

Pipe dream?

SOUTH AFRICA'S WATER AND SANITATION PROVISION

“Water is life, sanitation is dignity.” This is the cornerstone of the Strategic Framework for Water Services published by the Department of Water Affairs and Forestry (DWA) in 2003. It also served as the first line of the landmark High Court judgment in the case of *Mazibuko and Others v City of Johannesburg and Others* (4) SA 471 (W) 2008 (see LGB 10(2), April/May 2008), which dealt with municipalities’ constitutional obligations to deliver water to poor communities.

Municipalities as water service providers face a plethora of challenges in meeting these obligations, the result often being that vulnerable communities are disproportionately affected by the failure of municipalities to deliver, or by municipal policies and practices which make it difficult to realise their right to water.

This article is the second in a two-part summary examining nine cross-cutting ‘fault lines’ which reflect systemic obstacles to the provision of water services.

Tariffs

To a large extent municipalities can determine their own water tariffs, although these must be in line with broad regulations under section 10 of the Water Services Act. These regulations stipulate the number of rising blocks in a tariff structure (a minimum of three blocks) and the need to differentiate among different types of water users (ie domestic, industrial, commercial and institutional). Unfortunately, municipalities often do not strike the necessary balance between providing affordable water services and ensuring the economic and environmental sustainability of rendering such services. Widely varying tariffs for similarly situated resource bases and population profiles exist across the country.

While most municipalities state that they use cross-subsidisation in their tariff structures, some use the same per-kilolitre block tariff structure for domestic, industrial and commercial users, and do not set the price of high-end consumption high enough to discourage excessive

consumption. This practice runs counter to the cost-recovery philosophy of ‘the more you use the more you pay’.

Other concerns include the steep tariff increase following the free basic water (FBW) block, normally up to 6 kilolitres (kl) per household per month, which penalises poor households for using more than the free basic amount; and a lack of studies on affordability and elasticity of demand to determine fair, equitable and effective revenue from tariffs.

For example, it costs R7.95 for an indigent household to consume 12 kl a month in the City of Cape Town, while in eThekweni it costs R46.20. The price to consume 40 kl in eThekweni is R332.90, while in Nelson Mandela Metro it is only R155.08, creating serious questions about the latter’s linking of tariffs with water demand management. In many municipalities there is a sharp increase in the tariff block following the free basic amount. Comparing eThekweni and the City of Johannesburg metro municipalities, one finds that after the 9 kl free basic amount the price jumps to R7.70 in eThekweni, while in the City of Johannesburg the next block after the 10 kl FBW amount is priced at only R4.00.

The glaring disparities across the current tariff landscape are cause for concern, suggesting a role for greater national standardisation, provided that local appropriateness (different input costs or water scarcity in particular areas) is maintained. This could include DWA assisting municipalities to determine

- the actual costs of providing water and sanitation services;
- how much revenue they receive for these services;

- how much poor households can afford to spend on water and sanitation services; and
- how many richer users there are and how much they can afford to pay to cross-subsidise poorer users (which involves studies of elasticity of demand among rich water users to determine at what charge high-end users will start to decrease their water consumption).

Water demand management

An important element of water services provision is economic and environmental sustainability, and this is where water demand management (WDM) is crucial. There is a complex relationship between long-term water supply and demand, and such information needs to form the basis of FBW provision and tariff structures in a way that satisfies ‘green’ and ‘red’ justice objectives. ‘Red justice’ is social justice that prioritises the poor and their socio-economic needs, and ‘green justice’ refers to the prioritisation of the environment and its sustainability – that is, environmental justice. The South African water services management paradigm tends to pit the two objectives against each other, especially at the local level, where constraining poor people’s access to water is sometimes posited as having an environmental justice objective.

DWAF as the national regulator should intervene to assist undercapacitated municipalities to develop appropriate WDM

strategies which ensure that poor households have access to enough water to sustain a healthy and dignified life, and that large consumers like industry, agriculture and hedonistic residential consumers are penalised for their excessive consumption. Water conservation education should be undertaken with the ultimate goal of ensuring access to adequate and safe water for all and curbing hedonistic water consumption.

Credit control enforcement

Water disconnections and restriction devices

A consequence of excessive emphasis on cost-recovery by municipalities is that it encourages strict credit control enforcement for non-payment by the poor, through the use of prepayment meters (PPMs) and flow restrictor devices. There appears to be a worrying trend of municipalities imposing harsh credit control measures on low-income residents, while higher-income residents, businesses and government departments are afforded far more leniency in terms of non-payment of accounts. Indeed, recent reports have shown that some municipalities are owed millions for municipal services by government departments. Credit control should focus on those who can pay, rather than on poor households that legitimately cannot, and at the very least should be applied fairly and with the same principles across all bands of users.

From a developmental, as well as a legal, perspective, total

water disconnections are wholly unacceptable. Likewise, the imposition of PPMs that disconnect water automatically or flow restrictors that drastically reduce flow rates is not acceptable. The Supreme Court of Appeal recently confirmed these principles in the case of *City of Johannesburg v L Mazibuko* (489/08) [2009] ZASCA 20 (25 March 2009). In that case, the Court confirmed that the forced installation of PPMs was not authorized by law. Furthermore, water restriction devices that essentially deprive poor households of access to water without the opportunity to make representations are unlawful.

In this case the Court also held that the quantity of water that is required for dignified human existence must depend on the circumstances of the individual concerned. The 'reasonableness' of a municipality's actions in fulfilling this right is not limited to formally complying with the Water Services Act or regulations but is rather a combination of what is reasonable in terms of section 27 of the Constitution and the context of individual circumstances.

It follows, therefore, that the disconnection and restriction of the water supply to poor households should be governed by equity and human rights considerations, to ensure that municipalities do not compromise the health and dignity of people who are unable to pay for water.

There is a role for DWAF in regulating, monitoring and enforcing guidelines and safeguards regarding credit control across municipalities. In addition, ways must be found to prevent water debt in the first place. This includes subsidising operation and maintenance costs in respect of poor households and communities. This can be done in a number of ways, for example by creating steeper tariffs for luxury consumption and by increasing financial transfers from national government to poor municipalities.

Financial and technical assistance

Municipalities cite a fundamental lack of capacity, both financial and technical, for services-related backlogs and poor delivery. It is apparent that current municipal infrastructure grant and equitable share funding allocations are insufficient to ensure universal access to adequate water and sanitation, particularly in uniformly poor municipalities with limited potential to secure revenue from internal tariff cross-subsidies. A frequent casualty of this reality is proper attention to the maintenance of infrastructure, meaning that municipalities face chronic problems with leaks, water quality etc. While savings can be made in the short term by neglecting maintenance, in the medium and long term such neglect leads to higher costs.

A further exacerbating factor is municipalities' inability to attract the requisite skilled personnel to carry out key functions.

It is clear that if water services are to be prioritised, additional funding from national government must be made available to ensure that the necessary financial, technical and human resources reach the municipal level. Skilled graduates are inevitably snapped up by the private sector, which can offer them high salaries. While DWAF is making efforts to offer bursaries in fields relevant to water services, the reality is that caps on public sector wages mean that the private sector most often wins out.

Water quality

Recent cholera outbreaks have sparked fears of a looming water quality crisis in the country. The reality is that a large proportion of rural and poor households do not have adequate access to sufficient clean and safe drinking water and sanitation facilities, and that not enough is being done by local municipalities and DWAF to address the service delivery crisis.

The underlying problem with a health scare like cholera is, in fact, a water and sanitation one. Likewise, it points to the importance of sufficient water to ensure health care. Providing sufficient clean water and adequate sanitation to poor households has many other positive spin-offs for poverty alleviation, including reduced health problems. Unaffordable water tariffs, expensive water, disconnections and restriction devices all encourage people to gravitate towards untreated and unsafe water sources like rivers, streams and dams. A lack of access to sufficient clean water, poor sanitation in informal settlements, townships and rural areas, and reactive water quality monitoring at the local level create a situation in which cholera and other waterborne diseases can thrive.



Kate Tissington
Centre for Applied
Legal Studies
University of the Witwatersrand

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