



THE STATUS OF THE WATER SUPPLY AND SANITATION REGULATORY LANDSCAPE ACROSS AFRICA

WESTERN AFRICA – REGIONAL REPORT



REGIONAL OVERVIEW

Evidence suggests that a well-functioning regulatory system and the application of a robust set of regulatory mechanisms can play a crucial role in delivering and managing safe and reliable WSS services. Effective regulation demands alignment with country specific reforms, governance systems, political economy and development objectives. However, there has been limited reference material on the setup of these frameworks across Africa that can serve as replication points for countries intending to institute effective regulation.

This report provides an overview of WSS regulation across the Western Africa region in 15 countries: Benin, Burkina Faso, Cape Verde, Cote d'Ivoire, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo.


Key findings and overviews are based on a study initiated by ESAWAS and cover: the WSS context, policy and legal backing for WSS regulation, regulatory arrangements, different spheres of regulation (regulated service providers, regulated service delivery types), regulatory mechanisms, and the regulatory environment.

Water Supply and Sanitation context: Variable progress has been made in enhancing water supply and sanitation (WSS) services across Western Africa but considerable improvements are still required. Improvements have not occurred at the rate desired, and most Western African countries will likely miss the Sustainable Development Goal (SDG) Six targets of universal safe and reliable WSS services by a considerable margin. Across West Africa's 15 countries, average coverage rates for at least 'basic' water supply and sanitation services are 71% and 32%, respectively (JMP, 2020).¹ Water supply coverage is precisely in line with the continent-wide average, while sanitation coverage is well below the average for Africa (44%) and is the lowest of any African region. Various systemic weaknesses have impeded progress towards universal WSS.

Policy and legal backing: All West African countries, with the exception of Guinea-Bissau, have developed national policy documents for WSS, which typically provide high-level objectives for the WSS sector but vary widely in the degree to which regulation is specifically addressed. In terms of the legal framework, seven of the countries have an appropriate legal backing for water supply regulation while 11 countries do not have sufficiently detailed legal instruments for regulating sanitation services.

Regulatory models: A variety of regulatory arrangements exist for WSS service delivery. Four main regulatory models are utilised to regulate WSS service delivery:

- I. **Regulation by Agency.** A regulatory body (semi-) autonomous from the government has discretionary powers to regulate WSS or aspects of WSS.
- II. **Regulation by Contract.** A public entity other than an (semi-) autonomous regulatory agency and a service provider agree on contractual clauses that determine how key aspects of WSS service provision are defined and controlled, such as tariffs and service standards.
- III. **Ministerial Regulation.** A ministry performs some or all regulatory responsibilities for WSS and does not use contracts as a core regulatory tool for WSS service provision.
- IV. **Self-Regulation.** A service provider (typically a public utility or unit of local government) is legally mandated to perform key regulatory activities upon itself (i.e., setting tariffs and performance standards, performance reporting).

Table A details the main regulatory models applied per country and across Western Africa highlighting the predominant² ones (marked as ). It highlights that most countries apply multiple regulatory models across the four WSS sub-sectors (urban water supply, rural water supply, urban sanitation, and rural sanitation) and for different service providers. In many countries, this reflects how different regulatory arrangements have been developed to account for the wide range of WSS service providers. In some countries (i.e., Ghana,

¹ A basic water supply services refers to drinking water from an improved source, provided collection time is not more than 30 minutes for a roundtrip including queuing. A basic sanitation service is the use of improved facilities which are not shared with other households.

² The predominant regulatory model refers to the regulatory model under which the primary service provider in each country is regulated. In most cases, this refers to how a national or regional utility is regulated.

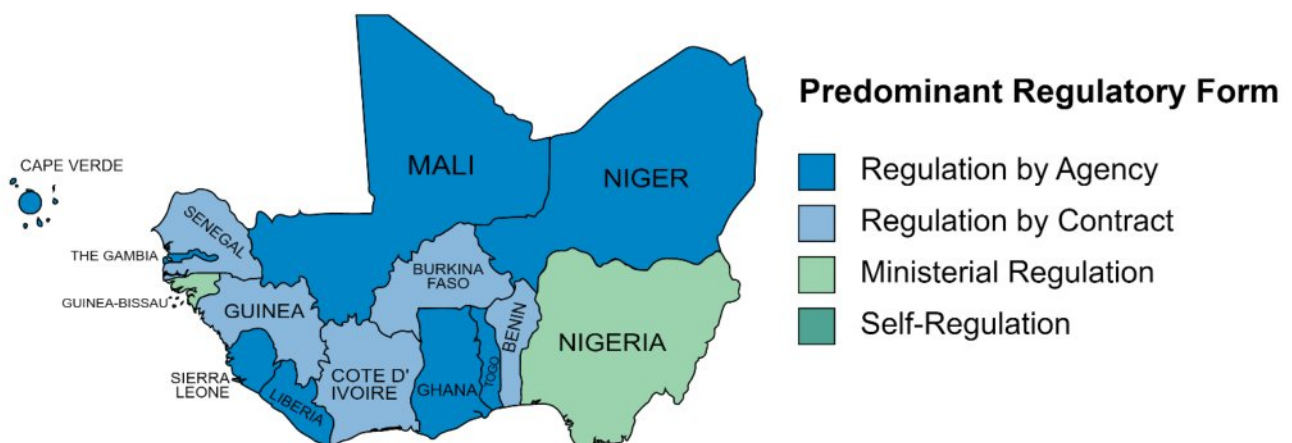
Liberia, Togo), it illustrates how regulatory arrangements are fragmented, with responsibilities split among several institutions and sometimes overlapping.

Table A: Regulatory models Applied for Water Supply and Sanitation Service Provision

Country	Regulatory model			
	Regulation by Agency	Regulation by Contract	Ministerial Regulation	Self-Regulation
Benin	✗	✔	✔	✗
Burkina Faso	✗	✔	✔	✗
Cape Verde	✔	✗	✗	✗
Cote d'Ivoire	✔	✔	✗	✗
Gambia	✔	✗	✔	✗
Ghana	✔	✔	✔	✗
Guinea	✗	✔	✔	✗
Guinea-Bissau	✗	✗	✔	✗
Liberia	✔	✔	✔	✔
Mali	✔	✔	✔	✗
Niger	✔	✔	✔	✗
Nigeria	✔	✗	✔	✗
Senegal	✗	✔	✗	✗
Sierra Leone	✔	✗	✔	✗
Togo	✔	✔	✔	✗
Total – Regulatory model Applied	10 (67%)	10 (67%)	12 (80%)	1 (7%)
Total – Predominant Regulatory model	8 (53%)	5 (33%)	2 (13%)	0 (0%)

The use of multiple regulatory models and the variations in their application makes it is useful to note the primary regulatory model applied in each country.³ Figure A presents this.

Figure A: Predominant Regulatory model Applied for Water Supply and Sanitation Service Provision



In several Western African countries, WSS regulation is starting to receive concerted attention and reform. Over the last 20 years, WSS service delivery regulation has seen varying degrees of advancement. In countries such as Senegal and Cape Verde, institutional reforms have created conditions for more active regulation of WSS services, while in countries such as Guinea and Nigeria, WSS regulation has been more

³ The predominant regulatory model refers to the regulatory model under which the primary service provider in each country is regulated. In most cases, this refers to how a national or regional utility is regulated.

limited. Several countries have recently taken steps to strengthen WSS sector regulation. These include establishment of a new WSS regulatory agency (Liberia), institutional restructuring to create a single lead ministry for WSS (Senegal), adoption of new policies and strategies placing increased emphasis on regulation (Gambia) and developing new standards and guidelines (Ghana). Regulation of smaller-scale, deconcentrated service providers such as private vacuum tanker operators and rural water committees remains a challenge in most West African countries, however in some cases, such as Mali, Burkina Faso, and Senegal, there has been good progress in regulating these providers.

Spheres of regulation: Regulatory activities primarily focus on the main WSS service providers in each country and the piped water supply and sewered sanitation services they predominantly provide. In most countries, the primary regulatory actors (i.e., a ministry or regulatory agency) focus on the large formal WSS service providers (i.e., national or regional utilities and large private operators) that predominantly serve urban and peri-urban areas. These service providers have been the focus of the various regulatory mechanisms developed and applied, while limited attention is given to smaller, deconcentrated service providers. For example, private vacuum tanker operators are key providers of emptying and transport services for onsite sanitation facilities in most West African countries, but relatively few countries – notably Burkina Faso, Gambia, Mali, and Senegal – have taken meaningful steps to start regulating these service providers in a structured and consistent manner. Linked to this, regulation of WSS services predominantly focuses on piped water supply services and – to a somewhat lesser extent – sewered sanitation. Several West African countries have officially decentralised regulation and oversight of non-networked WSS services or smaller-scale providers to the local level, but local governments often lack the resources, capacity, and/or clear guidance necessary to take up their regulatory mandates, leading to a gap in regulation of non-networked services.

Regulatory mechanisms: Variable progress has been made in developing and applying regulatory mechanisms; however, greater emphasis has been given to developing mechanisms for water supply relative to sanitation. A regulatory mechanism is an intervention or process used by a regulatory actor to guide and influence the behaviour and performance of key stakeholders within the WSS sector, particularly service providers. The existence of 16 individual regulatory mechanisms were investigated across four areas: (i) standards and guidelines;⁴ (ii) monitoring and performance reporting;⁵ (iii) incentives;⁶ and (iv) sanctions.⁷ Figure B presents a summary of each country's performance developing and applying regulatory mechanisms across these four areas. Performance in Western Africa is largely moderate to good, with some variation: 11 of the 15 countries have developed at least 10 of the 16 regulatory mechanisms investigated, but there are two countries with five regulatory mechanisms or fewer. While many countries in the region perform reasonably well, only two, Cape Verde and Gambia, have all regulatory mechanisms investigated in place. Of the four investigated areas, moderate progress has been made in the Western African region in developing standards and guidelines and monitoring and performance reporting. Most countries have at least some sanctioning mechanisms in place, but these are rarely applied. Financial and reputational incentives are less commonly utilised, with only four countries applying either of these mechanisms.

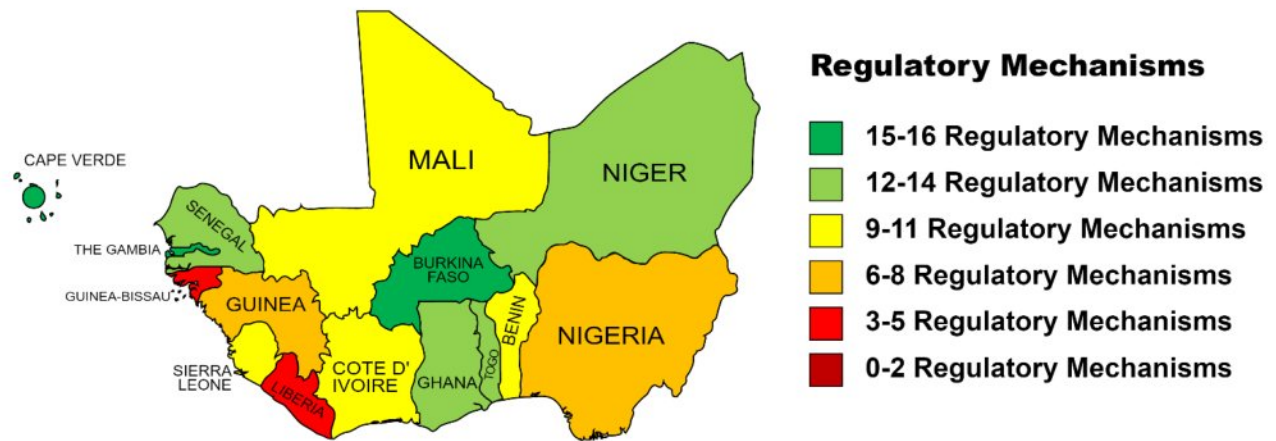
⁴ Six regulatory mechanisms were investigated in relation to standards and guidelines. These were: (i) Whether standards and guidelines exist for service levels and water quality; (ii) Whether standards and guidelines exist for tariff rates, tariff setting and tariff adjustments; (iii) Whether standards and guidelines exist for the planning activities of WSS service providers (i.e., business planning, financial projections, accounting, annual reporting); (iv) Whether standards and guidelines exist for citizen involvement and complaints mechanisms; (v) Whether standards and guidelines are designed to help ensure poorer and potentially marginalised populations receive affordable services; and (vi) Whether standards and / or guidelines exist for environmental protection.

⁵ Six regulatory mechanisms were investigated for monitoring and performance reporting: (i) Whether appropriate quality of service indicators are periodically tracked by the regulator; (ii) Whether appropriate economic efficiency indicators are periodically tracked by the regulator; (iii) Whether appropriate operational sustainability indicators are periodically tracked by the regulator; (iv) Whether regulated service providers regularly (i.e., annually) submit reports and data to regulatory actors; (v) Whether regulatory actors annually inspect and audit regulated service providers; and (vi) Whether annual reports produced on sector and regulated service provider performance.

⁶ Two regulatory mechanisms were investigated for incentives: (i) Whether regulatory actors use financial incentives to promote improved service provider performance; and (ii) whether regulatory actors use reputational incentives to promote improved service provider performance.

⁷ Two regulatory mechanisms were investigated for sanctioning: (i) Whether regulatory actors have the ability to issue fines to service providers; and (ii) Whether regulatory actors have the ability to suspend, remove, or transfer service provider licenses.

Figure B: Top-Level Overview of Regulatory Mechanisms for WSS Service Provision



Regulatory environment: Although some countries perform well, the regulatory environment for WSS regulation is mixed in most West African countries, with a number of significant challenges evident. A number of regulatory actors are financially and operationally autonomous and can adjust tariffs without approval from another government authority. However, many regulatory actors are part of, or closely connected with, a Ministry and receive their funding from central government budgeting processes, and even some institutions that are legally established as financially autonomous remain, in part, dependent on government financing. The extent of public participation varies widely, with some countries having formal mechanisms to ensure participation and others either engaging informally, mainly with civil society, or lacking participation mechanisms entirely. Regulatory reports of varying levels of detail are made publicly available in seven of 15 countries. Cape Verde, Gambia, Ghana, Mali, and Sierra Leone stand out as having made substantial progress in ensuring autonomy, participation, and transparency, albeit with further actions and improvements still required.

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1

INTRODUCTION

1. INTRODUCTION

The attainment of Sustainable Development Goal (SDG) 6 on ensuring the ‘availability and sustainable management of water and sanitation for all’ is a crucial target for most countries. Across Africa, many systemic weaknesses undermine WSS service provision, contributing to the failure to expand access at the required rate and deliver sustainable and equitable services over time. A well-functioning regulatory system is a key-driver in delivering safe, equitable and reliable water supply and sanitation (WSS) services. Regulators ensure that service providers are accountable and supported to perform effectively, provide services equitably, that the tariffs and other financing tools help achieve sustainability while meeting the needs of the urban poor, and that key performance indicators are available for purposes of service provider benchmarking and sector performance reporting.

There is no single ‘best-practice’ or one-size-fits-all approach to regulating WSS service delivery. Various arrangements exist for regulating WSS service delivery, including regulation by agency, regulation by contract, ministerial regulation, and self-regulation. However, there has been limited up-to-date reference material on the different regulatory setups across Africa. This lack of insight limits the understanding of common challenges and trends as well as the determination of good practices to serve as models for replication in countries looking to improve WSS regulation or institute necessary reforms. Within this context, the Eastern and Southern African Water and Sanitation Regulators Association (ESAWAS) commissioned a study to map the status of WSS regulatory arrangements in all 55 African countries.⁸

This report provides an overview of WSS regulation across the Western Africa region in 15 countries: Benin, Burkina Faso, Cape Verde, Cote d'Ivoire, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo. It includes a summary of the regulatory arrangements for WSS in rural and urban areas, as well as the closely related sub-sectors of environmental protection and water resources management. Information is also provided on the legal and policy backing for WSS regulation, different spheres of regulation (regulated service providers, regulated service delivery types), regulatory mechanisms, and the state of the regulatory environment. This region report is drawn from country reports which provide more detailed country-specific information, while a separate continent-wide report presents a top-level overview of the status of WSS regulation across Africa.

1.1. STRUCTURE

The remainder of this report is structured into the following sections:

- **Section Two** presents an overview of the socio-economic and WSS context of the region.
- **Section Three** details the policy and legal frameworks for WSS regulation, providing key information on whether legal instruments sufficiently support WSS regulation.
- **Section Four** outlines the different regulatory models and regulatory arrangements for WSS regulation.
- **Section Five** presents the extent to which different service providers and service delivery types are regulated.
- **Section Six** presents the regulatory mechanisms that have been developed – and applied – across four aspects: (i) standards and guidelines; (ii) monitoring and performance reporting; (iii) incentives; (iv) sanctions.
- **Section Seven** focuses on the regulatory environment for WSS regulation.

Across each of these sections, a number of case-studies are provided in boxes to showcase good practices or illustrate broader trends in the regulation of WSS services.

⁸ The full list of 55 countries is based on the African Union’s Member States. See: https://au.int/en/member_states/countryprofiles2

2

WATER SUPPLY AND SANITATION CONTEXT

2. WATER SUPPLY AND SANITATION CONTEXT

Western Africa represents a diverse context for WSS, both among and within countries. Figures 1 and 2 present coverage rates for at least ‘basic’ water supply and sanitation services and plot these against per capita gross national income.⁹¹⁰ These figures highlight varying levels of coverage of at least ‘basic’ WSS services across the region, from Cape Verde, Mali and Senegal with very high coverage rates to countries such as Niger, Burkina Faso, and Guinea Bissau with much lower performance. Although there is a broad trend between WSS coverage rates and economic development, there are many notable outliers and substantial variations in coverage rates across income levels.

Figure 1: At Least ‘Basic’ Water Supply Coverage and GNI per Capita (PPP)

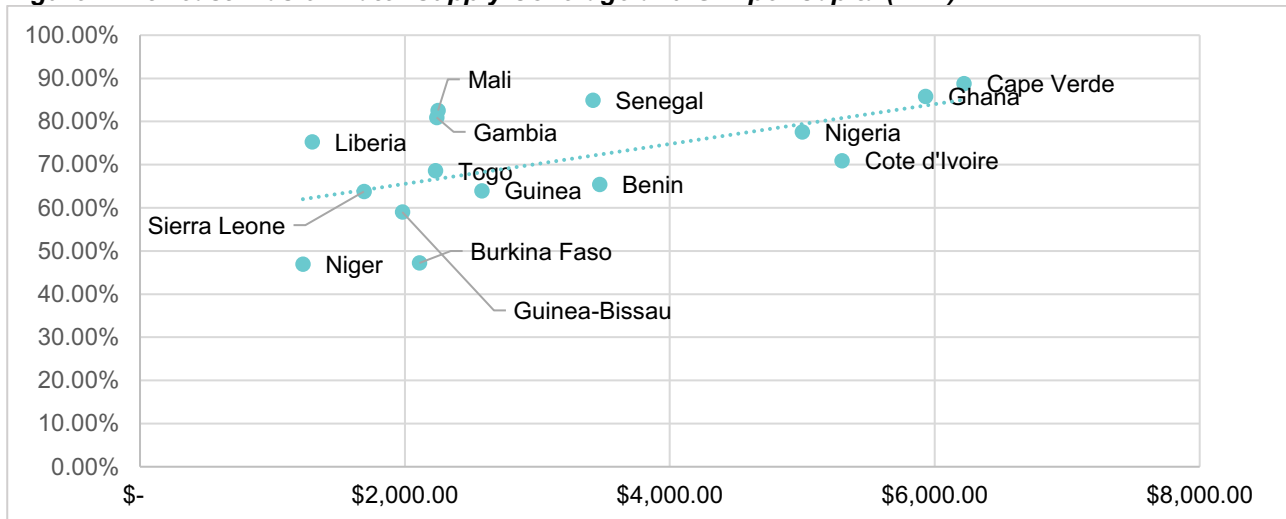
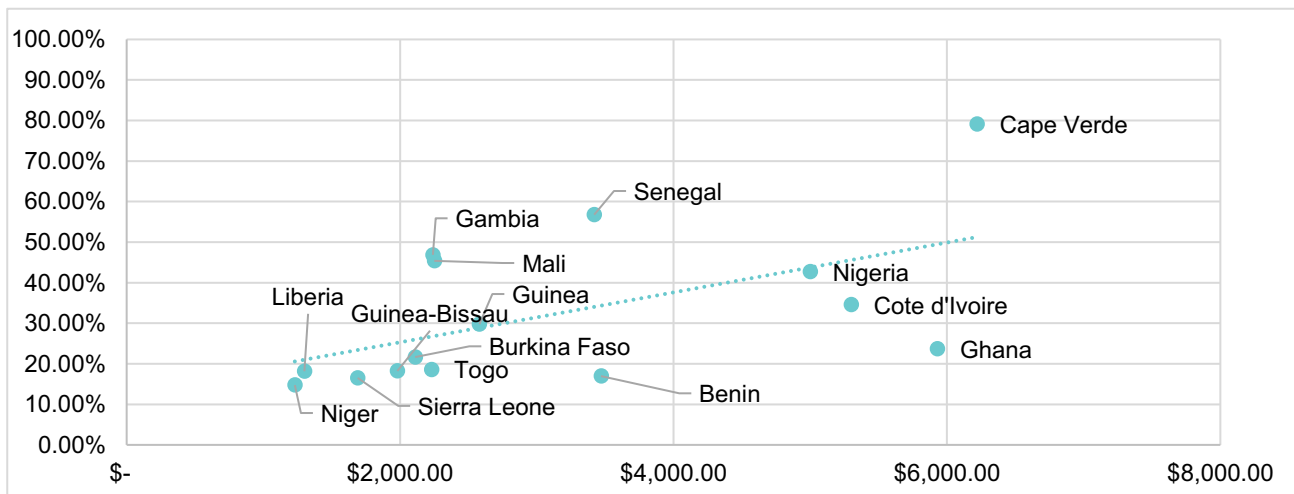


Figure 2: At Least ‘Basic’ Sanitation Coverage and GNI per Capita (PPP)



Western African countries have largely made progress in improving WSS services. Figures 3 and 4 present how WSS coverage rates have changed over the last two decades. While considerable work remains, these figures highlight that important progress has been made in expanding access to WSS services in most countries. There are notable exceptions, however: water supply coverage has declined in Burkina Faso over the last 20 years and sanitation coverage has deteriorated in Gambia in the same period. Water supply coverage has been stagnant in Benin and Guinea Bissau, and improvement in sanitation coverage has been slow in Liberia and Sierra Leone. Especially significant improvements in water supply services are evident in

⁹ Data presented in this section is predominantly sourced from the Joint Monitoring Program to aid analysis between countries based on a comparable methodology. However, Table 1 also includes country reported data on four key indicators.

¹⁰ A basic water supply services refers to drinking water from an improved source, provided collection time is not more than 30 minutes for a roundtrip including queuing. A basic sanitation service is the use of improved facilities which are not shared with other households.

Mali and Nigeria, while Cape Verde has made the most considerable increase in coverage of at least 'basic' sanitation services.

Figure 3: At Least 'Basic' Water Supply Coverage (2000-2020) –Western African Countries

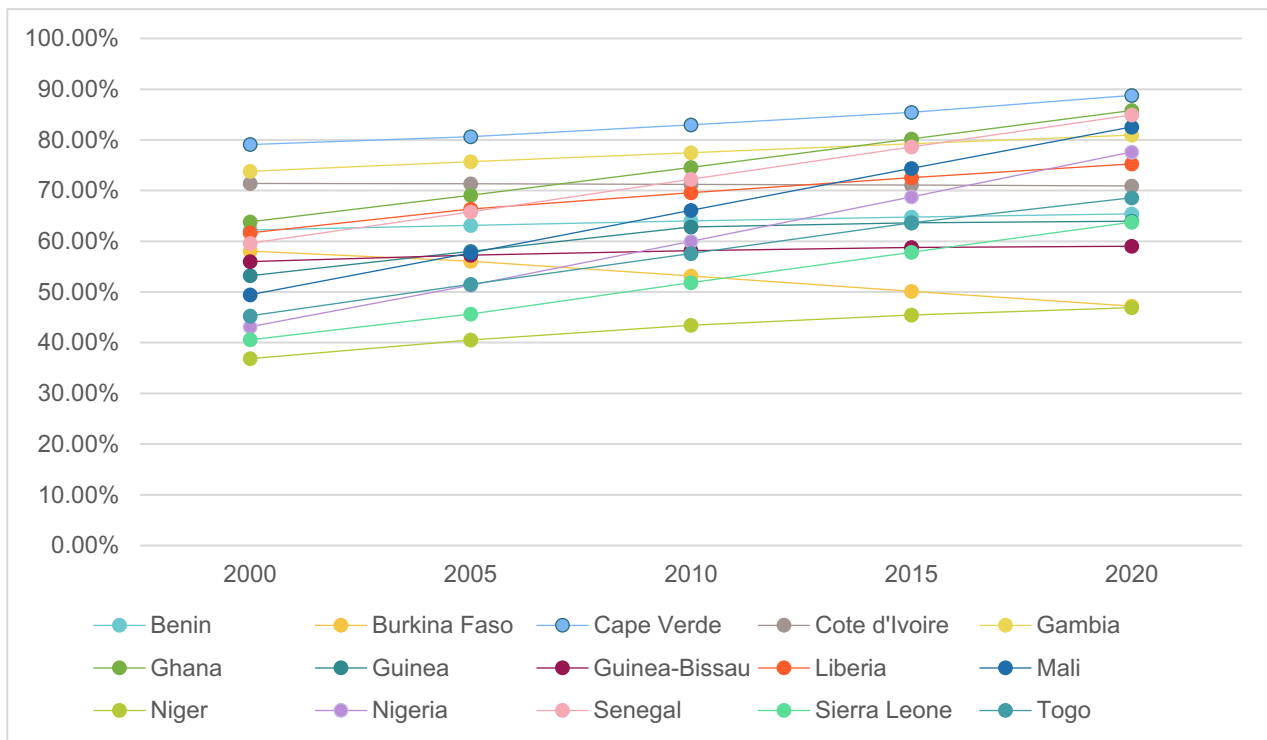
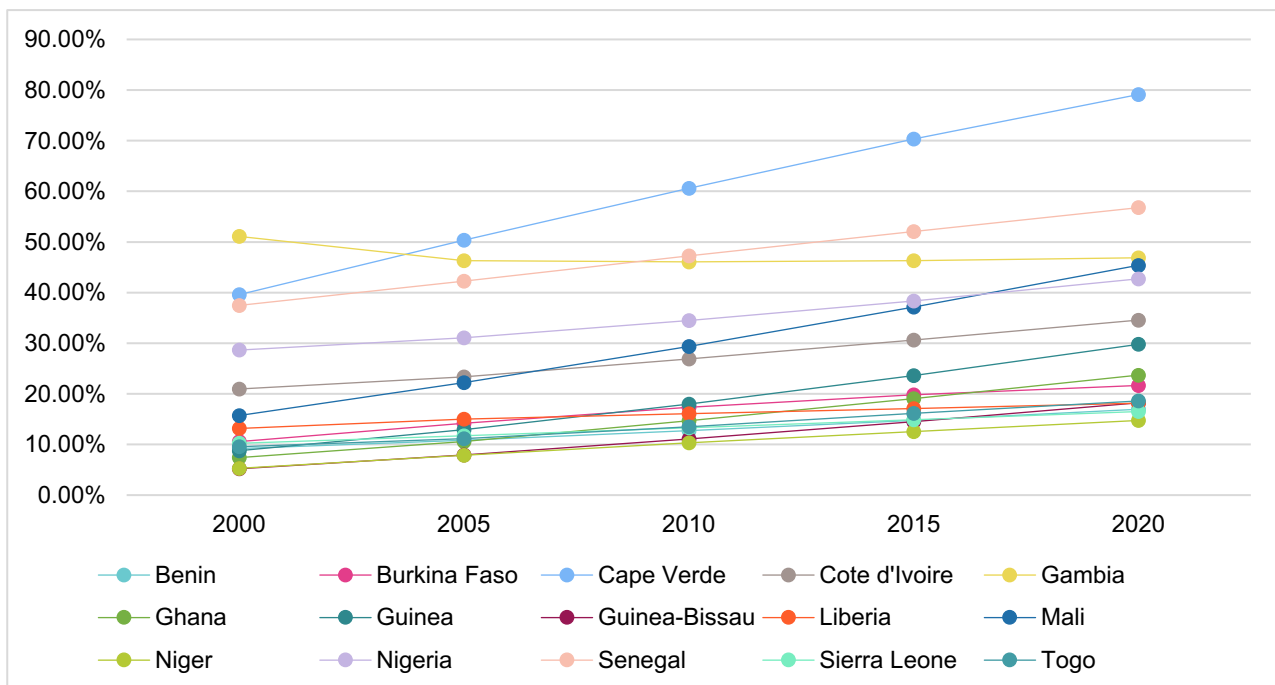


Figure 4: At Least 'Basic' Sanitation Coverage (2000-2020) – Western African Countries



West African countries vary considerably in their performance against key economic and developmental dimensions. Table 1 presents data for each of the 15 West African countries for a wide range of key indicators, spanning economic, human development, demographic, climatic, fragility, and WSS aspects. Across each of the indicators detailed, Table 1 shows varying levels of performance or conditions for delivering WSS services. Notably, nine of 15 countries rank in the top 25% of the Fragile States Index, highlighting the challenging environment for WSS service delivery. Many countries did not have a reliable or updated source of information for at least one of the country-reported indicators and in these cases, it is labelled as “no data”.

Table 1: Western Africa Socio-Economic and Water Supply and Sanitation Indicators

Country	Income Classification ¹¹	GNI per Capita (PPP)	Population (Millions)	Rural Population (%)	Human Development Index (Rank, Max. 189)	Fragile States Index (Rank, Max. 179)	Climate Vulnerability and Readiness Index (Rank, Max. 182)	At Least 'Basic' Water coverage (%) (JMP)	Water coverage (%) (Country Reported)	At Least 'Basic' Sanitation Coverage (%) (JMP)	Sanitation coverage (%) (Country Reported)	Non-Revenue Water (Country Reported)	Cost Coverage of WSS Service Providers (Country Reported)
Benin ¹²	LMIC	\$1,280	12.12	51.56%	0.545	78	159	47.2%	65.4%	17.0%	17%	No Data	No Data
Burkina Faso ¹³	LIC	\$2,055	20.9	69.39%	0.452	36	156	88.8%	74.4%	21.7%	25.3%	No Data	No Data
Cape Verde ¹⁴	LMIC	\$3,060	0.56	33.35%	0.664	110	76	70.9%	71.7%	79.1%	85.2%	34.7%	Reported per provider
Cote d'Ivoire ¹⁵	LMIC	\$5,300	26.38	48.29%	0.538	28	144	80.9%	80%	34.6%	36%	No Data	No Data
Gambia ¹⁶	LIC	\$2,240	2.42	37.42%	0.496	55	145	85.8%	91%	46.9%	51%	35%	No Data
Ghana ¹⁷	LMIC	\$5,930	31.07	42.65%	0.611	113	111	64.0%	92%	23.7%	59.3%	49.31%	41%
Guinea ¹⁸	LIC	\$2,580	13.13	63.13%	0.477	14	148	63.9%	58%	29.8%	27%	No Data	No Data
Guinea-Bissau ¹⁹	LIC	\$1,890	1.97	55.80%	0.48	27	179	59.2%	59.8%	18.2%	14.4%	No Data	No Data

¹¹

Indicator	Income Classification	GNI per Capita, PPP (US\$)	Population	Rural Population	Human Development Index	Climate Vulnerability and Readiness Index	At Least 'Basic' Water coverage (%)	At Least 'Basic' Sanitation Coverage (%)
Source	World Bank Open Data. Available at: https://data.worldbank.org/				Human Development Data Centre. Available at: https://hdr.undp.org/en/data	Notre Dame Global Adaptation Initiative. Available at: https://gain.nd.edu/our-work/country-index/	Joint Monitoring Programme. Available at: https://washdata.org/	

¹² Country reported data for Benin is based on the Biannual Report on the National Program for Sanitation, Wastewater and Excreta and National Program for Provision of Drinking Water (2020).

¹³ Country reported data for Burkina Faso is from the PN AEUE (Programme national d'assainissement des eaux usées et excreta and PN AEP (Programme national d'approvisionnement en eau potable).

¹⁴ Country reported data for Cape Verde is based on information provided in the National Institute of Statistics' Statistics of Family and Life Conditions Continuous Multi-objective Survey (2019) for water and sanitation coverage and the Annual Water and Sanitation Sector Report (2019) for non-revenue water.

¹⁵ Country reported data for Cote d'Ivoire on water and sanitation coverage is based on information provided in: Programme Social du Gouvernement 2019-2020

¹⁶ Country reported data for Gambia on water and sanitation coverage is based on information provided in: Demographic and Health Survey (2019) for water and sanitation coverage and in the Public Utilities Regulatory Authority Annual Report (2019) for non-revenue water.

¹⁷ Country reported data for Ghana on water and sanitation coverage is based on information provided in: Ghana Statistical Service, Ghana Population and Housing Census (2021). Data available is for improved, rather than basic, water supply and sanitation coverage. Data on NRW and cost coverage is based on information provided in: Public Utilities Regulatory Commission Annual Report, 2019.

¹⁸ Country reported data for Guinea on water and sanitation coverage is based on information provided in a feasibility study by the Service National des Points d'Eau, 2014.

¹⁹ Country reported data for Guinea-Bissau on water and sanitation coverage is based on information provided in the Multi-Indicator Cluster Survey (2019) conducted by the Ministry of Economics and Finance and National Statistics Institute in collaboration with UNICEF.

Liberia ²⁰	LIC	\$1,300	5.06	47.91%	0.48	31	173	82.5%	74%	18.2%	24%	No Data	No Data
Mali ²¹	LIC		20.25	56.09%	0.434	19	170	46.9%	69.6%	45.4%	55.9%	No Data	No Data
Niger ²²	LIC	\$1,230	24.21	83.37%	0.394	21	176	77.6%	No Data	16.2%	15.4%	No Data	No Data
Nigeria ²³	LMIC	\$5,000	206.14	48.04%	0.539	12	161	84.9%	70%	42.7%	44%	No Data	No Data
Senegal ²⁴	LMIC	\$3,420	16.74	51.88%	0.512	76	135	63.8%	88.6%	56.8%	54.3%	No Data	No Data
Sierra Leone ²⁵	LIC	\$1,690	7.98	57.08%	0.452	45	157	68.6%	65.9%	16.5%	54.6%	No Data	No Data
Togo ²⁶	LIC	\$2,230	8.28	57.20%	0.515	38	139	47.2%	68.1%	18.6%	19.1%	No Data	No Data

²⁰ Country reported data for Liberia on water and sanitation coverage is based on information provided in: Liberia Demography and Health Survey (DHS), 2019-2020

²¹ Country reported data for Mali on water and sanitation coverage is based on information provided in: Mali Demographic and Health Survey, 2018. Data available is for improved, rather than basic, water supply and sanitation coverage.

²² Country reported data for Niger on sanitation coverage is based on information provided in: Multi-Sectoral Needs Assessment, 2020. Data available is for improved, rather than basic, sanitation coverage.

²³ Country reported data for Nigeria on water and sanitation coverage is based on information provided in: Water, Sanitation, Hygiene National Outcome Routine Mapping report, 2019.

²⁴ Country reported data for Senegal on water and sanitation coverage is based on information provided by Ministry of Water and Sanitation's (MEA's) website. Data available is for improved, rather than basic, water supply and sanitation coverage.

²⁵ Country reported data for Sierra Leone on water and sanitation coverage is based on information provided in: Sierra Leone Demographic and Health Survey, 2019. Data available is for improved, rather than basic, water supply and sanitation coverage.

²⁶ Country reported data for Togo on water and sanitation coverage is based on information provided in: Togo Demographic and Health Survey, 2017.

3

POLICY AND LEGAL FRAMEWORKS FOR WATER AND SANITATION REGULATION

3. POLICY AND LEGAL FRAMEWORKS FOR WATER AND SANITATION REGULATION

The policy and legal framework provide an enabling environment for regulation. The political, institutional, and legal setup of the market to be regulated are the foundations for effective regulation of the water supply and sanitation services sector. It is critical that the context, powers and boundaries of regulation are clearly and objectively defined, ensuring proper segregation of functions, and avoiding gaps or overlapping of functions among the various sector players. Under this section, policies, strategies and plans, laws and decrees were reviewed.

3.1. POLICIES AND FRAMEWORKS

National policy documents typically emphasise the need to strengthen WSS regulation but vary in the extent to which they detail tangible measures for implementation. All West African countries, with the exception of Guinea-Bissau, have developed national policy documents for WSS, which typically provide high-level objectives for the WSS sector but vary widely in the degree to which regulation is specifically addressed. A few countries (i.e., Gambia, Sierra Leone) include details on steps to be taken to strengthen regulation in policy documents; however, in most West African countries, policy documents only briefly mention the importance of regulation or a desire to improve it without noting specific measures. Most countries have not developed strategic frameworks or documents specifically focused on measures to be taken to strengthen aspects of WSS regulation, although in some cases regulation is addressed in broader WSS sector strategies. Liberia illustrates some of the potential challenges of policy and legal reforms focused on strengthening WSS regulation (Box 1).

Box 1: Liberia – Ambitious Reform Agenda and Long-Standing Implementation Challenges

Liberia's current WSS regulatory arrangements are highly fragmented, with regulation by agency, self-regulation, regulation by contract (applied by the national utility to private service providers), and ministerial regulation at the national and sub-national levels all practiced to varying degrees. The sector has been going through a process of reform and restructuring, starting with the adoption of the Water Supply and Sanitation Policy in 2009. The policy lays out a clear vision for establishing a single, independent regulatory commission responsible for technical and economic regulation of water supply and sanitation services, overseen by a board comprising representatives of relevant ministries.

Operationalising the regulatory arrangements laid out in the 2009 Water Supply and Sanitation Policy has been a challenge. The National WASH Commission Act was not passed until 2017, and the law leaves aspects of the Commission's mandate ambiguous. For instance, the Act does not directly address key regulatory functions such as tariff setting and the establishment and enforcement of service standards for water supply. The existing mandates of other key actors, such as the Liberia Water and Sewer Corporation, which is self-regulating and legally mandated to regulate private service providers, have also not been revised, resulting in some overlap and a lack of clarity in some regulatory responsibilities. Further complicating the situation, multiple WSS strategic documents have been developed – the WASH Compact (2011), WASH Sector Strategic Plan (2012), and One WASH Program (2018) – each providing somewhat different roles and responsibilities for the various WSS sector institutions. A process of revising and clarifying mandates is urgently needed and envisioned as part of the National WASH Commission's strategic plan; however, this is expected to be a challenging process.

Ultimately, although Liberia's 2009 Water Supply and Sanitation Policy offers a clear direction for regulatory reform, there are substantial gaps in the legal frameworks and institutional capacities needed to implement it. Liberia's experience illustrates the challenge of putting ambitious policy provisions into practice. Reshaping established structures and introducing new institutions that require substantial resources and capacity building to exercise their mandate presents both a political and operational challenge, even with a policy that provides a well-defined roadmap.

3.2. LEGAL INSTRUMENTS

Legal instruments have been developed for WSS in all West African countries; however, the extent to which these address aspects of WSS regulation varies. Legal instruments are crucial in specifying the mandates of regulatory actors and empowering them with the required functions and authority. Legal instruments vary in forms, including dedicated water and sanitation acts, acts establishing a regulatory

authority, acts related to a national public enterprise (i.e., national utility), or a series of acts that address different aspects of WSS (i.e., water resources acts, public health acts, local government acts, environmental management acts). All West African countries have legal instruments related to WSS, although these are not always explicitly focused on WSS services or regulation and sometimes only provide very limited information on regulatory actors' mandates and powers.

Legislative instruments generally provide more explicit legal backing for regulating water supply services than for sanitation. Figures 5 and 6 use a simple colour-coded traffic light system to show the extent to which legal instruments provide the required legal backing for WSS regulation.

0 = No Legal Backing. Legal instruments either do not exist or make no mention of regulatory mandates or functions for water supply or sanitation.

1 = Limited Legal Backing. Legal instruments support the regulation of water supply or sanitation services but do not provide sufficient legal backing. This usually occurs where legal instruments exist and specify regulatory mandates and responsibilities but fail to detail the specific regulatory functions and powers or consider the sub-sectors and types of service providers to be regulated.

2 = Strong Legal Backing. Legal instruments address water supply or sanitation regulation, setting out regulatory mandates and functions.

On the water supply side, Figure 5 shows a mixed picture, with seven of 15 West African countries having an appropriate legal backing for water supply regulation. This is not to say that these acts or other legal instruments would not benefit from updating or strengthening, for example to more explicitly address non-networked water supply. However, in these countries, legal instruments explicitly define the mandates of regulatory actors and include a detailed specification of their powers and functions, thereby providing the necessary legal backing to perform key regulatory activities for water supply service delivery. The remaining countries have at least some legal backing for water supply regulation, but legal instruments provide only broad support for regulation without adequate detail on regulatory functions or sub-sectors to be regulated.

Figure 5: Legal Instruments for Regulating Water Supply Services²⁷



As Figure 6 indicates, 11 of 15 West African countries do not have sufficiently detailed legal instruments for regulating sanitation services. Notable challenges in this area include:

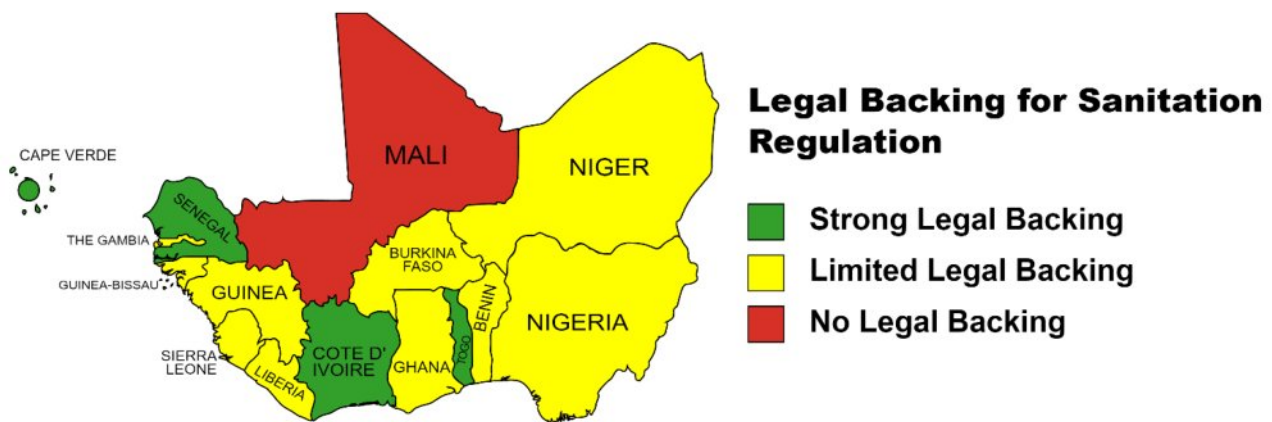
- I. **Sewerage Bias.** In some countries, legal instruments address sewerage services but do not address onsite sanitation service providers comprehensively. This is particularly evident in some legal instruments establishing the mandate of a regulatory authority responsible for oversight of a national utility that provides only sewerage services. This common challenge is evident in many West African countries despite sewerage only serving an average of 4% of the population (JMP, 2020).

²⁷ In both Figure 5 and Figure 6, scoring for Nigeria is based on laws in place at the federal level; however, Nigeria's federal system means that legal backing for WSS regulation varies at the State level. Some States, such as Lagos, have developed legal instruments that provide more detail on WSS regulation.

- II. **Poorly Defined Mandates and Functions.** Responsibilities for regulating sanitation services are often included in public health, environmental management, and local government acts. In these instances, regulatory mandates for sanitation are often not explicitly defined and regulatory powers and functions may be absent. Often, health or environmental authorities or local governments are empowered to eliminate “nuisances” that threaten public health or the environment, but sanitation is not always addressed explicitly or in detail, and specific regulatory mechanisms are not described.

Cape Verde, Cote d’Ivoire, Senegal, and Togo stand out as exceptions. These countries have undergone relatively recent legal and institutional reforms of the WSS sector, and the regulatory arrangements for sanitation reflect increasing attention to onsite sanitation in recent years. In three countries, the same regulatory actor (a dedicated office for sanitation in Senegal and Cote d’Ivoire, and a WSS technical regulator in Cape Verde) is mandated to take responsibility for both sewered and onsite sanitation, while in Togo, a dedicated agency focuses on onsite sanitation and other areas related to public health.

Figure 6: Legal Instruments for Regulating Sanitation Services²⁸



²⁸ In both Figure 5 and Figure 6, scoring for Nigeria is based on laws in place at the federal level; however, Nigeria’s federal system means that legal backing for WSS regulation varies at the State level. Some States, such as Lagos, have developed legal instruments that provide more detail on WSS regulation.


4

REGULATORY ARRANGEMENTS

4. REGULATORY ARRANGEMENTS

Any regulatory model must be fit-for-purpose and custom designed for a specific country's institutional context and political economy. Regulation tends to be incremental, with a focus on what is possible to be regulated. To ensure the effectiveness of its regulatory actions, the regulator may adopt a variety of regulatory strategies to suit the sector context. There are four main models by which regulation is instituted. These are:

- I. **Regulation by Agency.** A regulatory body (semi-) autonomous from the government has discretionary powers to regulate WSS or aspects of WSS. This regulatory agency can be mandated to perform a specific set of functions (i.e., economic regulation) or hold a more comprehensive set of powers for regulating WSS service delivery.
- II. **Regulation by Contract.** An approach whereby a public entity (other than an autonomous regulatory agency) and a service provider agree on contractual clauses that determine how key aspects of WSS service provision are defined and controlled, such as tariffs and service standards. In these cases, the contract represents the key document establishing or defining the provisions to be abided by rather than existing regulations or standards.
- III. **Ministerial Regulation.** A ministry responsible for WSS – or an aspect of WSS – is tasked with performing some or all regulatory responsibilities for WSS. For example, where a ministry is responsible for developing standards and guidelines, as well as overseeing some WSS service providers and applying regulatory tools (i.e., standard enforcement, monitoring, performance reporting).
- IV. **Self-Regulation.** A service provider (typically a public utility or unit of local government) provides WSS services and is legally mandated to perform regulatory activities upon itself. This usually includes setting tariffs and performance standards and carrying out performance monitoring and reporting.

Across Western Africa, various regulatory models are applied to WSS service provision. Table 2 details the main regulatory models applied per country and across Western Africa with the predominant²⁹ ones marked as . It highlights that most countries apply multiple regulatory models across the four WSS sub-sectors (urban water supply, rural water supply, urban sanitation, and rural sanitation) and for different service providers. In many countries, this reflects how different regulatory arrangements have been developed to account for the wide range of WSS service providers. In some countries (i.e., Ghana, Liberia, Togo), it illustrates how regulatory arrangements are fragmented, with responsibilities split among several institutions and sometimes overlapping.

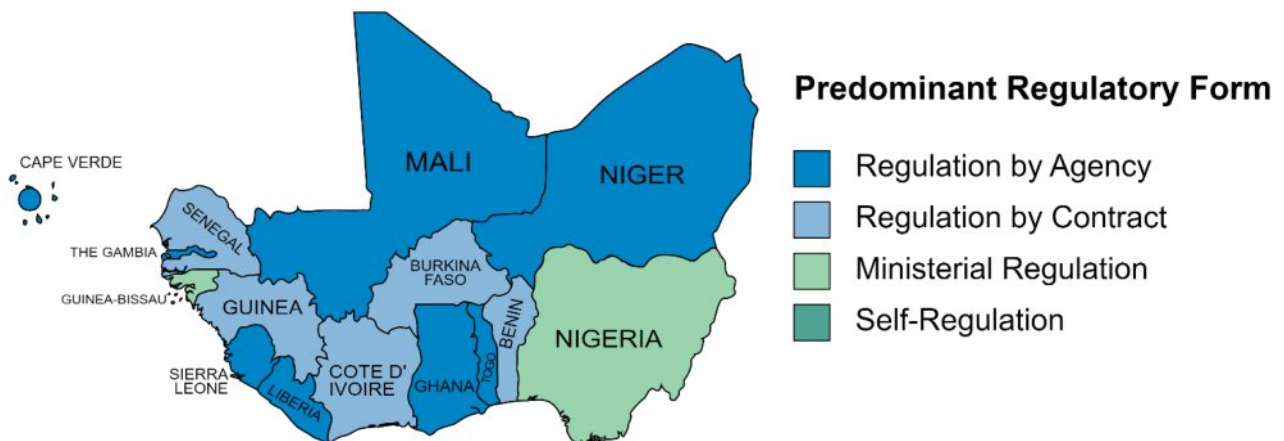
²⁹ The predominant regulatory form refers to the regulatory form under which the primary service provider in each country is regulated. In most cases, this refers to how a national or regional utility is regulated.

Table 2: Regulatory models Applied for Water Supply and Sanitation Service Provision

Country	Regulatory model			
	Regulation by Agency	Regulation by Contract	Ministerial Regulation	Self-Regulation
Benin	✗	✔	✔	✗
Burkina Faso	✗	✔	✔	✗
Cape Verde	✔	✗	✗	✗
Cote d'Ivoire	✔	✔	✗	✗
Gambia	✔	✗	✔	✗
Ghana	✔	✔	✔	✗
Guinea	✗	✔	✔	✗
Guinea-Bissau	✗	✗	✔	✗
Liberia	✔	✔	✔	✔
Mali	✔	✔	✔	✗
Niger	✔	✔	✔	✗
Nigeria	✔	✗	✔	✗
Senegal	✗	✔	✗	✗
Sierra Leone	✔	✗	✔	✗
Togo	✔	✔	✔	✗
Total – Regulatory model Applied	10 (67%)	10 (67%)	12 (80%)	1 (7%)
Total – Predominant Regulatory model	8 (53%)	5 (33%)	2 (13%)	0 (0%)

The use of multiple regulatory models and the variations in their application makes it is useful to note the primary regulatory model applied in each country.³⁰ Figure 7 presents this.

Figure 7: Predominant Regulatory model Applied for Water Supply and Sanitation Service Provision



Many countries have mixed regulatory arrangements, applying different regulatory models across WSS sub-sectors and different service providers. Table 3 details the main regulatory actors and regulatory models applied for each Western African country across several WSS sub-sectors.³¹ It illustrates that **multiple regulatory models** are applied in most countries and that multiple actors usually hold regulatory responsibilities. In some countries, this reflects the application of different regulatory models to different types

³⁰ The predominant regulatory model refers to the regulatory model under which the primary service provider in each country is regulated. In most cases, this refers to how a national or regional utility is regulated.

³¹ In most countries, some regulatory functions are performed at the sub-national level (i.e., by local government); however, this is typically done under the broad scope of requirements set by a regulatory agency or a ministry performing regulatory functions. These actors are only included in Table 3 where they can develop and enforce their own by-laws or other regulatory mechanisms for WSS service delivery independently from reverting to the national level.

of service providers or sub-sectors. For example, Cote d'Ivoire has separate agencies responsible for regulation of water and sanitation, each covering both urban and rural areas, while Ghana divides regulatory responsibilities geographically, with distinct institutions responsible for regulating urban WSS and rural WSS.³² However, in a number of West African countries, such as Liberia and Togo, the diversity of regulatory models reflects how regulatory responsibilities are fragmented and sometimes overlapping.

Table 3: Regulatory model

Key						
Regulation by Agency		Ministerial Regulation		Regulation by Contract		Self-Regulation
Country	Urban Water	Rural Water	Urban Sanitation	Rural Sanitation	Water Resources Management	Environmental Protection
Benin	Ministry of Water and Mines	Ministry of Water and Mines (via National Agency for Drinking Water Supply in Rural Areas)	Ministry of Living Environment and Sustainable Development	Ministry of Health	Ministry of Water and Mines	Ministry of Living Environment and Sustainable Development
	Ministry of Water and Mines					
Burkina Faso	Ministry of Environment, Energy, Water and Sanitation	Ministry of Environment, Energy, Water and Sanitation	Ministry of Environment, Energy, Water and Sanitation	Ministry of Environment, Energy, Water and Sanitation		
	Ministry of Economy, Finance and Forecasting		Ministry of Economy, Finance and Forecasting			
	Ministry of Commercial Industry and Artisanry		Ministry of Commercial Industry and Artisanry			
	Communes		Communes			
Cape Verde	National Water and Sanitation Agency				Ministry of Agriculture and Environment	
	Multisector Economic Regulatory Agency					
Cote d'Ivoire	National Office of Drinking Water		National Office of Sanitation and Drainage		National Office of Drinking Water	National Environment Agency
						Ivorian Anti-Pollution Centre
Gambia	Ministry of Health				Ministry of Fisheries and Water Resources	National Environment Agency
	Public Utilities Regulatory Authority	Ministry of Fisheries and Water Resources	Public Utilities Regulatory Authority	Public Utilities Regulatory Authority		

³² Responsibility for rural WSS in Ghana is shared by the Community Water and Sanitation Agency (CWSA) and Metropolitan, Municipal, and District Assemblies (MMDAs). CWSA performs very limited regulatory functions, focussing on prescribing standards and guidelines for the rural sector and supporting MMDAs to ensure compliance, while MMDAs have a variety of responsibilities, including developing and enforcing by-laws for drainage and sanitation, regulating private sanitation service providers, and oversight over and tariff approval for some water supply service providers.

Ghana	Public Utilities Regulatory Commission	Community Water and Sanitation Agency		Community Water and Sanitation Agency	Water Resources Commission	Environmental Protection Agency	
	Metropolitan, Municipal, and District Assemblies					Metropolitan, Municipal, and District Assemblies	
	Foods and Drugs Authority						
Ghana Standards Agency							
Guinea	Ministry of Energy, Hydraulics, and Hydrocarbons	Ministry of Energy, Hydraulics, and Hydrocarbons	Ministry of Energy, Hydraulics, and Hydrocarbons		Ministry of Energy, Hydraulics, and Hydrocarbons		
			Ministry of Health				
	Communes and Rural Development Communities		Ministry of Environment and Sustainable Development				
	Ministry of Territorial Administration and Decentralization						
Guinea-Bissau	Ministry of Energy, Industry and Natural Resources				Ministry of Environment and Biodiversity		
Liberia	National Water, Sanitation and Hygiene Commission				Environmental Protection Agency		
	Liberia Water and Sewer Corporation				Ministry of Mines and Energy		
	Ministry of Health / National Public Health Institute					Ministry of Health / National Public Health Institute	
			Local Authorities			Local Authorities	
Mali	Regulatory Commission for Electricity and Water	Ministry of Mining, Electricity and Water	Ministry of Environment, Sanitation and Sustainable Development		Ministry of Mining, Electricity and Water	Ministry of Environment, Sanitation and Sustainable Development	
	Ministry of Mining, Electricity and Water		Ministry of Environment, Sanitation and Sustainable Development				
Niger	Regulatory Authority for the Water Sector		Ministry of Hydraulics and Sanitation		Ministry of Environment and the Fight against Desertification		
	Ministry of Hydraulics and Sanitation						
Nigeria	Federal Ministry of Water Resources			Federal Ministry of Water Resources			
	National Environmental Standards and Regulations Enforcement Agency						
	State Ministries / Regulatory Agencies						
	Local Government Authorities						
National Agency for Food and Drug Administration and Control							
Senegal	National Water Company of Senegal	Rural Boreholes Agency	National Sanitation Agency of Senegal		Ministry of Water and Sanitation	Ministry of Environment and Sustainable Development	
			Ministry of Water and Sanitation				

Sierra Leone	Ministry of Health and Sanitation		National Water Resources Management Agency	Ministry of Health and Sanitation
	Sierra Leone Electricity and Water Regulation Commission	Local Government Service Commissions		Environmental Protection Agency
Togo	Ministry of Health			
	Regulatory Authority for Electricity		Ministry of Water and Village Hydraulics	National Sanitation and Public Safety Agency
	Ministry of Water and Village Hydraulics			National Environmental Management Agency
	Local Authorities			Local Authorities
				National Sanitation and Public Safety Agency
		National Environmental Management Agency		

A high number of West African countries (10 of 15) have developed (semi-) autonomous regulatory bodies, and eight practice regulation by agency as the predominant regulatory model; however, there is wide variation in the types of agencies and how they perform their functions. These include dedicated WSS regulatory institutions (i.e., Sierra Leone, Liberia) as well as several multi-sector regulators that regulate WSS along with other utility-provided services such as electricity (i.e., Gambia, Ghana). Cape Verde offers an example of how both types of regulatory agencies – a dedicated WSS regulator and a multi-sector economic regulator – can work together (Box 2).

Box 2: Cape Verde – Regulation by Technical and Economic Agencies

Cape Verde has clear, well-developed arrangements for WSS service provision, based on **regulation by agency**. Two autonomous regulatory agencies, the Agência Nacional de Água e Saneamento (National Water and Sanitation Agency, ANAS) and Agência de Regulação Multissetorial da Economia (Multisector Economic Regulatory Agency, ARME), share responsibility for WSS regulation. ANAS is a technical regulator dedicated to WSS, with responsibility for development and enforcement of technical standards for service quality, water resources management and regulation of water abstraction, and effluent disposal, among others. ARME conducts economic regulation, including review and approval of tariffs, development of standards for financial management and reporting, and monitoring of financial performance. Its responsibilities cover electricity and telecommunications as well as WSS. The two agencies’ mandates and functions are explicitly established in separate legal instruments, ensuring clearly defined roles and minimising duplication of efforts. ANAS and ARME also collaborate closely to regulate WSS service providers, including joint inspections and publication of a joint sector report. Environmental regulation is treated as a separate sphere, managed by the Ministry of Agriculture and Environment; however, areas at the intersection of WSS and environment, such as water resources management, water quality, and effluent discharge, are the responsibility of ANAS.

The establishment of ANAS and ARME was part of a comprehensive reform process based on a 2011 national policy letter calling for institutional restructuring to clarify and strengthen regulatory responsibilities and reduce fragmentation. Legislative changes, including a revision of the Water Code, the law establishing ANAS, and the restructuring of a pre-existing economic regulator to create ARME, took place between 2013 and 2018. Since their establishment, ANAS and ARME have established a comprehensive set of regulatory mechanisms, including standards and guidelines for many aspects of WSS services and a nationwide monitoring and performance reporting system. Although some weaknesses remain in applying regulation to all service providers, especially private onsite sanitation providers and rural water vendors, Cape Verde has made substantial progress in developing regulatory structures and mechanisms.

Regulation by contract is also widely applied in Western Africa, with 10 of 15 countries using contracts to regulate at least some aspects of service provision. In the five countries where regulation by contract is the predominant regulatory model, contracts define and control key aspects of WSS service provision (i.e., service standards, tariffs). Where done effectively, this arrangement provides flexibility to tailor regulatory provisions

to different service providers, and can be applied to providers operating at different scales and levels of formality. Senegal is an example of a well-functioning system of regulation by contract (Box 3).

Box 3: Senegal – Regulation by Contract

Senegal practices regulation by contract, carried out by the Société Nationale des Eaux du Sénégal (National Water Company of Senegal, SONES) and Office National de l'Assainissement du Sénégal (National Sanitation Agency of Senegal, ONAS), both established in 1996. SONES and ONAS are autonomous institutions responsible for regulating urban water supply and sanitation, respectively, and they do so through contracts with private service providers. SONES uses an *affermage*, or leasing, contract with SEN'Eau, the national water supply distribution company, to set requirements for:

- Water quantity and quality;
- Electromechanical and network maintenance;
- Billing and cost recovery;
- Customer relations; and
- Investments to be made in system expansion.

ONAS uses similar contracts to engage private operators in the operation and maintenance of faecal sludge treatment plants (FSTPs). In addition, ONAS has taken steps to formalise emptying and transport services through a call centre to link households with private mechanical emptiers and provisions in the contracts of FSTP operators to ensure safe emptying practices. Tariffs are determined separately by ministerial order.

Although they are autonomous bodies with regulatory responsibilities, SONES and ONAS are distinct from more traditional regulatory agencies in terms of their internal structures and functions. Both institutions are legally established as companies and are the holders of the country's water supply and sanitation assets, respectively, thereby allowing them to enter into *affermage* contracts with private enterprises to deliver services and operate and maintain the assets. As asset holding companies, SONES and ONAS have responsibilities for WSS sector planning and infrastructure development as well as regulation of private providers. ONAS also operates some sewered sanitation infrastructure directly. SONES and ONAS also have different relationships to their supervising ministry, the Ministry of Water and Sanitation (MEA), than most regulatory agencies. SONES and ONAS enter into performance contracts with MEA and the Ministry of Economy, Planning and Cooperation, which include provisions on both their regulatory and investment activities and ensure their compliance with financial and managerial requirements.

5

SPHERES OF REGULATION

5. SPHERES OF REGULATION

WSS service delivery is mainly comprised of network infrastructures which create natural monopolies that need to be regulated. The extent and diversity of the scope of the regulator's mandate and the specificities of the country's political-administrative governance model may require adoption of different regulatory regimes for different service providers. In this section, who and what is regulated was examined.

5.1. REGULATED SERVICE PROVIDERS

Varying forms of regulation are applied to different types of WSS service providers. Section Four highlighted how, in most countries, several actors hold regulatory responsibilities for WSS and that multiple regulatory models are applied. For the West Africa region, this variation is partially explained by the existence of multiple types of WSS service providers in each country and that varying regulatory arrangements have been developed for each of these. This is not surprising considering the markedly different challenges in – and requirements for – regulating national or regional utilities, private operators of varying sizes and formality, and community-based organisations (i.e., water committees). However, in some cases, the variation also reflects fragmented and poorly defined responsibilities for regulating some aspects of WSS service delivery, resulting in overlapping mandates or the failure to specify responsibilities for regulating some service providers. Table 4 details the main WSS service providers for each West African country, the services they provide, the primary actors responsible for their regulation and the regulatory model applied.

Regulatory activities primarily focus on the main WSS service providers in each country. In most countries, the primary regulatory actors (i.e., a ministry or regulatory agency) largely focus on the main WSS service providers (i.e., a national utility or large private operators) that predominantly serve urban and peri-urban areas. These service providers have been the focus of the various regulatory mechanisms applied, while limited attention is generally given to smaller, deconcentrated service providers. For example, although several West African countries have decentralised oversight responsibilities for non-networked services and/or smaller-scale service providers to the local level, many local governments lack the necessary guidance, resources, and capacities to actively engage in regulation.

Table 4: Regulatory Responsibilities – Water Supply and Sanitation Service Providers

Country	Service Provider	Service Provider Type	Services Provided	Regulatory Actor	Regulatory model
Benin	National Water Company of Benin (SONEB)	National Publicly Owned Utility	Drinking Water Supply and Wastewater Evacuation	Ministry of Water and Mines (MEM), Ministry of Living Environment and Sustainable Development (MCVDD)	Ministerial Regulation
	Small private companies/international firms	Privately Owned	Drinking Water Supply (urban outside of SONEB zones and rural)	MEM	Regulation by Contract
	Water user associations	Community-based organizations	Rural Drinking Water Supply	MEM	Ministerial Regulation
	Small private companies	Privately Owned	Faecal Sludge Removal	MCVDD	
Burkina Faso	National Office for Water and Sanitation (ONEA)	National Publicly Owned Utility	Urban Drinking Water Supply and Sanitation	Ministry of Environment, Energy, Water and Sanitation; Ministry of Economy, Finance and Forecasting; Ministry of Commercial Industry and Artisanry; Communes	Regulation by contract
	Small companies	Privately Owned	Urban Drinking Water Supply (outside ONEA areas) and Urban Onsite Sanitation (Emptying and Transport)		
	Water user associations	Community-Based Organization	Rural Water Supply (Piped and Point Sources)	Ministry of Environment, Energy, Water and Sanitation	Ministerial Regulation

	Private operators	Privately Owned	Rural Piped Water Supply Rural Public and Institutional Onsite Sanitation		
Cape Verde	Municipal Water and Sanitation Departments	Public Institution	Urban and Rural Piped Water Supply; Point Water Sources; Sewered Sanitation; On-site Sanitation	National Water and Sanitation Agency, Multisector Economic Regulatory Agency	Regulation by Agency
	Electra	National Publicly Owned Utility			
	Intermunicipal Companies	Regional Public Utility / Public-Private Partnership			
	Private Water Supply and Sewerage Companies	Privately Owned			
	Private Water Vendors	Privately Owned	Water Delivery Urban and Rural On-site Sanitation (Emptying and Transport)	National Water and Sanitation Agency	
	Private Vacuum Truck Operators	Privately Owned			
	Manual Emptiers	Privately Owned			
Cote d'Ivoire	Water Distribution Company of Cote d'Ivoire (SODECI)	National Utility; Public-Private Partnership	Urban Piped Water Supply; Urban Sewered Sanitation	National Office of Drinking Water (ONEP), National Office of Sanitation and Drainage (ONAD)	Regulation by Contract
	Small Private Enterprises	Privately Owned	Urban Drinking Water Supply (outside SODECI zones)	ONEP	
	Private Vacuum Truck Operators	Privately Owned	Urban On-site Sanitation (Emptying and Transport)	ONAD	Regulation by Agency
	Water Committees	Community-Based Organization	Rural Point Water Sources	ONEP	
	Manual Emptiers	Privately Owned	Urban and Rural On-site Sanitation (Emptying and Transport)	No Regulatory Arrangement Specified	
Gambia	National Water Supply and Electricity Company	National Publicly Owned Utility	Urban Piped Water Supply; Urban Sewered Sanitation	Public Utilities Regulatory Authority (PURA)	Regulation by Agency
	Private Vacuum Truck Operators	Privately Owned	Urban On-site Sanitation (Emptying and Transport)	PURA and National Environment Agency	Regulation by Agency
	E-Water	Privately Owned	Rural Point Water Sources (Pre-paid Water Dispensers)	PURA and Ministry of Fisheries and Water Resources	Regulation by Agency, Ministerial Regulation
	Local Government	Public Institution	Rural Point Water Sources	Ministry of Fisheries and Water Resources	Ministerial Regulation
	Water Subcommittee of Village Development Committee	Community-Based Organization	Rural Point Water Sources		
	NGOs & International agencies	Non-Government Organisation	Rural Point Water Sources; On-site sanitation	No Regulatory Arrangement Specified	
Ghana	Ghana Water Company Limited	National Publicly Owned Utility	Urban and Peri-Urban Piped Water Supply	Public Utilities Regulatory Commission	Regulation by Agency
	Private Sachet Water Companies	Privately Owned	Packaged Water	Foods and Drugs Authority	

	Private Sanitation Operators	Privately Owned	Rural and Urban On-site Sanitation (Emptying and Transport)	Metropolitan, Municipal, and District Assemblies (MMDAs)	Ministerial Regulation applied at sub-national level and Regulation by Contract
	MMDAs	Public Institution	Urban Sewered Sanitation; Urban and Rural On-Site Sanitation (Emptying and Transport)	Environmental Protection Agency	Regulation by Agency
	Water and Sanitation Management Teams	Community-Based Organisation	Rural Piped Water Supply and Point Water Sources	MMDAs	Ministerial Regulation, applied at sub-national level
	Private Water Supply Operators	Privately Owned	Rural Piped Water Supply	MMDAs and Community Water and Sanitation Agency	Ministerial Regulation applied at sub-national level and Regulation by Agency
	Community Water and Sanitation Agency	Publicly Owned	Rural Piped Water Supply	No Regulatory Arrangement Specified	
Guinea	Guinea Water Company	National Publicly Owned Utility	Urban Piped Water Supply; Urban Sewered Sanitation	Ministry of Energy, Hydraulics, and Hydrocarbons	Regulation by Contract
	Private Boreholes	Privately Owned	Urban and Rural Point Water Sources		Ministerial Regulation
	Local Notables / Water Committees	Community-Based Organisation	Urban and Rural Point Water Sources	Communes and Rural Development Communities	Ministerial Regulation, applied at sub-national level
	Private Emptiers	Privately Owned	Urban On-site Sanitation (Emptying and Transport)	Ministry of Environment and Sustainable Development	Ministerial regulation
Guinea-Bissau	Electricity and Water for Guinea Bissau	National Publicly Owned Utility	Urban Piped Water Supply	Ministry of Energy, Industry and Natural Resources	Ministerial Regulation
	Local Associations	Community-Based Organisation	Urban Piped Water Supply; Point Water Sources		
	Private Emptiers	Privately Owned	Urban On-site Sanitation (Emptying and Transport)		
	Water Committees	Community-Based Organisation	Rural Point Water Sources		
Liberia	Liberia Water and Sewer Corporation	National Publicly Owned Utility	Urban Piped Water Supply; Urban Sewered Sanitation	Liberia Water and Sewer Corporation	Self-regulation
	Private Water Vendors	Privately Owned	Urban Water Delivery and Packaged Water		Regulation by Contract (applied by utility)
	Private Vacuum Tanker Operators	Privately Owned	Urban On-site Sanitation (Emptying and Transport)		

	Manual Pit Emptiers	Privately Owned	Urban On-site Sanitation (Emptying and Transport)		
	NGOs	Non-Government Organisation	Rural Point Water Sources, Rural On-site Sanitation	National WASH Commission	Regulation by Agency
	WASH Committees	Community-Based Organisation	Rural Point Water Sources		
Mali	Malian Company of Management of Drinking Water	National Publicly Owned Utility	Urban Water Supply	Regulatory Commission for Electricity and Water	Regulation by Agency
	National Agency for the Management of Wastewater Treatment Plants in Mali	National Agency	Urban Sanitation	Ministry of Environment, Sanitation and Sustainable Development	Regulation by Contract
	Small Companies	Privately Owned	Urban and Rural Water Supply	Ministry of Mines, Energy and Water	
			Urban Sanitation	Ministry of Environment, Sanitation and Sustainable Development	Ministerial Regulation
	Water User Associations	Community-Based Organisation	Point Water Sources	Ministry of Mines, Energy and Water	
Niger	Company of Water Exploitation of Niger	National Publicly Owned Utility	Urban Piped Water Supply	Regulatory Authority of the Water Sector	Regulation by Agency
	Small companies	Privately Owned	Urban and Rural Water and Urban Sanitation	Ministry of Hydraulics and Sanitation	Regulation by Contract
	Water user associations	Community-Based Organisation	Rural Point Water Sources		
Nigeria ³³	State Water Agencies	Publicly Owned State Utility	Urban and Rural Water Supply (Piped and Point Sources), Urban Sanitation	State Ministry or Regulatory Agency	Ministerial Regulation / Regulation by Agency, applied at sub-national level
	State Small-Town Water Supply and Sanitation Agencies	Public Institution	Urban Supply (Piped and Point Sources), Urban Sanitation		
	State Rural Water Supply and Sanitation Agencies	Public Institution	Rural Water Supply (Piped and Point Sources)		
	Local Government Authorities	Public Institution	Rural Point Water Sources; Urban On-Site Sanitation		
	Private Vacuum Tanker Operators and Manual Emptiers	Privately Owned	Urban and Rural On-site Sanitation (Emptying and Transport)		
	Water Vendors	Privately Owned	Urban and Rural Packaged Water	National Agency for Food and Drug Administration and Control	Regulation by Agency
	Water and Sanitation Committees	Community-Based Organisation	Rural Point Water Sources	Local Government Authorities	Ministerial Regulation, applied at sub-national level

³³ The service providers present in each State and the types of services they provide vary across States in Nigeria.

Senegal	SEN'Eau	Privately Owned	Urban Piped Water Supply	National Water Company of Senegal	Regulation by Contract
	Private Enterprises	Privately Owned	Urban and Rural On-site Sanitation (Emptying, Transport and Treatment)	National Sanitation Agency of Senegal	Regulation by Contract
	ONAS	Public Institution	Urban Sewered Sanitation; Rural Sludge Treatment	Ministry of Water and Sanitation	Regulation by Contract
	Private Companies	Privately Owned	Rural Point Water Sources	Rural Boreholes Agency	Regulation by Contract
Sierra Leone	Sierra Leone Water Company	National Publicly Owned Utility	Piped water and point water sources in urban areas and small towns; Urban On-Site Sanitation	Sierra Leone Electricity and Water Regulation Commission	Regulation by Agency
	Guma Valley Water Company for Freetown	Sub-National Publicly Owned Utility	Urban Piped Water Supply and Point Water Sources		
	Water 4 Ever - Waterloo District Freetown	Social enterprise	Urban Piped Water Supply and Point Water Sources		
	Packaged Water Producers	Privately Owned	Packaged Water		
	Water tankers and private well operators	Privately Owned	Informal water services in urban and rural areas	Local Councils	Ministerial Regulation, applied at sub-national level
	Water Committees	Community based organisation	Rural Water Supply	No regulatory arrangements	
	Guma Valley Water Company	Publicly Owned Utility	Sewered Sanitation in Freetown	Local Government Service Commissions	Ministerial Regulation, applied at sub-national level
	Vacuum Tankers	Privately Owned or Public-Private Partnership	Urban and Rural On-site Sanitation (Emptying and Transport)		
	Manual Pit Emptiers	Privately Owned			
	Local Governments	Public Institution	Urban Faecal Sludge Treatment	Environmental Protection Agency	Regulation by Agency
Togo	Togolese Water Company	Publicly Owned	Urban and Rural Piped Water Supply; Urban Sewered Sanitation	Regulatory Authority for Electricity	Regulation by Agency
	Private Water Truck Operators	Privately Owned	Urban Water Delivery	Ministry of Health (MoH)	Ministerial Regulation
	Local Authorities	Public Institution	Urban and Rural Sewered Sanitation and Sludge Treatment	National Environmental Management Agency (ANGE)	Regulation by Agency
	Mechanical Emptiers	Privately Owned	Urban and Rural On-site Sanitation (Emptying and Transport)	National Sanitation and Public Safety Agency (ANASAP), and MoH	Regulation by Agency and Ministerial Regulation
	Manual Pit Emptiers	Privately Owned	Urban and Rural On-site Sanitation (Emptying and Transport)	ANASAP and MoH	Regulation by Agency and Ministerial Regulation

	Associations of Drinking Water and Sanitation Users	Community-Based Organisation	Rural Point Water Sources	Local Authorities	Ministerial Regulation, applied at sub-national level
	Small-Scale Private Operators	Small-Scale Private Operators	Rural Point Water Sources	Local Authorities and AUSEPAs	Regulation by Contract

5.2. REGULATED SERVICE DELIVERY TYPE

The regulation of WSS services predominantly focuses on piped water supply services and – to a somewhat lesser extent – sewered sanitation. Table 5 uses a simple colour-coded traffic light system to present an overview of the extent to which regulations and regulatory mechanisms have been developed for six core WSS service delivery types and whether these are regulated at scale.³⁴ This represents a simplification of the situation within individual countries. However, at the top level, Table 5 highlights how regulatory activities are largely centred on networked piped water supply services and sewered sanitation. These services are mainly provided by the large, formalised service providers (i.e., national or regional utilities, large private operators) that are also the primary focus of regulatory activities in most countries.

Table 5: Extent of Regulation of Different Service Delivery Types

Country	Water Supply			Sanitation		
	Networked Piped Water Supply	Point Water Sources	Household Water Supply Sources	Sewered Sanitation	On-Site Sanitation	Communal Sanitation
Benin	2	0	0	2	0	0
Burkina Faso	2	1	1	2	1	1
Cape Verde	2	2	0	2	1	0
Cote d'Ivoire	2	1	0	2	1	0
Gambia	2	1	1	1	1	1
Ghana	2	1	0	1	1	0
Guinea	1	1	0	0	1	0
Guinea-Bissau	0	0	0	0	0	0
Liberia	2	1	0	2	1	1
Mali	0	0	0	0	0	0
Niger	2	0	0	0	0	0
Nigeria ³⁵	1	1	0	2	1	0
Senegal	2	2	2	2	2	2
Sierra Leone	2	1	0	1	1	0
Togo	2	1	0	1	1	0

The regulation of water supply services remains largely focused on networked piped water supply services, with regulations of point water sources often developed, but not applied at scale. Table 5 shows moderate performance across the West Africa region, reflecting how most West African countries are regulating networked piped water supply services at scale and many have developed regulations for point water sources. However, the application of regulations for point water sources is often limited because of challenges regulating the large number of water committees that manage these services in most countries. Senegal stands out as having made significant progress in regulating various water service delivery types.

Less progress has been made regulating sanitation services compared to water supply. Table 5 shows that where large-scale providers (i.e., national or regional utilities) deliver sewered sanitation services, these are often regulated at scale; however, the scale at which they operate is often limited, with only 4% of the population accessing these services (JMP, 2020). Table 5 also illustrates that while most West African

³⁴ Scoring: 0 = There are no regulations for this type of service provision; 1 = Regulations developed but rarely applied or only applied on a limited basis; 2 = Regulations developed and applied at scale.

³⁵ Scores for Nigeria reflect general patterns in the extent of regulation across States. However, some States may apply regulations more or less effectively than is typical nation-wide.

countries have developed at least some regulations for on-site sanitation, their application at scale remains a challenge. Senegal, and to a lesser extent Gambia, Liberia, and Togo, have made progress in developing regulations for different types of sanitation service delivery. However, regulations for on-site and communal sanitation are not yet applied at scale outside of Senegal. Ghana offers an illustrative example of how regulatory activities are often focused on water supply and, in particular, urban water supply and networked piped water supply services (Box 4).

Box 4: Ghana – A regulatory arrangement focussing on urban and peri-urban water supply services

Ghana's regulatory arrangement for WSS service delivery is principally based on **regulation by agency**, but **ministerial regulation (applied at the sub-national level)** and **regulation by contract** are also practiced. The regulatory mandates and powers of key regulatory actors are largely well-established through a series of comprehensive legal instruments. However, as is the case in many African countries, regulatory activities are overwhelmingly focused on the urban and peri-urban piped water supply services Ghana Water Company Limited (GWCL) provides, with other sub-sectors, service providers, and service delivery types not receiving sufficient attention.

The Public Utilities Regulatory Commission (PURC) is a multi-sectoral regulatory agency with a comprehensive set of powers and a mandate that covers the regulation of Ghana's public utilities. The PURC has developed and applies an expansive set of regulatory mechanisms to the piped water supply services provided by GWCL. These cover standards and guidelines, monitoring and performance reporting, regulation by incentives, and sanctions.

Critically, however, other service providers such as the Community Water and Sanitation Agency, Metropolitan, Municipal, and District Assemblies (MMDAs), private water operators, water committees, and private vacuum tankers are regulated by other actors. Of note, Ghana's MMDAs hold several important regulatory responsibilities, including developing and enforcing by-laws for drainage and sanitation, regulating private sanitation service providers, and oversight over and tariff approval for water committees. MMDAs perform a considerably more limited set of activities than the PURC. This has resulted in the regulatory mechanisms that exist for other WSS service providers (i.e., water committees, MMDAs, private vacuum tanker operators) and service delivery types (i.e., point water sources, onsite sanitation) not being applied in a structured or consistent manner and ultimately not being meaningfully regulated.

6

REGULATORY MECHANISMS

6. REGULATORY MECHANISMS

A regulatory mechanism is an intervention or process used by a regulatory actor to guide and influence the behaviour and performance of key stakeholders within the WSS sector, particularly service providers. The existence of 16 individual regulatory mechanisms were examined across four areas:

- I. **Standards and Guidelines.** Whether standards and guidelines have been developed for quality of service, tariff setting, planning and reporting, citizen involvement, and environmental protection, and whether developed standards and guidelines adequately consider pro-poor aspects.
- II. **Monitoring and Performance Reporting.** Whether there is adequate monitoring and reporting by service providers and the regulatory authority, and whether an appropriate set of service quality, economic efficiency and operational sustainability indicators are tracked.
- III. **Incentives.** Whether regulatory authorities are applying financial and reputational incentives to WSS service providers.
- IV. **Sanctions.** Whether regulatory authorities can suspend or remove the license of WSS service providers and apply fines to WSS service providers for breaching regulations.

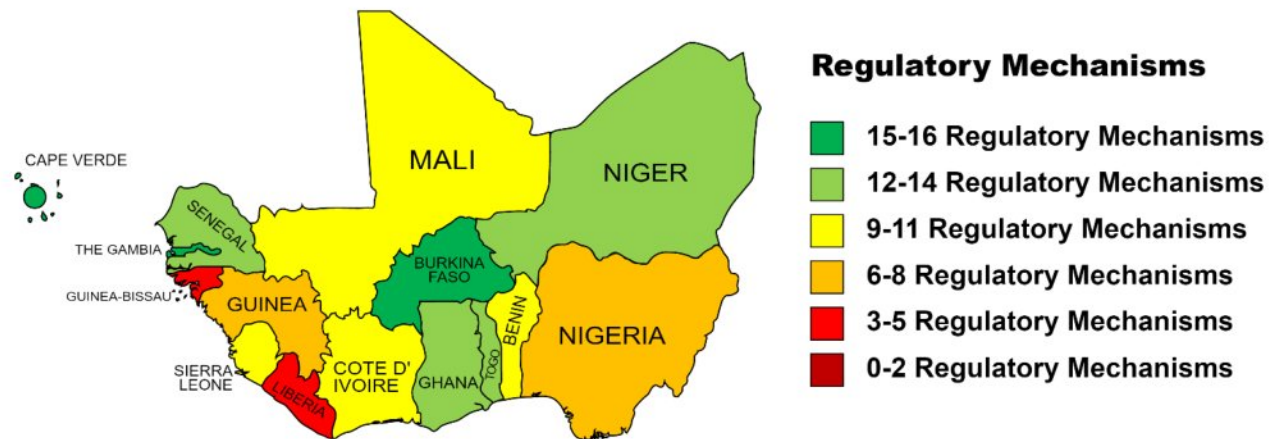
Table 6 details the 16 regulatory mechanisms investigated across these four areas. For each of these, a simple Yes or No grading was utilised to enable the aggregation of country findings to the regional and continent-wide levels. Consequently, noteworthy variations do exist in the performance against each of these aspects for countries that have received the same score. It is critical to note that this assessment principally focused on the existence of these regulatory mechanisms in relation to the primary regulated WSS service providers in each country (i.e., national utilities, large private operators) rather than for smaller, deconcentrated and sometimes informal service providers such as water committees or private vacuum tanker operators and pit emptiers. As is highlighted throughout this section, a considerably less developed set of regulatory mechanisms have been developed for these types of service providers and the services they provide.

Table 6: Regulatory Mechanisms Examined

Regulatory Mechanism	Aspect
Standards and Guidelines	Whether standards and guidelines exist for service levels and water quality .
	Whether standards and guidelines exist for tariff rates , tariff setting and tariff adjustments .
	Whether standards and guidelines exist for the planning activities of WSS service providers (i.e., business planning, financial projections, accounting, annual reporting).
	Whether standards and guidelines exist for citizen involvement and complaints mechanisms .
	Whether standards and guidelines are designed to help ensure poorer and potentially marginalised populations receive affordable services.
	Whether standards and / or guidelines exist for environmental protection .
Monitoring and Performance Reporting	Whether appropriate quality of service indicators are periodically tracked by the regulator.
	Whether appropriate economic efficiency indicators are periodically tracked by the regulator.
	Whether appropriate operational sustainability indicators are periodically tracked by the regulator.
	Whether regulated service providers regularly (i.e., annually) submit reports and data to regulatory actors.
	Whether regulatory actors annually inspect and audit regulated service providers.
	Whether annual reports are produced on sector and regulated service provider performance .
Incentives	Whether regulatory actors use financial incentives to promote improved service provider performance.
	Whether regulatory actors use reputational incentives to promote improved service provider performance.
Sanctioning	Whether regulatory actors have the ability to issue fines to service providers.
	Whether regulatory actors have the ability to suspend , remove , or transfer service provider licenses.

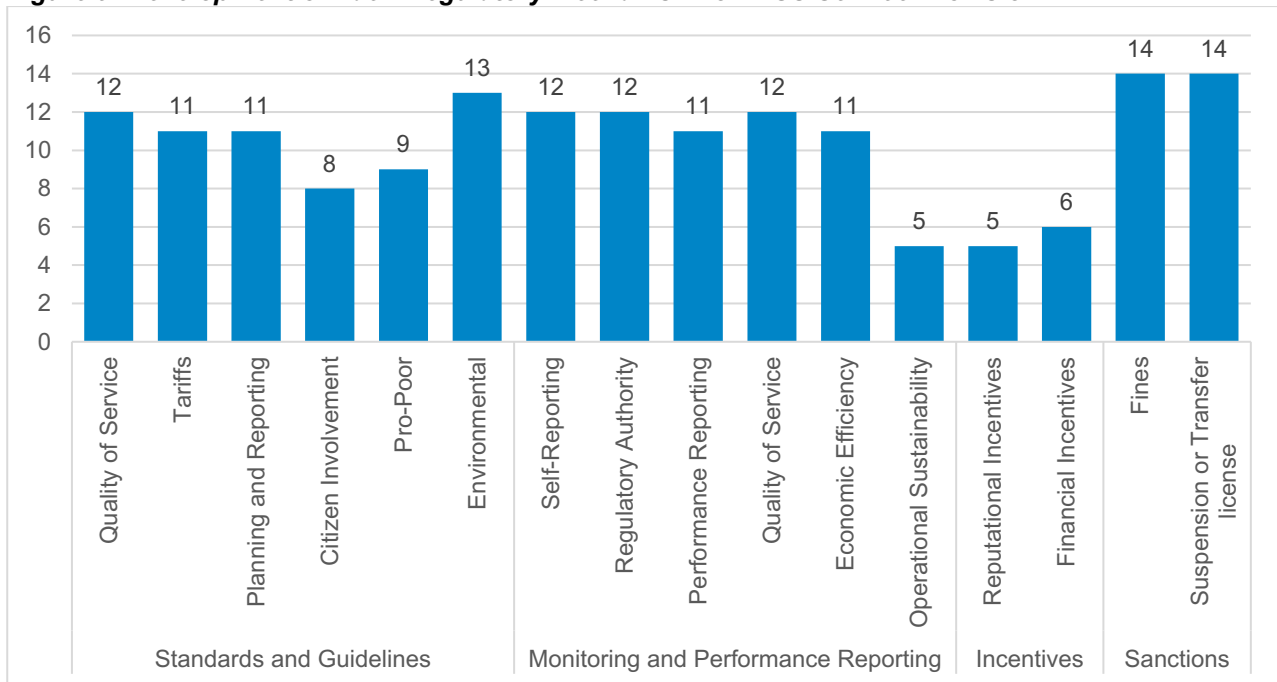
Varying levels of progress have been made across Western Africa in developing and applying regulatory mechanisms for WSS service provision. Figure 8 provides an overview of each country's performance concerning the development of 16 regulatory mechanisms across these four areas. It highlights moderate to good performance across the Western Africa region, with some variation: 11 of the 15 countries have developed at least 10 of the 16 regulatory mechanisms investigated, but there are two countries with five regulatory mechanisms or fewer. While many countries in the region perform reasonably well, only two, Cape Verde and Gambia, have all regulatory mechanisms investigated in place.

Figure 8: Top-Level Overview of Regulatory Mechanisms for WSS Service Provision



The most progress has been made in developing standards and guidelines and monitoring and performance reporting. Figure 9 details the number of the 15 Western African countries that have developed each of the 16 regulatory mechanisms investigated. Across the 15 countries, greatest progress has been made in developing standards and guidelines on service quality, conducting monitoring and performance reporting, and adopting sanctioning mechanisms. Fewer countries have made progress in developing guidelines for planning and citizen involvement, and incentives are rarely used across the region.

Figure 9: Development of Each Regulatory Mechanism for WSS Service Provision



6.1. STANDARDS AND GUIDELINES

The development of standards and guidelines is an area of good or moderate performance, with a few exceptions. Table 6 details which Western African countries have developed standards and guidelines for quality of service, tariff setting, planning and reporting, citizen involvement, and environmental protection, and whether standards consider pro-poor aspects. It highlights that the greatest progress has been made regarding the development of quality of service and environmental protection standards, with considerable effort still required to develop standards and guidelines for citizen involvement and complaints. The greatest progress has been made developing standards and guidelines in Cape Verde, Cote d'Ivoire and Ghana, while pressing challenges remain for Guinea-Bissau and Liberia. Ghana developed an expansive set of standards and

guidelines for key aspects of WSS service provision and is particularly notable for its development of pro-poor guidelines (Box 5).

Table 6: Standards and Guidelines

Country	Quality of Service	Tariffs	Planning and Reporting	Citizen Involvement	Pro-Poor	Environmental
Benin	✗	✓	✓	✓	✓	✓
Burkina Faso	✓	✓	✓	✓	✓	✓
Cape Verde	✓	✓	✓	✓	✓	✓
Cote d'Ivoire	✓	✓	✓	✓	✓	✓
Gambia	✓	✓	✓	✓	✓	✓
Ghana	✓	✓	✓	✓	✓	✓
Guinea	✓	✓	✗	✗	✗	✓
Guinea-Bissau	✗	✗	✗	✗	✗	✓
Liberia	✓	✗	✗	✗	✓	✓
Mali	✗	✓	✓	✗	✓	✓
Niger	✓	✓	✓	✗	✓	✓
Nigeria ³⁶	✓	✓	✗	✗	✗	✓
Senegal	✓	✗	✓	✓	✓	✓
Sierra Leone	✓	✓	✓	✓	✗	✓
Togo	✓	✗	✓	✗	✓	✓
Total	12	11	11	8	11	15

Box 5: Ghana – Pro-Poor Guidelines and Water Fund

Ghana has made important progress developing an expansive set of standards and guidelines for various aspects of WSS service provision, including quality of service, tariff setting, environmental protection, citizen involvement and complaints, and planning and reporting. As is the case in many African countries, some measures and guidelines are imbedded across these to address important pro-poor aspects. For example, urban water supply tariffs are set by Ghana's multi-sectoral regulatory agency the Public Utilities Regulatory Commission (PURC) on the basis of a rising block tariff designed to ensure low-income households are not priced out of the services provided by Ghana Water Company Limited (GWCL).

Ghana has gone a step further than most African countries in this area, with the PURC developing a Pro-Poor Water Fund and formulating 2018 [Guidelines and Procedures for Accessing Pro-Poor Water Funds](#). The overall objective of this fund is to reduce the burden for those who face the greatest deprivation in water supply, particularly those spending a high proportion of their household income on water purchased from secondary and tertiary suppliers. Applications are judged on a series of technical, financial, managerial, innovation and learning criteria, and the pro-poor guidelines are based on several guiding provisions:

- I. **Rigorous Selection and Assessment.** The policy requires grants to follow a transparent selection procedure based on a thorough screening, review and approval process.
- II. **Recipients.** Grants are only provided to local communities in which access to potable water is a challenge.
- III. **Exclusions.** Grants are not extended for activities normally supported by other NGOs or Foreign donors.
- IV. **Consultation and Coordination.** Proposed interventions in a specific district or community require full consultation and close coordination with the concerned community involved in the proposed project.
- V. **Approval Mechanism.** All amounts earmarked for disbursement under the grant require the approval of the PURC Board.

Significantly, efforts to increase the financial equitability of water supply services are built into institutional arrangements for water supply service provision. Of note, the Public Utilities Regulatory Commission (Amendment) Act, 2010 (Act 800) specifying that 20% of the PURC's levy is to be used for pro-poor water programmes, while GWCL has established low-income consumer support units and dedicated departments focused on water supply services in low-income areas. Ultimately, efforts in this area have been shown to impact the financial equitability of services.

³⁶ Scores for Nigeria reflect the standards and guidelines developed at the federal level and general patterns across States where federal standards and guidelines are not available. However, some States may have adopted more or fewer standards and guidelines than is typical nationwide; for example, Kaduna State has developed guidelines on pro-poor subsidies.

6.2. MONITORING AND PERFORMANCE REPORTING

Monitoring and performance reporting of countries' primary WSS service providers varies substantially across Western Africa. Table 7 presents information relating to the self-reporting by WSS service providers to regulatory actors, inspections and audits of service providers conducted by regulatory authorities, and the performance reporting (i.e., publishing of annual reports) conducted by regulatory actors and WSS service providers. This information focuses on the primary WSS services providers (i.e., national or regional utilities, large private operators) within each country rather than smaller service providers (i.e., informal pit emptiers or water committees).

Table 7: Monitoring and Performance Reporting

Country	Service Provider Sharing of Performance Data	Regulatory Authority Monitoring / Data Validation	Production of Reports on Service Provider Performance
Benin	National Water Company of Benin	Ministry of Water and Mines	Ministry of Water and Mines, Ministry of Health, Ministry of the Living Environment and Sustainable Development, National Water Company
	Required to submit annual performance reports to the Ministry of Water and Mines.	Conducts inspections of National Water Company of Benin and validates shared data.	Jointly conduct an annual review of sectoral performance of water supply and sanitation. Reports from each review are posted online and available to the public.
Burkina Faso	National Office for Water and Sanitation	Ministry Environment, Energy, Water and Sanitation	National Office for Water and Sanitation
	Submits quarterly performance reports to Ministry of Water and Sanitation.	Internal and quality audits of the National Office for Water and Sanitation are conducted each year.	Produce a quarterly performance report on a series of service quality, economic efficiency, and operational sustainability indicators and annual report.
Cape Verde	Public Utilities; Municipal Water and Sanitation Departments; Private Water Supply and Sewerage Companies	National Water and Sanitation Agency; Multisector Economic Regulatory Agency	National Water and Sanitation Agency; Multisector Economic Regulatory Agency
	Report extensive technical and financial data to regulators annually.	Jointly review the data reported by regulated service providers and conduct audits for verification.	Jointly produce comprehensive annual sector performance reports benchmarking service providers' performance and reporting on a wide range of technical and economic indicators for both water supply and sanitation.
Cote d'Ivoire	Water Distribution Company of Cote d'Ivoire	National Office of Drinking Water; National Office of Sanitation and Drainage	National Office of Drinking Water; National Office of Sanitation and Drainage
	Monthly reports are submitted to the regulators. Performance contract requires submission of data on performance indicators such as water quality and collection rates.	Mandated to conduct inspections of regulated service providers and monitor compliance with contract provisions. The National Office of Sanitation and Drainage has also conducted surveys on on-site sanitation.	No sector performance reports produced.
Gambia	National Water Supply and Electricity Company	Public Utilities Regulatory Authority	Public Utilities Regulatory Authority
	Regularly submits data on technical and economic indicators and complaints to the Public Utilities Regulatory Authority.	Conducts quarterly monitoring of the quality of water supplied by the National Water Supply and Electricity Company and inspects its facilities. Findings and recommendations for improvement are communicated to the company.	Publishes annual reports on the performance of regulated service providers. These include data on the National Water Supply and Electricity Company's water supply services and are readily available on its website.

Ghana	Ghana Water Company Limited	Public Utilities Regulatory Commission	Public Utilities Regulatory Commission
	Submits monthly, quarterly and annual reports to Public Utilities Regulatory Commission.	Mandated to conduct inspections and compliance monitoring for Ghana Water Company Limited. Visits Ghana Water Company Limited plants to assess their performance against operational parameters and takes water quality samples that are judged against national standards. Also employs independent investigators to undertake water quality testing.	Produces annual reports focused on Ghana's energy sector and the urban water supply sector. This includes the benchmarking of Ghana Water Company Limited performance against previous years; however, this often only looks back one year and performance over time is not presented for all indicators.
Guinea	Guinea Water Company	Ministry of Energy, Hydraulics, and Hydrocarbons	Ministry of Energy, Hydraulics, and Hydrocarbons
	Mandated to regularly report on performance; however, data collection and reporting is very limited in practice. Data is not regularly submitted.	Does not conduct inspections or audits.	Annual sector performance reports are produced, but not made public.
Guinea-Bissau	Electricity and Water for Guinea Bissau; Local Associations	Ministry of Energy, Industry and Natural Resources	Ministry of Energy, Industry and Natural Resources
	No requirement for Electricity and Water for Guinea Bissau to submit reports to the regulator and data is not submitted in a structured or consistent manner. Local associations self-report data such as numbers of users and water production annually as required in their license agreements.	Does not conduct inspections or audits.	No annual sector performance reports produced.
Liberia	Liberia Water and Sewer Corporation	National Water, Sanitation and Hygiene Commission	National Water, Sanitation and Hygiene Commission
	Currently self-regulating and therefore has no requirement to submit reports to a separate regulator. Develops annual reports that include some performance indicators, but these are not made public.	Mechanisms for inspections or audits of service providers are not yet in place. Collection of data is part of the Commission's mandate, but it is not explicitly empowered to conduct inspections or audits.	No annual sector performance reports produced. Joint Sector Review reports are published periodically, but not every year.
Mali	Malian Company of Management of Drinking Water, Small Private Providers, Water User Committees	Regulatory Commission for Electricity and Water	Malian Company of Management of Drinking Water
	The Malian Company of Management of Drinking Water submits monthly, quarterly and annual reports to the Regulatory Commission for Electricity and Water on several service quality and efficiency indicators. Other water supply service providers submit annual reports to the Ministry of Mines, Energy and Water.	The Regulatory Commission for Electricity and Water has six months after submission of reports by the Malian Company of Management of Drinking Water to verify the technical and financial content. It carried out three inspections of the facilities of the Malian Company of Management of Drinking Water in 2020.	Produces comparatively comprehensive annual report that is made publicly available. The Regulatory Commission for Electricity and Water produces an annual report on its activities, but this does not include detailed data on service provider performance.

	Company of Water Exploitation of Niger	Regulatory Authority for the Water Sector	Company of Water Exploitation of Niger
Niger	Monitors several service quality indicators, such as water production, hours of supply, and drinking water quality, and submits an annual report to the Regulatory Authority for the Water Sector detailing performance against these.	Performs inspections of the Company of Water Exploitation of Niger and reviews its annual report.	Produces an annual performance report that is controlled by the Regulatory Authority for the Water Sector. The Regulatory Authority for the Water Sector does not publish regular performance reports, although a one-off technical performance report is available for 2017. The Regulatory Authority for the Water Sector is legally supposed to publish a newsletter and share information via website; however, this is not practiced.
Nigeria	State Water Agencies, Small Town Water Supply and Sanitation Agencies, Rural Water Supply and Sanitation Agencies	Federal Ministry of Water Resources, State Ministries or Regulatory Agencies	Federal Ministry of Water Resources, State Ministries or Regulatory Agencies
	Reporting requirements vary widely at the State level, but in general monitoring systems are limited and service providers do not report detailed technical or financial data.	The National Agency for Food and Drug Administration and Control conducts regular inspections of packaged water companies. Significant variation in the extent to which State regulatory institutions conduct inspections and audits.	The Federal Ministry of Water Resources and National Bureau of Statistics directly conduct an annual survey on WSS that covers quality of service indicators, but does not address economic efficiency or operational sustainability. State regulatory institutions may produce annual reports, but this varies widely.
Senegal	SEN'Eau, Contracted Private Providers	National Water Company of Senegal, Rural Boreholes Agency, National Sanitation Agency of Senegal	Ministry of Water and Sanitation
	Contracts specify the type and frequency of reporting by delegated service providers to the regulatory institutions (National Water Company of Senegal for urban water supply, Rural Boreholes Agency for rural water supply, and National Sanitation Agency of Senegal for sanitation).	Mandated to monitor and inspect service providers delivering urban water supply (National Water Company of Senegal), rural water supply (Rural Boreholes Agency), and sanitation (National Sanitation Agency of Senegal). Regulatory institutions in turn submit annual reports to their Boards of Directors, which are headed by the Ministry of Water and Sanitation.	Has a coordination unit responsible for monitoring WSS programmes and consolidating data collected by the departments responsible for water and sanitation into an Annual Sector Review.
Sierra Leone	Sierra Leone Water Company, Guma Valley Water Company	Sierra Leone Electricity and Water Regulation Commission	Sierra Leone Electricity and Water Regulation Commission
	Required to submit data quarterly to Sierra Leone Electricity and Water Regulation Commission.	May audit the data submitted by service providers. However, the frequency of these audits varies.	Produces an annual report. However, the report includes no information on the performance indicators.
Togo	Togolese Water Company and Urban and Semi-Urban Water and Sanitation Asset Company	Regulatory Authority for Electricity	Regulatory Authority for Electricity
	Required to submit monthly and quarterly reports to the Regulatory Authority for Electricity on key aspects of their performance.	Mandated to conduct annual inspections of the Togolese Water Company and Urban and Semi-Urban Water and Sanitation Asset Company; however, these	Produces annual reports on service provider performance that focus on the implementation of commitments and key provisions of their performance contracts, complaints handling, and requests

		inspections are rarely performed in practice.	for assistance from drinking water users in urban and peri-urban areas. This includes tracking of some indicators over time.
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Regulatory actors in most West African countries are monitoring and tracking only moderate set of indicators, focusing primarily on quality of service. Figure 10 provides an overview of how many of the ten investigated indicators are tracked and reported on an ongoing basis (i.e., annually) by country. This again focuses on the main regulated service providers for each country. It highlights that a comparatively modest set of indicators are being tracked and reported against the main WSS service providers in most Western African countries, with a few exceptions such as Burkina Faso, Cape Verde, and Togo.

Figure 10: Tracked and Reported WSS Indicators

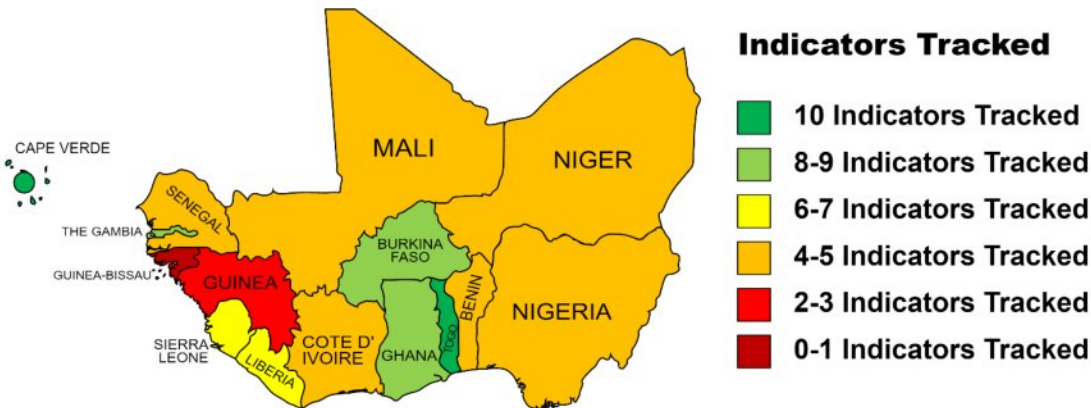


Table 8 details which indicators are tracked for the main WSS service providers. This includes indicators tracked and reported by WSS service providers themselves and indicators validated and sometimes reported by a regulatory authority. It highlights how the greatest progress has been made in monitoring water coverage and water quality, in line with the broader bias toward greater regulation of water supply services. Other quality of service indicators, such as sanitation coverage and hours of supply, are relatively widely tracked. Metering ratios are also monitored in most countries, while other economic efficiency and operational sustainability indicators are much less widely monitored. Operations and maintenance (O&M) cost coverage and staff costs as a proportion of O&M costs present a particular challenge. Box 6 details the extensive monitoring and benchmarking conducted by Cape Verde’s regulatory agencies.

Table 8: Indicators Tracked / Reported

Country	Quality of Service				Economic Efficiency				Operational Sustainability	
	Water Coverage	Sanitation Coverage	Hours of Supply	Water Quality	Metering Ratio	Non-Revenue Water	O&M Cost Coverage by Revenue	Revenue Collection Efficiency	Staff cost as Proportion of O&M	Staff per 1000 Connections
Benin	✓	✗	✗	✓	✓	✓	✗	✗	✗	✓
Burkina Faso	✓	✓	✓	✓	✓	✓	✓	✗	✓	✓
Cape Verde	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Cote d'Ivoire	✓	✓	✓	✗	✗	✗	✗	✓	✗	✗
Gambia	✓	✓	✓	✓	✓	✓	✓	✗	✗	✓
Ghana	✓	✗	✗	✓	✓	✓	✓	✓	✓	✓
Guinea	✓	✓	✓	✗	✗	✗	✗	✗	✗	✗
Guinea-Bissau	✓	✗	✗	✗	✗	✗	✗	✗	✗	✗
Liberia	✓	✓	✗	✓	✓	✗	✗	✓	✗	✓
Mali	✓	✗	✓	✓	✓	✗	✗	✗	✗	✓
Niger	✓	✗	✓	✓	✓	✗	✗	✗	✗	✓
Nigeria	✓	✓	✓	✓	✓	Varies across States				
Senegal	✓	✓	✗	✓	✓	✓	✗	✗	✗	✗
Sierra Leone	✓	✗	✓	✓	✓	✓	✗	✓	✗	✗
Togo	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Total	15	9	10	12	12	8	5	6	4	9

Box 6: Cape Verde's Annual Benchmarking Report

As part of the institutional reform process that created the National Water and Sanitation Agency (ANAS); Multisector Economic Regulatory Agency (ARME), Cape Verde also introduced a comprehensive monitoring and benchmarking process for all regulated service providers: municipal WSS departments; the national water and electricity utility, Electra; the five intermunicipal companies, which are utilities operating on one or two islands; and private water supply and sewerage companies. All service providers are required to report extensive data on technical and financial performance annually using the WSS sector information system, and ANAS and ARME review the data and conduct audits for verification.

The annual WSS sector report (Relatório Anual dos Serviços de Água e Saneamento em Cape Verde, or RASAS, in Portuguese) includes a summary of WSS sector institutional frameworks and activities; aggregated data on indicators such as coverage, volumes billed, and complaints at the national level for water and sanitation; and detailed data on service provider performance. Service providers are benchmarked on 15 indicators of service quality each for water and sanitation and 16 economic and financial indicators. These include coverage, continuity of service, costs and profitability, but also energy consumption and women in leadership positions. The value for each indicator is reported along with a performance rating using a traffic light format. Data is reported both individually by service provider and by indicator, allowing for easy comparisons of the ratings attained by each provider. The report also benchmarks service providers on the amount of submitted data, highlighting that reporting was a challenge when the process was introduced in 2015 but has improved over time, and includes a reliability score along with each data point.

There is limited monitoring and performance reporting of smaller, deconcentrated service providers.

To varying extents, there is limited – or no – consistent monitoring of services provided by water committees, private vacuum tanker operators and manual pit emptiers in all Western African countries. Linked to this, these providers are not meaningfully included in performance reporting.

6.3. INCENTIVES

Very few West African regulatory actors apply reputational or financial incentives to WSS service providers to stimulate improved performance. Table 9 presents summary information on the financial and reputational incentives applied by regulatory actors. It highlights that regulatory actors in most countries do not use incentives for promoting good performance by WSS service providers. Financial incentives applied include consideration of performance in tariff increases (Cape Verde) and rewards for meeting performance targets (Gambia). Reputational incentives range from detailed benchmarking, as in Cape Verde, to lighter-touch incentives such as the inclusion of some service provider performance information in annual reports in Ghana and Gambia. Regulatory incentives are only applied to larger and more formalised service providers, with no examples found of reputational or financial incentives being applied to smaller, deconcentrated service providers such as water committees or manual pit emptiers.

Table 9: Financial and Reputational Incentives

Country	Financial Incentives Applied	Note	Reputational Incentives Applied	Note
Benin	✗	Ministry of Water and Mines	✗	Ministry of Water and Mines
		No financial incentives are applied to WSS service providers.		No reputational incentives are applied to WSS service providers.
Burkina Faso	✓	Ministry of Environment, Energy, Water and Sanitation	✗	Ministry of Environment, Energy, Water and Sanitation
		Depends on the type of contract (with national utility or smaller providers). For the national utility, they could be exempted from paying dividends to the government.		No reputational incentives are applied to WSS service providers.
Cape Verde	✓	Multisector Economic Regulatory Agency	✓	National Water and Sanitation Agency; Multisector Economic Regulatory Agency

		Can reject applications for tariff increases or approve only lower tariffs if service providers do not meet performance criteria, for example, on efficiency.		Benchmarking of service providers against national standards and in comparison to one another in annual sector reports provides a reputational incentive for service providers to improve performance.
Cote d'Ivoire	✗	National Office of Drinking Water; National Office of Sanitation and Drainage	✗	National Office of Drinking Water; National Office of Sanitation and Drainage
		No financial incentives are applied to WSS service providers.		No reputational incentives are applied to WSS service providers.
Gambia	✓	Public Utilities Regulatory Authority	✓	Public Utilities Regulatory Authority
		Recently introduced an incentive mechanism to provide financial rewards to the National Water Supply and Electricity company for meeting performance targets. This focuses primarily on electricity but includes targets for non-revenue water and water quality.		Produces an annual report that includes moderately detailed information on the National Water Supply and Electricity Company's performance, including tracking of some data points over time. This represents a light-touch reputational incentive.
Ghana	✗	Public Utilities Regulatory Commission	✓	Public Utilities Regulatory Commission
		There are no formal incentives. However, if standards and regulations are complied with by the Ghana Water Company Limited, it has a greater chance of receiving approval from the Public Utilities Regulatory Commission for an increase in tariffs.		Produces an annual report that includes moderately detailed information on GWCL's performance. This represents a light-touch reputational incentive.
Guinea	✗	Ministry of Energy, Hydraulics, and Hydrocarbons; Ministry of Territorial Administration and Decentralization; Ministry of Environment and Sustainable Development	✗	Ministry of Energy, Hydraulics, and Hydrocarbons; Ministry of Territorial Administration and Decentralization; Ministry of Environment and Sustainable Development
		No financial incentives are applied to WSS service providers.		No reputational incentives are applied to WSS service providers
Guinea-Bissau	✗	Ministry of Energy, Industry and Natural Resources	✗	Ministry of Energy, Industry and Natural Resources
		No financial incentives are applied to WSS service providers.		No reputational incentives are applied to WSS service providers.
Liberia	✗	National Water, Sanitation and Hygiene Commission	✗	National Water, Sanitation and Hygiene Commission
		No financial incentives are applied to WSS service providers.		No reputational incentives are applied to WSS service providers.
Mali	✗	Regulatory Commission for Electricity and Water	✗	Regulatory Commission for Electricity and Water
		No financial incentives are applied to WSS service providers.		No reputational incentives are applied to WSS service providers
Niger	✗	Regulatory Authority for the Water Sector	✗	Regulatory Authority for the Water Sector
		No financial incentives are applied to WSS service providers.		No reputational incentives are applied to WSS service providers

Nigeria	✗	Federal Ministry of Water Resources; State Ministries or Agencies	✗	Federal Ministry of Water Resources; State Ministries or Agencies
		No financial incentives are applied at the federal level for routine service delivery performance. A limited number of States use incentives such as financial rewards for staff or performance contracts that include financial incentives for meeting key performance indicators.		No reputational incentives are applied to WSS service providers.
Senegal	✗	National Water Company of Senegal, Rural Boreholes Agency, National Sanitation Agency of Senegal	✗	National Water Company of Senegal, Rural Boreholes Agency, National Sanitation Agency of Senegal
		No financial incentives are applied to WSS service providers.		No reputational incentives are applied to WSS service providers
Sierra Leone	✗	Sierra Leone Electricity and Water Regulation Commission	✗	Sierra Leone Electricity and Water Regulation Commission
		Financial incentives are not currently applied for WSS service provision. However, result-based disbursements to the best performing utilities on key performance indicators is planned to be implemented with the financial support of the Millennium Challenge Corporation programme of the United States.		Reputational incentives are not applied for WSS service provision, with publicly available produced reports not detailing indicators and information on the performance of WSS service providers.
Togo	✗	Regulatory Authority for the Electricity; National Sanitation and Public Safety Agency	✗	Regulatory Authority for Electricity; Local Authorities
		No financial incentives are applied to WSS service providers.		Only light reputational incentives are applied, such as inclusion of some performance data in annual reports and recognition of good performance.

6.4. SANCTIONS

Most regulatory actors are empowered to utilise various sanctions; however, these powers are rarely applied in practice. Table 10 presents an overview of the West African countries where regulatory authorities are mandated to issue fines to service providers and suspend or remove licenses. It highlights that most countries have developed mechanisms for sanctioning service providers, but very rarely apply them. Regulatory actors in 13 of the 15 countries are able to fine service providers for breaching WSS regulations or contract provisions for aspects related to service delivery. In all 15 countries, regulatory actors can suspend or remove a service provider's license or terminate their contract. However, these powers are largely not used, either to penalize major, large-scale WSS service providers for poor performance or sanction smaller, deconcentrated or informal service providers for breaching regulations. The power to suspend or remove a service provider's license or terminate their contract is particularly difficult to apply in practice. In countries with a single national utility, there is no practical alternative provider if the utility is prohibited from operating. Meanwhile, monitoring large numbers of small providers for compliance with regulations or contract terms is extremely difficult. Regulatory actors in West Africa largely lack alternative sanctioning mechanisms, including informal or lighter-touch measures such as formal orders or warnings or replacement of a service provider's senior management.

Table 10: Sanctions

Country	Ability to Fine Service Providers	Note	Ability to Suspend / Remove Service Provider License	Note
Benin	✗	Ministry of Water and Mines	✓	Ministry of Water and Mines, Ministry of Living Environment and Sustainable Development
		Not mandated to issue fines for WSS service provision.		Regulatory actors can suspend or remove a service provider's license or terminate contracts.
Burkina Faso	✓	Ministry of Environment, Energy, Water and Sanitation	✓	Ministry of Environment, Energy, Water and Sanitation
		Can issue fines to small-scale private service providers.		Can change the General Director of the National Office of Water and Sanitation. Can suspend or remove license of small-scale private service providers.
Cape Verde	✓	Multisector Economic Regulatory Agency	✓	National Water and Sanitation Agency; Multisector Economic Regulatory Agency
		Can issue fines to service providers if they do not comply with regulations. However, this power is rarely applied.		Can suspend, remove or transfer the licenses of service providers. This power is designed to only be in the event of a very serious offence and has not yet been used.
Cote d'Ivoire	✓	National Office of Drinking Water; National Office of Sanitation and Drainage	✓	Inter-ministerial Committee
		The Water Distribution Company of Cote d'Ivoire's contract includes penalties for non-compliance with performance clauses, though these are not applied. Contract details are not publicly available.		Can determine whether to revoke the contract of a service provider - in particular the Water Distribution Company of Cote d'Ivoire. This mechanism has not been used.
Gambia	✓	Public Utilities Regulatory Authority	✓	Public Utilities Regulatory Authority (PURA)
		Can impose fines for poor quality of service. This power has been used recently: in 2020, the National Water and Electricity Company was fined 1.5 million Dalasi for failure to meet quality requirements in their provincial treatment plants.		Can revoke a service provider's license if they do not comply with regulations, but this has not yet happened. Local governments are also envisioned to have this power, but regulatory responsibilities have not yet been decentralised.
Ghana	✓	Public Utilities Regulatory Commission	✓	Public Utilities Regulatory Commission
		Can issue a fine of up to GH¢10,000,000 (equivalent to roughly US\$1,400,000) to Ghana Water Company Limited if it is found to breach a variety of provisions and, in default of payment, the principal officer or secretary of Ghana Water Company Limited can be liable to imprisonment.		Mandated to recommend to the licensing authority of the public utility for the cancellation or suspension of its license.
Guinea	✓	Ministry of Energy, Hydraulics, and Hydrocarbons; Ministry of Environment and Sustainable Development	✓	Ministry of Energy, Hydraulics, and Hydrocarbons; Ministry of Environment and Sustainable Development
		Authorised to issue fines for violations, but they are rarely applied.		Can revoke or cancel water permits, business registrations, or contracts with service providers for

				non-compliance with regulations, but this is extremely rare.
Guinea-Bissau	✓	Ministry of Energy, Industry and Natural Resources	✓	Ministry of Energy, Industry and Natural Resources
		Can issue fines for poor performance; however, this measure has not been applied.		Can remove the license of Electricity and Water for Guinea-Bissau; however, this measure has not been applied.
Liberia	✗	National Water, Sanitation and Hygiene Commission	✓	National Water, Sanitation and Hygiene Commission
		Not mandated to issue fines.		Can issue and suspend/transfer licenses for all WSS service providers but lacks the resources and capacity to exercise this authority.
Mali	✓	Ministry of Mines, Energy and Water	✓	The Ministry of Mines, Energy and Water
		Can fine the Malian Company of Management of Drinking Water for poor performance or causing danger to public health. The fine can be up to 5% of revenue excluding sales tax. In practice it appears sanctions are rarely, or never, used.		The contract between the Ministry of Mines and Energy and Water and the Malian Company of Management of Drinking Water can be terminated if the latter does not fulfil its obligations.
Niger	✓	Regulatory Authority for the Water Sector	✓	Regulatory Authority for the Water Sector
		Can impose fines on service providers.		Can suspend licenses and reduce the period of a service provider's contract or end the contract entirely.
Nigeria	✓	Federal Ministry of Water Resources; National Agency for Food and Drug Administration and Control; National Environmental Standards and Regulations Enforcement Agency, State Ministries or Agencies	✓	Federal Ministry of Water Resources; National Agency for Food and Drug Administration and Control; State Ministries or Agencies
		At the federal level, the Federal Ministry of Water Resources; National Agency for Food and Drug Administration and Control; National Environmental Standards and Regulations Enforcement Agency are legally empowered to issue fines for breaching various types of WSS regulations. The National Agency for Food and Drug Administration and Control is notably active in enforcing water quality regulations for packaged water producers. The power to issue fines also exists in some States, but the extent of its application and the types of violations subject to fines varies.		At the federal level, the Federal Ministry of Water Resources can cancel or modify any license for the diversion and use of water, and the National Agency for Food and Drug Administration and Control can revoke the licenses of producers who violate regulations. Some States, particularly those with State regulatory agencies (i.e., Lagos), also have provisions to suspend or revoke service providers' licenses.
Senegal	✓	National Water Company of Senegal, Rural Boreholes Agency, National Sanitation Agency of Senegal	✓	National Water Company of Senegal, Rural Boreholes Agency, National Sanitation Agency of Senegal
		Contracts include specific financial penalties for non-compliance with contract provisions or failure to meet performance indicators.		Contracts with regulated service providers can be suspended or cancelled for non-compliance with contract provisions.

Sierra Leone	✓	Sierra Leone Electricity and Water Regulation Commission, Local Councils	✓	Sierra Leone Electricity and Water Regulation Commission
		Can issue fines for regulatory violations (i.e., non-compliance with packaged water quality standards or effluent discharge parameters). This has been applied by the Sierra Leone Electricity and Water Regulation Commission to private packaged water service providers.		Can shut down service providers that do not comply with regulations. However, this is applied only to packaged water service providers, which have been the subject of a recent enforcement effort, and not to Sierra Leone Water Company or Guma Valley Water Company.
Togo	✓	Regulatory Authority for the Electricity	✓	Regulatory Authority for the Electricity; National Sanitation and Public Safety Agency
		Fines can be imposed on the Togolese Water Company and Urban and Semi-Urban Water and Sanitation Heritage Company for non-compliance with their contracts. However, fines have not been imposed on either company in the last five years.		Can suspend or remove service providers' licenses. This has not been applied to the Togolese Water Company or Urban and Semi-Urban Water and Sanitation Heritage Company (both public companies), but licenses have been cancelled for small-scale private operators providing WSS services.

7

REGULATORY ENVIRONMENT

7. REGULATORY ENVIRONMENT

The regulator's legitimacy is more related with the regulator's decision-making process in terms of regulatory independence and accountability. The financial independence and economic sustainability of the regulator are a determining factor in its independence and legitimacy. To this end, the regulator must have access to adequate financing for the exercise of its regulatory mandate. Regulatory accountability requires that the regulator be accountable to the Parliament, the Government, regulated entities and to the public. Disclosure of information about the regulatory processes and public reporting of compliance and performance, as well as implementation of participatory models in decision-making processes are characteristics of good governance by regulators.

Although some countries perform well, the regulatory environment for WSS regulation represents a mixed picture in most West African countries, with a number of significant challenges evident across the region. Table 11 presents the status of several different aspects related to three dimensions of the regulatory environment: (i) autonomy; (ii) participation; (iii) transparency. It highlights moderate overall performance, with some examples of good performance and a number of common challenges. In seven countries, regulatory actors are operationally autonomous and can adjust tariffs without approval from another government authority. This is linked to the prevalence of regulation by agency in the region for at least some sub-sectors. However, financial autonomy is less common. The key regulatory actor(s) in five countries are part of or closely connected with a Ministry and therefore receive their funding through central government budgeting processes, but some institutions that are legally established as autonomous also depend at least in part on government financing. The extent of public participation varies widely, with some countries having formal mechanisms to ensure participation (i.e., customer representation on management boards, consultation requirements) and others either engaging informally, mainly with civil society, or lacking participation mechanisms. Regulatory reports are made publicly available in eight of 15 countries; however, the breadth and depth of these varies. Cape Verde, Gambia, Ghana, and Mali stand out as having made substantial progress in ensuring autonomy, participation, and transparency, albeit with further improvements required.

Table 11: Regulatory Environment

Country	Autonomy			Participation	Transparency
	Whether Regulator(s) can Adjust Tariffs without Government Approval	Whether the Regulator(s) are Financially Independent of Government	Regulator's Funding Mechanism	Public Participation in Development and Application of WSS Regulations	Whether Regulatory Reports are Publicly Available
Benin	✗	✗	The Ministry of Water and Mines is dependent on wider government-driven budgeting processes to fund its regulatory activities	Civil society organisations participate in the annual sectoral review, but no other mechanisms for public participation were identified.	✓
Burkina Faso	✗	✗	The Ministry of Water and Sanitation is dependent on wider government-driven budgeting processes to fund its regulatory activities.	There is a formal grievance redressal mechanism for National Office for Water and Sanitation (ONEA) and groups of customers participate in ONEA's management committee.	✗

Cape Verde	✓	✓	The National Water and Sanitation Agency and Multisector Economic Regulatory Agency are financially independent. Their budgets are financed through fees charged to regulated entities for licensing and other services. However, they can receive appropriations from the government budget as well.	The Water and Sanitation Code includes provisions requiring organizations representing consumers to be consulted in the development of the legal framework for WSS. The Cape Verde consumer association is a member of the national council responsible for WSS policy development.	✓
Cote d'Ivoire	✗	✗	National Office of Drinking Water and National Office of Sanitation and Drainage are financially autonomous from their supervising ministries and receive funding from the Ministry of Budget based on their activity plan.	The Water Code explicitly mentions participation, including provisions on the involvement of users, in the management and development of water resources. However, de facto participation in the development and application of regulations remains limited.	✗
Gambia	✓	✓	Public Utilities Regulatory Authority is an autonomous regulatory agency. Its main source of income is fees charged to regulated service providers. Other regulatory actors are ministries and therefore are not autonomous entities. They are funded through the central government budget allocation process.	Tariff setting guidelines mandate that public comments are invited before tariffs are published. Public comments are also invited when standards are being developed by the Gambia Standards Bureau. Public Utilities Regulatory Authority holds "consumer parliaments" for urban areas and an annual listening tour called "Bantaba" in rural communities to collect information on service access, quality, and affordability.	✓
Ghana	✓	✓	Public Utilities Regulatory Commission (PURC) is funded through a regulatory levy on energy that goes through the Ghana Grid Company. PURC receives 0.12 and 0.08 Ghanaian Pesewas per kilowatt hour of electricity and standard cubic feet of natural gas transmitted. 67% of this is to be used for the PURC's activities and 33% for PURC pro-poor water programmes.	There are requirements for public consultations in tariff setting processes and the development of legal instruments and policies, including a representative of consumers in the PURC, and complaints mechanisms.	✓
Guinea	✗	✗	Key regulatory authorities are ministries and, therefore, neither financially or operationally autonomous. They are funded through the national government budget.	No formal mechanisms have been established for citizen participation in the development or application of regulations.	✗
Guinea-Bissau	✗	✗	The Ministry of Energy, Industry and Natural Resources is dependent on national budgets for executing its regulatory responsibilities.	No formal mechanisms are established for citizen participation in the development or application of regulations. However, the Ministry of Energy, Industry and Natural Resources provides loose coordination of civil society organisations involved in WSS services.	✗
Liberia	✓	✗	The National Water, Sanitation and Hygiene Commission is legally established as an autonomous regulatory body but relies on government budgets and donor funding to meet its resourcing needs. The	There are formal mechanisms for civil society participation, including a requirement that a civil society representative be included on The National Water, Sanitation and Hygiene	✓

			WASH Commission Act requires that it pay any revenues it generates into the general account of the government and participate in the public budgeting process to receive funds.	Commission's Board of Directors and a monthly coordination meeting with key government institutions, donors, NGOs and civil society organizations involved in the sector. However, there are no formal mechanisms for direct citizen participation.	
Mali	✓	✓	The Regulatory Commission for Electricity and Water is financed by a regulatory fee charged to all urban service providers, currently set at 1% of all water and electricity bills.	A representative of consumers participates in the Regulatory Commission for Electricity and Water Administrative Council.	✓
Niger	✓	✓	Regulatory Authority for the Water Sector is an independent agency. It is funded through a levy of 2.5% on the annual revenue of any service provider holding a delegation contract.	There is limited participation in the development or application of regulations.	✗
Nigeria	✗	✗	Key regulatory actors are usually State Ministries, which are dependent on transfers from the federal and State governments. However, some States have established autonomous regulatory agencies with other sources of funding. For example, the Lagos Water Resources Commission is primarily funded through a combination of a surcharge on tariff payable by consumers of water, wastewater and sewerage services. At the federal level, National Environmental Standards and Regulations Enforcement Agency is funded through a variety of sources, including the federal government, development partners, and revenues from its activities (i.e., rents, fees).	The extent of participation varies widely, but in general, there are no formal mechanisms to ensure citizen participation, with the exception of consultation requirements around infrastructure development. Some regulatory actors may engage citizens as good practice, and civil society is active around WASH issues in some States, but participation is not formally required.	✗
Senegal	✗	✗	Regulatory actors are funded by a mix of fees and central government allocations. The National Water Company of Senegal receives a portion of the water tariffs collected by SEN'Eau; the Rural Boreholes Agency levies a charge on water billing; and the National Office of Sanitation of Senegal is partially financed by a sanitation fee charged to the national utility, taxes on construction and pollution, and grants.	Regulatory actors regularly engage with civil society organisations, coalitions such as the Platform of Civil Society Organizations on Water and Sanitation, user associations in rural areas, and consumer associations. Consultations on service delivery are done as good practice; formal consultation mechanisms centre on projects.	✗
Sierra Leone	✓	✓	The Sierra Leone Electricity and Water Regulation Commission (SLEWRC) is an autonomous agency. A majority of its income comes from a 1% annual levy of the gross operating revenue of the regulated suppliers and other sources such as grants and donor programmes. The government also supports SLEWRC; in 2020, 39% of the entity's funds came from the government.	SLEWRC must hold consultations to introduce or modify a key policy. SLEWRC also has a robust complaint mechanism to report any issues with water supply service delivery.	✓

Togo	✗	✗	The Regulatory Authority for the Electricity (ARSE) is financed through a combination of royalties received for operating permits, inspection fees, concession fees, receipts from service provision, parafiscal taxes, and subsidies from the Government of Togo.	No formal mechanisms are established for citizen participation in the development or application of regulations.	✓
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