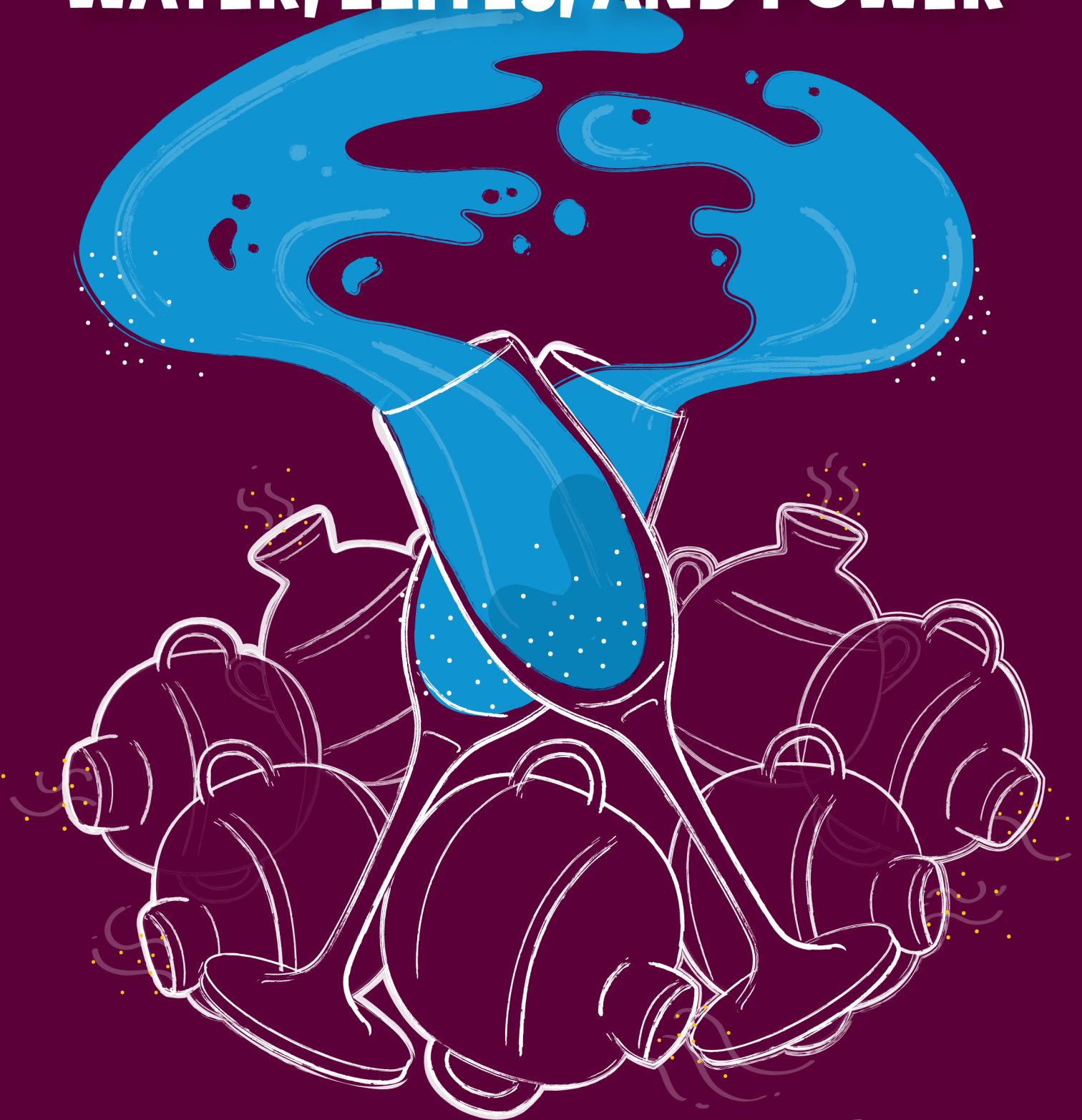


# EL SALVADOR: WATER, ELITES, AND POWER



**OXFAM**



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WATER, ELITES, AND POWER**

**Author:**

Déborah Itriago

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**Coordination team:****Oxfam in El Salvador**

Iván Morales, Country Director

Ana Iris Martínez, Influencing and Campaigns Manager

Víctor Aguilar, Influencing and Campaigns Officer

Rose Mary Castellón, Digital Communications Specialist

Tania Moreno, Communications Officer

**Oxfam Intermón**

Hernán Cortéz Sáenz, EU-LAC Researcher and Advocacy Officer

Andrea Costafreda, Program Director for Latin America and the Caribbean

**Support in data collection, documentation, and interviews:**

Vilma Chanta

Delfina Uribe

**Copyediting and review:**

Gladys Soler

**Layout and illustration:**

Andrea Padilla

Email: andrepadillam@gmail.com

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## ACRONYMS AND ABBREVIATIONS

|                     |  |
|---------------------|--|
| ADESCOS             | Community Development Associations   |
| AMCHAM              | American Chamber of Commerce in El Salvador  |
| ANA                 | National Water Authority   |
| ANEP                | National Private Enterprise Association  |
| ARENA               | National Republican Alliance   |
| ASI                 | Salvadoran Industrial Association  |
| ASIAGUA             | Salvadoran Association of Bottled Water Industries   |
| IADB                | Inter-American Development Bank  |
| CAMAGRO             | Chamber of Agriculture and Agroindustry of El Salvador   |
| CASALCO             | Salvadoran Chamber of the Construction Industry  |
| CASSA (Grupo CASSA) | Salvadoran Sugar Company   |
| CEDES               | Salvadoran Business Council for Sustainable Development  |
| ECLAC               | Economic Commission for Latin America and the Caribbean  |
| CMCC                | Committee on the Environment and Climate Change  |
| COMURES             | Corporation of Municipal Governments of El Salvador  |
| DIGESTYC            | General Department of Statistics and Census  |
| EHPM                | Multi-Purpose Household Study  |
| FAO                 | United Nations Food and Agriculture Association  |
| FIHIDRO             | Potable Water System Improvement Project Trust for Southeast Santa Tecla, Southeast Antiguo Cuscatlán, Nuevo Cuscatlán, Zaragoza, and San José Villanueva, Department of La Libertad |
| FMLN                | Farabundo Martí National Liberation Front  |
| FUNDE               | National Development Foundation  |
| FUSADES             | Salvadoran Foundation for Economic and Social Development  |
| GANA                | Great Alliance for National Unity  |
| IAIP                | Institute for Access to Public Information   |
| Kc                  | Crop coefficient   |
| LA                  | Water Law  |
| LAIP                | Law of Access to Public Information  |
| LGA                 | General Water Law  |
| LIA                 | Comprehensive Water Law  |
| MARN                | Ministry of the Environment and Natural Resources  |
| MINEC               | Ministry of the Economy  |
| MOVIAC              | Movement of Victims and Communities Affected by Climate Change and Corporations  |
| PCN                 | National Coalition Party   |
| PDC                 | Christian Democrat Party   |
| PDDH                | Ombudsman for the Defense of Human Rights  |
| PROCAÑA             | Chamber of Agriculture and Agroindustry of El Salvador   |
| UCA                 | “José Simeón Cañas” Central American University  |
| UES                 | University of El Salvador  |
| UNES                | Salvadoran Ecological Unit   |
| UNESCO              | United Nations Educational, Scientific and Cultural Organization   |







## SECTION 1

# THE ELITES HAVE TURNED THEIR BACKS ON THE WATER CRISIS IN THE COUNTRY

The water crisis in El Salvador continues to be one of its most profound expressions of extreme inequality. Deficient regulation is one of the leading causes of this crisis.<sup>1</sup> The policy and legal framework in place is insufficient to tackle issues such as water use for different purposes, exploitation of natural springs, and exposure of natural water sources to contamination from agricultural and industrial activity, all of which bear critical ramifications for sustainability of life in the country.

It stands that deficient legislation translates into deficient resource management, which has opened the door for inefficiency, abuse, and undeniable inequality in terms of access to safe water. This inequality especially affects people living in poverty and socially and economically vulnerable groups, including women. The country has a scattered series of norms that fail to cover the full spectrum of conditions needed to ensure justice and equity in access to the human right to water for all Salvadorans.<sup>2</sup>

Four out of every ten people in the rural areas of El Salvador do not have uninterrupted access to water, despite the presence of sufficient water supplies to meet the domestic demand.<sup>4</sup> This supply notwithstanding, it is also important to recognize that the amount of available water per person in the country is indeed low. Paradoxically, despite having average yearly rainfall above the global average,<sup>5</sup> El Salvador has one of the lowest levels of water availability per inhabitant in Central America and the Caribbean.<sup>6</sup> According to information published by the Inter-American Development Bank (IADB) and the Economic Commission for Latin America and the Caribbean (ECLAC) in 2018, El Salvador came in near the bottom in a ranking of 27 countries of Latin America and the Caribbean in terms of annual water availability per inhabitant (22nd place)<sup>7</sup>.

Natural freshwater sources such as aquifers and rivers have been losing their capacity as reservoirs. Strategic aquifers have lost from 0.5 to 1 meter of flow rate per year. Of the 360 most important rivers, all except for one have seen their flow rate drop by 30% to 70%.<sup>8</sup> In an even more critical shift, rivers in the Eastern region of the country shrank by up to 90% from May 2018 to March 2019.<sup>9</sup>

The current and future availability of this essential resource for life is compromised by losses and leaks in the national supply system, impacts from climate change, and uncontrolled human activity. Examples of this activity include overuse of water sources by actors from different economic sectors, and soil degradation due to deforestation and the use

of chemicals in different production activities. As a result, the land has progressively lost the water filtration and catchment capacity needed to ensure reserves.

Specialists refer to water stress in the case of El Salvador, which carries the risk of deepening the preexisting gaps in water access. The lack of effective regulation on water use and extraction favors economic actors by default, to the detriment of the water rights of people living in rural areas or impoverished urban zones. The situation for schools in the country is a reflection of this inequality

“[...] According to 2014 data from the Ministry of Education, there were over 1,100 schools without plumbing installed for drinking water. This means that over 10% of the schools did not have running water and had to resort to other sources such as rainwater collection. I visited a school in a rural area where running water is not provided by the State. The Principal informed me that they have to raise money to ensure access to water for the students. In the dry season, the school has had to resort to buying water at up to \$75 per tank truck (10,000 liters)... The principal broke down during my visit and said: ‘It broke my heart to see the ANDA tank trucks serve the inhabitants of a fancy residential area next door, when I had just come from asking for their help to meet the needs of my students’” (Special Rapporteur, 2016).<sup>10</sup>

### Box 1. Overexploitation of aquifers and deforestation: Threats to water availability

The Water Forum [*Foro del Agua*]<sup>11</sup> reports that an area of 36,400 hectares of sugarcane plantation in the coastal region of the country can consume up to 205 million cubic meters of water for irrigation (5,632 liters of water per hectare) from the January to May season.<sup>12</sup> Given the water-intensive production process for this crop, large plantations often use and overuse underground and surface waters, leaving the local communities and settlements with insufficient water for consumption. A 2016 report by the Salvadoran Ecological Unit [*Unidad Ecológica Salvadoreña*, UNES]<sup>13</sup> estimates that approximately 81% of the water extracted from the lower portion of the Río Paz river (coastal zone) goes to irrigating sugarcane plantations in the area, while only 8% is left for consumption and household use in the local communities, and 11% goes to watering agricultural plots, pasture for livestock, banana trees and garden plots, and basic staple grains.<sup>14</sup>

The UNES report also found that widespread sugarcane production is causing drought, especially in the coastal areas of El Salvador, drying up the traditional wells that communities depend on for their survival. These communities find themselves forced to consume contaminated water due to salt infiltration into the aquifers, further deteriorating subsistence agriculture in the area. For example, local communities have noted and denounced that the Río Caliente river in the municipality of Tecoluca, in the department of San Vicente, is running dry due to the excessive extraction of water to irrigate the sugarcane fields for the Jiboa sugar mill.<sup>15,16</sup> In the community of San Carlos Lempa (also in the municipality of Tecoluca), inhabitants also report negative impacts on water availability, partly as a result of intensive sugarcane production in the area.<sup>17</sup>

Water has been extracted from underground sources, even during severe drought years. These practices have led to record sugarcane exports, even while rural communities face shortages. 2015 was a drought year<sup>18</sup>, for example, and also a record year for sugarcane exportation.<sup>19</sup>

Deforestation is another factor threatening water availability.<sup>20</sup> Cutting of relatively old-growth trees to clear commercial space has led to the destruction of a primary forest in the Cerro El Águila highlands in Juayúa, a municipality in the department of Sonsonate.<sup>21</sup> Communities in the area report that five manzanas (approximately 3.5 hectares) have been destroyed this way.<sup>22</sup> This development could affect the water catchment area for the Sunsunapán River given the important role of forests in this regard.<sup>23</sup> Deforestation thus puts the human right to water at risk for over 264,000 inhabitants in the area and threatens the biodiversity of important water ecosystems.<sup>24</sup>



The Cerro El Águila area is not only one of the largest water reserves in the country; it is also located in the Apaneca-Ilamatepec Biosphere Reserve, certified as such by the United Nations Educational, Scientific and Cultural Organization (UNESCO) in 2007.<sup>25</sup>

Source: Developed internally from a number of sources.

El Salvador also faces serious problems in terms of water quality.<sup>26</sup> The Ministry of the Environment and Natural Resources (MARN) has noted that the “problem of surface water contamination is linked to regional development, urban settlements, industry, and agricultural activities that, combined with the lack of wastewater treatment systems,<sup>27</sup> poor basic sanitation, and low environmental education for the population, put the quality of surface waters at serious risk”.<sup>28</sup>

Over 90% of surface waters in the country are contaminated by toxic waste and industrial heavy metals, poisonous chemicals from agricultural runoff, and untreated sewage.<sup>29</sup> Due to this contamination, less than 12% of the rivers of the country can be used for the activities of human consumption, irrigation, aquaculture or recreation.<sup>30</sup> Relatedly, the country also faces serious problems for water potability. For example, the government had to launch an emergency plan in January 2020 due to potable water contamination and shortages in the San Salvador Metropolitan Area.<sup>31</sup>

Nearly 13 years have gone by since the Water Forum presented the first public proposal for water legislation in the country in 2006. By the time of this publication, over four proposed bills have been presented to the Legislative Assembly<sup>32</sup> but none of them have been passed. Additionally, despite the demands of many civil society organizations, the legislative branch has not been able to come to the necessary consensus to explicitly recognize the human right to water in the national Constitution.

In recent years, the possibility of approving water legislation with only public entities in charge has faced strong resistance from stakeholders with economic interests. Many of these private actors are grouped in industry associations that

wield important national influence, such as the National Private Enterprise Association (ANEP).<sup>33</sup>

One key moment that highlighted these conflicting interests was the submission of the Comprehensive Water Law [*Ley Integral del Agua*, or LIA by its Spanish abbreviation] in 2017. This bill was drafted by a “committee of water experts” (a group with private sector linkages)<sup>34</sup> and submitted to the Legislative Assembly by a group of legislators from right-wing parties: The National Republican Alliance [*Alianza Republicana Nacionalista*, ARENA], the National Coalition Party [*Partido de Concertación Nacional*, PCN], Great Alliance for National Unity [*Gran Alianza por la Unidad Nacional*, GANA], and the Christian Democrat Party [*Partido Demócrata Cristiano*, PDC]. This proposal stands apart in several ways from other bills that had gained a semblance of consensus from different political parties in the Legislative Assembly and, unlike the LIA, enjoyed explicit and broad support from different sectors of civil society.

Everything seems to indicate that the concentration of economic power held by the elites with the greatest stake in water governance (sugarcane producers, the real estate industry and bottled beverage companies), their close ties with the political class in the country, and the lack of mechanisms to limit their power to influence public policy decisions could be the explanation as to why it has been impossible for over a decade for the country to pass such essential legislation for people’s lives.

## SECTION 2

# THE INEQUALITY BEHIND THE WATER CRISIS

In the rural area, 36% of the population has limited or no access to running water, compared to 13% of the population in urban areas who have no or irregular running water.<sup>35</sup> Access to water sources and household running water connections also rise in correlation with household income. For example, 37% of the poorest households<sup>36</sup> have no or limited access to water.



Only 5% of the poorest households are connected to the public running water system, compared to 58% of the wealthiest households<sup>37</sup> with these services.<sup>38</sup> These and other inequalities are at the root of frequent demonstrations and road blockages protesting the lack of water services, shortages, and/or long-term water rationing in rural and poor urban areas. Most of the wealthier residential developments and shopping centers have uninterrupted access to water.<sup>39, 40</sup>

People living in rural areas or the poorest households often may go for days without water services or with an insufficient supply that they store in barrels or other containers (creating a potential breeding ground for transmission vectors for disease or other contaminants). Other families are forced to walk several kilometers to find water, drink water from a well or other very contaminated natural source, pay 10% to 15% of their income to procure water, or even put their lives at risk to find water, all while other economic sectors are paying relatively little for water.<sup>42</sup>

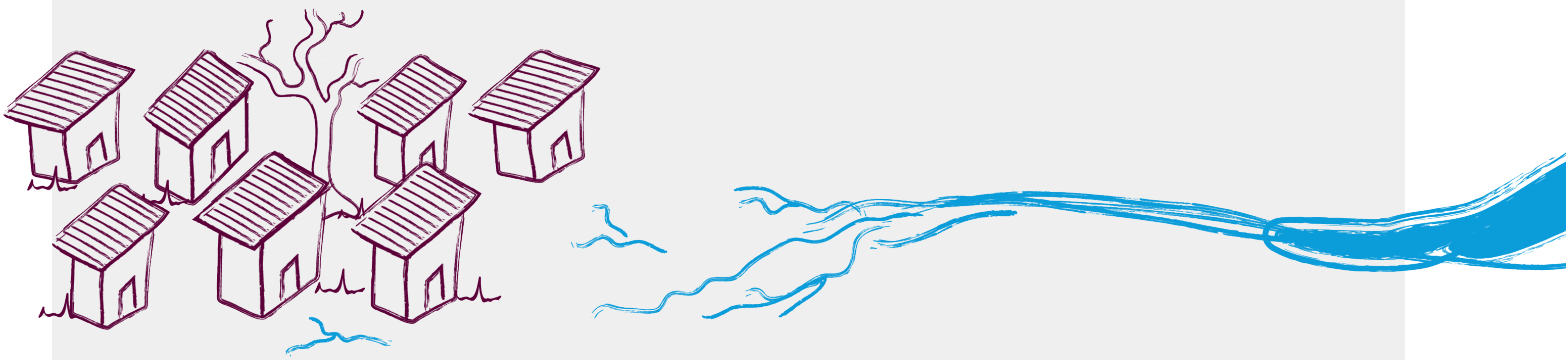
**Box 2. A golf course consumes 1.728 million liters of water per day.**

While the El Encanto golf course is watered with potable water to keep it green year-round, 75% of the population surrounding the club does not have water to drink. This is the reality for water access in the municipality of San José Villanueva in the department of La Libertad, where potable water shortages from 2010 to 2015 have left over 10,000 people to guarantee by themselves this human right.<sup>43</sup>

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- If there is no rainfall, inhabitants from these communities walk up to 1.5 kilometers down dirt paths to reach the nearest river. River contamination in the area is also part of the daily struggle to procure water. If families choose not to walk long distances, they must pay \$5.00 (US) for someone to haul a couple of barrels for the household to use. Considering that the minimum wage in the agricultural sector in El Salvador is \$203.00 per month,<sup>44</sup> one can get an idea of the proportion of household expenditures that water procurement represents for a rural family living in poverty.

According to some estimates, El Encanto uses 20 liters of water per second to meet the demands of watering an 18-hole golf course, which adds up to 1.728 million liters of water per day.<sup>45</sup> At the same time, at least three municipalities in the department of La Libertad face severe water shortages.



The Salvadoran state has failed to keep its promise to lay pipes, install connections, drill wells, and connect faucets to supply safe water for the households in the most affected municipalities of the department. Even in households that do have running water connections, people often go up to 20 days at a time without service, despite paying a monthly service fee.

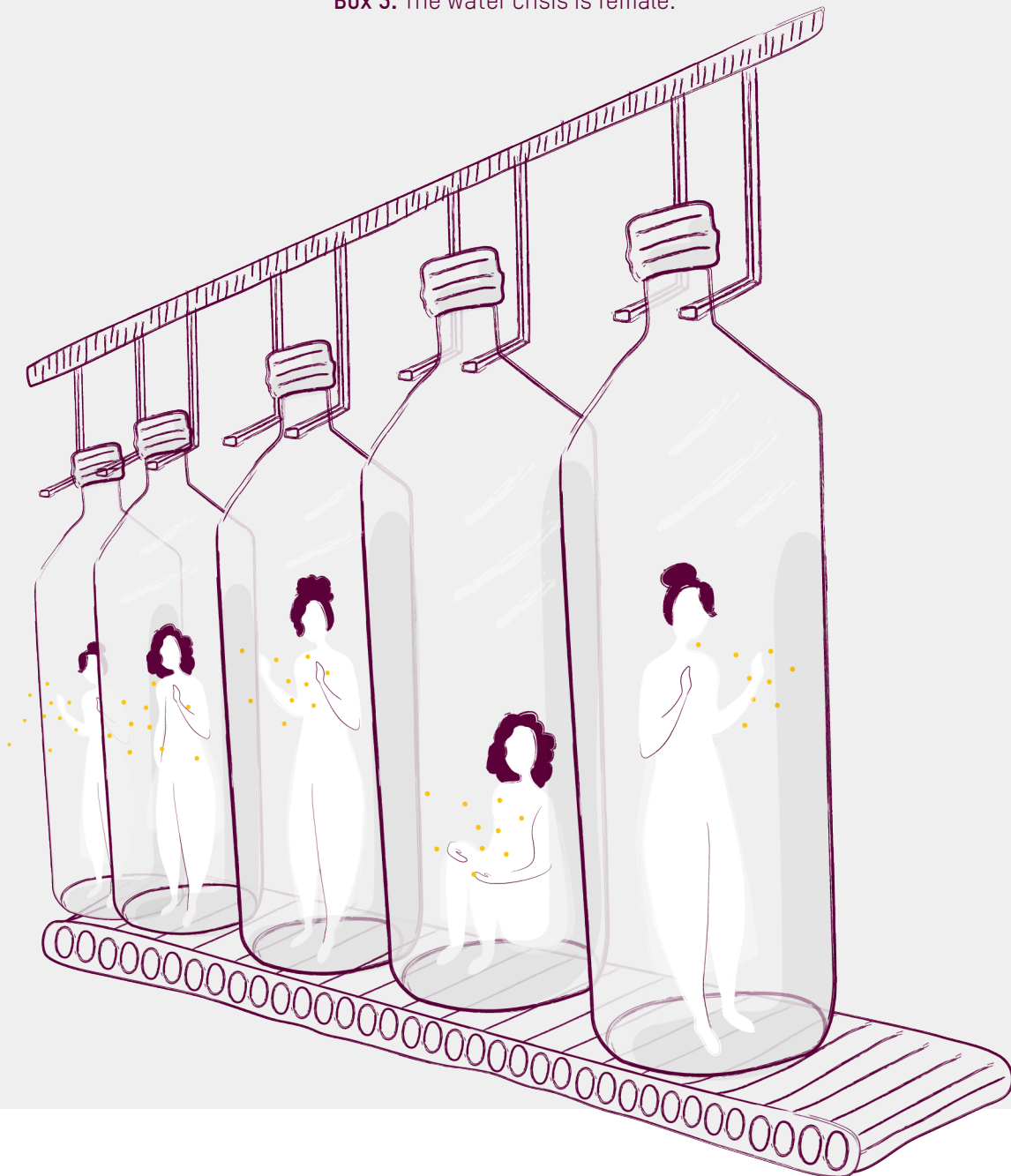
Faced with this absence of the State and excess business activity, people turn to water tank trucks to procure drinking water, and in the rainy season they collect rainwater for use in household tasks, including personal hygiene.



The crisis of water access and quality crisis are larger still when analyzed through the lens of the effect and impact on women's lives. Women take on the majority of household labor and unpaid care work. Salvadoran women spend an average of 19 hours more per week than men performing household tasks.<sup>47</sup> This gap is greater still in the rural areas, where the difference climbs to 24 hours per week.<sup>48</sup>

The link between access to quality water and gender justice is clear. Water is necessary for cleaning, food preparation, care for children and older adults or dependents, and other activities that women perform to a greater extent. These factors continue to limit their economic autonomy, personal empowerment, and political participation.

**Box 3.** The water crisis is female.





In 2015, a number of agencies in the country warned that increased extraction from the Nejapa aquifer by the EMBOSALVA S.A. company (currently Industrias La Constancia, ILC, part of Anheuser-Busch InBev, (AB InBev), the main bottler of Coca-Cola in El Salvador), could leave over 30,000 residents of the municipality of Nejapa and 30% of the inhabitants of the department of San Salvador without access to water.<sup>49</sup> Similarly, a report by the organization Alianza por la Solidaridad indicated that an eventual approval of the bottling plant's most recent request for expansion would exhaust the aquifer in a span of just 27 years.<sup>50, 51</sup> The stark inequality in the distribution of care tasks between men and women means that women will be the most affected as they attempt to perform the water-intensive tasks.

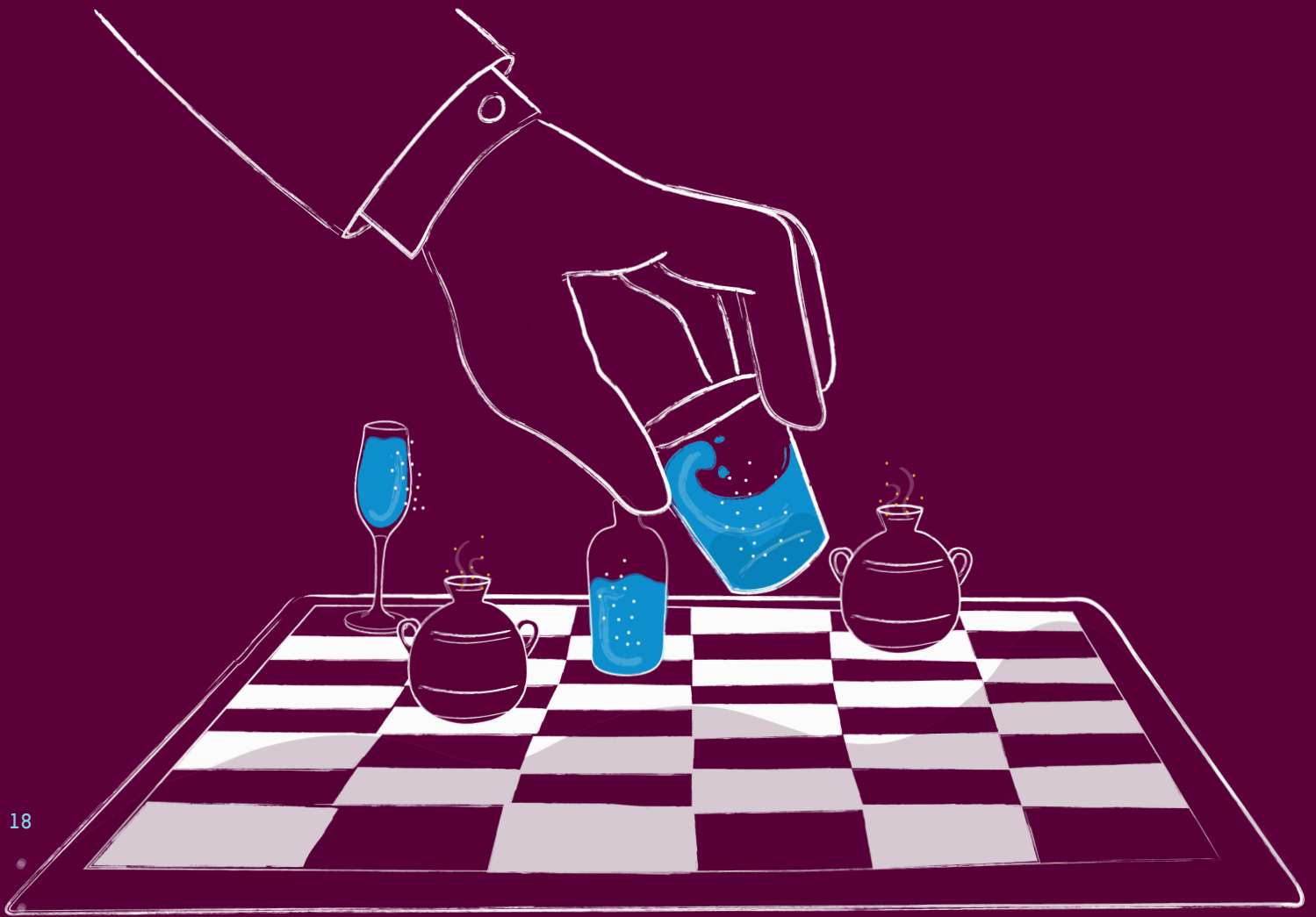
As part of a research study entitled "Foreign investment in a bottling plant in El Salvador, the Nejapa case", focus groups were formed with local community leaders to help understand the impact of the bottling company on people's lives. In the interviews, participants referenced that there are many single mothers in the municipality affected by the lack of water and that, when there were children in the home, the situation was much worse. Women expressed the deepest concern about the water situation in Nejapa, as they had first-hand knowledge of the daily difficulties that are caused by a continued lack of water.<sup>53</sup> The study indicates a direct link between water shortages and the social inequalities between genders.<sup>54</sup>

When broader groups of community representatives were interviewed, a large number of women participated and described all of the negative impacts that the plant expansion could bring. Nonetheless, when a focus group was formed with respondents from entities that supported the bottling plant (such as the inter-community board<sup>55</sup>), no women participated in the group, only men did. The study found that the bottling plant has undertaken a strategy to build alliances and direct contacts with certain community stakeholders with a greater proclivity to support plant expansion, leaving opposing stakeholders - the majority of whom are women - out of the alliances.

As has been the case in many other areas, women in Nejapa have taken a leadership role in water preservation for human consumption (water for life), and they have been able to mobilize the rest of the population on many occasions. This is an important dynamic to highlight because even though women carry the heaviest burden of household tasks for which water is essential, they are not usually taken into consideration in the decision-making spaces for control over this vital resource.<sup>56</sup>

Although the bottling company reports having undertaken a series of activities to benefit the inhabitants of Nejapa, the Municipal Council, social organizations, and the population interviewed for the aforementioned study all report that the company's actions in this realm have been quite limited.<sup>57</sup>

Source: Developed internally from a number of sources.



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### Section 3.

# WATER AND THE FIGHT TO REDUCE INEQUALITY: CONTEXT, ACTORS, AND THE INTERESTS AT STAKE

## Background

The problem of water and water-related conflict in El Salvador is deeply-rooted, and it is a problem that has grown more complex since the middle of the 20th century to the present day.<sup>58</sup> Since its constitution as an independent republic, El Salvador has “moved through three basic economic models: agricultural exportation, industrialization to substitute importations, and export promotion” (Artiga, 2018).<sup>59</sup> Over the past three decades, this last model has been based on the “application of economic liberalization policies and measures, open trade, privatization, deregulation, and the reduction of state intervention” (Artiga, 2018).<sup>60</sup> Water has been a powerful strategic resource in each of these models.<sup>61</sup>

Nonetheless, it was only in 1999, as part of the growing trade liberalization process of the Salvadoran economy, that a first proposal to regulate this field was produced. Raúl Artiga (2018) interprets the initiative as a need for the private/productive sector to ensure access to water in the context of the growing presence of foreign capital in the country. Access and availability faced even steeper challenges with the over-extraction and contamination of natural aquifers as a result of the production models that flourished under weak institutional controls.<sup>62</sup>

In 1999, after a series of closed-door negotiations with the government administration at that time, the private sector and a number of international organizations drafted and proposed a General Water Law with “an entirely economics-based perspective to ensure water quantity and water quality for different uses, especially production, in which resource regulation would depend on the market [the water rights market]” (Artiga, 2018).<sup>63, 64</sup> This first version of the law never saw the light of day due to an adverse context: “the political scenario of polarization and social tensions generated by the attempt to privatize the healthcare system shelved the initiative”.<sup>65</sup>

In the Elías Antonio Saca administration from 2004 to 2009 (ARENA), a new proposal was drafted. Nonetheless, Artiga reports that this process was “limited to the internal workings of

the government, conducted with much secrecy, and prioritizing the support and blessing of the productive sector for the proposed legislation, which was not achieved”.<sup>66</sup>

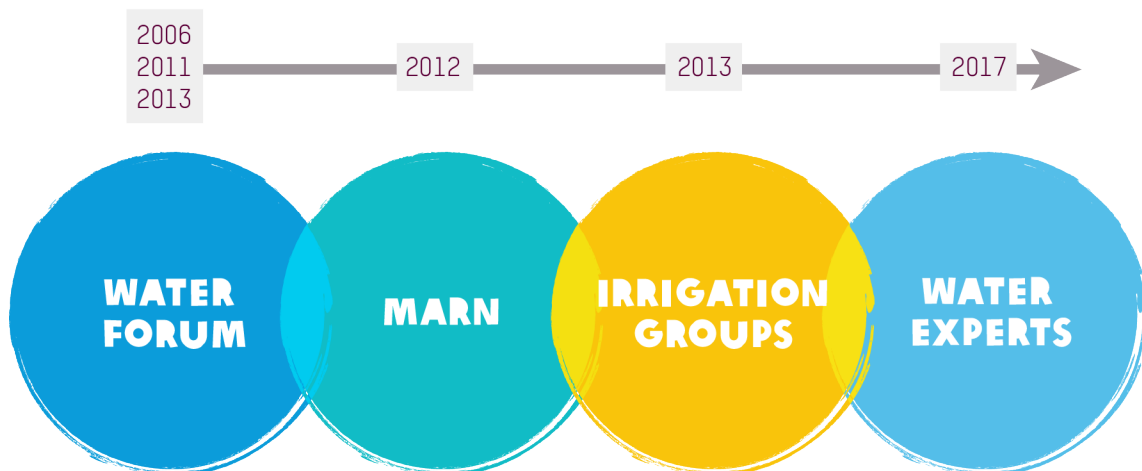
### The demand for a Water Law

Considering only the proposed laws that have been submitted for consideration and public debate in the Legislative Committee on the Environment and Climate Change (CMCC)<sup>67</sup>, four basic proposals can be identified, introduced from 2006 to 2020,<sup>68</sup> and three main stages of the discussion process. The first such stage ran from 2012 to 2015, the second from 2015 to 2018, and the latest lasted from 2018 to 2020 (see Figure 1).

The initial debate began in 2006, when a first proposal was introduced in the Legislative Assembly. This Water Law (LA by its Spanish acronym) was introduced by Caritas and UNES,<sup>69</sup> representing the Water Forum. The Forum worked over the course of one year to hold a consultation process with different communities to design the legislation.<sup>70</sup> The proposal was updated from 2011 to 2013 to include the human right to water, among other components, which was explicitly recognized by the United Nations in 2010.

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**Figure 1.** Water Law proposals introduced in the Legislative Assembly



Source: Developed internally based on remarks by FUNDE<sup>71</sup> to the Legislative Assembly in March 2019.

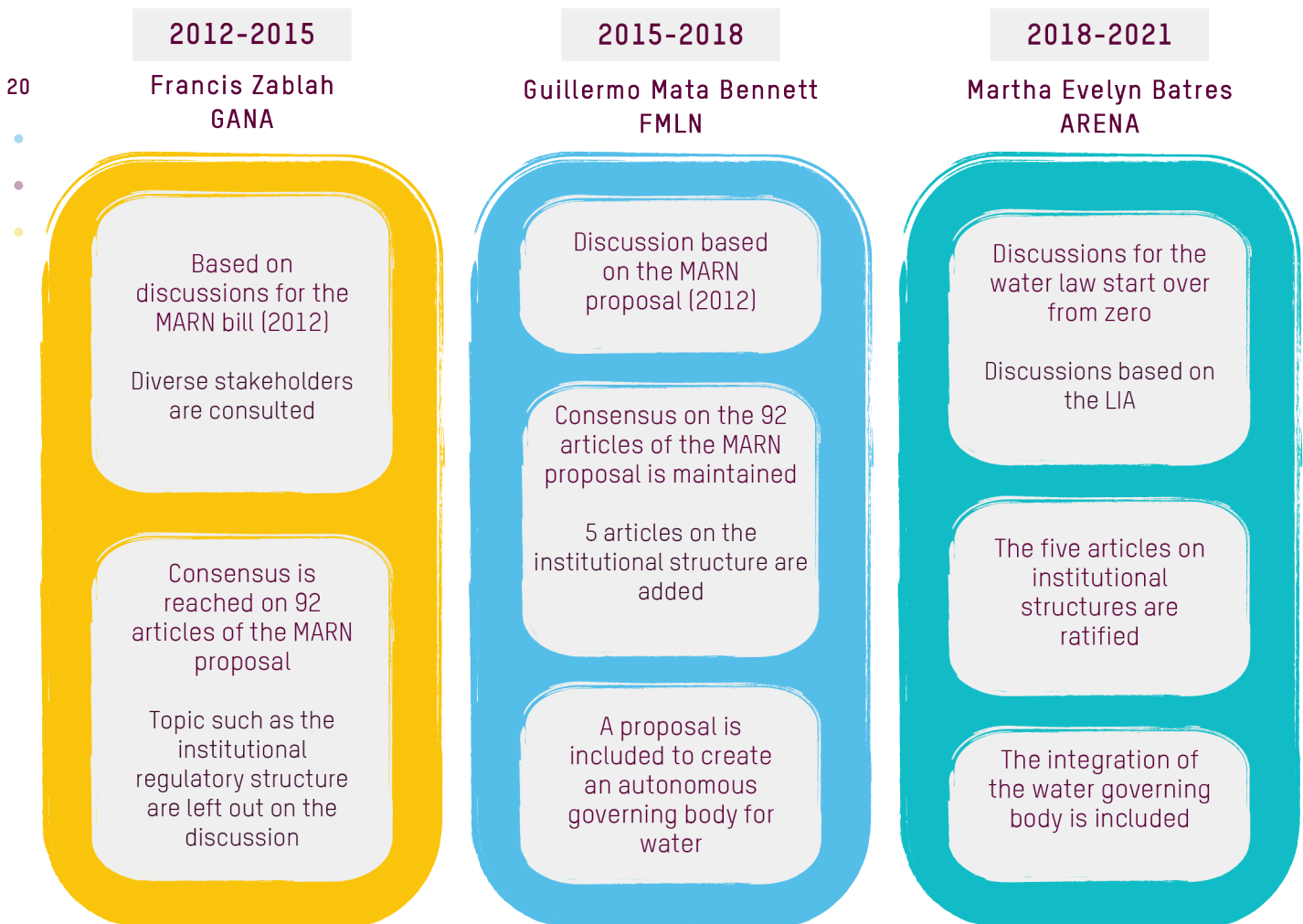
On March 22, 2012, in honor of World Water Day and based on the proposal from the Water Forum, the Ministry of the Environment and Natural Resources (MARN) submitted the **General Water Law** (LGA by its Spanish abbreviation), which eventually earned the support of the Forum. In 2013, another proposal called the **Comprehensive Water Management Law** (LGIA by its Spanish abbreviation) was submitted by the private sector (El Cacao Irrigators Association)<sup>72</sup>, with advisory support from the Salvadoran Foundation for Economic and Social Development (FUSADES).<sup>73, 74</sup>

In June 2017, a group with private sector ties calling itself the “Water Experts Committee” submitted a new proposal entitled the **Comprehensive Water Law** (LIA by its Spanish abbreviation), with support from the block of

right-wing political parties: ARENA, GANA, PCN, and PDC. Two months later, the “José Simeón Cañas” Central American University (UCA) published a proposal for a water governing institution, emphasizing which sectors should be responsible for making the regulatory decisions.

It is worth noting that in 2014 and 2015, MARN, the Ministry of the Economy (MINEC), and ANEP carried out dialogues in the country on the regulations of water assets. These discussions produced a technical document that was never submitted to the Legislative Assembly.<sup>75</sup> According to a MARN representative, this proposal served as the basis for the LIA, but the private sector modified the content before submitting it to the legislature.<sup>76</sup>

**Figure 2.** Discussion on the Water Law in the Legislative Assembly from 2012 to 2021



Over the three periods of debate in the Legislative Assembly, most of the progress toward possible water legislation came from 2012 to 2015. The CMCC at that time was chaired by Francis Zablah, a legislator from the GANA party. This stage also coincides with the final three years of the Mauricio Funes administration in the executive branch (from June 1, 2009 to June 1, 2014) under the Farabundo Martí National Liberation Front (FMLN).<sup>77</sup> Funes was the first president elected from a left-wing party in El Salvador.

Working off of the MARN proposal from 2012, the Legislative Assembly undertook a broad consultation process. Hundreds of organizations submitted correspondence to have their views included in the discussions underway around the proposed bill.<sup>78</sup> It is important to add that over 100,000 signatures were gathered in the course of this consultation process to support the recognition and development of the human right to water in the national legal framework.<sup>79</sup> The dynamic social movement of the time and the openness of the Legislative Assembly succeeded in advancing a proposed water legislation built on consensus between MARN and different social organizations and actors.<sup>80</sup>

The Legislative Assembly reached agreements on 92 of the approximately 200 articles in the proposed LGA promoted by MARN, and supported by the Water Forum and a broad and significant sector of the citizens and government of the time. Despite this progress, the Assembly failed to come to agreement on critical aspects such as the institutional structure for water management. The proposal to recognize the human right to water in the Constitution of the Republic also stagnated.

The discussion of the MARN LGA continued in the next legislative session from 2015 to 2018, but less progress was made compared to the previous period. The Chairman of the CMCC at that time was FMLN legislator Guillermo Mata Bennet. The President of El Salvador was Salvador Sánchez Cerén, from the same party. According to FUNDE, the most important achievement in this period was the passage of a proposal to create an autonomous agency that would be in charge of water stewardship.<sup>81</sup> This would

turn out to be a central point in the debate, as explained below.

Since 2017, the political debate to approve a pertinent water law has stopped, mainly due to the disruptive effect of the right-wing parties introducing the LIA, which broke the agreements reached up to 2015, and marked the start of the recent, strong conflict in the country around possible water legislation. In addition, for a large part of 2018, the run-up to the presidential elections that would be held on February 3, 2019, served as an excuse to justify the new paralysis in the legislative process.

In May 2018, the new members of the CMCC for the 2018-2021 legislative session,<sup>82</sup> chaired by Martha Evelyn Batres from the ARENA party, decided to restart the discussion process entirely. The 92 articles that had been constructed previously were discarded, and the LIA (not the LGA that had been introduced by MARN) was used as the framework for the new debate. According to FUNDE, from 2018 to the present, no progress has been made on substantive aspects on institutional arrangements in the law.

Since 2017, the main points of disagreement have been the different alternatives for the existing institutional framework: the proposals from the LGA, LIA, and the UCA proposal. In fact, the Minister of the Environment at the time, Lina Pohl, published an article stating that 85% of the proposal introduced by the private sector in 2017 was fairly similar to the text produced by the discussions and debates with ANEP in 2014 and 2015 (that is, in large part aligned with the MARN proposal), and the problem was the remaining 15% that was holding up the process.<sup>83</sup>

Along these lines, the main aspect driving conflict in the debate was the composition of the regulatory body. In the initial version, the LIA proposed a five-person board of directors: two representatives designated by the Corporation of Municipal Governments of El Salvador (COMURES)<sup>84</sup>, two by ANEP, and one person appointed by the President of the Republic. In this regard, the LIA clearly prioritized private-sector representation on this body. This composition

is at the core of the conflict, pitting opposing visions for the structure of the governing body and who should have a seat at the table. In the balance was who would have the power to decide over water management, national water policy, national and local plans, regulations, permits, and rates for water use, among other issues. The elites who use water as part of their economic activities thus had more than a passing interest in ensuring a voice in decision-making within the institutional structure, as seen in the proposals submitted by these sectors.

In 2018, the CMCC decision to restart discussions based only on the private sector proposal sparked a number of large-scale marches demanding a general water law with a strong public institution, and the recognition of the human right to water in the Constitution.<sup>85, 86</sup> In the second half of 2018, a national movement coalesced against what was seen as an attempt to privatize water by taking control of the regulatory body.<sup>87</sup> After intense citizen protest, the Legislative Assembly held a series of hearings to give voice to the positions from the different social sectors. However, the hearings were unsuccessful in reducing the conflict.<sup>88</sup> Thus, between a conflict with no apparent solution and the electoral context, the discussion on a legal framework for comprehensive water management has remained in limbo.<sup>89</sup>

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**Opposing visions: The LGA, LIA, and regulatory body proposed by the UCA**

As for the general content of the laws, and as inferred in the previous paragraphs, the current confrontation is between the latest version of the LGA proposed by MARN, and the LIA, supported by the private sector and proposed by ARENA, GANA, PCN, and PDC. In terms of the specific question of the institutional structure, there are currently

two positions staked out in the conflict: the UCA proposal (backed by MARN and different social stakeholders and organizations), and the private sector position (updating the initial 2017 proposal by increasing the representatives designated by the president of the republic from 1 to 3 appointees).<sup>90</sup>

**Figure 3.** Governing body proposals, updated in 2018



Source: Developed internally based on remarks by FUNDE to the Legislative Assembly in March 2019.

The main points in dispute are in regard to the nature of the governing body for water resources (with a majority public stake in the UCA proposal, and with a majority representation from the private sector in the LIA, including two members appointed by ANEP), as well as the established participation mechanisms considered in the

law. There are also differences between the LGA and LIA on other specific issues such as the permits to exploit water sources (setting time limits and volumes), the system of penalties in cases of non-compliance, rates for water extraction and discharge, and leadership in potable water and sanitation bodies.<sup>91</sup>

**Table 1.** Opposing visions on the General Water Law (LGA) and the Comprehensive Water Law (LIA)

| ANEP critiques of the LGA   | University and social organization critiques of the LIA   |
|---|---|
| <ul style="list-style-type: none"> <li>• The institutional structure proposed by the LGA is discretionary and arbitrary.<sup>92</sup></li> <li>• Article 120 of the LGA grants discretionary and arbitrary powers to MARN that would allow it, under the guise of “protecting” water, to tacitly “expropriate” specific properties,<sup>93</sup> creating rules to “confiscate private property”.</li> <li>• Article 87 of the LGA favors “administrative silence” interpreted as a negative response.<sup>94</sup></li> <li>• Permits lasting less than 10 years for private entities<sup>95</sup> subject to review at any time means that “authorizations generate legal insecurity”.</li> <li>• Opposition to certain aspects of the LGA related to regulation of wastewater dumping into water sources.<sup>96</sup></li> <li>• The LGA establishes a confiscatory sanction rules with the creation of the Water Sanctions Tribunal with three members appointed by the president of the republic.<sup>97</sup></li> </ul> | <ul style="list-style-type: none"> <li>• The law looks to shift authority over a public resource such as water into private hands or agents, which would put water access at risk for a large swath of the population.</li> <li>• It does not guarantee priority water use for human consumption.</li> <li>• Unlike the State, the private sector has no mandate, mission, or authority to uphold the common good or to defend citizens’ rights.</li> <li>• While some countries in Latin America and the Caribbean have adopted different formats in which the private sector is involved in water management, none of them involve private actors in the governing body.</li> </ul> |

Sources: Developed internally based on testimony by the following institutions at the Legislative Assembly: University of El Salvador (UES), Salvadoran Chamber of the Construction Industry (CASALCO), Movement of Victims and Communities Affected by Climate Change and Corporations (MOVIAC), Ombudsman for the Defense of Human Rights (PDDH), ANEP, and opinions shared in interviews conducted for this research project.

**Table 2.** Main critiques of the current proposals for institutional structures

| ANEP critiques of the UCA proposal   | University and social movement organization critiques of the proposed institutional structure in the LIA   |
|--|--|
| <ul style="list-style-type: none"> <li>• Technical, administrative, and financial governance should be held by a decentralized, autonomous authority for comprehensive water management. This authority should not be under the authority of the executive branch, that is, it should not be an official autonomous institution or a ministry, but rather a decentralized institution free from political interests.</li> <li>• The most favorable governance structure is one that transcends government administrations. The governing body should be apolitical.</li> </ul> | <ul style="list-style-type: none"> <li>• The governing body for water should be composed of public actors; other actors on the body would face conflict of interests in deciding on different water uses and volumes, rates, fines for wastewater dumping, and other critical issues.</li> <li>• The water authority proposed in the LIA prioritizes private participation and puts State representatives at a disadvantage against the block of two private sector representatives together with the COMURES appointees.</li> <li>• The LIA proposes a Watershed Consulting Committee, but delegates all decision-making powers to the central water authority. That is, the LIA proposes a Consulting Committee that can be convened and invited to board meetings to share their opinions, but the committee is not given a vote. In comparison, the space proposed by the UCA suggests a participatory mechanism that expands citizen advocacy without sacrificing governance. This design establishes a National Water Council with broad participation, which would elect two of its members to join the board of directors of the National Water Authority (ANA).</li> <li>• The LIA excludes members of political parties, labor unions or elected officials from participating on the board of directors of the Water Authority.</li> <li>• The lack of civil society participation prevents full recognition of indigenous peoples' views and voices from the communities that have been key actors in the local struggles for water rights.</li> <li>• Water is a public good, and thus policies for water management should be led by the State. Given the essential importance of water for life, citizen participation should be guaranteed. This helps to prevent abuses and operates as a mechanism to favor transparency in water governance.</li> <li>• Decentralizing water management (in local committees and watershed zones) as suggested by the UCA is a key adaptation to protect water sources and watersheds, and deal with the effects of climate change.</li> </ul> |

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Sources: Developed internally based on testimony by the following institutions at the Legislative Assembly: UES, CASALCO, MOVIAC, PDDH, and ANEP, as well as opinions shared in the interviews conducted as part of this research project.



Tables 1 and 2 clearly show the private sector concerns and may be behind their interest in controlling decisions that could put the profitability of their production activities at risk. While some parts of the ANEP position are reasonable, such as the need to improve the efficiency of the National Aqueducts and Sewers Administration (ANDA) to avoid waste, or the intention to avoid politicizing the governing body, the essential notion that water is a vital public good and that human consumption should be prioritized over the use of water as a raw material in production is absent. The detractors of the LIA are clear in making this argument.

It is also worth noting that while the language of the LGA is more gender-inclusive, neither the LGA nor the LIA approach the issue of water management with an adequate gender lens. This report will further explore the gender lens in the section on recommendations.

## WATER, ELITES, AND POWER

The lack of a comprehensive regulatory framework for water management means that there is no regulation in place for fundamental issues such as the exploitation of aquifers and rivers, allowable usage volumes for different consumption types, consumption rates, and prevention and control measures to avoid contamination (discharges into water sources), along with other points. This lack of regulation and the fragmentation of different roles across a spectrum of agencies without a single governing body to coordinate comprehensive water management has been a breeding ground for the proliferation of abuses and excess that has led to a large part of the water crisis in El Salvador.

Social movement actors, consumer defense organizations, and non-governmental organizations all agreed in the interviews conducted for this research that companies from three main sectors make up the staunchest opposition to the LGA and a public institutional structure as proposed by the UCA.

These sectors are: agroindustry in general (and sugarcane in particular), industrial (alcoholic and non-alcoholic beverages), and construction (urban infrastructure development). Representatives from the water rights defense movement and academic actors agree that the current model, unregulated and without adequate payment system has ended up prioritizing water use for a handful of companies from these sectors.<sup>98</sup> Therefore, behind the inaction that prevents progress in solving El Salvador's water crisis, important interests of the country's economic elite can be identified. This does not invalidate the fact that there are other interests at play associated with other actors that also explains part of the paralysis. Nonetheless, the strong motivations of these companies to block the passage of a regulatory framework on the subject – until such an omission becomes untenable – support for the LIA and rejecting the MARN/UCA proposal is indisputable.

In the political field, the ARENA party has been one of the most influential actors in the discussions for a water law in the country. As shown, while this party resisted any progress on water legislation for many years,<sup>99</sup> ARENA joined representatives from GANA, PCN, and PDC to introduce the LIA legislation granting a majority stake of participation to the private sector in the governing body in August 2017.

The ARENA party has had close ties to the Salvadoran economic elite since its founding,<sup>100</sup> and prominent businessmen continue to be among the main donors to the party.

In recent years, after a long legal battle, political parties have begun to disclose their donors. According to these records, the ARENA party received 470 private donations from February 2015 to May 2016.

Among the contributions that stand out are from five big Salvadoran businesses that operate in sectors, as indicated above, that different sources have identified as those with the most resistance to the approval of water legislation.<sup>101</sup> The largest donors are: the Grupo



Poma companies, in the automobile sector, financial services, industry, and real estate,<sup>102, 103</sup> (property of the Poma family); the Omnisport company (linked to the Suster family); the Roberto Dueñas Limitada and Dueñas Hermanos Limitada real estate companies (both owned by the Dueñas family, which also owns Urbánica Desarrollos Inmobiliarios and has been the builder of luxury urban developments such as Puerta la Castellana, Puerta Los Faros, La Gran Vía Mall, and others,<sup>104</sup> and, which Segovia (2018) reports, also holds operations in sugarcane production, transformation, sale, and export, and in private investment funds;<sup>105</sup> Compañía Azucarera Salvadoreña and Almacenadora del Pacífico S.A. de C.V. (linked to the Regalado family);<sup>106</sup> Credisiman and Desarrollos Inmobiliarios Comerciales S.A. de C.V. (linked to the Simán family);<sup>107</sup> and Droguería Santa Lucía (property of former president Alfredo Cristiani).<sup>108</sup>

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The sugarcane sector stands out as a major player among the ARENA party donors. In fact, in March 2018, a group of Potable Water Administration Boards,<sup>109</sup> churches, Community Development Associations (ADESCOS), community health committees, and labor unions organized in the National Alliance against Water Privatization in El Salvador, sent a letter to the Legislative Assembly to share their concerns caused by the data published by the Presidential Secretariat for Citizen Participation, Transparency and Anti-Corruption, demonstrating that the sugarcane agroindustry in the country, particularly Grupo CASSA [the Salvadoran Sugar Company, or *Compañía Azucarera Salvadoreña*], and the El Ángel, La Cabaña, Chaparristique and Jiboa sugar mills had all made important payments to the ARENA party.<sup>110</sup>

These companies, along with a number of others, are organized in different industry groups that make up the National Private Enterprise Association (ANEP), founded in 1966 to be a body that would represent much of the private sector in the country. ANEP's mission is to "foster and protect a system of free enterprise", and its vision is "to be the entity

that promotes and represents all entrepreneurs, promoting sustainable development in the country." According to data from its webpage, ANEP "represents the productive and economic strength of El Salvador, with 50 business groups from 55 economic subsectors, representing over 15,000 companies."<sup>111</sup> Given its size, ANEP plays a considerable role in the governance of El Salvador.

ANEP functions as a network of domestic and multinational companies (banks, airlines, industries, etc.) with political ties in the country. In fact, some of the members don't hesitate to publicly recognize that despite being an "apolitical" body, the Association has wielded influence in political and economic realms, providing information and making recommendations for the governments in power.<sup>112</sup> Beginning in 1989,<sup>113</sup> the industry groups began to have more visible influence in the country. For example, high-ranking representatives in ANEP have run and been elected to public office, often under the auspices of the ARENA party (one former president of ANEP was elected as President of El Salvador through the ARENA party).<sup>114</sup> This reveals the linkages between both actors and their considerable influence in key aspects of national life.<sup>115</sup>

Among the ANEP members with a substantial interest in the terms of water governance are the Salvadoran Sugarcane Association [*Asociación Azucarera de El Salvador*], the Chamber of Agriculture and Agroindustry of El Salvador [*Cámara Agropecuaria y Agroindustrial de El Salvador, CAMAGRO*], the Association of Sugarcane Producers [*Asociación de Productores de Caña de Azúcar, PROCAÑA*], the Salvadoran Association of Bottled Water Industries [*Asociación Salvadoreña de Industrias de Agua Envasada, ASIAGUA*], the Salvadoran Chamber of the Construction Industry [*Cámara Salvadoreña de la Industria de la Construcción, CASALCO*], the American Chamber of Commerce in El Salvador (AMCHAM), and the Salvadoran Industrial Association (ASI, which brings together large companies such as the Embotelladora La Cascada bottling

company, Industrias La Constancia, and others from agroindustry such as Arrocera San Francisco, CASSA, or Derivados de Maíz de El Salvador). ASI represents the interests of its members dedicated to industrial or associated activities<sup>117</sup> and the association reports that its members account for 96.5% of the exports from the country.<sup>118</sup> One of the ASI mandates is to protect and represent the interests of its members before national and international authorities and institutions, and to “analyze and study proposed legislation related to its members’ interests, acting as an interlocutor for their requests of the central government.”<sup>119</sup>

The sugarcane sector, which includes the Salvadoran Sugarcane Association (and PROCANA, which represents the cane producers) is a very important part of the national economy, and one which makes intensive use of water resources in the country.

According to data from MARN in 2017, the sectors with the greatest demand for water in El Salvador were agriculture (51.8%), urban and rural household water supply (29.7%), and thermal energy (11.5%). These three sectors together represent 93% of the demand. Another three sectors (aquaculture, industry, and hospitality) demand the remaining 7%.<sup>120</sup> Sugarcane is one of the most water-intensive crops. Along with climate conditions, water availability is the decisive factor for crop growth. Crop water requirements are measured in crop coefficients (Kc) established by the United Nations Food and Agriculture Association (FAO) for plant development (cultivation-growth-flowering-harvest). Kc can range from 0.45 to 1.20. Whereas sugarcane Kc sits somewhere between 0.75 and 0.90, the crop coefficient for most vegetable crops is between 0.60 and 0.75.<sup>121</sup>

There are six sugar mills in the country (Central Izalco, Chaparrastique, El Ángel, La Cabaña, Jiboa, and La Magdalena). Two families control nearly 70% of the domestic sugar market. The Regalado family owns the Central Izalco mill, and also is the majority shareholder of the Chaparrastique mill. The Wright family owns the

El Ángel mill and is the majority shareholder in the La Magdalena mill.<sup>122</sup>

CASALCO, which represents companies in the construction and real estate sectors, is another actor with enormous interest in water. According to studies by the Global Water Partnership for Central America, water supply for human consumption (including supply for commercial business projects) represents the second-highest demand for water; forecasts suggest that this trend will hold steady.<sup>123</sup>

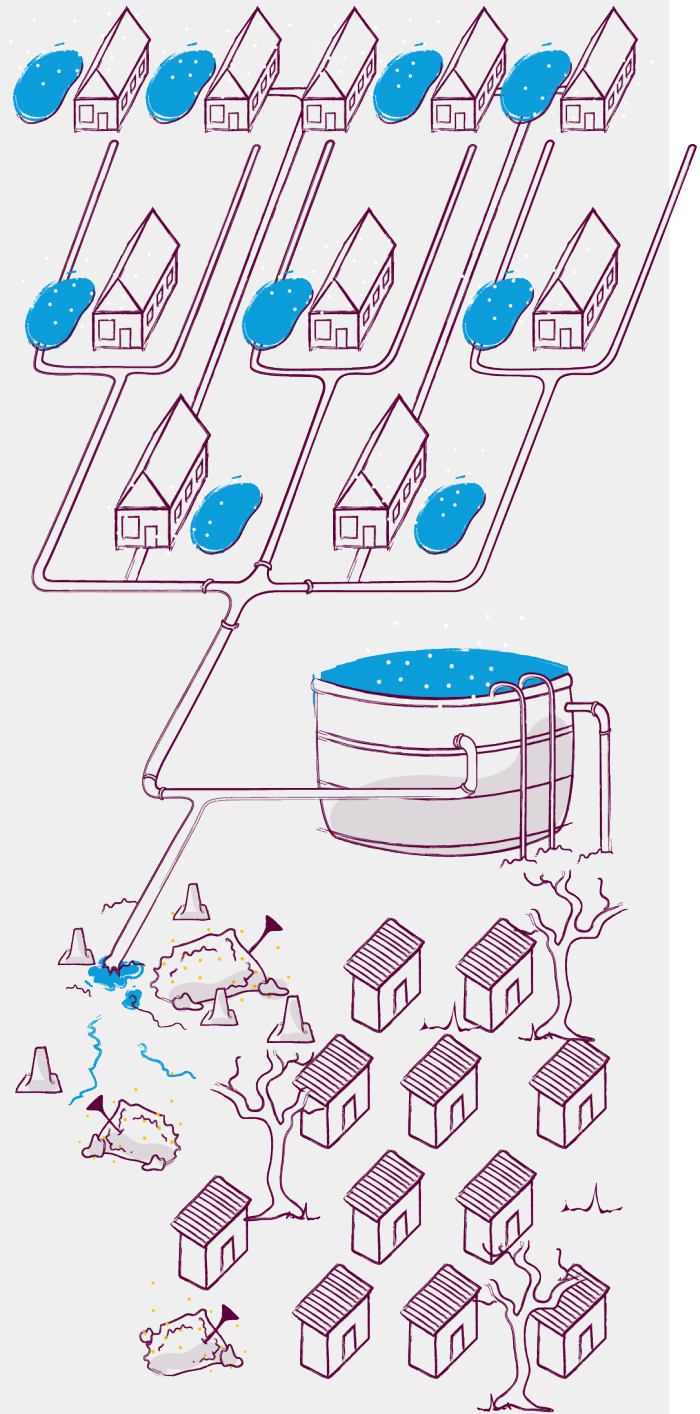
According to the Water Forum, real estate expansion, especially in the form of luxury residential complexes, has produced particularly high water consumption. These projects are also large contaminators of water sources: residential developments in the country generally do not plan for wastewater treatment facilities, leaving the waste to be dumped into rivers.<sup>124, 125</sup>



**Box 4. Real estate, water, and inequality**

Certain events in the real estate sector make it easy to see extreme inequality in water access. One such case is the Potable Water System Improvement Project Trust for Southeast Santa Tecla, Southeast Antiguo Cuscatlán, Nuevo Cuscatlán, Zaragoza, and San José Villanueva, Department of La Libertad (FIHIDRO). The trust beneficiaries include Grupo Roble and JOR, S.A., both of whom are CASALCO members.

Grupo Roble is the urban development wing of the Poma family conglomerate, one of the wealthiest in the country and in Central America,<sup>126</sup> while JOR, S.A. de C.V. is one of the owners of the El Encanto Residential Country Club, a complex of luxury condominiums with swimming pools and golf courses built in the Bálsamo Range, in the municipality of San José Villanueva (an area already facing water shortages).



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The FIHIDRO project is a public-private agreement signed by the government in 2006, whereby ANDA guarantees the water supply for the municipalities of southeastern Santa Tecla, southeastern Antiguo Cuscatlán, Nuevo Cuscatlán, Zaragoza, and San José Villanueva. However, an investigative journalism report from the area conducted a decade later shows that the municipalities in the Bálsamo Range are still waiting for their water supply, while the new residential development projects built by the aforementioned companies were granted “priority connections” over the communities that were already settled in the area.<sup>127, 128</sup>

Many communities also voiced concern over the impacts of real estate development projects on water quality and environmental harm in general. In October 2019, the Local Roundtable for the Northern Zone of the Bálsamo Range, part of the Water Forum, filed two claims: one against the Paseo El Prado residential project (a Grupo Roble property) for failing to obtain the appropriate environmental permit, and

the second against the treatment plant in the Brisas de Zaragoza-Etapa I project, for severe contamination of the El Jute river (the main water source for many local communities and in which, raw sewage is dumped).<sup>129</sup>

Another similar example is that of the Finca El Espino area, a large state-owned forested plot that served as the “lungs” for San Salvador. After a series of donations and land concessions, parts of the plot were sold to real estate developers and transformed into shopping malls and residential projects.<sup>130, 131</sup> In fact, in the year 2000 the Central American Water Tribunal<sup>132</sup> ruled to “censure the Government of El Salvador and the three branches of the State for unfair and irregular land use management in the El Espino land, and consequentially the inhabitants of the San Salvador Metropolitan Area”, and to “denounce that the Government of El Salvador had privileged private interests at the expense of the common good...”.<sup>133</sup>

Source: Developed internally from a number of sources.

ASIAGUA, an ANEP and ASI member, represents some of the largest bottling companies in the country: Industrias La Constancia, Agua Alpina, Las Perlitas, and Aquapura and Salud. This sector also demonstrates the competition for water use. Industrias La Constancia is one of the main beverage producers in the country<sup>134</sup> and a national and regional Coca-Cola products distributor<sup>135</sup> and since 2016, the company is property of the multinational company Anheuser-Busch, InBev N.V./S.A. (AB InBev). There have been complaints of the company’s impact on water availability for local communities. Data collected by social movement organizations such as Alianza por la Solidaridad reveal that this company has been extracting water from the Nejapa aquifer since 1999, which has led to great concern because it is a strategic body of water, providing potable water for half of the population of greater San Salvador. It should also be noted that among the main reasons for concern is the authorization granted to Constancia to set up in the area without an adequate analysis of short, medium or long term impacts, and the precedent that it sought this option after the exhaustion of the groundwater flow that supplied its previous plant in Soyapongo.<sup>136</sup>

Based on all of the above, it is important to underscore that an analysis of the stakeholders in water governance (political parties, business associations, leading figures and national economic elites) reveals the immense economic and political power behind the opposition to a legal framework on water management that does not respond to their

interests. While the economic elites of today look quite different from Francisco Robles Rivera’s description (2017) of a “small and highly cohesive group of oligarchs, landowners, coffee plantation owners and agroexporters with great political power and control over the armed forces” as they once were in the XIX and XX century, they are now “diversified groups under the control of one or more families” that effectively deploy their powers in defense of their interests.<sup>137</sup> The shared interests among the powerful industrial structures help these groups to accomplish their objectives. The fact that there is still no legislation in place to address the verified water crisis in the country is a clear demonstration of this phenomenon at work.

Francisco Robles Rivera’s statements are consistent with another study by Waxenecker with data from 2011 about Salvadoran big businesses, which examines overlapping members of their boards and management structures. This study identified a sub-network of 175 large companies - legally registered in El Salvador - that make up a “hegemonic network with shared interests and relationships.”<sup>138</sup> “This economic structure has strong ties - in a broad sense - to agriculture, as well as the finance sector, industry, trade, and transportation. There are no apparent logic to the business value chains or cluster economies within the network<sup>139</sup>, but it is characterized by its sub-structures around flagship companies and underlying family relationships.”<sup>140</sup> CASSA, for example, sits in the first tier of flagship companies, defined by having shared control of

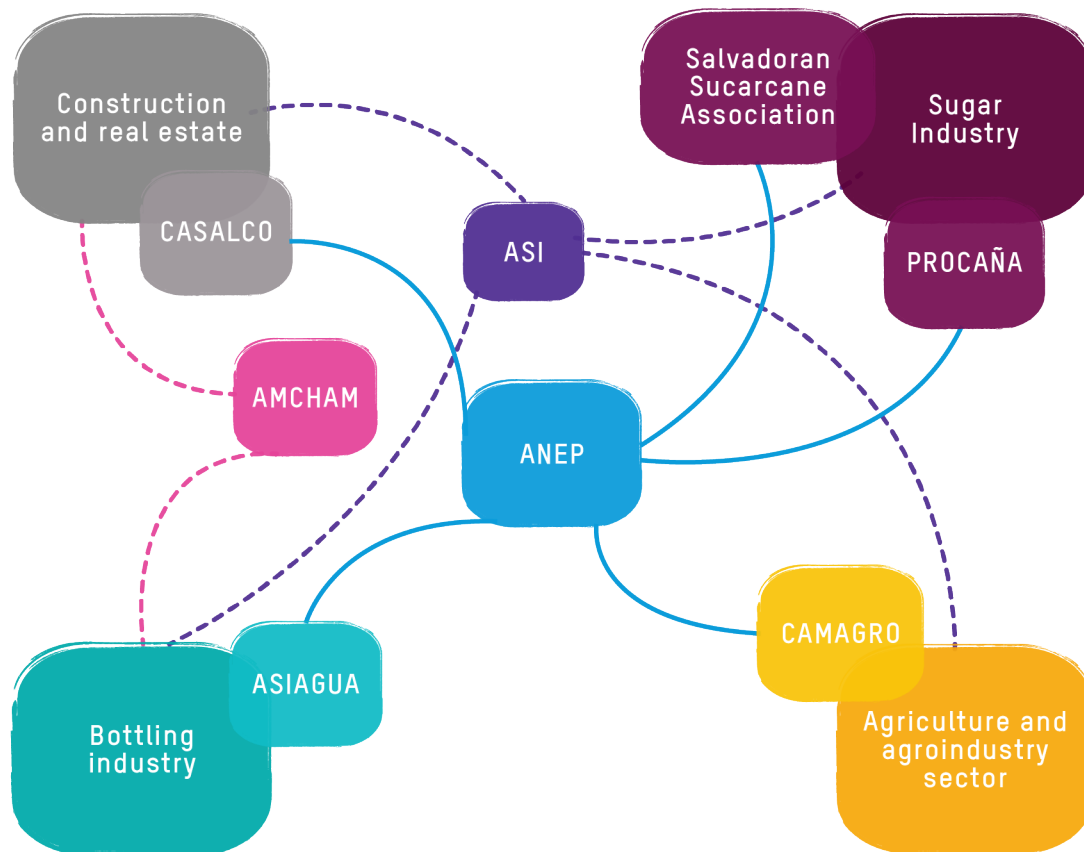
their boards of directors and high connectivity between sub-structures within the hegemonic network itself.<sup>141</sup> It is the flagship company in the sugar sector in El Salvador and its board of directors is composed of several key players among the national elites.<sup>142</sup> CASSA is also part of the Salvadoran Sugar Association, which is part of ASI and ANEP. In line with these relationships, Waxenecker describes how ANEP, CAMAGRO, FUSADES, and ASI have close ties with big businesses, which “enables the representation of their common interests and defense of the status quo” (Waxenecker, 2017).<sup>143</sup> All of the above, helps to identify the main economic sectors that are the most sensitive to water governance, the multiple structures where they overlap, and how they function as influencing platforms in the making

of decisions of public interest.

Figure 4 shows a first-tier grouping within the sector-specific associations, such as CASALCO, ASIAGUA, and CAMAGRO. Broader groupings such as ASI and ANEP sit in a second tier. ANEP brings together the majority of the businesses and industry groups, and is thus an important actor in the national debate.

The interest of these sectors in discussions on water legislation is clear when studying the official record of the CMCC in the Legislative Assembly: CASALCO, ASIAGUA, ASI, AMCHAM, and ANEP have all submitted opinions to the Committee on the proposals for the General Water Law.

**Figure 4.** Map of the main business associations or industry groups that represent the economic sectors most “sensitive” to water governance



Source: Developed internally from a number of sources.<sup>144</sup>

## SECTION 4.

# THE GENERAL WATER LAW: CAUGHT BETWEEN PARALYSIS AND CAPTURE



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Authors such as Payne, Zovatto, and Díaz (2006) have emphasized the “importance of politics in creating, implementing, and ensuring the sustainability of legitimate institutions and adopting public policies that work to benefit all citizens”.<sup>145</sup>

It could also be said that the nature of the political process (in terms of equity, for example) to produce policies, regulations, and standards is also key in achieving development objectives.

Paradoxically, equity in the political processes that determine issues such as who has (or does not have) access to essential goods such as water is often compromised. “The policy-making process does not happen in a vacuum. On the contrary, it is performed in complex political and social scenarios in which individuals and groups with unequal power interact in a shifting framework of rules to defend opposing interests... the composition

of the group of actors participating in the decision-making process has a fundamental bearing on policy selection and implementation, and in consequence, on the impact of these policies on development outcomes.”<sup>146</sup> Certain actors can use their relatively greater power to influence and shape the process of formulation and the implementation of policies, norms, and regulations in service of their own interests and agendas, and against those of the majority. This statement fits with the literature defining the phenomenon of political capture.

Cortés and Itriago (2018) define capture as “the exercise of abusive influence by extractive elite(s) - in favor of their own interests and priorities and to the detriment of the general interest - on the cycle of public policies and state agencies (or others regional or international reach), with potential impacts on economic, political, or social inequality, and the functions of democracy.”<sup>147</sup> Nonetheless, the spectrum of possible forms of “capture” is broad, from a law to the state apparatus itself. In fact, in the economic history of Latin America and the Caribbean, there have been extreme cases of capture nearly to the level of taking institutions themselves hostage when certain actors take over decision-making bodies, with important impacts on inequality and general wellbeing.<sup>148</sup>

In the context of this study, it can be said that for over a decade, discussions in the Legislative Assembly on the General Water

Law have been caught between paralysis and the threat of capture through control of the governing body for water resources. This scenario has ended up limiting fair access to quality water for the population, especially for people in the most vulnerable sectors of the country. Thus it is possible to hypothesize what is behind the failure to legislate on this matter is the intention to *capture* the decision-making process on water regulation (and eventually water governance itself) in the country. That is, the legislative process has been blocked for so long in large part due to the threat that more severe and restrictive water regulation than that which exists now, would pose for the economic elite, and the possibility it won't be the elites that are in a position to decide on water resource management in the country.

Although the public information available for this report did not include sufficient data to confirm that there is a process of political capture of water policy in El Salvador, it is at least clear that there is a series of elements that have created (and continue to create) ideal conditions for the capture of this policy. It is important to add that these conditions could facilitate the capture of other relevant policies for combating inequality. The factors that could facilitate this capture, along with the mechanisms to channel the interests of the economic elite in this case, are organized in Box 5 and Figure 5.

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**Box 5.** Some elements that could facilitate capture of water governance include:

**a. Economic actors sensitive to water governance with strong political influencing capacity due to their resources:**

- Concentrated economic power: There is a group of economic elites characterized by their clear economic power, and the concentration of this power into few hands/families.
- Strong industry and political linkages: “Economic and political transformation processes in El Salvador have consolidated a sort of ‘hegemonic economic-political right wing’<sup>149</sup> that self-perpetuates, with industry groups functioning as brokers between the economic and political



interests that make up the ecosystem for these elites, in which the State has been an effective instrument for the survival of these groups.<sup>150</sup> The best example in this case has been the LIA, backed by a large part of the private sector and political parties such as ARENA, PCN, GANA, and PDC. As Waxenecker (2017) argues and this report describes, the industry-political ties “grant a position of social and political power to economic elites, allowing them to access public power (through elections, appointments, and/or the ‘revolving door’<sup>151</sup>), or through direct influence in political decision-making.”<sup>152</sup>

#### **b. An enabling environment that may have facilitated blocking legislation:**

- The electoral climate and proximity to the 2019 presidential elections may have contributed to the paralysis.
- A CMCC chaired by ARENA and the new configuration of the Legislative Assembly in which the balance of power favored right-wing parties starting in May 2018 could also have blocked progress on legislation, given the political ties to the Salvadoran economic elites, although clearly no political party has been capable of building the necessary consensus to make definitive progress toward passage of water legislation that protects the interests of the majority.

#### **c. Structural components that facilitate capture:**

- Absence of or shortcomings in regulation in key areas such as political party financing, lobbying activities,<sup>153</sup> and revolving doors represent ideal ways for elites to make influencing inroads in favor of their interests and agendas.
  - Political parties in El Salvador are financed through a mix of public and private funds, with few regulations in place in terms of state contributions, and almost no regulations on private donations. Parties can receive unlimited private donations in cash or in kind, with minimal legal limitations.<sup>154</sup> There is even less control in terms of funding for specific candidates or campaigns.
  - The legal system fails to regulate interest brokerage<sup>155</sup> (lobbying) and access to information on lobbyists.<sup>156</sup>
  - There is also no regulation in the country on revolving doors. For example, there are no set timelines (cooling-off periods) that public officials are required to respect before joining professional activities in the private sector - or vice versa - to reduce the risk of conflicts of interest.<sup>157</sup> There are also no controls on the handling of confidential, privileged, or sensitive information to which public officials may have had access in the course of their roles in public office.<sup>158</sup>

#### **d. Mechanisms that may have facilitated the capture:**

- Functional cohesion between large segments of the economic and political elites in the country, mediated by industry groups, has materialized and been maintained through specific influencing mechanisms. Some of the most evident and traceable mechanisms include poorly-regulated political party financing and the use of organizations (such as think tanks, foundations, and research centers) with the capacity to influence the agenda, content, and approaches taken on key issues in the country, that are sensitive to the interests and agendas of elite groups. Without disregarding the influence these organizations hold over parts of public opinion, the mechanism is more of an “capture of ideas” : rather than shaping public opinion in favor of the elites/LIA, the mechanism feeds into a monolithic position or static discourse from the economic and political

elites that blocks the way for discussion among all relevant stakeholders to help break out of the paralysis around the regulatory framework on water. In fact, the public demonstrations of 2018 mentioned earlier are a clear symptom that a large part of the population has its own opinion on the matter of water governance.

- The historical dynamics of the economic elites in the country in favor of their own interests, the political strength of industry groups, and the lack of regulation on key matters that allow the elites to exert effective influencing power in the political workings of the country, are factors that may have facilitated lobbying of the CMCC by (or on behalf of) the economic elites sensitive to water governance in favor of the LIA.<sup>159</sup>

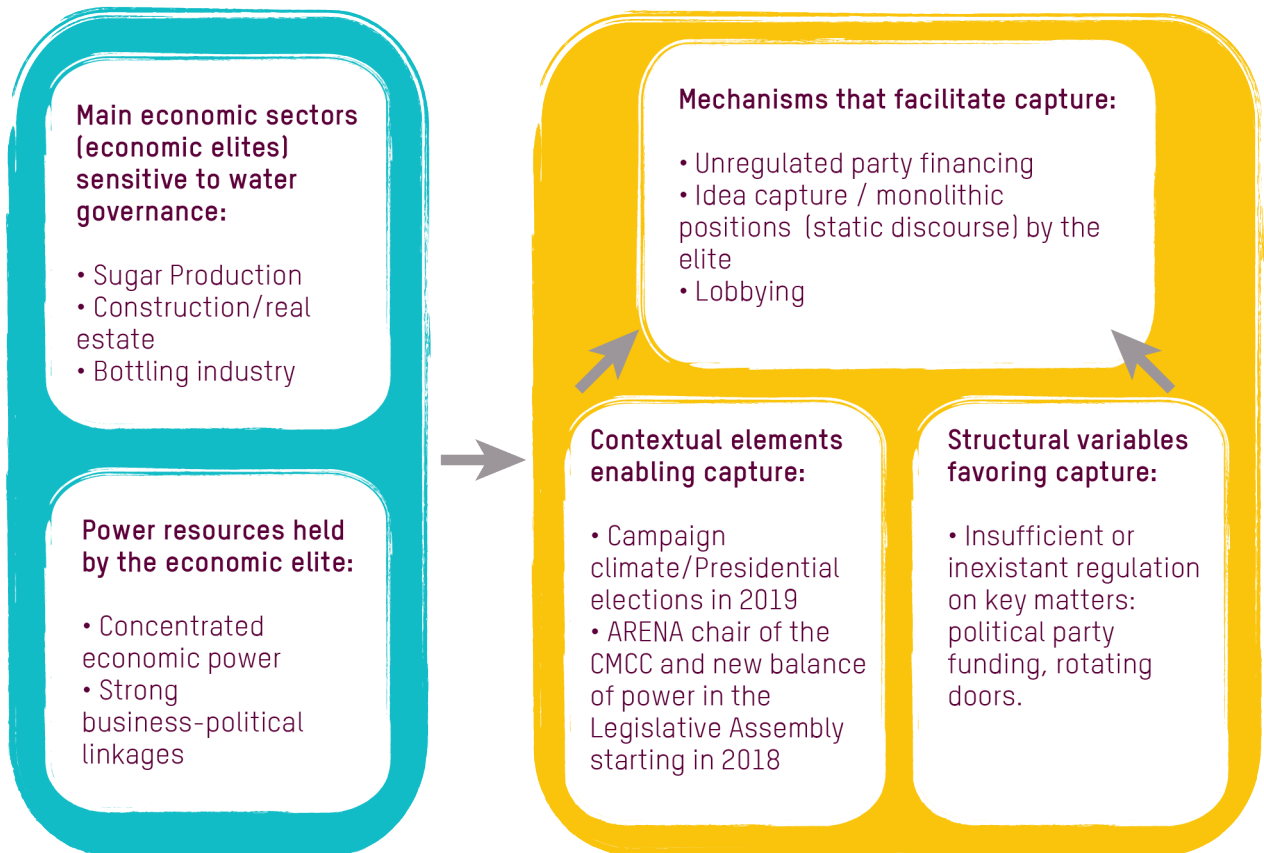
Source: Developed internally from a number of sources.

**Figure 5.** Some elements from the theory of water governance capture in El Salvador.

**ELITES AND POWER RESOURCES**

**CAPTURE PROCESS**

34



Source: Developed internally from a number of sources.

## SECTION 5.

# UNREGULATED POLITICAL PARTY FINANCING

As previously described, there are few restrictions on political donations, and no limits on campaign expenditures. The relationships between economic and political actors are very close under this model. In effect, private financing (from party or non-party sources)<sup>160</sup> is a permanent, important power component in Salvadoran politics.

While the fact that a sector or group donates to a political party is not - on its own - enough to argue that the party fully submits to the donor's interest, there is no dispute that donations are one of the most important mechanisms that the economic elites use to influence politics.<sup>161</sup> In the case of El Salvador, Artiga-González (2011) argues that "political financing in general, and political party financing in particular, is a matter of enormous interest for politicians and other public actors in El Salvador. But this interest is not in the sense of establishing or improving regulations on the matter. Politicians' interest lies in their shared needs to meet these individual, party, or institutional interests."<sup>162</sup>

For quite some time, political donations in El Salvador were kept out of the public eye. In recent years, however, greater attention has been paid to the implications of this financing for the construction of a truly democratic governance system. Acción Ciudadana, one of the most active Salvadoran civil society organizations in this field, points out that "the money that parties receive impacts the political dynamics of the country, enabling powerful groups to co-opt state institutions and exert

an excessive or undue influence on political decisions, undermining the independence of state agencies, elected officials, and political parties. In addition, the lack of controls on political donations and low levels of financial transparency in political parties are favorable conditions for corruption."<sup>163</sup>

The Law for Access to Public Information (LAIP by its Spanish abbreviation) (2012),<sup>164</sup> and the Political Party Law (LPP) (2013),<sup>165</sup> are legislative efforts to put legal regulations and institutional controls on political parties in the country, but oversight continues to be deficient. In the words of Waxenecker (2017),<sup>166</sup> the flow of resources toward political parties "bounces between legal and illegal, legitimate and illegitimate, and between what is visible and what is invisible."

Access to information on the financial dealings of political parties was finally feasible in 2017. This access came after a process that involved Acción Ciudadana, the Institute for Access to Public Information (the public institution in charge of the application of the LAIP law, IAIP by its Spanish abbreviation), the Treasury Ministry, the Constitutional Court, and the Administrative Claims Court.<sup>167</sup>

### The importance of business donations in Salvadoran politics

Two reports from the Transparency and Democracy Monitoring Center [*Centro de Monitoreo de Transparencia y Democracia*] of Acción Ciudadana analyze political party financing in El Salvador. The first report, “Money, Politics, and Parties: Political financing in 2017” [*Dinero, política y partidos. El financiamiento político en 2017*] covers a period from 2014 to 2017, while the second report “Political Financing in 2018: Party transparency and accountability” [*El financiamiento político en 2018: transparencia y rendición de cuentas de los partidos*] covers the period from January 2018 to January 2019.<sup>168</sup> The 2018 report reveals that there is no oversight by the Supreme Electoral Tribunal (TSE) of political parties, as the TSE simply receives the financial statements from the parties without performing financial audits of any sort. That is, the authenticity of the information reported is not verified.

The two reports examine the amounts that each party received, and the sources of these

donations. The resulting information paints a clear picture. Both reports show ARENA as the party receiving the most private donations in El Salvador, although other right-wing parties also receive some contributions from many of the same donors.

A look at the ARENA party financing structure offers a view of the sectors that surround the party, and can give some context to its position in support of private sector participation in water governance. According to Acción Ciudadana, ARENA reported receiving 26.9 USD in private donations from 2014 to 2017, compared to 13.6 million USD reported by the FMLN, and 988,000 and 1.8 million USD reported by GANA and PCN, respectively.<sup>169</sup> In other words, in this period ARENA doubled the private donations from its closest rival, the FMLN, and took in 25 times more in donations than the GANA party. In 2018, ARENA received \$10.2 million, compared to \$1.9 million reported by the FMLN, \$229,000 reported by GANA, and \$1.9 million for the PCN party. In this year, ARENA raked in almost five times more than the FMLN and 44 times more than GANA.<sup>170</sup>

**Chart 3.** Private donations to leading political parties from 2014 to 2018

| Political party | Private revenue as reported by political parties |                 |
|-----------------|--|-----------------|
|                 | 2014-2017  | 2018            |
| ARENA           | \$26,993,594.68                                  | \$10,245,060.39 |
| FMLN            | \$13,587,374.67                                  | \$1,902,011.42  |
| GANA            | \$988,655.20                                     | \$229,042.03    |
| PCN             | \$1,850,889.94                                   | \$1,934,857.74  |

Source: Table developed internally based on “Dinero, Política y Partidos. El financiamiento político en 2018” and “El Financiamiento político en 2018: transparencia y rendición de cuentas de los partidos” published by the Acción Ciudadana Transparency and Democracy Monitoring Center.

The total amount of private donations that flowed into the ARENA party from 2014 to 2017 accounts for 65% of its total financing, with the remaining 35% coming from public funds. In 2018, that first figure held steady at 65%.

The amount is not the only important information to help understand the interests behind political financing for each party. It is also important to know who are making the donations. The origin of the funds for the different political parties suggests some initial conclusions: private donations come from individuals as well as companies, and some contributions come from party members in specific geographic areas (undetermined donations).

According to the data, there are important distinctions in the type of private donors. In 2018, the FMLN party had the greatest number of total individual donors (2,394), while ARENA had the highest number of legal entities making donations to the party (198).<sup>171</sup> In fact, business contributions to ARENA accounted for 87% of the total business contributions, and individual donations to the FMLN represented 65% of the total individual contributions for all political parties in the country in 2017.<sup>172</sup>

According to research done by Acción Ciudadana into ARENA party finances for 2017, some individuals did make small donations to the party (in some cases for insignificant amounts, as low as \$1.00 for example), while these same individuals also held high-level positions in companies that made large donations. This was the case for 34 individuals from 30 donor companies in 2017.<sup>173</sup> This trend substantiates a previous observation from this report of the presence of a business network in the country with overlapping actors in their leadership structures, which certainly expands their sphere of influence.

The data reveal a fabric of interests made up of individuals and companies. For example, Juan Carlos Calleja Hakker, the current Vice-President of Grupo Calleja (owner of the largest supermarket chain in El Salvador and presidential candidate under the ARENA party), donated

\$1,901.00 to the party, while the two companies in which he sits on the board donated a total of \$877,735.00.<sup>174</sup> Another example is that of José Ricardo Poma Delgado, who made a \$1.00 donation in 2017, while the three companies on whose boards he sits (Autofácil, S.A. de C.V., Distribuidora de Automóviles, S.A. de C.V.; and Metrocentro, S.A. de C.V.) donated a total of \$722,855.27.<sup>175</sup>

Calleja S.A. was the largest donor for the ARENA party in 2017, followed by Compañía Azucarera Salvadoreña, S.A. de C.V., and Metrocentro, S.A. de C.V.<sup>176</sup> The four most important individual donors for the party that year were: Juan J. Borja Letona (Grupo Borja Letona), Joaquín Alberto Palomo Deneke (who sits on the boards of Grupo CASSA and Inversiones Las Brisas, which also donate to the party), Carlos Roberto Saca Chahin (Grupo Carosa), and María Florence Gladys Hill de Mathies.

Similarly, the top five companies that donated large quantities of money to ARENA in 2018, accounted for 39% of the total private contributions to the party. These companies were: Calleja S.A.; Metrocentro, S.A. de C.V.; Distribuidora de Automóviles, S.A. de C.V.; Compañía Azucarera Salvadoreña S.A. de C.V.; and Autofácil, S.A. de C.V.<sup>177</sup> The names of the leading individual donors to the ARENA party in 2018 coincide with many of the prominent businessmen from the aforementioned companies: Luis Alfredo Escalante Sol, Antonio Juan Cristiani Burkard, Carlos Enrique Araujo Eserki, Carlos León Imberton Deneke, Carlos Roberto Saca Chahin, María Florence Gladys Hill de Mathies, Joaquín Alberto Palomo Deneke and Alfredo Félix Cristiani Burkard<sup>178</sup>.

The 2017 report also identifies some businesses that funded the three right-wing parties: ARENA, PCN, and PDC. In 2017,<sup>179</sup> seven companies donated to the three parties with Compañía Azucarera Salvadoreña S.A. de C.V. making the largest contributions.. The information shows that this company donated a total of \$710,000.00: ARENA received \$430,000.00, with \$200,000.00 for the PCN and \$80,000.00 for the PDC.<sup>180</sup>

It is also important to note that in addition to donations from individuals and their companies to the three parties at the same time, the data show that board members on companies that donated to a political party also sit on the boards of other companies that donated to the same party. According to data provided by Acción Ciudadana, this dynamic occurs only in the case of the ARENA party, where 74 companies contributing to the party share 84 board members among them. Some of these board members hold positions in up to eight companies at once.<sup>181</sup> The chairman of the board on one company may be a director in another company, a deputy board secretary in another, etc.<sup>182</sup>

The difference compared to the rest of the political parties in El Salvador is dramatic. The largest donor for ARENA in 2017 was Calleja S.A. de C.V., which contributed \$871,780.01, compared to the largest donation for the FMLN at \$16,379.17, contributed by an individual, Santiago Flores Alfaro (himself an FMLN legislator).<sup>183, 184</sup> In 2018, the FMLN received \$22,868.00 from four companies in the country; Industrias Facela S.A. de C.V. made the largest of these donations, at \$11,300.00. The total donations for the FMLN from private hands represented less than 1% of all of the private revenue for political parties in that year.<sup>185</sup>

ARENA's funding scheme in particular allows, and in practice encourages, the creation of a significant radius of influence by funders, where an intricate business network concentrates that capacity.

### **Economic sectors and funding for Salvadoran political parties**

In 2018, the main sector that made political contributions in El Salvador was commerce (\$5,183,196.10), followed by real estate (\$2,102,360.00) and agro-industrial companies in third place at \$1,819,620.52.<sup>186</sup> The construction sector follows close behind, in fifth place.<sup>187</sup> The combined contributions from real estate, agroindustry, and construction companies accounted for 32% of the total

donations that year.<sup>188</sup>

Further, an analysis of the subsectors reveals that out of 81 specified sectors, real estate activities (companies dedicated to purchase, sale, and rental of properties and provision of other real estate services), sugarcane, and construction companies represented the first, fourth, and sixth positions, respectively, were among the subsectors making the greatest political party donations in 2018; nearly 3 of every 10 dollars donated came from these subsectors.<sup>189</sup>

This is consistent with the position of Grupo CASSA as the leading donor for the ARENA, PDC, and PCN parties in 2017. The real estate and construction sectors also played an important role as funders for these parties. For example, the Dueñas Hermanos LTDA company, an ARENA and PCN donor, works in the construction sector and has ties with Desarrollos Inmobiliarios Urbánica (the construction company for the Portal del Casco Norte, Puerta La Castellana and Puerta Los Faros urban development projects in the former El Espino plot, and in the La Gran Vía mall).<sup>190</sup> The construction sector also includes Metrocentro, S.A. de C.V., which is the third largest donor for the ARENA party. Metrocentro, part of Grupo Roble,<sup>191</sup> belongs to the previously mentioned business conglomerate, Grupo Poma.

The sugarcane, real estate, and construction industries belong to the sectors with the greatest economic muscle in El Salvador. These are also the industries for whom water access is essential. In this regard, it is reasonable to conclude that they have a particular interest in ensuring a private sector presence in any governing body created by water legislation. Three of the main private donors to political parties also hail from these industries, as demonstrated by the Acción Ciudadana data.

Under this scenario, what is certainly questionable are the implications of political representativeness of the parties with respect to the interests and needs of their voters, and thus on democracy itself. Eduardo Escobar,

Executive Director of Acción Ciudadana shared that the “largest donors to parties have a particular interest in making that donation, and in this case, it is to receive at least one benefit from the official financed, or that official does not interfere with the company’s interests..”<sup>192</sup>

As stated earlier, funding from certain sectors for political parties does not necessarily entail a mechanical submission to their interests. It cannot be ignored, for example, that there may be tensions even within sectors that donate to one or several parties; these tensions vary with time and context. Nonetheless, it is reasonable to state that the political party donation system in place in El Salvador helps to blur the limits between the interests of large economic groups and those of the parties to which they contribute. Without a doubt, this is an enabling environment for the capture of institutions and democratic spaces. Through the party financing system, a network of family groups and companies with enormous resources can easily exacerbate the existing power imbalances in key decision-making spaces, such as the Legislative Assembly.



## SECTION 6.

# CAPTURE OF IDEAS AND STATIC DISCOURSE

The central idea in the debate around the water governing body in El Salvador has to do with the concept of water resources as primarily a market product, pitted against the assertion of water as a human right or a “public good”, which would require the State to take governance authority. These opposing visions around water governance are also expressed in theoretical and conceptual terms, with a battle of discourse waged among think tanks and academics.

The actors who view water as a principally commercial resource are supported by a series of organizations, think tanks, and different associations that argue this vision in events, conferences, and publications supported by local, regional, and global traditional and social media. On a national level, FUSADES and the Salvadoran Business Council for Sustainable Development (*Consejo Empresarial Salvadoreño para el Desarrollo Sostenible, CEDES*) are two such institutions that frequently articulate this view in international networks. CEDES is a local chapter of the World Business Council for Sustainable Development, and FUSADES is part of at least 23 networks that “promote public policy in areas such as transparency, fiscal responsibility, defense of democratic institutions, freedom of expression, and entrepreneurship, among others.”<sup>193</sup>

FUSADES self-identifies as an “independent think tank and development center committed to progress and wellbeing for all Salvadorans”,

and it is perhaps the most influential political think tank in El Salvador. According to a ranking published on its webpage, FUSADES held the 27th position among think tanks in Latin America, and the first spot in Central America in 2014. FUSADES was once again ranked first in the nation in 2018 along with Fundaungo on the University of Pennsylvania Global Go To Think Tank Index (GGTTI, 2017).<sup>194</sup> FUSADES is among the “most important organizations linked to the Salvadoran private sector, and one which tends to represent their interests in public policy discussions with the government.”<sup>195</sup> FUSADES has defended private sector representation in water governance,<sup>196</sup> and its board of directors is composed of ARENA party members from the main economic sectors of the country.<sup>197</sup>

For example, in an article published on the FUSADES webpage in 2015, one of the FUSADES board members from that period raised a series of critiques of the legislation proposed by MARN in 2012, highlighting the institutional weakness that resulted from – in his judgement – low private sector participation.<sup>198</sup> A report published by Contrapunto in April 2013 also detailed the FUSADES position in favor of private sector inclusion in the governing body.<sup>199</sup> The issue of institutions involved in water governance also appears in other FUSADES publications, such as “Water Resources in El Salvador: importance, management, and participation” [*Recursos hídricos en El Salvador, importancia, gestión*



*y participación*],<sup>200</sup> which focuses on the concept of *participation*, calling for inclusion of the State, society, and productive sectors in the governing body.

For its part, CEDES' objective is to "lead on matters of corporate sustainability with the business community and promote the concept as a core component of corporate strategy, with participation from government and civil society." The CEDES board of directors includes representatives from companies such as Holcim El Salvador, Pettenati Centroamérica, Banco Davivienda, Agrisal Inmobiliario, Unilever, Hanes Brands, Grupo CASSA, Diario El Mundo, Grupo Borja, Lactolac, TermoEncogibles, and others.<sup>201</sup> CEDES has also defended the ANEP proposal, arguing that the law proposed by MARN is anti-private sector and "limits [private] sector participation, and fails to recognize potential private contributions for integrated water resource management."<sup>202</sup>

Since 2000, ANEP has organized the National Gathering of Private Enterprise (ENADE), an annual event that produces position documents on different topics of national importance. Water governance has also held a prominent position in ENADE publications. The proposed Law for Comprehensive Water Management introduced by the irrigation agriculture sector<sup>203</sup> was the subject of the conference in 2014, giving the private sector a privileged position to influence in decision-making.

This scenario fits with what Zepeda (2015) identifies as the "elephant in the room" strategy, alluding to the idea that privileged actors populate strategic spaces for debate with such an overwhelming presence - acting as an omnipresent block - which often condemns any other voices to the margins. The Global Water Forum held in 2012 is one example of this strategy. The cost to get in the door at this event was 350 euros for people from developing countries and 700 euros for participants from Organization for Economic Cooperation and Development (OECD) countries. For the majority of the Salvadoran population, the cost for participation in this event represented several times their monthly

income -- it is not difficult to imagine that the interests of grassroots organizations and community members affected by water shortages were not represented at the event and their concerns did not make it on the agenda. Zepeda goes one step further by documenting interviews with members of the community of San José Villanueva, one of the areas affected by water shortages. Zepeda indicates that the community members "do not complain, and did not complain, about their absence from this forum because they are entirely unaware of the spaces that they should "occupy" to influence the debate on water in their country, or even the possibility of their doing so."<sup>204</sup>

Another example of think tanks or policy centers influencing the agenda and content of public interest discussions has to do with the way that these groups promote their interests by taking ownership of concepts traditionally used and cited by the communities, such as "participation". These actors thus look to safeguard their interests and push for space on the governing body for water administration by arguing that this body should be open to "participation" from the private sector. As seen above, FUSADES referenced the concept of participation to support the inclusion of the private sector on the governing body. While recognizing the importance of hearing private sector voices on such a key issue for their economic activities, the problem is that there are certain forms of participation on the governing body that could lead to serious conflicts of interest and significant imbalances in its favor, to exert power over water access and use.

## SECTION 7.

# UNREGULATED LOBBYING

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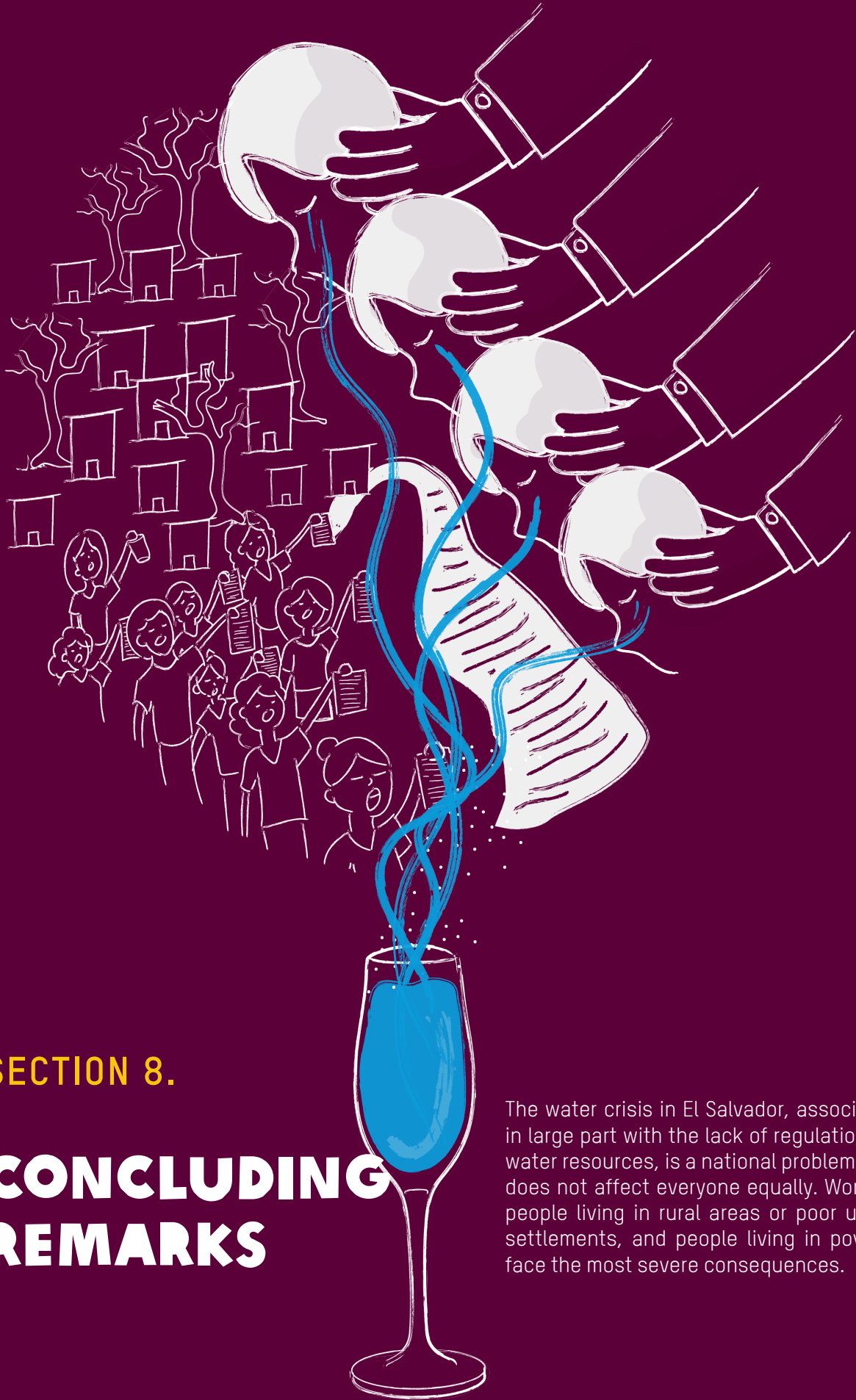
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This same research has faced the limitations imposed by the lack of effective regulations on lobbying activities in the country. It has been nearly impossible to obtain detailed information on the dynamics and interactions between different stakeholders in the conflict around water regulations in the Legislative Assembly. While ethical and transparent lobbying activities can benefit policy development and democracy, it is also true that without effective regulation, lobbying can also pose a threat when these interest groups lack transparency. The lack of transparency is less than ideal on its own, but it also “opens the door to illicit or illegitimate representation of interests, deference to specific private interests over the collective good, or use of state institutions in function of these private interests.”<sup>205</sup> Currently, “transparency in these activities is non-existent; citizens are unaware of these lobbying activities, whose interests are being represented, who is representing them, or which officials are being lobbied.”<sup>206</sup>

In March 2019, Acción Ciudadana requested information on the meeting agendas and schedules for the representatives in the Legislative Assembly. This information request asked for the topic and goal of the meetings held, the sectors that participated, who facilitated the contacts, and other information. In addition, Acción presented an amendment to the LAIP to declassify this information.<sup>207</sup> “The information request submitted to the Legislative Assembly was denied, forcing

litigation with the IAIP to try to obtain the data. IAIP ruled that information on meeting agendas or audiences granted and held with legislators at the Legislative Assembly is public, and thus should be made available to citizens.”<sup>208</sup> IAIP instructed the Legislative Assembly to pass regulations to this end. At that time, however, only one legislator – Leonardo Bonilla, the first legislator with no party affiliation in the Legislative Assembly in El Salvador – handed over the requested information, even only partially.<sup>209</sup> The Legislative Assembly filed an appeal with the Administrative Dispute Court to revert the IAIP ruling, arguing that it was illegal. The Administrative Dispute Court has yet to rule on this appeal.<sup>210</sup>

The lack of regulation on these matters is another factor that may influence the style and substance of the debates on water governance in the country. This situation underscores the enormous difference in resources and lobbying capacity between the sectors promoting the different proposals in the Legislative Assembly. Greater transparency could reveal clearer evidence of the role that lobbying plays in the debate on water legislation.



**SECTION 8.**

**CONCLUDING  
REMARKS**

The water crisis in El Salvador, associated in large part with the lack of regulation for water resources, is a national problem that does not affect everyone equally. Women, people living in rural areas or poor urban settlements, and people living in poverty face the most severe consequences.

Despite an important citizen movement demanding the adoption of a General Water Law that could fill many of these legal gaps, discussions in the Legislative Assembly have stagnated for over a decade.

The economic sectors that are in large part responsible for the water crisis in the country, and who demonstrate ties *to* and influence *over* the political dynamics, could be playing an important role to block legislation such as the LGA. These sectors also appear to be unwilling to allow the establishment of a governing body configured in accordance with the UCA proposal. If legislation is eventually passed, the interests of these powerful actors would appear to be better represented in the LIA.

There is an enabling environment for these sectors with their undeniable power to exert excessive influence in the political debate on water governance. Their close ties with industry groups and political parties pose a serious threat to equity in the policy-making process for issues of public interest. Given the lack or failure of effective regulation and control measures, this powerful economic and political block allows the interests and agendas of the economic elites to easily and substantially influence the dynamics of institutional configuration in the country (that is, the legal and regulatory frameworks and their implementing structures in the country).

The essential thesis of this study is that beyond the ideological stance and historical aspects that explain these linkages, they materialize and are sustained through influencing and capture mechanisms. Some of the most identifiable mechanisms include unregulated party financing, and support from organizations (such as think tanks, foundations, or research centers) with the capacity to influence both the agenda and the contents and approaches to issues discussed in the country that are sensitive to the interests and agendas of the elite. These organizations build a monolithic position (static discourse) that blocks constructive dialogue among stakeholders in the conflict around the water law, producing

a version of what is referred to as “capture of ideas” . The lack of regulation and access to information on lobbying activities raises reasonable doubts about the use of this mechanism to ensure that the elites sensitive to water governance has had more space to advocate with the Legislative Assembly.

From a political equity standpoint, the problem emerges when the outsized political influencing capacity wielded by certain actors (elites) neutralizes the perspectives and interests of any other actor, regardless of the issue or negotiations. Given the power and resources held by parts of the economic elite - the group most sensitive to water governance issues - and the functional cohesion of these economic groups with the political elites, the imbalance in their favor configures a structural advantage in policy or regulatory debates. This imbalance is the ideal breeding ground for economic and social inequality to reproduce. That is, this advantage has the potential to act in *detriment* and at a *disadvantage* to opposing actors to the interests of the economic elite, or an elite group that aligns with the political elite.

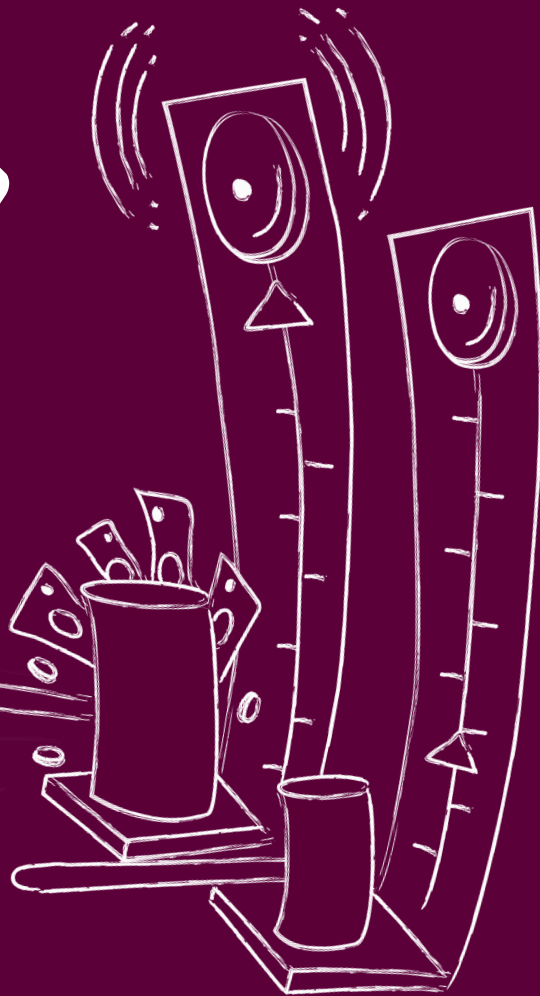
In addition to describing the conflict around inequality in water access, this report seeks to offer recommendations to level the playing field for political negotiation, and thus to facilitate the adoption of a regulatory framework that can ensure respect for the human right to water for all Salvadorans.

## SECTION 9.

# RECOMMENDATIONS: HOW TO LEVEL THE PLAYING FIELD FOR POLITICAL NEGOTIATION?

### a. Political funding (for parties, candidates, and campaigns):

- Pass the political party finance reforms introduced in the Legislative Assembly to create the Political Party Oversight Office, increase or establish new penalties for non-compliance on matters of transparency and funding, and improve accountability.
- Reform the Law on Political Parties to set limits on private donations for political parties and candidates, in terms of total volume as well as limits on individual donations.
- Pass the reform to set limits on campaign spending by political parties to ensure greater equity in elections.
- Establish specifications for campaign advertising and update legislation to consider campaigning on the Internet and social media.



**b. Lobbying:**

- Discuss, draft, and pass legislation to regulate and ensure transparency in lobbying activities, and to monitor existing relations between powerful groups and political activity.
- Enact regulations on conflicts of interest for public officials, making disclosure obligatory.
- Create a registry of lobbyists and their lobbying budgets.
- Guarantee the existence of formal spaces in public institutions to which all individuals and organizations can submit proposals and state their interests in relevant debates. In this regard, it is important that participation is not left up to the discretion of the public officials to determine who participates, and the procedures and formats for their participation.

- Strengthen governmental and non-governmental agencies to monitor and evaluate different cases.
- Ensure the existence of independent teams of experts to advise legislators on public policy decisions.

**Ensure the development of counterbalances<sup>212</sup> to challenge the elite:**

- Create or empower different forms of citizens' political participation in public affairs, through the adoption of policies or passage of legislation for citizen participation in public administration. This should include the possibility for citizens to introduce legislation and for citizen consultation at different stages of the policy-making process.
- Guarantee the conditions for genuine participation by social organizations in decision-making and consultation spaces.
- Ensure that these consultation and participation spaces include multiple stakeholders and a balance among different sectors of society. Avoid veto power.
- Design specific mechanisms to ensure women's representation and voices in consultation, participation, and decision-making spaces, developing affirmative actions for women to participate under equal conditions.
- Guarantee the adoption of and strict compliance with legislation to broadly protect freedom of expression, information, citizen-led claims, and peaceful demonstrations.
- Promote or support democratization of the media and state support for community

media outlets to be able to counteract hegemonic narratives, especially on matters of public interest.

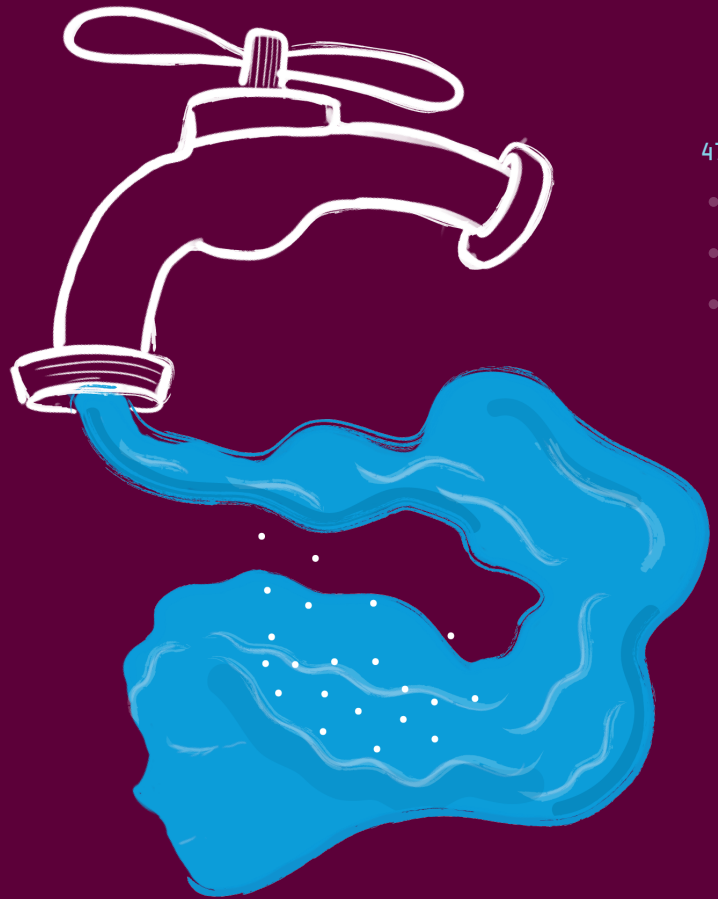
- Strengthen the national curriculum and teaching practice to promote critical thinking, rights awareness, democratic culture and citizen participation.
- Build the capacity of political parties (traditional and emerging parties) to build platforms and agendas aligned with citizen needs and interests.

#### **Advance without delay to enact water legislation with a rights-based approach and gender lens**

- Promote the development of a national agreement to advance toward the passage of legislation that respects and upholds people's current and future rights to water access without discrimination. This of course includes taking every necessary precaution to protect natural water sources and using cutting-edge measures for climate change adaptation to mitigate negative impacts on water availability. The state should play a leading role in water management under this law, and participation mechanisms should ensure equity in capacity and participation by all of the sectors affected by the water crisis in the country.
- The contents of the law should be designed with a gender lens. That is, the law should explicitly recognize how the lack of assurances for continued access to quality water for human consumption will disproportionately affect women given their social assigned roles and care work for their households. Matters such as service

provision, rates, and general procedures for water access should thus be designed with an eye toward this reality, to reduce or minimize the gender inequality stemming from unequal access to water. This also includes the design of institutional structures for water management that ensure representation for women's voices and interests.

- Recognize the right to water in the Constitution of the Republic, and establish the duty to produce a regulatory framework and national policy for water management and protection.



## NOTES

<sup>1</sup> See details on the National Administration for Aqueducts and Sewers (ANDA) (2017) *Plan Nacional de Agua Potable y Saneamiento de El Salvador*. Gobierno de El Salvador. Available at: <http://www.aecid.sv/wp-content/uploads/2018/02/RESUMEN-EJECUTIVO-PLANAPS.compressed.pdf>

<sup>2</sup> According to Luis González, representative from the Alliance Against Water Privatization, water is regulated through different laws, including the Civil Code, Municipal Code, Environment Law, ANDA Law, Debt and Rental Law, and others. González reports that over 20 of these norms or regulations address water as a resource rather than an essential element for life. These standards also fail to consider resource sustainability. (Interview conducted for this research project on July 17, 2019).

<sup>3</sup> Internal calculations based on the *Multi-Purpose Household Study for 2016* (EHPM). Dirección General de Estadística y Censos (DIGESTYC), Ministerio de Economía (MINEC), Gobierno de El Salvador. Available at: <http://digestyc.microdatahub.com/index.php/catalog/16>

<sup>4</sup> Ministerio de Agricultura y Recursos Naturales (MARN) (2018). *Informe Nacional del Estado del Medio Ambiente 2017*, p. 46. Available at: <http://cidoc.marn.gob.sv/documentos/informe-nacional-del-estado-del-medio-ambiente-inema-2017-2/>

<sup>5</sup> According to data from the FAO, El Salvador has an average annual rainfall of 1784 mm/year, while the global average is 814 mm/year. *El Salvador national information sheet*. FAO Global Water Information System (AQUASTAT). February 17, 2020. Available at: [http://www.fao.org/nr/water/aquastat/data/cf/readPdf.html?f=SLV-CF\\_esp.pdf](http://www.fao.org/nr/water/aquastat/data/cf/readPdf.html?f=SLV-CF_esp.pdf)

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<sup>6</sup> Statement by the Movement of Victims and Communities Affected by Climate Change and Corporations (MOVIAC) to the Committee on the Environment and Climate Change at the Legislative Assembly. July 24, 2018. The statement is in the public files maintained by this legislative committee to study the Water Law.

<sup>7</sup> IADB and ECLAC (2018). *Proceso Regional de las Américas: Foro Mundial del Agua 2018: Informe regional América Latina y el Caribe: Resumen ejecutivo*, p. 4, Table 2. Available at: <https://publications.iadb.org/es/proceso-regional-de-las-americas-foro-mundial-del-agua-2018-informe-regional-america-latina-y-el>

<sup>8</sup> Andrés McKinley, water and mining specialist. (Interview conducted for this research project on July 17, 2019).

<sup>9</sup> MARN (May 2, 2019), *Perspectiva hidrológica indica disminución de caudales hasta un 60%*. Available at: <http://www.marn.gob.sv/perspectiva-hidrologica-indica-disminucion-de-caudales-hasta-un-60/>

<sup>10</sup> Preliminary observations by the Special Rapporteur on the Human Right to Safe Drinking Water and Sanitation upon the conclusion of his official mission to El Salvador, May 11 to 18, 2016.

<sup>11</sup> The El Salvador Water Forum was created by 50 entities on October 17, 2006. This space was established as a standing platform for organizations and institutions to coordinate and advocate for responsible, efficient, equitable, and participatory water management. <http://forodelagua.org.sv/>

<sup>12</sup> Gómez, Y. (2016). "Foro del Agua propone estudiar los efectos del cultivo de la caña en los mantos acuíferos". *Diario CoLatino*. October 6, 2016. Available at: <https://www.diariocolatino.com/foro-del-agua-propone-estudiar-los-efectos-del-cultivo-de-la-cana-en-los-mantos-acuiferos/>



<sup>13</sup> Unidad Ecológica Salvadoreña (UNES) (2016). *Impactos de la expansión en la Industria Azucarera en la zona Marino Costera de El Salvador: Caso Zona Baja Río Paz*. Available at: <http://www.unes.org.sv/wp-content/uploads/2019/11/Estudio-Impacto-de-la-Agroindustria-Azucarera-en-El-Salvador.pdf>

<sup>14</sup> *Ibíd.*

<sup>15</sup> Carías, A. (2019). “Las comunidades sin agua por cultivo de caña de azúcar”. Medios de comunicación Izcanal. March 22, 2019. Available at: <https://www.izcanal.org/las-comunidades-sin-agua-por-cultivo-de-cana-de-azucar/>;

<sup>16</sup> Ayala, E. (2019). “Monocultivos acosan a proyectos comunitarios de agua en El Salvador”. *Inter Press Service News Agency*, March 22, 2019. Available at: <http://www.ipsnoticias.net/2019/03/monocultivos-acosan-proyectos-comunitarios-agua-salvador/>

<sup>17</sup> *Ibíd.*

<sup>18</sup> MARN (September 10, 2015). *MARN presenta Informe sobre Sequía Hidrológica mayo–agosto 2015*. Available at: <http://www.marn.gob.sv/marn-presenta-informe-sobre-sequia-hidrologica-mayo-agosto-2015/>

<sup>19</sup> Banco Central de Reserva de El Salvador (September 25, 2015) *Exportaciones mantienen su dinamismo creciendo 5.4% a agosto 2015*. Available at: [https://www.bcr.gob.sv/esp/index.php?option=com\\_k2&view=item&id=680:exportaciones-mantienen-su-dinamismo-creciendo-54-a-agosto-2015&Itemid=168](https://www.bcr.gob.sv/esp/index.php?option=com_k2&view=item&id=680:exportaciones-mantienen-su-dinamismo-creciendo-54-a-agosto-2015&Itemid=168)).

<sup>20</sup> According to the article “*Productores de azúcar en El Salvador exigen tratado de libre comercio con Taiwán*”, published on August 15 in the online platform *Dialogo Chino*, “El Salvador has the second largest surface area of cane sugar plantations in Central America and only to Haiti has lost a larger share of its forested land area. More than half of the land is unsuitable for cultivation and erosion is rampant”. Available at: <https://dialogochino.net/29612-el-salvadors-sugar-producers-want-to-keep-taiwan-free-trade-pact/?lang=es>

<sup>21</sup> “Preocupación por tala de árboles en cerro El Águila, Sonsonate”, February 20, 2019, *Periódico Digital 102nueve.com*. Available at: <http://www.102nueve.com/2019/02/20/preocupacion-por-tala-de-arboles-en-cerro-el-aguila-sonsonate/>

<sup>22</sup> Roca J. (2019). “El fracaso institucional que pone en riesgo a 164 especies del cerro El Águila”, *Asociación de Radiodifusión Participativa de El Salvador (ARPAS)*. February 21, 2019. Available at: <https://arpas.org.sv/2019/02/el-fracaso-institucional-que-pone-en-riesgo-a-164-especies-del-cerro-el-aguila/>

<sup>23</sup> Research conducted in the Los Ocotes river basin in Guatemala City revealed that cultivated areas offer less water infiltration and thus reduced catchment capacity than naturally-forested areas. Protection of forested areas as a main bulwark for underground water reserves is a fundamental component of territorial management and planning processes. See: Herrera Ibáñez (2016). *La importancia del bosque en la recarga hídrica natural del acuífero noreste de la ciudad de Guatemala*, Instituto de Investigaciones Agronómicas y Ambientales, Facultad de Agronomía, Universidad de San Carlos de Guatemala, Guatemala. Available at: <https://digi.usac.edu.gt/ojsrevistas/index.php/cytes/article/view/125>

<sup>24</sup> Paz con Dignidad (April 22, 2019). *El río que avanza defendiendo el territorio al occidente de El Salvador*. Available at: <https://www.pazcondignidad.org/blog/el-rio-que-avanza-defendiendo-el-territorio-al-occidente-de-el-salvador/>

<sup>25</sup> Las reservas de la biósfera gozan de reconocimiento internacional a través de la UNESCO y su Programa MAB y constituyen “sitios de apoyo a la ciencia al servicio de la sostenibilidad”. <http://www.unesco.org/new/es/office-in-montevideo/ciencias-naturales/ecological-sciences/biosphere-reserves/>.

El Salvador has three nominations for Biosphere Reserves: Xiriualtique Biosphere Reserve in Jiquilisco, nominated on September 18, 2007 (101,607 hectares); Apaneca Ilamatepec Biosphere Reserve, nominated on September 18, 2007 (59,056 hectares), and the Trifinio-Fraternidad Cross-Border Biosphere Reserve, nominated on June 29, 2011 (shared by El Salvador, Honduras, and Guatemala). <http://www.marn.gob.sv/reservas-de-biosfera-2/> See also: MARN (January 23, 2016). *Apaneca-Ilamatepec Biosphere Reserve*. Available at <https://www.marn.gob.sv/reserva-de-biosfera-apaneca-ilamatepec/>

<sup>26</sup> According to Luis González, from the Alliance Against Water Privatization. (Interview conducted for this research project on July 17, 2019).

<sup>27</sup> Household wastewater is a byproduct of water use from different household activities. This water can thus be contaminated by solids, organic waste, detergent, soap, fats, etc., and requires a treatment process.

<sup>28</sup> MARN (2018). *Informe Nacional del Estado del Medio Ambiente 2017*. P. 60. Available at: <http://cidoc.marn.gob.sv/documentos/informe-nacional-del-estado-del-medio-ambiente-inema-2017-2/>

<sup>29</sup> McKinley, A. (2018). "Sigue la lucha por la gestión de aguas en El Salvador" Periódico digital *El Faro*. August 22, 2018. Available at: <https://elfaro.net/es/201808/columnas/22368/sigue-la-lucha-por-la-gestion-de-aguas-en-el-salvador.htm>

<sup>30</sup> MARN (2018). *Informe Nacional del Estado del Medio Ambiente 2017*. P. 46. Available at: <http://www.marn.gob.sv/descargas/informe-nacional-del-estado-del-medio-ambiente-inema/?wpdmdl=41835>

<sup>31</sup> "Gobierno salvadoreño implementó plan de emergencia por desabastecimiento de agua potable en Gran San Salvador". *La Prensa Gráfica*. January 19, 2020. Available at: <https://www.laprensagrafica.com/elsalvador/Gobierno-salvadoreno-implemento-plan-de-emergencia-por-desabastecimiento-de-agua-potable-en-Gran-San-Salvador--20200119-0470.html>

<sup>32</sup> One has been updated on two occasions.

<sup>33</sup> ANEP represents 50 industry groups from 55 economic subsectors and over 15,000 companies. 93% of these are small companies, 4% medium, and 3% are large companies. <https://www.anep.org.sv/>

<sup>34</sup> For the purposes of this report, this refers to the for-profit private sector.

<sup>35</sup> Internal calculations based on the 2016 Multi-Purpose Household Survey in El Salvador.

<sup>36</sup> Refers to households in the first quintile of income.

<sup>37</sup> Refers to households in the last quintile of income.

<sup>38</sup> Internal calculations based on the 2016 Multi-Purpose Household Survey in El Salvador.

<sup>39</sup> MOVIAC (July 24, 2018). Remarks before the Legislative Assembly.

<sup>40</sup> See for example: Machuca and Sibrián (2019). "Persisten las protestas por la falta de agua potable". April 9, 2019, *Diario digital La Prensa Gráfica*. Available at: <https://www.laprensagrafica.com/elsalvador/Persisten-las-protestas-por-la-falta-de-agua-potable-20190408-0496.html>

<sup>41</sup> 50 to 100 liters of water per person per day is considered an adequate quantity. *Derecho al Agua, Implementación del Derecho Humano al Agua*. Ingeniería Sin Fronteras – Asociación para el Desarrollo (ISF-APD) y UNESCO Etxea, Edición 2010. Available at: [http://www.unescoetxea.org/dokumentuak/Derecho\\_agua\\_UEIFS.pdf](http://www.unescoetxea.org/dokumentuak/Derecho_agua_UEIFS.pdf)

*El Derecho al Agua y al Saneamiento*. International Decade for Action "Water for Life", 2005-2015. United Nations Department of Economic and Social Affairs (UNDESA). Available at: [https://www.un.org/spanish/waterforlifedecade/human\\_right\\_to\\_water.shtml](https://www.un.org/spanish/waterforlifedecade/human_right_to_water.shtml)

<sup>42</sup> Julio Quiñónez B. (Interview conducted for this research project on August 20, 2019).

<sup>43</sup> Peña, F. (2015). "Hay un oasis en el desierto de La Libertad". Periódico digital *El Faro*. September 20, 2015. Available at <https://elfaro.net/es/201509/noticias/17374/Hay-un-oasis-en-el-desierto-de-La-Libertad.htm>

<sup>44</sup> Ministerio de Trabajo y Previsión Social del Gobierno de El Salvador (2019). *Incremento al salario mínimo que benefició a 237 mil personas salvadoreñas es legado de Gobierno*. Available at: <http://www.mtps.gob.sv/noticias/incremento-al-salario-minimo-beneficio-237-mil-personas-salvadorenas-legado-gobierno/>

<sup>45</sup> Peña, F. (2015). "Hay un oasis en el desierto de La Libertad". Periódico digital *El Faro*. September 20, 2015. Available at: <https://elfaro.net/es/201509/noticias/17374/Hay-un-oasis-en-el-desierto-de-La-Libertad.htm>

<sup>46</sup> *Ibíd.*

<sup>47</sup> DIGESTYC (2018). *Encuesta Nacional de Uso del Tiempo 2017 Principales Resultados*. Pág. 14. Available at: [http://aplicaciones.digestyc.gob.sv/observatorio.genero/uso\\_tiempo/Informe%20de%20Resultado%20de%20Encuesta%20Nacional%20de%20Uso%20del%20Tiempo,%20El%20Salvador%202017.pdf](http://aplicaciones.digestyc.gob.sv/observatorio.genero/uso_tiempo/Informe%20de%20Resultado%20de%20Encuesta%20Nacional%20de%20Uso%20del%20Tiempo,%20El%20Salvador%202017.pdf)

<sup>48</sup> *Ibíd.*

<sup>49</sup> Alvarado, T. (2016). "Excesiva explotación de acuífero Nejapa afectaría a más de 30,000 habitantes". Periódico digital *Transparencia Activa*. March 4, 2016. Available at: <https://www.transparenciaactiva.gob.sv/excesiva-explotacion-de-acuifero-nejapa-afectaria-a-mas-de-30-000-habitantes>.

<sup>50</sup> Luis Romero y Dalla Torre (2015). *Inversión extranjera en una planta embotelladora - El caso de Nejapa*. Alianza por la Solidaridad. Available at: [https://www.alianzaporlasolidaridad.org/especiales/tierra/pdf/Informe\\_CocaCola\\_Salvador.pdf](https://www.alianzaporlasolidaridad.org/especiales/tierra/pdf/Informe_CocaCola_Salvador.pdf)

<sup>51</sup> In 2016, the case was brought before the Latina American Water Tribunal, and Coca-Cola agreed to desist from its efforts to expand aquifer extraction. See: Tribunal Latinoamericano del Agua. VIII Audiencia Pública TLA – Casos sobre Controversias Hídricas en El Salvador, Nicaragua y Guatemala, San Salvador del 4 al 8 de abril de 2016. Available at: [http://tragua.com/wp-content/uploads/2016/04/Veredicto\\_Nejapa.pdf](http://tragua.com/wp-content/uploads/2016/04/Veredicto_Nejapa.pdf)

<sup>52</sup> Luis Romero and Dalla Torre (2015). *Inversión extranjera en una planta embotelladora - El caso de Nejapa*. Alianza por la Solidaridad. P. 11. Available at: [https://www.alianzaporlasolidaridad.org/especiales/tierra/pdf/Informe\\_CocaCola\\_Salvador.pdf](https://www.alianzaporlasolidaridad.org/especiales/tierra/pdf/Informe_CocaCola_Salvador.pdf)

<sup>53</sup> Luis Romero and Dalla Torre (2015). *Inversión extranjera en una planta embotelladora - El caso de Nejapa*. Alianza por la Solidaridad. P. 25. Available at: [https://www.alianzaporlasolidaridad.org/especiales/tierra/pdf/Informe\\_CocaCola\\_Salvador.pdf](https://www.alianzaporlasolidaridad.org/especiales/tierra/pdf/Informe_CocaCola_Salvador.pdf)

<sup>54</sup> *Ibíd.*

<sup>55</sup> Inter-community association of Community Development Associations (ADESCOS), made up of representatives from 5 communities. More information on ADESCOs at: <https://latinno.net/es/case/9049/>

<sup>56</sup> *Ibíd.*

<sup>57</sup> Luis Romero and Dalla Torre (2015). *Inversión extranjera en una planta embotelladora - El caso de Nejapa*. Alianza por la Solidaridad. P. 27. Available at: [https://www.alianzaporlasolidaridad.org/especiales/tierra/pdf/Informe\\_CocaCola\\_Salvador.pdf](https://www.alianzaporlasolidaridad.org/especiales/tierra/pdf/Informe_CocaCola_Salvador.pdf)

<sup>58</sup> Artiga, R. (2018). "La economía política y la gobernanza del agua en El Salvador", Capítulo IV en *La crisis hídrica en El Salvador: hechos y retos*. Compiled by McKinley, A. UCA Editores, Universidad Centroamericana "José Simeón Cañas". P. 90.

<sup>59</sup> *Ibíd.*

<sup>60</sup> *Ibíd.* P. 93.

<sup>61</sup> *Ibíd.*

<sup>62</sup> *Ibíd.*

<sup>63</sup> *Ibíd.* P. 95.

<sup>64</sup> *Ibíd.*

<sup>65</sup> *Ibíd.* P. 96.

<sup>66</sup> *Ibíd.*

<sup>67</sup> According to its webpage, the Committee on the Environment and Climate Change "studies and analyzes issues of the environment and climate change to support biodiversity and facilitate appropriate legislation for sustainable development and the protection, conservation, rational use, and restoration of natural resources. The Committee also formulates laws in favor of integral development and environmental sustainability and preservation of life, and seeks to raise the awareness of other state bodies and institutions to enforce existing legislation, within their respective jurisdictions, and take action to restore environmental damages. The Committee also issues opinions on the reports submitted by the Ministry of the Environment. <https://www.asamblea.gob.sv/comisiones/details/8>.

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<sup>68</sup> In February 2020, during the editing process for this research, new legislation was proposed, entitled the "Citizen Proposal for a Water Law", submitted by social movement organizations, churches, and the academic sector. See: <https://www.fespad.org.sv/comunicado-propuesta-ciudadana-de-ley-de-aguas/>

<sup>69</sup> UNES has 30 years of experience in the field. According to its website, UNES is "a leading organization in the country on environmental and policy advocacy, sustainability practices, organizing, and local engagement". <http://www.unes.org.sv/>

<sup>70</sup> Donate, A. (2019). *El primer paso hacia la privatización del Agua en El Salvador*. Asociación Catalana de Ingeniería Sin Fronteras (ISF Cataluña). March 19, 2019. Available at: <https://esf-cat.org/blog/2019/03/19/paso-hacia-privatizacion-agua-salvador/>

<sup>71</sup> FUNDE was established in 1992 and officially registered in 1998 as a Non-Governmental Organization (NGO). Legally established as a public, apolitical, non-profit and secular organization. According to its website, FUNDE has "laid the foundation of a solid institution with a clear presence and national influence, and is considered a leader in the national debate around development issues, earning important international presence and recognition."

<http://www.funde.org/>

<sup>72</sup> An Irrigation Association can be legally-established with a minimum of ten farmers. The roles of such an association include: efficient management of resources authorized for use, scheduling irrigation water distribution according to the bylaws established for shared use among the members, promoting efficient water use in farm plots, developing annual operations and maintenance schedules, charging appropriate water use fees, procuring loans to improve irrigation infrastructure, and promoting the marketing and sale of its members' products. MAG, Dirección General de Ordenamiento Forestal, Cuencas y Riego, Departamento de Planificación (2014). *Asociaciones de Regantes de la República de El Salvador, C.A.* Available at: <http://www.mag.gob.sv/download/asociaciones-de-regantes-de-el-salvador/>

<sup>73</sup> FUSADES was legally established under the Law for Non-Profit Foundations and Associations on May 9, 1983, and registered with the Ministry of the Interior of the Republic of El Salvador. According to its website, FUSADES “has been a pioneer in many projects and programs in the country, and it is the first organization dedicated to being a development think tank in El Salvador.... Its work focuses on proposing and developing public policy solutions to improve the living conditions for all of the population, promoting the social development of Salvadoran families and generating more and better opportunities for all.” <http://fusades.org/>

<sup>74</sup> Moreno, M. (2018). “La ley de aguas: choque de dos enfoques”. *Noticias UCA*. July 15, 2018. Available at <https://noticias.uca.edu.sv/proyeccion-social/la-ley-de-aguas-choque-de-dos-enfoques>

<sup>75</sup> “MARN desmiente a la ANEP sobre discusión en ley de agua”. Periódico digital *Transparencia Activa*. June 26, 2018. Available at: <https://www.izcanal.org/marn-desmiente-a-la-anep-sobre-discusion-en-ley-de-agua/>

<sup>76</sup> Silvia de Larios, MARN. (Interview conducted for this research project on July 18, 2019).

<sup>77</sup> Leftist political party. This party was the main political opposition in El Salvador from 1992 to 2009.

<sup>78</sup> Lourdes Palacios, former FMLN legislator. (Interview conducted for this research project on July 29, 2019).

<sup>79</sup> *Ibíd.*

<sup>80</sup> Stakeholders supporting this consensus include: University of El Salvador (in remarks to the Legislative Assembly); Salvadoran Association of Ecotechnology and Environmental Health Professionals (in remarks to the Legislative Assembly); Office of the Human Rights Ombudsman in El Salvador (in remarks to the Legislative Assembly).

<sup>81</sup> Díaz, M. (2018). “Estos son los diputados que quedaron debiendo una ley de agua”. *Revista digital Gatoencerrado*. March 2, 2018. Available at: <https://gatoencerrado.news/2018/03/02/estos-son-los-diputados-que-que-daron-debiendo-una-ley-de-agua/>

<sup>82</sup> Starting on May 1, 2018.

<sup>83</sup> “MARN desmiente a la ANEP sobre discusión en ley de agua”. Periódico digital *Transparencia Activa*. June 26, 2018. Available at: <https://www.transparenciaactiva.gob.sv/marn-desmiente-a-la-anep-sobre-discusion-en-ley-de-agua>

<sup>84</sup> A non-profit organization. According to its webpage, COMURES seeks to “proactively and constructively promote, strengthen and defend municipal autonomy and jurisdictions in the context of participatory democracy, local development, and collective collaboration, representing the agreements reached by its members through consensus and taking advantage of opportunities from the current realities of the country.” <http://www.comures.org.sv/inicio.html>

<sup>85</sup> “La lucha por el agua en El Salvador”. Organización Movimiento Mesoamericano contra el Modelo extractivo Minero (M4). June 21, 2018, available at: <https://movimientom4.org/2018/06/la-lucha-por-el-agua-en-el-salvador/>

<sup>86</sup> “Iglesia salvadoreña pedirá al Congreso que no se privatice el agua”, Medio informativo *France 24*. March 23, 2018. Available at: <https://www.france24.com/es/20180923-iglesia-salvadorena-pedira-al-congreso-que-no-se-privatice-el-agua>

<sup>87</sup> Alianza Nacional contra la Privatización del Agua, “La Alianza Nacional contra la Privatización del Agua marcha rumbo a la Asamblea Legislativa para presentar 200 mil firmas acompañados de las iglesias”, September 27, 2018. Available at: [https://www.facebook.com/permalink.php?story\\_fbid=386488701890228&id=308067179732381](https://www.facebook.com/permalink.php?story_fbid=386488701890228&id=308067179732381); “Organizaciones e iglesias presentan a Asamblea más de 200,000 firmas

por ley del agua”, September 27, 2018, periódico digital *Transparencia Activa*. Available at: <https://www.transparenciaactiva.gob.sv/organizaciones-e-iglesias-presentan-a-asamblea-mas-de-200-000-firmas-por-ley-del-agua>

<sup>88</sup> Luis González, Alianza contra la Privatización del Agua. (Interview conducted for this research project on July 17, 2019).

<sup>89</sup> Araujo, R. (2019). “La Salud y el Medio Ambiente no son prioridad para este gobierno”. FMLN Parliamentary Group Website. Available at: <http://www.gpfmln.sv/index.php/art-opinion/item/586-11101901>

<sup>90</sup> According to Legislative Assembly records and remarks by FUNDE in 2019.

<sup>91</sup> Remarks by ANEP before the Legislative Assembly.

<sup>92</sup> To make this argument, ANEP raises the following questions: MARN has 23 additional responsibilities. MARN is in charge of granting, modifying, suspending, or revoking permits and establishing rates for water extraction and discharge. ANEP also raises a critique that the law grants regulatory powers to sectoral ministries that only have administrative jurisdictions, and that the law grants “authority” to the MARN over sectoral ministries and agencies connected to water issues such as MAG, MINEC, and SIGET (General Superintendent for Electricity and Communications).

<sup>93</sup> Article 120 of the LGA provides that “to appropriately protect water quantity and quality, MARN may establish protected sites within 300-400 meters from rivers, lakes, ponds, reservoirs, groundwater sources, and wells. MARN shall have the power to regulate land use and activities conducted in these zones.”

<sup>94</sup> Article 87 of the LGA establishes that “MARN is obligated to notify requesting individuals or entities of their resolutions, as well as extensions or other measures related to water use, including discharge, in accordance with the timeframes established in the law.” “If MARN fails to notify the claimant of the resolution, this omission shall be interpreted as a denial of the request. In this scenario, the claimant submit the corresponding appeal for review.”

<sup>95</sup> The LGA sets public designations for periods under 20 years.

<sup>96</sup> In its critiques, ANEP argues that “the law establishes a canon for wastewater discharge to recipients that are part of the public water domain such as rivers and lakes (Articles 103, 104, 108, 109), which will be collected by MARN. This assumes that in turn, MARN will provide wastewater treatment services and contaminant removal. Nonetheless, the law itself requires that wastewaters discharged by companies have a given quality, and to be “previously treated” to avoid contamination. Additionally, “ANDA has a broad sewage network that contaminates rivers at many points, and is again exempt from payment of this canon”.

<sup>97</sup> Classification of fines for violations as proposed in the LGA: Less severe violations from the equivalent of 1 to 1,000 minimum monthly wages, and severe violations from the equivalent of 1,001 to 20,000 monthly minimum wages (up to approximately 4.52 million dollars).

<sup>98</sup> Gies, H. (2018). “Once lush, El Salvador is dangerously close to running dry”. *National Geographic*. November 2, 2018. Available at: <https://www.nationalgeographic.com/environment/2018/11/el-salvador-water-crisis-drought-climate-change/>; Flores, C. (2015). “La “Oligarquía del Agua”, Periódico Digital *AMÉRICA LATINA en movimiento*. February 13, 2015. Available at: <https://www.alainet.org/es/active/80836>

<sup>99</sup> “Ley de Aguas no es prioridad en discusiones de Asamblea Legislativa”. Periódico digital *Transparencia Activa*. July 6, 2015. Available at: <https://www.transparenciaactiva.gob.sv/ley-de-aguas-no-es-prioridad-en-discusiones-de-asamblea-legislativa>

<sup>100</sup> See: Velásquez Carrillo (2020). “La reconsolidación del régimen oligárquico en El Salvador: Los ejes de la transformación neoliberal” en *Concentración Económica y Poder Político en América Latina*. Consejo Latinoamericano de Ciencias Sociales (CLACSO). Available at: <https://www.clacso.org/concentracion-economica-y-poder-politico-en-america-latina/>

<sup>101</sup> Labrador, G. (2016). “Seis familias acaparan las donaciones al partido ARENA”. Periódico digital *El Faro*. July 4, 2016. Available at: [https://elfaro.net/es/201607/el\\_salvador/18873/Seis-familias-acaparan-las-donaciones-al-partido-Arena.htm](https://elfaro.net/es/201607/el_salvador/18873/Seis-familias-acaparan-las-donaciones-al-partido-Arena.htm). See also: Acción Ciudadana – Centro de Monitoreo de Transparencia y Democracia (2018). *Dinero, Política y Partidos. El Financiamiento Político en 2017*. Available at: <https://accion-ciudadana.org/images/InformesAC/Informe.-Dinero-politica-y-partidos.-El-financiamiento-politico-en-2017.-Accion-Ciudadana-2018.pdf>

<sup>102</sup> These include shopping malls, hotels, and other complexes.

<sup>103</sup> “El Salvador: Grupo Poma celebra su primer centenario”, *Revista Estrategia y Negocios*. March 19, 2019. Available at: <https://www.estrategiaynegocios.net/empresasmanagement/1268670-330/el-salvador-grupo-poma-celebra-su-primer-centenario>;

<sup>104</sup> <http://www.urbanica.com.sv/nosotros.html>

<sup>105</sup> Segovia, A. (2018). *Economía y poder: recomposición de las élites económicas salvadoreñas*. Guatemala City. FyG Editores/INCIDE.

<sup>106</sup> <http://www.grupocassa.com/>

<sup>107</sup> <https://www.siman.com/elsalvador/siman-corporativo/>

<sup>108</sup> Labrador, G. (2016). “Seis familias acaparan las donaciones al partido Arena”. Periódico digital *El Faro*. July 4, 2016. Available at: [https://www.elfaro.net/es/201607/el\\_salvador/18873/Seis-familias-acaparan-las-donaciones-al-partido-Arena.htm](https://www.elfaro.net/es/201607/el_salvador/18873/Seis-familias-acaparan-las-donaciones-al-partido-Arena.htm)

<sup>109</sup> “Las Juntas Administradoras de Agua Potable (y Saneamiento) son organizaciones sociales sin fines de lucro que tienen por finalidad prestar el servicio de agua potable en la comunidad”. Pogrebinschi, Thamy. (2017). *Latinno Dataser*. Berlin: WZB Available at: <https://latinno.net/es/case/8167/#:-:text=Las%20Juntas%20Administradoras%20de%20Agua,agua%20potable%20en%20la%20comunidad.&text=Su%20finalidad%20es%20incrementar%20los,el%20acceso%20al%20recurso%20h%C3%ADdrico>.

<sup>110</sup> Correspondence submitted to the Legislative Assembly on March 22, 2018 by Water Administration Boards, churches, ADESCOs, Community Health Committees and labor unions joined in the Alliance against Water Privatization in El Salvador. Available at: [https://esf-cat.org/wp-content/uploads/2018/04/Correspondencia\\_AL\\_Diadelagua.pdf](https://esf-cat.org/wp-content/uploads/2018/04/Correspondencia_AL_Diadelagua.pdf)

<sup>111</sup> [www.anep.org.sv](http://www.anep.org.sv)

<sup>112</sup> FUNDE. “Líderes de gremiales defienden papel y representación de ANEP”, FUNDE story with information gathered from *Diario El Mundo*. Available at: <http://www.funde.org/lideres-de-gremiales-defienden-papel-y-representacion-de-anep>

<sup>113</sup> The ARENA party won the presidential elections in 1989, with Alfredo Cristiani becoming the first president of the country from this party. The Chapultepec Peace Accords were signed in 1992, ending the civil war in El Salvador. The ARENA then won the presidential elections in 1994, 1999, and 2004. The winners were Armando Calderón Sol, Francisco Flores, and Elías Antonio Saca, respectively.

<sup>114</sup> Duke Granados and Godoy Tobar (2006). “La Incidencia del Control Empresarial sobre El Mercado Laboral, Agencia y Desarrollo en El Salvador”, Facultad de Ciencias Económicas y Empresariales de la Universidad Centroamericana “José Simeón Cañas”, pág. 273. Available at: <http://www.uca.edu.sv/economia/wpcontent/uploads/laincidenciadelcontrolempresarialsobreelmercadolaboralagenciaydesarrolloenelsalvad.pdf>

<sup>115</sup> *Ibíd.*

<sup>116</sup> <https://www.anep.org.sv/que-es-anep/>

<sup>117</sup> <https://industriaelsalvador.com/quienes-somos/>

<sup>118</sup> ASI (2019). “La Economía Salvadoreña sigue siendo impulsada por la producción industrial”, *Boletín de la Asociación Salvadoreña de Industriales (ASI)*. December 2020. Available at: <https://industriaelsalvador.com/2019/01/08/la-economia-salvadorena-sigue-siendo-impulsada-por-la-produccion-industrial/>

<sup>119</sup> ASI. “Beneficios de la membresía de la ASI”. Available at <https://industriaelsalvador.com/beneficios-de-la-membresia/>

<sup>120</sup> MARN (2018). *Informe Nacional del Estado del Medio Ambiente. INEMA 2017*. P. 85. Available at: <http://cidoc.marn.gob.sv/documentos/informe-nacional-del-estado-del-medio-ambiente-inema-2017/>

<sup>121</sup> Julio Quiñónez, specialist in the field. (Technical consult conducted for this study on August 11, 2020).

<sup>122</sup> Valencia, F. (2017). “Las familias Regalado y Wright controlan el mercado azucarero”. *Diario Colatino*. January 11, 2017. Available at: <https://www.diariocolatino.com/las-familias-regalado-wright-controlan-mercado-azucarero/#:~:text=Los%20ingenios%20azucareros%20son%20una,controla%20el%2033%25%20del%20mercado.&text=Ese%20ingenio%20controla%20el%2015%25%20del%20mercado.>

<sup>123</sup> Global Water Partnership Central America (2016). “*Situación de los Recursos Hídricos en Centroamérica*”. Available at: [https://www.gwp.org/globalassets/global/gwp-cam\\_files/srh\\_elsalvador\\_2016.pdf](https://www.gwp.org/globalassets/global/gwp-cam_files/srh_elsalvador_2016.pdf)

<sup>124</sup> ANDA reported in 2017 that “the lack of technical regulation for sanitation leads to shortcomings in the design and construction of infrastructure works for sewage and wastewater treatment...” and “the country lacks regulation for abandoned wastewater treatment plants, leading to sources of contamination and dumping of untreated waste.” See: ANDA (2017). *Plan Nacional de Agua Potable y Saneamiento de El Salvador. Executive Summary*. Available at: <http://www.aecid.sv/wp-content/uploads/2018/02/RESUMEN-EJECUTIVO-PLANAPS.compressed.pdf>

<sup>125</sup> Chacón, A. (2019). “Juntas comunitarias del agua de El Salvador en alerta ante amenaza de desabastecimiento”. Diario digital *Informa-tico*. July 24, 2019. Available at: <https://www.informa-tico.com/24-07-2019/juntas-comunitarias-agua-salvador-alerta-amenaza-desabastecimiento>

<sup>126</sup> Ricardo Poma, from the Grupo Poma conglomerate, came in as the fifth-wealthiest businessman in Central America and the Dominican Republic in the 2019 issue of *Forbes*. As noted previously, the companies in this conglomerate are also among the main donors to the ARENA party. See: Jiménez and Ramírez (2019). “Ellos son los empresarios más ricos de Centroamérica y RD”. *Revista Forbes Centroamérica*. May 24, 2019. Available at: <https://www.forbes.com.mx/ellos-son-los-empresarios-mas-ricos-de-centroamerica-y-rd/>

<sup>127</sup> Peña, F. (2015). “Hay un oasis en el desierto de La Libertad”. Periódico digital *El Faro*. September 20, 2015. Available at: <https://elfaro.net/es/201509/noticias/17374/Hay-un-oasis-en-el-desierto-de-La-Libertad.htm>



<sup>128</sup> Grupo El Salvador de Ingeniería Sin Fronteras (2015). “FIHIDRO: Agua segura ¿para quién?”. December 23, 2015. Available at: <https://esfelsalvador.wordpress.com/2015/12/23/fihidro-agua-segura-para-quien/>

<sup>129</sup> “Foro del Agua presenta dos denuncias ante el Juzgado Ambiental contra Proyectos Urbanísticos”, available at: <http://forodelagua.org.sv/index.php/actividades/foro-del-agua-presenta-dos-denuncias-ante-el-juzgado-ambiental-contr-proyectos-urbanisticos/>

<sup>130</sup> McKinley, A. (2018). “Sigue la lucha por la gestión de aguas en El Salvador” Periódico digital *El Faro*. August 22, 2018. Available at: <https://elfaro.net/es/201808/columnas/22368/sigue-la-lucha-por-la-gestion-de-aguas-en-el-salvador.htm>

<sup>131</sup> Rodríguez, M. (2015). “Finca El Espino: un tesoro del que se lucraron con millones de dólares”. *Transparencia Activa*. February 13, 2015. Available at: <https://www.transparenciaactiva.gob.sv/finca-el-espino-un-tesoro-del-que-se-lucraron-con-millones-de-dolares>

<sup>132</sup> “The Central American Water Tribunal is a first experience from the Latin American Water Tribunal to create parallel justice agencies in which civil society actors can put their organizing capacity to the test and demand accountability from the parties responsible for harming water resources and aquatic environments in the region.” *Waternunc.com* (Water Economy website). Available at: <http://www.waternunc.com/esp/TCentaA.htm>

<sup>133</sup> Central American Water Tribunal document. “Veredictos Primera Audiencia Pública llevada a cabo del 29 de agosto al 1ero de septiembre del 2000 San José Costa Rica”. Available at: <http://tragua.com/wp-content/uploads/2012/04/Haga-click-aqu%C3%AD-para-ver-el-VEREDICTO-El-espino-2000.pdf>

<sup>134</sup> Contreras y Barrera (2019). “La Constancia produce el 1% del PIB de El Salvador”. *Revista Estrategia y Negocios*, April 13, 2019. Available at: <https://www.estrategiaynegocios.net/empresasymanagement/1275682-330/la-constancia-produce-el-1-del-pib-de-el-salvador>

<sup>135</sup> According to MARN, the water demands for the food and beverage industry are quite high. Carbonated beverages in particular have an enormous water footprint (the amount of water needed in the production process): preparing a half-liter bottle of a carbonated beverage takes from 150 to 300 liters of water, almost all of which goes to the supply chain. See: MARN (2013). *Estrategia Nacional de Recursos Hídricos 2013. June 2, 2013*. Available at: [http://www.marn.gob.sv/wp-content/uploads/estrategia\\_ENRH.pdf](http://www.marn.gob.sv/wp-content/uploads/estrategia_ENRH.pdf)

<sup>136</sup> Luis Romero and Dalla Torre (2015). *Inversión extranjera en una planta embotelladora - El caso de Nejapa*. Alianza por la Solidaridad. P. 27. Available at: [https://www.alianzaportalasolidaridad.org/especiales/tierra/pdf/Informe\\_CocaCola\\_Salvador.pdf](https://www.alianzaportalasolidaridad.org/especiales/tierra/pdf/Informe_CocaCola_Salvador.pdf); Hernández, M. (2015). “El uso de un acuífero para hacer Coca-Cola amenaza el agua de 30.000 personas en El Salvador”, *El Diario.es*. June 15, 2015. Available at: [https://www.eldiario.es/desalambre/agua-el-salvador-coca-cola-medio-ambiente\\_1\\_2626883.html#:~:text=%E2%80%B9%20%E2%80%BA-,El%20uso%20de%20un%20acu%C3%ADfero%20para%20hacer%20Coca%2DCola%20amenaza,30.000%20personas%20en%20El%20Salvador&text=Unas%20100.000%20cajas%20de%20Coca,de%20la%20capital%20del%20pa%C3%ADs.](https://www.eldiario.es/desalambre/agua-el-salvador-coca-cola-medio-ambiente_1_2626883.html#:~:text=%E2%80%B9%20%E2%80%BA-,El%20uso%20de%20un%20acu%C3%ADfero%20para%20hacer%20Coca%2DCola%20amenaza,30.000%20personas%20en%20El%20Salvador&text=Unas%20100.000%20cajas%20de%20Coca,de%20la%20capital%20del%20pa%C3%ADs.)

<sup>137</sup> Changes in the Latin American economy starting in the 1990s, falling commodity prices and the regionalization and globalization of the economy (especially in the banking and financial sectors) changed the panorama for the elites in El Salvador, pushing them to change their forms of wealth accumulation and shift especially toward the construction and service sector (tourism in particular).

The electoral triumph of the FMLN government and appearance of other political forces such as the GANA party have modified the panorama for elites in the country, making them a less monolithic block. See: Robles Rivera (2017). “Élites en El Salvador: cambios y continuidades (2000-2016)”. *Anuario de Estudios Centroamericanos, Universidad de Costa Rica*. Available at: <https://revistas.ucr.ac.cr/index.php/anuario/article/view/31617>

<sup>138</sup> Waxenecker, H. (2017). *Élites políticas y económicas en El Salvador: ¿Captura de Estado?* Heinrich Böll Stiftung. El Salvador, Central America. P. 59. Available at: [https://sv.boell.org/sites/default/files/uploads/2017/11/elite\\_salvadorena\\_-\\_captura\\_de\\_estado\\_hbs-2017.pdf](https://sv.boell.org/sites/default/files/uploads/2017/11/elite_salvadorena_-_captura_de_estado_hbs-2017.pdf)

<sup>139</sup> These clusters consist of companies in a specific geographical area (region) that produce similar or related goods and services, use similar processes, or participate in similar roles (research and development, for example).

<sup>140</sup> Waxenecker, H. (2017). *Élites políticas y económicas en El Salvador: ¿Captura de Estado?* Heinrich Böll Stiftung. El Salvador, Central America. P. 59. Available at: [https://sv.boell.org/sites/default/files/uploads/2017/11/elite\\_salvadorena\\_-\\_captura\\_de\\_estado\\_hbs-2017.pdf](https://sv.boell.org/sites/default/files/uploads/2017/11/elite_salvadorena_-_captura_de_estado_hbs-2017.pdf)

<sup>141</sup> *Ibíd.* P. 60.

<sup>142</sup> *Ibíd.* P. 21.

<sup>143</sup> *Ibíd.* P. 36.

<sup>144</sup> This figure includes the main stakeholders sensitive to water governance, although not all oppose the LGA or the institutional structure proposed by the UCA. This is based on communications included in the record of the Committee on the Environment and Climate Change debate on the Water Law, and the directories and websites of these entities. The lines represent linkages among different sectors or agencies, although not necessarily agreement between their views on the issues.

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<sup>145</sup> Carrillo-Flórez (2006). *La política importa. Democracia y desarrollo en América Latina*. IADB. Available at: <https://publications.iadb.org/es/la-politica-importa-democracia-y-desarrollo-en-america-latina>

<sup>146</sup> World Bank (2017). *Human Development Report 2017. Governance and the law*. Available at: <https://www.worldbank.org/en/publication/wdr2017>

<sup>147</sup> For more information see: Cortés and Itriago (2018). *El fenómeno de la captura: Desenmascarando el poder. Guía de análisis de la captura de políticas públicas y su efecto sobre la desigualdad*. Available at: <https://www.oxfamintermon.org/es/documentos/29/06/18/fenomeno-de-captura-desenmascarando-poder>

<sup>148</sup> One example is the rice sector in Costa Rica. The key agency for developing national rice policy is directly controlled - not influenced - by the rice production sector, and this control is established in the law. The board of directors of this agency, the National Rice Corporation (CONARROZ), is made up of representatives from different segments of the rice value chain; the public sector is represented on the board of directors but these representatives hold a minority position and lack practical authority to determine the policy framework. In fact, the capture is so absolute that the executive branch can alter a key element in rice policy: rice importation tariffs. Nonetheless, the policy has followed CONARROZ guidelines in this matter. The main beneficiaries of this institutional arrangement and policy framework have been large-scale producers, to the detriment of small farmers and the poorest population for whom rice expenses represent a larger slice of their family income. See: Cornick, Jiménez and Román (2014). *Public-Private Collaboration on Productive Development Policies in Costa Rica*. Inter-American Development Bank. WORKING PAPER SERIES No. IDB-WP-480, available at: <https://publications.iadb.org/publications/english/document/Public-Private-Collaboration-on-Productive-Development-Policies-in-Costa-Rica.pdf> and interview with Jorge Cornick, international consultant and founding partner of DRP Trejos & Cornick.

<sup>149</sup> Waxenecker, H. (2017). *Élites políticas y económicas en El Salvador: ¿Captura de Estado?* Heinrich Böll Stiftung. El Salvador, Central America, p. 37. Available at: [https://sv.boell.org/sites/default/files/uploads/2017/11/elite\\_salvadorena\\_-\\_captura\\_de\\_estado\\_hbs-2017.pdf](https://sv.boell.org/sites/default/files/uploads/2017/11/elite_salvadorena_-_captura_de_estado_hbs-2017.pdf)

<sup>150</sup> *Ibíd.*

<sup>151</sup> Revolving doors refer to the unfettered movement of individuals between high positions in the public and private sectors. This movement goes in both directions, that is, from public institutions to domestic and multinational companies, and viceversa.

<sup>152</sup> Waxenecker H. 2017. *Élites políticas y económicas en El Salvador: ¿Captura de Estado?*, Heinrich Böll Stiftung. El Salvador, Central America. P. 65. Available at: [https://sv.boell.org/sites/default/files/uploads/2017/11/elite\\_salvadorena\\_-\\_captura\\_de\\_estado\\_hbs-2017.pdf](https://sv.boell.org/sites/default/files/uploads/2017/11/elite_salvadorena_-_captura_de_estado_hbs-2017.pdf)

<sup>153</sup> TI defines lobbying as “all direct or indirect communication with policy-makers or public officials conducted by or on behalf of a group organized to influence political decision-making”. *El Lobby en Europa. Influencia encubierta, acceso privilegiado*. Transparencia Internacional España. (2015). Transparencia Internacional. P. 6. Available at: [https://transparencia.org.es/wp-content/uploads/2015/11/lobbying\\_eu-report\\_esp\\_web.pdf](https://transparencia.org.es/wp-content/uploads/2015/11/lobbying_eu-report_esp_web.pdf)

<sup>154</sup> According to the final report of the European Union Election Observers Mission to El Salvador in 2019, “Accepting funds from state companies, public entities, religious institutions, labor unions, or persons convicted of money laundering or organized crime is expressly prohibited and can be punished by a fine of up to \$16.000. It is unlikely that such a small fine would be a dissuasive force in the case of important illegal donations.” *Unión Europea Misión de Observación Electoral EL SALVADOR 2019 Informe Final. Presidential Election, February , 2019*. P. 17. Available at: [https://eeas.europa.eu/sites/eeas/files/moe\\_ue\\_el\\_salvador\\_2019\\_informe\\_final\\_esp.pdf](https://eeas.europa.eu/sites/eeas/files/moe_ue_el_salvador_2019_informe_final_esp.pdf)

<sup>155</sup> There are a series of stakeholders involved with different interests: 1. A sector with interest; 2. Interest promoters who can be individuals or legal entities that perform paid or unpaid lobbying work; 3. Decision-makers, that is, high-ranking officials with decision-making power.

<sup>156</sup> Eduardo Escobar, Executive Director of the organization *Acción Ciudadana*. (Interview conducted for this research project on January 21, 2020).

<sup>157</sup> A conflict of interests is a situation in which an individual’s judgment on his or her primary interest and the integrity of their actions tend to be unduly influenced by a secondary interest, often economic or personal.

<sup>158</sup> According to Eduardo Escobar, Executive Director of *Acción Ciudadana*, one example of this phenomenon in the country is the “ongoing two-way transfer of high-ranking executives from Pension Administration Funds (AFPs) to public positions charged with regulating the sector, and vice versa.” In fact, one study shows a “transfer of important public officials from the ARENA party administrations to AFP boards of directors, and vice versa.” These processes “imply an unacceptable conflict of interest in public administration and a high risk of sharing information that affects free competition in the pension market sector.” (Interview conducted for this research project on January 21, 2020). See also: Cañete (2018). *Democracias capturadas. El gobierno de unos pocos.*, Oxfam International, p. 71-85, citing Álvarez and Barrera (2018). Available at: <https://www.oxfam.org/es/informes/democracias-capturadas-el-gobierno-de-unos-pocos>

<sup>159</sup> One example that warrants deeper study would be the case of Luis Felipe Trigueros, who has been an advisor for the congressman Mario Ponce from the PCN party on this issue, but over the course of his professional career he has also been linked to CAMAGRO and has supported water legislation drafted by

the private sector, and taken other positions from the sector. On top of this, his professional experience covers a period in the Ministry of Agriculture and Livestock (MAG) under Mario Ernesto Salaverría (current Chairman of the Sugar Producer's Association).

On his role in CAMAGRO, see: Mancía, C. (2015), "Agricultores afirman proyecto de ley de agua es expropiatorio". *elsalvador.com*. April 19, 2015. Available at: <https://historico.elsalvador.com/historico/149314/agricultores-afirman-proyecto-de-ley-de-agua-es-expropiatorio.html>. See also: "Sigue estancado estudio de Ley General de Aguas". Noticias del Programa Regional de Seguridad Alimentaria y Nutricional para Centroamérica Fase II de la Secretaría General del Sistema de la Integración Centroamericana (SG-SICA), June 15, 2014. Available at: <https://www.sica.int/consulta/noticia.aspx?idn=87790&idm=1&ident=916>

In 2013, he also represented the "irrigation users" in remarks to the Legislative Assembly on the Comprehensive Water Resource Management Law, known as the "Irrigator's Law" that proposed to establish a Water Authority made up of a majority of private actors. See: "El agua, con una administración ineficiente". *Elsalvador.com*. April 15, 2016. Available at: <https://historico.eldiariodehoy.com/historico-edh/14925/el-agua-con-una-administracion-ineficiente.html> and "Ley de Agua no avanza por polémica en permisos de uso". August 4, 2015. *La Prensa Gráfica*. Available at: <https://www.laprensagrafica.com/economia/Ley-de-Agua-no-avanza-por-polemica-en-permisos-de-uso-20150804-0050.html>

On his role as an advisor to PCN Congressman Mario Ponce, see: "La nueva forma del agua en El Salvador, ¿peligra el recurso hídrico del país?". *Plataforma Periodística para las Américas "Connectas"*. Information from the Connectas Forum. July 24, 2018. Available at: <https://www.connectas.org/eventos/peligra-el-recurso-hidrico-en-el-salvador/>

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Lastly, on his term at the Ministry of Agriculture and Livestock, see: "El Salvador proyecta aumentar 8% producción agrícola". Noticias de negocios, economía y finanzas de Centroamérica. *CentralAmericaData.com*. April 20, 2009. Available at: [https://www.centralamericadata.com/es/article/home/El\\_Salvador\\_proyecta\\_aumentar\\_8\\_produccion\\_agricola](https://www.centralamericadata.com/es/article/home/El_Salvador_proyecta_aumentar_8_produccion_agricola)

<sup>160</sup> The parties are also financed by external private sources and their own public officials, including mayors, congresspersons, but also drivers, administrative staff, and other officials. This happens even with symbolic donations of one dollar.

<sup>161</sup> Casas-Zamora and Zovatto. (2015). "El costo de la democracia: Apuntes sobre la regulación del financiamiento político en América Latina". *Latin America Initiative Foreign Policy at Brookings. Informe Política 2015*. Available at: <https://www.brookings.edu/wp-content/uploads/2016/07/The-Cost-of-Democracy-CasasZamora-Zovatto-Spanish.pdf>

OEA. (2011). *Política, dinero y poder. Un dilema para las democracias de las Américas*. Secretary General of the Organization of American States. Available at: [https://www.oas.org/es/sap/docs/OEA\\_Poliit\\_dinero\\_poder\\_s.pdf](https://www.oas.org/es/sap/docs/OEA_Poliit_dinero_poder_s.pdf)

<sup>162</sup> Artiga-González. (2011). "La financiación de los partidos políticos en El Salvador". *El financiamiento de los partidos políticos en América Latina*, Instituto Internacional para la Democracia y la Asistencia Electoral, OEA. Universidad Nacional Autónoma de México. Available at: [https://www.oas.org/es/sap/docs/deco/Financiamiento\\_partidos\\_s.pdf](https://www.oas.org/es/sap/docs/deco/Financiamiento_partidos_s.pdf)

<sup>163</sup> Acción Ciudadana. (March 2019). *Agenda Mínima de Reforma Democrática y Contra la Corrupción*. Available at: [https://drive.google.com/file/d/1Aq4JMLu58M1zGnv6\\_iCE5mTtByx0secm/view](https://drive.google.com/file/d/1Aq4JMLu58M1zGnv6_iCE5mTtByx0secm/view).

<sup>164</sup> <https://www.transparencia.gob.sv/institutions/iaip/documents/ley-principal-que-rige-a-la-institucion>;  
<https://www.transparencia.gob.sv/institutions/iaip/documents/reglamento-de-la-ley-principal>

<sup>165</sup> <https://www.tse.gob.sv/documentos/normativa-electoral/Ley-de-Partidos-Policos-de-El-Salvador.pdf>

<sup>166</sup> Waxenecker, H. (2017). *Élites políticas y económicas en El Salvador: ¿Captura de Estado?* Heinrich Böll Stiftung. El Salvador, Central America. Available at: [https://sv.boell.org/sites/default/files/uploads/2017/11/elite\\_salvadorena\\_-\\_captura\\_de\\_estado\\_hbs-2017.pdf](https://sv.boell.org/sites/default/files/uploads/2017/11/elite_salvadorena_-_captura_de_estado_hbs-2017.pdf)

<sup>167</sup> Eln 2016, Eduardo Escobar (Executive Director of Acción Ciudadana) requested information from the Ministry of the Treasury on the identity of political party donors for 2014-2015. The Ministry of the Treasury initially declined to disclose this information, arguing that it was protected by secrecy laws and should be protected by the Tax Code. See: <https://alac.funde.org/iaip/5a67bfbc97b7ea58d952e38d>. See also: Beltrán, M. (2016). "Admiten demanda contra Hacienda por negar información". September 20, 2016. Diario Digital *ContraPunto*. Available at: <https://www.contrapunto.com.sv/politica/gobierno/admiten-demanda-contra-hacienda-por-negar-informacion/1718>; Mario Beltrán, M. (2016). "Presentan amparo contra Hacienda por negar información". September 30, 2016. Diario Digital *ContraPunto*. Available at: <https://www.contrapunto.com.sv/politica/sociedadcivil/presentan-amparo-contra-hacienda-por-negar-informacion/1795>

<sup>168</sup> All figures in these reports are expressed in U.S. dollars.

<sup>169</sup> Acción Ciudadana – Centro de Monitoreo de Transparencia y Democracia. (2018). *Dinero, Política y Partidos. El Financiamiento Político en 2017*. P. 45, Table 14. Available at: <https://accion-ciudadana.org/images/InformesAC/Informe.-Dinero-politica-y-partidos.-El-financiamiento-politico-en-2017.-Accion-Ciudadana-2018.pdf>

<sup>170</sup> Produced internally, based on data from Acción Ciudadana – Centro de Monitoreo de Transparencia y Democracia (2019). *El Financiamiento político en 2018: transparencia y rendición de cuentas de los partidos*.

<sup>171</sup> Acción Ciudadana – Centro de Monitoreo de Transparencia y Democracia. (2019). *El Financiamiento político en 2018: transparencia y rendición de cuentas de los partidos*. P. 117, Table 63.

<sup>172</sup> Internal calculation based on data from Acción Ciudadana – Centro de Monitoreo de Transparencia y Democracia. (2018). *Dinero, Política y Partidos. El Financiamiento político en 2017*. P. 122, Table 124. Available at: <https://accion-ciudadana.org/images/InformesAC/Informe.-Dinero-politica-y-partidos.-El-financiamiento-politico-en-2017.-Accion-Ciudadana-2018.pdf>

<sup>173</sup> Acción Ciudadana – Centro de Monitoreo de Transparencia y Democracia. (2018). *Dinero, Política y Partidos. El Financiamiento Político en 2017*. P. 132. Available at: <https://accion-ciudadana.org/images/InformesAC/Informe.-Dinero-politica-y-partidos.-El-financiamiento-politico-en-2017.-Accion-Ciudadana-2018.pdf>

<sup>174</sup> *Ibíd.*

<sup>175</sup> *Ibíd.*

<sup>176</sup> *Ibíd.* P. 181, Table 180.

<sup>177</sup> Acción Ciudadana – Centro de Monitoreo de Transparencia y Democracia. (2019). *El financiamiento político en 2018: Transparencia y rendición de cuentas de los partidos*. P. 121, Table 67.

<sup>178</sup> *Ibíd.* P. 122, Table 68.

<sup>179</sup> According to an Acción Ciudadana report, there are some contributions from these companies to other political parties (such as the FMLN) in 2017, but these are small and/or anecdotal.

<sup>180</sup> Acción Ciudadana – Centro de Monitoreo de Transparencia y Democracia. (2018). *Dinero, Política y Partidos. El Financiamiento Político en 2017*. P. 177, Table 178. Available at: <https://accion-ciudadana.org/images/InformesAC/Informe.-Dinero-politica-y-partidos.-El-financiamiento-politico-en-2017.-Accion-Ciudadana-2018.pdf>

<sup>181</sup> *Ibíd.* P. 137.

<sup>182</sup> For example, the companies Almacenadora del Pacífico, Banco Cuscatlán, Compañía Azucarera Salvadoreña, Empaques y Sabores, Viva Outdoor, and Sistemas de Transporte y Bodegas de Almacenaje share members on their boards of directors. The Director of Empaques y Sabores is also the Director and Chairman of Compañía Azucarera Salvadoreña, and the secretary of the board of the company Almacenadora del Pacífico. Another board member of Compañía Azucarera Salvadoreña is also an alternate member of Almacenadora del Pacífico; the Alternate Director of Compañía Azucarera Salvadoreña is the Deputy Director in Banco Cuscatlán, Alternate in Sistemas de Transportes y Bodegas en Almacenaje, and Alternate Director at Viva Outdoor. In this example, just one person holds important leadership positions on four corporate boards at the same time. See: Acción Ciudadana – Centro de Monitoreo de Transparencia y Democracia. (2018). *Dinero, Política y Partidos. El Financiamiento Político en 2017*. P. 45, Table 14. Available at: <https://accion-ciudadana.org/images/InformesAC/Informe.-Dinero-politica-y-partidos.-El-financiamiento-politico-en-2017.-Accion-Ciudadana-2018.pdf>

Information on corporate boards and membership was verified through company websites and LinkedIn profiles from the board members listed.

<sup>183</sup> The congresspeople, ministers, mayors, and public officials from the FMLN are asked to give part of their salary to the party as a party contribution. See: <https://elmundo.sv/fmln-dice-que-por-ley-existe-la-cuota-partidaria-de-afiliados/>

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<sup>184</sup> Acción Ciudadana – Centro de Monitoreo de Transparencia y Democracia. (2018). *Dinero, Política y Partidos. El Financiamiento Político en 2017*. P. 181-183. Available at: <https://accion-ciudadana.org/images/InformesAC/Informe.-Dinero-politica-y-partidos.-El-financiamiento-politico-en-2017.-Accion-Ciudadana-2018.pdf>

<sup>185</sup> Internal calculation based on data from Acción Ciudadana – Centro de Monitoreo de Transparencia y Democracia. *El financiamiento político en 2018: transparencia y rendición de cuentas de los partidos*. P. 65, Table 119.

<sup>186</sup> Acción Ciudadana – Centro de Monitoreo de Transparencia y Democracia. (2019). *El financiamiento político en 2018: transparencia y rendición de cuentas de los partidos*. P. 205.

<sup>187</sup> The public information contributed by Acción Ciudadana does not clearly define the financing that the beverage bottling sector contributes to political parties, which is also sensitive to water governance.

<sup>188</sup> Internal calculation based on data from Acción Ciudadana – Centro de Monitoreo de Transparencia y Democracia. (2019). *El financiamiento político en 2018: transparencia y rendición de cuentas de los partidos*. Table 137, p. 206.

<sup>189</sup> Internal calculation based on data from Acción Ciudadana – Centro de Monitoreo de Transparencia y Democracia. (2019). *El financiamiento político en 2018: transparencia y rendición de cuentas de los partidos*. Table 138, p. 209-212.

<sup>190</sup> Hernández y Barrera. (2018). “Depredadores ambientales financian partidos políticos”. *Revista GatoEncerrado*. December 11, 2018. Available at: <https://gatoencerrado.news/2018/12/11/depredadores-ambientales-financian-partidos-politicos/>

<sup>191</sup> <https://www.gruporoble.com/el-salvador/grupo-roble/>

<sup>192</sup> Hernández y Barrera. “Depredadores ambientales financian partidos políticos”. Revista *GatoEncerrado*. December 11, 2018. Available at: <https://gatoencerrado.news/2018/12/11/depredadores-ambientales-financian-partidos-politicos/>

<sup>193</sup> <http://fusades.org/fusades/conocenos/participacion-redes-fusades>

<sup>194</sup> [https://repository.upenn.edu/cgi/viewcontent.cgi?article=1012&context=think\\_tanks](https://repository.upenn.edu/cgi/viewcontent.cgi?article=1012&context=think_tanks)

<sup>195</sup> Labrador, G. (2017). “Dos millonarios libran disputa no autorizada por la candidatura presidencial de Arena”. Periódico digital *El Faro*. June 12, 2017. Available at: <https://elfaro.net/es/201706/el-salvador/20447/Dos-millonarios-libran-disputa-no-autorizada-por-la-candidatura-presidencial-de-Arena.htm>

<sup>196</sup> Zepeda, C. (2015). *Water politics in El Salvador, Power, Water and Social Change in poor communities of San José Villanueva*. University of Warwick.

<sup>197</sup> <http://fusades.org/fusades/conocenos/directores-miembros-fusades>

<sup>198</sup> Álvarez, J. (2015). “La ley del Agua, el Sector Privado y el Enfoque de Cuenca”. November 7, 2015. FUSADES Available at: <http://fusades.org/lo-ultimo/blog/la-ley-del-agua-el-sector-privado-y-el-enfoque-de-cuenca>

<sup>199</sup> Morán, G. (2013). “Continúa desacuerdo por Ley General de Aguas”; Diario digital *Contrapunto*. April 23, 2013. Available at: <http://www.contrapunto.com.sv/archivo2016/ambiente/continua-desacuerdo-por-ley-general-de-aguas>

<sup>200</sup> Revista *Pensamiento para el Desarrollo*. Agosto de 2013. Available at: [www.fusades.org.sv](http://www.fusades.org.sv)

<sup>201</sup> [www.cedes.org.sv](http://www.cedes.org.sv)

<sup>202</sup> Belloso, M. (2013). “Desarrollo vs. sostenibilidad: la polémica Ley del Agua en El Salvador”. *Future Challenges*. September 2, 2013. Available at <https://futurechallenges.org/local/desarrollo-vs-sostenibilidad-la-polemica-ley-del-agua-en-el-salvador/>

<sup>203</sup> “Piden cambiar leyes para mejorar la competitividad”. *La Prensa Gráfica*. 23 de junio de 2014. Available at : <https://www.laprensagrafica.com/economia/Piden-cambiar-leyes-para-mejorar-la-competitividad-20140623-0116.html>

<sup>204</sup> Zepeda, C. (2015). *Water politics in El Salvador, Power, Water and Social Change in poor communities of San José Villanueva*. University of Warwick. P. 285.

<sup>205</sup> Asociación Acción Ciudadana. (2019). *Gestión de Intereses*. September 21, 2019. Available at: <https://accion-ciudadana.org/articulos-de-opinion-gestion-de-intereses/>

<sup>206</sup> *Ibíd.*

<sup>207</sup> *Ibíd.*

<sup>208</sup> *Ibíd.*

<sup>209</sup> Eduardo Escobar, Executive Director of the organization Acción Ciudadana. (Interview conducted for this research project on January 21, 2020).<sup>210</sup> *Ibíd.*

<sup>211</sup> These recommendations are based on issues described by Acción Ciudadana in the document “Agenda Mínima de Reforma Democrática y Contra la Corrupción”. March 2019. Available at: [https://drive.google.com/file/d/1Aq4JMLu58M1zGnv6\\_iCE5mTtByx0secm/view](https://drive.google.com/file/d/1Aq4JMLu58M1zGnv6_iCE5mTtByx0secm/view). The recommendations selected are directly

related to the specific issues addressed in this document.

The Oxfam recommendations from the report “Democracias capturadas: El gobierno de unos pocos” have also been followed. (2018). Available at: <https://oxfamilibrary.openrepository.com/bitstream/handle/10546/620600/rr-captured-democracies-161118-es.pdf?sequence=1&isAllowed=y>

These recommendations also represent a minimum floor of what is needed to ensure greater equity in the political process of discussion and implementation of laws, norms, and regulations in the country.

<sup>212</sup> Forces that wield power to offset and level the political playing field, such as citizen groups and some labor unions.









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