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# Why Environmental Conflicts Can Be Productive. The Conflict Over the Environmental Restoration of the Matanza-Riachuelo River Basin in Buenos Aires

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# Why environmental conflicts can be productive. The conflict over the environmental restoration of the Matanza-Riachuelo River Basin in Buenos Aires

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by María Gabriela Merlinsky

## Introduction

In Argentina, various collective groups claiming environmental impact have contributed to generating a discussion on development and its distribution effects in terms of environmental justice. The discussion is not only about the asymmetry between different actors in economic terms, but it also stirs up cultural and evaluative differences related to what is understood as fair in certain institutional choices.

This paper proposes that, in order to understand what is mobilized in these controversies both in cognitive terms and in terms of the interests involved, it is necessary to understand what is at stake in the specific spheres where these struggles take place. In order to demonstrate this, we need to move towards the study of environmental conflicts.

We have carried out a study of the environmental restoration of the Matanza-Riachuelo River Basin in the Province of Buenos Aires (Argentina). This case has great analytical value in helping us account for the way in which new social meanings have been attributed to the environment over the last decade in Argentina. The conflict is, moreover, destabilizing in political terms because actors at the local, state, national and even metropolitan level can be seen participating, but above all, because a process of social and political construction of the environmental issue is taking place in the public sphere. The

conflict created a scenario where arguments are built and exchanged over the legitimacy of certain decisions taken in relation to the management, appropriation, use and distribution of natural resources.

Our hypothesis is that this conflict has enabled the formation of public debate arenas that exert influence on the social selection of environmental issues, and have an impact on the institutional field of action of environmental policy.

A diversity of interests is mobilized and different kinds of knowledge are circulated to justify the reasons why some issues are considered to be present or to have a potential impact on people's health, the territory or the local way of life. Moreover, this knowledge is produced from different realms, which also include universities, epistemic communities and intellectual traditions.

We have developed an approach that focuses on analyzing not only the causes and characteristics of the conflict, but also its effects. The concept of conflict productivity is defined as the set of medium-term transformations which these conflicts generate in social life. If, after a conflict, «nothing is the same» for many of the protagonists, it is essential to record and analyze what it is that changed, and what it means.

The purpose of this paper is exposing our approach in the study of environmental conflict, and show illustrations from our research work on the conflict over the environmental restoration of the Matanza-Riachuelo River Basin. We will be referring to the territorial effects of the conflict and we will seek to raise some questions to feed the debate on the metropolitan environmental issue.

If we assumed that a conflict is something that should be silenced or rapidly resolved, as social analysts, we would leave aside the investigation of its production conditions. We need to be able to understand how positions and interests vary among the actors of a conflict to enable an under-

standing of the differences in their way of perceiving risk. For this reason, from our point of view, conflicts can be productive, which is to say, they make it possible to make manifest something which is otherwise not visible. On some occasions, they make it possible to open a public debate, on others, they may represent moments for learning and, above all, they constitute instances of political and legal socialization<sup>1</sup>. We will propose a few analytical keys that facilitate analysis of the social productivity of environmental conflicts.

### **Why are environmental conflicts not pathological events and what can we learn from them?**

Environmental conflicts (as well as social conflicts in general) cannot be assimilated into pathological behaviour explained either by the irrationality of the mobilizing actors, or by the intrinsic evilness of the dominant actors. If the actors mobilize in response to an event they consider threatening to their health, their way of life or the characteristics of the territory where they live, it is not due to an information deficit, an anti-technology stance or ignorance in the handling of scientific information. The actors make their claim based on complex processes of symbolic mediation that connect culture with perception, given that «the choice of risks and the choice of how to live are taken together»<sup>2</sup>. It is the controversies between the actors, and in reference to different events considered threatening, that make it possible to widen the range of available options to face a problem.

Socio-technical controversies are debates in which experts, politicians, technicians and laypersons participate in seeking to achieve a characterization of environmental threats and, especially, in searching for resolutions to a problem that may be considered believable and legitimate. In many cases, it has to do with forms of defence, and construction of a counter-

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<sup>1</sup> A. Melucci, *The Process of Collective Identity*, Cambridge, Cambridge University Press, 1995.

<sup>2</sup> M. Douglas and A. Wildavsky, *Risk and Culture: An Essay on the Selection of Technological and Environmental Dangers*, Berkeley, University of California Press, 1982, p. 8.

power with the aim of resisting the monopoly of knowledge in the closed circles where socio-technical decisions are made. In this sense, controversies contribute to creating sphere where the inventories of actors, problems and solutions are enriched. The emergence of new actors affected by an environmental problem causes a reshaping of the social landscape. It opens spaces where groups mobilize to debate technical decisions that compromise the collective work as spheres of deliberation and as a space for social experimentation. Callon, Lascoumes and Barthe<sup>3</sup> use the concept of «hybrid forum» to describe these spheres, made up of heterogeneous audiences, where problems are ascribed to different domains including ethics, economics, philosophy, scientific debates and politics.

The important thing is to understand that when an environmental conflict is set in the public domain, these controversies are multiplied and, apart from establishing their dynamics, organization and eventual closing, it is essential to assume that they are an appropriate answer to the increasing uncertainties generated by science, technology and the progress of the global frontier of capital. In this sense, we are discussing a much more comprehensive phenomenon; a sign of the times which has to do with the increasingly devastating experience that gathers different social actors affected by the appropriation and plundering of nature. Socio-technical controversies, which put at issue the boundary between the technical and the social as far as problem resolution is concerned, are a key element to understanding how knowledge of the environment is produced and transformed out of conflicts.

As the actors who participate in the controversy mobilize and enrol other actors while resolving the problem, from our perspective it is necessary to take the study of collective actions very seriously. The mobilizing actors are the «alarm raisers» in legitimate matters of social concern. However, it is important not to assign them a specific attribute in organizational terms, that is to say, not to assign an *a priori* characteristic to collective action.

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<sup>3</sup> M. Callon, P. Lascoumes and Y. Barthe, *Agir dans un monde incertain. Essai sur la démocratie technique*, Paris, Seuil, 2001.

In every conflict it is possible to establish a map of the most important actors, who are the ones who define the type of conflict. The balance in the relationship between the actors involved in a conflict is neither given nor unchangeable. The importance of identifying the actors lies in the fact that it allows us to see a dynamic process where strategies and positions are constantly re-developed. In methodological terms, it will be necessary to both identify what damages are perceived by an affected community or group, and to make an inventory of the set of antagonisms existing between the actors whose interests in relation to the environment are opposed, even if these are not made manifest in the public sphere.

### **The conflict over the environmental rehabilitation of the Matanza-Riachuelo Basin**

The Metropolitan Region of Buenos Aires is the most important political centre in Argentina and is part of a larger region commonly called the industrial river axis (*eje fluvial industrial*), composed of cities connected by ports and industries extending from La Plata to Rosario-San Lorenzo, 60 and 300 kilometres from Buenos Aires respectively. As the principal financial centre and the hub of production and consumption in Argentina, the metropolis of Buenos Aires possesses 50 percent of the country's labour force and 55 percent of its gross domestic product.

The economic activity of the metropolis provides sustenance for around 15 million people, who make everyday use of its electricity, transport, sanitation and education infrastructures, among others. All of these activities consume natural resources and generate environmental consequences that impact the health of the region's inhabitants. When the state does not intervene in the management and regulation of these forms of resource use, human demands on the environment quickly outstrip the regenerative capacity of natural systems, thus producing environmental problems.

Rivers in Buenos Aires are seen as resources to exploit and as dumping sites for all sorts of industrial and household runoff, to the point where

they have lost their essential biological characteristics<sup>4</sup>. The Argentine Supreme Court established a turning point in this process of degradation when, in 2006, it declared that it was competent to hear a case brought by a group of citizens demanding the environmental rehabilitation of the Matanza-Riachuelo Basin, the most notorious example of environmental contamination in all of Argentina. The residents along the river had sued a group of companies for environmental damages and the three governments that shared responsibility in the area – the national government, the provincial government of Buenos Aires, and the autonomous city government of Buenos Aires – for their failure to control the pollution.

In its judgment the Court demanded that the companies develop pollution control measures and that the governments act urgently to present an integrated, multistage plan to clean up the river basin. By demanding that the three governments work together, the Court placed at centre stage the problem of environmental governability in a metropolitan setting. The national state responded to this judicial order by establishing a new inter-jurisdictional authority, the *Autoridad de la Cuenca Matanza-Riachuelo* (ACUMAR), with management control over the rehabilitation process.

The final sentence from the Court on prevention and reversal of environmental damage was issued on July 8, 2008. It established the responsibility of the various jurisdictions in cleaning up the river basin and identified clear benchmarks to be met by ACUMAR, under penalty of personal fines against its functionaries. A local «first instance» court was given responsibility for monitoring fulfilment of the sentence, with additional monitoring by an alliance of environmental nongovernmental organizations (NGOs) coordinated by the government's ombudsman, the *Defensoría del Pueblo*. This implementation process is still under way, and the rehabilitation of

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<sup>4</sup> Cf. C. Herrero and L. Fernández, *De los ríos no me río: Diagnóstico y reflexiones sobre las Cuencas Metropolitanas de Buenos Aires*, Buenos Aires, Temas, 2008; M.G. Merlinsky, *Mists of the Riachuelo: River Basins and Climate Change in Buenos Aires*, in «Latin American Perspectives», vol. 43, n. 4, 2016, pp. 43-55.

the basin is still an uncertain wager that offers several important lines of inquiry.

In the Matanza-Riachuelo River Basin, the environmental tensions are closely linked to the role that the economic actors have historically played, premised on their discretionary power to use natural resources both as means of production and as collectors of hazardous effluents. Their capacity to impose on other actors the environmental costs of their economic practices (what, in economic terms, is called externalization of environmental costs), and the lack of state regulation, explain the basin's high level of environmental degradation. The communities living in informal settlements, which have no access to resources such as sanitation and safe water, and who suffer from health damage, are the most affected by this degradation process. But if we pay attention to the disputes taking place in the public sphere, we can identify a series of conflicts between economic actors (large versus small businesses), between political actors (the national government, the government of the Province of Buenos Aires, the government of the City of Buenos Aires, the municipal governments), between political actors, economic actors and utility companies, and conflicts over access to urban land (disputes between owners of urban land, real property speculators, citizens without land). If we reconstruct the multiple lines of articulation and tension between those actors, we find it is the complex weaving of values and interests in dispute that defines a situation that can be called an environmental conflict.

### **The deliberation arenas at different scales** |

At a metropolitan scale, the conflict over the cleaning of the Riachuelo River Basin did not have visibility until the precise moment when the National Supreme Court of Justice stepped in and the case became a judicial issue. What is more, it could be said that some of those tensions leading to the establishment of a territory were only expressed as conflicts once they acquired public status. To say it in typically sociological terms, it was a latent conflict that became exposed.



Therefore, we will need a theoretical and methodological strategy that makes it possible to reconstruct the particularities of the litigation field. This not only includes petitioners and defendants, supporters and opponents, but we should also consider other social actors who participate, with different material and symbolic resources, in the definition of access conditions to the goods in dispute. A key point that defines differences regarding the capacity of the actors to exert influence in the territory refers to the authority and power relations in each concrete case at the federal, provincial and municipal level, as well as to the conditions in which other actors constitute themselves as interlocutors – valid, legitimate – of this institutionality. At this point, it is important not to exclude from the analysis other transnational actors (companies, financial bodies, banks, consulting firms etc.), which are usually the great «facilitators» of international financing and support the implementation of projects.

And this leads us to another issue that is relevant in methodological terms. It is important to assume that the conflict generates debates at different scales and has repercussions through different forms of public deliberation. Thus, a single conflict may be defined in different ways at the local, regional, state, national and transnational level. This has several consequences from the point of view of research. In the first place, given that different actors participate and different social practices are implemented in each public deliberation arena, it is important to indicate which is/are the scale or scales of analysis to which our research inquiries make reference. Indeed, this will lead to the development of different maps of the litigation field. In the second place, one scale is influenced by the other. This frequently occurs when it comes to conflicts in which the territorial implementation of a global-scale economic activity is at stake, and it becomes crucial to understand the relative weight of transnational actors such as international banks, multinational companies, financial bodies, consulting firms that carry out environmental impact studies, international NGOs etc. During these processes, local actors seek allies beyond national borders and, thus, the conflict also becomes an international issue through the networks of international law practitioners.

## Putting the lens on the territorial productivity of environmental conflicts

Danny Trom<sup>5</sup> has pointed out that environmental conflicts – which are, by definition, multidimensional – are classified into two sub-types. The first includes conflicts that have no spatial inscription in the sense that they are based on reports of cases involving endangerment of people's physical integrity. Significant pollution events (such as the Chernobyl disaster) define their geographic contours concentrically, on the basis of measurable repercussions on people's health – which is to say, in an essentially derived manner. The environmental pollution affecting the body directly (effects on the organism) or indirectly (effects on the food chain) has no spatial limits assignable *a priori* because it depends on the specific extent of its dissemination.

The second sub-type of environmental conflict includes those conflicts occurring in the space itself, because it has its own characteristics. Conflicts over the landscape are typical illustrations of this sub-type, as they are defined in relation to a circumscribed portion of space, determined previously and not *ex post*. While the first category of conflicts involves a definition of people as bodies and representations of health and sickness, the second category considers the people affected in a historical and spatial setting, defining the convenient and the inconvenient on the basis of their historicity. Based on this, those who are involved in the latter type of confrontational struggle resort to a re-signification of space in aesthetic and identity terms. In response to the question: «Why not in this place?» the collective would say: «Because this place is different and has a history linked to our way of life, there is a close relationship between our identity and the characteristics of the environment you intend to modify». Therefore, the «rebuttal of the NIMBY<sup>6</sup> effect» leads to a refinement of the argu-

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<sup>5</sup> D. Trom, *De la Réfutation de L'Effet Nimby considérée comme une pratique militante. Notes pour une approche pragmatique de l'activité revendicative*, in «Revue Française de science politique», vol. 49, Paris, Presses de Sciences Po, 1999, pp. 31-50.

<sup>6</sup> The reaction of certain citizens who organize themselves to face the risks involved in the installation, in their immediate environment, of certain activities or facilities which are perceived as

ments to show that the place is not interchangeable and it has traits that make it immeasurable.

Consequently, one of the key aspects to understanding the territorial productivity of environmental conflicts has to do with understanding its effects in terms of the production of representations that give new value and qualifications to the space, and establish a renewed social bond between the collectives mobilized and the territory<sup>7</sup>.

In the conflict over the environmental restoration of the Matanza-Riachuelo River Basin, a process of territorial inscription takes place in which different actors rate the basin's degradation. It is no longer considered only as a contaminated river, but rather as a territory inhabited by social actors that suffer the consequences of that degradation. This transition indicates that there exists a new spatial delimitation: the basin, which has been constituted as a territorial narrative. This is an important effect in territorial terms.

There is a second approach to the territorial productivity of environmental conflicts, which has to do with the changes that conflicts produce on the concrete ways of controlling the space, i.e. the way in which political and legal arrangements on a given territory can be modified as a result of the conflict. If the situation after the conflict is not the same as before, this aspect may often be observed in changes to the territorial arrangements. This may either involve changes in the specific ways of using the land, such as modifications to the rules defining the property rights of different social actors and their effective forms of protection, or changes in the distribution

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dangerous was named, already a few years ago, by the acronym NIMBY, standing for «Not In My Back Yard». The very origin of this concept is often criticized for its pejorative sense, with the argument that the term entails a disregard for the claim usually known as «the NIMBY syndrome». W.R. Freudenburg and S.K. Pastor, *Nimbys and Lulus. Stalking the Syndromes*, in «Journal of Social Issues», vol. 48, n. 4, 1992.

<sup>7</sup> Cf. M.G. Merlinsky, *Environmental Conflicts and Public Deliberation Arenas Around the Environmental Issue in Argentina*, in «Ambiente & Sociedad», vol. 20, n. 2, 2017, pp. 121-138.

of power of the different units and levels of government to make decisions affecting the territory.

The contamination issue, as well as many other issues included under the environmental domain, refers necessarily to a territorial sphere that exceeds jurisdictional boundaries, and compels a re-definition of the subject of the claim at a scale that blurs those boundaries and constitutes a new spatial framework that does not strictly coincide with the political division of the territory. Consequently, environmental conflicts are destabilizing in political terms when there are several governmental jurisdictions involved. In the conflict over the environmental restoration of the Matanza-Riachuelo Basin, the issue over the legal power of the different jurisdictional levels makes reference to a historical issue having to do with the absence of metropolitan planning and the overlapping of competencies and laws. An innovative aspect was the creation of a new inter-jurisdictional body for environmental policy, the ACUMAR<sup>8</sup>, which enables a new spatial device for an environmental area: the basin. We do not mean by this that the judiciary process has been sufficient to destabilize obstacles hindering the effective coordination between the jurisdictions. However, we do intend to emphasize the territorial productivity of the conflict, given that there is a new arrangement of inter-jurisdictional government that «binds» the parties to establish new governability agreements in relation to the metropolitan territory.

The latter considerations constitute a fertile ground from where to reflect on the way to approach analysis of environmental conflicts in Argentina. While provincial governments have control over water courses – the Argentine National Constitution grants them original authority over the natural resources in their territory – in conflicts where the governability of a basin is at stake, usually several governments of different jurisdictions are involved: the national government, which has jurisdiction over waterways,

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<sup>8</sup> Spanish acronym for «Matanza-Riachuelo Basin Authority» («Autoridad de Cuenca Matanza Riachuelo»).

the provincial government, which has original authority over natural resources, and the municipal government, which has powers over the territorial land regulations. This framework of responsibilities shared by different jurisdictions generates fertile ground, which – from the viewpoint of collective action – makes it possible for a network of actors to establish intersecting links with the different levels of government. The balance resulting from these conflicts in Argentina showed that, for the first time, environmental governance began to be considered as a political issue, with a concrete existence for the management of the territory and its natural resources.

### **Final considerations**

The conflict we have analyzed has decisively influenced the construction of the social and political environment in Argentina. Having established a social space where different positions and dispositions are encountered in respect of something the participants recognize as an environmental question, the conflict we have analyzed constitutes a tangible indicator of the environmentalization of social conflicts. It is necessary to say, however, – so as to be consistent with our methodological premises – that we do not believe these conflicts are «representative» of environmental conflicts in Argentina. There is a very long list of environmental conflicts that do not reach such a high profile and which are related, for example, to access to land ownership, deforestation, the resistance to open-pit mining, the development of intensive agriculture, the use of agrochemicals, the localization of final waste management facilities etc. In the majority of these cases, the population has great difficulty making itself heard, and the actors remain publicly invisible, with no control over territories where economic groups have significant margins to dispose of the natural resources, the infrastructure and the use of the land. In many of these cases, the population resists situations in which they are forced to move (it is oft considered that these groups are «inviabile» within the framework of an «efficient» representation of the territory).

Having said this, we think it is important to emphasize that conflict over the environmental rehabilitation of the Matanza-Riachuelo Basin is not the

only driver to encourage changes in the environmental field, as this could cause sectors without a voice to remain unprotected, important resources to be destined for issues that are insignificant, or to the implementation of erratic policies. It is necessary to be very careful to assign these cases the status of exclusive sources of social legitimacy in the prioritization of the environmental issues that deserve to be the primary subjects of public attention.

We have noticed that natural resources have begun to hold a central place in the evaluation discourses of the social actors who have taken part in our investigations. On the basis of the implementation of justification models that do not accept the commodification of natural assets, the meanings constructed in the fervour of conflicts indicate that companies, especially industrial companies, have lost the legitimacy they used to have in the practice of different forms of subordinated extortion, by exchanging employment for contamination. Nowadays, those economic actors are being questioned, as are certain conceptions of development that regard territories as spaces to be emptied.

Finally, and after several years of dispute, there remains one question to be asked: what influence have those conflicts had on the distributive balances in favour of a more inclusive model, a model for the protection of common goods?

The judicial case in relation to the cleaning of the Matanza-Riachuelo Basin was a «leading case» that generated changes in the ways in which public policies are processed in the Buenos Aires Metropolitan Region. However, it also faced difficulty in finding institutional means that were sustainable over time, lasting beyond the periodicity of government offices.

The definition of long-term policies for the Matanza-Riachuelo Basin stood in contradiction with the periodicity of terms of office and with the ways in which government leaders accumulated political power. Both issues generated few incentives for the initiation of long-term reforms. Who will be the social actors in charge of defining, sustaining and bracing a

long-term program for the Matanza-Riachuelo Basin? Who are the ones who have the disposition and the resources necessary to extend the duration of that exercise of institutional imagination? We are not in a position to provide the answer, and we would prefer to leave the questions open, since – as the anonymous Danish proverb goes – if we look at change from change itself, it is as if nothing were changing.

In terms of the public debate on development, the Riachuelo conflict has reignited, at least partially, a debate on «the right to the city»<sup>9</sup>. Metropolitan Buenos Aires is a territory of urban segregation. The opportunities for access to quality soil, water sanitation and public services are distinguished between an affluent capital city and a suburban area with a high degree of social relegation. The Riachuelo conflict represents an opportunity to re-think the processes of differentiation and segregation that have historically guided the city's development. Also, if the exercise of institutional imagination is extended, a debate on possible future scenarios may be opened in terms of what kind of city we desire and what justice criteria will be used to define public policy decisions.

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<sup>9</sup> Cf. H. Lefebvre, *Le droit à la ville*, in «L'Homme et la société», n. 6, 1967. pp. 29-35, DOI: 10.3406/homso.1967.1063, available online at [http://www.persee.fr/web/revues/home/prescript/article/homso\\_0018-4306\\_1967\\_num\\_6\\_1\\_1063](http://www.persee.fr/web/revues/home/prescript/article/homso_0018-4306_1967_num_6_1_1063); C. Butler and H. Lefebvre, *Spatial Politics, Everyday Life and the Right to the City*, Abingdon, Routledge, 2012.

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