



# Free basic water – a sustainable instrument for a sustainable future in South Africa

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1. Government of South Africa (1996), *Constitution of the Republic of South Africa, Act 108*, as adopted by the Constitutional Assembly.

2. DWAf (1994), "Water supply and sanitation policy", White Paper, Department of Water

**ABSTRACT** The South African government's policy decision in 2001 to provide a basic amount of water free of charge to all citizens has been controversial. Traditional policy advice was that all water should be paid for, even if some costs were subsidized. A review of the implementation of the new policy suggests that the flexible approach adopted ensured wide applicability, although it has been criticized for defects of both exclusion and inclusion. However, it has helped not only to achieve social equity but also has supported the broader objectives of conservation and environmental sustainability. The political legitimacy conferred by the approach has enabled water supply organizations to recover their costs and achieve the economic objective of financial sustainability. South Africa's experience with free basic water thus demonstrates that addressing social and environmental dimensions together with economic dimensions can lead to more effective and sustainable policy.

**KEYWORDS** conservation / environment / policy / sanitation / South Africa / subsidy / water supply

## I. INTRODUCTION

Following the establishment of a democratic government in 1994, the new South African government introduced sweeping changes in the water sector. A major programme to provide basic water and sanitation services to the large number of unserved communities was launched immediately. In 1996, a "right to sufficient water" was included in the country's new Constitution,<sup>(1)</sup> which also mandated extensive decentralization of powers and functions to local governments, with significant implications for water provision.

Separate, although related, policies were established for water resources and water services.<sup>(2)</sup> New legislation repealed previous laws and gave effect to the new policies.<sup>(3)</sup> However, it gradually became obvious that there were problems of access, as many people were too poor to take advantage of the new services. Thus, a new policy determined that all South Africans should receive a basic water supply free of charge.

This policy was controversial. Introduced on the eve of local government elections, it was seen by some as a populist political ploy. It ran contrary to the conventional wisdom at the time, which was that water, as an economic good, should be paid for. It also represented a substantial deviation from the original policies of the ruling African National Congress

(ANC) party, which reflected this international consensus. Six years after its implementation, the impact of the free basic water policy can now be evaluated. The critical question is whether it has achieved its objectives.

This paper argues that its objectives were not limited to social distribution and welfare goals but were part of a broader effort to achieve equitable access to, and efficient use of, water in an environmentally sustainable manner. When measured against these broader criteria, the programme would appear to have been largely successful.

The success of the programme highlights the importance of the compromise on water issues at the Rio de Janeiro Earth Summit between the (largely northern) environmental movements and their governments, which focused on sustainability, and the (largely southern) voices, which called for priority to be given to social and economic development. The Dublin principles on water management (which gave priority to sustainability and economics)<sup>(4)</sup> were not adopted in Rio; the language that "...water has an economic value in all its competing uses and should be recognized as an economic good" was changed to reflect water as "... a natural resource and a social and economic good ..."<sup>(5)</sup> The outcomes of South Africa's free basic water policy suggest that this compromise has produced positive results.

## II. THE CONTEXT OF SOUTH AFRICA'S FREE BASIC WATER POLICY

Aside from the overarching opportunities created by democratizing and de-racializing the country, which immediately gave greater priority to meeting the basic needs of the poor majority of the population, there were other drivers that led to the introduction of free basic water policy in 2001.

### a. Social development challenges

In 1994, South Africa confronted the structural consequences of 50 years of active discrimination against and political control over the movement of the majority African population. This had left the country with many dysfunctional settlements with little economic base, and skewed communities of largely old people, children and women with few economically active people. The ending of "influx control" saw accelerated urbanization, which put substantial pressures on the city administrations that are responsible for housing and service provision.<sup>(6)</sup>

Another inheritance was that a large proportion of the economically active population had low educational and skills levels and hence low employability. This aggravated already high unemployment levels (40 per cent according to broad definitions) and dependence on formal (social grant) or informal (social and family networks) sources of support. These factors, defining as they do the situation of a large proportion of household water users, inevitably affect the water services sector.

### b. Scarcity and variability

The other critical contextual factor is South Africa's relative water scarcity – with 1,154 cubic metres/person in 2000, South Africa was, in terms of

Affairs and Forestry, Pretoria; also DWAF (1997), "A national water policy for South Africa", White Paper, Department of Water Affairs and Forestry, Pretoria.

3. Government of South Africa (1997), *Water Services Act No 108 of 1997*; also Government of South Africa (1998), *National Water Act No 36 of 1998*.

4. The Dublin Statement on Water and Sustainable Development (1992), adopted at the International Conference on Water and the Environment (ICWE), Dublin, January 1992.

5. United Nations Conference on Environment and Development (1992), *Report of the United Nations Conference on Environment and Development, Rio de Janeiro (A/CONF.151/26)*, UN, New York, Chapter 18.

6. Policy Coordination and Advisory Services (2006), "A nation in the making: a discussion document on macro-social trends in South Africa", Presidency, Pretoria.

7. UNESCO–WWAP (2003), *Water for People Water for Life: The United Nations World Water Development Report*, UNESCO and Berghahn Books, New York.

8. River Health Programme (2003), *State of Rivers Report; Free State Region, River Systems*, Department of Water Affairs and Forestry, Pretoria.

9. See reference 2, DWAF (1997).

10. Muller, M (1993), "Water supply and sanitation institutions – using the transition to get it right", Paper presented at the Water Institute of Southern Africa Biennial Conference, Johannesburg, February 1993.

11. SCOWSAS (1991), "Status report" (mimeo), Standing Committee on Water Supply and Sanitation, Johannesburg.

12. DWAF (2005), *Annual Report 2004–2005*, Department of Water Affairs and Forestry, Pretoria; also HSRC/DWAF (2004), "South African social attitudes survey: the state of the water sector", unpublished data.

available water per capita, among the "driest" countries in the world, at 150th out of 180 countries, on par with Somalia, Lebanon, Burkina Faso and Morocco.<sup>(7)</sup> The scarcity is aggravated by the fact that more than 60 per cent of the country's GDP comes from the inland areas, where a substantial proportion of the population live high up in the main river basins. Water is expensive as it has to be sourced from further afield and pumped up to the users, and the population's waste has an impact on downstream users.

The scarcity challenge is compounded by high levels of climatic variability. Extensive storage is required to provide assured supplies during dry cycles. This situation makes efficient water use and demand management a high priority, and substantial investment in storage and transmission is required. Intensive water use also places great pressure on water ecosystems through the withdrawal of water as well as the discharge of wastes.<sup>(8)</sup>

The water-intensive suburban lifestyle of South Africa's minority population at the upper end of the household income scale was thus also a challenge. Water demand was predicted to rise rapidly with urbanization and improved living standards for the poor unless there were specific interventions to contain demand. The fact that new supplies (where they are available) usually cost substantially more than existing systems added to the pressure to promote water demand management measures to contain the growth in water use in the expanding affluent community.<sup>(9)</sup>

### c. A new national custodian for water supply and sanitation services

Another important challenge in 1994 was the absence of a national institution for overseeing water supply and sanitation services. Responsibility for water services had been left largely at local level, with little national oversight. This was identified as a policy problem, and the need for an "apex institution" to take responsibility for the country's water supply and sanitation was highlighted as a priority.<sup>(10)</sup>

In order to achieve the goals set out for the new government in the Reconstruction and Development Programme (RDP), the Department of Water Affairs and Forestry (DWAF) was tasked with this responsibility. However, DWAF had little capacity or knowledge of domestic water supply matters despite a long history of water resource management. Before a new policy for water supply and sanitation could be formalized and implemented, DWAF's capacity had to be built.

### d. Expansion of service infrastructure

Immediately post-1994, a priority of the new South African government was to address the situation of the large proportion of the population, estimated at 12 million out of a total of 36 million, who were without access to safe water.<sup>(11)</sup> In 10 years, the national investment programme provided infrastructure for basic water supply to more than 10 million people, supported by the larger metropolitan municipalities and housing programmes. By 2005, only an estimated 3.7 million out of 48.1 million people were without some access to safe water.<sup>(12)</sup>

## e. Decentralization to local government

South Africa's 1996 Constitution mandated a high degree of decentralization as part of the country's political settlement.<sup>(13)</sup> While the majority ANC party supported the devolution of powers to local institutions, reflecting its commitment to participative democracy, minority parties supported it in the hope that they would retain some autonomy in their communities.<sup>(14)</sup>

So, while the water supply programme was driven and implemented by the national DWAF for the first five years, the second five years were a period of decentralization, during which new local government institutions were established following the local government elections of 2000. Indeed, the DWAF programme had been characterized from the start in terms of "building local government" and "making the constitution work" rather than simply expanding water supplies.

As then-Minister of Water Affairs and Forestry, Kader Asmal explained in his 1996 budget speech:

"It is not up to central government to provide services, but to create a framework within which they can be provided. This requires clear regulations and legislation to protect both consumer and provider, which I intend to promote."<sup>(15)</sup>

In 2001, a decentralized fiscal system was established that integrated the financing of the national water supply and sanitation programme and required that attention be paid to supporting new municipalities so that they could exercise their responsibilities.

While the water services functions were being decentralized, the water resource management functions were kept at central level. This helped to maintain the integrity of rivers as management units by establishing an institutional counterbalance between local government as water users and central government and its regional agencies as custodians of the resource.

## f. Establishing effective local government

Thus, an important aspect of the post-2001 water supply programme was to build the capacity of local government, not only to sustain the water services investment programme but also to ensure effective, ongoing operations and maintenance of the new water infrastructure. This required the establishment of financial systems to support the physical and operational planning of the water services, one element of which was the development of tariff and subsidy policies that would support the long-term financial sustainability of the local governments.

Initial policy in 1994 was that central government would fund the infrastructure for basic water service provision in poor communities while the communities themselves would fund their operational costs. However, it became clear that in the poorer parts of the country, municipalities would require support to maintain even a minimum level of services. The Constitution thus provided for an inter-governmental transfer, the "equitable share of revenue" from national to local level, "...to enable it to provide basic services".<sup>(16)</sup> It was still intended that funding for water above "basic supply" levels would come from tariffs.

13. See reference 1.

14. Muller, M (2007), "Parish pump politics: the politics of water supply in South Africa", *Progress in Development Studies* Vol 7, No 1, pages 33-45.

15. Asmal, K (1996), Budget Speech, National Assembly, 28 May, Cape Town.

16. See reference 1, ss227.

## g. Initial tariff and subsidy policies

The initial policy on water supply financing was outlined in the ruling ANC's election manifesto, the Reconstruction and Development Programme (RDP). This committed the new government to a programme of investment in infrastructure to provide basic services, but also to conventional positions on payment for services.

Some authors, critical of what they describe as the neo-liberal policies of the South African government post-1994,<sup>(17)</sup> attribute South Africa's water tariff policy to World Bank intervention in 1995.<sup>(18)</sup> However, the tariff policy was spelt out in some detail in the RDP and reflected the then-dominant (if rather uncritical) civil society view strongly promoted by local NGOs such as the Rural Advice Centre and the Mvula Trust:<sup>(19)</sup>

"2.6.10 Tariffs. To ensure that every person has an adequate water supply, the national tariff structure must include the following:

2.6.10.1 a lifeline tariff to ensure that all South Africans are able to afford water services sufficient for health and hygiene requirements;

2.6.10.2 in urban areas, a progressive block tariff to ensure that the long-term costs of supplying large-volume users are met and that there is a cross-subsidy to promote affordability for the poor, and

2.6.10.3 in rural areas, a tariff that covers operating and maintenance costs of services, and recovery of capital costs from users on the basis of a cross-subsidy from urban areas in cases of limited rural affordability."<sup>(20)</sup>

## h. Standards for basic water supplies

One important issue for the investment programme was the amount of water to be provided as a basic service for each household, which is linked to the question of what price should be charged for that supply. The initial programme took its definition from the RDP, which stated that:

"2.6.6 The RDP's short-term aim is to provide every person with adequate facilities for health. The RDP will achieve this by establishing a national water and sanitation programme which aims to provide all households with a clean, safe water supply of 20–30 litres per capita per day (lcd) within 200 metres, an adequate/safe sanitation facility per site, and a refuse removal system to all urban households.

2.6.7 In the medium term, the RDP aims to provide an on-site supply of 50–60 lcd of clean water, improved on-site sanitation, and an appropriate household refuse collection system..."<sup>(21)</sup>

Subsequently, the Water Services Act established the concept of a "basic water supply", prescribed in regulations that could be adjusted over time. The initial "basic water supply" was defined as access to 25 litres of safe water per person per day, within 200 metres of the household.<sup>(22)</sup> This definition was to become important in the context of the free water debate.

17. Bond, P (2000), *Elite Transition: From Apartheid to Neoliberalism in South Africa*, Pluto Press, London.

18. Bond, P and Trevor Ngwane (2001), "The World Bank and backward/forward influences in post-apartheid South Africa", Paper presented to the Centre for Social and Development Studies Project on Donor Funding, University of Natal, Durban, 30 October.

19. Mvula Trust (2001), "The Mvula Trust policies and sector challenges: a selection of stories from the IRC lessons learnt project 2000/2001", Mvula Trust, Department of Water Affairs and Forestry, IRC, International Water and Sanitation Centre, 2000/2001, available at <http://www2.irc.nl/manage/manuals/watsanmvula.html>.

20. ANC (1994), *Reconstruction and Development Programme*, African National Congress, Johannesburg, page 30.

21. See reference 20.

22. DWAF (2001), *Section 9 Regulations: Compulsory National Standards Regulations under Section 9 of the Water Services Act (Act 108 of 1997)*, Department of Water Affairs and Forestry, Pretoria.

## i. Challenges of access

As infrastructure provision proceeded and operational experience was accumulated, concerns were raised about access. It was found that the cost of water was deterring poor people from using it, limiting the benefits of the programme.

This was first demonstrated in rural programmes, when attempts were made to implement the "payment for operations" policy. One of the best-documented projects was the Shemula water project in an impoverished region of KwaZulu-Natal province. In this instance, a water project run by the local public utility established "water kiosks" where people could buy water at prices that, while highly subsidized, were, at R5/kilolitre, (US\$0.75), high in relation to local incomes.

"Where people are paying on a volumetric basis, consumption from public standpipes would appear to be significantly less. Systems with pre-payment systems such as the Shemula water project in KwaZulu-Natal record an average use of about six litres per person per day. In that system, it is reported that only 323 of the 7,500 households in the area use the system. The majority of families continue to use traditional water sources."<sup>(23)</sup>

Similar situations arose in peri-urban areas, where alternative supplies were less easily available and many households experienced difficulty in making payments. Suppliers who sought to manage payments in poor areas found themselves forced to disconnect users or develop expensive administrative systems to pursue their debts.

The challenge was captured by South Africa's second Minister of Water Affairs, Ronnie Kasrils, in a personal anecdote:

"Last year, I visited a newly installed water supply scheme in a typical South African rural village called Lutsheko. The project was well run by a village water committee and had improved the lives of 3,000 people. But when I went down to see the borehole, on the banks of a dried out riverbed, I found a young woman, with a three-week old baby on her back, scooping water out of a hole she had dug in the riverbed. She told me she could not afford to use the taps."<sup>(24)</sup>

Experiences like this, repeated across the country, established the context for a review of water-pricing policy. But it was in the urban rather than in the rural areas that the challenges were most acute because better urban infrastructure made higher levels of household consumption possible.

## III. CONCEPTUALIZATION AND DESIGN OF THE FREE BASIC WATER POLICY

By 2000, five years experience of operation had shown that the initial policy assumptions were flawed, and that elements of the policy needed to be reviewed if the objective of meeting the water needs of all South Africans was to be achieved. There was also a need to consider the implications of the newly established local government structures.

The core of the review was to address the overall financial sustainability of municipal water services. However, this had to ensure that the key objective of ensuring access to safe water for all South Africans was

23. WEDC (2000), "Designing water and sanitation projects to meet demand: the engineer's role", Back to Office Report on field visit to South Africa, 9-26 May 2000, WEDC, University of Loughborough, available at [http://wedc.lboro.ac.uk/projects/new\\_projects3.php?id=36](http://wedc.lboro.ac.uk/projects/new_projects3.php?id=36).

24. Kasrils, R (2001), "The value and price of water (the women of Lutsheko)", *Water Science and Technology* Vol 43, No 4, pages 51-55.

achieved. It was in this context that the approach to prices and tariffs was reconsidered.

### a. Innovation and response

The review was informed by experiences at the local level. There was particular interest in the metropolitan areas, which covered South Africa's six major conurbations, where institutional reform had proceeded faster than in the rest of local government. Durban (now called Ethekewini), the only metro with a sizeable population from the former black "homelands", was seeking a tariff policy that would address the challenges of service delivery in poor peri-urban communities, and had come up with some innovative approaches.

Of its population of more than 2.5 million, half a million people were without household connections and used public standpipes; in addition, an estimated 20,000 households had been connected illegally to the piped water network. After initially trying to enforce payment in all communities, the metro weighed the costs and benefits (social and political as well as financial) and decided that it was not appropriate to pursue payment at all costs. A two-fold approach was adopted:

- limiting demand by using small bore pipes together with yard tanks for storage (which, incidentally, helped to reduce the costs of the reticulation system); and
- providing some free water to all users of the restricted access system.

This was funded by cross-subsidies from the higher-volume consumers in the formal urban area, and showed that it was financially feasible to provide a basic supply of water, free of charge, in a city like Durban.<sup>(25)</sup>

### b. Political intervention

The policy review process was accelerated when the first elections for new local government structures were scheduled for December 2000. Water supply remained a political priority, and technical discussions about the feasibility of a free basic water policy at national level were overtaken by the political timetable.

The possibility of providing some free water had first been raised officially in June 2000.<sup>(26)</sup> In September 2000, free basic water was formally included as part of the election programme by President Thabo Mbeki, at the launch of the ANC's manifesto for local government elections.<sup>(27)</sup>

It was proposed that a basic minimum quantity of water (6,000 litres per household per month) be provided free of charge to poor South Africans. This could be implemented and funded in a variety of ways:

- by providing free water to all using cross-subsidies, as in Durban;
- by supplying free water only to "indigent" households, as identified by the local municipality; or
- by providing free water only at certain "service levels", recognizing that households that obtained their water through public standpipes invariably used less than the basic amount.

These options were later detailed and expanded in formal guidelines.<sup>(28)</sup>

25. Brocklehurst, C (2001), "Durban metro water. Private sector partnerships to serve the poor", Water and Sanitation Programme–Africa, Case Study, WSP, Nairobi.

26. DWAF (2000), Address by the Minister of Water Affairs and Forestry, Mr Ronnie Kasrils, MP, Budget Vote No 34, Department of Water Affairs and Forestry, Cape Town, 9 June.

27. ANC (2000), *Local Government Elections 2000 Manifesto*, African National Congress, Johannesburg.

28. DWAF (2002a), *Free Basic Water Implementation Guidelines for Local Authorities*, Version 2.3, Department of Water Affairs and Forestry, Pretoria, April.

Implementation was given impetus when a cholera epidemic that had broken out in rural KwaZulu-Natal in August began to reach serious proportions in December.<sup>(29)</sup> The free basic water policy was finally given legal status through the promulgation of tariff regulations in June 2001.<sup>(30)</sup>

### c. The rationale underlying the free basic water policy

The underlying rationale for the free basic water policy was elucidated recently in relation to a legal challenge calling for the “free” water amount to be raised to 50 lcd, and for “pre-payment” meters to be outlawed. In court papers, addressing a challenge to the policy, a DWAF official highlighted the complexities of addressing the pricing of water in a social and environmental as well as in an economic context.

“110. The approach to the pricing of water supply services and indeed the very question of whether the supply of water should be subject to payment is a technically complex and politically vexed question. This is because water use has a number of distinct properties, those of a resource essential for life, those of a productive or of a luxury consumption nature and those of a limited environmental resource. In addition, regardless of the status of water, the activity of supplying it to people for consumption is a complex undertaking, which incurs substantial costs for which a funding mechanism is required if supplies are to be sustained.”

“111. A particular challenge is to distinguish between the different types of use within the consumption patterns of a single household. Thus, while all households require a certain amount of water for basic survival, some may choose to use more because they have more bathrooms and water-using appliances. Others may use water for gardening for recreational or productive purposes. An ideal system would have one approach to paying for the essential water use and another for luxury or productive use, which is what the block tariff system seeks to do.”

“112. However, the government is acutely aware of the significant number of poverty-stricken people who are unable to afford even the minimal cost attached to essential water use. Hence, the introduction of the Free Basic Water (FBW) policy as part of the government’s strategy to alleviate poverty.”<sup>(31)</sup>

### d. Administrative confirmation

This approach to free basic water was reflected in the tariff regulations which, since domestic water supply is constitutionally a local government function, could only establish norms and standards for tariff structures rather than prescribe actual tariff levels. The regulations address a range of objectives as well as free basic water, although that intention is emphasized:

“S.3.(1) A water services institution must consider the right of access to basic water supply and the right of access to basic sanitation when determining which water services tariffs are to be subsidized.”<sup>(32)</sup>

29. KwaZulu-Natal Department of Health (2002), “Epidemiological characteristics of cholera epidemic in KwaZulu-Natal, 2000–2002”, in *KwaZulu-Natal Epidemiology Bulletin* No 1, Durban, November (no page numbers).

30. See reference 22.

31. Schreiner, B (2007), Third respondent answering affidavit in the matter of Mazibuko and others versus the City of Johannesburg, Johannesburg Water and the Minister of Water Affairs and Forestry, High Court (Witwatersrand local division), Case No 06/13865, available at <http://www.law.wits.ac.za/cals/phiri/index.htm>.

32. See reference 22, page 4.

“S.6.(1) A tariff set by a water services institution for the supply of water through a water services work or consumer installation designed to provide an uncontrolled volume of water to a household must include a volume-based charge that:

- a. supports the viability and sustainability of water supply services to the poor;
- b. discourages wasteful or inefficient water use; and
- c. takes into account the incremental cost that would be incurred to increase the capacity of the water supply infrastructure to meet an incremental growth in demand.

(2) The requirements of sub-regulation (1) are deemed to have been met where the tariff is set as a volume-based charge that provides for a rising block tariff structure which includes:

- a. three or more tariff blocks with the tariff increasing for higher consumption blocks;
- b. a consumption level for each block defined as a volume consumed by a household during any 30-day period;
- c. a first tariff block or lowest tariff block with a maximum consumption volume of six kilolitres and which is set at the lowest amount, including a zero amount, required to ensure the viability and sustainability of water supply services; and
- d. a tariff for the last block or highest consumption block set at an amount that would discourage high water use and that reflects the incremental cost that would be incurred to increase the capacity of the water supply infrastructure to meet an incremental growth in demand.”<sup>(33)</sup>

33. See reference 22, pages 4–5.

The regulations did not prescribe a free amount, recognizing that no service can be provided without funding and that if no source of funding could be identified for a zero tariff it would be inappropriate to impose one – and would indeed intrude on local government’s constitutional powers. But they emphasized the economic and sustainability objectives of reflecting the cost of making additional water available and discouraging its wasteful and inefficient use.

### **e. Development of a systematic welfare approach**

This process coincided with the development of an approach to social welfare that emphasized the value of the “social wage”, the package of goods and services made available by government in addition to formal welfare grants.<sup>(34)</sup> Under this approach, when evaluating support to the poor and indigent, the value of the full menu of government services should be considered to allow the analysis of redistribution trends in a normalizing society.

Although it was only formally mentioned by the president in his 2003 State of the Nation Address to Parliament,<sup>(35)</sup> the “social wage” had been discussed politically within the ANC since at least 1998, and free basic services, including water, were very much part of the concept. As DWAF court papers explain:

“It should be stressed that the FBW policy is but one element of a broader approach to the development of a comprehensive social

34. SARP (2003), “Inequality and the social wage in South Africa: debating aspects of the ten-year review”, Southern African Regional Poverty Network, Pretoria, available at [http://www.sarpn.org.za/documents/d0000589/Social\\_wage\\_South\\_Africa.pdf](http://www.sarpn.org.za/documents/d0000589/Social_wage_South_Africa.pdf).

35. Mbeki, T (2003), “State of the nation address”, *ANC Today* Vol 3, No 7, Johannesburg (no page numbers).

security framework for South Africa. In terms of this, there are a number of pillars in the system established to ensure that all South Africans enjoy protection against social contingencies. The first pillar, of basic universal protection for all citizens, comprises conventional social grants as well as the 'social wage', the package of essential social services provided by government. FBW should be seen as an element of this social wage."<sup>(36)</sup>

## f. Civil society contestation

There is a small but prolific civil society community in South Africa, including organizations such as the Anti-Privatization Forum, the Soweto Electricity Crisis Committee and the Freedom of Expression Institute, which has consistently criticized government's water policy as "neo-liberal", and its approach to tariffs as "commodification" and "preparation for privatization".

They have recently supported court action challenging the policy of the city of Johannesburg in setting the level of free basic water at six kilolitres per household per month. This action also challenges the Regulations Relating to Compulsory National Standards and Measures to Conserve Water, which define a basic water supply.<sup>(37)</sup>

Although the idea of a free water supply was supported, the details of its implementation soon came under attack:

"After the ruling African National Congress promised free basic water supplies in December 2000 during a municipal election campaign, the same bureaucrats responsible for water disconnections began redesigning the water tariffs. In July 2001, revised price schedules provided a very small free lifeline: 6,000 litres per household per month, followed by a very steep, convex curve. But the next consumption block was unaffordable, leading to even higher rates of water disconnections in poor areas. The 6,000 litres represent just two toilet flushes a day per person for a household of eight, for those lucky enough to have flush toilets. It left no additional water to drink, wash with, clean clothes or for any other household purposes. In contrast, from the progressive point of view, an optimal strategy would provide a larger free lifeline tariff, ideally on a per person, not per household basis, and then rise in a concave manner to penalize luxury consumption."<sup>(38)</sup>

The alternative approach proposed by the critics would provide more water than is required for basic health needs and would benefit predominantly urban consumers rather than the poorer rural communities, which have limited infrastructure capacity. Perhaps 80 per cent of domestic consumers (i.e. a far greater proportion of the non-poor) would receive free supplies. An allocation based on the number of people in a household would be administratively complex and open to abuse. The proposals would also undermine the financial base of the system by reducing cross-subsidization and requiring greater central subsidies for free supplies, to the rich as well as the poor.

36. See reference 31.

37. Mazibuko, L (2006), Founding affidavit in the matter of Mazibuko and others versus the City of Johannesburg, Johannesburg Water and the Minister of Water Affairs and Forestry, High Court (Witwatersrand local division), Case No 06/13865, 2007 available at <http://www.law.wits.ac.za/cals/phiri/index.htm>

38. Bond, P (2005), "Reclaiming water pricing for participatory public services", available at <http://www.waterjustice.org/uploads/attachments/pdf68.pdf>.

### g. Sustainability, quality and reliability

As highlighted in the court papers cited<sup>(39)</sup> and in the tariff regulations themselves, the challenges of environmental sustainability were an important consideration in defining the approach to water pricing.

A variety of instruments can be used to promote water conservation and manage water demand. Many are technical, such as requiring the installation of low-volume flush toilets. Others are operational, including the effective management and reduction of leaks and breaks in the distribution system. But the menu of options will usually include setting appropriate prices, as this reduces consumption while also communicating the cost of services directly to their users.

Given South Africa's limited water resources, the promotion of conservation and demand management have long been on the agenda. The water services development planning process, mandated by the Water Services Act, requires municipalities to consider how they will restrain water use. In this context, tariff regulations, including the free basic water provision, are one instrument that can be used to achieve more sustainable water use.

However, the focus on access and environmental sustainability was not matched with action to ensure that services achieved bio/chemical quality standards and appropriate levels of reliability. In South Africa, it has been taken for granted that tap water is safe to drink and that it is available, in urban areas at least, 24 hours a day and seven days a week. Experience from other middle-income developing countries has indicated that this cannot be taken for granted and, more recently, service standards, particularly for water quality and reliability, have begun to be taken more seriously.<sup>(40)</sup>

The achievement of service delivery standards depends on adequate funding, either from tariffs or from subsidies. Other countries, where tariffs have fallen below the level needed, offer cautionary tales. In India, according to an official review:

“On the urban water supply front, transmission and distribution networks are largely of very poor quality, in addition to being outdated and badly maintained, resulting in higher operating costs. Physical losses are typically high, ranging from 25 to over 50 per cent. Low pressures and intermittent supplies lead to back siphoning, resulting in contamination in the distribution network. Water is generally available for only two to eight hours a day in most Indian cities.... unsatisfactory service standards has led to low tariff structures, which in turn has resulted in poor resource positions of Urban Local Bodies (ULBs), poor maintenance and service – a vicious circle. The problem is compounded by the rapid growth of urban centres and corresponding growth in the demand for services.”<sup>(41)</sup>

In Malaysia, the Economic Planning Unit Director-General reported:

“State water supply authorities have problems covering the cost of services and many have deferred maintenance due to capital shortages. This has led to deterioration in the quality of services, such as poor water quality and low pressure. In fact, there are water supply authorities that have not reviewed the water tariff in the last 20 years. Non-revenue water (NRW) in the water supply sector is

39. See reference 31.

40. Parliament of South Africa (2007), National Assembly, Questions for Oral Reply, Question 50, Cape Town, 7 March.

41. Government of India Planning Commission (2002), “Water supply and sanitation”, a WHO–UNICEF-sponsored study, New Delhi, page 34.

high, with a national average of 40.6 per cent and a range of 18.0 to 73.9 per cent (2002)."<sup>(42)</sup>

These are outcomes that South Africa clearly wishes to avoid.

#### IV. IMPLEMENTATION OF FREE BASIC WATER

The implementation of free basic water was both helped and hindered by the process of establishing new municipalities where the local government elections were an important milestone. While the process had created a degree of urgency and energy in local administrations, many were restructuring to merge different organizations and put new management in place. Local governments' annual budget cycles begin in July, so there was little time to plan new tariff systems. In the event, free basic water was first implemented in those municipalities, notably the metros, that had suffered less dislocation. For others, it was acknowledged that July 2002 was a more realistic time to initiate the process.

A task team developed and supported an implementation strategy. Workshops were held to inform and gather inputs from all stakeholders, and draft guidelines were produced for local authorities. The guidelines were tested in nine "pilot municipalities" and finalized with other support materials by 1 July 2001, the start of the financial year and the D-Day for implementation. For the next two years, dedicated regional support structures provided specific problem solving, technical support and advice to municipalities, as well as monitoring and reporting on progress

##### a. The guidelines

The guidelines<sup>(43)</sup> offered municipalities a range of options for implementing free basic water, depending on their specific conditions.

The introduction of "stepped tariffs" was promoted in metropolitan areas where it was possible for high-volume users to cross-subsidize low-volume users, and also encourage conservation. Service levels such as communal taps would serve as "rationing" mechanisms in rural areas where the vast majority of people are poor. Finally, "indigency policy" mechanisms to identify free basic water beneficiaries were suggested for poorer towns where cross subsidization was not feasible but where households already had individual connections. The advantage of the first two approaches is that they are, administratively, relatively simple to implement; the last approach addresses the financial challenge by allowing closer targeting, to make the most of available subsidies.

##### b. Complementary support programmes

The free basic water programme was implemented and supported within the framework of the Department of Provincial and Local Government's (DPLG) broad programme to support local government transformation. The national Cabinet had agreed that local government should be encouraged to use an appropriate combination of the "equitable share" and cross-subsidies within tariffs to fund the provision of free basic water. The subsidy requirements for free basic water for the poor were therefore

42. Abidin, Raja Dato' Zaharaton Raja Zainal (2005), "Water services agenda in the ninth plan", *Water Malaysia* No 10, August (no page numbers).

43. See reference 28.

44. DPLG (2007), "Practitioner's guide to inter-governmental relations system in South Africa", Department of Provincial and Local Government, Pretoria.

45. FFC (2006), Submission for the Division of Revenue 2007/08, Recommendations from the FFC Review of the Transfers in the Intergovernmental Fiscal Relations System in South Africa, Fiscal and Financial Commission, Midrand.

46. DPLG project "Consolidate!" (2004), a hands-on local government engagement programme for 2004–2006, Department of Provincial and Local Government, Pretoria, May, page 13.

47. DWAF (2007), "Free basic water implementation status", Department of Water Affairs and Forestry available at <http://www.dwaf.gov.za/FreeBasicWater/>.

considered during the determination of the "equitable share" formula, a complex<sup>(44)</sup> and contested<sup>(45)</sup> process. In parallel, the drafting of tariff regulations proceeded in consultation with the ministers of the National Treasury and the DPLG.

The National Treasury, the DPLG and DWAF were required to report to the Cabinet on the implementation of the "equitable share" and related financial arrangements.

Challenges of implementation were rarely related solely to free basic water and, in 2004, the Consolidate! project, described as a "hands-on local government engagement programme", was launched to tackle local government failures, including problems in the provision of free basic services. According to the base document:

"10.3.1 Some of the key challenges that must be addressed include the following matters:

- a. poor delivery mechanisms for FBS (free basic services);
- b. FBS policy not being implemented at the desired level and not reaching intended beneficiaries;
- c. cut-offs, even for pensioners;
- d. poor billing systems; and
- e. limited funds available to municipalities to fund services for the poor."<sup>(46)</sup>

### c. Initial outcomes of the implementation of the free basic water policy

Despite these problems, in March 2007 DWAF reported that more than 75 per cent of South Africa's population were served by free basic water through one or more of these mechanisms.<sup>(47)</sup> This included nearly 69 per cent of those classified as "poor". Of the near 7 million poor people who did not enjoy access to free basic water, 2.2 million lived in areas without infrastructure, while the balance of 4.7 million had basic level services, or better, but lived in municipalities where free basic water was not yet provided. Of the 169 municipalities with water provision responsibilities, only five did not provide any free water, but 154 did not provide it formally to all households in the area.

## V. HAS THE FREE BASIC WATER POLICY BEEN SUCCESSFUL? AN ANALYSIS

Any analysis of the outcomes of the free basic water policy must be undertaken in the context of the overall tariff policy and indeed the overall water policy, recognizing that it was also part of a process to establish democratic local government. While the specific objectives were to improve the access of the poor to safe water, this was done within the framework of an approach with broader social, environmental and economic objectives.

The policy and its implementation have been criticized by civil society commentators for failing to reach all the poor, including too many non-poor users, for providing insufficient water and for charging too much for water supplied beyond the free amount.

National politicians were concerned about the apparent inequity of the “non-poor” receiving a “free” allowance, despite the fact that tariffs for higher usage had been increased to compensate. Meanwhile, local government was concerned about the adequacy of the “equitable share” funding as well as the formula and population estimates on which it was based. Finally, there was a technical concern, shared by most of the critics and indeed by government that water requirements for sanitation – indeed the provision of a basic sanitation service – had not been dealt with adequately.

### a. Inclusion and exclusion; equity and sustainability

The main concern from a traditional welfare perspective was the policy’s efficiency and effectiveness. If the free basic water allowance is simply a subsidy, is it appropriately targeted? Analysts such as Mosdell and Leatt believed that:

“There are substantial errors of inclusion in the free basic water programme. Of the 32 million people who received free basic water in May 2005, only 17 million were considered poor by the definition of the Department of Provincial and Local Government.... On the other hand, significant numbers of poor people are excluded from receipt of free basic water.”<sup>(48)</sup>

The number of people receiving free basic water was of course not the same as those benefiting from a government subsidy through the “equitable share”, which is calculated using estimates of the number of poor people in each jurisdiction. Where free basic water was supplied through a targeted indigent policy, as in some smaller towns, or through public standpipes in rural areas, where users are overwhelmingly poor and their consumption is self-limited by the distance over which water is carried, unwarranted inclusion is not an issue, although exclusion by administrative decision may be a problem.

However, where free basic water is implemented through the stepped tariff system – in urban areas benefiting a large number of non-poor households – the question of targeting needs to be seen somewhat differently. While Mosdell and Leatt<sup>(49)</sup> concluded correctly that: “... *on average, the free basic water service is more likely to reach the non-poor than the poor...*”, they themselves state that this is “...*the result of the poor being less likely to receive water services at all.*”

They conclude erroneously that: “...*the targeting mechanism of this poverty alleviation programme is causing substantial errors of both inclusion and exclusion, and is therefore in need of review.*” They conflate the subsidy provided from the budget of national government with that provided through user cross-subsidies. This error is the result of a failure to consider the broader objectives of the tariff policy, which include the promotion of conservation and sustainable resource use. The free basic water policy is simply one part of the tariff policy.

In terms of the system design, poor people receive free basic water funded from the “equitable share”. The many non-poor households that enjoy free basic water as part of a stepped tariff system are funded by cross-subsidies from households that use higher volumes of water.

48. Mosdell, T and A Leatt (2005), “On tap: a review of the free basic water policy”, in A Leatt and S Rosa (editors), *Towards a Means to Live: Targeting Poverty Alleviation to Make Children’s Rights Real*, Children’s Institute, University of Cape Town, page 25.

49. See reference 48, page 16.

Since the explicit intention of the tariff policy (as opposed to free basic water policy) is to improve water use efficiency and reduce wastage, the policy approach would appear to be appropriate since it rewards careful non-poor water users at the expense of profligate non-poor users.

### **b. How much is enough free basic water?**

Another criticism is that the policy fails to address the needs of large households (the plaintiff in the Mazibuko court case referred to above<sup>(50)</sup> lives with 19 other people). There is also concern that the amount of water provided free is inadequate where there are special needs, for instance, where a household member is in the terminal stages of HIV/AIDS.

With respect to large households, government's response has been to highlight the broad applicability of the policy:

"114. Following the proposal to introduce a 'free basic water policy', consideration was given by DWAF to the volume of water to be provided free of charge ... This discussion was guided by the policy process that had led to the adoption in the RDP and the 1994 White Paper of 20–30 lcd as the standard for a basic water supply. The precedent set by Durban Metropolitan Municipality of providing 6,000 litres per household per month (l/hh/pm) free of charge was also influential."

"116. 6,000 litres per month is equivalent to 200 litres per day per household. ... for the purposes of the calculation of free basic water provision, [a household] was estimated at four in urban areas and five in rural areas [The 2001 census subsequently found that the average household size in South Africa had fallen from 4.48 in 1996 to 3.8 in 2001]. With four people per household, 200 l/d provides 50 lcd, with five people, 40 lcd."

"117. Since not all households are of an average size, consideration was given to the number of large households, comprising more than eight people, where the application of a household limit would reduce the water available below the 25 litres per person per day limit."

"118. The 1996 census found that 93 per cent of South African households had eight or less people. This figure had increased to 93.96 per cent in 2001."

Government also stated that no single instrument was likely to cater for all the needs of specific households.

"119. In the design of any welfare policy of general application, there is a need to balance the proportion of potential beneficiaries who receive less benefits than intended with the proportion who receive more. This case, where without any adjustment, the policy of providing 200 lcd would target effectively 94 per cent of SA households, compares well with the targeting efficiency of many other welfare interventions."

"120. Government recognized that the free basic water allowance might not meet the needs of all users and that additional welfare and administrative mechanisms (as well as technical solutions)

50. See reference 31.

might be required in specific circumstances, for example households with disabled people or sites where a number of households share a single connection. In these cases, it was important to have another instrument to ensure that household water needs could be adequately addressed, although this was more likely to occur in the context of a generic social welfare policy. The introduction by DPLG of a municipal indigent policy (which was also considered to be a possible mechanism to fund the provision of basic water supplies to poor families) met this requirement."<sup>(51)</sup>

51. See reference 31.

The definition of a basic water supply as 25 lcd was supported by recent recommendations of the World Health Organization (WHO), which had for decades sought to avoid pronouncing on the matter. WHO's position reflected that taken 10 years previously by the drafters of South Africa's RDP. It identified a basic level of access (unlikely to exceed 20 lcd) and an intermediate level of access (50 lcd). While noting that there was still a health concern about the basic level of access, it explicitly recommended that:

"...the first priority for interventions to improve access to water supplies is to ensure that at least basic access is achieved.... Where the basic access service level has not been achieved, hygiene cannot be assured and consumption requirements may be at risk. Therefore providing a basic level of access is the highest priority."<sup>(52)</sup>

52. Howard, G and J Bartram (2003), "Domestic water quantity, service level and health", World Health Organization, Geneva, Switzerland WHO/SDE/WSH/03.02, Summary.

### c. Coverage and local government administrative capacity

The gaps in coverage reported by government highlight some of the problems. While it is understandable that the 2 million people with no access to any infrastructure for safe water supply could not benefit from free basic water, it is less obvious why more than 4.5 million poor people who have infrastructure are excluded. There appear to be a number of different situations:

- municipalities that could not afford to implement the policy (in some arid and sparsely populated areas, the cost of providing safe water is substantially more than the formula-determined grant);
- municipalities that have not formally implemented the tariffs but are not charging people for services (this probably covers many of the 2 million people recorded as receiving an RDP level of service but not benefiting from free basic water);
- municipalities that lack the administrative and technical capability to implement the policy (130 of South Africa's 284 municipalities need support simply to meet their minimum obligations,<sup>(53)</sup> and free basic water is victim to broader administrative failure); and
- municipalities where available funds are diverted for other purposes (although the "equitable share" is calculated to allow adequate funding for the provision of the prescribed free basic services, it is an unconditional grant and municipal officials with other priorities can thus divert the money).

53. See reference 46.

In addition to these issues, the status of households that share connections (and thus receive a reduced free basic water allowance) has also not been addressed. The size of this group is not known.

#### d. Sanitation – the permanent step-child

Despite widespread recognition that adequate sanitation is a vital component of any programme to improve environmental health in poor communities, it invariably takes second place to water supply. Typically, the link between sanitation and water supply was not effectively made in the design of the free basic water policy, and this is also contentious. DWAF acknowledges this, although they suggest that the situation is not as acute as the critics claim:

“126. The supply of water becomes linked to the provision of sanitation where water-borne sanitation is used. The approach of DWAF to the provision of basic sanitation paralleled closely that of water supply. It was agreed that as a first step in providing universal access to adequate sanitation, provision of a properly designed, constructed and utilized improved pit toilet (a so-called VIP) would generally be acceptable. The provision of water-borne sanitation was not considered appropriate in view of the extremely high cost, aggravated by the additional requirement for a water supply service higher than the basic supply to be provided.”

“127. It was however recognized that specific challenges would have to be addressed in communities where water-borne sanitation had previously been provided. In this context it is relevant that the amount of water required to flush a typical water-borne toilet is around 10 litres per single flush. It was noted that a proportion of the basic water supply that is used for cooking washing and laundry can be recovered and used to flush toilets. This implied that a household would be able to flush a toilet as many times per day as there were household members, adequate to maintain its functionality and that the basic water supply would be adequate to maintain functioning water-borne sanitation. It was also noted that the provision of additional water to households who already had domestic connections and water-borne sanitation would aggravate inequities with those who had neither safe water nor adequate sanitation.”<sup>(54)</sup>

54. See reference 31.

#### e. Tariff policy and broader sustainability

The free basic water issue cannot be addressed in isolation from the systemic implementation of the national tariff policy for water services. Free basic water was conceived as part of a tariff system that also addressed the challenges of constraining the consumption of higher-volume users. The prescribed tariff structure explicitly provided for a:

“... highest consumption block set at an amount that would discourage high water use and that reflects the incremental cost that would be incurred to increase the capacity of the water supply infrastructure to meet an incremental growth in demand.”<sup>(55)</sup>

55. See reference 22.

By 2007, all metropolitan municipalities and most of the larger urban municipalities had introduced stepped tariffs, which provided for free basic water and set relatively high tariffs for the top tier of domestic use.

One indication that this has constrained consumption is that the volume of potable water supplied by bulk water utilities has grown by

20 per cent since the introduction of free basic water, while the number of people served has increased by nearly 50 per cent. Since, unlike electricity, most potable water is used for domestic purposes, per capita use of water has fallen steadily over the period.

Some of this decrease can be attributed to the fact that the growth in service has been at lower service levels in poor communities, while in better-off communities, deliberate densification of settlements is associated with a reduction in per capita water consumption. However, the trend is in the right direction and tariff increases have played a part.

## f. International implications: rights to water, to human development

South Africa's free basic water has had international impact, challenging previously accepted wisdom that all water use should be paid for. The South African case demonstrates that practical politics will often challenge theory. A key point is that although South Africa enjoyed substantial external assistance, it is not donor-dependent and subject to aid conditionality.

Donors did raise concerns about the new policy, suggesting it might not conform to general principles for the equitable, efficient and sustainable management of water resources to which they were committed. South Africa responded that:

".... this point was clarified during the recent Bonn Conference on Freshwater, and the final recommendations made at that conference with which the EU delegation concurred reflect the importance of ensuring that 'affordability' does not become a barrier to access to basic services. In addition, the free basic water provides a mechanism for meeting the constitutional test for 'water as a human right', a position which again is strongly advocated by EU members. This mechanism is an important contribution to turning that social right into practical reality."<sup>(56)</sup>

There were obvious reasons for these concerns. If the conventional wisdom that the poor could pay for their water was wrong, it raised awkward questions about how countries with inadequate public resources (or affluent communities from whom to take cross-subsidies) could achieve the goal of safe water for the poor. The implication was that substantial additional resources from national budgets or external sources would be required to meet this Millennium Development Goal.

The South African government has stated that its approach is designed for its particular circumstances and is not a model for broad application. For low-income countries, it has suggested that the challenge is one of international public finance, requiring external rather than domestic financial support to ensure viable supplies in poor countries.<sup>(57)</sup> However, in the ongoing debate about financial resources for development, South Africa's free basic water policy raises uncomfortable questions about whether the poor can really afford to meet their water needs.

This links to the broader ethical challenge of the "right to water". There is an active campaign to declare access to safe water a basic human right in support of the goal of universal access, and water's affordability is an important element of this. The South African experience is often

56. DWAF (2002b), "Free basic water", Communication to the Ambassador of the European Union dated March 2002, Department of Water Affairs and Forestry (unpublished), Pretoria.

57. Muller, M (2002), "Funding the water sector: a South African perspective for Camdessus panel on financing water infrastructure", Presentation to Camdessus Commission, Development Bank of Southern Africa, Midrand, 25 November; also Winpenny, J (2003), *Financing Water for All: Report of the World Panel on Financing Water Infrastructure*, World Water Council, Marseille, France.

cited in this regard although it has been emphasized that the water supply programme was driven essentially by political priorities, and that the right to water was only introduced when the programme was well underway. For their part, South Africa's civil society critics have been dismissive of the importance of the formal "right to water".

Thus, according to Patrick Bond of the University of KwaZulu-Natal Centre for Civil Society:

"Utterly useless as water-rights talk appears ... South Africa's constitutional framing allows us to address two central issues: whether 'commodification' of water is trumping both the heralded jurisprudence of socioeconomic rights, and whether the main implementing mechanism, the 'free basic water' ... has been sabotaged by neoliberally oriented municipal officials."<sup>(58)</sup>

Proponents of the "right to water" are not clear about how it will improve access in poor countries. Since domestic financial constraints will remain a barrier to expanded access in most low-income developing countries, the challenge will arguably be for the rich nations of the world either to provide the resources or to create the economic climate within which countries could fund such programmes themselves.

This dimension of the programme has been raised by the South African minister Ronnie Kasrils, who used his Eastern Cape experience to challenge an international audience on ethical grounds:

"In looking across the gulf that divides the rich and poor in this world, we must look beyond the cost, price and value of water to the values that govern our society.... We do not help the poor because we are charitable. We help them because they are part of us and we are nothing without each other.... These are the values that guide our policies and I appeal for a recognition that the policies which may seem so eminently sensible to us in the pleasant surroundings of Stockholm and The Hague look very different to rural women in the cold morning light of the village water queue, to those who forgo the water queue to burrow in the ground for water."<sup>(59)</sup>

The social movement activists predictably see it somewhat differently:

"... it simply goes to show that the 'devil is in the details', and that the struggle over the shape and slope of the tariff curve is indeed a proxy for class struggle."<sup>(60)</sup>

## VI. CONCLUSIONS

South Africa's free basic water policy has been criticized as an inefficient instrument in that it does not achieve social goals of redistribution in South Africa efficiently, due to errors of inclusion and exclusion. It has been further suggested that the way in which tariffs are now calculated reinforces inequality.

However, the policy should be seen in the larger context of the need to promote water conservation as well as ensure the financial sustainability of water supply institutions, which also serve the poor. Similarly, water pricing is part of a larger water policy that includes investment to extend services to poor communities that currently do not have access.

58. Bond, P (2006), "Water commodification in South Africa: debating rights, the market and 'free basic water'", Presentation to the Human Rights and Global Justice Conference, Warwick Law School Centre for Globalization and Regionalization, 31 March.

59. See reference 24.

60. See reference 58.

The free basic water policy, as part of the broader water programme, also had to respond to the establishment of local government and the decentralization of water supply responsibilities. It was explicitly considered as an element of the social wage, a key pillar of a social security framework that is essential in a country where so many people are marginalized from the economic mainstream.

Given the political dynamics, it would have been difficult to achieve many of the broader goals of water reform without specific attention to the poor majority who are the foundation of the government's political support. Objectives such as efficient and appropriately priced services to commercial users as well as the promotion of water conservation and ecosystem protection have thus benefited from the application of the free basic water policy.

In this lies one key conclusion of this paper: a water policy that addresses social equity is also likely to support the achievement of economic and environmental goals.

A second conclusion from the history of the programme is that its main drivers were political rather than technical; it was the product of political forces mobilized by the advent and evolution of a democratic government in 1994 rather than a technical response to the introduction of a constitutional "right to water" in 1996.

This should reduce neither its impact on the international policy debate nor the ethical force of the arguments for ensuring that the needs of the poor of the world are met, in a manner that is both affordable to them and sustainable.

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