Policy and law for addressing poverty, race and gender in the water sector: the case of South Africa

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Abstract

The aims of the new water policies and laws of post-apartheid South Africa are to contribute to the eradication of the country’s widespread poverty and to redress historical race and gender discrimination with regard to water. After placing these policy and legal changes in a historical context, the paper discusses their operationalization and impact during the first years of implementation. Three key aspects are highlighted. The first aspect concerns internal changes within the implementing government department, the Department of Water Affairs and Forestry (DWAF). The second aspect regards water services and sanitation directly targeted at poor women and men. Lastly, the paper discusses the emerging equity issues in public participation processes, as an illustration of the new approach to integrated water resources management.

Keywords: Equity; Gender; Integrated water resources management; Poverty; Public participation; Sanitation; South Africa; Water law; Water policy; Water services

1. Introduction

1.1 Background

The progressive water policies and laws of South Africa, as specified in the Constitution (RSA, 1996), the Water Services Act (RSA, 1997) and the National Water Act (RSA, 1998), provide a powerful foundation for value-driven integrated water resources management (IWRM) that contributes to poverty eradication and racial and gender equality. They enshrine the overall goals, principles and values of the first democratically elected government of South Africa, which put an end to colonialist, racist and sexist minority rule that had culminated in almost five decades of apartheid regime. The revolutionary...
transition in the early 1990s finally gave equal rights, including voting rights and access to government services, to the majority of black, Asian and colored women and men.

While the country’s oppressive laws changed, the supremacy of law was maintained. One of the first actions of the new government was to formulate a Bill of Rights and a new Constitution (RSA, 1996), in which everyone’s basic human right to have access to sufficient food and water is firmly anchored (Section 27, RSA, 1996). Importantly, the Constitution also recognizes the principle that removal of discriminatory policy and legislation is not sufficient, but that affirmative action is required to redress the wrongs of the past. A Constitutional Court allows any citizen to seek justice if the government threatens her/his constitutional rights. The Bill of Rights and the Constitution embody values that most South Africans today endorse as legitimate and enlightened.

Gender equality is an intrinsic part of the Constitution and the new policies and laws based on the Constitution. Gender mainstreaming is closely intertwined with the struggle for racial justice and poverty eradication. Combating income poverty only among men is less effective than ensuring that both men’s and women’s incomes improve. At subsistence level both incomes are needed, and even more so because men and women are usually responsible for different household needs. Moreover, women tend to spend a higher proportion of their incomes for family needs than men. An important force behind this mode of pro-poor gender mainstreaming has been the continued engagement of many of the women activists of the anti-apartheid struggle. Progressive women are well represented in the Parliament, in the Portfolio Committees and in senior posts as Minister, Director General, Deputy Directors General, members of ministerial advisory councils, and so on. Affirmative action by the main political party and quota systems for women have ensured that South Africa has obtained one of the most equitable parliaments and government services in the world. With 38%, South Africa ranks number six in the world for the highest proportion of women in government at ministerial level.1 South Africa has been a signatory to the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) since 1995. An Office of the Status of Women in the Presidency keeps an eye on gender issues across all government departments.

The new Constitution (1996) provided the basis for a suite of new policy and legislation in which the various government departments specified the principles of poverty eradication and race and gender equality for their field of competence. In the field of water governance, the focus of this paper, two new laws were promulgated. First, high priority was given to operationalize the Constitutional right to sufficient water through the Water Services Act (1997). At the beginning of the new dispensation, about a quarter of the population, 10 to 12 million people, lacked access to clean water for basic consumption and other domestic needs. Half of the population lacked access to basic sanitation. Providing these facilities would not only end this dimension of deprivation and improve health but it would especially liberate poor, black women and children from the unpaid drudgery of supply of domestic water.

The second law promulgated was the National Water Act (1998) for the protection, use, development, conservation, management and control of the nation’s water resources. South Africa’s overarching goals to ensure sufficient food for all and to redress inequities from the past are perhaps most clearly articulated in the Act’s component of the so-called “compulsory licensing”. This administrative legal tool enables the reallocation of water from the “haves” to the “have-nots” in water-stressed basins, the number of which is steadily growing in South Africa. Water stress in South Africa is partly due to its

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1 The six countries with higher proportions in 2000 are Norway, Sweden, Finland, Denmark, Colombia and New Zealand (UNDP 2002).
limited natural endowments. Of 182 countries, only 30 have less water available per person than South Africa (UNESCO, 2003, cited in Kasrils, 2003). However, water stress is primarily the result of huge inequities in water distribution. For example, in the Mhlatuze basin in Kwa-zulu Natal, more than 97% of available water resources are allocated to 10% of the population (Steyl et al., 2000). The new National Water Act (1998) prohibits the unfair and disproportionate appropriation of scarce water resources, if this deprives the majority of people of water resources. People’s water needs and the fair distribution of benefits, especially the need for the poor to generate food and income in order to escape income poverty, prevail over the doctrine of former appropriation. In the past, even the opportunity to develop water resources was denied to the majority. This also needs to be redressed in the future.

1.2. Objective and scope

The social transition, based on changes in South Africa’s policies and laws in general and in the Water Services Act and National Water Act in particular were a “big bang” change and this paper recapitulates some key components of the new water policy and law. However, good policy and law are not sufficient. The next step and main focus of this paper is implementation. The challenge of implementation is especially daunting in South Africa because of the deep historical roots of poverty processes and the race and gender discrimination. The legacy of the past for water is sketched in Section 2.

The challenge of implementation is also immense because any policy and law is only as effective as its implementing institutions. Yet, the new government inherited a state apparatus that, whilst technically competent in some areas, such as the water sector, retained large numbers of civil servants who had served under the apartheid regime. In the negotiations in the early 1990s, the African National Congress and the South African Communist Party, acknowledging that a negotiated settlement and reconciliation with the apartheid government were indispensable, agreed that state employees would be secure in their jobs for 10 years. Thus, throughout the government, the new policy and law often had to be implemented by the same people who were responsible for implementing the previous inequitable legislation. Therefore, the gradual restructuring of government departments in the national, provincial and, not the least, the local spheres was a key condition for the effective implementation of South Africa’s progressive policies and laws. Section 3 discusses how the new Department of Water Affairs and Forestry (DWAF) handled its human-resources management, staffing and capacity building to balance the race and gender composition.

Section 4 summarizes the implementation of the Water Services Act (1997), which directly targets poor women and men and the tangible impacts that have been achieved on the ground. Lastly, Section 5 traces what has worked and what has not worked in implementing the National Water Act. The implementation of the National Water Act is a longer term and phased process. Vested interests from the past still play an important role, also because the Act recognizes that existing lawful water use under any previous law, and hence the inequities entrenched in these laws, are still lawful under the new Act. However, the new water allocations are no longer permanent, tied to ownership of riparian land or of landholding groundwater, but are based on a time-limited authorization granted by the DWAF or the Catchment Management Agency. Changes in water allocation on the ground can only be introduced when new entrants submit requests for new water licenses, when the DWAF issues a general authorization or when other new projects are initiated, such as compulsory licensing. In all these cases, the need to redress the results of past racial and gender discrimination is a guiding criterion (National Water Act, Chapter 4b, Section 27).
One of the multiple activities undertaken since the promulgation of the National Water Act\(^2\)—and within the limited scope of this paper—is the implementation of the legal requirement for public participation in establishing the new participatory Catchment Management Agencies and Water User Associations (WUAs) and in drafting new strategies, in particular the draft National Water Resource Strategy (RSA, 2002). We discuss the evolving efforts to include poor women and men in these public participation processes. Section 6 concludes with the lessons from these selected initial experiences of implementing progressive policy and law.

2. Legacy of apartheid

Few countries have a higher Gini-index than South Africa’s index of 0.59\(^3\) (UNDP, 2002). Massive poverty is concentrated among the blacks, women and the rural population. Based on a poverty line of Rand 352 (US$47) per adult per month, 61% of the blacks are poor, compared to 38% of the colored, 5% of the Indians and 1% of the whites. Of all rural people, 71% are poor and of all poor people 72% reside in rural areas (May et al., 2000, cited in Aliber, 2001). According to the Household Survey of 1999, 42% of all black households are headed by a female. Unemployment rates are 52% for black women between 15 and 65 years and 37% among men between the same ages (RSA, 1999). Child malnutrition is widespread giving rise to a range of associated problems. HIV/AIDS prevalence estimates are 9.5% among all men and 12.8% among all women in South Africa (HSRC, 2002).

Skewed access to water is both a cause and a consequence of social inequities and is rooted in a history of struggle over the country’s natural resources. Part of the appropriation of water resources was linked to the appropriation of land. Since the arrival of European colonialists in 1652 and especially during the nineteenth century, the white minority appropriated most of South Africa’s land and its water and other resources, while expelling indigenous societies from their land. The white minority\(^4\), united since 1910 in the Union of South Africa, consolidated their territorial conquest with the Land Act of 1913. The Act declared almost nine-tenths of the land that was best endowed with water resources, soil fertility, diamonds, gold and other minerals, as white property, while further relegating the black majority to the areas that later, under the apartheid regime, became institutionalized as “homelands”.

From the early twentieth century onwards, the land-based inequalities in access to water were exacerbated by a segregated and heavily biased process of infrastructure development. In the white areas, huge investments were made in irrigation-scheme development, small and large dam development and interbasin transfers. This boosted large-scale irrigated farming, mining, power generation, urbanization, forestry estates, industries and eco-tourism. The minority government actively supported

\(^2\) Other components of the National Water Act being implemented include the demarcation of South Africa into 19 Water Management Areas and the establishment of Catchment Management Agencies in each of them; the determination of the ecological reserve, water-pollution control, the design and implementation of a pricing strategy, the billing of water-management charges, nationwide registration of water uses, trans-boundary agreements and the transfer of large-scale irrigation schemes to users. In mid-2003 the first pilot project for compulsory licensing started in the Mlhatuze basin. Small-scale productive uses of water are receiving attention in collaboration with the Department of Agriculture.

\(^3\) The Gini-index measures inequality over the entire distribution of income or consumption. Only five of the 117 countries with data have a higher Gini-index: Brazil, Nicaragua, Swaziland, Central African Republic and Sierra Leone.

\(^4\) In 1913, whites constituted only one-fifth of the population (Ross, 1999). Their proportion further declined to 11% in 2003 (RSA, 2003).
these investments, also using the tax revenues from mines. Sophisticated, exclusively white water-management institutions were established, in some cases even at (sub-)catchment level. However, water-created wealth hardly trickled down to the black labor force, as labor relations and wages for black men in mines and farms and certainly for black women in farms and domestic services were exploitative (Ross, 1999).

In contrast, natural resources in “black” areas, including water resources remained underdeveloped. The population grew steadily owing to relatively high fertility rates, strict curtailment of black people’s movement in white areas and forced removal of black people from white areas in the 1960s and 1970s. Congestion within cramped boundaries constituted a heavy burden on the fragile resource base of land, water, vegetation and livestock. A second cause of underdevelopment of water resources in black areas was the erosion of the customary arrangements for the integrated management of common property resources, including water. As these arrangements were embedded in the tribal power structures, they eroded with the decline of these powers. After the violent defeat of the main chieftaincies in the nineteenth century, the colonial regime pursued the politics of “divide-and-rule” among black traditional chiefs who, later, also constituted the black homeland governments. Salaries and some minimal financial and material support for the provision of drinking water, health services, welfare grants and pensions became instruments of buying the loyalty of some of the traditional chiefs, who also mediated in providing the black labor force for the white economy and of isolating those who resisted (Delius, 1996).

The third reason is that the few resource-development efforts, such as the “betterment” schemes, were ill-informed, paternalistic and counterproductive. Cattle rearing, the main income source for men was forcefully discouraged. Cropping, women’s economic mainstay was neglected. In the 1960s, irrigation schemes were developed to catalyze land-use intensification in the overcrowded areas. Development corporations created expensive, white-dominated, top-down management structures for water distribution, input provision and marketing. “Farmers” in these schemes, mostly women, were basically laborers on their fields. Women’s own benefits were even less because land was typically allocated and registered in their husbands’ and sons’ names (Lahiff, 1999; Van Koppen 2002).

In summary, the underdevelopment of black areas and their water resources served the goal of maintaining a cheap and politically stable male labor reserve for the booming white economy. Black women bore the triple burden of economic exploitation, racism and sexism by solely bearing the responsibility of raising the new generation of laborers and caring for sick laborers and pensioners, without adequate access to domestic water supply, land, water and other resources that are required for improved food production. In the new dispensation, the former homelands remain overcrowded. The Department of Water Affairs and Forestry (DWAF), which extended its jurisdiction to include the former homelands, has limited experience in serving these areas as yet. Further, the void in community-based natural resources and water-management structures had to be filled by a new and inexperienced political structure, the now nationwide, democratically elected provincial and local governments.

3. Human resources: staffing and capacity building

3.1. Policy and legislation

The human resources, staffing and capacity-building policies of the DWAF followed the race-, gender- and poverty-sensitive Constitution and its protection through mechanisms such as the
Constitutional Court, the Office of the Status of Women in the Presidency and the country’s new labor legislation. DWAF also formulated its own Gender Policy, which guides the full suite of gender activities of the department (DWAF, undated). The Gender Policy also has a number of provisions related to internal gender matters, such as the requirement for affirmative action in the department to “ensure that women in the Department are given the support, training and capacity building to fulfill their work requirements”. It also states that there should be affirmative action to ensure gender equality in the staff employed in the department and that attention should be given to the requirements of those female staff who are still the primary care givers within the family.

3.2. Implementation and impact

Implementation of these new policies has led to tangible changes in a department that was largely dominated by white male engineers. The changes have come not only in racial and gender representation, but also in terms of the skills and professional capacity of staff. Senior managers are now predominantly black. However, technical positions are still dominated by white men. In 1994, female representation in management was around 2%; by 1997, it was closer to 10% and by 2003 it is over 15%. During the period between 1994 and 1997 the representation of female scientists grew from 35% to over 40%, with the biggest growth being in the cadre of black women scientists. Currently, the department has two female Deputy Directors General of four positions at this level. Further, the National Water Act provides for the setting up of the National Water Advisory Council to give advice to the Minister on a wide range of matters. This Council must have a gender and race balance as well as community representation. Currently, the Deputy Chairperson is a woman who is strongly motivated on gender and poverty issues. Lastly, in 2002, the Minister of Water Affairs and Forestry instituted the Women in Water Awards to recognize women, from the most senior political or managerial level to the community level, who are contributing to effective water management in South Africa. However, even though there are some women in senior positions, most of the decision makers are still men.

Some capacity building of staff has taken place, with attention being paid to matters such as rural development and poverty. Recently, an impetus has been given to the establishment of gender training in collaboration with the National Community Water and Sanitation Training Institute and international support of the Gender and Water Alliance. The project, which started in 2001, has concentrated on the development of advocacy and promotional materials, training and awareness creation. This project is still in its early days and clear impacts are not yet visible. It is, however, planned to intensify this project.

4. Water services and sanitation

4.1. Policy and legislation

The Water Supply and Sanitation Policy of 1994, which is currently under review, puts women as the focus of development (Section E). In this section the role of women in the provision and maintenance of basic services and household health is highlighted, as is their contribution to ensuring sustainable services. The policy also stipulates that the contribution of women in the water sector must extend beyond household provision. A quota was laid down that all statutory bodies in the water sector, including local water committees, should comprise a minimum of 30% women at all levels, including
management. This quota was raised to 50% in 2000. The water-services policy in South Africa is currently under review as a result of a changing framework for local government and service delivery. The draft white paper includes reference to matters such as water services and poverty and the central role of women in planning, provision and management of water services.

The White Paper on Basic Household Sanitation (DWAF 2001) lays out the policy and framework for planning and implementing basic household sanitation initiatives in South Africa. It provides a basis for formulating coordinated local, provincial and national strategies to address the needs of the estimated 18 million South Africans who are without adequate sanitation. It explicitly recognizes that women and the elderly are the most inconvenienced by lack of adequate sanitation. It mentions that although the attendance of girls in schools in South Africa is high compared to other developing countries, poor sanitation facilities at schools can be one of the main reasons why girls drop out. In particular, if girls do not have access to toilets in schools, many do not go to school when they are menstruating, falling behind in their schoolwork or even dropping out altogether. This demonstrates how poor sanitation can feed the cycle of poverty, especially among women.

The Water Services Act (RSA, 1997) is the piece of legislation that enables realization of the basic human right of access to safe drinking water and sanitation enshrined in the Constitution. The Act provides the broad framework within which water services (water supply and sanitation) are provided in South Africa, a service that is especially for the benefit women who bear a disproportionate burden. The Act holds the government responsible for ensuring that this basic human need is met. Basic human water needs for domestic use are currently set at 25 l per person per day within 200 m of the household. In 2000, the government went a step further, committing to delivering the first 6,000 l per household per month free as “free basic water”. This policy decision, which went against prevailing international discourse, gave force to the basic principles and values of the Constitution.

4.2. Implementation and impact

Massive tangible improvements in poor women’s and men’s lives have been achieved in water-services delivery. Since 1994, the DWAF has provided access to basic water supply to 9 million people. In 2002, 1.2 million people received water-supply infrastructure and 50,000 received household sanitation. In the process, 25,000 person-years of temporary employment were provided for 98,000 people, 11,300 of whom received formal training. In summary, the government is on target to eradicate the backlog in the water infrastructure and sanitation facilities by 2008 and 2010, respectively.

Achievements with free basic water to date have been commendable. Over 26 million people, (57% of the population) are receiving free basic water. If one considers only those with access to infrastructure, then the proportion is 73%. The program is being implemented by 71% of the municipalities. All local municipalities and metros have received documentation and tools to assist with the implementation and have had the opportunity to attend workshops. The Department has established Provincial Support Units in each province, staffed by trained specialists on free basic water. Yet, it is recognized that there is still quite a way to go. Although the policy will, more than anything, improve the lives of poor men and especially poor women, there are real challenges in implementation, especially in the poorer municipalities.

Gender issues have been taken seriously on some water-services delivery projects, with good results. The Molepo Water Treatment project in Limpopo illustrates this point. Women and men are employed in the construction of the plant, laying pipes and doing similar jobs. The project management team has
also put in place privacy measures for women in changing rooms and toilets. This project has been successful in gender equity because of the commitment of the Implementing Agent, strong women on the Project Steering Committee, and the efforts of the labor desk officer charged with employment issues. Meeting the quota of women on all structures has been difficult. A recent review showed that there is general awareness of the quota system, yet exercising control by women is still an uphill task as men tend to occupy the important positions, such as that of chairperson, even where women are in the majority. Men tend to be even more over-represented where paid jobs are at stake.

5. Water resources management: public participation

5.1. Policy and legislation

The purpose of the Act is, amongst others:

a. to meet the basic human needs of present and future generations
b. to promote equitable access to water
c. to redress the results of past racial and gender discrimination
d. to promote the efficient, sustainable and beneficial use of water in the public interest
e. to facilitate social and economic development

“[…] and to achieve this purpose, to establish suitable institutions and ensure that they have appropriate community, racial and gender representation” (National Water Act, Chapter 1, Section 2)

Public participation is a crosscutting prescription in the National Water Act, which not only proposes two new participatory water-management institutions, Catchment Management Agencies and WUAs but also stipulates the requirement for public participation in the drafting and adoption of water-resource management strategies, implementation of compulsory licensing, etc.

The National Water Act foresees the establishment of Catchment Management Agencies in each of South Africa’s 19 Water Management Areas. The government will gradually devolve most water-resources management authority and functions to these agencies. In performing its functions, a Catchment Management Agency:

“[…] must be mindful of the constitutional imperative to redress the results of past racial and gender discrimination and to achieve equitable access for all to the water resources under its control” (National Water Act, Chapter 7, Section 79–4a).

In order to ensure gender and racial representation in the Governing Board of the Catchment Management Agency, the Minister, after appointing members to the Governing Board as nominated by an Advisory Committee:

“may appoint additional members selected by the Minister in order to […]:
(b) achieve sufficient gender representation
(c) achieve sufficient demographic representation […]
(e) achieve representation of disadvantaged persons or communities, which have been prejudiced by past racial and gender discrimination in relation to access to water” (National Water Act, Chapter 7, Section 81–10).

Moreover, the Minister only approves proposals for a new Catchment Management Agency, if there are clear indications of public participation in the process of establishing the proposal by all those affected by the decisions.

The National Water Act also aims to redress inequities from the past through WUAs, which are cooperative associations of individual water users who wish to undertake water-related activities for their mutual benefit at the localized, restricted level. The former white Irrigation Boards are all to be transformed into WUAs. The Minister may interfere directly

“[…] if a WUA has:
(b) acted unfairly or in a discriminatory or inequitable way towards any member of the association, and
(c) failed to admit persons to membership unfairly or on discriminatory grounds” (National Water Act, Chapter 8, Section 95–3b).

The financial implications of social transformation that are to be borne by the new WUA are indicated in Schedule 4, Section 20. The matter to be considered in setting financial targets has mentioned

“the need to maintain a reasonable level of reserves, especially to provide for: (i) corrective action to redress the results of past racial and gender discrimination in the use of water resources […]” (National Water Act, Schedule 4, Section 20).

As for Catchment Management Agencies, the Minister only approves a proposal for establishing a WUA if there are clear indications of public participation. Similarly, an important strategy prescribed in the National Water Act is that the National Water Resource Strategy and Catchment Management Strategies are only approved if the public has had the opportunity to participate in their formulation. All other water-management institutions, licenses and policy documents also have to be published in the Government Gazette for public comments for a period of 60 or 90 days. Thus, the new democratic right of all citizens, women and men, to participate in water-resources management is a drastic break from the government’s “command-and-control mode” of operation in the past, which primarily served whites.

5.2. Implementation and impact of public participation

Public participation processes have been initiated for a number of proposals for Catchment Management Agencies. The proposal for the Catchment Management Agency for the Inkomati basin is currently being gazetted; four other proposals will be gazetted soon. Public participation was also organized to comment on the draft National Water Resource Strategy of 2002. Throughout the country, 9,043 persons participated in 30 public consultation sessions.

It is still too early to assess the external impact of implementing state-initiated public participation in IWRM. Internally in DWAF, though, past experiences have led to deeper understanding and improved
skills. Above all, it became clear that affirmative action is critical to make public participation work for the poor. Tangible impacts can only be expected if affirmative actions ensure that all races, both genders and all classes are included in fora, that communication between groups who hardly ever met in the past is facilitated and that the playing fields are leveled.

The white large-scale water users of the mining, large-scale irrigated farming, forestry, tourism and energy sectors appeared to participate easily in the public participation processes and to articulate their interests well. They are already well organized, have established close contacts with the DWAF in the past, have immediate access to English policy documents, are mobile and even, on occasion, hire ex-DWAF employees as consultants. If needed, they have easy access to the Water Tribunal and lawyers. By paying volume-based catchment management charges, they strengthen their financial muscle. In fact, many large-scale water users see the new requirement for participatory water-management institutions and public participation as the Act’s major merit. To them, participatory management allows them partly to take back previous control over water resources. It also can provide a powerful new channel to defend vested interests vis-à-vis the government.

Over recent years, DWAF’s affirmative actions to balance the persistent inequities from the past have become increasingly stronger. These actions encompass various aspects. First, DWAF taps into a wide range of new contacts and networks to invite marginalized people to attend public participation meetings. They include formal organizations such as the urban- and industrial-based trade unions, the new local government, organizations of traditional leaders and traditional healers, NGOs and the black farmers’ National African Farmers’ Union. The DWAF also proactively invites informal women’s clubs, churches and personal contacts and networks. In case there is no organization at all, DWAF supports the formation of such new fora. Yet, the mandate of participants from informal groups is considerably weaker than that of representatives from formal groups with clear mandates from their constituencies. Therefore, the bottom-up organization of historically disadvantaged individuals facilitated by the government and civic society remains a key to inclusive public participation in water-resources governance.

Second, communication, including information provision, is increasingly in the local languages as well as in English or Afrikaans. Some general information on the National Water Act, catchment management and the principles of IWRM is currently available, but this area needs further development. For the illiterate, means of communication such as the radio, television, video and theatre are to be used more frequently. Timely information about meetings, which allows adequate preparation of meetings and consultation of peers, receives attention. Thus, it was found that preparations for workshops are effective if the workshops are held immediately preceding mixed meetings, in order to inform and update newcomers in the field. This builds up their confidence to speak to those who are already well acquainted with the issues on the agenda.

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5 Among the various (draft) guidelines of DWAF are: CMA and WUA Guide Series Guides 1–4; Generic Public Participation Guidelines; Guidelines on the Establishment and Management of Catchments Fora; Governing Board—Process and Composition; Outline for the Proposal to the Minister on the Establishment of a CMA; Guidelines for Drafting Business Plans and Annual Reports for WUAs; Minimum Requirements for Public Participation in the Transformation of Irrigation Boards into WUAs; Guidelines on the Inclusion of Historically Disadvantaged Groups in the Community-Participation Processes.

6 Large-scale sugarcane farmers were the only group of water users who, at the last moment, criticized the gazetted proposal for the Inkomati Catchment Management Agency. They felt that their voices had been insufficiently considered in the public participation processes.
Third, logistical arrangements are critical for inclusive public participation. User friendly and regularly updated databases with addresses, differentiated by gender, race and type of water use are being compiled. Venues for meetings that are easily accessible are selected; transport facilities are provided for those without own cars; and timings of meetings are appropriate. Critical comments and questions during the meetings are stimulated. The minutes of meetings reflect debate and dissent, which all participants can check before adoption.

Affirmative action has been only partially successful so far. The involvement of black men and especially black women in these participation processes was low in both urban and rural settings, although the urban setting has better representation. For example, out of the 127 members of the Stakeholder Reference Group for the establishment of the Olifants Catchment Management Agency, only 15% were women. The proportion of black participants was 65%. During the nationwide public consultation process for the draft National Water Resource Strategy, the proportion of black women participants was higher, at 25%. Yet, as summarized in Table 1, the race composition was less favorable, although this is still an enormous change compared to the situation only one decade earlier.

Women’s low participation is undoubtedly influenced by the fact that women are still responsible for other household chores while pursuing their careers. For example, they have to transport children to and from school and have to be home in time to get the dinner ready. This especially affects their attendance of evening meetings/overnight workshops and meetings. Low participation can also be attributed to the internalization of patriarchal norms by women, many of whom perceive themselves as subordinate to men, particularly in the public sphere.

5.3. Addressing poor women’s and men’s productive water needs

An important condition for public participation to work for poor women and men is the capacity of the new water-management institutions and strategies to meet women’s and men’s water needs for productive purposes. The need to fill the century-old gap in infrastructural development for black farmers is being increasingly articulated, for example by the National African Farmers’ Union. The need for appropriate technologies also emerged during one of the public consultation rounds for the future Catchment Management Agency in the Olifants basin that specifically addressed 365 black small-scale

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<th>Female (%)</th>
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</table>

Source: National Water Resource Strategy Database. Participants are categorized on the basis of their surname, which gives an estimated 10% variation in any direction.

water users (Khumbane et al., 2001). The proposal for the future Catchment Management Agency includes support for small-scale water users for their organization into fora and technical advice for appropriate water-harvesting techniques and infrastructure (DWAF, 2003). This is to be cross-subsidized from the water-management charges. In the meantime, the grassroots activist who led these consultations and who is also a member of the Water Advisory Council continues the work of her NGO, the Water for Food Movement. She continues mobilizing and training poor black women to use roof water and runoff for homestead gardening and tree planting, or to build village dams or install manual pumps for irrigation. Restoring black women’s resource base in the former homelands is symbolized in setting alight “candles of hope”.

6. Conclusions

Within less than one decade, the democratically elected government of South Africa promulgated radical changes in water policy and law and started all-encompassing implementation. The discussion in this paper of three selected aspects gives a sense of the width and depth of this endeavor and its varying impact internally within the DWAF and externally on the ground among poor women and men. The achievements of the directly targeted water services and sanitation provision in improving especially poor women’s and children’s lives are by far the most commendable. In the other two fields, changes have occurred mainly internally. Although important steps have been taken to render the DWAF, as the implementing institution of the new policies and laws, better equipped to fulfil this task, it remains a major challenge to ensure that institutions such as the DWAF are not faceless megaliths, but institutions driven by principles and values (e.g. water is a human right, eradication of poverty, gender equity) and institutions that are prepared to try new things (and fail if necessary) in attempting to give force to those principles and values.

A highly effective and motivated implementing institution will especially be needed to realize the water-resources management that triggers pro-poor and race- and gender-inclusive economic progress, as envisaged in the Constitution and National Water Act. Although the Act provides, in principle, for the appropriate policies and legal, institutional and economic tools, it will be a long-term process to reach the poor, to meet their water needs for productive uses and to empower them vis-à-vis the large-scale users in the new participatory water-management institutions and public participation processes. In summary, the changes in South Africa towards pro-poor and gender-sensitive water use and management have been profound, despite the challenges that remain. The change, however, cannot and will not be seen only in one big bang, but in a thousand significant candles.

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