

Intergovernmental Cooperation in the Delivery of Water Services

Subjects: **Public Administration**

Contributor: Avhavhudzani Khangale , Onkgopotse Senatla Madumo , Michel Mudikolele Tshiyoyo

Water is a fundamental human right, and its provision is essential for the maintenance of the general quality of life. The South African government has a constitutional obligation to provide clean potable water to all citizens. The practice of cooperative government among the three spheres of government in the provision of water services to communities in South Africa is discussed herein.

water services

intergovernmental relations

service delivery

cooperative government

1. Introduction

Access to basic water service and basic sanitation service has been acknowledged as fundamental human rights. Along with the realization of basic human rights, achieving equity in water and sanitation services is the main target of Sustainable Development Goal (SDG) 6 ("Ensure availability and sustainable management of water and sanitation for all"; 6.1 and 6.2, respectively). The equitable allocation of both basic water and basic sanitation services is deeply embedded within the objective of the social system of sustainable development ([Duran et al. 2015](#)), and is indirectly addressed in SDG 10 ("Reduce inequality within and among countries"; 10.2, 10.3, and 10.B, respectively). ([Bayu et al. 2020, p. 1](#)).

Potable water supply is a fundamental basic human right protected by international conventions and national laws ([WHO 2014](#)). For communities to lead a healthy, productive, and dignified lifestyle, access to an adequate supply of potable water is indispensable ([Haylamicheal and Moges 2012](#); [WHO 2014](#)). In addition, the reality is that approximately 884 million people in the world still use unprotected potable water sources like springs, fountains, wells and ponds that are open to contamination, leading to waterborne diseases ([Malima et al. 2021, p. 169](#)).

Although the provision of water and sanitation is a priority for many countries, particularly lower-income countries, in South Africa, it is considered to be a basic human right supported by the supreme law of the country for various reasons but mainly because of the consequences of the imbalances experienced in the past. To redress the legacy of inequalities in the provision of water and sanitation, it is imperative for government authorities to devise appropriate means to prioritize the delivery of clean potable water and sanitation as widely as possible. The need being pressing at local government sphere where indigent and vulnerable communities are located, it is essential that effective intergovernmental relations occur between the three spheres of government (i.e., national, provincial and local) so they can collaborate to ensure that water as an essential resources, is extracted, transferred to appropriate plants to be treated before it can be distributed to communities in the safest way possible. The advent

of democracy in 1994 created an environment for the running of a credible system of cooperative government and intergovernmental relations. For instance, the Constitution of the Republic of South Africa, 1996 ([South Africa 1996](#)) provides for the establishment of an appropriate mechanism to encourage collaboration among the different government departments, entities, and spheres of government. Beyond collaboration and interaction between government department and authorities, there is also provision for interaction with other role-players such as the private and the non-profit sectors.

2. Policy and Legislative Framework for the Provision of Water Services in South Africa

The [Department of Water and Sanitation \(2010\)](#) acknowledges the two pieces of legislation that drive the national strategic, water governance and regulatory frameworks as the National Water Act (Act 36 of 1998) and the Water Service Act (Act 108 of 1997). These Acts govern water use and water-resource management in South Africa. In addition, the National Environment Management Act (Act 107 of 1998) contributes to the legal framework of water regulation by providing principles for decision making on environmental issues. It is important to note that there is a strong correlation between Chapters 2 (Bill of Rights) and 3 (cooperative government) of the Constitution ([South Africa 1996](#)), which is critical for sustainable and effective delivery of basic services. The following legislation contributes to water service in South Africa.

2.1. Constitution of the Republic of South Africa, 1996

The Republic of South Africa is a country founded on democratic principles with the Constitution, 1996 as a basis of democracy and establishes the three spheres of government. These spheres of government are vested with legislative and executive functions and powers ([South Africa 1996](#)). The Bill of Rights as promulgated in the Constitution, 1996 indicates the distribution of basic services as processes to enhance the standard of living of poverty-burdened citizens. The Constitution assigns the responsibility of water service delivery to the district municipalities. Section 156(1) of the Constitution makes a provision for district municipalities to have an executive authority and the right to somewhat manage water facilities (i.e., water supply systems and reservoirs) in efforts to provide access to clean drinkable water. Based on this explanation, VDM is a water service authority that is constitutionally obligated to ensure that citizens receive access to sustainable water services ([Vhembe IDP 2020](#)).

2.2. Strategic Framework for Water Services

Strategic framework is defined by the [Department of Water Affairs \(2003\)](#) as a systematic approach to water service provision in South Africa. It outlines water service provision ranging from small community schemes supplying water in isolated rural areas to regional schemes supplying water to larger urban areas ([Department of Water Affairs 2003](#)). In addition, the framework emphasizes that the DWS should not be operational in terms of service provision but should support and regulate those institutions that provide water services to the people. The Strategic Framework for Water Services (SFWS) addresses the whole range of sanitation and water supply matters, serving as a comprehensive framework for the water services sector in its entirety ([Department of Water](#)

[Affairs 2003](#)). It provides the overall objectives of integrated water-resource management, and defines the institutional and operational structure (finance, planning and implementation) that need to be in place to attain these goals.

2.3. Water Services Act, 1997

The Water Services Act (Act 108 of 1997) is one of the principal legislations in South Africa's water services sector, mainly in the district municipalities, that supports the Bill of Rights through the regulation of water and sanitation services are regulated to ensure that all people are entitled to a minimal level of service. To ensure that water provision is consistently administered, Section 9 of the legislation permits the minister to recommend mandatory national norms and standards for water services delivery.

In terms of water usage, the Water Services Act, 1997 indicates that everyone is entitled to basic water provision, and any water service agency should take appropriate efforts to ensure that the right to water is realized. The legislation further states that the local and district municipalities are the water service authorities in their areas of jurisdiction and may themselves provide the water services or contract a service provider that specializes in water provision to do so.

2.4. National Water Act, 1998

At the national level, the National Water Act (36 of 1998) acknowledges the scarcity of water and unequal distribution of resources in the country that resulted from the biased laws and practices of the apartheid regime and appreciates that water is a basic need for all people. In addition, the legislation is the acknowledgment of the national government that it has overall responsibility for and authority over water resource management, including water distribution and matters that affect international waters, and recognition of the importance of water use to benefit people.

3. The Institutional Arrangement of Water Service Delivery in South Africa

In South Africa, the institutional landscape of policy and legislation has changed tremendously since 1995. [Madigele \(2017\)](#) emphasizes that the general review of water laws resulted in the formation of the White Paper on National Water Policy ([South Africa 1997](#)), which was accompanied by the enactment of the National Water Act, 1998 (Act 36 of 1998; [South Africa 1998](#)), which focuses on the decentralized model of governance to redress discrepancies in the water services sector.

[Schreiner et al. \(2011\)](#) point out that South Africa's institutional arrangement for the regulation of water resources is relatively multifaceted owing to the various role players, including Parliament, the Water Tribunal, water services authorities and courts. Parliament is responsible for establishing and amending legislation that regulates the use of

water and ensuring the effectiveness for DWS. In South Africa, the institutional arrangement of water services remains a challenge that impacts the distribution for basic service to local communities ([Weaver et al. 2017](#)).

In the water sector, the government has forged a partnership with NGO's water users and the private sector as a means of regulatory control in the use of water service. The [Water Research Commission \(2016, p. 16\)](#) indicates that the DWS is responsible for regulating the use of water by private users and district municipalities are included in the state organ and other sectoral departments. The regulation of district municipalities in the use of water in South Africa is a responsibility of the local government, which is supported and regulated by the DCOG.

The institutional arrangement for the delivery of water in the district has seen a rise in the number of water concerns and as a result there is a need to develop an appropriate legal framework that can address the delivery of water services ([Lawyers for Human Rights 2009](#)). It is essential that the local sphere comprehend their constitutional obligations in how they operate with regard to water service delivery.

The Water Service Act, 1997 (Act 108 of 1997) provides for the establishment of an institutional framework to ensure the delivery of water services to communities. As per the prescribed framework, various institutions have been set up to oversee and control the water provision, and these vary from one district municipality to another.

These institutions comprised of water service authorities; water services providers with which district municipalities have entered into agreements for the supply of water; water boards that play a role in the supply of bulk water to other water services institutions in a specified geographic area; water services committees; and water services intermediaries that ensures the quantity, qualities and sustainability's of water meet the prescribed minimal standards.

4. The Requirements for Intergovernmental Cooperation in the Delivery of Water Services

In the previous sections, light was shed on the legal framework and institutional arrangements that guides the provision of water services in South Africa. Now, this section examines the provisions made in terms of the promotion of cooperation between the three spheres of government for effective water services delivery. In South Africa, there are various pieces of legislation and by-laws that address basic water service delivery at the level of district municipalities. Some of legislation are guided by the Constitution, while others are developed and implemented by the district municipalities, such as by-laws. There are various by-laws adopted by respective municipalities which intend to encourage compliance and alignment with legislation enacted by the provincial and national governments. The following requirements are among the key that contribute to cooperative government and the delivery of water service in the district municipalities.

4.1. Principles, Mechanisms and Procedures

The Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) establishes the principles, mechanisms, and procedures that are necessary for district municipality to uplift local communities by providing basic services including water, and to ensure that all people have access to services that are affordable. Furthermore, Section 78 of the Municipal Systems Act, which highlights that in their review of delivery mechanisms, municipalities must first assess whether the service can be provided through an internal mechanism, after which they can explore external mechanisms as a means of delivery. In addition, the legislation defines how the local sphere should function and what partnership agreements district municipalities may conclude, to ensure the distribution of water to the local communities. Thus, [Tissington \(2011, p. 6\)](#) points out the emphasis by the Municipal Systems Act, that municipalities are required to develop an indigent policy to assist poor households in accessing basic municipal services, including safe drinking water.

4.2. Operational Requirements for Service Delivery

The Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) establishes the framework for the development of municipalities in the numerous categories defined by the Constitution, namely district, local and metropolitan municipalities. The legislation prescribes the functions and operational requirements of the municipal councils, and the internal structure and functions of the municipalities. [Kraai et al. \(2017\)](#) allude that the Municipal Structures Act, 1998 outlines the legal nature of the municipalities, which form part of the system of cooperative government, and elucidates the obligations for the municipal administration and council as well as the rights of the local communities.

References

1. Duran, Dan C., Alin Artene, Luminita M. Gogan, and Vasile Duran. 2015. The objectives of sustainable development: Ways to achieve welfare. *Procedia Economics and Finance* 26: 812–17.
2. Bayu, Tidar, Kim Hyungjun, and Taikan Oki. 2020. Water governance contribution to water and sanitation access equality in developing countries. *Water Resources Research* 56: 1–13.
3. World Health Organization (WHO). 2014. Progress on Sanitation and Drinking Water. 2014 Update. Geneva: WHO/United Nations International Children Education Fund, Joint Monitoring Programme for Water Supply and Sanitation.
4. Haylamicheal, Israel D., and Awdenegest Moges. 2012. Assessing water quality of rural water supply schemes as a measure of service delivery sustainability: A case of Wondo Genet District Southern Ethiopia. *African Journal of Environmental Science and Technology* 6: 229–39.
5. Malima, Tuwani P., Beata Kilonzo, and Jethro Zuwarimwe. 2021. Intervention strategy for effective water supply system to rural communities in Vhembe District, South Africa. *Journal of Agribusiness and Rural Development* 2: 169–82.

6. South Africa. 1996. Constitution of the Republic of South Africa, 1996; Pretoria: Government Printers.
7. Department of Water and Sanitation. 2010. Water Services National Information System; Pretoria: Department of Water and Sanitation (WS NIS).
8. Vhembe District Municipality. 2020. Integrated Development Plan 2020/2021. Thohoyandou: Vhembe District Municipality.
9. Department of Water Affairs. 2003. Strategic Framework for Water Service; Pretoria: Department of Water Affairs.
10. Madigele, Patricia K. 2017. South Africa's water regulatory and policy framework: A new institutional economic review. *Sustainable Water Resources Management* 4: 129–41.
11. South Africa. 1997. Water Services Act, 1997 (Act 108 of 1997); Cape Town: Government Printers.
12. South Africa. 1998. National Water Act, 1998 (Act 36 of 1998); Pretoria: Department of Water Affairs.
13. Schreiner, Barbara, Shingarai Chimuti, Adelaide Cupido, Marcia Gouws, and Vandudzai Mbanda. 2011. Towards Water Resources Regulation in South Africa: Synthesis Report. Pretoria: Water Research Commission.
14. Weaver, Matthew J. T., Jay O'Keeffe, Nick Hamer, and Carolyn G. Palmer. 2017. Water service delivery challenges in a small South African municipality: Identifying and exploring key elements and relationship in a complex socio-ecological system. *Water* 43: 398–408.
15. Water Research Commission. 2016. Perception of Municipal Water and Sanitation Services. Water Research Commission Report No. TT 647/15. Pretoria: Water Research Commission.
16. Lawyers for Human Rights. 2009. Water Supply and Sanitation in South Africa: Environmental Rights and Municipal Accountability. Pretoria: Lawyers for Human Rights.
17. Tissington, Kate. 2011. Targeting the Poor? An Analysis of Free Basic Service (FBS) and Municipal Indigent Policies in South Africa. Johannesburg: Socio-Economic Rights Institute of South Africa.
18. Kraai, Sonia, Natasja Holtzhausen, and Lianne Malan. 2017. Oversight mechanisms in local government: A case of Ekurhuleni Metropolitan Municipality in South Africa. *African Journal of Public Affairs* 9: 59–72.

Retrieved from <https://encyclopedia.pub/entry/history/show/116876>