

Forever a pipe dream?

Photo: Klaus, www.zoopy.com

While the decentralisation of water services provision to municipalities may in principle be good for local democracy, the experience of municipalities in fulfilling this duty has been fraught with difficulties. In practice, internal cost-recovery pressures mean that adequate and sustainable water services delivery to poor and rural households is often compromised. Across the country delivery is uneven and largely unregulated, and for many South Africans, access to sufficient water and sanitation remains a pipe dream. It was for this reason that the Centre for Applied Legal Studies, together with the Centre on Housing Rights and Evictions and the Norwegian Centre for Human Rights, embarked on an ambitious project to ascertain the key impediments to water services delivery at the local level. The report, based on interviews conducted at 15 municipalities across South Africa, identifies nine cross-cutting 'fault lines', which reflect systemic obstacles to the provision of water services. Given the importance of these findings, this article is the first in a two-part summary of the fault lines. The second part will be published in the next issue of the *Bulletin*.

FAULT LINES AROUND WATER SERVICES DELIVERY AT THE LOCAL LEVEL

Introduction

South Africa has one of the most progressive legislative and policy frameworks for water services in the world, which includes a constitutional right of access to water and a national free basic water (FBW) policy. Within this framework, water is conceived of as a social good and a vital part of poverty alleviation within the broader developmental mandate of government. However, when it comes to implementation at the local government level, where water services are located, the reality is quite different.

A key finding is that the national government,

having devolved responsibility for water services delivery to local government in 2000, has steadily decreased financial and technical support to local government for a number of reasons. Municipalities are therefore under considerable pressure to become financially self-sufficient and to recover service-related costs from all areas. Thus at the municipal level it is *cost-recovery*, rather than social or developmental benefit, that largely determines water services delivery.

Based on research and interviews conducted in 2007 and 2008, this article focuses on four of the nine interlinked fault lines, which reflect systemic obstacles to the provision of universal access to water services in South Africa. These are eliminating backlogs and improving levels of service, free basic services (FBS), indigent policy as the FBS targeting mechanism, and public participation.

Eliminating backlogs and improving levels of service

Extending water services to those with none and improving levels of service are crucial aspects of water services provision. This duty is entrenched in section 27 of the Constitution, which provides that everyone has the right to have access to sufficient water and that the state furthermore has the duty to ensure the “progressive realisation” of this right within its available resources. Undoubtedly, improved access to water and sanitation promotes human development and health, and also advances gender equality, as it is women who tend to bear the brunt of poor or no water services provision.

The task facing the Department of Water Affairs and Forestry (DWA) is undoubtedly a mammoth one. At current rates, DWA estimates that backlogs in water will only be eliminated in 2011 and backlogs in sanitation will only be eliminated in 2031. While much has been achieved in the past 14 years, achieving even these targets within the specified time frames is extremely unlikely. There are therefore still many people – mostly in rural areas – who still have to rely on rivers for their water supply and the bucket system for sanitation.

Furthermore, those living in informal settlements are often



Photo: Israel Abale

stuck at the bottom of the ‘water ladder’, as *in situ* upgrading programmes have been slow to get off the ground. This delay is often due to unwillingness on the part of authorities to provide for people living in what are viewed as ‘informal’ and ‘illegal’ areas.

Another hurdle to improving levels of service manifests in situations where there is a third-party intermediary between households and the water services authority. This affects mainly farm dwellers and workers whose access is dependent, for example, on the farmer. Those living in the inner city, in collapsed sectional title units or buildings with absentee landlords, also face difficulties in accessing services. These people tend to be the most marginalised and vulnerable members of society, and the structural difficulties they face in accessing adequate water and sanitation need to be prioritised.

Free basic services

At present FBS – free basic water (FBW) and free basic sanitation (FBSan) – are provided on an *ad hoc* basis by municipalities in ways that vary widely in their compliance with national standards. While there is a national FBW policy, there is as yet no such FBSan policy and adequate and affordable sanitation remains elusive for millions of people. While the metros and large cities generally provide FBS to the poor, some municipalities do not supply any such services at all and some supply only the minimum FBW amount without any FBSan.

The national FBW Implementation Strategy sets the target free amount at 6 kilolitres (kl) per household per month, calculated as 25 litres per person per day in a household of

eight persons. Notwithstanding the regrettable fact that many municipalities are still not providing any FBW (despite the national policy having been introduced in 2002), there is the further issue of whether the minimum amount as initially stipulated by DWAF is sufficient. International experts, and DWAF itself, have recognised that 50 litres per person per day is the minimum amount of water needed to sustain a healthy and dignified life.

A concerted effort needs to be made to move toward this amount, and away from the minimal FBW allocation, which inevitably has to stretch over a household of far more than eight people.

Indeed, allocating FBW on a 'per household per month' formulation is highly problematic, as most poor urban settings consist of multiple dwellings with backyard shacks on properties. Six kilolitres per month is therefore far from sufficient to cover the water needs of all the people living on the property. Furthermore, FBS should not be linked to the compulsory installation of water restriction devices that limit access to water to unacceptable amounts or in unacceptable ways, or be targeted solely by means of the flawed indigent policy system.

Indigent policy as the FBS targeting mechanism

Most municipalities that do provide FBS use the indigent register to allocate those services; that is, they only provide FBS to households that are registered for their indigent policy. Using the indigent policy as a means of allocating FBS to poor households is deeply flawed and generally fails to achieve the desired poverty-alleviation ends since the poor are mostly under-represented.

The most vulnerable societal groupings (women, child-headed households and the unemployed) are frequently unaware of the indigent register and/or do not register for fear of attracting adverse official attention.

The process for qualifying also differs vastly across municipalities, suggesting incoherent objectives and methodologies, and is typically quite onerous and exclusionary. Alternative methods of providing FBS, which would remove the many obstacles that prevent the poor from gaining access via the indigent register, include geographic targeting and/or universal allocation. Geographic targeting entails identifying poor areas where FBS can be allocated and requiring the identification of those who *do not* qualify, as opposed to placing the onus on those who do to register.

A more effective and less burdensome (for both poor

households and the municipality) method of providing FBS, which casts the net wider, is that of universal allocation. Every person in a municipality is allocated an appropriate amount of water per day (starting at 50 litres per person per day but incorporating an additional amount for sanitation where there is waterborne sanitation), worked out across a suburb according to the average number of persons per household.

In municipalities with rich water users, this could be afforded through steep tariffs at the luxury end of the water services spectrum, ensuring that those who use excessive amounts of water and can afford to pay, cross-subsidise the poor. In uniformly poor municipalities, cross-subsidies would have to come from national government.

Public participation

Public participation is a key tenet of democratic governance and is part and parcel of the legal and policy framework for post-apartheid water services. Current forums of public participation – through ward committees and integrated development planning processes – are failing to ensure community buy-in. These vehicles for participation fail to adequately incorporate input from communities, particularly those which are marginalised and poor.

There is a clear need to rethink public participation so as to promote inclusive participation and to actively incorporate public input on such a vital service. The mechanisms for this should encourage real participation on the part of communities, in which citizens are not merely called upon to rubber-stamp decisions and participation is not linked to political agendas.

This article is a summary of an October 2008 research report published by the Centre for Applied Legal Studies, the Centre on Housing Rights and Evictions and the Norwegian Centre for Human Rights, called *Water Services Fault Lines: An Assessment of South Africa's Water and Sanitation Provision across 15 Municipalities*. Available online at www.law.wits.ac.za/cals.



Kate Tissington
Centre for Applied
Legal Studies
University of the Witwatersrand