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Paper:

“The 1997 assessment of French public water services”

Dr. Bernard Barraqué
Ecole Nationale de Ponts et Chaussées
France

**School of Geography and the Environment
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*Bernard Barraqué is a French civil engineer (National School of Mines, Applied Maths) who became a city planner (Harvard University), and later a doctor in urban socio-economic analysis (at Paris IX University). In his professional activity, he has focused on local public environmental policies, first as a consultant, and then as a lecturer and a free lance researcher. He obtained a CNRS full time position in 1988, in the newly created section devoted to architecture, urban planning and society. Since then he is attached to an interdisciplinary laboratory, Technology, Territories and Societies (LATTs), which is a joint venture between the oldest civil engineering school in the world, the Ecole Nationale des Ponts et Chaussées, and two Universities (Paris XII in Creteil, and University of Marne la Vallée). His major theme of research now covers water related European public policy, at various territorial levels. He has published the first systematic analysis of water policies across the 15 member States of the European Union (*Les Politiques de l'Eau en Europe*, Paris, La Découverte, 1995 ; translated into Portuguese and Italian), as well as several articles in the major European languages. He has also done some socio-historical research on other environmental issues like noise control, landscape preservation and parks systems, solar energy, flood control, and territorial environmental policies. Barraqué was promoted to Research Director in 1996, and he is the French partner of the Eurowater network devoted to the comparative study of European water policies and their sustainability (Eurowater - Water 21 Project). He also serves on the editorial boards of several planning and policy periodicals in France and in the U.S.A., and is member several organizations including the French National Council on Noise, the Scientific Councils of two regional water boards, the Académie de l'Eau, and the French Institute for Environmental Statistics (IFEN. Together with Jacques Theys, a high ranking civil servant in the ministries of Environment and Town planning, he just edited the first thorough assessment of French environmental policies in a European perspective (*Les Politiques de l'Environnement. Évaluation de la Première Génération*, Ed. Recherches, 1998). One chapter of the book is a synthesis of his past research on the greening of municipal policies.*

For enquiries on this paper, contact Bernard Barraqué: barraque@mail.enpc.fr

I have decided to write the following comments and summary, in order to bring you a researcher's eye on the French public debate on water policies. I must confess that I am always surprised to discover that Anglo-saxon and other colleagues think they can analyse in-depth the situation of French water services, with the leading role of giant multi-service groups, just through the reading of official documents, and the interview of officials, without trying to meet their French colleagues who could provide them with

after-thoughts. I do hope that this is only due to a language barrier, and that it would not occur in their own country. But I also feel awkward when I see that some other researchers tend to quote and assume the interpretation of official papers made by previous work, in such a way as to build-up support for what I deem is an ideological position on “French style privatisation”, or at best a counter-ideological position: defending public procurement against privatisation for moral rather than scientific reasons. The best side argument for me would be that most of my colleagues leave unquestioned the polluter-pays principle, which is at the heart of neo-classical economics, while they refuse a liberalisation of all sectors of the economy which was invented by the same economists who also created the PPP.

It is true that in 1997 the French GAO issued a report which criticises some of the inefficiencies and economic misuses of both direct and delegated water and waste water services, but when you really read it, it’s quite far from mere criticism of privatisation. Anyway the report needs to be presented first to understand its rationale. I would first like to insist on the fact that in France, there are water services, and large ones, which are operated under direct labour, and offer a clear, if unknown abroad, competition to large oligopolistic groups, which helps reducing the frequently alleged imbalance between local authorities and private groups. Yet the Cour des Comptes (CC) has pointed accounting deficiencies and irregularities also in direct labour management.

What does the French CC?

This institution is not in charge of general or holistic policy assessments. Another department, attached to the Commissariat au Plan is in charge of that. The CC is just in charge of checking if public money is spent following the rules. To do so, it can

investigate the accounting of ministerial departments or municipal services. Usually, it picks up cases or areas where irregularities are susceptible to be found, so that one cannot consider its evaluations as representative of a whole sector. In the case of this very report on water services, observations have been made on 71 of them, but the CC does not indicate how many services were inspected altogether, and one has to keep in mind that there are as many as 16,000 drinking water and almost 17,000 wastewater undertakings in France ...Another problem is with the separation in the report between observations pertaining to bad technical choices, and those pertaining to bad financial practices. If one could read both together, one could raise questions of a more general nature: e.g. isn't a whole governmental framework for financing the investments *in fine* at stake, rather than the sole local authorities or their joint boards? Indeed, increasingly does the CC extend its analyses to the technical aspects of the policies under scrutiny, and members of the water policy community, in particular audit consultancies, are not sure that it has all the necessary skills to do so. To give an example drawn from another field, the CC just issued a report criticising the government for not completing the construction of the upstream reservoirs to reduce flood risks on the Loire. The CC starts from the fact that money has been spent to appropriate land for the construction which is useless if the dams are not built. However, in France as in other countries, the inefficiency of structural measures has been recognised and has led to other types of prevention approaches. The CC report might then just appear as right but myopic and outdated.

But let us turn to the water services report conclusions, because, despite the audit method, it does have elements of validity.

THE ASSESSMENT OF FRENCH WATER SERVICES

The conclusion of the report starts with three general observations. The first one is that “public services for water and sewerage are delivered in a satisfactory manner in our country, but they will require growing financing needs to face quality standards fixed by European Directives and by the water law 1992. Their own resources are often insufficient to fulfill the 6th and 7th investments programs of the *Agences de l’eau*.”

The second observation is that investments to face the new standards should be supported “as a rule”, by water users and not by tax-payers. And in many cases pointed in the report, the relevant rules in the Local authorities Code are not respected.

The third observation is that this difficult financing situation should lead local authorities to reinforce their control on the services, and yet it remains insufficient for both direct management and delegation to private companies.

Then the report proposes to create a series of support mechanisms to alleviate the lack of expertise of local authorities, both in technology and in the control of the contracts with private groups. The CC proposes first an increased role of State territorial services in this expertise. By the way, one must know that in the French tradition of the Corps of engineers, State engineers would be both the consultants and the controllers of local authorities. This situation cannot go on due to European Directives opening consulting to competition with fair rules. There is a project to then increase the auditing role of State engineers. However, what is happening is rather the development of the support functions of the *Conseils généraux*, the elected bodies at the scale of the *départements*, which set up water services and pooling mechanisms for the financing of local water projects. The CC report seems to ignore this. Interestingly enough, the CC also proposes an extended role given to the *Agences de l’eau* which are here considered

as staying in a too passive banker's position. "They could increasingly become support and consulting institutions for communes". However, this interesting proposal has not been retained by the last government, which rather seeks a reduction of the Agencies to a mere technical instrument ...

The CC report also proposes several adaptations of the existing rules applying to the Code of public works markets. For instance, including the concessions in the delegation formulas subject to tendering of public works. Most interesting however is the recognition that local authorities operating their services directly are obliged to give their eventual provisions to the *Trésor Public*, that is the State budget, where they get no interests. CC proposes to develop a system of interests payment for this money, so as to develop self financing. My observation is that this historical situation of financial centralisation is in fact one of the most powerful explanation for the choice by local authorities to delegate to the private sector. High ranking central government civil servants are then not in a good position to criticise the abuses of the delegation system.

Lastly the CC points that recent pieces of legislation have made it compulsory to produce yearly reports: on their activity by the companies to the local councils, and by the councils to water users; also a yearly report on compliance to drinking water standards has to be issued. Lastly, in all utilities serving more than 3500 people, a consumer consultative council has to be set up for all local public services. CC thought at that time that a certain standardisation of the reports had to be developed, but clearly assessed these measures positively in terms of a better control over PWS.

COMMENT

From the above it is difficult to draw a general criticism of French style privatisation indeed. Of course, the report contains a few boxes on particular cases of irregularities, in particular on Grenoble. But overall, what is pointed is more the lack of expertise of local authorities, their growing financing needs, and the changes that should be done at national or regional level to solve the problems. It can certainly not be interpreted as a general criticism of irregularities in the French delegation system, whatever dislike we can all have for Mr Messier.

Within the report, some issues are covered but not picked up again in the conclusion: I'll take the particular case of what is called "entry rights": when a local authority delegates to a private company, it requests the payment of a lump sum or a yearly fee, above the costs of control of the delegation. This practice has long existed, but it is true that the amounts of money paid have largely increased since the decentralisation laws of 1982-83. It is normal that such practices attract the eyes of CC, which did criticise such practices. However, it can also be interpreted as an attempt to limit the sovereignty of local authorities: why wouldn't a mayor decide to increase the water price to subsidise the general budget (e.g. the social assistance services), provided it is made explicit to citizens? When cafes in France ask for permission to put tables on the kerb, they have to pay a levy. One could use the same argument for water infrastructure, if it remains within some limits. Conversely, it happens that heavy new investments are subsidised from the general budget, so that entry rights could be considered here and there as a sort of compensation for these subsidies. Then only a case by case analysis, in fact an audit, can help find a proper evaluation. In fact that's

what we are lacking, and not only in France: thorough and long-term based evaluations of local public water services, to find out “how we could get there.

I'm ready for more discussions.