

BETWEEN THE USEFUL AND THE SACRED
Andean Indigenous Movements in Transnational Water Politics

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“The next set of great wars will be over water.”

One might expect an international politics expert to say such a thing. In fact it was Jorge Loor, leader of a small farmer’s political organization in Ecuador called *Seguro Social Campesino*, as part of a testimony recounting his experience at the World Water Forum in Holland. Attracting attention by carrying both a machete and a *wiphala* into the forum sessions, the Ecuadorian managed to overcome language barriers and make critical contributions at a meeting of NGOs outside the forum who wanted to take a stand against commodification of water. Using symbols of his identity, Jorge built alliances among Latin American delegates who felt excluded by the language of the presentations (English and technical) and with international NGOs:

Entering the event with the machete, well of course everyone gave us weird looks...but after 40 minutes or so we were approached by a famous Dutch radio program...that interviewed me precisely for the symbols I was carrying. So the machete served as a node for making connections and it helped me make contacts with the other participants from the [American] continent...from Colombia, Peru, Venezuela, and Chile. (Interview, Loor)

Jorge and other Third World activists’ accounts of local opposition to privatization of water provided NGOs at the forum with material for their action while forging new transnational contacts. (Interview, Loor; Interview, Alvear). How durable or dense these new contacts will be is uncertain. But water is clearly becoming less localized for the Andes, with activists and concepts moving across scales and making connections, yet changing as they do so:

It is a priority to sooner or later to have an event here in Ecuador to...bring in from this world forum all of the trajectories of water [...] which is the most important issue for humanity and the planet (Interview, Loor).

This paper asks how new development policy paradigms intersect and conflict with indigenous knowledge and popular demands on the issue of water. It argues that complex transnational interaction situated by different formations of neoliberal and multicultural policy frameworks construct this intersection, which in turn shapes the degree and form of negotiation and contestation of identities and agendas. Indigenous responses to these situations entail distinct readings of and adaptations to modernist discourses, as well as different representations of social subjects and state roles, which enable/constrain the networking and circuitry that actors engage in. In turn, the paper argues that capturing the complex and shifting forms of interaction requires going beyond bounded issue networks and epistemic communities to include action circuits that include inter-network associations and hybrid institutions. By contrasting case examples of designing and implementing development projects related to water and land with cases of debating and implementing water laws, and, we show how distinct transnational relations reform state roles, redefine social subjects, and reconfigure territorial spaces that define boundaries of legitimate inclusion and exclusion.

These cases of water politics represent distinct formations of neoliberalism, and for indigenous actors, two different settings for "encountering development." Irrigation

development projects are constructed according to a softer, more inclusive neoliberal development, while water legislation processes follow a harder, more exclusive form of neoliberalism. In the case of irrigation development projects, greater emphasis is placed on social dimensions such as participation of beneficiaries and autonomous management of projects once completed, organizational strengthening, equity of resource access, and interculturalism. Likewise, the scope of these projects is at the community or municipal level, affecting fewer interests and their development visions, in turn allowing indigenous peoples access to modern self-images where indigenous organizations define water and culture as useful. In the case of water laws, in contrast, greater emphasis is placed on cost efficiency and enhancing productivity, based on limited Western notions of expert knowledge that exclude indigenous people and *campesinos*, where they define water as sacred. In addition, the scope of water laws is national, affecting greater numbers of actors with their interests and development ideas. As such, the position of grassroots development NGOs and local indigenous and campesino organizations is stronger in the case of development projects, allowing for flexible interaction among players. In contrast, the position of politicians, parties, state officials, and national and international consultants is stronger in designing and debating water laws, resulting in more rigid, politicized alliances.

Although economic *and* social development agendas are influential in both settings, they have different manifestations that result in distinct representations and strategies by indigenous organizations. In the case of irrigation projects, indigenous subjects are constructed as modern managers and entrepreneurs who do not require state intervention in irrigation. In the case of water laws, indigenous organizations construct subjects based on identities culturally distinct from Western or modern images, while demanding citizen rights to participation and accountability, as well as a continued key role for state control over water resources and system management. The similarities in the dynamics between irrigation projects in Ecuador and Bolivia, and between water legislation in each country, outweigh the similarities we find within each country comparing each the two types of water politics scenarios. Below, we first outline the transnational policy paradigms and networks that situate water politics in the Andes vis-à-vis location of indigenous peoples and organizations. Then, we contrast case examples of irrigation development projects with debating and implementing water laws.

I. Paradigms, Networks and Practices in Water Affairs

Water politics in the Andes are part of broader international policy trends linked to state reforms and development programs. While the more dominant policy approaches include powerful modernizationist discourses that constitute the Third World in ways that limit possibilities for marginalized actors, discourses of ecology, cultural revival, participation and equity open up new possibilities (Crush 1995; Escobar 1995; Peet and Watts 1996). What we witness today is a partial convergence of discourses into common policy agendas, through multi-scalar interaction that moves ideas, conceptualizations, and terminology. If we are in a post-development era (Kearney and Varese 1995), it may be an era marked not only by the erosion of categorical dichotomies such as modern-traditional and urban-rural (Laurie, Andolina and Radcliffe, 2002) but also by overlapping discourses and development goals. Overlap does not mean complete

agreement among all social actors, but rather fragments of consensus and partial, mutual co-optation. Irrigation projects and water law proposals promoted by multilateral development banks, national governments, public water agencies and multinational water companies draw heavily on “revised” neoliberal models that cut two ways. On the one hand, they escape economic orthodoxy by including social, environmental and institutional criteria (such as participation, good governance and sustainability) as successful development criteria. On the other hand, they extend neoliberal logic to non-economic spheres by promoting criteria of efficiency, financial sufficiency, decentralization, and proper management in institutional and social development.

According to Fine (2000), the ability of organizations such as the World Bank, to adopt “dissident voices” promoting non-economic concerns was key to defining a “post-Washington consensus.” In water development policy, the World Bank has been a key actor in designing and promoting frameworks that move away from the previous international focus on state-run water supply for health based purposes. Inefficiency and financial inviability in state-run systems, including large dam projects, and making communities into self-help water “stakeholders” are motives for promoting a “demand” based paradigm constructing water as a commodity. This model has become dominant in global policy institutions as it dovetails with a focus on cost reduction for water infrastructure and management, institutional reform, and decentralization:

How the cost level was determined and who covered all or part of the costs became the central focus...service coverage guaranteed by the public sector gave way to an approach emphasizing government, civil society, and private sector, in which government undertook to enable and facilitate a new service delivery relationship between civil society and the private sector. The logic of sustainability [of the World Bank] places the onus of covering costs of delivering clean and reliable supplies on consumers rather than suppliers. Communities have assumed the role of purchasers of a private service and (economic) good rather than being users of a public (social) good. (Nicol 2000: 10).¹

Modifications of the demand model work largely within the dominant private management paradigm. For instance, DFID-linked researchers have promoted a *sustainable livelihoods* approach, which argues that water is not only a tradable good but also an asset used to produce income, which must be taken into account in water policy (Clarke 1998; Carney 1998).² The Inter-American Development Bank (1998) promotes an *integrated water resources management* approach that centers conceptually on water basins and considers "all sources and uses of water" within them, demanding social participation as well as experts in geology, engineering, and physical geography to implement the approach.

While self-managed, participatory development has long been a goal of indigenous organizations, free trade and private management of water and water infrastructure does not fully overlap with indigenous organization visions of water or water interests. According to their views, water cannot be individually owned, as it is part of a holistic concept linked to humans and other elements of nature:

¹ Also see World Bank (1993 and 1998).

² DFID is the Department for International Development of the United Kingdom.

In the indigenous world, water, like rocks, mountains, and trees are conceived as a living being that feels, converses, watches, and protects. This concept is rooted in the harmonious relation between humans and nature. (Pacari, 1998: 299)³

Further, many indigenous organizations see non-collective and non-indigenous run development suspiciously as a form of colonialism (CONAIE 1994; CSUTCB 1992) that fails to recognize indigenous territory, knowledge, spirituality, and collective rights:

There are rumors of transfer or rumors of privatization which are logically in disagreement with how it has always been managed and used as part of the culture of living with water, so how do they want to transfer this now to others? [...] There are cascades that we use culturally as well, and on the other hand how can human beings survive without water...we already have experience as we have lived and worked, how you have to use it [water]. (Interview, Lanchimba)

None the less, some indigenous leaders and organizations accept a need to improve productive, marketing, and management capacities of indigenous peoples in which water improvements play a key part (Interview Lanchimba, Interview Quinde). However, they also insist on equitable access to water and continued responsibility for the state in controlling water resources, regulating water use, and providing for water infrastructure (see also CONAIE 1996a; CIDOB et al 1999).

The position of indigenous organizations on water and irrigation shares concepts and criteria with a regional development tradition of *Riego Andino* (Andean Irrigation), or *Riego Campesino* (Small Farmer Irrigation) linked to grassroots agricultural development paradigms. This position emphasizes equal resource access, improving productive and management capacities of indigenous and small farmers, environmental protection, community-based farming and irrigation systems, attention to Andean culture, and gender equity projects (CESA, 1991; COSUDE, 1998; Boelens and Dávila, 1998; Interview, Sanchez; Interview, Gangotena; Interview, Zaharia). Some proponents of *riego andino* negotiate elements of neoliberal models that stress productivity and management skills, while maintaining a critical stance towards neoliberal development that under-emphasizes full participation, local collective organizing, and food security concerns:

On the one hand there are abundant [policy] currents like the Chilean and Bolivian, where water is a tradable good like any resource. This means, in the Ecuadorian context, that a proposal would be passed that in a short time where the [indigenous and campesino] communities would no longer have access to water. That is a huge concern of the users themselves and...we are trying to support [them] through debates and analyses of forum. (Interview, Biederbick)

This complex set of ideas and goals allows for indigenous peoples and grassroots development NGOs to accept or reject neoliberal policies in different situations.

Andean irrigation visions are not homogenous and may also affect engagement with neoliberal policies. More influential in the Southern Andes of Peru and Bolivia, *andinista* organizations such as PRATEC and CENDA promote development only

³ Also see Guarani leader quoted in Benton (1999: 76).

through cultural recovery lest it become colonial and ineffective (Healy 1994).⁴ More pragmatic versions of *riego campesino*, influential in Ecuador, respect and promote indigenous cultural traditions secondary to more socio-economic concerns. *Riego campesino* NGOs such as IEDECA and CESA are, for example, open to work with both indigenous and non-indigenous small farmers, and see little difference between them (Interview, Sanchez; Interview, Alvear).⁵ Still, some *riego campesino* organizations in Ecuador represent *páramos* (mountaintops) as the “root of Andean life” which need special management because of the presence of indigenous communities, water sources, staple agricultural production, and biodiversity (Bernal, Sanchez, and Zapatta 2000).

Finally, most development platforms include a gender focus as a key component for water and irrigation related projects and policy, yet in implementation of projects, actors experience limitations for their calls for gender mainstreaming and equity. Part of the reason for this is that “gender focus” is often seen as a colonial type of imposition by donors and not accepted by indigenous peoples, despite the fact that indigenous leaders often recognize women as the main irrigators:

I would say that during the week women use water more than men. With the [water] *mingas* [collective works], more men participate than women do. But in the most useful work, the woman (the husband often works elsewhere) is present constantly irrigating potatoes, onions, etc. (Interview, Lanchimba)

Instead, gender is proposed as a “transversal theme,” itself a ubiquitous policy formula:

The classic event is gender relations...there is the condition on the part of some financiers that one tries to incorporate gender into development. [...] I see it more as transversal, where it is beneficial and where one can promote a development with gender equity criteria...of course it is applicable but we don't see it as a theme that must be worked on for its own sake. (Interview, Biederbick)⁶

These diverse frameworks -- whether on stakeholder participation, market forces, or gender policy -- serve as material for designing, negotiating and contesting government policies, development projects, and state laws. The overlap among them provides certain criteria and a vocabulary through which a diversity of actors can interact and negotiate. But differences in understandings of words and emphasis on different criteria may lead to disagreement and conflict revealing distinct meanings and intentions held by various social actors in particular political contexts.

Indigenous Peoples and Water “Networks”: Actors, Flows, and Scales

Overlap in development goals and frameworks also complicate conceptualizations of networks as the key conduit of transnational connections. Most definitions of transnational political and policy networks such as epistemic communities (Haas 1992)

⁴ In this respect they are often more radical than indigenous organisations themselves, and draw criticism for romanticising Andean culture and turning a blind eye to poverty (e.g. Starn 1991)

⁵ CENDA stands for the Center for Andean Development. CESA stands for Ecuadorian Centre for Agricultural Services, and IEDECA stands for Institute for Development and Ecology of Andean Communities.

⁶ Also see Arroyo and Boelens 1997; Jacomé 1998; Arratia and Sanchez 1998.

and principled-issue networks (Sikkink 1993) entail a dense, regular interaction amongst individual or collective actors around a definable domain of issues, values and visions. Without denying the significance of these kinds of networks, understanding water politics and indigenous peoples in the Andes requires consideration of a *circuit* of significant transnational interactions and linkages beyond clearly bounded and highly dense networks. Domains that bind networks may shift as the situation and interaction re-links issues, bridges or ruptures common values and amplifies or reduces shared visions. As globalization intensifies and the meaning of development expands to include almost every issue affecting poorer countries, networks around issues tapped by development agencies are likely to experience blurring boundaries.

This section lays out some of the transnational connections on water and indigenous peoples, showing that inter-network spaces, hybrid institutions, and issue overlap are important transnational links to account for, links which often include state agencies, institutions and legislation. *Inter-network spaces* include conferences, forum, commissions, and the growing formation of "consortia" between NGOs and state agencies, applying business discourse and practice to non-profit organizations. *Hybrid institutions* condense into one agency different types of organizations and personnel that may have been part of a common issue network or may have operated in different networks (Radcliffe 2001a). Studying these circuitous connections reveals how the conception and management of the issue of water changes across scales and contexts, as does the situation of indigenous peoples in relation to water policy.

Water politics in general has become fully internationalized only recently. Although the UN held a water conference in 1977 in Argentina, a far greater number of international water events have taken place since 1990, including the "World Water Forum" in Holland in 2000 mentioned on page one (www.worldwaterforum.net).⁷ Other international events include The Water, Environment and Sustainable Development conference in Dublin in 1992; inclusion of a water paper in Agenda 21 of the UNCED; a FAO statement on water in 1994; and a Water and Sustainable Development Conference in Paris in 1998 (Bustamante 2000: 131). In Latin America, the UN-affiliated Economic Commission for Latin America (ECLA) has recently issued statements and organized workshops on water use and legal reform. Inter-American meetings issued declarations in San Jose and Buenos Aires (1996), while Bolivian development NGOs arranged a transnational electronic forum to debate water politics and policy (CGIAC 2000).

These international conferences serve as nodes for building connections around water issues and linking them to other concerns, as well as accumulating criteria and vocabulary for future encounters. The 1992 Dublin conference was particularly important for pushing the neoliberal demand-based paradigm to water (as well as environmental, participatory, and gender criteria) and was a precedent for water debates at the UNCED later that year (Nicol 2000, 10). These principles were revised and ratified for adoption by the Global Water Partnership in 1996, which has strong links to the World Water Council and is run by a transnational set of individuals and funds from various government, IGO, and NGO backgrounds (see www.gwpforum.org; www.worldwatercouncil.org).

⁷ The next World Water Forum will be held in Japan in 2003 (www.worldwaterforum.org).

Unlike land and territory issues, however, the globalization of water politics is just beginning to affect the Andes and Andean indigenous peoples, as expressed by this Bolivian indigenous leader:

The theme of water is rather local, and it's recent. Where we have had rich experiences and relations of mutual support internationally is in the theme of land; we have relations with Brazil...with Peru, with Ecuador, including with Argentina and the Mapuche compañeros of Chile. (Interview, Veliz)

Water *is* now building new transnational links between the Andes and the north and among Andean and Latin American countries due to conflicts and scarcity on the local level, new national water laws, and increasing globalization of water concerns. While some themes are agreed upon in water policy, the privatization versus no-privatization of water remains an important divide. One member of the coalition of NGO and social movement activists formed at the 2000 World Water Forum in the Netherlands described the Forum as “basically a space to legitimate the privatization of water on a global scale,” given the strong presence of private national and transnational water companies in attendance (Interview, Alvear).

Networks and Links in Andean Spaces

Irrigation-based networks within the Andes have existed since the 1970s around grassroots agricultural development. Involved individuals and organizations are often both “principled actors” and “experts” in grassroots development and water issues, working with campesino and indigenous organizations through what they call “technical support” and “discussion space.” These organizations also obtain funds from official and NGO international sources, and sometimes work directly with foreign or international organizations on agricultural projects. What *is* new, however, is their increasing interaction with state agencies and international development agencies that espouse neoliberal development paradigms, putting such NGOs in ambiguous positions. This interaction is in part a product of official development agencies’ “civil society turn,” and a turn by NGOs and social movements to occupy all possible political spaces. Yet the character of the connection depends on the political commitment of related actors and the character of situations.

For example, the Institute for Development and Ecology of Andean Communities (IEDECA) in Ecuador agreed to run the Ecuadorian branch of the Structural Adjustment Participatory Review Initiative (SAPRI) sponsored by the World Bank (www.worldbank.org/research/sapri), after IEDECA director Ivan Cisneros visited Washington (Interview, Sanchez; Interview, Zapatta).⁸ IEDECA is a key support NGO for *riego campesino* and small agriculture production in the Ecuadorian highlands, and sometimes hold positions counter to those of the Bank. For example, although supportive of the Bank’s efforts to foment participation, an IEDECA member stated, “what we do not want is that it [SAPRI] be a program that only serves [the Bank] to know the thinking of civil society but then nothing more happens” (Interview, Sanchez).

⁸ IEDECA receives financial and technical support from bilateral aid agencies from Switzerland, Holland, and Germany, and Spain, and from French NGOs.

Another example of complex, circuitous interaction in Ecuador is the consortium CAMAREN (Training System for Management of Renewable Natural Resources), which trains indigenous and campesino organizations and frames water and irrigation issues. The Ministries of Agriculture and Environment serve as a key node for the group, which includes NGOs such as IEDECA, CESA, FEPP, and Cuenca and Loja universities (Consortio CAMAREN 2000), and international advisors from CICDA (Interview, Sanchez; Interview, Solis).⁹ In 1996, however, many of these NGOs organized apart from the state in an Inter-institutional Irrigation Forum to support the indigenous movement's efforts to debate and draft an alternative water law proposal to the neoliberally inspired proposal of large agriculturists and the Ministry of Agriculture (Interview, Alvear; Interview, Biederbick).¹⁰

Indigenous organizations in Ecuador are somewhat similarly situated. Most indigenous peoples are represented through CONAIE, which is composed of Amazonian and highland regional confederations CONFENIAE and ECUARUNARI, each made up of provincial or ethnic federations, local "second grade" organizations, and community level organizations.¹¹ The largest fund for indigenous development in Ecuador is, however, PRODEPINE, the Indigenous and Afro-Ecuadorian Peoples Development Project, an example of a hybrid institution. Most of its \$20 million budget comes from the World Bank, with additional contributions from the international Agrarian Development Fund, the Ecuadorian government, and national indigenous confederations. The project was designed and executed by the contributors listed above and personnel from various backgrounds. On the local level, intra-community "second grade" organizations are interlocutors for micro-projects carried out by the macro-project agency. PRODEPINE projects, furthermore, are often connected with existing projects from other sources. By bringing together actors at multiple scales in different kinds of organizations working on distinct issues, this project creates new linkages between institutions around a common policy framework and language of "ethno-development" (see Van Nieuwkoop and Uquillas 1999).

Similar processes are occurring in Bolivia. For example, CIPCA,¹² an important Bolivian NGO involved in *riego campesino*, has been instrumental in arranging discussion forum for indigenous and campesino organizations to form an alternative water law proposal since 1998. Indigenous peoples in highland Bolivia have largely been represented by the more campesino CSUTCB since 1979, although a council of *ayllus* and *markas* now challenges for representation. The CSUTCB is a confederation linking together federations in each department, which in turn aggregate provincial federations, local *Centrales* and community level organizations. In lowland Bolivia, CIDOB

⁹ FEPP is the Ecuadorian Fund for People's Progress, and CICDA is the International Centre for Co-operation in Agricultural Development (a French NGO).

¹⁰ This forum lasted less than a year, but was revived in May of 2000 when water law debates re-ensued.

¹¹ CONAIE stands for the Confederation of Indigenous Nationalities of Ecuador and was created in 1986. CONFENIAE, created in 1980, stand for the Confederation of Indigenous Nationalities of the Ecuadorian Amazon, while ECUARUNARI (1972) is a Quichua word that means "The Awakening of Ecuador's Indians."

¹² Centre for Campesino Promotion and Research, with headquarters in La Paz.

represents over thirty linguistic groups in the Amazon and Chaco regions, and was created in 1982.¹³

The "alternative" water law discussion forum, however, was sponsored by the World Bank, which supports more market-based approaches to water which informed government water law proposals (Interview, Udaeta). In developing this forum, CIPCA also worked with the Solón Foundation and made contacts within the Bolivian Congress to include new participants and increase influence. They created a "*Mesa Técnica*" (Technical Group) that worked with the Cochabamba Water and Life Defense Coordinator to harmonize indigenous-campesino water law proposals with the reformed Sewage and Potable Water law (see below).

A second example of complex actor circuits in Bolivia is the formation of CONDESAN, Consortium for the Sustainable Development of the Andean Eco-region, of which CIPCA is a member. CONDESAN was created in 1993 to increase incomes, equity, and sustainable resource management. It has a trans-Andean but Bolivia-heavy membership, an electronic information system, and bilateral aid funds from Holland, Switzerland, and Canada.¹⁴ CONDESAN in turn assisted the formation of the Cochabamba Integral Water Management Commission, which held a transnational electronic forum on water (CGIAC 2000) and in the year 2000 expanded to become the Bolivian Integral Water Management Commission (CGIAB). The Commission includes CONDESAN as an associate member (thereby including CIPCA), as well as the Solón Foundation, university centers dealing with water, the state-run and IADB funded National Irrigation Program (PRONAR), and other research centers and development program agencies (CGIAB 2000). It is taking initiative to create an "Inter-Institutional" Coordinator to develop consensus on water law proposals and implementation proposals that would include Bolivian and international NGOs, state agencies, and multilateral and bilateral development agencies (www.aguabolivia.org).

In short, indigenous communities/organizations and "support NGOs" are part of multiple connections within and between networks shaped by financial flows, personal contacts, and specific projects and initiatives that create new spaces. These connections potentially spawn new actors such as consortia, hybrid institutions, and multi-issue networks. In bringing together different kinds of institutions with varying agendas, these new nodes allow for further overlap of frameworks and criteria and enhance possibilities for negotiation. Although new, fully-fledged networks are not always consolidated, these links can be consequential at specific moments. Because of continued conflicting interests and viewpoints, however, *full* consensus is rarely achieved. Below we consider case studies of water law politics and water-related development projects in Ecuador and Bolivia that illustrate these dynamics.

¹³ CSUTCB stands for Syndical Union Confederation of Campesino Workers of Bolivia. CIDOB stands for Indigenous Confederation of Bolivia, previously of Lowland Bolivia. The ayllu and marka council, CONAMAQ, was created recently in 1997, although local level struggles between campesino and ethno-cultural interpretations of rural subjects and organizations have taken place since the late 1980s.

¹⁴ Finding Common Ground (2000). The same countries are thus funding small eco-agriculture and water/irrigation as in Ecuador.

II. Transnational Practices in Local Contexts: Water Projects and Legislation

To illustrate how transnational paradigms, networks, and practices affect and involve indigenous peoples in local and national settings we explore development projects involving water management and compare this to the politics of design, approval, and implementation of water laws. In the first section we will highlight the Indigenous Development Plan and Cha'ky Project in the Raqaypampa region of Bolivia, and the Patacocha-Tucayta irrigation project in the Cañar region of south central Ecuador. In the second section we will trace processes of reforming water laws in each country that have peaked since the mid-1990s.

Negotiation and contestation of agendas and strategies take place in both irrigation development projects and water law debates, and both are transnationally situated in terms of policy paradigms and action circuits. However, negotiation is the predominant strategy in irrigation projects, and contestation the dominant strategy in water legislation. This is because each situation represents a distinct formation of neoliberal policy, which depends on three factors: the relative degree of emphasis on economic versus social criteria; the actors who are key players and their agendas (which depends on the scale and scope of the policy in question; and the inclusive or exclusive character of modernizing discourses and their deployment.

Thus, in the case of development projects, greater emphasis is placed on social dimensions such as participation of beneficiaries and autonomous management of projects once completed, organizational strengthening, equity of resource access, interculturalism and multiple knowledge forms, and gender equity. Likewise, the scope of projects is usually at the community or municipal level, affecting fewer interests and their development visions. In the case of water laws, in contrast, greater emphasis is placed on cost efficiency and enhancing productivity, based on Western and scientific notions of expert knowledge. In addition, the scope of water laws is national, affecting greater numbers of actors with their interests and development ideas. As such, the position of grassroots development NGOs and local indigenous and campesino organizations is stronger in the case of development projects, while that of politicians, parties, state officials, and national and international consultants is stronger in designing and debating water laws. Although neoliberal *and* social development agendas are influential in both settings, they have different manifestations that result in distinct representations and strategies by indigenous organizations. These differences outweigh those we find within the two countries of Ecuador and Bolivia comparing irrigation and water law scenarios (see Figure 1).

Negotiating Soft Neoliberalism: Participatory Productivity, Interinstitutional Cooperation and Cost Effectiveness

The two irrigation projects we analyze in this section are seen by various actors as successful projects to be emulated elsewhere, based on four general criteria: the potential for the project to enhance productivity in the medium term, the participation of the project beneficiaries (indigenous campesinos) in key parts of the project, the coordination and innovation between governmental and non-governmental actors on multiple levels, and the relative cost effectiveness of the projects. For leaders of the indigenous organizations, the irrigation projects fulfilled long-term demands for a self-managed

development that improved their access to resources, and provided them with space to participate in decision-making and vigilance over at least some project phases. The projects also would enable them to maintain some cultural practices, especially collective property rights and management of irrigation systems. Key to this policy formation was willingness of financiers and project executors to facilitate indigenous participation, and the partial overlap of development agendas between them and indigenous organizations was key to this, as was the flexible kinds of partnerships between different kinds of organizations that financed, designed and implemented these projects.

These possibilities were enhanced by a “soft neoliberalism” that seriously accommodates concerns about equity, participation, environmental protection, and interculturalism, while at the same time maintaining criteria of efficiency, productivity, and marketing as major priorities. These latter emphases apply not only to strictly “economic” activities, but also to institutional and social practices. This is apparently based on the assumption that production and cost efficiency practices and organizational forms from private enterprise can be transplanted to government institutions, non-governmental organizations, and civil society organizations, even though the latter lack profit motives. Institutional decentralization, flexible partnerships among organizations and proper management of resources and personnel are thus expected to generate successful development. As the following examples illustrate, general trends towards privatization, state decentralization, and achieving more results with less money frame criteria for success and the policy context within which indigenous organizations operate, and provide limitations as well as possibilities for indigenous beneficiaries.

The Patacocha Canal in Ecuador

The Patacocha irrigation project began in 1980 with state support and (after 1986) non-governmental support, with the main beneficiary being the indigenous campesinos affiliated with *Tucayta*, a “second level organization” representing various community organizations, and linking them to CONAIE through affiliation with the provincial UPCCC and the regional ECUARUNARI. According to Tucayta member Francisco Quinde, until the mid 1990s, “there was little community participation and the state continued to be the owner of the project, while the executing institutions and people of Tucayta were simple users [instead of] feeling like participants in development, and there were many problems and failures.” (Interview, Quinde). What turned this project from failure to success were a combination of reflection/learning by the organizations involved, neoliberal economic and institutional reforms, increased concern for local participation and some acceptance of indigenous collective practices as appropriate for development. These changes opened up new possibilities for project execution while shifting the understandings of success for the various actors involved. As a result, a cooperative, negotiated process emerged where anti-neoliberal protest or assertion of cultural difference by Tucayta was minimal.

One reform situating the Patacocha project was the 1993 privatization of services and infrastructure law that allowed the state to contract these out to private companies or NGOs. This law worked in tandem with the World Bank financed Project of Assistance of Transfer (PAT) of irrigation infrastructure out of state hands, coordinated by the Ministry of Agriculture. Most of the projects transferred have gone to large private companies; those going to civil society organizations such as Tucayta have moved much

more slowly, in part because of the assumption that indigenous organizations would not be adequately efficient and knowledgeable in managing irrigation systems (CESA-CREA 1998: 47-48). A second significant reform was a presidential decree in 1994 terminating what was seen to be the inefficient National Hydro Resources Institute (INHERI), replacing it with a national water council (CNRH). This council coordinates among regional and provincial development associations, which, because of a state decentralization law, became responsible to execute public works (yet) within the parameters of government budget reductions. The Economic Reconversion Center of Cañar, Azuay and Morona Santiago provinces (CREA) became the regional development organization responsible for the Patacocha irrigation system.

Together with these changes, the Swiss bilateral development donor (COSUDE) and Tucayta leaders, who also saw INHERI as clumsy in its execution of Patacocha, pushed for a more participatory and interactive approach among organizations and enabled Tucayta to take more control over the project. The formation of the interinstitutional Patacocha Directive Committee, which included representatives of Tucayta, COSUDE, the Ministry of Social Welfare, CREA, and the national NGO CESA, consolidated the participatory-interactive approach (Interview Quinde; CESA-CREA 1998: 17-19). This took place together with changing policies of COSUDE and other international donors of CESA, who expected CESA to reduce its expenditures (less funding was forthcoming) and conform to privatization and decentralization processes. In theory, both goals could be achieved through greater interaction with other NGOs and with state institutions in financing, planning and executing development projects (CESA-CREA 1998: 23-24).

One result of this was the formation of a “consortium” between CESA and the state regional development council CREA to execute jointly the latter phases of the Patacocha project. Consortium and partnership formation, having roots in language and practices of business corporations, has recently blossomed in Ecuadorian rural and irrigation development as a response to decentralization, NGOization of development projects and services, and NGOs learning to avoid repetition of work in the same areas (Interview, Arguello). Examples include the aforementioned CAMAREN (to which nearly all irrigation NGOs belong), the CEDIR-CICDA consortium in the Cuenca Alto del Rio Cañar (CARC) project, and the SENDAS-PROTOS consortium (Consortio CAMAREN 2000; Interview, Solis), which bring together combinations of national and international NGOs, state institutions, and bilateral donors.¹⁵ This kind of circuitry among organizations re-emerged in the last phase of the Patacocha project, which involved the construction of aqueducts and individual reservoirs that would allow indigenous farmers access to irrigation water year round. The CREA-CESA consortium executed the last project phase, while an Institutional Support Committee including COSUDE and Tucayta provided oversight to ensure that donor and beneficiary interests were accounted for (CESA-CREA 1998: 33-37).

The criteria of the actors justifying participating in the project and evaluating its success illustrate the content, opportunities and limitations of “soft” or social neoliberal framework. For instance, in order to grant the funding (which amounted to nearly \$600,000 U.S.) for the final project phase, COSUDE wanted evidence that Tucayta

¹⁵ CEDIR and SENDAS are Ecuadorian grassroots development NGOs, while CICDA and PROTOS are international NGOs (French and Belgian, respectively).

would be "capable" of managing the irrigation system efficiently. It also expected that CREA and CESA would construct the system quickly at relatively low cost, and avoid interference by politicians. As proof of its capability, Tucayta demonstrated negotiation ability through agreements with various public and non-governmental organizations. It also submitted a yearly administration plan with a collective works schedule, affirmed its possession of a computerized system that keeps tracks of irrigation system users, showed that it had adequate budget and could pay personnel, and revealed an established system to collect user fees and sanction water thieves (CESA-CREA 1998: 20-21). The CREA-CESA consortium claimed to combine skills such as technical capacity and experience in engineering projects (CREA), with efficient financial administration, flexibility, and knowledge/experience with *riego campesino* and participatory grassroots development (CESA). COSUDE pointed to the ability of the consortium to adjust and make changes efficiently in terms of costs and time, and that they would be supporting decentralization processes:

This would not have been possible within a state institution, because when there is a change in design, it is necessary that a technical team visits the site, verify the changes, consult central authorities, and proceed to elaborate a new contract with new project workers. This process would have taken months [and cost more money]. (Wilson Dueñas, cited in CESA-CREA 1998: 42).

The process of decentralization of COSUDE and the country influenced our decision. We wanted to reinforce a local agency [like CREA]. (Luis Heredia, cited in CESA-CREA 1998: 28).

CESA made similar remarks in explaining its reasoning in forming a consortium with CREA -- a consortium both refer to as a "social business" -- rather than working with other public institutions or a private contractor:

We analyzed other actors [than CREA]...and under the criteria of efficiency, agility, autonomy to operate, non-interference of a political (party) nature, and experience, we eliminated [the other actors]. (Cited in CESA-CREA 1998: 26)

[Unlike a private contractor], who would vanish once the work was finished, CREA obeys regional development needs, and therefore should respond the interests of local populations. That was an advantage. (Ibid.)

The organizations' assessment of the successful *impact* of the Patacocha project also stressed productivity, efficiency, and management along with equity, participation, and environmental consciousness (CESA-CREA 1998). CREA and CESA affirmed that the aqueducts and reservoirs were constructed according to maximum benefit for minimal cost, and that the year-round access to irrigation water for campesinos would allow "small parcels of land to increase production and obtain higher earnings." (CESA-CREA 1998: 45). COSUDE concurred, as did the indigenous organization Tucayta:

The larger benefit is that you can plant [year round] when you have secure water access. Now we have kidney tomato and a little *babaco* [a fruit]...the benefits are good. In one year we can cover the credit we borrowed. (Cited in CESA-CREA 1998: 46)

Revealing the linkage of neoliberal and grassroots development logic, COSUDE and Tucayta asserted that the "good management" skills acquired represented an advance for indigenous peoples that constituted a form of empowerment:

The project is interesting because the [indigenous] organization has passed through the typical stages of Ecuadorian rural development. Fifteen years ago they were about vindication and were always in opposition, and have passed through a very interesting transformation to be responsible managers...and there is an indicator of their self-esteem as indigenous people, reinforced by economic empowerment. (Interview, COSUDE)

We have transcended the vindication [opposition] phase to...autonomous management, and we are even thinking about small business development for our communities. With this Tucayta wants to demonstrate that indigenous people can accede to spaces but with capabilities to be competitive. (Interview, Quinde)¹⁶

This kind of consensus emerged through interaction among organizations working in different issue areas, with distinct connections to government institutions, and with different scalar bases. Emphases on local participation, environmental protection, organizational strengthening, and equity (key to both the COSUDE and CESA agenda) overlapped with indigenous concerns about participation, equality, self-managed development, and empowerment, gaining Tucayta's support of the project. None the less, these concerns were accommodated within a "soft" neoliberal framework that takes on social concerns and allows room for collective (but non-state) property regimes, while maintaining the predominance of efficiency and productivity criteria for economic activities, institutional reform, and project management practice.

The Cha'ky Irrigation Project

Much like the Patacocha project in Ecuador, the Cha'ky project in Bolivia was situated within state legislation and international development policy based on a "soft neoliberal" framework that sought to combine economic liberalization with social criteria such as participation, equity, and multiculturalism. In 1995, Bolivia passed the Decentralization and Popular Participation laws that placed more resources and development responsibilities in the hand of local authorities, especially at the municipal level, while allowing representative civil society organizations (*Organizaciones Territoriales de Base, OTBs*) to acquire legal recognition and oversee municipal planning and expenditure through participation in Vigilance Committees. In 1996, Bolivia adopted an agrarian reform law called Ley INRA, which attempted to commercialize land while at the same time allowing for collective (but non-state) land titles for indigenous communities called Original Community Lands (*Tierras Comunitarias de Origen, TCOs*). At the same time, the World Bank implemented its participatory and social development plans by providing funds for a participatory grant regime through the

¹⁶ CESA felt confident that Tucayta would be able to continue to manage the Patacocha irrigation system as well, albeit because of follow up training from the Irrigation System Transfer project (PAT) funded by the World Bank (CESA -CREA 1998: 50). Tucayta's (1999) development plan, however, reveals ongoing problems with the irrigation system, citing natural problems, local communities lacking skills, and neglect by the local government.

Bolivian state's Campesino Development Fund (*Fondo de Desarrollo Campesino, FDC*) and for institutional strengthening complementing the Popular Participation Law through the state's Program for Rural Community Development (*Programa de Desarrollo Comunitario Rural, PDCR*).¹⁷

The Quechua Indians of the Raqaypampa area of Cochabamba department established the desire for irrigation lagoons as part of a broader indigenous development plan (*Plan Indígena*), the first such plan produced under the Popular Participation Law. With the help of CENDA, a Bolivian NGO that promotes rural development through Andean concepts and practices, Raqaypampa communities forged the Plan through participation in research and assembly-based decision-making. The Raqaypampa *Central* released the plan in August 1999,¹⁸ which stressed education and teacher training rooted in indigenous culture, establishment of their region as a collective indigenous TCO and greater access to irrigation water.

As in the case of Patacocha, the Cha'ky project was seen as worthy of funding because of the participatory character of the development plan it was part of. Similarly, the donor, PDCR, believed that the strength of indigenous organizations in Raqaypampa allowed for solid planning skills, and (hopefully) project and financial management ability:

Thanks to the great organizing capacity of the *comunarios* in Raqaypampa [they were able to] elaborate a plan that is practically their own. By way of the executing agency, in this case CENDA, we as the financial entity simply support the development financially and technically [...] but in the execution we do have to see how the people administer the resources and manage [the project]. (Interview, Camargo)

Based on the promise that the Raqaypampa development plan was exemplary, the PDCR recommended that the irrigation lagoons part of the plan receive funding from the World Bank sponsored participatory grants scheme of the Campesino Development Fund (FDC), which encouraged indigenous participation in decentralized development planning. Like the teamwork between Tucayta and COSUDE in ensuring indigenous participation in Patacocha in Ecuador, Raqaypampa leaders and CENDA members invited a World Bank representative to the meeting with Bolivian state agencies that decided the stipulations of the Cha'ky irrigation project. Indeed, the Raqaypampa leaders and CENDA's concerns that the project should not divide the community and should follow Andean agricultural and irrigation practice were backed by the World Bank representative in the face of state preferences that all lagoons be built quickly and that the indigenous organizations provide or acquire co-financing. However, the World Bank refused to ensure that Original Community Land (TCO) status is granted with approval of irrigation project funding, hence downplaying the significance of indigenous collective water rights. In addition, indigenous demands for the lagoons had to be articulated in terms of strengthening local institutions (following decentralization logic) and in terms of irrigation lagoons' contribution to productivity for sale on the market (following

¹⁷ Except where noted, the information on the Cha'ky Project is borrowed from Laurie, Andolina and Radcliffe (2002, 225-229).

¹⁸ The *Central* is affiliated through provincial federations to the Syndical Union Federation of Campesino Communities of Cochabamba (FSUTCC), a member of the national CSUTCB.

liberalization logic), even though the lagoons would only indirectly contribute in that way.

In both the Patacocha and Cha'ky irrigation projects, a "soft neoliberal" combination of legislation and development policy with commitment to social principles in practice by international donors (COSUDE and the World Bank) and grassroots development NGOs (CESA and CENDA) opened space for indigenous organizations to participate in and benefit from each project. The overlap between indigenous and revised neoliberal agendas created enough points of agreement to gain indigenous support and allow innovative interaction between international donors, local development NGOs, state agencies, and indigenous organizations, even though, as a Tucayta member argued, "we didn't have a network as such" (interview Quinde). With the exception of one moment where a CENDA delegate declared, "historically water is owned by God," indigenous organizations in both Cañar and Raqaypampa interpreted water largely as a resource *useful* for modernizing purposes of economic productivity, indigenous institutional strengthening, and improving management skills.

For all of the positive aspects of these projects, working within a modern neoliberal framework does pose limitations for indigenous organizations in terms of areas of development debate pertinent to water and land, as well as avenues for representation of identities and interests. First, structural inequalities in land tenure or racial discrimination were not discussed in the projects as possible barriers to indigenous agricultural development. The assumption, as put by COSUDE (n/d, 1), is that "the amount of land per person, even though limited, does not represent a major obstacle for rapid agrarian development. Institutional, technical, and economic limitations tend to be sharper than those involving natural resources." Further, the striking resemblance between COSUDE's expectations for efficiency in production and project management by indigenous organizations and the measurement criteria in the World Bank's "social capital index" used in PRODEPINE¹⁹ suggests that consensus on this exists among international development organizations.

Second, Tucayta and Raqaypampa leaders were able and perhaps willing to benefit from the projects without prioritizing indigenous cultural issues and conceptions of water use, and they were able to retain collective management of the irrigation systems if they chose. Yet these took a back seat to issues at the forefront of the neoliberal development framework. A more serious commitment to multiculturalism in these projects, for example, might allow more room for cultural framing of indigenous interests and identities, even if that meant allowing more money and time for studies of indigenous conceptualizations of water use and customary legal frameworks for allocating and exercising water rights. In Bolivia, CENDA's Andeanist commitment allowed room for this, but was still limited by donor agendas. In Ecuador, where Andeanist tendencies are weaker among grassroots development NGOs, this kind of activity is seen as a distraction from, if not obstacle to, grassroots rural development (Interviews Heredia, Sanchez, Biederbick, Gangotena).²⁰

¹⁹ See Van Niewkoop and Uquillas 1999. Tucayta's (1999) local development plan, designed under PRODEPINE auspices, largely conforms to these criteria.

²⁰ Even a PRODEPINE regional office coordinator, while seeing the Patacocha/Tucayta irrigation project as a model to emulate elsewhere in the region by PRODEPINE, expressed concern that "culturalists" might try to block increasing irrigation water from Culebrillas lagoon in Tambo as it might flood CaZari indigenous archaeological sites (Interview, Caguano).

Third, in both projects, indigenous people conformed to the modernizing (mis) representations of their identities and understandings of state roles. While in the Bolivian Cha'ky project this appears a pragmatic maneuver, in Ecuador Tucayta seems to go further, illustrating Boelens and Zwartveen's (2002, 21) observation that "local peoples and cultures try to [represent] themselves according to a 'modernizing' model, [which] has a strong and growing influence in the Andes. [This is] not just in a political sense, but equally in the socio-legal, technical-operational and organizational sense that is related to the water management field...copied from abroad." And as suggested by the absence of gender equity in funding or evaluation (success) criteria in the irrigation projects analyzed here, "clearly male biased." Tucayta's affirmation of COSUDE's vision of the indigenous organization's transformation from vindication (demands and opposition) to responsible management as an "advance" (see page 15) is telling, especially because of its paternalistic imagery that resembles Rostow's (1968) stages of growth model. Constructions of indigenous subjects as enterprising managers who do not want active state intervention does not necessarily support Bretón's (2001) conclusion that current neoliberal development makes local indigenous leaders into technocrats and budding *empresarios* instead of political activists and representatives. But it does suggest that the de-politicizing effects (if not intent) of local development may go beyond simply keeping party/electoral politics on project sidelines.

Contesting Hard Neoliberalism: Protecting Cultural Practices, Challenging Institutions, and Rejecting Privatization

Unlike the relatively smooth relations characterizing the two irrigation development projects, indigenous and campesino organizations hotly disputed the design and implementation of water laws. Government water law projects have followed the lines of "modern water legislation" by adopting principles recommended by international agencies and conferences promoting following: the economic aspects of water (including a possible water concession market); restricting the role of the central state with the creation of autonomous supervisory agencies and water development by non-state actors; developing measures to prevent and sanction environmental contamination of water; make laws based on general principles only; and broad consultation of actors using water (Bustamante 2000: 120-121).²¹ In spite of the fact that draft laws included some social and environmental concerns, these were given much less emphasis in water law proposals and debates (among politicians), and indigenous participation in these processes was largely circumscribed. The national scope of the laws amplified the number of affected interests to include powerful agriculturists in the Andes as well as transnational water companies. At the same time, multilateral agencies advising and funding water law debate and implementation largely left the process of debating and deciding on water legislation to elected and appointed officials. These officials, moreover, turned to professionally trained experts for guidance on water law provisions, and largely marginalized indigenous peoples and campesinos from the modernizing discourses that they had accessed in the cases of the irrigation projects.

As a result, the innovative and participatory interaction of the irrigation projects was largely absent in water law politics, and actors moved to hard core principles of their discourses and ideologies, seriously limiting areas of overlap and agreement, in turn

²¹ See for example Solanes and Getches (1998).

affecting the kind of interaction among organizations. Grassroots development NGOs and other social organizations generally took sides of indigenous organizations, while multilaterals generally supported government officials. Opposition movements and NGOs formed *Coordinadoras* that mobilized protests on the basis of alternative platforms. Indigenous and campesino organizations led or participated in these protests on the streets and within discussion forum with government officials, asserting rights based on cultural and political distinctiveness and demanding state protection of them, lending a *sacred* quality to water and culture.

Water Law Politics in Ecuador

In the wake of agrarian reform laws in 1964 and 1973, which broke down the hacienda system and redistributed land to former peons (many of them indigenous), the Ecuadorian government under Gen. Rodriguez passed a *Ley de Aguas* in 1972. Following a general policy of nationalist development that placed more lucrative resources such as oil under state control, the water law nationalized water rights including water that had been considered private property on *haciendas*. It also established a National Institute for Hydro Resources (INHERI) to oversee implementation and related public works (Corporación de Estudios y Publicaciones 1994: 22). Recent court cases settling water rights disputes between small farmers and large landowners, increased use of irrigation water by flower producers in Cayambe and Tungurahua, and growing scarcity of non-contaminated water has made water issues a national concern in Ecuador (Interview, Sanchez; Acción Ecológica 2000: 3-4).

This national concern was further politicized in 1994, as the state, with financial and technical assistance from the World Bank, Inter-American Development Bank and USAID, attempted to liberalize water rights and reform water institutions to enhance efficiency and liberalization of water systems and management. Then President Sixto Durán emitted decrees that abolished INHERI and created a national water council (CNRH), decentralized water management to regional development councils, and implemented transfers of state water infrastructure systems to non-public hands through a World Bank sponsored Technical Assistance Program (PAT) for the "Irrigation Subsector." That same year, congress passed an agrarian law proposal -- drafted by a think tank sponsored by USAID -- that proposed the privatization of water rights. CONAIE led a successful nation-wide protest to that law, resulting in indigenous participation in revising the law, which assured that water rights stayed in public hands (Acción Ecológica 2000: 5; Selverston-Scher 2001). In short, the Ecuadorian government signaled its interest to liberalize the water industry while indigenous organizations signaled their determination to stop or limit that move.

Following this, various actors drafted water law proposals. The national Water Council (CNRH) proposal was submitted to Congress by the *Partido Roldcista Ecuatoriano* in 1997, and reflects the "paradigm change" in water use proposed by the PAT project. This "new" paradigm promotes efficiency, private sector participation, institutional reform and personnel training, and relies on consultant boards to oversee reform. Following the Inter-American Development Bank's (IADB) model, it also proposes to dialogue with all actors involved in water to establish "integral management" of "vital resources like water" (MAG 2000). In sum, the CNRH proposal contains the following features:

- Breaks with format of 1972 water law that ties water to nationalist agrarian development
- Includes clauses on environmental protection, integral management and “sacred waters” but restricts their definition. Environmental criteria linked to protection of basins, but no mention of summits with water sources, spaces often occupied by indigenous peoples
- Recognizes ultimate state control of water, but has articles on private participation, investment (including concessions), and transfer of systems (infrastructure) to private hands
- Promotes efficiency and productivity criteria
- Proposes water Superintendent with links to Ministry of Agriculture and representation largely of ministries and agricultural chambers (CNRH 1996; Sanchez 2000: 6-8; CICDA Transcript).

During 1995 and 1996, indigenous movement leaders drafted a water law proposal in workshops with provincial and local organizations, sponsored by grassroots development NGOs (see CONAIE 1996a; Interview, Biederbick; Interview, Gangotena). The *Movimiento Pachakutik* submitted CONAIE's proposal to Congress in January 1996.²² Unlike the irrigation projects where there was more agreement on meanings of concepts, this proposal contains specifically indigenous understandings of “integral management” where water is lifeblood linked with other natural elements, and retains a strong role for the state in water administration:

- Works within the parameters of the 1972 law; retains state control and ownership of water
- Emphasizes equity in access to resources, use of water for indigenous-cultural ritual purposes, environmental protection, and integral water management by local communities
- Focuses on irrigation; proposes an irrigation investment fund
- Does not speak of transfer to private hands, but a co-management and co-responsibility by users and state
- Keeps CNRH as state overseer but representation on council includes delegates from indigenous organizations and environmentalists. Little specification of who “users” are or their representatives (CONAIE 1996a; CONAIE 1996b; Sanchez 2000: 8-10)

National actors submitted these proposals, but they are transnational platforms. The CNRH proposal is a product of ideas and interactions among state agencies, international development organizations, and national and international consultants. Similarly, the indigenous movement (CONAIE) proposal shares criteria with environmental organizations, as well as internationally funded or directed grassroots development organizations working in *riego campesino*. Many of them sponsored and accompanied the workshops generating the CONAIE proposal (see IEDECA, CICDA, and OSTROM 1995), and all of them have development projects stressing equity, environmental protection, and community-based irrigation systems,²³ criteria captured by the CONAIE proposal.

Although receiving CONAIE's water law proposal through proper channels, and in spite of the 1998 constitution declaring Ecuador a participatory democracy, the congress never seriously considered CONAIE's proposal nor involved CONAIE actively in discussion. Instead, Congress debated the CNRH proposal and other proposals

²² CONAIE and other social movements created the Movimiento de Unidad Plurinacional Pachakutik as their electoral arm. It won 10 per cent of seats in the congress in the 1996 elections.

²³ CESA 1991; COSUDE 1998; Boelens and Dávila 1998; Interview, Sanchez, Interview, Zaharia.

submitted by President Alarcón in 1998 and President Mahuad in 1999, which reportedly were more influenced by neoliberal criteria and less by social criteria than the CNRH proposal (Sanchez 2000, 6-8). Although representing somewhat different groups and working on different issues, common opposition and exclusion led indigenous and campesino organizations, irrigation boards, environmental organizations, and grassroots development organizations to organize the Coordinator of National Water Users (*Coordinadora de Usuarios de Agua, CONAUA*) in January 1998. CONAUA organized meetings to strengthen irrigation boards and raise consciousness about the water law proposals being discussed. It also mobilized marches to Quito in July of 1998 (3,000 people) and June of 1999 (4,000 people) to protest the content of water law proposals being considered in Congress and their exclusion from that consideration (Acción Ecológica 2000: 5-6):

They [the Congress] were going to impose an unconsulted water law...so we said no, wait a minute. Here we are indigenous and campesinos who use water. Water cannot simply be exploited [economically], but be used for everyone's benefit, with rights guaranteed for the entire citizenry. So that's why we carried out various mobilizations in Quito [...] Water is used as part of our culture...and we have rituals involving waterfalls (Interview Lanchimba)

To further its aims for water reform and good governance in Ecuador, the Inter-American Development Bank offered funds for the Ecuadorian Congress, through the Economic Committee, to run a series of consultative workshops on the water law in 2000. The proposal selected by the congress for discussion was that of the National Hydro Resources Council (CNRH), and excluded that of CONAIE. In addition, representatives of indigenous organizations, other social movements, and the water users coordinator (CONAUA) did not receive invitations until the day before the workshop, and did not receive copies of the discussion proposal until they walked through the door of the workshop.

Delegates from CONAIE and other social movements challenged the legitimacy of the forum as well as the content of the discussion proposal. In doing so, they asserted rights both to political autonomy and cultural difference, as well as full equal rights to active national participation:

[...] First we have to discuss this among the indigenous nationalities and organizations, have a consensus document and then discuss it with you...so we propose to reorient this process because it is not right that we have to discuss a proposal that we have not participated in. Three years ago we presented a water law proposal [and there should be time to discuss it]...if these concerns are taken into account, fine, we will participate. If not, we as CONAIE will unfortunately not be able to continue. (Director of Land and Territory CONAIE, Congress Workshop Transcript).

These criticisms were countered by the director of the Economic Commission of the Congress, who tried to re-establish legislative authority and revealed distinct understandings of good governance, emphasizing professional expertise:

I have on my side the 120,000 votes of the population of Pichincha. [...]And] I also speak to you as an anthropologist that has worked twenty years in indigenous communities...I

know perfectly well that indigenous peoples have the biggest problems with water in the highlands. [...] It will be very interesting for you [indigenous delegates] to listen to people who have been following the process of this law...and I tell you this is not an event of CONAIE...but an event of the *national congress*, bringing together people who know about the theme of water. (Member of Congress, Economic Committee, emphasis in original, Congress Workshop Transcript)

In short, indigenous peoples defined good governance according to active participation and rights of “indigenous nationalities” and where state legitimacy depended on having a role in decision-making. Members of Congress defined participation rights through popular vote and (specific understandings of) modern expert knowledge, thereby locating state authority in official institutions, which can delegate participatory rights to consultants whose knowledge would improve the law on “technical” grounds. It was never suggested, for instance, that indigenous peoples or campesinos might be experts on water issues.²⁴

These differences and disputes continued in workshop discussions of the *content* of the water law proposal around four key areas of debate: the transfer of water systems and responsibility for maintenance and payment; representation on the National Water Council; environmental protection; and the definition of sacred waters for indigenous or Afro-Ecuadorian cultural practices. Participants affiliated with CONAIE and/or CONAUA stressed the specific rights of subjects such as indigenous peoples or nationalities, campesinos, and water “users,” as well as general rights as Ecuadorians. They also asserted protection for specific spaces such as zones of “sacred waters” or mountaintops (*páramos*), on cultural, environmental, equity, and resource/economic security grounds.

This [proposal] is a form of privatizing water rights...we as users cannot accept [that] the beneficiary of a right and concession of water...is obligated to construct and maintain the infrastructure. Campesino *compañeros*, indigenous *compañeros*, we will [not be able to afford this] and then...we will be blamed for holding back development. (Congress workshop transcript)

The users we have never been taken into account [...] the users [are] sacrificed especially the indigenous and the campesinos...when we are the forces of water. Maybe you do not think we have brains, that we are incapable, but we are Ecuadorians too, we have the right to be represented [in the water council...]. (Congress workshop transcript)

The [CNRH] proposal seeks to render indigenous and campesino organizations, which represent a high proportion of the population, invisible. [...] There is a latent permissiveness of contamination of water sources...the campesino organizations are the principle guarantors of food staples in the country, and...nowhere does the proposal speak of *páramos* and their forests which are the key sources of water in the country. (Congress transcript)²⁵

²⁴ Indeed, one eyewitness at the following workshop in Guayaquil reported that its methodology stressed picking the brains of experts and listening to the needs of regional development councils (Field notes, 3 May 2000).

²⁵ Indigenous people are often seen to occupy mountaintops (Radcliffe 2001b) and would thus be potential stewards of the *param* \ s.

Following principles of "modern water legislation," members of congress, the National Water Council (CNRH), and legal/engineering consultants they invited backed a more liberal water regime and closed off social movement claims. For instance, one CNRH member argued that the state needs to be "less paternalistic...and more business-like" and that the state should not and cannot be responsible for big infrastructure works. As a result, small users would have "to look for funds from other sources" such as provincial councils. Legal experts argued against indigenous and campesino demands for representation in the national water authority by arguing "you cannot regulate yourself." They also insisted that documented "proof" be necessary to establish a cultural sacred water zone, and that *any* special protection zone go into the *reglamento* of the law, not the law itself. Finally, experts asserted that sanctions of those who contaminate water should go into the penal code, not the water law. Being claims made based on the authority of "modern experts," they effectively limited debate on social movement demands for equity, cultural rights, and environmental protection.

As the workshop ended with little agreement, the debates were drafted into a series of recommendations for future workshops and consideration by the Congress. Threatening protests like those in Bolivia (to be discussed below) if full participation and accounting for "user" needs weren't taken into account, indigenous leaders were able to negotiate with the Inter-American Development Bank to acquire funds to run their own workshops with water users. This extended the meaning of good governance to ensure funds civil society participation. Also, by signaling such strong opposition and defense of indigenous and user rights, CONAIE and CONAUA compelled Congress to effectively shelve water legislation.²⁶

Although a national political contest, the criteria and proposals drawn on and the circuits that participants in the meeting belonged to were transnational, but with lines sharply drawn on ideological principles. Three weeks after the workshop, the World Bank and IDB called a session with the Economic Commission of Congress to discuss the progress of the water workshops. As a reply to this, CICDA and IEDECA called a strategy meeting of grassroots development, environmental, and indigenous professional NGOs. Their strategy was to provide a counterweight to the "*liderazgo* of the CNRH" in water law reform, backed by the development banks. In the action script the NGOs delegates built, the analogue of the CNRH would be CONAUA, and the analogue of the banks would be the grassroots NGO Forum (Field notes, 3 May 2000).

Water Law Politics in Bolivia

Much like the Ecuadorian case, water legislation and debates over the same are located within efforts by Bolivian governments to harmonize the economy and state with broader neoliberal and globalizing tendencies. Indigenous, campesino, and urban neighborhood organizations contested this set of policies by rejecting water privatization, insisting on wide participation in the water law debate and in proposed water planning agencies, and claiming rights to cultural difference and tradition through the defense of *usos y costumbres* (customary uses). In turn, the kind of inter-institutional interaction

²⁶ However, indigenous and campesinos were able to meet one of their demands through executive decree in 2001: the creation of a national irrigation investment fund (Personal communication, Palacios).

present in the commissions and consortium developed to cooperate on water matters in the last ten years (see p. 8), and in the negotiation of the Cha'ky irrigation project, were reduced to reconstruction of more politicized alliances. Like in Ecuador, opposition movements and NGOs formed *Coordinadoras* that mobilized protests on the basis of alternative platforms, while government officials and international development agencies allied to varying degrees with a transnational water consortium, *Aguas del Tunari*.

Unlike the 1972 Ecuadorian water law, however, Bolivia never passed a law establishing full public dominion over water. Its only water law was passed in 1906, and effectively granted property rights over water based on where the water lie: if it lied on private or communal land, the water was property of the owner(s), if it lied within public land, the government owned it. Interestingly, this law also allows Bolivians to dig private wells without regulation, and automatically recognizes rights based on long-term use: 30 years for most uses, 99 years for irrigation systems (CGIAB 2001). Prior to the contemporary neoliberal policy era, this law was modified mainly by changes in the civil code, which largely affirmed private control over water where it was found on private property (Defilippis 2001).

Reforms in the last ten years have created a contradictory and confusing situation with respect to the Bolivian water regime. On the one hand, 1994 constitutional reforms establish original state dominion over natural resources, including water, and also recognize indigenous rights to their own customs and use of resources on their lands. A series of laws passed in the 1990s, including the mining code, the electricity law, the forestry law, the municipalities law, and the sectoral and natural resource regulation systems laws (SIRESE and SIRENARE), followed a different logic. They allow companies with resource concessions to use and manipulate water sources according to their needs, without requiring consultation with affected populations even if the concession lies on indigenous or campesino lands (Solón 2001).

Much more so than the constitution, these latter laws, together with the aforementioned international water principles, laid the national legislative ground for government water law proposals, of which there are now over thirty. A 1988 Bolivian Senate proposal set out principles for what it claimed was "modern water legislation," which a 1997 government proposal built on, drafted with help from the French government and the Konrad-Adenauer-Stitung Institute (Bustamante 2000: 121-122),²⁷ based on the following principles and logic:

- Formally acknowledges 1994 constitution's assertion of state dominion over water, but is based more on laws facilitating concessions and private participation
- Emphasizes the economic values of water and seeks to establish "a water concessions market," allowing those winning concessions from the state to sell or redistribute that concession to third parties
- Grants use to all actors through a single concession regime. Concessions have a maximum length of 50 years and can be renewed. Concessions for farmers in the countryside require demonstration of previous property rights.
- Mining, oil drilling and hydroelectric activities are considered a public utility and have priority over other uses. However, enterprises are legally responsible for environmental protection.

²⁷ The Adenauer Institute is a German policy agency. Most government proposals that followed provided only minor revisions.

- Proposes a water superintendent as top planning agency. This agency grants/revokes concessions, charges for rights patents and charges user fees. Representation is mainly made up of the Planning and Sustainable Development Ministry, other elected/government officials, and business organizations. No indigenous or campesino representatives are included.

Indigenous and campesino organizations, together with NGOs working in grassroots development and legal affairs (such as CIPCA, CEJIS, and Solón Foundation),²⁸ developed an alternative proposal in April 1999, stressing the following:

- Works within the framework of the 1994 constitutional reform designating state control over water and indigenous rights to natural resource use, and the 1906 water law's recognition of property rights granted automatically through long-term use.
- Asserts that water is a human right guaranteeing familial and collective well-being. As such, no market for water or water concessions is allowed.
- Grants rights to users through a dual regime of authorizations and community water rights. Private companies are required to submit a water resource management plan and an agreement with affected populations in order to gain authorization, which is good for twenty years and is renewable. They must also pay an annual patent charge and any contamination fines. Indigenous and campesino communities, neighborhood water cooperatives, and irrigation organizations collectively register community water rights, which are indefinite, free of charges, and cannot be traded or transferred by concession or otherwise.
- Proposes a national water council as top national agency for water, which includes equal representation between state representatives and water users, including indigenous, campesino, and urban neighborhood confederations.

While these platforms share some criteria, more notable is their different emphases on the economic, modern/institutional, and top down aspects of reform, versus the social, traditional/practice, and bottom up aspects of water reform.²⁹

Challenges to the content of government water law proposals and the exclusion of civil society organizations from proposal design were first raised by a twenty-two day march of indigenous campesinos from Cochabamba to La Paz in September-October 1998. Organizers specifically objected to the creation of a water superintendent and the failure to recognize indigenous *usos y costumbres*. Although divisions among leaders weakened the march somewhat, indigenous and campesino organizations were able to agree to a common water law proposal (outlined above) and compel the government to commit to developing a consensual law proposal with civil society participation prior to submitting it for congressional consideration (Interview, Fernandez; Interview, Veliz). Lowland indigenous leaders affirmed these goals, as suggested by CIDOB advisor Alberto Rodriguez:

All of the laws since 1985 have been passed...without our being consulted, and many of them violate indigenous and campesino rights. [...] In reference to the water law, we have a big problem because the government had signed agreements with the World Bank to accelerate the privatization of water...because of the \$50 million that it will give [the

²⁸ CEJIS is the Center for Juridical Studies, located in Santa Cruz, and advises indigenous and campesino organizations on legal matters affecting them.

²⁹ This layout of the two proposals is taken largely from Fundación Solón (1999: 24).

government] to implement the law. [The indigenous and campesino confederations] we have disagreed with the creation of superintendents...because...they are above any law, and offer concessions to their friends and to transnational companies. (Interview, Rodriguez)³⁰

As it happens, it was a concession to a transnational company in the Cochabamba region that spurred quick congressional passage of a Municipalities Law and Potable Water and Sewer System Law the fall of 1999, and sparked major popular protests throughout the year 2000. The World Bank had moved away from supporting big dam development projects toward supporting water privatization as a way to increase water efficiency and supply for human consumption, and believed Cochabamba's water scarcity problem could be solved through system privatization and international investment. Yet it was only when the transnational consortium *Aguas del Tunari* agreed to take over water services *and* a huge dam project that Cochabamba mayor Manfred Reyes agreed to the plan, provoking the national government to pass the aforementioned laws to facilitate the deal (Finnegan 2002: 45- 46).³¹ Quick passage of these laws also confused the population about the rules on water, and raised the ire of indigenous and campesino organizations. The latter argued that many of the provisions they objected to in the general water law proposal -- which the government agreed to negotiate with them -- were surreptitiously included in the Municipalities law (article concerning concessions) and the Potable Water and Sewage Law, and without consultation or debate (Laurie, Andolina and Radcliffe 2002: 229-230).

In fact, the Municipalities law granted the city of Cochabamba property over water accessed through private wells (breaking norms of the 1906 water law). The Potable and Sewage Water law created a water superintendent that granted concessions over *all* water resources under a common license regime. This effectively allowed competition between small communities and large corporations, and excluded civil society groups from decision-making on matters such as water patent and user fee charges (Fundación Solón 2000: 3-9). The water fee regime, moreover, was "oriented by the principles of economic efficiency...solidarity, redistribution, financial (self) sufficiency...and transparency. [But] when conflicts among these principles emerge, economic efficiency and financial sufficiency will have priority."³² These criteria were similar to those in the *Aguas del Tunari* contract, which allowed the company to monitor private wells, charge *Cochabambinos* for the monitoring equipment, and tie water user fees to the dollar via the U.S. consumer price index (Laurie, Andolina and Radcliffe 2002: 230; Finnegan 2002: 45).

When these legal and contractual policies were announced, including a 300 per cent water price increase to cover Tunari operating costs, sporadic roadblocks and demonstrations transformed into more organized and intense protest events. The newly formed *Coordinadora para la Defensa del Agua y Vida* (Water and Life Defense

³⁰ Indigenous campesino leaders in Potosí and Oruro also affirmed these goals (Interview, Santos; Interview, Morales).

³¹ *Aguas del Tunari* is a consortium of British, Italian and American companies and investors. It is a subsidiary of International Water, a British engineering company largely owned by Bechtel Corporation, made up of U.S. and Italian investors (Finnegan 2002).

³² Taken from Article 49 of Law 2029 (Potable Water and Sewage Systems), cited in Fundación Solón (2000: 10).

Coordinator) was a key arranger of different water users, bringing together neighborhood groups, professionals, labor unions, university students, and poor water cooperatives in Cochabamba. Indigenous peasant irrigators joined the protests, forging an unprecedented rural-urban alliance. Urban water well co-ops were a key nexus, as they used communal labor systems to build the wells and a collective payment system to maintain them (Laurie, Andolina and Radcliffe 2002: 230). They were thereby angry that Tunari could infringe on a system that they considered their own and gave them collective identity and pride (Finnegan 2002: 45). Following the logic and symbolism of the indigenous-campesino confederation water law proposal drafted the year before, the *Coordinadora* bound the concerns of price increases and well privatization together with the protection of cultural "uses and customs." It did so by invoking Andean imagery to construct an untouchable, sacred set of social and cultural water rights. One campaign poster read, "Pachamama, Woracocha and Tata Dios gave [water] to us to live, not do business with." The *Coordinadora* also demanded the annulment of Agua de Tunari's Contract and the revision of the Potable Water and Sewage Law with popular participation (Laurie, Andolina and Radcliffe 2002: 231-232).

This articulation of interests and identities proved powerful, and when government efforts to suppress the protests by force backfired -- generating instead greater solidarity and opposition in Cochabamba and other parts of the country -- the *Coordinadora* was able to compel the government to meet its demands. Apart from cutting back price increases, guaranteeing water well control to individuals and cooperatives, and canceling *Aguas del Tunari's* contract, *Coordinadora* members succeeded in participating in a revision of the Potable Water and Sewage Law to the benefit of their members. First, the Potable Water Superintendent can only grant concessions related to potable water and sewage service, rather than for all water uses. The Superintendent must also inform and receive a response from municipal governments and popular vigilance committees on any proposed water contract or price increase. In addition, the Superintendent can only raise water prices on the basis of direct system costs -- not indexed to the dollar -- and must provide compensation to the poorest sectors. Second, more autonomy is given to neighborhood water boards and cooperatives to maintain their independence from water companies or the Superintendent in concession zones, and they can obtain a *Licencia* (License) guaranteeing them access to potable water and its sources for the life of the service. Third, a new water regime category of *Registro* (Registry) was created to recognize community water rights (including access, uses and customs) for an indefinite period (Fundación Solón 2000: 12).³³ As a result of this success, the Cochabamba *Coordinadora* model was copied in the city of La Paz. In addition, the indigenous-campesino confederation (CSUTCB) staged major roadblocks in September of 2000 that forced the government to shelve its general water law proposals, working instead according to existing laws and norms until the change in government following 2002 elections (Solón 2000: 3).

The context of water legislation formed a "hard" or more orthodox neoliberalism and exclusive modernization that more expressly subjugated the social and participatory to the economic and institutional than did the "soft" neoliberalism manifest in irrigation projects. Indigenous organizations, campesino organizations, and other movements contested this neoliberalism through designing/promoting alternative agendas and

³³ These reforms reflected some elements of the 1999 indigenous-campesino water law proposal.

carrying out mass mobilizations. In doing so, they asserted cultural subjects and general national identities that expressed difference from Western or modern images, yet also demanded citizen rights to participation and accountability, challenging institutions that excluded their contributions, views, and interests. Indigenous and other social organizations also explicitly rejected a heavily market-based logic for managing water in the Andes, defining cultural or environmental spatial zones out of the market, and retaining a key role for state control over water resources and system management. Because of the contentious character of water law politics, interaction among players was more restricted than in other scenarios, but opposition groups from distinct issue areas and scales created coordinators to arrange ideas and practices for their struggles.

Conclusion

This paper has shown that the construction of transnational networks and circuits depends not only on flows of development monies, but also the ability to generate overlap on development agendas and frameworks. Different political situations shape the possibilities for agenda bridging and the kinds of interactions that indigenous organizations engage in – strengthening and weakening networks over time and space. Neoliberal formations not only differ across locales, but also across political and policy settings, as neoliberal and multicultural principles are applied in different ways and to different degrees. The same is true of modernizing discourses. While post-development (Kearney and Varese 1995) has largely destroyed old rigid dichotomies, modern/traditional distinctions are reformulated within neoliberal and multicultural paradigms, and in varying ways in different contexts. The contexts of irrigation development projects and water legislation examined here were shaped by the scope of each in terms of the players, agendas, and visions involved.

The different formations of neoliberal policy reveal the growing complexity and instability of this dominant model as it absorbs more criteria and dissident voices. While not unlimited, there are multiple possible constructions of indigenous subjects, state roles and territorial spaces within it. While “soft neoliberalism” includes more social criteria, its transformative power may in fact be profound, as it extends modern liberal logic to new spheres and practices gaining some consent from NGOs and indigenous organizations undertaking institutional reforms while implementing development projects. Hard neoliberalism, in contrast, elicited the *rejection* of neoliberal criteria by indigenous organizations and the affirmation of cultural difference and communitarianism in debating water legislation proposals and processes.

Although this paper has focused on “situatedness,” political agency is also significant in Andean water politics. There were, after all, differences between Ecuador and Bolivia in how much emphasis was placed on culture in irrigation projects and how, and by whom, culture was represented in contesting water laws. Furthermore, the fact that indigenous organizations take one stance in the case of irrigation projects that largely accepts and reproduces neoliberalism and modernization, where water is useful, and take another stance contesting and blocking neoliberalism on water laws, where water is sacred, was to some degree a matter of choice. And for precisely that reason, these choices raise questions about coherence in indigenous movement efforts to establish and

practice alternative visions of development. At the same time, international development agencies have their own aqueous *doble juego*, playing the social card more in irrigation projects and the economic card in water laws. This reflects the growing complexity of neoliberal development agendas and the kinds of interactions that development agencies are involved in, but questions of priorities need to be more systematically addressed.

Efficiency and financial sufficiency *are* important criteria: no one wants to waste precious resources or time. But these cannot always be primary. Consensus decision-making, deeper understandings of multiculturalism, active social participation, and establishing gender equity require time and money to fulfill. The extent to which efficiency is set above these other valuable concerns is context dependent, but also reveals the extent of actor commitment to each of these criteria.

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