

Chapter 20

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FULL COST RECOVERY MEETS CRISIS: GUARANTEEING ACCESS TO WATER UNDER COVID-19 IN COLOMBIA

Underscoring the importance of handwashing to halt the spread of Covid-19, on March 14, 2020, the Colombian government ordered the reconnection of water services to more than one million people whose services had been disconnected for non-payment. A few days later, “preventative isolation” was imposed, forcing the widespread closure of business and industry. Many suddenly found themselves without a paycheck. These closures and the unemployment they provoked seriously compromised utility revenues at the very time that people needed more water and had no way of paying for it. In response, the government announced measures to provide tariff relief and to facilitate access to credit and revenue support for utilities. In this context, Colombia’s long-standing tension between ensuring service access and reliable utility revenue came back into focus. Since the late 1980s, policy has been pushed towards a neoliberal model that prioritizes a punitive and less redistributive, full-cost recovery model to ensure utility revenue. The current crisis has put the limits of this model centre-stage. Political space may be opening

for a more social and redistributive model through initiatives like efforts to nationalize the *mínimo vital*, a programme to guarantee a basic lifeline of water to low-income households.

INTRODUCTION

Colombia's first case of Covid-19 was diagnosed in Bogotá on March 6, 2020, just before the World Health Organization reclassified Covid-19 as a pandemic. Although some restrictions have been relaxed since preventative isolation began in March, most measures have been extended, causing major economic difficulties. Recognizing the impact on household finances and the national economy, various levels of government have taken measures to facilitate access to and payment for utility services.

Colombia has a long tradition of trying to balance social and economic concerns in the provision of utility services through programs like cross-subsidization that have existed in various forms since the 1930s. While these policies have been repeatedly challenged by various sectors, the current crisis is bringing debates over the social nature of water and measures for economic redistribution back to the fore. This debate is not simply social or economic. It is highly political. Beyond a container of power relations (Swyngedouw 2004), water emerges as a substance through which political parties and politicians can define their identity, garner widespread public support, and maybe even vie for the presidency.

These issues are explored in this chapter through a review of newspaper articles, bulletins and official documents related to the management and consequences of Covid-19 in Colombia since March 2020. We begin with an overview of the measures taken to ensure access to water and utility revenues. These include service reconnection, tariff relief, and increased access to credit and income support for utilities. Next, we examine how this situation is reviving debates around the nationalization of the *mínimo vital* – a basic lifeline supply of water – potentially signaling a shift away

from the dominance of neoliberal policy around water access and utility financing. We conclude with a reflection on what this might mean for how we think about the politics of water and the state's role in this regard. We focus on examples from Bogotá, the capital of Colombia, where the epidemic is concentrated.

MEASURES TAKEN TO REDUCE THE SPREAD OF COVID-19

Reconnection

With the first confirmed case of Covid-19 on March 6, 2020, President of Colombia Iván Duque and his ministers began giving daily briefings on national television, presenting the measures that would be taken to reduce the spread of the virus. The first measures included restrictions on travelers from countries with high rates of infection and the cancelation of large events. On March 14, the president announced restrictions on air traffic, a policy of working from home where possible, and online schooling. With respect to water supply, he announced:

[for] people who have had their water services disconnected for non-payment, the most vulnerable families in the country, we have decided to reconnect their services for the duration of the health emergency. We are also instituting a tariff freeze during this period...given the importance of regular handwashing for all Colombians (Presidencia de la República 2020a)

These decisions were formalized through Resolution 911 of the Commission for the Regulation of Drinking Water and Basic Sanitation on March 17 and ratified by Presidential Decree 441 on March 20. In particular, Decree 441 required the “immediate reconnection of water services to residential subscribers whose services had been suspended or disconnected” (Art. 1). According to the Minister of Housing, Jonathan Malagón, the measure would benefit more

than 200,000 families (over 1 million people). Reconnection, which usually costs users between COP\$30,000 and COP\$50,000¹ (Malagón 2020), would be done free of charge with the costs being borne by utilities. In Bogotá, the city and its utility – the Water and Sewerage Company of Bogotá (EAAB) – expected to reconnect around 40,000 households, benefitting 160,000 people. EAAB dedicated 100 employees to the reconnection effort. By March 23, 92% of the households had been reconnected (EAAB 2020). In June, the Minister of Housing stated that more than 303,000 families had been reconnected at a cost of over COP \$50 billion, paid by the national government (MVCT 2020). All infrastructure maintenance that might interrupt community supply was also halted.

Nevertheless, reconnection was not about a new economic justice. Reconnected households would still be on the hook for their existing utility debts as well as for the cost of the water they consumed during the pandemic. This poses a problem for households and utilities. Utilities continue to bill services as normal, using a tariff structure that is based on household consumption and the level of cross-subsidization to which the household is entitled based on its socioeconomic tier (or *estrato* in Spanish). Thus, while service suspension for non-payment is prohibited during the emergency, households continue to accumulate utility debt. Still others, with reduced means, prioritize other expenses over their water bills. Concerned by diminishing utility revenues and the continued ability of utilities to provide services, this situation generated debates over how to compel payment during the pandemic (without the threat of disconnection) and – more progressively – how Colombia’s cross-subsidy system might be reformed to improve people’s ability to pay by reducing costs to the most vulnerable households (El Espectador 2020a).

Still, the most vulnerable had to be among the “well-behaved.” Decree 441 excludes households disconnected for “illegal” connec-

¹ 1 US\$ is approximately COP\$3850.

tion from the reconnection programme. This restriction was debated in the Constitutional Court, which determines the constitutionality of government legislation. There, human rights advocates and academics argued that the exclusion violated the right to equality, undermined efforts to limit the spread of Covid-19, and that illegal connection would be unnecessary were there a *mínimo vital* and thus was rather a reflection of the state's failure in its duty to guarantee the right to water (El Tiempo 2020b). Their arguments prevailed. Through *Sentencia* C-154 of May 28, 2020, the Constitutional Court approved Decree 441 except for the section corresponding to the exclusion of households associated with illegal connection. The court argued that excluding some users was “incompatible with the duty to ensure the life and health of users and other members of the community.” Nevertheless, those disconnected for illegal connection will be charged for reconnection including any repairs to infrastructure that may have been damaged by the illegal connections. Concerned with the impact on utility revenue and doubting the likelihood that these fees and debts will actually be paid, the National Association of Colombian Utilities (Andesco) wants municipalities to assume the responsibility for their payment (El Tiempo 2020a).

Tariff relief

On March 20, “preventative isolation” (*aislamiento preventivo*) was implemented in Bogotá. Four days later the restrictions were extended to the whole country and have been prolonged several times. Although some restrictions have been lifted, those on commercial and industrial activities remained in place until September 2020, with a possibility of extension. The ensuing economic contraction has only aggravated pre-existing social and economic disparities. The crisis has been especially difficult for those who work in the informal economy, as well as people who lost their jobs due to the closures. A recent survey conducted by Invamer (2020) found that unemployment in Bogotá is now at 30% compared with 27% nationally. Approximately 67% of Bogotá's unemployed and 54% of those

unemployed nationally lost their jobs as a result of the pandemic. The crisis has also affected many in the middle classes, where entrepreneurs, merchants and small business owners have had trouble staying afloat (El Tiempo 2020b).

This sudden crash in people's incomes, combined with the stay-at-home order and government recommendations for regular handwashing and surface cleaning, means that people's bills for water and other public services are increasing just as their means to pay these bills are compromised. This situation is compounded by the fact the subsidies associated with Colombia's cross-subsidization programme only apply to basic consumption, while "sumptuous" consumption is charged at an unsubsidized rate. This means that many low-income users are faced with bills not only for higher levels of consumption, but at higher tariffs for a part of their consumption. As a result, affected users have begun to contest their bills, arguing that the preventative isolation impedes them from generating sufficient (or any) income to pay their utility bills.

The ensuing political debate is a testament to the political nature of water and how it is accessed. At the beginning of Bogotá's quarantine, the city's mayor Claudia López, a centrist politician and member of the Green Alliance party, proposed that public services be provided free of charge during the first month of quarantine. Mayor López, however, did not have the authority to order a suspension of billing; she could only request permission for her proposal from the central government (El Tiempo 2020c). Her initiative was immediately rejected by Andesco. Their representative, Camilo Sánchez, emphasized not only the mayor's lack of authority in the matter but that no such policy could be implemented without clearly establishing where the resources to finance utility services would come from (El Espectador 2020b).

The Colombian president Iván Duque of the far-right Democratic Center party was no more receptive to Mayor López's proposal. Fees would not be suspended; instead, flexible models to ensure repayment would be sought (Revista Semana 2020a). He reasoned his

position by drawing on the national household basic services Law 142 of 1994, under which gratuity is banned. While the law recognizes the social function of utilities, it emphasizes that their provision depends on sufficient utility revenue to invest in infrastructure and cover operating costs, making full cost recovery necessary for all utilities. While Mayor López accepted the decision (not having a choice), she pointed out that mayors like her had been mandated by the presidency to ensure funding for the “health, shelter and sustenance of the most vulnerable” (Revista Semana 2020b). In the ensuing debate over the response to Covid-19, Mayor López is winning in the court of public opinion. In the same poll conducted by Invamer mentioned above, 53.6% of Colombians and 66% of Bogotanos agree with Mayor López’ positions against 28.3% and 19% respectively who favour those of President Duque.

Other mayors began to side with Mayor López. They stated their intention to cover the cost of services with or without the approval of the presidency. In response, President Duque gave local leaders the permission to allocate a part of their budgets to the payment of utility services (Decrees 517 and 580/2020). Short of sufficient funds to completely cover people’s bills, the City of Bogotá began allocating resources to subsidize the additional consumption generated by preventative isolation. The measures were for all utility services and specifically targeted the lowest-income users – i.e. those in socioeconomic tiers 1 to 4 of Colombia’s 6-tiered cross-subsidization programme (in which socioeconomic tiers 5 and 6 subsidize the consumption of households in socioeconomic tiers 1-3, and socioeconomic tier 4 pays at cost). For water, additional consumption caused by the isolation was estimated at around 1.4 m³ per month. Mayor López and Bogotá’s water utility EAAB agreed to discount services by COP\$7,528 per month for 3 months, with a budget of COP\$94 billion (Alcaldía de Bogotá 2020 a, b). According to EAAB, the measure would benefit 1.8 million families in Bogotá (El Espectador 2020a). In addition, to promote early payment, they announced a 10% discount on water bills for those who paid in ad-

vance. The national government allowed other cities to do the same in order to incentivize payment.

Under President Duque's programme to develop flexible models to ensure full cost recovery in the context of preventative isolation, several measures were implemented. The first group of measures concerns deferred payment. Initially, users who were unable to pay could defer payment for the first two months of the confinement. Then, users in socioeconomic tiers 1 and 2 were allowed defer payment for a period of 36 months (Decrees 528 and 819/2020) – a measure that also applies to electricity. Users in socioeconomic tiers 3 and 4 were given 24 months (Decree 819/2020). Interest on deferred payments will not be charged, but inflation adjustments will be charged to users in socioeconomic tiers 3 and 4. These could prove onerous, as the value of the Colombian peso has plummeted since the beginning of the pandemic.

The second group of measures concerns cross-subsidization. The presidency gave mayors the authority to increase the level of cross-subsidization for water, sewerage and sanitation services from 70% to 80% for socioeconomic tier 1, from 40% to 50% for socioeconomic tier 2, and from 15% to 40% for socioeconomic tier 3 (Decree 580/2020). The Decree was to apply from April 15 to December 31, 2020. The greater increase for socioeconomic tier 3 was justified by the "hidden poverty" and lack of other economic subsidies for households in this socioeconomic tier. Still, the national government provided no funding to implement the new subsidies, and municipalities could only apply them if they had the resources to do so. Even worse, Decree 580 was struck down by the Constitutional Court on July 23, 2020, on procedural grounds: it had not been signed by all of the ministers. The requirement for the signatures of all ministers on any presidential decree is meant to ensure deliberation and limit the discretionary powers of the president, thereby safeguarding democracy (Constitutional Court 2020b). Such an amateur error led the other political parties to speculate that the omission was a cynical ploy to avoid responsibility for, and the costs

of, the additional subsidies (El Espectador 2020c).

The failure of the decree to come into force limits the possibility for municipalities to provide economic relief. The municipalities that had announced such a programme have had to cancel them for lack of funds (El Espectador 2020d). Had the additional cross-subsidization measure passed, wealthier residents would have had to assume a greater portion of the cost of the services of low-income households, making the subsidy more affordable for municipalities. In Bogotá, where the City had been subsidizing additional Covid-19 related consumption, the discounts were discontinued as of July 24. They will resume if a new measure is issued that would make it affordable for the city (El Espectador 2020e). While the court's decision is not retroactive – it does not apply to the costs incurred by municipalities between April 15 and July 23 – it leaves the government without the possibility of acting again until the end of the year, as a government cannot issue new emergency decrees after the end of July (El Espectador 2020d). To resolve the issue, on July 27, senators from different political parties tabled Bill 170/2020 for a new law that would increase the level of cross-subsidization until the end of 2020.

Financing the measures

The measures to control the spread of Covid-19 and to ensure access to water have hurt the finances of Colombia's utilities. The forced closure of many businesses and industries has meant a reduction in the consumption of high-volume and high-tariff paying users. At the same time, measures such as halting service suspensions, reconnecting users without charge, and deferring bill payments have reduced revenues. Andesco reported a 35% drop in fee collection (Sánchez Ortega 2020). In response, the government has made various efforts to help utilities ensure an adequate revenue stream. These have taken on two forms. On the one hand, the government facilitated access to credit for utilities. On the other hand, it eased the acquisition of the needed resources for local governments to

cover the mandated subsidies and discounts on behalf of the utilities.

With respect to credit support, Decrees 581 and 819 empowered the Bank for Territorial Development (Findeter) (a state-owned national development bank) to provide direct loans to utilities and other water providers. The utility loans are meant to cover the deferred payments of users, in hopes that payments will eventually be made. Given the uncertainty of this situation, the loans have the same conditions given to users whereby the state assumes the risk associated with the loans. That is, the credits are at 0% interest, not subject to inflation, and granted for a term of 36 months, payable at end of the period. The financial costs are borne directly by the Findeter, but these have been significantly reduced as the government has waived the taxes on financial transactions that normally would have been associated with the loans. Findeter is authorized to renegotiate debts and discounts with the utilities, with the ultimate guarantors of the credit being local governments. To finance these measures, Findeter was granted an “Emergency Mitigation Fund” by the national government.

With respect to enabling government assistance to utilities, Decree 441 empowered municipalities to allocate resources to finance other forms of water supply in cases where there is no access to infrastructure. Decree 528 enabled the national government to directly transfer funds to utilities to cover the subsidies. Local governments are charged with utility oversight to ensure the correct allocation of funds.

RETHINKING COST-RECOVERY UNDER CRISIS

The tension between ensuring sufficient utility revenues and access to essential services has a long history in Colombia. Today, with the strain of Covid-19, the increased tension has brought renewed attention to the *mínimo vital* with the possibility that a real guaranteed minimum water access might be established. At the beginning

of the 20th century, cholera and typhus caused significant suffering in Bogotá. In that context, local government, industry and the press pushed for the municipalization of water services to improve water quality and extend infrastructure to poor neighbourhoods. To pay the loan on the purchase of the water infrastructure, the city was dependent on user fees and installed volumetric metering by the late-1920s (Acevedo-Guerrero, Furlong and Arias 2016). From then on, full-cost recovery, metered billing, corporatization and various forms of cross-subsidization between income groups became central pillars of Colombian utility governance. These policies sought to reconcile various factors in a context of deep economic inequality and repeated economic crises: on the one hand, the need to guarantee water for human consumption and public health, and on the other, the need to secure the financial stability of utilities and maintain and expand basic infrastructure for water supply.

From the 1960s to the 1990s, Colombia's cross-subsidization system was nationalized, standardized and, under pressure from low-income users, tended (slowly) towards greater equity. The neo-liberal reforms of the 1990s, however, severely curtailed the level of cross-subsidy allowed while increasing fees and requiring suspension for non-payment. Municipalities and users' groups challenged these measures, and restrictions on cross-subsidies were gradually rolled back. In 2003, the Constitutional Court ruled in favour of the recognition of the right to water, underscoring water's status as a fundamental human right that is essential to health and life. The ruling prohibited service suspension in homes with vulnerable residents including children, people with certain health conditions, and senior citizens.

Following the ruling, cities like Bogotá and Medellín established a *mínimo vital* for water. These programs guaranteed a free basic amount of water per month for people living in low-income neighbourhoods (socioeconomic tiers 1-2). Still, the *mínimo vital* has not been adopted nation-wide and operates differently in each city. According to Restrepo and Zarate (2016), the *mínimo vital* is usually

linked to bill payment, as it is still legally required to suspend services for non-payment under Law 142 except in cases protected by the 2003 decision of the Constitutional Court. It is only in Bogotá that users are granted a *mínimo vital* irrespective of whether or not their bills are fully paid.

Covid-19 has brought the debate over the *mínimo vital* back to centre-stage. In July, the Green Alliance re-tabled their 2018 bill for a national *Mínimo vital de Agua*. While it was defeated in 2018, the Green Alliance senator Antonio Sandino argues that the crisis of Covid-19 has given it renewed importance. If successful, the initiative will “establish a *mínimo vital* for drinking water, improving the general well-being and the quality of life of the population” making it an essential element of “the fundamental right of Colombians to a dignified life” (Article 1, Bill 168/2020). The Bill defines the *mínimo vital* as the water needed by an individual to meet their basic needs and is set at 20 m³ per household per month in socioeconomic tiers 1 and 2 in every municipality across the country.

Efforts to nationalize the *mínimo vital* began in 2013. That year, three bills were tabled. Among them was a bill tabled by the Liberal Party, which included basic rights to telecommunications, water and energy services (Isaza 2014). Since 2013, at least 15 bills have been tabled to ensure access to public services as fundamental human rights, especially a *mínimo vital* for water. Still, none have made it into law. The reason always comes back to fears over utility solvency. As the president of Andesco asserted in a recent interview, although the Association of Colombian Utilities recognizes the necessity of water for life and health, in the Colombian context it is not possible to provide water for free and guarantee sufficient income to sustain utilities (El Espectador 2020f).

Nevertheless, the epidemic has strained these traditional positions. In a world where water has become essential in the fight against the spread of Covid-19, where people are seeing their incomes suffer due to mandatory isolation orders, and where many can no longer afford to pay their utility bills, there seems to be an

opening to rethink full cost recovery, cross-subsidization and tariffication in ways that place greater emphasis on health, adequate housing and basic human needs. Here, the debate over the *mínimo vital* has re-emerged alongside others for a universal basic income to ensure adequate living conditions for all Colombians (El Espectador 2020g), and a requirement that all homes be connected to water infrastructure (Bill 158/2020). In this context, Bogotá's mayor Claudia López sees the pandemic as a transcendental moment in the history of Bogotá through which she intends to establish a new social contract based on a new subsidy for the poorest families, and a revision of the socioeconomic tier system on which cross-subsidization is based, so that it better reflects people's incomes and enables greater redistribution (El Espectador, 2020h). Recalling the results of the Invamer survey above, Mayor López's proposals have a great deal of support and have no doubt helped to consolidate her position as a national figure and potential future presidential candidate.

CONCLUSION

These debates around water access and pricing are not novel. They are rooted in traditional responses to utility and water governance in Colombia that are themselves derived from dominant discourses around the social and economic objectives of the Colombian state. Still, these ideologies and responses are very much matters of political debate. As such, they must also be read in the context of the politicization of water and utility governance within Colombian partisan politics and the ideological positions that the various parties represent. These contests for political and electoral support are key to understanding the politics of water, its allocation and its governance (Acevedo 2018). Both President Duque and Mayor López promote policies that emanate from the political parties they represent. Through these positions, they aspire to appeal to sectors of the population in sufficient numbers to retain or increase their political influence and authority.

In debates over reconnection, tariff relief, utility financing, cross-subsidization and the *mínimo vital*, the ideological positions that divide Colombian political life are on full display. In the contemporary crisis, however, where the daily anguish of not knowing what will happen in the coming months, whether the preventive isolation will be re-extended, where money needed to sustain oneself and one's family will come from, or how accumulating utility debt will eventually be paid, a space may be opening for a softening of the neoliberal positions that have dominated Colombian water and utility governance since the 1990s. Mayor López and the Green Alliance may get a national *mínimo vital* this time around. Fingers crossed.

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