



# DEVELOPMENT POLICIES & PRACTICES

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## Regulation of services, a local issue!

Sustainable essential services thanks to local, active regulation

SINCE THE 1980S, ACCESS TO ESSENTIAL SERVICES FOR ALL HAS BECOME A PRIORITY IN PUBLIC SERVICES. THIS LED TO MASSIVE INVESTMENTS IN DRINKING WATER INFRASTRUCTURE AND, MORE RECENTLY, IN INFRASTRUCTURE FOR ENERGY, SANITATION AND WASTE MANAGEMENT. TODAY, THE ISSUE OF ENSURING THE QUALITY OF THESE SERVICES OVER TIME HAS BECOME CENTRAL. THE LAST TWO DECADES HAVE BEEN MARKED BY THE PROFESSIONALISATION OF ESSENTIAL SERVICES MANAGEMENT, LEADING TO OUTSOURCING TO PRIVATE OPERATORS OR STRENGTHENED PUBLIC ENTITIES. MANAGEMENT OF THESE SERVICES INVOLVES A MULTITUDE OF STAKEHOLDERS: FINANCIERS, HERITAGE MANAGERS, PROJECT OWNERS AND SERVICES OPERATORS, USERS AND POPULATIONS WHO ARE NOT YET CONNECTED AND WOULD LIKE TO BENEFIT FROM THE SERVICE.

BECAUSE OF THEIR CRUCIAL AND EVEN VITAL NATURE, AND THE SUBSTANTIAL COSTS THEY GENERATE, REGULATION OF THESE PUBLIC SERVICES REQUIRES PARTICULAR ATTENTION.

### Effective public services are essential for development

Public services supplying drinking water, sanitation, waste management and electricity are socio-technical systems catering for daily needs. Good operation of these services is a prerequisite for human development. They are increasingly complex due to urban growth and require a broad range of skills. As they are both crucial and costly, they must be competently managed. **Financed mainly by users (payment of bills) and citizens (via taxes)**, their efficiency, transparency and accountability must be effective.

However, in developing countries, they are often mediocre in quality and deteriorate over time. Operators' accountability, heritage management and planning of investments can be opaque. The objective of profitability can lead operators to develop services for the most affluent users, to the detriment of disadvantaged people. Opaquely managed deficient services generate a loss of confidence among users, vis-à-vis operators and public authorities. In addition, civil society, which is increasingly well organised, is becoming mobilised for greater transparency and participation in the definition of public policies and monitoring of services.

These shortcomings have multiple causes, with shared responsibilities, but they are not inevitable. **The implementation of local regulation systems with broader participation by stakeholders is a key element to address these shortcomings.**

**GRET**

GRET is an international fair development NGO that has been working for more than 40 years from field level to political level to combat poverty and inequalities.

## Reliable data to be produced and debated

Principles are necessary for effective regulation of services. Regulation requires access to data with sufficient quality so that its analysis can inform arbitrations requested and enable decisions to be taken. But producing and sharing quality data is not in itself enough. Data must be debated in forums of consultation bringing together stakeholders in the service. Regulation limited to producing and publishing scholarly indicators or identifying shortcomings without taking action is pointless. By **confronting the contradictory interests** of stakeholders in the service, regulation can contribute to improving the quality of the service.

## Which systems?

### Moving away from dominant models

Traditionally, two contrasting regulation and organisation models are put forward.

- **The first model is based on an independent national regulation agency in charge of monitoring and controlling services, and sanctioning any irregularities observed.** In countries with fragile, underfunded institutions, the capacity of such an institution to conduct its missions successfully can be questioned. Furthermore, a centralised agency can lack proximity to realities in the field and lead to decisions that are inapplicable.
- **The second model bases regulation on monitoring and application of contracts between local project owners and service operators without an external third party.** The local project owner is able to monitor the quality of the service and draw on the contract to ensure the operator fulfils its mission. This regulation solution can lead to (i) collusion of the interests of the operator and the project owner or (ii) asymmetric power or information.

How to go beyond regulation by an agency that is too remote from the field to be able to take effective decisions and regulation via a contract when the tandem made up of the delegating authority and the operator does not make for a balanced situation?

One solution is the implementation of regulation systems that are close to services, involving diverse stakeholders in transparent consultation.

A study conducted in Mauritania in 2017 shows that, among the different rural water management systems (community-based, public and private), the most sustainable are those that have an effective form of regulation. This regulation is ensured either formally by the regulation authority (in the case of delegation of public services), or by local authorities such as local leaders. It is possible when operator and project owner roles are separated.



## WHAT DOES REGULATION CONSIST OF?

Regulation consists of a set of tools and human resources making it possible to:

- define rules for operation of the service and its objectives;
- monitor and control the application of rules and undertakings;
- ensure these rules are respected and apply sanctions if they are not respected;
- adapt the rules to evolutions in the environment.

Regulation enables monitoring of service quality (continuity, coverage) and its equipment (technical standards, renewal), makes it possible to ensure compliance with the objectives of extension (right to water), protection of consumers (respect of prices, of water quality) and of water resources (eco-systemic uses, future users). Lastly, regulation makes it possible to work with stakeholders and to establish a climate of trust.

## LACK OF REGULATION IN THE SANITATION SECTOR

Disposal of faecal sludge is still poorly regulated in many countries: in some cases no rules exist, in others the rules are not known or not applied. In numerous towns and cities, sludge disposal takes place in pedestrian streets, in waterways or is spread in fields without any treatment, leading to uncontrolled health and environmental risks.

### Local stakeholders are the first to deal with conflicts

In reality, informal regulation systems exist in most cases. These can be customary authorities, people of influence or elected representatives, who are usually the first people called upon to address difficulties that may arise. These local stakeholders play an important role in settling conflicts, in arbitrations and in the application of decisions taken, without necessarily referring to written documents.

### Technical and financial monitoring systems, outsourced models that have proved successful

Technical and financial monitoring systems mobilise external operators to ensure monitoring of water services' performance, and report back to the project owner and users, thereby contributing to making operators accountable and minimise asymmetries between stakeholders. This model is particularly suited to small centres where operators' skills and communes' capacities are weak. Technical and financial monitoring operators also provide advice on operation and make recommendations to develop the service. Arbitrations and decisions remain a matter for the project owner. They are informed and discussed at public presentations.

This system, initiated in Mali in the 1990s, currently exists in several other countries. It takes various forms, such as the implementation of collective savings, enabling pooling of maintenance, or renewal funds. Its cost needs to be integrated into the price of water, this will ensure its effectiveness.



### Hybrid models enabling involvement of local stakeholders in the governance of services

There is no blueprint, effective regulation is underpinned by its adaptation to the context: which stakeholders are present? What are their trajectories? Which formal and informal systems are in place? Which type of operator is in place? What role should local authorities and users play? How to balance power relations?

Whatever the regulation systems promoted, these public services are local and they have a strong impact on users' daily lives. **Involvement of users in the construction/evolution of rules around these services and in arbitrations related to their development increases the chances of having a sustainable, effective, quality service.**

### Why have inclusive, local regulation?

Regulation is not just about indicators compiled in a spreadsheet. **Good regulation must be capable of ensuring rules are respected and of amending rules** according to realities that can evolve over time (demography, profitability, evolution in demand...). Yet, changing the rules means these realities must be known and shared so that acceptable arrangements can be reached by all the stakeholders (including users, who are the first to be concerned).

Inclusive, local regulation of public services makes it possible:

- for stakeholders to understand how services work, to understand the challenges involved and to contribute to their development;
- to take informed, appropriate, joint decisions enabling improvement of the service's quality and sustainability, and accurate adjustment of prices;
- to strengthen the legitimacy of water operators and project owners by making them accountable.

### Public services concern everyone: the thorny issue of transparency and inclusion of users in public policies

Whatever the manager, trust does not exclude control, particularly in the case of a vital service. **Making operations and heritage managers accountable contributes to limiting inefficient or abusive practices, and to ensuring constant improvement of the service.** Accountability requires transparency: it is necessary to have an accurate, informed overview of the state of management and ensure presentation of this to the public.

Users and citizens must be able to participate in consultation via local systems enabling discussions between users, local authorities, managers and State services. They must also be able to participate in

decision-making, within systems to coordinate services. These two levels of participation will favour shared understanding of the state of services and the challenges involved, prior to the construction of a joint vision of services, facilitating changes to be made, whether for operators or users.

### Conditions for success

Implementing inclusive local regulation requires two elements to be taken into consideration:

- **balance of power relations:** based on the scope of delegation and operators' level of professionalisation, user representatives' level of organisation and expertise will need to be adapted: the larger the scope of delegation with competent operators, the more remote the decision-making centre, and the more intense the efforts by users to ensure representativity and construct a solid argument;



### A COMMONS - BASED APPROACH ENABLING INFORMED MONITORING OF SERVICES

For two years, GRET has been conducting a multi-country programme based on the testing of a "commons-based approach", intending to facilitate coordination between users, public authorities and the public & private sectors in procedures for the governance of common goods or services.

One of the projects being conducted is focusing on the rural drinking water service in Senegal. *The commons-based approach* led GRET and its partners – POSCEAS and the Gorom Lampsar Users' Association - to formulate more ambitious recommendations on inclusivity and attempt to position Local authorities and users at the heart of the service, whose ownership is centralised and whose management is delegated to a private operator.

In concrete terms, local authorities and users' representatives are equipped in order to contribute to regulation of the service, facilitate inclusive local regulation spaces that are accepted by institutions and generate interest by mobilising innovative techniques such as role-play.

Connect to [www.gret.org](http://www.gret.org) to read:

- [Taking a commons-based approach, methods of action for the benefit of all](#)
- [A commons-based approach for a fairer, more sustainable world](#)



- **integration of the cost related to active accountability** (such as local meetings for monitoring of services) in the price of the service. This cost must not be considered as an optional adjustment variable, because it enables improvement of the service and of its efficiency.

This is why it is necessary to define the regulation system when defining management models: it makes it possible to take account of users' level of organisation and of local authorities' skills, to include obligations relating to accountability in delegation contracts and to anticipate its cost in the price of water.

### → IN CONCLUSION

Public authorities are responsible for implementing regulation systems, which ensure sustainable, quality services at the lowest cost possible. This process is closely linked to modes of management of the existing services, and there is no blueprint. This regulation will be effective if it draws on knowledge of the field and makes it possible to remain active by developing rules jointly. Certain principles make it possible to guide construction:

- **participation of local stakeholders**, in particular users and citizens, in the entire regulation process: co-construction of rules on services, monitoring and sanctions means they will be fairer and more effectively applied;
- **transparency and accountability of managers**, enabled by local inclusive regulation, generates greater trust among users and civil society in their authorities and service providers;
- **access to information** is strategic for decision-making. Therefore this information must be reliable and shared. Calling upon independent external entities (local operator or national authority) must complement operators' internal monitoring systems;
- **regulation has a cost**, it must be integrated into the price on the one hand (local regulation) and at national level (independent authority).

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