plans for water resources, which small municipalities cannot afford.

Regarding the civil society participation in the implementation process of the WIR and decentralisation to municipalities, there have been attempts to find a balance in the discussions and debates. Round tables have been established legally and slowly get into practice, though criteria for selection and not able to vote but only been observers do not give much transparency to the process. Trade unions have hitherto been neglected, even though their relevance for the WIR in Honduras (Phumpiu & Gustafsson, 2008a). and Phumpiu and Gustafsson (2008, 2008a) suggest the need for incorporating the labour force in the negotiations and collaboration with government and private sector, also named representatives Tripartite Partnerships. The latter process cannot be possibly at this stage but nevertheless qualified employees and those with technical training should have the opportunity for a negotiated contract in other organisations where their knowledge could be of use.

In the end, there is a process of linkage that needs to be bound with a comprehensive plan and strategy for which Conasa is in charge. The creation of these linkages and the resources delegated for their implementation depends on the development of Conasa. Hill claims 'that goals in a public organism are policies' (2005:146), and do Conasa goals. Conasa is still running under the umbrella of Sanaa which has limited functions in this area compared to the new duties.

These missing area of planning is also depending on the transfer to municipalities which maybe it is not prepared technically and financially enough to assume the Policy and Planning duties. The ad-hoc approach, informal and not planned fragmentation of water administration and management from JsA was good for getting access to water, however still needs coherence and comprehensive vision that can only be performed by municipalities or national entities.

An issue closely related to development of water infrastructure is the land ownership. This issue is crucial to find alternatives for urban and peri-urban areas, in most part located illegally in public or private land, with not access to water, an issue that also needs to be faced by municipalities in coordination with the government through the regulation of the Territorial Law. Honduras 'is unique in Central America in that by 1974 up to one-third of its land was still public-either national or ejidal (community-owned)' (Brockett, 1987:79). With the migration to the cities, this land was illegitimately taken, and is slowly developing as proper settlements. Municipalities cannot keep claiming only on illegitimate basis, but the time has come to face and look for solutions.

Evolution is not at easy in the WIR in Honduras considering issues on clientelism and corruption that has been detected in all levels of government. Trust as the main component to initiate cooperation among organisations, it is the reflection of political participation, transparency and political accountability (Rodriguez-Pose and Bwire, 2004). Hondurans have revealed no trust in organisations but in people (UNDP, 2003), which gives little room to generate and support continuation of initiated projects and new starting ones in the water sector.

Conclusion and perspectives for a new platform in Honduras

Policy implementation has different outcomes according to the level at which the policy was formulated. At the national level, the top-down approach dominates the stage despite the efforts to get public participation in order to legitimize the policy process. National governmental positions in the organisations for the water sector are appointed by the ruling government, and may not be in coordination with the municipal mayor, who is elected, and in charge of management and administration of the water resource and WSS. The lack of funding resources at the national governmental level and the time frame implicitly imposed for political motives undermines the efforts for a better planned policy process. Definitely political will is required to develop the new organisations, and support is needed concerning delegation of resources and moreover delegation of authority.

At the local level, especially away from the urban context, the bottom-up approach complete and restructure the implementation process according to local resources availability. Communities are recurring to the ‘every day problem-solving’ strategies, which are difficult to monitor from the high national or even local governmental level. The lack of funding restricts the role of the government as a state controller into medium-small localities in Honduras, transforming the communities into their own controller and provider by self-managing their drinking water resources. Nonetheless, a planning cohesion is needed to amalgamate the local efforts.

The Water Institutional Reform currently under way in Honduras, have the opportunity to correct the policy implementation failures by taking into account and improve the technical and community network resources that are already put in place country wise. At the policy implementation stage, there are features already developed that can be of use by developing efficient mechanisms to legalize their intervention. Most of the interventions at the local level are efficient; however their illegal condition undermines future developments. Policy implementation failures are the result of a holistic perspective and considering all the resources at hand.

The instruments to achieve trust and an efficient system such as political transparency and participation are already legally set up. The need for political will is now again on the scenario. As in earlier periods in the Honduran history, the decentralisation approach is dominated by a centralism trend in governance. Still changes and evolution in new organisations are the ones intended to redirect WIR towards an efficient system in the water sector.

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