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MADIBENG: The place of 'water'

Deputy Chairperson of the South African Human Rights Commission (SAHRC), Pregs Govender, shares her thoughts on recent water-related protests, which started with the death of four people in Brits.

Hartbeespoort, Rooikoppies, Vaalkop and Klipvoor Dams are located in the Madibeng Municipality. Four dams...that should be more than enough water for everyone, to drink, wash and wallow in on scorching summer days in the North West Province. The world's third-largest chrome producer and the richest Platinum Group Metals Reserve are in Madibeng. During apartheid and democracy the wealthy owners of the mines, tourist companies, agribusiness and other large industries did not experience water shortages or water cuts. Yet communities who are Black and poor, living next to the dams complained to the SAHRC that they went without water for days, weeks and months.

In this area, as in most parts of the world, the wealthiest pay less per kilolitre of water than households do. They have seldom been held to account for significant wastage; for cleaning up their pollution of groundwater with dangerous chemicals or the theft that some commit. In the suburbs, the manicured lawns are well watered and swimming pools are the norm. They enjoy the full meaning of Madibeng. Here there is abundant water.

In sharp contrast, those who are Black and poor face a daily struggle to uphold basic human dignity. There are endless queues for water. Children miss school because they have to carry containers that weigh more than their body weight. Illness and death from preventable water-borne disease is not uncommon. Women's and girls' time and safety is particularly compromised in a country with high levels of gender-based violence.

The indivisibility and interdependence of all rights is particularly reflected in the impact of the lack of water and sanitation on health. The UN Secretary General, Ban Ki Moon, estimates that health budgets would be almost halved if these rights were addressed.

The poor parts of this province are rooted in apartheid's notorious homeland, Bophuthutswana. White mines and farms sent Black workers who were too old, sick or injured 'home' to die here. Apartheid criteria for Black lackeys appointed to rule were greed, corruptibility and brutality. The job was to protect white apartheid privilege by ruthlessly suppressing

opposition. Apartheid's violence was institutionalised in brutal and dehumanising poverty and inequality that devalued human life.

Our democratic Constitution upholds the value of every human being, enshrining the right to dignity as our birth right, linking it to socio-economic rights like water and civil-political rights like peaceful protest. South Africa's wealth of natural and mineral resources should have enabled clean drinking water for all. No one should have had to resort to protest.

In the second week of January this year, after several significant periods without water, people protested in Mothutlung, Madibeng. They were shot at by the police, many of whom live in the same areas, struggling with the same frustrations for survival. The death toll is four. The Independent Policy Investigate Directorate launched an investigation, which the SAHRC hopes will act powerfully to ensure that those responsible are brought to book. Police leadership is ultimately responsible for individual police action in such situations. From Marikana to Madibeng, the 'shoot to kill' statements underline a militarised police force that resuscitates apartheid-era policing in place of the democratic vision of service. At the Farlam Commission on Marikana, the SAHRC expert police witness, Gary White (MBE), shared his 30 years of police leadership experience in Northern Ireland. This included violent protests in which protestors carried lethal weapons. Not once did he order the use of live ammunition. In stark contrast, South African police have used live ammunition in Ficksberg, Marikana and Madibeng, despite official records and independent studies confirming that most South African protestors are peaceful and unarmed.

The SAHRC finding on Andries Tatane, recommended that police be properly trained to manage large protests so the right to life is protected. The Commission maintains that if the police deployed to Madibeng had been properly equipped and trained, this tragedy would have been avoided.

The allegations of corruption related to tenders need to be urgently dealt with through the criminal justice system and the Public Protector. Those entrusted with

the public purse cannot be involved with companies which tender for water tanks and other state services. Those companies who use massive resources to corrupt those in government should also be apprehended. Many are sceptical that this will happen, pointing to the huge numbers of poor people who go to jail and stay there, while few of wealthy criminals seem to be convicted and serve out their sentences.

Since 2009, the SAHRC has been systematically addressing complaints about the right to water and sanitation. In the run-up to the last local government election, the SAHRC investigated and made findings firstly in Makhaza, against the Democratic Alliance-led City of Cape Town, in the Western Cape, and then against the African National Congress-led Moqhaka Municipality, in the Free State, that had both built toilets in open public spaces without enclosing them.

The Commission ruled that both municipalities had to urgently enclose these toilets in a manner that upheld dignity, privacy and clean environment. The subsequent High Court case in the Western Cape noted that 'the SAHRC investigated the complaint that led to considerable public interest and media reports' and affirmed the SAHRC finding, which the City initially disputed.

In addition to ensuring local government accountability, the Commission required a systemic response from national Government. In the SAHRC 2010 finding against the City, the Department of Human Settlements together with the Department of Water Affairs had to 'intervene' to ensure the eradication of the bucket system across South Africa. This should lead to the 'phasing out of communal toilets'. In 2011, the Minister established the Sanitation Task Team headed by Winnie Madikizela Mandela, which reached many of the same conclusions as the SAHRC hearings.

The SAHRC's 2011 Moqhaka finding ruled that the Presidency's Department for Performance, Monitoring and Evaluation (DPME) had to compile a report on the 'quality of sanitation services provided by local government across the country'. To compile its 2012 report to the Commission, the DPME brought together

relevant departments, including Cooperative Governance and Traditional Affairs (COGTA), Human Settlements, Water and Environmental Affairs and Finance. Inter-governmental co-operation and collaboration together with meaningful engagement with communities are critical parts of the solution.

In 2012, the SAHRC organised hearings in every province across South Africa in areas that the DPME report identified as being amongst the poorest. In packed halls members of communities from across each province presented the reality that they live with daily. Many spoke of poor quality water and sanitation services and often about the complete lack of basic services. Many participants spoke in despair and frustration about all the legal avenues they used to try to get redress.

The SAHRC invited local, provincial and national government representatives including the DPME to the hearings to respond to community's concerns and questions with clear plans and time-frames. Tragically, in the North West province and other areas of South Africa, the problems remain, as evidenced by the recent protests and killings. Last year, the SAHRC ruled against the Madibeng Municipality, along with several others. Our press release reiterated the SAHRC call for government to go beyond reacting only when communities protest to proactively ensuring that poor communities immediately access clean drinking water linked to sustainable long-term solutions.

The National Water Act enables the Minister of Water & Environmental Affairs to intervene where there are clear water emergencies at a local level. Madibeng and similar municipalities in previous homelands and informal settlements demands that the Minister use the Act's powers. Government needs to ensure proper capacity is built at every level, in all the necessary areas of competence and crucial vacant posts need to be filled. Local Government needs to have the capacity to build the necessary infrastructure, operationalise and maintain it so water flows to people's taps. Government's Indigent policy is aimed at free water and other basic services for people who are poor. However, it is not national uniform policy and many complain that it



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is implemented in a way that undermines their dignity. The result is the poor end up paying more per kilolitre than wealthy corporations.

The structural, systemic problem of inequality and poverty that is still defined by apartheid spatial geography calls for an urgent evaluation of policy and governance. The DPME report notes that 'key water services sector weaknesses and challenges has been attributed to a lack of adequate funding and poor revenue collection leading to financial instability; a lack of technical, management and business skills...political interference and corruption...unclear municipal powers and functions...'

This affects not just one right...many people who are poor are denied many fundamental human rights. This crisis can only be solved by true co-operative governance. The President, his Cabinet and all spheres of Government, beyond political party affiliation, must ensure that South Africa is governed in a way that upholds the rights of all.

* SAHRC Deputy Chair, Pregs Govender, led the Commission's water and sanitation hearings across the country in 2013 as part of the Commission's wider investigation into South Africa's water and sanitation challenges. At the time of writing, the report had been finalised and SAHRC was preparing to present the report to Parliament and government departments. □