

Structural Analysis of a Transboundary Conflict Interests and Values in the Rio Bravo Basin

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ABSTRACT

After a period of water scarcity initiating in 1992, the old 1944 Treaty on Water between Mexico and United States was seriously brought into question to the point of requiring the intervention of both presidents in 2002. In this paper, we use a "structural analysis of conflict" under the assumption that the many actors, speeches and social practices have to be reconstructed and modelled from main actors' economic and social interests. We stress the difficulty for expertise to avoid "irrationality", information asymmetry and the pervasiveness of cultural stereotypes.

KEY WORDS: *Transboundary water management, cultural values, legitimacy, deconstruction, vertical governance, presidents' intervention, discourse, identity, certification.*

*Life has a way of making the foreseeable
that which never happens...
and the unforeseeable that which your life becomes.*
Everett Hitch¹

INTRODUCTION

While international waters are subject to statutory regulations that maintain the fiction of good neighbourhood and supranational interest, the time of the conflict revives the political dimension underlying cross-border relationships. The dispute once again stimulates both interests, local and national, and stereotypes on either side of the border. The role of values as a vehicle of domination is illustrated by the Rio Bravo, where Western values (the USA) and the values of the South (Mexico) interact.

Conflict analysis is far from benefitting from a conceptual and methodological consensus. Empiricism remains in an area in which meet mechanisms of escalation, discursive construction of identity, crossed-legitimacy between coalition members and plural authorities, cause-oriented generalization² (or on the contrary local cause-oriented particularization³) or simply those concerning the real motives that animate the actors beyond their speeches. This paper proposes to operate this type of approach to an international conflict, which incorporates presidential interventions and dominant values.

More specifically, we draw on a structural analysis, which claims to model the succession of visible events under the assumption that actors defend their interests. This guiding thread is tested to identify alliances, describe the repertoire

of practices, and decode discourses seeking to convince and gather, as well as to decide what is contingent, innovation and values. In other words, we pretend cast light and meaning in a lively, luxuriant, unpredictable whole, which blurs the observation and produces erroneous interpretations (Mollard & Fuentes 2012). Conflict reconstruction on the basis of different mechanisms and the guiding principle of interest allows for qualifying the hypothesis of actor's interest.

As in a detective novel, the plot is based on nontransparent motives. Critical methodology aims to find out each actor's motive (or interest) before reconstructing the sequence of events. Deconstruction rests on the critical analysis of collective discourse whose construction follows a syntax with unspoken part, structural principles (mainly apolitical and historicity-less), and rhetoric-based legitimating (Elster, 1998). Deconstruction also refers to concepts used by the actors, to the actors themselves and their supposed unity, partisan expertise, as well as actors outside the arena, whose influence can be decisive (Tilly & Tarrow 2006).

To summarize, the structural analysis, on the basis of known mechanisms to be called up and unknown ones to be identified, aims to answer the questions:

- Who? What? Who are the actors, what issue they build?
- How? What speech, what practices, what mechanisms (legitimizing or certification, activation of weak ties or boundary⁴, etc.) do they implement?

- Why? The two previous questions attempt to answer the why, that is to say, to identify the motives, from which we reconstruct the conflict.

The observer does not have access to every element of a conflict. This is the case of speeches and expertise that hide or defend a point of view, but also events (secret agreements, decisive influence, previous cleavages, etc.) that are not accessible and must be reconstituted. Ten

¹ In: Appaloosa (2008), an American Western film directed by Ed Harris. (*La vie a le chic pour faire en sorte que ce qui est prévisible n'arrive jamais. Et que ce qui est imprévisible devienne notre vie*). Without going back to the Wild West when life was highly unpredictable, as featured above by the character of Everett Hitch, the conflict is a special moment where the unpredictable uncovers political influence everybody would like to hide.

² An imperative of legitimacy that must become more general in order to create a "cause" to be defended (*montée en généralité*).

³ *Descente en spécificité*

⁴ « Certification occurs when a recognized external authority signals its readiness to recognize and support the existence and claims of a political actor ». Tilly and Tarrow 2006.

years later, it is not always possible to unambiguously access to everything, but the distance from emotions makes the reconstruction easier. In the Rio Bravo, the year 2002 was the height of the conflict between Texas and Chihuahua. This year summarizes the 10-year conflict and allows for decoding influences, misunderstandings, and domination. We derive some clues for the future in USA and Mexico.

Vertical structuring and American irrationality

We begin with the "irrationality" of Texan actors, as stated by U.S. researchers (Kelly *et al.*, 2001; Walsh, 2004)⁵. Texans have never stopped defending the idea of sufficient volumes of water in Mexican dams. They argued that Mexico had to comply with the Treaty⁶ and refused the exception of extraordinary drought defended by Mexicans. This exception is stipulated in the Treaty but not precisely defined and, if it is conceivable that Mexicans brandished it early, they do not have abused of it before the serious rainfall deficit started in 1992 and early restrictions in American and Mexican irrigation.

Texas farmers with the support of Governor Rick Perry continued to wield data of dubious origin and uncertain methodology to prove their good faith. The first was a document on water assumed to be sufficient in Mexican dams from satellite images, then an economic report from Texas consultant offices. At the beginning, they also benefited from the support of the Mexican President (see below) as well as from downstream Tamaulipas state. Even when the governor of Chihuahua invited Texans to visit Mexican dams, Texans took advantage of a "clumsiness" to toughen their demands. In other words, before the evidence of empty dams, Texans remained irrational due to a powerful, unregulated group dynamics.

It is in the interest of Texas farmers to demand and irrationality resulted from two factors. The first one relates to the vertical structure of legitimization in U.S. governance and the second is related to the cognitive domination of the Western model (see below). We first analyze the U.S. three-tiered governance structure.

As said before, cross-border conflict involves the intervention of Presidents. This took place early and Presidents Bush and Fox needed one another for reasons other than water. It is in the interest of any president to show his electorate that he has good relationship with neighbours. Bush had been even in need for help since the beginning of his war against terrorists claiming that none of them should penetrate through the Mexican border.

The will for international good neighbourhood was known by Rick Perry, who followed Bush as a governor of Texas. Perry knew he could rely on the support of the former governor. He also knew that the benefit of any success between Mexico and the USA would have been reaped by Bush. In this context, the strategy was his full support to Texas farmers' demands. He let farmers speak and gave

sufficient pledges so that Texans feel that their claim was not only heard but also legitimate. Without knowing the content of the whole international issue, Texans never stopped asking for more. Claims permanently supported by the governor reached the level of irrationality beyond any reasonable extent. The absence of any regulation by the authority is responsible for this radicalization.

As far as Perry was concerned, 2002 was an election year and the cross-border issue allowed him to benefit from the rural vote and appear as the strong man able to challenge the southern neighbour. The use of an international issue for local gain is common in Transboundary issues. Texans proposed to boycott Mexican produces and they occupied the international bridges. Their demand on water went along with the protectionist claim against low cost Mexican products since NAFTA started. Such a claim allowed them to extend their alliance to US farmers. This cause-oriented generalization also enabled the Texans to submit their claim to the Federal Executive, which eventually could provide assistance regardless of Mexico. Again, claiming was their interest and, if they did have been irrational, they were logical and predictable. Irrationality was a consequence of the continued support from authorities.

The three-tiered American structure, in which two authorities were relieved of their responsibility, resulted in the irrationality of Texas requests. We will also see the role played by distrust towards Mexicans and by the dominance of American values, which curiously have been strengthened by the Mexican elite itself.

Mexican fragmentation and cognitive dependence

The Mexican governance structure is not as consistent as in the U.S. and all three levels are less supportive. Such weakness was revealed in the times of the conflict when several periods were marked by internal opposition. At the institutional level too, the pervasiveness of the Federal Water Agency (CNA), if it complies with Executive's orders, particularizes the negotiations. Behind these tensions one detects the whole governance in Mexico challenged by federalism, where actors are poorly accountable, and by general suspicion due to low transparency, which casts patronage discredit on public institutions.

This negative image results from the misunderstanding of politics and from the domination of Western regimes excessively promoted by international organizations. To understand the Mexican governance, it is assumed that the conflict is the cause and the consequence of the governance. To avoid or reduce conflicts, which produced insurgence and revolutions, Mexico used to give autonomy to actors from the local cacique to the president. The country has certainly lost territory in the nineteenth century, but with the exception of this period, social cohesion is functional since territories as diverse as the tropics, Indian- and Métis-populated highlands and the arid north have remained united under the same flag. Autonomy allows actors to give specific treatment to conflicts even though such a treatment involves taking some liberty with the law. Law besides is too often based on imitation of western countries and not enough on the specific politics of the country. Moreover, the country crafted more negative

⁵ For the proceedings of the conflict: see Mollard, 2012.

⁶ "Utilization of waters of the Colorado and Tijuana rivers and of the Rio Grande". Treaty between the United States of America and Mexico signed at Washington February 3. 1944.

*malinchismo*⁷ terms than national projects such as rule of law or democracy. So, Mexico is at odds with certain laws, not by wickedness or a democracy-incompatible culture, but by political necessity. Some, magnifying international standards, see "bad governance", but Mexican governance, like other countries in the South (which all in all show how minority the Western governance is) is arguably a model per se. It can be improved like any governance, but improvements should not come from Western models but from its own forces.

Therefore the standard of transparency cannot ever be fully implemented in a country that feels guilty about its personal treatment of conflicts. The result is suspicion both in Mexico and in USA. Everybody feels that everything is politics and under influences and powers (which is true, but is it not the same in the Western countries?). The fiction of democracy does not exist and trust in institutions is low. This does not prevent the country from improving itself. Suspicion turns into guilt and weakness when the CNA elite, trained to Western principles, take the rule of law as a model and want his country to follow a western regime. This explicit guilt becomes a weakness when it feeds the domination of Texans, for who Mexican incapacity of Treaty enforcement is confirmed: all would be subject to manipulation for personal or election reasons (although election-based public action exists in every country⁸).

The Mexican model of governance can be improved, but it is a model on its own and not a step towards the Western model. It must be recognized as such and its advantages and functioning must be acknowledged within national, foreign and international elites. This fundamental work requires a lot of work by political scientists to be done. In any cases, the intellectual superiority in Texas plays a role in the dynamics of the conflict all the more so that Mexico persists in the dominated situation when the country benefits from aids.

Mexican structure is as follows: farmers, the governor, the federal water agency and the President. The configuration of the Rio Bravo also leads to take into account two territories: upstream Chihuahua and downstream Tamaulipas and Coahuila. The upstream-downstream dispute was a source of division, but the downstream tension seems to have been contained. Despite the sacrifice of the interests of Tamaulipas farmers by Vicente Fox, the clientelist treatment has indeed channelized the conflict and avoided violence, so that lawsuits from Tamaulipas remained in the institutional order. In terms of strategy, Tamaulipas was allied with Texas, both designating Chihuahua as a common enemy, and only Fox was considered in Tamaulipas as a traitor. The territorial opposition in Mexico was then supervised and the conflict between Texas and Chihuahua took precedence over it.

Distrust towards Mexican institutions also appears in Fox's strategy. Before 2002, the President openly took the

stand for the U.S. against its administration, CNA obviously remaining silent. Fox was indeed the first president from the opposition after decades of a single-party regime and his distrust against federal agencies, in particular for water, was high. In addition, his only will to establish good relations with the United States reduced his bargaining power and threw it into Bush's arms yet in a position of need of international support after September 11, 2001.

Fox initially demanded the implementation of the Treaty and asked several water releases for Texas at the expense of Tamaulipas farmers. Texans won the case, even with modest gains, until water in dams run out. Fox bet on rains and lost. He lately accepted the exceptional drought in the basin. In Mexico, the three-tiered structure has not strengthened the coherence of the government because CNA considered itself defeated from the beginning by recognizing that previous administrations had issued too many water titles compared to available water. However, this position should at least be discussed because it is not proven. Even though it had been verified by facts, CNA would not have recognized such weakness: it is the limit of the technical elite in the political game.

It seems that for political or hydraulic reasons Fox has never dared to ask the governor of Chihuahua, who defended farmers in his state, to make withdrawals from upstream dams. The governor was from an opposition party and already Fox did not benefit from the support of his own party. Its internal leeway was therefore reduced. In addition, CNA supported the demands of Chihuahua, arguing, on the one hand, the exceptional drought and, secondly, the difficulties to transfer water to downstream international dams (difficulty recognized by independent observers – see: Reed, 2007). As Chihuahua state police was occupying the Luis L. León dam, Governor Patricio Martínez has incurred the censure of nobody: nor farmers because the dam is not for Chihuahua irrigation neither Fox with whom he likely made an agreement. This symbolic action aimed to show Martínez as the villain (while showing his commitment to Chihuahua farmers) while Fox played the nice guy in front of Texas.

Beyond the episode when Fox finally decided to be in line with his federal administration, the problem is not suspicion or fragmentation (it is part of the patronage system with other virtues, such as social cohesion and conflict-solving), but that suspicion becomes a weakness internalized by the Mexican elite and therefore an argument for Texas. The technical culture of CNA associated with the ideal of Western law makes CNA the actor internalizing domination and the political weak link in Mexico. These elite, being the permanent witness of political favours felt as an affront to the rule of law and public interest, do not understand the specificity and the virtues of the Mexican model, as well as of all the models of the South. If CNA remains among the international negotiators, it must first acquire a more political position and then learn what the Mexican model in which CNA is involved is. Training in political science would subdue the technical vision to political issues taking into account domination and symbols.

⁷ i.e. the preference of many Mexicans for anything non-Mexican.

⁸ Similarly and according to the press, violence in Mexico is denounced in the U.S. while large U.S. cities have higher crime rates

<http://www.courrierinternational.com/article/2013/02/01/washington-plus-dangereuse-que-le-mexique-tout-entier>

CONCLUSION

In addition to understanding and defending the Mexican governance, which includes the questioning of international organizations that relay the Western worldview, other lessons can be learned about information. Indeed, tenuous knowledge cannot question the certainties of everybody.

On the Mexican side, missing information relates to the type of agriculture in Texas, which is unknown in Mexico, while USA knows pretty well Mexican agriculture. More serious, and the fault lies once again with CNA, is the low information about agriculture in Mexican irrigation districts. An effort should be undertaken to understand the dynamics of its own agriculture, especially in Chihuahua. Indeed, Reed's later works (2007) show the early decline of agriculture with drought and farmers' departure. Now, on the one hand, Reed experiences difficulties to demonstrate it and, secondly, available data would have weakened Texas' arguments. It is likely that an independent binational research centre on Transboundary issues, including water management, would provide jointed data and reciprocal interpretations useful for decision-makers.

It is likely to be a promising improvement for the Treaty to have defined the conditions for "exceptional situations". It remains to know the reasons which have prevented previous legislators from both countries from defining it. In any case the threshold that allows politics to substitute administration is relevant. As authorities have fuelled the conflict, the lack of political regulation has to be supervised through a legal framework. On the American side, the lack of regulation is clearly involved as well as the three-tiered governance. Both U.S. authorities could shift the blame on the other. To avoid the return of irrationality, the Governor should be empowered, especially when he is hand in glove with the president. Or presidential intervention should have priority limiting or reducing the impact of the governor. Obviously, such power redistribution is enshrined in the constitutional field, but it is useful to consider the different forms of regulation in a federation to reduce cross-legitimization and irrational movements.

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