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South Africa's Water Crisis Needs an Alternative Water Policy

2 Executive Summary

The science is clear, human activities – such as the burning of fossil fuels and commercial agriculture - are responsible for climate change. Climate shocks such as extreme droughts, floods, fires are being experienced more frequently. The South African government's response to climate change has been weak and duplicitous. It uses the language of 'just transition' but then wants to lock the country to coal and gas through Karpowerships and more coal.

The SA government has failed to deal with the quantity and quality of water in the country. Only 46% of its population have a running tap in their homes. The rest of the population use communal taps (which are often broken) or rely on polluted water from rivers and streams. More and more people are having to deal with having little to no water around the country with Day Zero a reality for many towns – Nelson Mandela Bay, Beaufort West, with predictions that Gauteng could experience a day zero in the next 10-15 years. With regards to the quality of water, the government can also be regarded as the biggest polluter of our water resources as millions of litres of sewage flow into rivers, streams, dams and the ocean.

There are numerous policies and pieces of legislation that are in place to protect our resources that look good on paper – from the National Environmental Management Act to the Water Act. However, the widespread corruption and mismanagement at a local government level has worsened the situation. The solutions can not be left to government alone. We have to build a movement from below and give rise to a new leadership through systemic pathway building.

The Climate Justice Charter Movement is doing this through conscientizing, mobilising and creating change from the bottom up with the ultimate aim to shift society towards a socio-ecological change. This alternative water policy is one of any pathways to create the change we want to see, protect the environment and adapt to the impacts of climate change.

The bottom line is that we will not be able to fix our water challenges using the same thinking and actions that have resulted in the mess we are in. The development on wetlands, diverting of rivers, lack of control over boreholes, illegal dams, illegal dumping has to stop now.

3 Introduction

The Climate Justice Charter Movement (CJCM) believes that to counter the policy and government approach, it is imperative to build pathways from below to achieve systemic alternatives. This alternative water policy is one of the ways to advance a deep just transition and is one of 14 systemic alternatives envisaged by the Climate Justice Charter.

The main objective of this alternative water policy is to provide pathways that encourages people and communities to develop local solutions and to ensure that people have an equal and democratic say in the management of the water commons. The present system of government cannot be trusted to respond with urgency. We need a people driven state that is based on achieving climate justice.

As such it is important to democratise our water through the principles of equity and inclusivity. It is when people feel that they benefit from a resource that they will manage a resource with greater care and to collectively decide for whom and how the resource is used. This is the way to truly democratise our water and establish a water commons.¹

The context leads with providing a brief understanding of the climate crisis with a specific water focus. Given these impacts, the context also provides a snapshot of the state of South Africa's water resources. The impacts of climate change and pollution are affecting the quantity and quality of our water resources. The state of water resources explores the levels of quantity and quality being experienced in the country. Ecosystems are in a damaged state that is exacerbated by systemic failure that includes corruption and mismanagement. Government can now be regarded as the biggest polluter of water as more than 60% of wastewater treatment works (WWTW) are in a dire state and 52% of water supply systems are at risk. It is estimated that 50000 litres of sewage flows into our rivers every second.² Studies show that South Africa will not have enough water supplies to meet demand by 2025

The existing policy and regulatory measures are unpacked to assess how these policies govern the state of the country's water resources. Water as a basic human right is enshrined in the South African Constitution's Bill of Rights and associated legislation. There are four core pieces of water legislation and policy that governs water resources in the country - The National Water Policy (1997), the National Water Act (1998), the Water Services Act (1998) and the National Water Resource Strategy. These and the institutions established are discussed briefly.

¹ [Water Commons, Water Citizenship and Water Security - Focus on the Global South \(focusweb.org\)](https://focusweb.org/)

² Reference – Mail and guardian, Sipho Kings

The policy section lays the path for what is needed in an alternative water policy or water commons policy (WCP). The WCP suggests various measures that can contribute to democratising water, through an environmental focus, and plans for strengthening community voices and participation in water policy and implementation.

The road to a democratised water commons will not be easy. Our starting point is one of a failed state, aggressive private sector, weak civil society coupled with climate shocks, high levels of pollution and poor access. This policy touches on the potential obstacles we have to overcome to build the CJCM and the WCP.

The conclusion stresses the importance of this policy and now is the time to build on this policy and develop the CJCM.

4 Context

4.1 Climate crisis

The worsening climate crisis and the importance of the water commons for the deep just transition.

The worsening climate crisis is one of the biggest challenges of our time. According to the IPCC, surface temperature, ocean heat content (OHC), sea levels and methane concentrations have all increased to new records, while arctic and Antarctic sea ice have set record lows.³ Climate scientists have stressed that we have only until 2030 before we reach a point of no return in terms of climate change. The world is already experiencing a 1.2-degree Celsius increase in surface temperature since before the industrial revolution. Carbon concentration in the atmosphere is at 410 parts per million above the 350-ppm safe level. In a recent report⁴, the United Nations Secretary-General Antonio Guterres said that poor global commitments to reduce GHG have put us on a catastrophic path. The report suggests that with present commitments the world is now heading for 2.8 degrees increase by 2100.⁵

The main cause, as has been repeated often, is the increased concentration of greenhouse gases (GHGs) in the atmosphere that are emitted by human activities such as large-scale

³ Zeke Hausfather (2019), State of the Climate: heat across earth's surface and oceans mark early 2019. <https://www.carbonbrief.org/state-of-the-climate-heat-across-earths-surface-and-oceans-mark-early-2019> (accessed August 2019)

⁴ [World faces a 2.8-degree warmer future by 2100 if countries continue with current 'action gap,' UN warns | CBC News](#)

⁵ [World faces a 2.8-degree warmer future by 2100 if countries continue with current 'action gap,' UN warns | CBC News](#)

agriculture, deforestation, transport and the burning of fossil fuels.⁶ Globally, we are witnessing extreme weather events or climate shocks. In 2019, the world faced some of the worst climate shocks in history with extreme fires (California, Australia), water shortages (South Africa and the rest of Africa), floods (India) and droughts (South Africa, East Africa).

In this year (2022), Africa has been hit hard by extreme weather events and disasters. Carbon Brief (2022) estimates that extreme weather events have killed at least 4,000 people and affected a further 19 million in Africa. There have been at least 29 flood disasters reported with some of the most extreme flooding in west Africa, for example the recent floods in Nigeria which has resulted in 600 deaths and about 1.3 million people affected and in Chad almost 2 million people have been affected by floods. Carbon brief further highlights that drought has affected 8 million in Ethiopia ⁷

In South Africa, we have also witnessed extreme weather-related disasters such as heavy rains, more frequent floods and droughts, stronger storms, and extreme heat and cold. These changes will be experienced differently across the country. Climate shocks such as the rain bomb in KwaZulu-Natal in April 2022, extreme droughts, cyclones are becoming more frequent with increased intensity. In KZN, the rain bomb in April left 400 people dead⁸ and affected thousands of people. This was followed by heavy rains in May that caused even more widespread damage. The shocks in the region have destroyed people's livelihoods, homes, threatened access to food and water.

The key lessons from the climate extremes such as droughts and floods have highlighted that because of the weakness of policy and the bureaucratic approach to disasters, the response to such shocks is often too slow and or inadequate. The KZN floods suggest that the South African government is not prepared for the extent of damage that can be caused from climate shocks. There is therefore a need for a policy that can provide a climate shocks response to national disaster policies. The continued government approach, that is, to see climate shocks as isolated weather events could leave us completely unprepared to deal shocks – that will become more frequent and intense.

The Climate Justice Charter Movement (CJCM) believes that to counter the policy and government approach, it is imperative to build pathways from below to achieve systemic alternatives. This alternative water policy is one of the ways to advance a deep just transition and is focused on the impacts of climate change on the country's water sources, and the policy questions that must be considered to protect and build the water commons. The present system is inadequate to tackle the growing water quality being experienced in the country. More and more we are witnessing wealthier communities creating more enclosures –

⁶ National Climate Change Response White Paper (2010), Department of Environmental Affairs

⁷ [Analysis: Africa's unreported extreme weather in 2022 and climate change - Carbon Brief](#)

⁸ The CJCM has charged key government officials with culpable homicide

whether it is as gated communities or as 'privatising' water through boreholes. These borehole bourgeoisie are able to withstand both the failing infrastructure and climate shocks that are affecting the majority.

Climate change will have severe impacts on water quality and quantity. In addition, water availability in South Africa as there will be increased drought or flooding. It is estimated that by 2025, we will not have enough water to meet human and ecosystem needs.⁹ Further, it is estimated that "increased drying is highly probable in the west, particularly in the Western Cape where the mean decline in average annual run-off is around 13%. Along the east coast, overland water flows are likely to increase, in some cases by over 50%, raising the risk of flooding."¹⁰ In general we can expect a reduction in water availability in SA that will increase pressure to meet water demands. The impact of climate change on water should be a serious concern given the already poor state of the country's water resources.

4.2 The state of the water commons in South Africa

We are at a point where South Africa's water resources are highly compromised both in terms of quantity and quality. The country has an average rainfall of about 464mm that is about 50% less than the global average of 860mm. The rainfall is most in the eastern part of the country and decreases as you move westward towards the Western and Northern Cape for example Port Nolloth on the west coast gets an average of 50 mm and Richards Bay gets an average of 1 000 mm at the same latitude on the east coast. The little water that the country does have, faces a barrage of challenges such as climate change, prolonged droughts, pollution, waste and poor infrastructure and management.

The impacts of climate change are being felt every day and is affecting the quantity and quality of water in the region and in South Africa. According to Unicef, the change in climate is being manifested mostly through the changes in water.¹¹ 74% of natural disasters globally between 2001 and 2018 were water-related – droughts, floods - frequency and intensity to increase with climate change. In addition, there is added stress on freshwater resources which could leave the soils and water more salty and thus affecting food sovereignty.

South Africa's river ecosystems are not in a healthy state and will not withstand increase in frequency of climate shocks. Of the 223 river ecosystem types, 60% are threatened with 25% of these critically endangered by a changing climate and human activities. This combination of climate change and high levels of pollution is not only threatening ecosystems but it is also

⁹ [Valuing water in a changing climate is crucial for the future of South Africa - The Mail & Guardian \(mg.co.za\)](https://www.theguardian.com/environment/2015/jun/11/valuing-water-in-a-changing-climate-is-crucial-for-the-future-of-south-africa)

¹⁰ [UNU-WIDER : Research Brief : Potential impacts of climate change on national water supply in South Africa](#)

¹¹ [Water and the global climate crisis: 10 things you should know | UNICEF](https://www.unicef.org/water/stories/water-and-the-global-climate-crisis-10-things-you-should-know)

projected to reduce the country's available potable water by 17% by 2030. (Federation for a Sustainable Environment, 2018)

There is also grave inequality in water access between those who have water to the many millions who have little to no access at all. Studies show that South Africa will not have enough water supplies to meet demand by 2025. According to the WWF-SA (2017), 98% of the available water supply is already being used and allocated, leaving very little room for increased allocation. The three major sectors that are driving demand is the agriculture sector that uses about 63% of our water, followed by the municipal sector at 26% and industrial sector uses at least 11%. However, according to a research study by the CSIR and Stellenbosch University, it is also important to breakdown the amount of water being allocated to and used in each province. The research found that in Gauteng, the largest water use is due to industrial water use (including mining). In the Western Cape, largest water use (almost 70%) is due to agricultural irrigation. Water use for mining is highest for Mpumalanga (probably the coal mines) followed by North West Province.¹²

Breaking down the water use according to each province can be useful to improve water planning and efficiency. It can also help to dispute how statistics are reported. For example, it is estimated that urban and rural households use almost 30% of water, which seems quite high. It does not account for water losses, nor does it adequately reflect the inequality given that less than 50% of South Africans have taps in their homes and 9% of the population – many from poor communities – have to rely on springs and rivers for water. (Hedden and Cilliers, 2014; WWF-SA, 2016)

It is also estimated that 38.4% of all municipal water produced was lost in 2021/22. This amounts to 1 686 357 076 kilolitres of water LOST by 145 municipalities. This non-revenue water (as it is referred to by government) is being lost through leaks, failure to bill, theft or cannot be accounted for. This costs the country in the region of R20.927 billion (the amount it costs the municipalities to produce the water that was lost in one year).¹³ Many municipalities would be more water secure just by fixing the leaks.

The onslaught on our water should have us all on high alert. Since January 2022, we have witnessed shortages of chlorine for water treatment, towns and cities are close to day zero, more and more places giving boil water notices (Nelson Mandela Bay), high levels of E. coli in public waters, rising Acid Mine Drainage and failing water treatment and wastewater treatment plants. The failure of WWTW has dubbed local government as the biggest polluter of the country's water resources. Even in supposedly well-run municipalities like Cape Town,

¹² [Research pinpoints SA's largest water users | CSIR](#)

¹³ National Council of Provinces, Written reply to questions tabled in Parliament, Question 473, Date of publication in internal question paper: 09 June 2023, (internal question paper no. 23)

at least 10 beaches had to be closed due to the high levels of E.Coli in the water in December 2022 and January 2023.

Water pollution from farming, mining and industrial activities are changing the freshwater ecosystems. In 2019, it was estimated that 118 mines around South Africa were polluting rivers and not testing for contamination of waterways. Much of the mining negatively affecting water is in the coalfields of Mpumalanga and Limpopo.¹⁴ Even before this the dirty legacy of mining has resulted in AMD, left behind by abandoned and derelict mines and is bubbling into groundwater. It was estimated that in 2014 that it will cost government almost R600 million a year to deal with AMD. The mines responsible have shirked their responsibility.¹⁵

The agricultural sector in south Africa uses about 60% of the water, contributes 2% to 2,6% of the gross domestic product (GDP) and employs 15% of labour.¹⁶ The current irrigation practices are unsustainable both in terms of water quality and quantity. The current practices of intensive irrigation will affect the levels of groundwater, remove nutrients such as salts from the soil and roots affecting crop growth. In addition, farming releases large quantities of chemicals, fertilizers that seep into rivers, streams and groundwater. The result is increase nitrates and phosphates that cause eutrophication and makes water unsafe for consumption.

The 2022 release of the Green Drop and Blue Drop reports¹⁷ provide a bleak picture of water quality and wastewater treatment in the country. Only 23 wastewater systems qualified for Green Drop Certification of 995 wastewater networks and treatment works. Almost 334 (39%) of municipal wastewater systems were identified to be in a critical state in 2021. The concerning provinces are reported as Limpopo with 78% of its systems in critical state, followed by Northern Cape (76%), North West (69%), Free State (67%), Mpumalanga (43%), Eastern Cape (39%), Gauteng (15%), KwaZulu Natal (14%), and Western Cape (11%). These percentages must also be assessed in terms of the quantity of water being affected. For example, Gauteng seems to have only 15% in a critical state but if we look at just the Emfuleni municipality and the sewage spills into the Vaal? The damage is enormous as the Vaal provides water to more than 15 million South Africans in four provinces.

The Blue Drop assessment on the quality of drinking water in the country was conducted on 144 Water Services Authorities in South Africa comprising of 1186 water supply systems. It shows that 52% of water supply systems range from medium to critical risk. In addition, 60% of supply systems do not comply with microbiological standards (that means presence of E.Coli and other bacteria in the water) and 77% of supply systems do not comply with chemical standards – as outlined in SANS 241:2015.

¹⁴ [Big increase in mine water pollution – The Mail & Guardian \(mg.co.za\)](https://www.mg.co.za/news/south-africa/2021-05-11-big-increase-in-mine-water-pollution/)

¹⁵ [South Africa plans levy on mines to tackle acid mine water pollution | Reuters](https://www.reuters.com/article/south-africa-mines/south-africa-plans-levy-on-mines-to-tackle-acid-mine-water-pollution-idUSKCN250001/)

¹⁶ [WW May - June 2021 web.pdf \(wrc.org.za\)](https://www.wrc.org.za/PDFDocs/WW%20May-June%202021%20web.pdf)

¹⁷ Both reports are voluntary and municipalities do not have to participate in the study

Mismanagement and corruption at a local government level has resulted in intermittent water access and increased pollution affecting communities around the country. For example, the collapse of the Emfuleni wastewater treatment plant that has released (and continues to release) raw sewage into the Vaal River (affecting an estimated 15 million people). In Makhanda, corruption has had a direct impact on the efficacy of the water treatment plants and resulted in tap water being declared unsafe to drink. More recently, poor planning, lack of spending on maintenance and a lack of contingency plans in the City of Johannesburg has resulted in water shedding in many parts of Johannesburg in late 2022 and early 2023.

The water challenges we face as a country are daunting. Government will not be able to fix the situation on their own. It will require all sectors of society. However, instead of listening to the people, finding local solutions to the water crisis or acting with urgency, there is a move towards privatising the resources and the services. The existing regulatory and policy measures on water allow for more democratic approaches but the trajectory of the present neoliberal government is pulling in an opposite direction – one of exclusion, inequality and wasteful.

5 Existing Regulatory and Policy Measures

Water as a basic human right is enshrined in the South African Constitution's Bill of Rights and associated legislation.¹⁸ It stipulates that the state holds the environment and the water resources in public trust for the people, the principle being that both are public 'goods' (commons) and should be enjoyed equally by all. As will become clear though, the reality is very different and need to be updated to incorporate extreme climate shocks as well as the poor state of our water resources in the country. Studies show that South Africa will not have enough water supplies to meet demand by 2025.

South Africa has four core pieces of water legislation and policy that governs water resources in the country - The National Water Policy (1997), the National Water Act (1998), the Water Services Act (1998) and the National Water Resource Strategy – that are founded on Government's vision to redress past inequalities and build a sustainable water future. In addition there are other strategy documents and master plans to enact the key policies. (CSIR 2010)

The National Water Act and the Water Services Act together provide for the establishment of institutions for management and distribution of water. The National Water Resources Strategy (NWRS) is currently the legal instrument for implementing or operationalising the National Water Act (Act 36 of 1998). The National Water Policy rests on the concept of

¹⁸ Some of the key water legislation and policy that governs water in South Africa include the National Water Policy (1997), the National Water Act (1998), the Water Services Act (1998) and the National Water Resource Strategy 2 (2012) – that are founded on Government's vision to redress past inequalities and build a sustainable water future.

Integrated Water Resource Management (IWRM) on a catchment basis and the National Water Resource Strategy. On the one hand, South Africa's water policies are founded on the recognition of water as a basic human right and need as well as ensuring equitable access and use. However, the IWRM is a neoliberal tool that regards water as a commodity to be managed.¹⁹ As a tool, it can be redesigned and as such the NWA and the WSA can be used to move the focus away from water as a commodity. This will require a strong CJCM to ensure that a water framework is aligned to the deep just transition.

The relationship between the NWA, the NWRS-3 and the NW&SMP is illustrated below:

National Water Act (Act 36 of 1998) (all national water & sanitation policy)



NWRS-3 Strategy (strategic objectives with strategic actions)



National Water and Sanitation Master Plan (resourcing & implementation of strategic actions)

Legislation or policy	Key points
<i>Constitution of South Africa</i>	South Africa enshrines the basic right to sufficient water in its Constitution, stating that "Everyone has the right to have access to (...) sufficient food and water ..." - Section 27(1) (b).
<i>The National Water Act, Act 36 (1998)</i> the National Water Act (1998),	<p>The National Water Act provides a framework to protect water resources against over-exploitation and to ensure that there is water for social and economic development and water for the future. It also recognises that water belongs to the whole nation for the benefit of all people.</p> <p>This Act outlines the permissible use of water. It says a person can:</p> <ul style="list-style-type: none"> Take water for reasonable domestic use in their household, directly from any water resource to which that person has lawful access; Take water for use on land owned or occupied by that person, for reasonable domestic use; small gardening (not for commercial purposes); and the watering of animals (excluding feedlots) which graze on that land (within the grazing capacity of that land) from any water resource which is situated on or forms a boundary of that land, if the use is not excessive in relation to the capacity of the water resource and the needs of other users; Store and use run off water from a roof; and In an emergency situation, take water from any water resource for human consumption or fire fighting.

¹⁹ Swatuk L (2008), A Political Economy of Water in Southern Africa, *Water Alternatives* 24-47, 1(1)

<i>National Water Resources Strategy (NWRS)</i>	The NWRS is supposed to be the strategic framework to manage water resources on a national scale and must be reviewed every five years. It is punted as the the vision and strategic action for how water resources will be effectively managed at national and regional levels. It does not constitute legislation but all authorities and institutions that exercise powers in terms of the NWA must give effect to it. The first NWRS was published in 2004 and updated in 2013. NWRS3 was published for comment in 2022
<i>South Africa's Water Services Act, Act 108 (1997)</i> the Water Services Act (1998) and	This Act contains a section on the right of access to basic water and sanitation. It states that: Everyone has a right of access to basic water supply and basic sanitation; Every water services institution must take reasonable measures to realise these rights; and Every water services authority must, in its water services development plan, provide for measures to realise these rights ...
<i>Compulsory National Standards and Measures to Conserve Water (June 2001)</i>	Regulation 2 states that the minimum standard for basic sanitation services is: The provision of appropriate health and hygiene education; and A toilet which is safe, reliable, environmentally sound, easy to keep clean, provides privacy and protection against the weather, is well ventilated, keeps smells to a minimum and prevents the entry of flies and other disease-carrying pests. Regulation 3 states that the minimum standard for basic water supply services is: The provision of appropriate education in respect of effective water use; and A minimum quantity of potable water of 25 litres per person per day or 6 kilolitres per household per month: At a minimum flow rate of not less than 10 litres per minutes; Within 200 metres of a household; and With effectiveness such that no consumer is without a supply for more than seven full days in any year.
The Local Government: Municipal Systems Act 32 of 2000 (Systems Act)	This is important as it sets out the principles, mechanisms and processes necessary for municipalities to ensure access to basic services, like water and sanitation services.

	<p>“Section 78 of the Systems Act has a particular impact on the provision of water services as it requires municipalities to perform a rigorous process when determining whether to allow an institution to provide municipal services like water.”²⁰</p>
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In essence, South Africa’s water policies seem to be pro-poor but its implementation is guided by the neoliberal approach that dominates government policies. As such policies all refer to government as being the custodian of our water with the idea of promoting equity and democracy in decision making. In reality inclusion in decision-making is akin to having public participation – which have become tick-box exercises and in reality, have been undemocratic, limit transparency and exacerbates lack of access.

The current water institutional decision-making and roles are outlined in the diagram below:

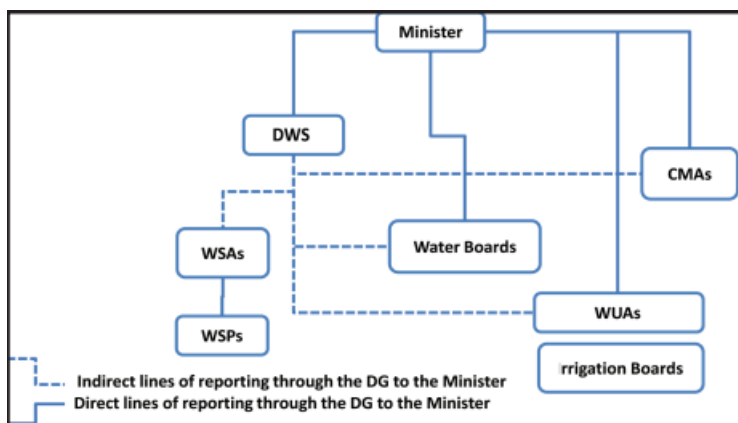


Figure 1: The different spheres of decision making in the water sector²¹

The National Department of Water and Sanitation, headed by the Minister is the key body responsible for developing water sector policy, support and regulation. The Water Boards fall under the DWS and are responsible for bulk water services and supply water Water Services Authorities. There are nine Water Boards: Rand Water, Bloem Water, Magalies Water, Mhlathuze Water, Lepelle Northern Water, Umgeni Water, Amatola Water, Overberg Water and Sedibeng Water. The Minister of Water and Sanitation is the primary regulator of a Water Board.

The Catchment Management Agency (CMA) are supposed to act at a regional or catchment level and is a point for all water users, including communities, business and government, to have an input as to how water is allocated and used. Unfortunately there are currently only two CMAs (out of nine) CMAs that are operating - the Inkomati-Usuthu and the Breede-Gouritz.

²⁰ [Water Governance I: A broad outline of the legislative framework in South Africa — Helen Suzman Foundation \(hsf.org.za\)](https://www.hsf.org.za/publications/water-governance-i-a-broad-outline-of-the-legislative-framework-in-south-africa/)

²¹ Department of Water and Sanitation (2013), National Water Policy Review

Water Services Authorities (WSA) are the local government arm of water provision. They are responsible for ensuring provision of water services within their area of jurisdiction. The challenge is that municipalities are governed by the Department of Cooperative Government and Traditional Affairs and thus becomes a problem when the DWS tried to ensure that water is not polluted or safely supplied to people.

There is therefore a need for an inclusive water policy that incorporates policy makers and implementers, that is not just policy clauses that say the right thing with no implementation.

South Africa's policies have a few elements that are good and in theory could also be described as being pro-poor. For example, basic water supply is regulated and defined in a minimum standard for basic water supply services as follows:

- “(a) the provision of appropriate education in respect of effective water use;*
- (b) a minimum quantity of potable water of 25 litres per person per day or 6 kilolitres per household per month;*
- (i) at a minimum flow rate of not less than 10 litres per minute;*
- (ii) within 200 metres of a household; and*
- (iii) with an effectiveness such that no consumer is without a supply for more than seven full days*

The Water Services Act 108 of 1997 (WSA) gives effect to the right to access sufficient water and sets this out through regulating some of the institutions that manage access and delivery of water services. These institutions include Water Service Authorities or municipalities, Water Boards, and water service providers.²²

Municipalities (not all) are given the responsibility of a water service authority to develop a water services development plan for its area of jurisdiction. This plan is linked to the Integrated Development Plan. Municipalities can also delegate their function to water service providers. A water service provider can be a public or private water services provider and can be any of the following: the municipality itself, another municipality, a municipal utility, a water board, a community-based organisation, a private company, and a venture owned jointly by a municipality and national government. In addition, another organ established by the national Minister are the Water Boards. They provide bulk water services to other water services institutions within a specific area. South Africa currently has nine water boards, with Rand Water in Gauteng, Umgeni Water in KwaZulu Natal and Overberg Water in the Western Cape are the largest three water boards in the country.

While the policies were an attempt to redress historical inequalities of the past, constraints determined by racial, economic, and social structures retain and reproduce dominant power

²² [The institutional structure for delivering water services - OPINION | Politicsweb](#)

relations. These are exacerbated by complete state failure which has given rise to high levels of incompetency, mismanagement and corruption.

In April 2017, 14.1 million people did not have access to safe sanitation and only 64% of households in South Africa had access to a water supply service (Department of Water and Sanitation 2018: 2). This number threatens to be much higher just 5 years later. The expression 'having access' used in the constitution and by the DWS is misleading and does not reflect people's experiences of having long and unaccounted for water interruptions or having broken systems or no systems at all.

The lack of democratic policies has been a key element to the National Department of Water Affairs being affected by poor management and corruption. The institutional problems within the Department of Water and Sanitation (DWS) are due to centralisation of power evident in poor financial management, high staff turnover and corruption; lack of regulation evident in the deterioration in wastewater treatment works (WWTW) and water quality; and 'shaking down' regulation in policy and institutional uncertainty, and incoherence and infrastructure (Galvin and Roux 2019; South African Water Caucus DWS Task Team 2018). There is poor enforcement to ensure water use efficiency and the sustainable withdrawals of freshwater. Government is losing control of water use licences and has failed to regulate borehole water to ensure that extraction is controlled to avoid exhausting water resources. In parts of the country, farmers have been illegally abstracting more water than they are allowed. For example, the Axle and Liebenbergsvlei water transfer scheme, a South African river catchment, has been identified as a potential over-consumption hotspot.²³ In 2022 a farmer in KZN was fined r1,7 million for over abstracting water. There is not enough enforcement and even when found guilty the fines do not act as a deterrent.

In 2020, at least 100 mines were operating without a water use licence, including Arnot Colliery and the Sumo Coal Kopermyne Colliery in Mpumalanga; Gold Fields in Welkom in the Free State; PMG Mine in the Northern Cape; and Thutsi Colliery and Vunene Colliery in Gauteng.²⁴

In many municipalities, mismanagement and lack of planning has led to funds not being spent on infrastructure maintenance. According to National Treasury a minimum of 8% of the cost of the asset must be sent on maintenance. In the City of Johannesburg they have only spent

²³ Ginster M et al, 2010, Views on unlawful water abstractions along the Liebenbergsvlei River, South Africa. Boloka Institutional Repository, North West University [Views on unlawful water abstractions along the Liebenbergsvlei River, South Africa \(nwu.ac.za\)](https://www.boloka.ac.za/handle/123456789/12345)

²⁴ [100 SA mines operating without water licence | Mining Safety](#)

about 0,25%. In KZN, the disaster management fund was not spent 9 months after the floods in 2022.

Our water policies were produced about 24 years ago and need to be updated to incorporate extreme climate shocks, the deterioration of national, provincial and local government to manage our water, as well as the poor state of our water resources in the country. The high levels of pollution from agriculture, mining, industry and government has been allowed to get out of control by a failed state and government. Evidence from the Blue Drop and Green Drop reports have painted a picture of a dire water system in the country.

To reiterate, we only have enough safe, clean water until 2025. To change this trajectory, we cannot rely on a failing corrupt government that is rushing to the privatisation doors. The CJCM must build locally to ensure that we protect our water commons for a deep just transition.

6 Water commons policy for the deep just transition²⁵

The alternative water policy or water commons policy (WCP) explores various measures that can contribute to democratising water, include an environmental focus, a review of financing and cost of water, a water infrastructure plan that includes community voices and participation in water policy and implementation and a plan to map out issues of 'ownership' and control.

The starting point for the CJCM and its WCP is to get ordinary people to understand that water belongs to everyone and no one has the right to own it exclusively. Equal access and provision must be viewed as a right and not as an act of charity. It is a right to be respected and a resource that must be passed on to future generations in sufficient quantity and quality. In addition, we have to build on the rights of nature and move away from the anthropocentric approach to water. The earth and all of its ecosystems must be afforded the right to water.

The alternate policy should build an early warning system with people on the ground to identify and develop clear actions to respond to the environmental problems of scarcity and quality. On issues of quality the main causes of the deterioration of water quality in South Africa are pollution and wastewater from mining, manufacturing industries and agriculture. In addition, crumbling infrastructure and poor wastewater treatment plants are affecting supply and access to clean water. The present policies have not been used adequately to hold those in power responsible for pollution. There needs to be stronger measures to criminally

²⁵ Climate Justice Charter Movement, [Climate Justice Charter \(cjcjcm.org.za\)](https://climatejustice.org.za/)

charge people, companies and government for pollution of water resources. Encourage local, community management of water while legally requiring users to respect upstream and downstream neighbors' rights.

The idea of saving and conserving water must become a social priority that monitors industrial and agricultural use and if necessary enforcing limits on these practices. Water activists must be able to understand the areas in which they live and work to develop specific water measures for a deep just transition such as reusing and recycling water in toilets, gardens. A movement of plumbers must emerge that can fix water leaks and provide alternative grey water solutions. It is important to also unpack the science and establish a list of chemicals that must be banned from soaps, shampoos and other hygiene products. New technology dry toilets must be a norm in new developments and not only for poor communities.

An alternative water policy must establish water pricing that is fair. This means that those that use more such as agriculture, industry and wealthier communities should pay more per unit and poor homes should have a free or subsidised supply that builds on the current Free Basic Water policy. We need to move away from regarding water as a resource for profit.

Presently, households and large corporate consumers (Eskom, commercial farmers, timber plantations, mineral-washing mining companies especially coal, golf courses and the like) use too much and pay too little. Given the need to impose externality-based pricing and slow down the marginal demand at the high end, which is generally what pushes expansions in bulk supply systems. (contributed by P Bond)

The present cause of the poor state of our water resources can be attributed to a failed state. Given the poor performance of municipalities, people have lost respect among its electorate, as witnessed in rising non-participation rates in elections. There is generally a lack of fair pricing, accurate billing and appropriate disconnection or water-limiting policies. Municipal corruption and excessive outsourcing of functions are widely recognised as delegitimizing factors, so these need to be dealt with through robust punishment.

While there is room for co-management with local government, communities and private sector – these options are not being utilised. It is often dominated by a top-down rationality and becomes bureaucratised and hierarchical. People's voices in these spaces are often softer while the processes can get captured by industries. The challenge is for us to reposition the state and ensure that people understand the importance of being involved and taking care of the commons. We need a government/state that will ensure safe public delivery and fair pricing of water. However, once a fair tariff structure is arrived at through local negotiations - with at least the minimum level of Free Basic Water to teach household - then various forms of pressure need to be applied to ensure excess consumption does not occur. If water-unaffordability of large areas of South Africa remains a problem due to nearly 50%

unemployment, then much larger - and increasing - equitable share arrangements (from Treasury) are needed.

In the water sector, there is a view that the technical and science aspects, including budgeting should be left to people in positions of power such as government and engineers, but the WCP must include communities' voices. It is estimated that we need R1 trillion to fix the water infrastructure and we need an 8% of annual budget for the upkeep of water reticulation. There are mechanisms for people to watch, contribute and track the budget spend. The CJCM can build this arm to empower people to be more involved in how money is being spent and hold people accountable when it is not. In addition, on the measure of funding and costing, an alternative policy must answer the key questions of where the capital – both human and financial - come from/be sourced? Another key question that needs more research is how to develop climate justice budgets for municipalities that incorporates climate risk and pollution.

There are global examples of how this can work practically. One example is the Mary River Catchment Committee in Australia that are active watchdogs, have a say on bulk supply and how funds are spent, as well as monitor water quality, work with farmers on sustainable land and water use and clean up the river basin as well. In the Tamil Nadu region of India, villagers ensure that everyone enjoy water use rights and bear stewardship responsibilities, regardless of class/caste position. The focus of water management is on inclusion and shared responsibility, resulting in efficient and effective water management.²⁶ In South Africa we have the policies to do this but we lack the implementation. We must use the policies as a foundation to build the WCP.

Communities must get involved in spaces to be empowered and not a tick box. Community groups and structures must ensure knowledge sharing and mobilisation in order to give people the tools they need to be heard. For example, citizen science activism has been used to make participation meaningful and effective. Establish community-based water protection area management, which puts local communities at the centre of management and integrates private sector enterprise activities into area management. In addition, it is time to employ innovative legal tools to protect water and manage water as a commons, including public and community trusts. This could be a solution to an inept government and to move the movement closer to a democratic water commons.

In summary the CJCM vision for a water commons and deep just transition:

- (i) we must define the water commons in terms of a commonwealth and a life enabling system for use and protection by humans and non-humans

²⁶ [Water Commons, Water Citizenship and Water Security - Focus on the Global South \(focusweb.org\)](https://focusweb.org/)

- (ii) we must think about dealing with climate extremes (droughts, floods) through rethinking urban and rural spatial design for retention and overflow- micro-dams, reservoirs, channelling for overflow into public gardens (side walks etc), harvesting of an institutions (households, businesses, local government`), keeping gutters clear,
- (iii) water awareness campaign for end abuse and waste - reuse, recycle, rethink toilet technologies, apps for monitoring consumption, penalties for over use, tackling polluters through peoples inspectorate (testing, whistle blowing etc)and other institutions
- (iv) redistributing the water commons - democratising all institutions for citizens to shape research, planning, budgeting, implementation and monitoring
- (v) create local water commons committees in communities that develop decommodified public access with water fountains, boreholes increase tax and monitor.
- (vi) build back infrastructure for climate justice and climate jobs - fixing leaks, treatment plants etc to increase participation, transparency , monitoring
- (vii) management of dams and early warning system (drones, sonar, satellites, geological mapping) for groundwater, dams and rivers
- (viii) establish new institutions - water court, ombudsman, dedicated water commissioner in HRC, regulator²⁷ for pricing so there is no abuse in local government, democratised planning and policymaking process
- (ix) policing, penalties and prohibitions - prohibit polluting water rivers etc but also in oceans, beef up blue scorpions and their role together with people's inspectorate and water scientists greater penalties

7 Obstacles to realising a democratised water commons

The road to a democratised water commons will not be easy. Our starting point is one of a failed state, aggressive private sector, weak civil society coupled with climate shocks, high levels of pollution and poor access. These are all quite complex and provide for an interesting array of obstacles that we could face.

We are operating in a space where civil society, grass roots organisations and movements are weak, working in silos and competing for funding. The weakness and division puts us on

²⁷ Note - The National DWS has tabled a proposal for a Water Regulator. It is imperative that this does not become a tool for corporations and privatisation.

a back foot to be able to take on the power of corporate capital that is positioned to influence policy and politicians.

The failed state could give rise to populist political parties that do not have the interest of the people at heart. They want to continue the feeding frenzy opened up by corruption. In addition, there are parties that hold a view that the private sector and privatisation are the answers to our challenges.

Big business are already seeing the dollar signs in privatisation of water. Globally, there is an increase to privatize, control, deplete or pollute fresh water. A Citigroup economist²⁸ stated that *“water as an asset class will, become the single most important physical-commodity based asset class, dwarfing oil, copper, agricultural commodities and precious metals.”* The challenge for a WCP is being able to push back.

The state of our water resources is dire – high levels of pollution couple with low levels of access. The obstacle is identifying the solution and keeping on track without becoming overwhelmed or paralysed by the size of the challenges we face.

An alternative policy on its own could become as bad as present policies. It must be accompanied by education and mobilisation to ensure that people are empowered with the knowledge to make informed decisions. Community members must be urged to join water investigations and research so that there is shared knowledge and information that could monitor the local water resources and feed civic engagement.

Yes, there are obstacles, but there is far more at stake to give up. Building the CJCM has never been more important and necessary.

8 Conclusion

The global water crisis topped with climate change is one of the greatest threats ever faced. We are running out of time, we must act and view water differently.

We have to place our water commons on a climate emergency footing and the CJCM has been able to do that. The CJCM has been able to connect with various people and organisations – youth, religious, media, environmental, academic – and are on the right path to develop practical pathways towards a water commons.

“These questions lie at the heart of charting a “just transition” from the unsustainable practices that have brought us climate change and massive inequality to a restored co-

²⁸ [Privatizing Water: “Taxing Through the Tap” - World Business Academy](#)

existence with nature and each other. That transition is not only about fiddling with resource management practices, but a major overhaul – re-imagining water governance. We have not been well-served by devaluing or excluding the insights and participation of workers, women, peasant farmers and fisherfolk, Indigenous Peoples, the urban poor and others who in reality are key to water governance as both users and stewards.”