

1st international forum on

*REGULATION OF WATER SERVICES AND
SUSTAINABILITY*

**WATER REGULATION:
The key role of MICRO-INSTITUTIONS**

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**WATER REGULATION:
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**Central problem in regulation of public
utilities
(and particularly of water)**

Multiple 'principals'

Ex. of Manilla: 32 bureaus involved in
regulation of water and sanitation



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WHY?

A « CRITICAL INFRASTRUCTURE »...

“ a set of interdependent assets that are essential to a society for guaranteeing to its citizens that fundamental needs are met.”



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...That is **HIGHLY DECENTRALIZED**

= > 4 problems

- Adequate **Scope of control**
- Accurate **coordination**
- **Reliability** of the system
- Viability of the system (**sustainability**)



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CONSEQUENCE:

**COHERENCE PROBLEM IN
« CORE TRANSACTIONS »**

- Monitoring competing users
- Monitoring structural decisions



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TWO DIMENSIONS of COHERENCE ISSUE

- **Horizontal: parallel principals**

Different (and often competing) ministries and bureaus involved

=> key issue of **allocation of regulatory rights**



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**TWO DIMENSIONS of COHERENCE ISSUE
(ctd)**

- **Vertical: multiple layers** of regulators
(ex. of BA)
 - Technological constraints: decentralization
Versus
 - Transactional needs: coherence requires
coordination / centralization



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**TWO DIMENSIONS of COHERENCE ISSUE
(ctd)**

= > trade-offs:

- (a)** lower TC if centralized (« one-size-fits-all »)?
- (b)** Higher risk of hold-up and corruption if centralized?
- (c)** Completeness (control) vs. Flexibility (adaptability)



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TOWARDS PPP AS SOLUTION?

Not to be overstated

- * Gassner & al. (2007) : 837 out of 973 entities remain SOE
- * PWC (2005): Slow progress of PPP
(ex. of EU: of 16 member states, only 3 had **significant** PSP: UK, FR, Portugal – and qualification)
- * Guasch (2004): Very slow progress in LA



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**WHY IS IT SO DIFFICULT IN WATER AND
SANITATION SERVICES?**

**COHERENCE IN REGULATION DEPENDS
ON:**

- (1) Characteristics of sector**
- (2) Characteristics of regulator;**
- (3) Transmission 'wheels';**
- (4) Governance and human assets**



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**WHY IS IT SO DIFFICULT IN WATER AND
SANITATION SERVICES?**

COHERENCE IN REGULATION DEPENDS ON:

(1) Characteristics of sector:

→ Particularly close to pure natural monopoly

(2) Characteristics of regulator:

→ Because of tensions between and within two dimensions already identified (horizontal and vertical)



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	<i>Buenos Aires</i>	<i>Mexico City</i>	<i>Lima</i>	<i>Santiago</i>	<i>Abidjan</i>	<i>Conakry</i>
Separation of efficiency and equity functions	0	0	0	++	+	0
Autonomy of regulator	+	0	0	++	+	0
Expertise as criterion in selection of regulator	+	+	+	++	+	+
Clear identification of responsibilities and of persons in charge	+	+	0	++	+	0
Transparency of process and decisions	+	0	0	+	+	0
Power to collect information	+	0	+	++	+	0



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(3) Transmission wheels in water regulation

(a) Judiciary

Do not overstate its role

- * Negative Signaling effect (reputation and beyond)
- * No such thing as a free lawyer!
- * Increased uncertainty associated to interference of third party
- * Lack of judicial competence (corruption, influence)

But guarantees commitment in last resort



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Transmission wheels (ctd)

(b) Arbitration

Not well studied / documented

- * Frequency

- Guasch, 2004: renegotiations in 79% of cases in water sector (and on average after 1 ½ year)

- * Role of experts facilitates negotiation

- * Cost: advantages compared to courts

- * Problem if multiple principals or if multiple layers

Ex. of Buenos Aires or Manila

Role of public authorities as “arbitrators”

=> ARE PPPs UNSTABLE ARRANGEMENTS?



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(4) Key problem of HUMAN ASSETS

- * Why not more benchmarking?
 - Human assets in regulation (whatever its mode) in decentralized systems such as water and sanitation

- * Ex-ante: designing and allocating rights

- * Ex-post: collecting and processing information at local level
 - Short side vs. long side

- * Note that human assets can be a problem on both sides (**regulator** as well as **operator!**)



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Regional institutions as solution?

→ **Mostly infra-national so far**

- * **Basin agencies: allocating resources among users**
- * **Trade-off: reduces problem of human assets, but increases bureaucratic control**

→ **Supra-national solutions?**

- * **Case of rivers (& geopolitics)**



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CONCLUSION

- ** **Critical infrastructures** determine characteristics of **core transactions**
- ** Difficult **alignment** of mode of organization with regulation:
Characteristics of water and sanitation imposes regulation, but multiple principals challenge **coherence** of systems
- ** **"Micro-institutions"** as KEY FACTOR for coherence