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**THE MANAGEMENT
OF COMMUNITIES FOR
THE RURAL AQUEDUCT
SERVICE IN THE
COLOMBIAN LEGAL
SYSTEM**

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Abstract: What are the main problems that arise for the communities that provide aqueduct services in rural areas of the communal province, in relation to the development of their organizational capacities oriented towards their formalization and adjustment to the current regulatory parameters? General objective is to determine the problems that arise for communities providing water supply services in rural areas, regarding the development of their organizational capacities oriented towards formalization and adjustment of processes to current regulatory parameters. Methodology The project develops a mixed methodological approach to the extent that it articulates and combines approaches and tools of a qualitative and quantitative nature, given the interdisciplinary nature of the problem under investigation, its study requires a systematic approach to the regulations on the subject. ; going through the technical-environmental details on the water quality conditions and the sociological-legal approach to the context of application of the regulation; to a pedagogical approach that contributes to strengthening the sense of belonging and the organizational capacities of the providing communities. Results: Process of social appropriation of knowledge to strengthen or solve issues of social interest FIS. Conclusion: the Colombian government has issued a series of regulations and made some institutional adjustments while waiting to be able to deploy a new public policy in the national territory. Decree 1898 of 2016 in particular defines the differential schemes for providing water, sewage and sanitation services for rural areas, according to their particular conditions. For the operationalization and implementation of this regulatory framework, the “Water to the countryside” program was presented in 2019 and in 2021 the National Plan for the supply of drinking water and basic rural sanitation.

Keywords: Differential schemes, Legitimate, Social organizations, Providers, Public service,

INTRODUCTION

Conflicts over the use and management of water resources and the lack of access in some areas of the country are the basis for advancing in knowledge and making informed decisions by social and institutional actors, which guarantee the sustainability of ecosystems and water in the long term, which represents a transcendental challenge in the management and sustainability of the resource. This article will contribute to the formation, construction and development of the rural social sectors in charge of the administration of water resources, to generate a link with the strategic protagonists of social development. Concerning the right to water, it is aligned with the SDG Sustainable Development Goals, in the environmental and social dimensions, as the first, the research work focuses on objective 6 Clean Water and sanitation and in the social dimension in Objective 11 Sustainable cities and communities. Furthermore, it is important to promote the processes of analysis and review of public policies, legislation and international environmental postulates to unify criteria in their application, establish guidelines and strengthen social coordination in the administration and control of water.

From the academy it is important to contribute to the construction of an integrative modality that articulates the local, regional, national and global contexts, through the generation of knowledge and theoretical contribution along with actions to satisfy the legal and social needs of the communities, through the realization of the scientific efforts that will influence in a deliberate, inclusive and self-critical manner in local and regional development, being relevant the jurisprudential, legal and conventional analysis of the water resource will allow

establishing the need to coordinate intuitions and regulations in the same direction that gives compliance with the commitments of the state, authorities and community in defense of the right to water.

THE RECOGNITION OF ORGANIZED COMMUNITIES AS LEGITIMATE PROVIDERS IN THE 1991 CONSTITUTION

A theoretical discussion on the issue of communities organized as legitimate providers of public services and on the use of the term in the constitution and then its replacement since Law 142 by the concept of “authorized organizations”, is proposed within the framework of the national assembly. constituent, the result of this is Article 365: “Public services are inherent to the social purpose of the State. It is the duty of the State to ensure its efficient provision to all inhabitants of the national territory. Public services will be subject to the legal regime established by law; they may be provided by the State, directly or indirectly, by organized communities, or by individuals. In any case, the State will maintain the regulation, control and surveillance of said services.” (Political Constitution, Art 365)

The recognition of diversity as an instrument to strengthen the deontic structure, a legitimizing element of the sociopolitical order, is plausible, allowing the interpretation of the State in a universal, paradigmatic and inclusive way where social actors provoke an interaction based on the political culture of active participation, principles superiors, deliberative freedom and the organizational capacity of communities, seeking then to strengthen a competent society for democracy and social development.

In Colombia there is an institutional framework that is not clearly defined, despite the existing regulations, regarding communities

and their participation in national politics and in the construction of public policies of the different axes, there is also development in the consultation and participation, since the 1991 Charter is created based on rights and freedoms, recognizing that Colombia is a multiethnic and multicultural nation, giving space to organized communities, participatory democracy and decentralization are encouraged, allowing the creation of new systems in various areas, including the provision of public services.

THEORETICAL CONCEPTUAL PRECISIONS ABOUT ORGANIZED COMMUNITIES

One of the most important updates on the concept of the right of communities is given in the Colombian constitutional imperative, considering then that the right of communities is not only the individual freedom to access resources and have human rights protected, this supports the leading role of the citizen as a differentiating element of social change, based on the struggles for the transformation of society through social intervention strategies, where empowerment, understood as a conscious and selective process, aims for social actors to access equal opportunities. where rural communities enable their own development, for the case study, the administration of water resources.

The issue of the right to water raises a participatory, inclusive political perspective created collectively, capable of responding to the needs of rural sectors, enabling access to water and guaranteeing its continuity, quantity and quality, this organizational element then foresees the existence of empowerment of individuals and groups, regarding empowerment, according to Conger and Kanungo (1988), from studies on organizations they propose how empowerment has been a “construct” studied to explain organizational

effectiveness. And for Spreitzer the concept of empowerment is used as an approach to describing leadership style; as an influential factor both in the change process and in the management style of organizations (Spreitzer, 1996).

That is, communities are allowed to train, organize and through collective processes organized people acquire control over their own interest in managing water. This participation is a social construction that involves collective action, involving external intervention, the support of political structures, the participation of academia and institutions and the existence of social leadership,

In addition to the above, it is worth mentioning that the development of organizational capabilities is present in three types of social capital, also called base development:

- (i) the capacity for collective action (i.e. bonding social capital);
- (ii) strengthening the links between the organizations of these citizens (i.e. bridging social capital), and
- (iii) the capacity to participate in public spaces of consultation (i.e. linking social capital), (Canal Acero, 2008), a relevant element for the social construction of a community responsible for the administration of the important life resource for the inhabitants of a region or sector.

Now, regarding the concept of organized communities, it is worth mentioning: "Understood as the group of neighbors, community members, for years it has developed the capacity to take a global look at its territory, in its dimensions: economic, policies, The Organized Community in its dimensions: economic, political, spatial and socio-cultural, developing processes and

practices to satisfy the most pressing needs of its residents" (Salazar Restrepo, 2013)

Regarding community participation, it is a term that is linked to local development processes and, according to Galeana and Sainz (2003), the intention of this process is aimed at promoting the initiative of the individuals themselves regarding the solution of problems. of a community nature, and eventually, to direct their action towards the objectives foreseen in the local development plans.

According to Marchioni (1999), in community participation processes there are three protagonists and they must play their own, specific and irreplaceable role or function in society and also in these hypothetical community processes. These actors are:

- The administration, and especially the local administration, play and will continue to play a decisive role in everything that concerns the lives of citizens,
- Public resources and services,
- The population and its social organizations (civil society). Citizens individually and collectively considered. (Marchioni (1999)

The population is the axis that generates participation and the construction of actions that result in local development. They must also be influencers of the socio-political transformations made visible in the improvement of the quality of life and regional development. Thus, it is pertinent. mention that the communities participating in the planning of water administration actions require synergy with institutions, the political sector, academia, the productive sector and the population in general to agree on decisions.

ORGANIZED COMMUNITIES

In Colombia, the regulations enshrine in article 2. Terms and definitions of Decree 1981 of 2003, the concept of organized communities. "An organized community is understood to be a legal, non-profit association, made up of natural and/or legal persons, in which its members are united by ties of neighborhood and mutual collaboration for the benefit of local development and community participation. repealed by decree 2805 of 2008, which preserves the concept in article 2 literal a), in turn repealed by decree 1161 of 2010, which in its articles does not mention said definition.

However, in Law 743 of 2002 in its Article 5. Reference is made to Community development processes, in light of their principles and foundations, require for their development the creation and consolidation of community organizations, understood as the appropriate means to strengthen the integration, self-management, solidarity and participation of the community. community with the purpose of achieving comprehensive development for the positive transformation of its particular reality and of society as a whole, (law 743 of 2002, Art 5), it is feasible to say that participation is a concept that serves as a basis for the principle of functional exercise by individuals of administrative actions, typical of the State.

The aforementioned rule repealed by Law 2166 of 2021, which does not enshrine in its core the conceptual definition of organized communities, however, it mentions in its article 16 literal x) They may manage and execute projects, before and with State entities, public companies and private, decentralized institutes, international community, to seek the solution of the unmet basic needs of the communities of the territories of the communal organizations, which although it does not exhaustively mention the organized

communities, it does refer to them in an unnamed manner (Law 2166 of 2021. Art. 16).

Sentence C-580 of 2001, refers to the organization of communities: Recognition of the organized grouping of people in their capacity as a social unit around a trait, interest, element, purpose or common function, as the fundamental resource for development and enrichment of human and community life, with the prevalence of common interest over particular interest; interesting theoretical construction when the same ruling states "This is about projecting the constitutional principle of democratic participation within a certain type of civil society organization, which acts outside of state supervision and whose historical reason has been, precisely, the absence of the State in solving community problems in the most vulnerable sectors of society. (Sentence C-580 of 2001), that is, Colombia has historically recognized organized communities as preserving and hegemonic institutions in safeguarding the rights of citizens.

From the above, it is clear that organized communities have constituted and constitute today, an organizational, self-governed and sustainable form, whose foundation is the theory of common use resources, where there is no institutional or state intervention, however, it is functional and The service is provided to the inhabitants of a certain territory, transforming the domestic public drinking water service into a durable, self-managed and self-organized process, likely to contain design principles characteristic of long-lasting institutions, such as:

- Clearly defined boundaries. The users of community resources and their limits are known to the community.
- Coherence between appropriation and provision rules, and local conditions. There are rules for the use and management of community

resources that restrict the time, place, technology or number of units that can be extracted.

- Collective choice arrangements. The rules can be modified by users according to situations. Supervision. Some users have to be in charge of monitoring daily compliance with the rules for using community resources.
- Gradual sanctions. Users who violate the rules are imposed sanctions that can be paid by them, additionally the reputation of the person who violated the rule is affected.
- Conflict resolution mechanisms. Users of community resources have institutions capable of managing conflicts that may arise in the daily use of these resources.
- Minimum recognition of organizational rights. Local authorities must recognize the rules imposed by users of community resources.
- Complementary activities. In larger systems there may be a differentiation of rules according to the characteristics of the users (Moncada, Pérez, Valencia, 2013)

Thus, it is pertinent to mention that organized communities, when generating the provision of drinking water service, impact with great potential the economy, politics and the sustenance of the social system, the development and improvement of the quality of life of the communities where they provide. The service also serves as an axis for strengthening individual and organizational capacities and is the alternative to supply water to the inhabitants of remote and peripheral regions, guaranteeing access to the resource in the absence of the State. Another relevant milestone is the economy, since the

administration of resources by organized communities can be sustainable, under criteria of collective action.

According to the Constitutional Court in its Ruling C-272/98, "It is clear that the provision of public services can be carried out by both public authorities and by individuals or organized communities, a paradigm also mentioned by Bernal, Rivas and Peña. : "Therefore, community management turns out to be a spontaneous response of collective action to satisfy the water supply needs in the territories, and can be understood as an autonomous management model with which a community organizes itself and establishes its own rules. for the use of water resources (Bernal, Rivas and Peña, 2014).

But it is still specified that the State, which is under its command to control, monitor and regulate matters relating to the water service, will thus be able to guarantee the observance of the purposes that concern it, as stipulated in the superior statute, in accordance with the power of managing the economy and interventionism in the provision of public and private services, an axis that allows it to establish the country's economy and contribute to the quality of life of citizens, because even, leaving private entities and individuals in charge the provision of said services, the State cannot deviate from its fundamental functions in this matter, especially in terms of its regulation.

The above is in line with the Political Charter, Article 365. Public services are inherent to the social purpose of the State. It is the duty of the State to ensure its efficient provision to all inhabitants of the national territory (Political Constitution, 1991, Art 365).

THE SOCIAL PURPOSE OF PUBLIC SERVICES WITHIN THE FRAMEWORK OF THE POLITICAL CONSTITUTION

In Colombia, public services are framed in a regulatory order, Constitutional and Legal regulations, in the understanding of their connotation of collective rights guaranteeing their provision, allowing the social development of communities, framed in the economic model, commercialization of goods and services, allows individuals the exercise of providing coverage to the inhabitants of the regions, this exercise guarantees a right that has inserted other rights of the individual, that of enjoying quality of life and well-being, quoting Alvear Restrepo “it must be Public services” is a generic term; “They correspond to the so-called Social Services as they seek the effectiveness of social, economic and cultural rights.” (Alvear R., 2005), binding element between the state with its purposes and the communities in the process of accessing as users and/or being providers of public services.

According to Gustavo Penagos Vargas, the various interpretations of public service can be outlined as follows: a. Negative interpretation that speaks of the crisis and extinction of the notion of Public Service. b. Positive interpretation, it is any state activity whose compliance must be ensured, regulated and controlled. – Minimum: public service is a part of the administrative activity” (Penagos V, 1995).

It is possible to speak of public services as a media organization or as a state activity or function, from the perspective of community intervention through social dialogue as a joint strategy to achieve improvement in the provision and access to public services., where all sectors can have access to them, and from the sociological perspective, public benefit activity is immersed in the functions

of the state, instruments that must satisfy collective needs with the State’s compliance with continuous, timely, efficient and solidarity, within the framework of a political philosophy of citizen-public servant capable of transcending ideological approaches of any kind, whether neoliberal or interventionist, result of a democratic process embodied in the theory of a State placed at the service of the community, promoting well-being, prosperity and safeguarding the principles, constitutional rights and duties of citizens, institutions, state, society and the private sector, that is, co-responsibility.

Within the framework of the social and democratic State of law, public services are a political-social organizational structure that imposes burdens on those in their supply, and pointing out the importance of community projects that promote the equality of the members of society, theory which has evolved by meeting the needs of the service and the community contribution in its administration.

THE LEGAL REGIME OF PUBLIC SERVICES

In Colombia, the public services regime is subject to both constitutional and legal regulations, which establish the provision, whether “at the expense of the State directly or indirectly, by individuals or by organized communities” (Political Constitution, Art. 365)

From conventional and environmental precepts, there are a number of statutes guiding the duties and rights of the state and citizens, whose purpose is to provide the guarantee of access to water in quality and quantity, the standards are not always met, given that in the Rural sectors do not have the facilities and benefits, sometimes it is the communities who fulfill the function of offering the service.

STANDARDS THAT CONTAIN ASPECTS ABOUT PUBLIC SERVICES. BELOW ARE THE STANDARDS THAT CONTAIN ASPECTS ABOUT PUBLIC SERVICES

Since the international treaties ratified by Colombia, the precepts contained in the Political Charter and a number of norms promulgated in the country since 1974, the issue of water has been legislated, understood first as a resource used by man, but its relevant connotation is It is based on the conception of a fundamental right recognized as a human right, understanding that its need lies in the life, integrity, and health not only of individuals, groups -humans-, but also in the other species that make up the ecosystems, such as object and subject of rights, such as the case of the Atrato River, and other natural elements, which, thanks to pronouncements based on the international environmental principles of the Court, have acquired said statutes.

EVOLUTION OF RAS TECHNICAL REGULATIONS

“The Technical Regulation of Rural Water and Sanitation (RAS rural) Resolution 844 of 2018. In addition to its application to the providers of the aqueduct, sewage or sanitation service that operate the service provision and differential provision systems, it also applies to the administrators. of water supply and supply point, to natural and legal persons that make use of alternative solutions and to the other actors established in Resolution 330 of 2017” (MVCT, 2023)

RULINGS OF THE CONSTITUTIONAL COURT

The constituent defined that the people or entities that provide public services will have a legal regime and a special legal nature, the basis of which lies in the need to fulfill the social purpose of the State of providing an adequate provision of public services, hence the pronouncements of the High Court interpret the Constitution, based on the finalist and systematic criterion in order to guarantee the rights of the people.

The same superior statute establishes popular action as a mechanism for the protection of the right to water, based on collective dynamics, concerning the adequate and efficient provision of the public aqueduct service, but also differentiates another phase of the right to water: as a right autonomous and subjective fundamental and as a mandatory budget for obtaining other rights such as health, housing and environmental sanitation, essential for the achievement of life in conditions of dignity and allows access to conditions for existence.

Below, rulings from the Constitutional Court are listed, defining protectionist guidelines and standards, and precepts aimed at configuring differential schemes, the interventionist power of the state in the administration and exploitation of natural resources, the rationalization of the provision of public services. framed in the right-duty, to access them and provide them efficiently, here in a risky social advance the communities are granted the power to provide water service for human consumption, preserving the power, the State to exercise control and surveillance and the organized communities for their part to comply with the technical precepts established in the national legal plexus

The jurisprudential transfer that the country has had in matters of public services, budget, community organization and the

Rule	Object	Content
Law 5 of 1992	By which, the regulations of the Congress, the Senate and the House of Representatives are issued.	Article 119, paragraph 8: laws that reserve certain strategic activities or public services to the State, for reasons of sovereignty or social interest.
Law 80 of 1993	By which, the General Statute of Contracting of the Public Administration is issued.	Public services are inherent to the social purpose of the State; it has the duty to ensure their provision efficiently to all inhabitants, but it is not the duty to provide them; They can be provided by the State, directly or indirectly or by organized communities, or by individuals, they are subject to the regulation, control and surveillance of the State, they satisfy needs of a general or collective nature, they must be provided on a regular and continuous basis.
Law 95 of 1993	By which, the nation is associated with the celebration of the ninety years of the town of Rozo, municipality of Palmira - Valle del Cauca, orders the construction of the regional aqueduct and other provisions are dictated.	Taking into consideration, the provisions of articles: 365 and 366, in harmony with numeral 3 of article 200 and numerals 3 and 9 of article 150 of the constitution, it will be included in the national development and public investment plan, the construction of a regional aqueduct
Law 136 of 1994		The municipal regime is defined by the provisions of the political constitution and what is established by law.
Law 343 of 1996	The nation is linked to the celebration of the 450 years of the Valledupar foundation and other provisions are dictated.	Appropriations for the execution of works of social interest will be included in the general budget of the nation. A) co-financing for the reforestation recovery of the Guatapuri River basin.
Law 142 of 1994	It establishes the regime of home public services and dictates other provisions.	It applies to household public services of aqueduct, sewage, sanitation, electrical energy, and fuel gas distribution.

Table Number 1: regulations related to the public water service

Source: own elaboration based on legislation

Rule	Object	Content
Law 388 of 1997	By which, Law 9 of 1989 and Law 3 of 1991 are modified and other provisions are issued.	Article 3, article 18; article 58; article 85; article 93; public function of urban planning. The organization of the territory constitutes, as a whole, a public function. Purposes: 1...make effective the constitutional rights of housing and public home services.
Law 373 of 1997	By which, the program for the efficient use and saving of water is established.	Every regional and municipal environmental plan must necessarily incorporate a program for the efficient use and saving of water.
Law 632 of 2000	By which, the laws are partially modified: 142, 143, of 1994, 223 of 1995 and 286 of 1996.	Subsidies and contributions for water, sewage and sanitation services, article 99.6 of law: 142 of 1994.
Law 715 of 2001	By which, organic norms are dictated regarding resources and competencies, articles: 151, 288, 356 and 357 (Legislative Act 01 of 2001), political constitution.	To organize the provision of education and health services, among others, the construction, expansion, rehabilitation and improvement of the public services infrastructure may be carried out directly or through third parties.
Law 1176 of 2007	Articles are developed: 356 and 357, political constitution and other provisions are dictated.	It was established that the national government and the departments will provide technical assistance to the municipal districts, directly through a mechanism that is designed for this purpose, to fulfill the responsibility of providing the aqueduct, sewage and sanitation service.

Table Number 2 regulations related to the public water service

Source: own elaboration based on legislation

Rule	Object	Content
Law 1506 of 2012	By means of which provisions are issued in the matter of public home services of electric energy, fuel gas, networks, aqueduct, sewage and sanitation to face any disaster or calamity that affects the national population and its way of life.	This law applies to providers, subscribers and/or users of household public services of electric energy, fuel gas through networks, aqueduct, sewage and sanitation, located in the municipalities and/or districts officially reported by the national unit for the disaster risk management, in the national system for disaster prevention and attention or whoever acts in its place, as affected or harmed by any disaster situation declared by the national government.
Law 1537 of 2012	Rules are issued to facilitate and promote urban development and access to housing.	Prioritization of resources for social infrastructure and home public services in housing projects.
Law 2294 of 2023	By which the national development plan is issued: 2022-2026:11Colombia, world power of life''	Article 3: axes of transformation of the national development plan, organization of the territory around water. Chapter 11: territorial planning around water and environmental justice.

Table Number 3: regulations related to the public water service

Source: own elaboration based on legislation

Rule	Object	Content
Decree 2811 of 1974	National code of renewable natural resources and environmental protection.	Title II of the ways of acquiring the right to use waters
Decree 1541 of 1978	By which part III of book II of decree law 2811 of 1974: 11 of non-maritime waters is regulated.	Articles compiled in the single regulatory decree 1076 of 2015, through which the single regulatory decree of the environment and sustainable development sector is issued, article 3.
Decree 1688 of 2020	Articles are modified and a section is added to chapter 1, title 7, part 3, book 2 of decree 1077 of 2015, partially regulating article 279 of law 1955 of 2019	Provision of water infrastructure for human and domestic consumption or basic sanitation in rural areas and its direct delivery to the beneficiary organized communities, in accordance with the differential schemes defined by the national government.
Decree 421 of 2000	It regulates numeral 4 of article 15 of law 142 of 1994.	Organized communities constituted as non-profit legal entities may provide public drinking water and basic sanitation services in smaller municipalities, rural areas and specific urban areas.
Decree 1575 of 2007	By which the System for the protection and control of the quality of water for human consumption is established.	Article 1: in order to monitor, prevent and control the risks to human health caused by its consumption, except for bottled water.

Table Number 4: regulations related to the public water service

Source: own elaboration based on legislation

Rule	Object	Content
CONPES Document 4004 of 2020	Circular economy in the management of drinking water services and wastewater management.	Contribute to the improvement of the provision of aqueduct and sewage services and the protection of water resources, policies: environmental, national for the comprehensive management of water resources. (PNGIRH)
National wastewater management plan (PMAR)	Management guidelines and strategies	Guidelines and management strategies were defined aimed at solving problems affecting the quality conditions of the water resource generated by the discharge of untreated wastewater.
CONPES Document 34635 of 2017	Departmental water plans (PDA)	Planning and inter-institutional coordination strategies for the comprehensive harmonization of resources, implementation of efficient and sustainable schemes.
CONPES Document 3934 of 2018	Green growth policy	by actions of sectors involved in the management of natural resources for their efficiency and productivity, less environmental and social impacts of productive activities.

Table No.5 regulations related to the public water service

Source: own elaboration based on legislation

Rule	Object	Content
Resolution 2115 of 2007	Characteristics, basic instruments and frequencies of the control and surveillance system for the quality of water for human consumption are indicated.	Water for human consumption may not exceed the maximum acceptable values for each of the physical characteristics indicated in this resolution.
Resolution 02 of 2021	Technical assistance and community strengthening guidelines are defined for differential water and basic sanitation schemes in rural areas.	It is applied to people providing water, sewage or sanitation services and to administrators of alternative water solutions for human and domestic consumption or basic sanitation that operate in rural areas, decree 1077 of 2015.
Resolution 943 of 2021	The general regulation of public water, sewage and sanitation services is compiled and some provisions are repealed.	Commission for the regulation of drinking water and basic sanitation -CRA – provision of Service by organized communities. Decree 421 of 2000, minor municipalities, rural areas and specific urban areas, organized communities, non-profit legal entities.
Resolution 622 of 2020	A protocol for inspection, surveillance and quality control of water for human consumption supplied by public domestic aqueduct service providers in rural areas is adopted.	Its application is aimed at legal entities, municipalities and districts that provide water supply services that supply water in rural areas, regardless of use, according to their use, in accordance with their competence in the provision of domestic public services.

Table Number 5: regulations related to the public water service

Source: own elaboration based on legislation

RESOLUTION	OBJECT	STATE
1996 of 2000	The person adopted the technical regulation for the drinking water and basic sanitation sector - RAS	Repealed Repealed Repealed
424 of 2001	The person modified articles 178 and 180 of resolution 1096 of 2000	
0668 of 2003	The person modified articles 86, 123, 126 and 210 and resolution 1096 of 2000.	
1459 of 2005 1447 of 2005 2320 of 2009	The person modified article 22 of resolution 1096 of 2001. The person modified article 9 of resolution 1096 of 2002. The person modified article 67 of resolution 1096 of 2003.	Repealed Repealed Repealed
330 of 2017	The person adopted the technical regulations for the drinking water and sanitation sector – RAS and repealed the previous 6 resolutions.	current
650 of 2017	The person added a transitional article to resolution 330 of 2017 (2-year transition compared to resolution 1096 of 2000)	Not applicable, nowadays
844 of 2018	Therefore, the technical requirements are established for water and basic sanitation projects in rural areas that are carried out under the differential schemes defined in chapter 1 of title 7, part 3 of the book of decree 1077 of 2015.	current
799 of 2021	The person made changes in the resolution 0330 of 2017.	current
908 of 3021	The person adjusted the numbering of tables of R. 799 of 2021	current

Table Number 6: RAS regulatory evolution

Source: own elaboration based on legislation

participation of civil society in decision-making is important; it must be noted that the government has accepted the postulates enshrined in the Political Constitution establishing the postulates of a transformation in the planning of the territory around water and environmental justice, axes that play a fundamental role in the articulation of the other transformations, since betting on a comprehensive territory allows us to envision the collective challenges and work towards them. of its achievement.

The Water and Basic Sanitation sector must work to comply with legal, technical, social, financial and environmental requirements in development plans: Law 1450 of 2011 - National Development Plan 2010-2014, public policy ratified in law 1955 of 2019, Law 2294 of 2023 National development plan 2022-2026 centralized in paradigms of change in the

1. Ministry of Housing, City and Territory, existence and content of the document with file No. 2023EE0032241 of April 26, 2023, consulted May 13, 2023, available at <https://www.minvivienda.gov.co/system/files/citacion/04-2023.pdf>

planning of the ordering and development of the territory, whose basis is the protection and compliance with environmental standards, aligned with participatory territorial planning, allowing for to social actors in the rural sector.

On the other hand, public policy guidelines are limited to closing gaps in access to water and basic sanitation between urban and rural areas and improving the living conditions of the population settled in rural sectors, to This is called Rural Differential Schemes. The concept of Rural Differential Schemes is specified as the set of technical, operational and management conditions to ensure access to water for human and domestic consumption and sanitation.¹, In essence, this scheme promotes access to water by preventing dispersion in rural areas (populated centre, dispersed rural housing), supporting rural socioeconomic activities and improving the

Sentence	Content
C-478/92	The power to intervene in the economy within the Colombian constitutional system, autonomy and decentralization, respond to different perspectives: decentralization seeks greater freedom for peripheral entities – territorial and functional – in making their decisions for efficiency in management. of public affairs, autonomy seeks freedom of members for their well-being and control of their own interests.
C-169/93	State action falls on the rationalization of the Public Service, article 365 CP, are inherent to the social purpose of the State and subject to the legal regime required by law, articles 365, 367, 369 and 370 CP, are a framework of interpretation for the exercise of the powers of exception in this case.
C-181/97	The political constitution authorizes the exercise of public functions and the provision of services, entrusted to individuals, to continue to maintain their status, subject to the controls and responsibilities attached to the performance of public functions.
C-579-99	What the definition of the social State is about is establishing that it has the obligation to ensure its members the minimum material conditions of existence, and must intervene as a decision in society to fulfill this objective.
C-507/01	For the CP, the State is an organization where the members intervene in the social activities and the authorities themselves in pursuit of the fulfillment of their essential purposes and the purposes for which they are responsible. Participation that authorities must make effective by providing people with instruments for their intervention and the satisfaction of their individual needs and aspirations.
C-616/01	The constitution, when referring to economic activity in a general way, is recognizing and guaranteeing to the individual a multiplicity of sectors within which they can deploy their free initiative in order to satisfy their needs. This constitutional guarantee extends equally to companies. organized and those who are not, natural or legal persons.

Table Number 5: Summary of rulings referring to the right to water and community organization

Source: own elaboration based on jurisprudence

Sentence	Content
C-741/03	Duties to regulate household public services: (i) ensure their efficient provision to all inhabitants of the national territory; (ii) provide solutions to unmet basic needs for environmental sanitation and drinking water; (iii) guarantee the universality of coverage and quality in the provision of services (iv) guarantee the rights and duties of users.
C-408/04	It defines economic freedom: the power that every person has to carry out economic activities, according to their preferences or abilities, with a view to creating, maintaining or increasing assets, are not absolute, as the CP explicitly states, since they are subject to the limits imposed by the common good, the legal order established by the legislator, based on fundamental rights and the prevalence of the general interest.
C-060/05	The State must effectively guarantee the use and enjoyment of fundamental constitutional rights. This does not imply that it is carried out directly by the State itself; it can be carried out by organized communities or by individuals or by the State itself.
C-736/07	The constituent wanted to define that the people or entities that assume the provision of public services will have not only a legal regime and a special legal nature, these find their foundation in the need to realize the social purpose of the state as the objective of adequate provision. of public services.

Table - Summary of rulings referring to the right to water and community organization

Source: own elaboration based on jurisprudence

Sentence	Content
C-068/09	Concession contract – Elements (viii) the concessionaire assumes the status of collaborator of the administration in the fulfillment of state purposes for the continuous and efficient provision of public services or the due execution of public works.
C-263/13	The constitution dedicates a section to public services (articles 365 to 370, chapter 5 of title XII), indicative of the institutional significance of that matter. Some of the characteristics derived from the constitutional framework: they give effect to other rights such as dignity, equality and the free development of personality; They are inherent to the social purpose of the State and their duty is to ensure efficient provision to all inhabitants of the national territory; They have a vocation for universality; They can be provided by the State, directly or indirectly, through organized communities or by individuals; They are subject to a special legal regime, the State exercises permanent regulation, control and surveillance.
C-172/14	To the extent that the public services regime allows their direct or indirect provision by the State, by organized communities and by individuals (article 365, CP), a link arises between these and economic freedoms, business freedom and freedom of expression. competition (articles: 33 and 334, CP). The general policies of the administration and efficiency control of household public services must be applied.
C-272/16	One of the main manifestations of the social character of the State is given by the guarantee of the adequate provision of public services.
T 577/19	It reiterates constitutional jurisprudence that in accordance with what is established in the constitution and the law, the first public authority that has the obligation to guarantee access to public services is the municipality, which has the obligation to guarantee access to public services. is the municipality, the above because it is a mandate of a constitutional and legal order, not capable of being relieved.

Table - Summary of rulings referring to the right to water and community organization

Source: own elaboration based on jurisprudence

Sentence	Content
T-282/20	The right to water is fundamental and is protected when it is aimed at ensuring human consumption and is the right of everyone to have sufficient, healthy, acceptable, accessible and affordable water for personal and domestic use, it is essential to live with dignity and is precondition for the realization of other human rights, factors of the normative content of the law. I) availability II) quality III) accessibility
C-063/21	The CP introduced a participatory and binding planning model that distances itself from previous planning experiences. A) promotes transparency B) increases the participation of territorial entities and the different economic, social and cultural sectors and C) provides tools to make planning instruments a reality, that is, development plans and programs and the institutionality required to its formulation, approval, execution and evaluation.
T-223/22	(...) this Corporation has protected the fundamental right to drinking water in cases where there is an imminent impact on the person and their dignity, in the mandate to fulfill what is required of the States: guarantee sufficient, regular, healthy and equitable drinking water, with special attention to vulnerable populations.
T-096/23	Water is an essential natural resource for the life of human beings, it does not have express recognition in the CP, jurisprudence has understood that if it is recognized by the CP, it is an autonomous right, in consonance with international treaties it has complemented the content of the right and reaffirmed its minimum guarantees: availability, accessibility and quality, the State has obligations or duties: water supply provided by the State, directly, adequate quality, physical accessibility and affordability for users.

Table - Summary of rulings referring to the right to water and community organization

Source: own elaboration based on jurisprudence

quality of life of the inhabitants.

The Water and Basic Sanitation Policy Guidelines for rural areas find their normative foundation in CONPES 3810 of 2014, with the purpose of directing access to drinking water and basic sanitation in rural areas, enshrined in “regulatory and normative provisions,” as well as in particular surveillance and control schemes for rural areas.”², in accordance with Sustainable Development Goal Number 6 to guarantee the availability and sustainable management of water and environmental sanitation for all citizens of the territory.

There are innumerable regulatory precepts issued. In 2015, Law 1753 empowered the National Government to specify the issue of differential schemes referring to the provision of aqueduct, sewage and sanitation services, with support in the differential environments of rural areas., “**Territorial planning around water:** “It seeks a change in the planning of the organization and development of the territory, where the protection of environmental determinants and areas of special interest to guarantee the right to food”

1. Human security and social justice: social policy for adaptation and mitigation of risk, justice as a good and service that ensures the universality and primacy of a set of fundamental rights and freedoms” (Law 2294 of 2023)

Regarding the community management policy for water and sanitation, the aim is to strengthen the social organizational dynamics around water and basic sanitation, facilitating the processes and procedures before the competent authorities, regulating the differential criteria of community managers.

In this regard, the Constitutional Court in ruling T-104 of 2021 stated: “Therefore, the

Constitutional Court has established that the protection of the right to water, from its collective dimension related to the adequate and efficient provision of the public aqueduct service and the access to its infrastructure, must be processed through popular action. () However, this Corporation has distinguished another facet of the right to water, as a fundamental right of autonomous and subjective nature. The above, since it is recognized that water is a source of life and an unavoidable budget for the realization of other rights such as health, housing and environmental sanitation, fundamental for human dignity and constitutes a personal need that allows one to enjoy material conditions. of existence. (...) In that sense, through extensive jurisprudence, this Court has determined that the right to water can be protected through the appeal for protection, when it refers to the need for this liquid for minimum human consumption. 3” (sentencia T-104 de 2021)

RURAL AQUEDUCTS. INCLUSION AND TREATMENT WITHIN THE FRAMEWORK OF THE HOME PUBLIC SERVICES REGIME

Within the perspective of the social, democratic state of Colombian law, it is pertinent to grant public services a connotation of legal institution in the context of Law, in the understanding of Article 365 above and Law 80 of 1993, on important aspects such as:

- Public services are essential within the social purpose of the State.
- It is the duty of the state to guarantee its provision to citizens, whether by itself or by individuals.
- Public services can be provided by the State, directly or indirectly, or by organized communities, or by individuals.

2. Ministry of Housing, City and Territory, existence and content of the document with file No. 2023EE0032241 of April 26, 2023, consulted May 13, 2023, available at <https://www.minvivienda.gov.co/system/files/citacion/04-2023.pdf>

3. constitutional court, ruling t-104/2, right to consume drinking water-fundamental autonomous, File T-7,953,799, MP. Gloria Stella Ortiz Delgado, April twenty-one (21), two thousand twenty-one (2021), Bogotá, D.C.

- All public services are subject to the regulation, control and surveillance of the State.
- All public services satisfy general or collective needs.
- All public services must be provided regularly and continuously.

It is clear that the Superior Statute establishes in one of its postulates, in the case of Public Services, their submission to the legal regime established in the Law, however, it also includes that they may be provided by the “State, directly or indirectly, by communities.”

organized, or by individuals.” (Political Constitution, Art 365)

As a choir, it is appropriate to state that organized communities have rights recognized by the Constitution and the law, also implying the duties of complying with the technical, social and legal precepts established there, with the understanding that water is a human right, vital and essential. For human beings, sentient beings and nature in general, the advancement of Colombian standards in terms of the recognition of rights and the visibility of social organizations is important.