

KZN WATER INQUIRY REPORT

DURBAN,
AUGUST 2022



south african
**human
rights**
commission





ACKNOWLEDGEMENTS

The Commission acknowledges with gratitude all, and various stakeholders, including community-based organisations and government departments who participated in the Inquiry. The SAHRC acknowledges the immense contribution of the Inquiry panel, chaired by Commissioner Philile Ntuli supported by Commissioner Chris Nissen and Professor Tafadzwa Mabhaudhi from University of KwaZulu Natal. The Commission acknowledges with gratitude research support and inputs by Professor Tracy-Lynn Field, the Claude Leon Chair in Earth Justice and Stewardship, and by Zunaida Moosa Wadiwala and Nino Rodda, of the Water Justice Tracker team based at the University of the Witwatersrand. Special appreciation is extended to the staff (both past and present) of the SAHRC KwaZulu Natal Provincial Office, namely Mr Lloyd Lotz; Ms Pavershree Padayachee; Ms Andrea Pillay, Mr Ayanda Nene; Mr Benjamin Ntombela; Ms Kathleen Boyce; Ms Lindiwe Dlamini; Mr Musa Mgenge; Mr Nkanyiso Mtolo; Ms Nomusa Zungu; Ms Refilwe Chulu; Ms Thandeka Magwenyane and Ms Tsiko Maboho who all played an immense role in making the Inquiry a reality and a success. Other staff of the Commission who provided support in various capacities such as Ms Tanya Calitz and Mr Peacemore Mhodi and Ms Nobesuthu Cekiso are duly acknowledged. The contribution of Dr Janine Hicks for preparing this Inquiry report is recognised and duly acknowledged.

The South African Human Rights Commission (the Commission) conducted a five-day provincial inquiry into access to water in the province of KwaZulu Natal (KZN), from 15 to 19 August 2022. During this period, the Commission engaged with and received submissions from stakeholders representing all corners of the province, from both State and non-State actors and institutions, as well as individual members of communities and civil societies. The inquiry was conducted in response to the current water crisis in KZN. The Commission's provincial office has, since 2020, received more than 600 complaints regarding access to water. These complaints relate to wide-spread water shortages in communities; in some instances, no access to water for more than 7 days; inconsistent water supply or water disconnection issues; lack of alternative measures such as provisioning of water tankers; poor water quality and polluted water in some instances. Complaints have also been received about disputes in water billing.

The issue of poor or no access to water remains a current day-to-day challenge for many residents in KZN, communities, schools, businesses, and other organisations across the province. These challenges have been highlighted to a great extent by various media reports. Most municipalities' responses to the complaints are inadequate in that they are unable to provide appropriate and sustainable redress to the affected communities. As such these complaints amount to a prima facie violation of the basic human right to have access to sufficient clean water and given the far-reaching impact of these challenges on the affected communities, there is a need for a strategic intervention to find short-, medium-, and long-term solutions.

The Commission was guided in this inquiry by its mandate as derived from section 184 of the Constitution of the Republic of South Africa, 1996, to monitor, and assess the observance and attainment of

human rights in South Africa, with a view to identifying steps needed to redress the violation of human rights.

The Commission was further guided by its statutory mandate in terms of sections 13(3) and 15 (1) of the South African Human Rights Commission Act, Act 40 of 2013, which empowers the Commission to investigate on its own initiative or on receipt of a complaint, any alleged violation of human rights. The objectives of the inquiry were: to investigate the extent of the challenges experienced by the communities in KZN relating to access to clean drinking water, the systemic nature of the violation of human rights, the extent to which the organs of state have respected, protected, promoted and fulfilled the right to sufficient water, and the reasonableness of measures including legislation, by-laws, policies and programmes adopted by organs of state to ensure the realisation of the right to sufficient water.

The Commission adopted a systematic approach, which revealed that the right to access to sufficient water, as envisaged in section 27(1)(b) of the Constitution, is indeed being infringed, but the solutions are not linear in terms of how best to intervene. This issue is complex and systemic in nature, with many contributing factors arising from the legacy of apartheid. The challenges that most municipalities face are cumulative issues that have been aggravated by years of neglect, lack of service and maintenance of infrastructure due to various reasons that were provided. This is aggravated by the lack of capacity and skills shortages in critical areas.

As a general issue, challenges in access to sufficient water are not related to the scarcity of water resources itself, but more to the delivery of water by municipalities to customers. These delivery issues are mostly occasioned by poor management, the lack of proper planning, the lack of accountability and leadership, and the failure to prioritise critical components necessary for effective service delivery. Gaps in terms of cooperative governance and alignment of the various spheres of government, as well as between various entities of government, also came to the forefront. This is further aggravated by inadequate communication between municipalities and their citizens. This was apparent in the defensive approach demonstrated by state entities, municipalities, and their general lack of awareness of the issues raised by community members. While many of the challenges raised by municipalities may appear accurate from a technical perspective, these have not been properly communicated to communities.

The issue of illegal connections and the impact this has on the water delivery system is profound. The political environment of corruption, vandalism, and theft, coupled with the threats of the so-called “Business Forum” reflects a society that has deteriorated, which hinders water service delivery and renders communities ungovernable.

There is a need to educate and build awareness among communities so that they take responsibility to jointly manage resources together with water service authorities. The Constitution speaks of stewardship when it comes to natural resources, which requires looking after the future. The Commission has accordingly identified a slate of general recommendations and specific follow-up measures to be adopted, to address the current water crisis and its resulting systemic violation of rights.



AGSA	Auditor-General South Africa
BDRR	Blue Drop Risk Rating
CEDAW	Convention on the Elimination of All forms of Discrimination Against Women
COGTA	Department of Cooperative Governance and Traditional Affairs
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
DC	District Council
DWS	Department of Water and Sanitation
GIS	Geographic Information System
IGR	Inter-Governmental Relations
ILO	International Labour Organization
KZN	KwaZulu-Natal
LM	Local Municipality
MEC	Member of Executive Council
MIG	Municipal Infrastructure Grant
MUSA	Municipal Self-Assessment
MISA	Municipal Infrastructure Support Agent
OTP	Office of the Premier
RDP	Reconstruction and Development Programme
SAHRC	South African Human Rights Commission
SANS	South African National Standards
SDGs	Sustainable Development Goals
UN	United Nations
VIPs	Ventilated pit latrines

WSA	Water Services Authority
WSDP	Water Services Development Plan
WSIG	Water Service Infrastructure Grant

TABLE OF

CONTENTS

1. Introduction
2. Water provisioning a legacy of inequitable access
3. Access to water state obligations
 - a. International obligations
- 3.1. Constitutional provisions
 - b. Legislative provisions
 - c. Municipalities positioned at the forefront of the water service delivery challenge
 - d. Court interpretation of state obligations
4. Fulfilling the right of access to water progress and setbacks
 - a. Infrastructure rollouts
 - b. Flagging dysfunction the Blue Drop Certification Programme
 - c. Shocks to KZNs water supply system July 2021 unrest and April/May 2022 floods
 - d. Governance
5. Complaints evidence of systemic service delivery failures
 - a. No water supply
 - b. Water interruptions
 - c. Unlawful connections
 - d. Intersectional issues
- 5.1 Municipality engagements
6. Inquiry deliberations
 - 6.1. Day One Monday 15 August 2022
 - a. Professor Ochalla Water Resource Specialist exUNIZULU
 - b. Tongaat Sandfield Civic Association SCA Tongaat Association TCA
 - c. Ugu Ratepayers Association URA
 - d. Womens Leadership and Training Programme
 - e. Abahlali baseMjondolo Shackdwellers Movement
 - f. Thokozani Village for the Vulnerable Ugu
 - 6.2. Day Two Tuesday 16 August 2022
 - a. Msunduzi Association of Residents Ratepayers and Civics MARRC
 - b. UMhlatuze Local Municipality
 - c. COGTA MEC Hon Sihle Zikalala
 - d. Department of Water and Sanitation DWS
 - e. Complainant Umsunduzi Local Municipality
 - f. Harry Gwala District Municipality HGDM
 - 6.3. Day Three Wednesday 17 August 2022
 - a. EThekweni Municipality

b. Ugu District municipality

6.4. Day Four Thursday 18 August 2022

a. Mgungundlovu District Municipality

b. UThukela District Municipality

c. Newcastle Local Municipality

d. Uthungulu King Cetshwayo District Municipality

e. Zululand District Municipality

6.5. Day Five Friday 19 August 2022

a. Umgeni Water UW

b. Uthukela Water

c. uMzinyathi District Municipality

d. Amajuba District municipality

e. Ilembe District Municipality

f. Msunduzi District Municipality

7. Commission followup engagement with municipalities

8. Panel findings and recommendations

a. Commissions findings

b. Recommendations

9. References

Case Law

Appendix I Entities appearing before the Commissions Inquiry

Appendix II Schedule of complaints

Appendix III KZN Water Service Authorities Constituent Local Municipalities and Bulk Water Providers

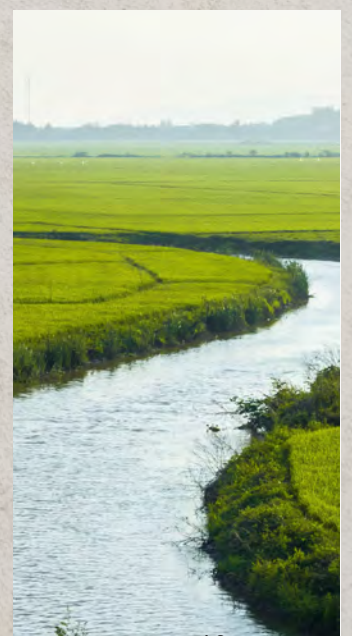
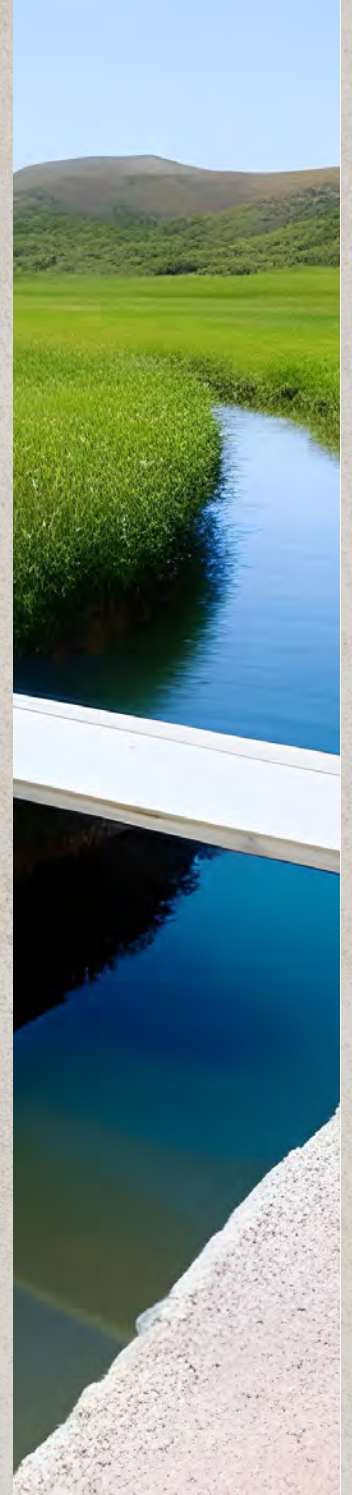
Appendix IV Summary of Blue Drop 2022 Blue Drop Assessment Tool to calculate Blue Drop Risk Rating

1. INTRODUCTION

The South African Human Rights Commission (the SAHRC or the Commission) is an independent state institution established in terms of section 181(1)(b) of the Constitution of the Republic of South Africa, 1996 (the Constitution). In terms of section 184(1)(a)-(c) of the Constitution, the Commission is mandated to promote respect for human rights and a culture of human rights; to promote the protection, development, and attainment of human rights; and to monitor and assess the observance of human rights in the Republic. The Commission's powers are further envisaged in section 184(2)-(4) of the Constitution which will be addressed in more detail below.

Since 2020, the Commission has received in excess of 600 complaints relating to challenges in access to water in all district municipalities in the province of KwaZulu-Natal (KZN). The municipalities which account for the most complaints lodged against them are uGu District Municipality, eThekweni Metropolitan Municipality and uThukela District Municipality. These districts account for a cumulative total of 481 complaints. Put differently, these municipalities, account for 92,6% of complaints relating to access to water lodged at the KZN provincial office of the Commission.

Complaints received include instances of no access to water for more than seven days, widespread water shortages in communities, inconsistent water supply and abrupt water disconnections, the lack of alternative measures by municipalities (such as dispatching water tankers), poor water quality and polluted water, and disputes in water account bills. While some residents receive sporadic and intermittent water supply, others receive none whatsoever, with complaints emerging concerning municipal failures to undertake interim measures to ensure a basic provision of water.



The allegations relating to access to water in KZN indicate that residents from all the district municipalities have been experiencing water challenges of various forms. It is evident from these complaints that the issue of poor or no access to water remains a persistent day-to-day challenge for many residents, communities, schools, businesses, and other organisations across KZN. Many of these water provision challenges have been reported in the media, with in some instances, communities taking to the streets in protest to demonstrate their frustration.

The KZN office of the Commission has noted a continued increase in complaints relating to challenges in access to water within KZN. These complaints amount to a prima facie violation of the basic human right to sufficient water. Given its far-reaching impact on all affected communities, there is a clear need for urgent interventions in the short, medium, and long term.

Under section 184(2)-(4) of the Constitution, the Commission is empowered to investigate and report on the observance of human rights, and to take steps to secure appropriate redress where human rights have been violated. Furthermore, the Commission must require relevant organs of state to provide it with information on the measures that have been taken towards the realisation of the rights in the Bill of Rights concerning access to housing, health care, food, water, social security, education, and the environment.

The Commission has additional powers as regulated by national legislation including the South African Human Rights Commission Act 40 of 2013 (the SAHRC Act). In terms of section 13(3) (a) of the SAHRC Act, the Commission is competent and obliged to 'investigate on its own initiative or on receipt of a complaint, any alleged violation of human rights'. Section 15(1) of the SAHRC Act states further that the Commission may, in order to enable it to exercise its powers and perform its functions, conduct or cause to be conducted any investigation that is necessary for that purpose. Accordingly, and in keeping with its constitutional and statutory mandate and functions, the Commission through its KZN office, undertook an investigation into allegations of systemic water challenges in various districts and/or Water Service Authorities (WSA) in KZN.

The Commission conducted inspections in a number of the municipalities where it was evident from complaints that there are serious challenges in respect of access to water, and inadequate or no municipal contingency plans to provide water to particularly the acutely affected residents and communities. The Commission engaged with these municipalities and obtained information regarding the challenges experienced in water provision. These predominantly include budget constraints, lack of investment in infrastructure, ageing infrastructure, and lack of adequate skills and capacity to address water challenges. Matters have reached a stage where urgent intervention is required, as the municipalities' and WSA's responses remain inadequate in addressing the concerns of the Commission, in that they are unable to provide appropriate redress to the affected communities.

As part of its investigation, the Commission established an investigative inquiry, which was convened from 15 to 19 August 2022, led by the following panel of Commissioners and experts:

Chairperson, Commissioner Philile Ntuli
Deputy Chairperson, Commissioner Chris Nissen
External expert, Prof. Tafadzwa Mabhaudhi, UKZN

The mandate of the panel was to inquire into, make findings, report on, and make recommendations and/or directives concerning the following broad and overarching issues for investigation:

- The extent of the challenges and rights violations experienced by the communities in KZN relating to access to clean drinking water;
- The systemic nature of the violation of rights;
- The extent to which the organs of the state have respected, protected, promoted, and fulfilled the right to sufficient water; and
- The reasonableness of measures including legislation, by-laws, policies, and programmes, adopted by organs of the state to ensure the realisation of the right to sufficient water.

The Commission sought to receive both written and oral submissions from identified government departments, state entities, business chambers, nongovernmental organisations, communities and interested parties for the purposes of the inquiry. Ultimately, the inquiry aimed to determine whether municipalities and WSAs within KZN have violated residents' right to access sufficient basic water supply, as provided for in relevant national legislation such as the Water Services Act, 108 of 1997 as well as the Constitution. In the event of an adverse finding, the inquiry sought to make recommendations on appropriate redress.

A synthesis of complaints and submissions tabled with the Commission and presented at the inquiry, together with panel deliberations thereon, is accordingly captured in this report. The report contextualises the international and constitutional obligations imposed on the state to deliver on the right to access to water, and how these obligations have been interpreted by South Africa's courts in similar instances. It also provides an overview of the context of water provision in South Africa and KZN in particular, considering the unequal basis on which it was historically provided. It details the infrastructure and maintenance shortcomings at the hands of the state, and how these factors were exacerbated as a result of the July 2021 riots and April/May 2022 floods experienced in KZN, with devastating impact on the livelihoods of communities, access to rights and services, and that of water in particular.



2. WATER PROVISIONING — A LEGACY OF INEQUITABLE ACCESS



Although South Africa is a water-scarce country, the province of KZN is relatively water-rich. Most areas of KZN – from the humid sub-tropical climate along the coast to the alpine-type climate found along the Drakensberg mountains, to the more temperate summer rain climate of the Midlands region – have a mean annual precipitation rate that exceeds the South African national average of about 450mm per year. Fourteen rivers drain from the interior into the sea, from Lake Sibiya in the north to Mtamvuna in the south, and the provincial land mass has been divided into 19 water regions (Umgeni Water, 2021).

Pre-colonial African societies, whose cultures were characterised by limited exploitation and landscape alteration, together with mobility, lack of conflict over water resources and lack of population density pressures had little need or incentive to invest in infrastructure technologies and other complex management systems - for both the delivery of water and/or the evacuation of waste. Technologies of use are related mainly to the storage and conveyance of water. Different water sources were used for different purposes. River water was used for washing and bathing, as well as for animals to drink and swim, while spring water was used for drinking and cooking – the Zulu people believed it was purified by the soil (Mbatha et al, 2008).

Water has historically held special significance in Zulu culture, and as with indigenous communities across the world, is spiritually revered. Culture, religion, and social discipline were core elements of water management systems. Proverbs and mythologies depicting the divinity of water were used to protect and preserve water resources from pollution. In Zulu mythologies, Nomkhubulwane is the Goddess of rain, harvest, and fertility. She manifests herself in various ways, including as a rainbow that symbolises the restoration of order after destructive storms (Ndaba, 1999). At the same time, when springs ran dry due to season/weather changes, community elders were appointed to plead for rains from Nomkhubulwane (Mbatha et al, 2008). Such proverbs and mythic symbols were taught to children at early ages and were carried through as a social value system. The Zulu visionary poet Mazisi Kunene records such mythology in his seminal poem 'A Vision of Nomkhubulwane' (Kunene, 1982):

The round ball of the mist hangs over the mountain.
Nomkhubulwane the Goddess has touched the centre.
Breaking it in the four directions of the earth.
She is the white cloud veiled in crimson.
With footsteps as gentle as the movement of water.
She follows the round stone and the young plant.

The conflicts and disruptions that accompanied colonisation changed the water supply and sanitation practices of the Zulu people and other pre-colonial African societies. The colonial administrations, reliant on a largely agricultural and trade economy, confiscated fertile, productive, and well-watered lands. Forced removals and resettlements obliged African people to adapt to less water-rich environments while colonial settlements took root (Mbatha et al, undated).

Engineering works to augment water supply and provide waterborne sewage were built in major centres such as in Durban in the late 1800s, necessitated in part by the need to build resilience to alternating droughts and floods (Mäki, 2009). While the Durban town officials argued that the African and Indian populations benefited from the new systems, and that these systems were suitable for them (in contrast to the exclusionary views expressed in other early colonial towns and cities), the outlay of infrastructure manifestly benefited the white population the most. Further, the motivations put forward, in particular for sanitary improvements, were blatantly racist and dehumanising, and the facilities provided for African and Indian populations were inferior compared to those provided for White people (Mäki, 2009).

During the early years of the apartheid era, specialists in the fields of social, economic, and regional planning and industrial development advised the government to develop town and regional planning projects to drive and benefit mining and industrial development (Tempelhoff, 2017). Although the supply of water for urban needs appears to have piggy-backed the powerful arguments to supply water to the burgeoning mining industry, the notorious Group Areas Act, 41 of 1950 made residential separation compulsory between racial groups, controlling Africans' right of access to 'White areas' and, thereby, to dignified water and sanitation (Tempelhoff, 2017).

The legacy of colonial-apartheid (Sibanda, 2020) resulted in islands of plenty amidst a sea of poverty. As the 1996 Reconstruction and Development Programme observed, 'access to water is dominated by a privileged minority, while the majority of the population enjoy little or no water security' (RDP, 1996). At the start of the democratic era, an estimated 12 million people had no access to clean drinking water, and 21 million people did not have adequate sanitation. Communities, moreover, 'had little say in the provision of water and sanitation, and decision-making in the water delivery agencies ... reflected broader apartheid ideology' (RDP, 1996).

The entrenchment of the right of access to water in the Constitution captures the intent of its drafters, and of the democratic government, to address inequitable access to water services. Section 27(1)(b) of the Constitution accordingly made human rights the cornerstone of a quest to provide millions of South Africans with an improved drinking water source, currently defined in the Sustainable Development Goals framework (UN, 2015) as ‘piped water into dwellings, yards or plots; public taps or standpipes; boreholes or tube wells; protected dug wells; or protected springs and rainwater) that is located on the premises and available when needed and which is free from faecal and priority chemical contamination’ (UNICEF, undated).



3. ACCESS TO WATER – STATE OBLIGATIONS



A. INTERNATIONAL OBLIGATIONS

The International Covenant on Economic and Social Rights (ICESCR), to which South Africa is a signatory, states: 'Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures' (ICESCR, Article 2(1)).

In relation to the right to water, the ICESCR recognises everyone's right to an adequate standard of living (ICESCR, Article 11). This has been interpreted by the ICESCR Committee to include the right of access to water (ICESCR Committee, General Comment 15).

The Committee has also stated that states would violate their obligation to fulfil the right to water where there is 'insufficient expenditure or misallocation of public resources which results in the non-enjoyment of the right to health by individuals or groups' (ICESCR Committee, General Comment 15, para. 44(c)).

The UN General Assembly has determined that the right to an adequate standard of living entitles everyone to have access to sufficient, safe, acceptable, and affordable water for personal and domestic use, without discrimination, and to enjoy sufficient access to ensure human dignity. It stipulates further that clean drinking water and sanitation are essential to the realization of rights (UN General Resolution 64/292, 2010).

The then UN Special Rapporteur on the Human Right to Safe Drinking Water and Sanitation Catarina de Albuquerque has also noted that in situations of emergency, states 'have an obligation to provide culturally appropriate services directly.' (UN Human Rights Council, 2014, para. 53). She also noted that violations of the right to water may result from a failure to act, to implement comprehensive plans and strategies that ensure the full realization of the rights in the long term, to regulate non-state actors, and as an unintended consequence of policies, programs, and other measures. (Human Rights Watch, 2019).

In addition, the right to water is recognized as fundamental to the realization of other rights. This is evidenced by the inclusion of this right in additional international conventions, such as The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Article 14(2) of this Convention obliges states to adopt appropriate measures to eliminate discrimination against women in rural areas, to ensure their equal participation in and benefit from rural development. Amongst other rights in this regard, is the right to 'enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications' (CEDAW, Article 14(2)(h)).

Likewise, the Convention on the Rights of the Child enjoins state parties to recognise the rights of children to the enjoyment of the highest attainable standard of health. States are obliged to take appropriate measures to combat disease and malnutrition in children, through inter alia, 'the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution' (CRC, Article 24(2)(c)).

The Convention on the Rights of Persons with Disabilities (CRPD) calls on states to recognise the right of persons with disabilities to social protection without discrimination on the basis of disability. States are obliged to take appropriate steps to promote and protect this right including ensuring 'equal access by persons with disabilities to clean water services, and to ensure access to appropriate and affordable services, devices and other assistance for disability-related needs' (CRPD, Article 28(2)(a)). In terms of the International Labour Organization (ILO) Convention No. 161 Concerning Occupational Health Services, states are obliged to enact and provide occupational health policies and services that ensure the health and safety of all workers. This includes assessing 'factors in the working environment and working practices which may affect workers' health, including sanitary installations' (ILO, Article 5(b)).



3.1 CONSTITUTIONAL PROVISIONS



The Bill of Rights is described as the cornerstone of our democracy (Constitution, section 7(1)). It enshrines and preserves the rights of all people in our country. The state is required to respect, protect, promote, and fulfil the rights in the Bill of Rights (Constitution, section 7(2)). The state has a positive obligation to protect the fundamental rights envisaged in the Bill of Rights as well as a negative obligation to refrain from violating fundamental rights. This requires the state to prevent impairment of a right, such as through the disconnection of water supply without justifiable reasons and process, as well as protect communities against the violation of their right to water, through positive action, such as the regulation of water service providers to ensure affordable access by communities to adequate quality of water. Through the promotion of the right, the state is obliged to ensure that people are informed of how to exercise their rights, while the obligation to fulfil the right to water, would require the state to ensure the delivery of water services to people, including those who cannot afford it.

Section 27(1)(b) of the Constitution guarantees the right of everyone to have access to sufficient water. Section 27(2), reiterating the language of the ICESCR, stipulates that the state must take reasonable legislative and other steps within its available resources, to achieve the progressive realization of this right.

In addition, the right to water has links with other rights, which are accordingly compromised and violated when the right to water is not realised. An obvious linkage is the section 27 right to food, in that communities' nutrition and food production is affected when water services are disrupted, or the quality of water is compromised. Likewise, the section 27 right to health is equally compromised, when hygiene and disease prevention are affected by disrupted or poor quality of water service delivery. The section 26 right to housing is also affected, as determined in the landmark Grootboom judgement (Government of the Republic of South Africa v Grootboom), which ruled that the right to housing requires available land and appropriate services, including the provision of water and removal of sewage. Environmental rights articulated in section 24 impose a duty on the state to prevent pollution and ensure the conservation of water, while discrimination in the delivery of water services to historically marginalised and excluded communities, and the failure to ensure their access to an adequate standard of living would constitute an outright violation of the section 9 right to equality, and section 10 right to human dignity.

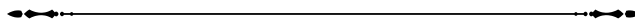
Equally, it could be argued that the right to information held by the state or any other person, needed to exercise or protect the right to water, is compromised, when the state is unable or unwilling to provide communities with information pertaining to the delivery of adequate water of an adequate standard. Finally, section 33 of the Constitution which provides for the right to just administrative action requires that everyone has the right to administrative action by the state that is lawful, reasonable, and procedurally fair. Where communities' rights are negatively affected by decisions and actions of the state, they are entitled to receive written reasons for that action.

Municipalities are primarily responsible for the discharge of the basic service delivery mandate of the state (Constitution, section 153(a)). Insofar as service delivery is concerned, local municipalities are required to ensure the delivery of water and sanitation services to their residents, as well as manage their domestic wastewater and sewage disposal systems.

Municipalities are also responsible for the management of municipal roads, as well as the removal of refuse, refuse dumps and waste disposal.

In terms of section 154(1) of the Constitution, the national and provincial government is required, through legislative and other measures, to support and strengthen the capacity of municipalities to manage their own affairs. Should a municipality be unable to fulfil its constitutional and legislative obligations, the national and provincial government may intervene in that municipality to ensure the fulfilment of its obligations (Constitution, section 139).

In terms of section 156 and Schedule 4 Part B of the Constitution, municipalities have executive authority in respect of and have the right to administer water and sanitation services limited to potable water supply systems and domestic wastewater and sewage disposal systems. The responsibilities and roles of municipalities in this regard are outlined in more detail, in section 3.3 of this report, below.



B. LEGISLATIVE PROVISIONS



Parliament has enacted the Water Services Act (1997) (hereinafter referred to as “the Act”), which sets national standards for the delivery of water services and the right to basic water supply and sanitation. Its main objectives include providing for the rights to access to a basic water supply and basic sanitation, and the promotion of effective water resource management and conservation. It regulates the right of access to water and the state’s obligations in this regard, setting out procedures and conditions for disconnections on the basis of non-payment. Section 3 of the Act provides that:

·Everyone has the right of access to basic water supply, defined as ‘the prescribed minimum standard of water supply services necessary for the reliable supply of a sufficient quantity and quality of water to households, including informal households, to support life and personal hygiene’ (Section 1(iii)), and to basic sanitation, defined as ‘the prescribed minimum standard of services necessary for the safe, hygienic and adequate collection, removal, disposal or purification of human excreta, domestic wastewater and sewage from households, including informal households’ (Section 1(iii)).

·Every water services institution, which includes water services authorities, water services providers, water boards and water services committees (Section 1(xxi)), must take reasonable measures to realise these rights.

·Every water services authority, which includes every municipality, including a district council, responsible for ensuring access to water services (Section 1xx), must, in its water services development plan, provide measures to realise these rights.

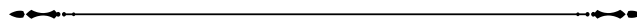
The Act further determines that water services authorities (that is municipalities) have the responsibility, through water services providers, to ensure access to water supply and sanitation services.

The National Water Act (1998) has as its focus the management and protection of water resources, providing rules and guidelines on licensing, and on water pricing and structures, such as the Water Tribunal and Water User Associations. Basic water supply is defined as the minimum standard of water supply services necessary for the reliable supply of sufficient quantity and quality of water to households, including informal households, to support life and personal hygiene. This is quantified at 25 litres per person per day, and 6,000 litres per household per month.

The Draft White Paper on Water Services (2002) provides for the basic water supply of 25 litres of potable water per person per day, and 6,000 litres per household per month. It also requires the provision of basic sanitation services, including health and hygiene education, and the provision of acceptable, safe, and reliable toilets. It sets goals and targets for water services, to ensure the regulation and accountability of water and sanitation services, and that pricing and standards for the provision of these services are equitable, affordable, efficient, and sustainable.

The White Paper on Basic Household Sanitation (2001) calls for the provision of basic sanitation to rural communities and informal settlements and includes the objective of improving sanitation through community participation, awareness, and use of local resources.

The National Water Resources Strategy (2004) provides for the catchment management, and conservation of water, and provides for the subsidizing of previously disadvantaged communities to ensure equitable access.



C. MUNICIPALITIES POSITIONED AT THE FOREFRONT OF THE WATER SERVICE DELIVERY CHALLENGE



As noted in the foregoing sections, Schedule 4 Part B of the Constitution positions municipalities at the forefront of addressing the ongoing, historical legacy of inequitable access to water services by allocating the functional area of 'potable water supply systems and domestic wastewater and sewage systems' to the local government sphere, albeit subject to national and provincial oversight. The Water Services Act, and the far-reaching reforms aimed at establishing wall-to-wall municipalities in the early 2000s, established the legislative context for municipalities to be water services authorities (WSAs), duty-bound to progressively ensure efficient, affordable, economical, and sustainable access to water services [PM1] to all consumers or potential consumers within their areas of jurisdiction.

KZN is South Africa's second-most populous province and is home to just over 11.5 million people (19% of South Africa's total population) (Statistics South Africa, 2022). The province is divided into the metropolitan municipality of eThekweni and the ten district municipalities (DMs) of Amajuba, Harry Gwala, Ilembe, King Cetshwayo, Ugu, Umgungundlovu, Umkhanyakude, UThukela, Umzinyathi, and Zululand. These ten district municipalities are divided into a further 43 local municipalities (LMs), as illustrated in Figure 1 below.



Figure 1: Municipal demarcations in KZN province (Source: Municipalities of South Africa, <https://municipalities.co.za/provinces/view/4/kwazulu-natal>).

Although there are 54 municipalities in KZN, there are only 14 WSAs. These are eThekweni Municipality, all DMs, and the three local municipalities of Msunduzi, Newcastle and the City of uMhlatuze (Umgeni Water, 2021). The constituent local municipalities served by each DM are set out in Appendix III. These 14 WSAs manage 260 water supply systems with a combined capacity of 2 955 Ml/d, serving a reported 8.6 million people (DWS, 2022).

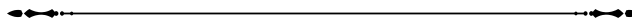
There are also three bulk water suppliers, namely UMgeni Water, Mhlathuze Water, and uThukela Water (Pty) Ltd. UMgeni Water supplies eThekweni Metro, Msunduzi LM and Harry Gwala, Ilembe, King Cetshwayo, Ugu, and Umgungundlovu DMs. The infrastructure in these municipalities is predominantly located in the more urbanized areas (i.e., settlements categorized as a city region, regional centre, local or niche town, high-density rural or dense rural). Mhlathuze Water supplies the city of uMhlathuze, the Umkhanyakude and Zululand DMs, and a number of industrial clients (Mhlathuze Water, 2021). Uthukela Water, a limited liability company with three municipal shareholders, supplies Amajuba and Umzinyathi DMs as well as the Uthukela LM.

These bulk water suppliers and WSAs are responsible for bringing potable water to all residents of KZN. KZN is a youthful province, with 48.6% of the population younger than 34 years of age and the lowest provincial estimated percentage of people older than 60, at 8.1% (Statistics South Africa, 2022). The vast majority of KZN's inhabitants are Africans (87.6%), followed by Indians, White and Coloured people (KwaZulu-Natal Provincial Government 2021/2022). According to a 2019 estimate, almost 60% of KZN households are low-income, with earnings of less than R96 000 per annum. The province also has the highest number of social grant beneficiaries in the country, at just over 4 million (KwaZulu-Natal Provincial Government, 2021/2022). The income and grant dependency statistics are relevant to the financial modelling for water service delivery in the province, as many people are dependent on Free Basic Water.

KZN is also the second-largest provincial economy, contributing about 16% of the national real GDP. Economic activity is diversified, with agriculture, mining, manufacturing, tourism, and construction all making important contributions and having water needs. Economic activity is concentrated in the eThekweni metro, which contributes almost 60% of the provincial GDP. The district municipalities of uMgungundlovu (11%), and King Cetshwayo (7.1%) make smaller economic contributions (of 11% and 7.1% respectively); the Ugu District Municipality and the remaining rural district municipalities all contribute below 5% each (KwaZulu-Natal Provincial Government 2021/2022). The province's economic performance has largely tracked national real GDP: increasing during the 2000 – 2007 period, contracting sharply after the 2007/2008 global financial crisis, and declining steadily during the second decade of the 2000s (including as a result of a severe drought in 2015/2016), again declining precipitously as a result of COVID lockdown measures, and then rebounding to low annual growth of around 1.5%. (KwaZulu-Natal Provincial Government 2021/2022).

again declining precipitously as a result of COVID lockdown measures, and then rebounding to low annual growth of around 1.5%. (KwaZulu-Natal Provincial Government 2021/2022).

In 2020, the province's economic cluster formulated a draft Economic Reconstruction and Transformation Plan to recalibrate and revitalize but also to restructure and reform, the KZN economy. The Plan rests on, amongst others, a policy of "spatial economic transformation" as well as "economic transformation", both of which require investment in "resilient, smart and sustainable" infrastructure, expressly including water and sanitation infrastructure. In terms of this plan, R16.28 billion needs to be allocated to Umgeni Water over five years for various infrastructure projects (KZN ESIEID Cluster, 2020). The Economic Reconstruction and Transformation Plan advances Radical Economic Transformation (RET) through, inter alia, "Operation Vula" (resting on localization programmes), Radical Agrarian Socio-Economic Transformation, black industrialist programmes, and targeted public procurement.



D. COURT INTERPRETATION OF STATE OBLIGATIONS



Our courts have had cause to consider the international, constitutional, and statutory obligations of the state to deliver on its section 27(1)(b) requirements to ensure the progressive realization of the right of access to sufficient water. These judgements lend weight to the complaints received by the Commission, providing illuminative insight into the substance of this right, and its potential violation by the municipalities identified in these complaints.

Firstly, in *Government of the Republic of South Africa v Grootboom*, the Constitutional Court of South Africa developed guidelines for interpreting the meaning of what constitutes reasonable measures to ensure the progressive realisation of rights. In this case, the court held that rights are to be understood and interpreted through their historical and social context, considering barriers to access to services and the vulnerability of specific groups. The court held that an understanding of "access" includes related services to enable the enjoyment of that right, removing barriers to access of that right,

empowerment measures to enable access to that right and the adoption of special measures to ensure access for vulnerable or disadvantaged groups.

The court held that an appropriate interpretation of “reasonable” measures to ensure the “progressive realisation” of rights requires the state to ensure that such measures are balanced and appropriate and ensure access over time to a greater number of people, guided by targets and timeframes over the short, medium, and long-term. Such measures could include legislation, but also requisite policies, programmes and plans to ensure the implementation of such legislation. The court stipulated that the state is particularly obliged to ensure that vulnerable and disadvantaged groups have access to a basic level of delivery on that right and should accordingly implement necessary strategies and programmes in this regard.

In cases dealing with access to water in particular, in the majority of cases heard, courts have enforced the right to access to water and sanitation and charged state institutions to enact appropriate remedial and interim measures to ensure the realisation of this right.

In some judgements, the courts did not accept municipalities’ justification of budgetary constraints as a reason not to provide water to people. In *South African Human Rights Commission v Msunduzi Local Municipality and Others*, residents were in a desperate situation to remedy the municipality's failure to properly manage the landfill site for waste disposal. The court in its findings held that the municipality had failed to comply with the terms of its Waste Management License and to fulfil its constitutional duties to the residents of Pietermaritzburg and surrounding areas. The court questioned the municipality's claim that it was doing its best to manage the landfill site, holding that the municipality appeared oblivious to the serious risk posed to the water resources of the Msunduzi River. The court rejected as inadequate the municipality's justification of budgetary and procurement constraints, particularly because the situation had persisted for more than 15 years. The court ordered the municipality to file a plan to manage the landfill site.

In *Mangaung Metropolitan Municipality v Bloemwater*, the applicant approached the court on an urgent basis, seeking an interdict preventing water restrictions imposed by the bulk water supplier, pending the resolution of a dispute pertaining to non-payment between the parties.

In ruling on this matter, the court held that the right of access to sufficient water, enshrined in section 27(1)(b) of the Constitution must be kept in mind. Further, the right of access to basic water supply and basic sanitation is confirmed in section 3 of the Water Services Act, which imposes on every water services institution and water services authority the obligation to take reasonable steps to realise these rights. The court found that the implementation of water restrictions would lead to harm to the applicant and its inhabitants and would deprive them of their basic supply of water. To allow that to happen, would not be fair and equitable.

Courts have directed municipalities to repair faulty infrastructure or lay new infrastructure in places where there is none, charging authorities to finalise the upgrading of informal settlements to townships, to ensure access to water by communities. In *Thubakgale and Others v Ekurhuleni Metropolitan Municipality and Others*, the court found that the facts of the case revealed an appalling lack of diligence on the part of the Municipality in fulfilling its constitutional obligation to afford adequate housing to the applicants, and its conduct could rightly be described as a sustained and egregious breach of the applicants' rights. Applicants had been allocated subsidies and a plot of land on which a house was to be built, but which never materialised. The court held that the Municipality's conduct constituted an egregious breach of the applicants' rights of access to adequate housing. The applicants were corruptly deprived of houses, and the state is obliged to provide access to housing, healthcare, sufficient food and water, and social security to those unable to support themselves and their dependents.

Courts have condemned the lack of diligence on the part of a municipality in fulfilling its constitutional obligation of access to water. In *Residents of Bon Vista Mansions v Southern Metropolitan Local Council 2002*, the applicants sought an interim order to order the Council to restore the water supply to Bon Vista Mansions, as this had been disconnected by the Council. The court held that if a local authority disconnects an existing water supply to consumers, this is a prima facie breach of its constitutional duty to respect the right of (existing) access to water, and requires constitutional justification. The court held further that residents' rights were infringed in that they had been deprived of access to water, the deprivation was continuing, and they had no other satisfactory remedy. The court granted an interim order in terms of which the Council was ordered to restore the water supply to Bon Vista Mansions.

In another judgement, the court condemned a province's dissolving of a municipality, which resulted in harm to the communities living in that municipality's jurisdiction, due to the resulting lack of access to water. In *Premier, Gauteng and Others v Democratic Alliance and Others* in considering a matter where the Gauteng Executive Council dissolved the Municipal Council, it was contested that the action taken by the Premier was drastic and failed to have regard to other less restrictive means, particularly considering the impact this had the water crisis in Hammanskraal. The court found that the potential harm and urgency in the matter lay not in the harm suffered by the Municipality or the municipal councillors, but in the continued disruption of basic essential services to the people and communities the Municipality is supposed to serve.

Courts have condemned state institutions for not caring for the environment in instances of contamination of underground water resources subsequently pumped to communities. In *Van Staden and Another v Mookgopong Local Municipality and Others*, the municipality did not take active measures to manage its waste disposal site, which led to the contamination of a groundwater source, requiring rehabilitation. The applicant sought an order compelling the municipality to collect all the waste from its waste disposal site and dispose of it in an environmentally safe way, to divert and drain from the site all run-off water, to monitor water quality in affected boreholes and river, and plan for the rehabilitation of the waste disposal site. The court found that the municipality's non-compliance threatened the rights of the applicant and residents of the municipality violated the section 27 right to access to water, and the section 24 right to a clean environment, and ordered the municipality to fulfil its obligations.

Courts have also condemned state institutions for failing to take poor communities into consideration when making policy decisions, and for municipalities' lack of communication with the communities in their jurisdiction. In *Mnisi and Others v City of Johannesburg*, the applicants were residents of the Protea South Informal Settlement, an informal settlement in Soweto, living in a desperate situation. They argued that their housing was inadequate and that basic interim services such as water, sanitation, and refuse removal were not being provided to them. The court condemned the municipality's passivity in not providing sufficient information for the planned renovation of the settlement.

It found that the municipality had failed to engage meaningfully with the applicants and their representatives, that no steps of substance had been taken to seek an agreed or mediated solution with the applicants, and that no steps were identified by the city to demonstrate that it had complied with its constitutional and statutory obligations to provide basic interim services to the residents of Protea South.

Conversely, in a minority of cases, courts have found in favour of the state. In *Federation For Sustainable Environment and Another v Minister of Water Affairs and Others*, the court recognised the principle of the separation of powers, noting that the concept of “progressive realisation” did not justify judicial intervention in the Executive’s measures. Famously, in *Mazibuko and others v City of Johannesburg And Others* the court justified the City of Johannesburg’s Free Basic Water policy and the introduction of pre-paid water meters in Phiri as a reasonable measure, holding that this did not violate the community’s access to water.

In *Astral Operations Limited v Ekurhuleni Metropolitan Municipality and Another*, the court found that there is legitimacy in the municipal imposition of water restrictions in the context of a drought. Equally, in *Bhushula v Ukhahlamba District Municipality*, the court blamed the community for illegal connections of water from the main pipelines, which created a high demand on infrastructure. The court found that the state’s installation of water pipes on a drought relief budget was a reasonable legislative measure taken by the municipality within its available resources to achieve the progressive realization of the right to have access to sufficient water.

In *Minister of Public Works and Others v Kyalami Ridge Environmental Association and Others*, the court found the state’s establishment of a temporary transit camp for victims of flooding to be lawful and upheld its adoption of temporary measures to relocate flood victims to a different area. The court reasoned that the government would have failed in its duty to the victims of the floods if it had done nothing.



4. FULFILLING THE RIGHT OF ACCESS TO WATER — PROGRESS AND SETBACKS



A. INFRASTRUCTURE ROLL-OUTS

Over the first two decades of the 2000s, significant progress was made in rolling out infrastructure for water access. At a national level, 9.3 million households had access to piped water in 2006, and by 2021 that figure had increased to 14.8 million.

According to the most recent General Household Survey, at a national level, the percentage of households with access to piped or tap water in their dwellings, off-site or on-site, increased from 85% in 2002 to 90.9% in 2012 but has recently declined to 88.7% (Statistics South Africa, 2022a). The corresponding averages for KZN were 75.4% (2002), 87.8% (2012) and 87% (2021) (Statistics South Africa, 2022a).[1]

According to national statistics, about 45% of households nationally have access to piped water in their dwellings. Some 29.4% of households access water on-site, while 12.2% rely on communal taps. About 2% of households rely on neighbours' taps, while 2.7% still had to fetch water from rivers, streams, stagnant pools, dams, wells, and springs (Statistics South Africa, 2022a).

But while significant progress in providing access to piped water has certainly been made, the functionality of infrastructure has progressively become an issue of concern. The general management and repair to infrastructure, lack of technical and non-technical skills, under expenditure on infrastructure grants, as well as water losses, are key challenges that impede on progress made in providing access to clean drinkable water and pose a threat of a national water crisis (DPME, 2022). In her Consolidated General Report on Local Government Audit Outcomes (2020/2021), the Auditor-General notes that while an acceptable norm for water distribution losses nationally is between 15% and 30%, the average water loss across the country was at 50% (Auditor-General, MFMA Report, 2022).

[1] In some provinces, such as Limpopo and Mpumalanga, the percentage of access to piped water actually declined in the period 2002 – 2021 as a result of the rapid increase in households, but KZN is not among these.

Water interruptions have become more common, and municipalities reportedly do not have budgets to maintain water service infrastructure. Approximately one-third of South African households reported some dysfunctional water supply service in 2021.

[1] In some provinces, such as Limpopo and Mpumalanga, the percentage of access to piped water actually declined in the period 2002 – 2021 as a result of the rapid increase in households, but KZN is not among these.

As figure 2 below shows, however, the lower levels of water interruption[1] in Gauteng and the Western Cape skew this statistic somewhat and in at least four provinces, more than 50% of households reported a water interruption. In KZN, 46.9% of households reported a water interruption during 2021 (Statistics South Africa, 2022a).



Figure 2: Percentage of households that reported a water interruption, by province (Source: Statistics South Africa, 2022a, p. 34).



[2] The General Household Survey defined a water interruption as an interruption lasting more than 2 days at a time, or more than 15 days in total during the 12 months of the survey.

B. FLAGGING DYSFUNCTION – THE BLUE DROP CERTIFICATION PROGRAMME

In 2008, the Department of Water and Sanitation adopted the Blue Drop certification programme as a form of incentive and risk-based regulation for WSAs. The Blue Drop programme is based on five risk indicators, namely design capacity, operational capacity, water quality compliance (microbiological and chemical), technical skills, and water safety plans. The Programme prominently features the World Health Organisation’s Water Safety Planning concept but incorporates important South African regulations and regulatory standards such as the South African National Standard (SANS) 241 Drinking Water Specification (SANS 241-1, 2015), the minimum requirement for drinking water considered safe for human consumption. The assessment culminates in a Blue Drop Risk Rating (BDRR) in order to establish a scientific baseline of critical risk areas in the water supply sector, and to use continuous risk measurement and reporting to drive risk management.

In 2022, the DWS published its Blue Drop Progress Report (2022), which presents the findings of the latest Blue Drop assessment conducted from 1 July 2020 to 30 June 2021. Nationally, the process assessed 144 WSAs with authority over 1186 water supply systems. In KZN, all 14 of the WSAs and 204 of the province’s 260 water supply systems were evaluated (DWS, 2022). A detailed summary of the Blue Drop assessment for the province against the five risk indicators is set out in Appendix IV and incorporates the raft of recommendations that emanated from the process.

In terms of the national level findings, 11% of South Africa’s water supply systems are in a high risk, and 23% are in a critical high-risk category. In KZN, the number of water supply systems considered “low risk” correlated with the national average of around 48%. A smaller number of water supply systems were found to be “high risk” (at 7.4%), but a slightly higher number of systems were in the “critical risk” category (at 26.5%).

As regards, particular risk indicators, the Blue Drop report for KZN flagged poor water quality as a concern, as 68% of water supply systems did not achieve microbiological compliance in line with SANS 241: 2015, and 86% of systems did not comply with chemical determinants. SANS 241, for example, sets out particular limits for microbiological determinants such as E. Coli or faecal coliforms and protozoan parasites (amongst others), chemical macro determinants such as chlorine, nitrates, sulphates, and fluoride (amongst others) and chemical micro determinants, encompassing sixteen heavy metals (including cadmium, lead, and arsenic). The assessment also found problems relating to microbiological and chemical sampling, with 53% of systems scoring less than 80% for microbiological monitoring compliance, and 73% scoring less than 80% for chemical monitoring compliance. In short, WSAs had insufficient samples to guarantee the safety of water at all points in the distribution system. Technical skills emerged as an even greater source of concern. Only 8% of water supply systems were considered to have “excellent technical skills, and 54% had poor technical skills (<50% compliance with the criteria). Water safety planning, a key factor in risk management, was very poor across the province with the provincial average relating to this indicator sitting at 24% (DWS, 2022).

Taking account of a weighted Blue Drop Risk rating, 48% of WSAs in KZN fell into the “low risk” category (eThekweni, uThukela LM, uMhlatuze LM and the DMs of Amajuba, Harry Gwala, King Cetshwayo, Ugu, and Umgungundlovu). Ilembe, Umzinyathi, uThukela and Zululand DMs fell into the medium-risk category, while Umkhanyakude was identified as a “high-risk” area and Msunduzi LM was flagged as “critical-risk” (DWS, 2022).

The provincial Blue Drop assessment stands as a valuable baseline assessment of the strengths and vulnerabilities of the water supply system in KZN. However, the analysis and evaluation were completed in June 2021, prior to two major shocks –one political, the other climatological – namely, the July 2021 unrest and the devastating floods that ravaged the province from 8 to 21 April 2022.



C. SHOCKS TO KZN'S WATER SUPPLY SYSTEM – JULY 2021 UNREST AND APRIL/MAY 2022 FLOODS



During July 2021, widespread and violent civil unrest engulfed parts of KZN and Gauteng, leading to the deaths of 354 people and extensive damage to public and private property. Damage to schools, which were hard hit, amounted to over R100 million (Damons, 2021). In eThekweni alone, the riots cost the private sector at least R70 billion and 9,100 jobs were put at risk (Erasmus, 2022). Although water treatment facilities were not specifically targeted by the orchestrated campaign of public violence, destruction and sabotage, the riots severely dented the province's resilience and confidence and grounded calls for water treatment facilities to be classified as 'national key points' in the future (Expert Panel into the July 2021 Riots, 2021).

Less than a year later, the province was hit by a second shock, in the form of torrential rains during the months of April and May 2022. Between 8 and 21 April 2022, a strong low-pressure system off the east coast enhanced by an influx of low-level moist air feeding in from the southern Indian Ocean wreaked destruction – disruptive rainfall, widespread flooding, sinkholes, and mudslides (JBA, undated). Described as the worst floods in living memory, the torrential rain led to the deaths of 459 people and billions of rands in damage to private and public property (BBC Staff Reporter, 2022). In May 2022 a second wave of flooding hit the province, forcing even more people to flee their homes (Al Jazeera Staff Reporter, 2022).

Despite a certain level of climate change adaptive planning at a provincial level and among some city governments, the catastrophic rains hit the province's water supply network hard, with more than 80% of the network reportedly impacted. Many communities had to turn to non-governmental and community organizations to meet their most basic water needs (O-Regan & Ngcuka, 2022). By August 2022, the total budgeted cost estimates for flood-damaged water and sewer infrastructure in KZN totalled R2,214,271,687 for short-term and R7,734,273,699 for long-term repairs (DWS, 2022).

In the wake of the barrage of complaints received after (but also prior to) the floods, the SAHRC resolved to convene a provincial hearing into access to water in the province.

D. GOVERNANCE

The local government's response to addressing water service delivery backlogs, ensuring the efficient operation and maintenance of water supply infrastructure, and dealing with the impacts of shocks such as the April/May 2022 flooding is also compromised by the declining state of local government.

For a number of years, many municipalities in KZN have performed poorly. According to the 2021 State of Local Government Report, out of the 54 total municipalities in KZN, 11 were declared dysfunctional, 20 were at medium risk, and only one was stable. Further, of all municipalities under administration at the time of the release of the report, 39% (10 out of 26) were in KZN. A lack of scarce skills, intra-and inter-political party issues, poor financial management, corruption and fraud, and weak civil society involvement in governance are key contributors.

In her latest municipal audit, the Auditor-General, South Africa found that audit outcomes in KZN reflected a net regression over the term of the previous administration as a result of inadequate leadership action in responding to key risk areas, political infighting, instability in key positions, inexperienced officials, and lack of enforceability and consequence management. Despite municipalities paying more than R698 million to financial reporting consultants over the five-year reporting period, there was only limited improvement in audit outcomes and controlled environments (Auditor-General, South Africa, 2022).

eThekweni received an unqualified audit with findings, four DMs (Amajuba, Ugu, uMzinyathi and uThukela) and one DM (uMkhanyakude) received a disclaimed opinion. Even though three municipalities received a clean audit, in the opinion of the Auditor-General, this did not necessarily translate into effective and efficient service delivery (Auditor-General, South Africa, 2022).

Ineffective revenue and debt collection processes continued to plague municipalities in KZN, which impacted negatively on service delivery as municipalities struggled to pay service providers such as Eskom and the water boards on time.

At the close of the latest local government audit, these entities were R1.85 billion in arrears. Poor project management of the funds that were spent also resulted in quality defects on, amongst others, water, sanitation, and other projects (Auditor-General, South Africa, 2022).

In conclusion, the Auditor-General found, in respect of municipalities in KZN, that:

"Preventative controls and consequence management need to be further strengthened to trigger sustainable audit outcomes. Leadership and management must also pay closer attention to service delivery – and to transparency in reporting on service delivery – to ensure that funds are used efficiently to maximize service delivery and ultimately improve the lived reality of citizens. (Auditor-General, South Africa, 2022: 69)".



5. COMPLAINTS – EVIDENCE OF SYSTEMIC SERVICE DELIVERY FAILURES



The Commission has undertaken an analysis of all complaints received by its provincial office, including submissions made during the course of its inquiry. Complaints received have been classified into the following categories:

- No water supply
- Interruptions in the water supply
- The impact of illegal connections
- Intersectionality and the impact of water service delivery failures on vulnerable households
- Attempts to engage with municipalities and obtain information

A. NO WATER SUPPLY

In the main, key issues raised by complainants do not indicate the complete lack of provision of water, but rather lengthy periods extending to weeks and months during which water services are disrupted. Complainants express concern at the quality of water provided when services resume, and what they see as unfair billing practices during periods of no water provision, in the form of estimated charges, and continued billing. Residents who pay for water services are particularly aggrieved at not receiving water despite paying for this.

This is evident in complaints from Alfred Duma local municipality, where water is not available at night and over weekends, and Ethekeeni district municipality, with areas such as Newlands West, Tongaat, Durban, Umlazi and Lamontville experiencing water interruptions on a daily basis. Hilltop residents complained that they have not received water in three years, while Tongaat residents recorded some 85 days after the floods, that they still did not have drinking water on tap. In King Cetshwayo district municipality, Umlalazi local municipality residents complained that they have received no water for years. In the Zululand district municipality, complainants also reported a lack of running water.

In the Ugu district municipality, in Margate and Hibberdene, no water has been available for five months, yet residents are billed in full. Complainants report that Leisure Bay is characterised by water interruptions, breaking infrastructure, and poor management. In Margate, complainants reported that they are billed for sewage services, without getting this service, and tourism is affected in this town, which is the economic backbone of the district, causing businesses to close and resulting in job losses. Port Edward residents reported that they have received no water for weeks, without water tankers provided to deliver water to communities, yet they continued to be billed by the municipality. Port Shepstone complainants reported that they had not received water for weeks, and there is no evidence of infrastructure maintenance over the past 25 years. Ramsgate complainants noted that they had been without water for more than 100 days, while residents in Southbroom reported no access to water for more than two weeks.

Sunwich Port residents reported that they experience water interruptions, while Umtentweni residents reported water interruptions, burst water pipes, and sewage running down the streets into the rivers. Uvongo residents reported they have no water.

In other areas, complainants reported sporadic water outages, having water on tap one day, and none the following day. In the Uthukela district municipality, the Inkosi Langalibalele local municipality has been without water since 15 April 2022, while residents in other local municipalities report that ongoing water interruptions are an issue. Complainants allege that while they are billed for services and do not receive water, residents in RDP houses who are non-rate payers, do receive water.

In other instances, complainants noted that when water is available, the pressure is low, or the water is dirty brown, appearing to be pumped directly from the dam and straight into people's homes without purification. This is the case in the Umkhanyakude district municipality, where complainants in the Mtubatuba and Jozini local municipalities alleged that they are supplied with water not fit for human consumption.



B. WATER INTERRUPTIONS



Most complaints pertaining to water interruptions reflect interruptions for extended periods of time, with poor response from municipalities, and offices allegedly being closed as early as 10h30. The impact of resulting water shortages is felt acutely by local schools, hospitals, old age homes, creches and businesses, and emerging health crises are seen, exacerbated by the presence of sewage. The daily burden of collecting water in buckets places stresses on communities, with many reporting complaints of tankers not being dispatched during outages. Some families have resorted to installing JoJo tanks which are costly to maintain, and report that they have to spend money they can't afford on water for drinking.

Following an analysis of 121 complaints across municipalities in KZN, it has emerged that water interruptions are a serious and persistent challenge in the Alfred Duma local municipality, with community members from Colenso reporting water being unavailable for extended periods of time, particularly during the evenings, over the past five years. Since July 2022, residents report that water is not available from Friday afternoon to late Monday morning and shut down daily from 21h00. These water interruptions, experienced mostly at night and on weekends, mean that communities go for days without water, and toilets are unflushed, causing nausea and illness. Residents reported that no water tankers are sent to assist them.

Residents reported a further problem relating to sewage all over town, causing an influx of flies and disease. Residents in Kwahlathi reported a complete lack of water infrastructure to deliver water to households, no reservoir to store water, and seemingly no accountability for this failure in service delivery. In Ladysmith, residents reported daily water interruptions without notice, citing faulty pumps at the reservoir, and allegations of corruption and mismanagement.

In the Umzinyathi district municipality, a complainant with an outstanding water account, who had attempted to make payments in instalments, reported that their household had had no water for three weeks. Towns in the Ethekwini district municipality such as Newlands West, Verulam, Tongaat, Lamontville and Obed Kunene all experienced ongoing water interruptions, in some instances for a period of 80 days. Others reported water outages for periods of 15 hours, with outstanding work at the water treatment plant cited as the reason for these. In Ntuzuma B, a complainant reported the lack of access to water for over a year, and infrequent provision of water tanker services, noting that the lack of access to water impacts significantly on the elderly and those with disabilities.

In the Uthukela district municipality, complainants in Ushetzi reported a lack of water since 15 April 2022, and in the Inkosi Langalibalele municipality, illegal connections were highlighted as the cause of water supply problems. Estcourt has experienced a severe water crisis, with complainants reporting no water for a period of six weeks and ongoing water interruptions with either no water, low pressure, or dirty water. The situation has left some residents unable to use their toilets. Residents reported that the municipality does not fix burst pipes in time,

often leaving water to run for days and that they see instances of deliberate sabotage of water reservoirs, with the municipality failing to put measures in place to address this.

Complaints about sewage services not being delivered were also recorded, with reasons cited including billing queries, burst pipes, sabotage of water supply, pumps not functioning due to mismanagement, and reservoirs deliberately not being filled. Complainants from the Ugu district municipality town of Leisure Bay reported no water on a weekly basis for days at a time due to broken infrastructure, old infrastructure with muddy and frequent, or daily burst pipes and water shedding, with no tankers dispatched to assist residents. Margate residents reported no water for three weeks and being billed for sewage removal without receiving the service.

In the Umkhanyakude district municipality, complainants reported receiving only dirty water for cooking and drinking, with the reason provided being a delay in the maintenance of infrastructure. In the town of Port Edward, complainants reported the lack of water services for up to 25 days, and water interruptions experienced every two hours, becoming the norm on a monthly, weekly, and sometimes daily basis. Despite this, residents were still being billed for full charges.

The shortage of water is attributed to load shedding, where pumps do not function. In Ugu, there are allegations that the district municipality does not have the management, know-how and capability to provide a constant daily supply to residents. Sewage facilities were also cited as a problem leading to major health issues. Complaints from Port Shepstone, including Oupa Dithejane and Oslo Beach, cited water interruptions with little to no water on most days. Water interruptions continue for weeks at a time and are attributed to the reservoir being low, breakages at the plant, air in the system, and as a result of the infrastructure collapsing. Other reasons provided include low cut-off pressure systems, flooding, high salt content, disgruntled workers causing sabotage, inequitable water rationing and service delivery protests.

Ramsgate only accounted for 24 complaints ranging from water interruptions to no water for extended periods of time, and in one instance, 103 days of no water. Southbroom residents reported water interruptions, as did Sunwich Port residents, over the past five years, with challenges in water supply and infrastructure collapse accounting for these failures.

In Umlazi, under the King Cetshwayo district municipality, a complainant reported no water service delivery for years. Others in Umtentweni reported no water for 72 days, with the water supply having deteriorated since 2020. Other areas reported that when there are water interruptions, tankers deliver water to JoJo tanks belonging to influential people, and poor people who cannot afford JoJo tanks stay without water.

A concern raised by residents in the Ethekwini district municipality is that while it is reported that there is insufficient water to be piped to residents' homes, water is still being delivered to certain communities through water tankers and standpipes. There are, nonetheless, insufficient water tankers to meet communities' needs. These frequent areas are far removed from where people live, are often empty, and restrictions of five litres per person are imposed. Community members reported in addition that tankers appear irregularly, and that they never know when these will arrive, so that they can plan accordingly.



C. UNLAWFUL CONNECTIONS



From the complaints received, residents have noted the impact of new settlements, where residents have unlawfully connected to the system, having an impact on the water supply to residents. Complainants note that municipalities have done nothing to address these incidents. For instance, in the Uthukela district municipality, residents in the Inkosi Langalibalele local municipality note that there are mushrooming unlawful connections in areas where new houses are being built. They allege that the interface of politics and administration in municipal governance structures impedes on possible interventions, as access to land, and general land rights, are often dominant discourses in local contestations for political votes. In Ogunjini, multiple unlawful developments were reported, such as clock yards, truck yards, housing settlements and factories that connected to the water supply grid, adding strain on the existing infrastructure.

D. INTERSECTIONAL ISSUES

Complaints received revealed subjective identities according to gender, race, age, class, and geography played a key role in approximating individual access to water. Traditional household roles reserved for women, such as cooking, cleaning, fetching water, and washing clothes add a gendered perspective to the human right to sufficient water. Similarly, underdevelopment in traditional communities, townships, and informal settlements increases the risks of certain groups to water non-delivery. Within these groupings, physical challenges of the elderly, persons with disabilities, and children render them more vulnerable than others.

Specific complaints received from stakeholders working with the elderly, persons with disabilities and children, paint a grim picture of the impact of water non-delivery on vulnerable groups. In one complaint, a community member reported visiting a severely dehydrated elderly woman who lived alone, whom he found drinking water out of the cistern of her toilet out of desperation. In another, the owner of a frail care home reported pressing challenges in the ability to do laundry due to the non-delivery of water in their area. Some complaints reported the aged having experienced health challenges and injuries as a result of having to carry heavy loads of water from tankers to their homes.



5.1 MUNICIPALITY ENGAGEMENTS

Many complainants expressed dissatisfaction with the responses they received from their municipality when attempting to log water service delivery complaints or obtaining feedback on existing complaints, or information pertaining to when the water supply will resume.

Complainants report communication barriers in the form of no answers to telephone calls, no responses to emails and WhatsApp reports, and empty promises. The picture painted is one of municipalities being unmoved by community distress and suffering.

In many instances, interactions with municipalities are marred by political infighting, and acts of corruption. A myriad of complaints point to corruption in municipal workers' sabotage of facilities to access tender repair work and provisioning of tankers, abuse of the overtime system ostensibly to attend to complaints after hours and manipulating privileged access to the water supply. Community members cite countless experiences of encountering rude and arrogant behaviour from municipal officials and councillors.



6. INQUIRY DELIBERATIONS

6.1 DAY ONE: MONDAY, 15 AUGUST 2022

A. PROFESSOR OCHALLA, WATER RESOURCE SPECIALIST (EX-UNIZULU)

Professor Ochalla stressed the importance of viewing water as a basic human right, key to sustaining livelihoods. He also stressed the fact of water scarcity, noting that South Africa has one of the lowest levels of mean annual rainfall. Within this context, he raised the concern about the misuse of water. Further, while climate change is blamed for water scarcity; in his view, this is induced by anthropogenic causes, and results in the violation of human rights. For instance, citing the fact that 82% of the country's 120 rivers are threatened, he noted that rivers depend on delayed subsurface flow, meaning that the management of land has an impact on such flow.



In KZN in particular, there has been a significant change in land use which affects subsurface flows and transpiration. As a result, the dams are only full in the rainy period (October to March). Maintaining the ecological health of the river depends on the subsurface flow. In the context of poor municipal planning, where people are permitted to build on floodplains, this situation is aggravated, impacting on rivers.

Professor Ochalla noted that while five of the province's 14 WSAs always experience water shortages, even those that have performed well have historical, managerial, and administrative shortcomings. Examples include intended plans to extend water delivery, and in some instances, the construction of necessary pipelines, yet there is a failure to provide connections to the neighbouring communities. He identified this as negligence on the part of municipalities, noting that by design, communities have not been supplied with water.

He noted that water demand is increasing in the context of a projected continued rainfall decrease and reduction in water storage. Households continuously abuse the free basic water policy, and municipalities have been unable to charge households for their "excess" usage. This impacts on municipality's financial resources, resulting in their inability to maintain the infrastructure. Professor Ochalla called on municipalities to address non-revenue water.

The provision of water to communities through tankers is supposed to be a short-term, emergency solution, but this has become a permanent water solution in some communities. He alleged that tanker owners have formed a cartel, and this is difficult to break because municipal officials are involved. The Department of Water and Sanitation (DWS) is also misguided in trying to over-regulate the drilling of boreholes, and he called on DWS to accelerate the provision of boreholes. He also noted that there is no excuse not to promote desalination, specifically in coastal cities, noting that all of the successful desalination plants are in the Western Cape.

Professor Ochalla noted that communities respond to water shortages by protesting, with vandalism being a manifestation of the lack of access to water. Another adaptation measure people have adopted, such as in 70% of rural communities, is to source their water directly from raw water sources, such as dams and rivers, which infringes on their right to dignity.

In Tongaat, Durban, where communities went for 21 days without water, schools were closed. People in the area would gather water from swimming pools, impacting on their dignity. He cited other instances where communities have taken the local municipality to court over chemical contamination of water, or taken matters into their own hands, and constructed dams and bridges, raising concerns of legality. Within communities, there are well-to-do households and members who abuse the tanker system.

In deliberation, the panel noted the systemic challenges in distribution, noting that while water is available, the mechanisms of distribution are not available to ensure access. This is exacerbated by infrastructure and energy challenges, issues of governance, procurement, and lack of community participation. When communities are not fully informed or involved, this leads to protests and communities taking matters into their own hands.

Professor Ochalla noted that capacity in the municipality is weak, and typically service delivery is hampered by shortcuts. He called for a drive to bring back engineers who are retired. He also noted that the procurement process in the municipality is slow and not transparent, and is marked by inflated amounts and non-delivery. Catchment Management Forums no longer operate, and, therefore, there are no structures to deal with issues at the grassroots level.



B. TONGAAT: SANDFIELD CIVIC ASSOCIATION (SCA); TONGAAT CIVIC ASSOCIATION (TCA)



The SCA referenced the floods of 11 April 2022, but noted that the impact on certain areas of Tongaat was caused by the neglect of the Tongaat-Hulett Group (THG) and the eThekweni Municipality, referring to historic servitudes granted to the THG to dam the local river. During the course of 11 April, the community alerted the THG and the municipality to the rising dam levels, alleging that delays in opening the sluice gates resulted in the flooding of local houses up to their roofs and the loss of lives. In addition, the local water treatment plant was damaged, and the municipality failed to take action to address this.

The community was aggrieved by the lack of response by THG and the municipality to the loss of lives and damage to property of local residents, who were forced to rely on private entities to deliver water to affected communities. Instead of invoking provisions to declare an emergency, the municipality adopted the route of creating tenders for the provision of water through the system of water tankers. The community alleged that instead of ensuring that communities affected by the floods received service through the local reservoir, this was strategically shut off to prioritise the provision of water to big business. They also alleged that in some instances, tankers collect water from the reservoir, and sell this to communities. They further alleged that the number of tankers is inadequate to meet communities' needs, and no regular scheduling of delivery times is provided to communities.

The community also reported damage to its sanitation line and the flow of raw sewage into the river. They raised this with the mayor and deputy mayor in a public platform, highlighting the potential for contamination of drinking water. They noted that to date there is no plan or budget to address this contamination and that raw sewage continues to flow directly into the river. They called for the original water treatment plant to be utilised but noted that the municipality indicated that refurbishment costs were prohibitive. They allege that the municipality is nonetheless spending millions of rands on the provision of water by water tankers. They cited that this was evidence of the lack of political will to provide the community with water and engage with their proposals, with the municipality instead prioritising opportunities for state capture.

The TCA reiterated concerns raised, noting the following key failures on the part of the municipality:

- Failure to act quickly in the emergency
- Failure to meaningfully communicate and work with civic associations on the ground
- Failure to secure sufficient water tankers for the area and allowing mafia-style allocation of tankers
- Allowing the emergence of a new water tanker business in Tongaat
- Failure to connect alternative sources

The TCA stated that 126 days after the flood, the residents of Tongaat still did not have water on tap. They reiterated that the municipality's failure to enact appropriate emergency measures impacted on the dignity of residents, whose rights to healthcare, sufficient food and water have been violated.

Clinics and hospitals struggled to remain open as the demand for water increased, and various protests spiralled out of control. Approximately 106 residents displaced by floods have been accommodated in community halls, and neglected by the municipality. The TCA has relied on Gift of the Givers and other civic support to provide meals and water to these families. They further alleged that the community of Tongaat, historically disadvantaged, was discriminated against based on race, and that the needs of other communities, such as Umhlanga, were prioritised over theirs. They expressed concern about the pollution and plastics that have made their way into the water system.

The community is still awaiting the promised repair to the waste treatment plant, and assert further that their right to information has been violated, as they have yet to see any plans, receive any progress update or any schedules of tanker deliveries, further undermining community-level accountability by the municipality. As noted, sewage is still flowing into the river, and no information is available on when this will be attended to. Apart from the violation of environmental rights, residents feel their rights to equality and dignity have been violated by the municipalities' failure to act and respond to their grievances. Elderly residents in particular are suffering, as they are forced to carry 20-litre buckets of water for long distances and walk up flights of stairs. As a result, injuries and deaths have occurred.

The TCA laid the blame for much of the damage at the hands of the THG, noting its responsibility for the Pringle Dam flooding due to the sluice gate malfunctioning, and for the sewer line across the river.

In the panel deliberation that ensued, representatives confirmed that Tongaat residents are still being billed for water, and have been advised to continue paying, despite the lack of service, to avoid disconnection of electricity. Some operators collect free water from municipality collection points and then sell this to community members. They confirmed that while some of the tankers delivering water are branded as belonging to the municipality, outsourced tankers are not branded or bearing any identification.



C. UGU RATEPAYERS' ASSOCIATION (URA)

The URA laid the blame for water service delivery failures at the hands of the Ugu District Municipality Council, the Department of Water and Sanitation, and COGTA, calling for them to be investigated and held to account. Ugu residents experience water outages for several hours, shortages for three days at a time, and recently, 34 days with no water at all. This is impacting most significantly on the elderly, those with disabilities, school-going children, particularly young girls whose personal hygiene is affected, and health clinics and local hospitals. One elderly woman was completely dehydrated, having resorted out of desperation to drinking water from her toilet until that too was exhausted, and another on her own, wheelchair-bound, who had not had access to water at all. Local schools should be closed for the 80% of the time there is no water but have to continue operating. Local businesses are also severely affected by the ongoing water shortages, particularly those in the tourism industry, which is a primary source of business for the South Coast. Domestic animals and those in animal husbandry are suffering. They cited an instance where a water tanker deliberately swerved and ran over the containers of people who had queued for hours for the tanker to arrive.

The URA alleges that the Ugu municipality is in denial about the challenges experienced, and there is no accountability for this dereliction of duty. The URA made a submission to the Commission, and made further submissions to the KZN Legislature, tabling this at a sitting with COGTA. The URA alleges that the COGTA MEC tore up half the petition containing 1,800 signatures from community members.

Community members have not been able to obtain information from the municipality on its plan to address the challenges faced. Water shortages affect people across the Ugu District Municipality. Street protests are escalating and turning violent.

The URA called for a local state of disaster to be declared. Residents are relying on aid from Gift of the Givers and other civic actors, but support is waning, and the state cannot abrogate its responsibilities to these stakeholders. It noted that the Water Services Committee has not sat and could be utilising its powers in terms of the Water Services Act to oversee local service delivery.

D. WOMEN'S LEADERSHIP AND TRAINING PROGRAMME

Critical issues pertaining to the gendered impact of climate change, community difficulties in accessing water, safety in accessing water and the quality of water accessed were raised. Gendered roles in fetching water were highlighted, and their impact on girls' health and other rights. Young girls are expected to collect water on behalf of their families, and this has exposed young girls to the occurrence of ukuthwala, or abduction for early marriage, and rendered them vulnerable to other forms of sexual violence. Abduction for early marriage also often takes place on girls' way to school. This results in gendered implications for access to education. Girls have to walk about 1km to fetch water from the municipal standpipe, when water is available, and about 2-3 km when water services are interrupted, which is for approximately three to four months of the year. Apart from their exposure to gender-based violence, this impacts on the time available for their studies, and their attendance at school.

During COVID, access to water became aggravated. Children were required to bring 2 litres of water to school to qualify for benefiting from school feeding schemes, compromising their education and health rights. Water quality deteriorates during dry seasons, from rural communities to townships. Young girls are directly affected by water provisioning failures and were involved in collecting data on water quality, yet they have no say in decision-making or the opportunity to participate in these processes, as they are regarded as 'kids' culturally and politically, as they are not able to vote yet, and yet the burden of responsibility for water sits on them heavily. This is literally apparent, in evidence of numerous cases of sciatica as a result of carrying heavy loads of water. Traditional leaders have been engaged on research findings to assist in developing solutions, as they are trusted by communities. Local councillors have no understanding of the connection between issues pertaining to girls and water, and young girls have no trust in their local government.

Dialogue is being sought, but water challenges have formed the basis for most of the protest action in the area. There is no access to piped water to rural households, and girls need the skills to test the quality of water sources of springs and rivers. The natural water systems have to be protected, as this is the community's only hope when there is no water delivered by the municipality. The dangers faced by girls in

collecting water need to be addressed, and education and awareness are needed on this. The programme includes engaging with teachers to raise awareness on these issues, who are sometimes chastised by community members for interfering with customs and cultural practices. South African Police Services has equally demonstrated an inadequate response to the abduction of young girls, particularly where families have negotiated and paid damages. Water is directly connected to community members' spirituality, identity, and health – water is essential for natural births and rites of passage, and these are comprised when water is dirty.



E. ABAHLALI BASEMJONDOLO (SHACKDWELLERS' MOVEMENT)

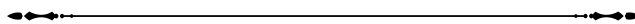


People living in informal settlements have historically experienced challenges in accessing water, with many shack dwellers having lived their lives without access to water. Five water standpipes were installed to serve a community of 12,000 people, resulting in long queues, and people having to carry 25-litre buckets of water up steep hills. This has a particular impact on women, with reports of rapes taking place when women queue or walk to use public toilets or access water. Others exploit the situation by selling water that should have been provided free of charge, and conflicts arise in competing for access to water. Again, women experience these challenges more acutely.

The indignity of lacking access to water is exacerbated when community members have to witness water tanks delivering water to adjacent communities, yet water is essential for people's lives. This was exacerbated during COVID, with inadequate water available for people to wash their hands and maintain hygiene. Informal settlements were promised water tanks during COVID by the national minister, yet provincial and municipal stakeholders refused to engage with Abahlali or consult about this provisioning. Some settlements have no road access, which impacted on delivery by water tanks and the provision of ablution services. Abahlali hired tractors to create access roads to get water to people, yet the municipality refused to send tankers to these areas.

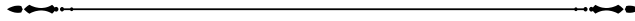
Abahlali is of the view that water has been politicised and commodified, and community members are being punished for occupying land by not being provided with water. The municipality is denying people access to services to discourage them from moving to the cities, which should belong to all people. As a result, community members have undertaken unlawful connections, resulting in allegations of criminality, and criminal charges being laid. And yet it is unconstitutional to deny people their right to water.

Some settlements have been provided with ablution blocks, which although these are appreciated, it would appear the municipality is of the view that this absolves them of the responsibility to provide water to communities. People are obliged to drink water from ablution facilities. This is an issue of dignity and respect for rights, and access to justice. The irony is that many settlements are located adjacent to dams, such as Inanda Dam, and yet those communities do not have access to water, as they are not connected to the water infrastructure. There are allegations of corruption preventing people from accessing services, with officials accepting money for connections, and then asserting that there is inadequate infrastructure to deliver water. The view is that the relationship between a community's local councillor and municipal structures determines whether that community receives water or not, with the result that service delivery differs between adjacent areas. Abahlali appreciates that damages occasioned by the floods have raised awareness around water access challenges but noted that informal settlement dwellers have lived their lives without water. It is their view that these conversations are only being held now because other classes of people are affected. People who were displaced during the floods remain housed in community halls and other temporary facilities. Abahlali called for justice and equality, and a humane response to their lived realities, noting the persecution and attacks members have endured at the hands of the state.



F. THOKOZANI VILLAGE FOR THE VULNERABLE, UGU

This is a home for the elderly and orphans, which is reliant on the provision of water to undertake the services required, such as cooking, cleaning, and doing laundry. Water shortages and interruption in supply impacts on their ability to fulfil these services, and staff are often required to go out and fill their own tanks. The municipality had promised water delivery weekly, but this often comes late and is inadequate for the needs of the home. This impacts on the rights, health, and wellbeing of residents. The home has attempted, since 2017, to engage with the municipality to address its challenges. Officials promise to send more tanks, but these have not been forthcoming.



6.2 DAY TWO: TUESDAY, 16 AUGUST 2022



A. MSUNDUZI ASSOCIATION OF RESIDENTS, RATEPAYERS AND CIVICS (MARRC)



MARRC noted that Msunduzi Municipality is under administration for the second time and is plagued by political interference and poor service delivery. They identified decaying infrastructure, understaffing, and challenges of unqualified, inexperienced, and unskilled municipality management and staff. This has resulted in delays in turnaround time in repairing burst pipes and poor workmanship, triggering further water leakages and wastage. Residents have experienced interruptions in water supply, with sometimes weeks of outages, no provision of tankers or other interim measures during outages, and no information provided by the municipality. They are concerned about the possible sabotage of tankers and infrastructure, and persistent billing inaccuracies – they advise that their study recommendations in this regard provided to the municipality have been ignored.

MARRC advises that it has established relationships with stakeholders in the municipality, including former and current administrators, and made recommendations, providing information and evidence of challenges. They note that the political leadership is unresponsive to attempts to engage with them, and that correspondence is not acknowledged or responded to. No plan has emerged from the administration process.



B. UMHLATHUZE LOCAL MUNICIPALITY



The Municipality provided details of its operational areas, noting that access to water is at 96.96% coverage, with a backlog of 3.06%, due to the addition of three wards through the demarcation process. Projects have been identified to address this backlog and funds allocated. Access to sanitation is at 80.94%, with a backlog of 19.06%, and similarly, projects designed to address this.

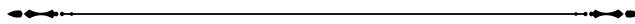
Various short-term interventions have been developed to address the demand for water and illegal tampering of the water supply, including the upgrading of reticulation systems, strengthening political oversight, restoration of pumping supplies, installation of generators, and reduction of non-revenue water. In the medium-term, projects are in place to address an increase in bulk infrastructure, and upgrade reticulation in most clusters. Interventions have been identified to reduce non-revenue water and water losses, including consumer education, and improving consumer relations. A desalination plant will be handed over to the municipality by DWS, and a water reuse project is in the pipeline.

The municipality noted various challenges in that demand for water exceeds supply, aggravated by densification, illegal connections, and ageing infrastructure, although plans are in place to address this. Vandalism and theft are major problems, requiring security and fencing, as is revenue collection, with even the district municipality owing it money.

The panel noted AGSA findings that this is the best-performing municipality, and engaged with the municipality on equitable service delivery, to both industry and community stakeholders. The municipality has entered into service-level agreements with industry, to guarantee the reliability of water provision. The municipality confirmed that its community service is geared towards delivering on constitutional and legislative obligations. It has implemented alternative arrangements to address outages, having introduced a mechanism for community members to sign off on water delivery, which is managed by the Ward Councillor, who attends to the filling of JoJo tanks.

The municipality noted that there have been community complaints and turn-around and service delivery protests, but that it has implemented a 6-hour restoration turn-around time, and currently has 100% compliance with this standard. Its customer care division is proactive in this regard. There is a dedicated customer services team, with an assigned manager. Every complaint that is received is logged, and response time is managed through a central call centre. The municipality had experienced infrastructure sabotage by officials, to generate contracts for companies, but such staff have been charged and suspended, and are undergoing disciplinary processes, and the system has stabilized.

The impact of the floods on water infrastructure and provision has been minimal, but flooding has impacted on sanitation and sewage systems, resulting in spillages. The municipality is busy with refurbishments of its wastewater plant. The Blue and Green Drop programme implemented by DWS is being utilized as a guideline for running municipal services. Further, the municipality has plans in place regarding climate change and extreme weather predictions, through provisioning for desalination and wastewater usage, and moving industry to re-use water, as it consumes 70% of the municipality's water supply. The indigent policy provision of 6KL of water is provided for.



C. COGTA, MEC, HON SIHLE ZIKALALA

The MEC noted that delivery of water is listed as one of the key priorities for service delivery for KZN, noting apartheid spatial inequality in infrastructure development. The KZN Water Master Plan was launched on 28 September 2020, in line with South Africa's obligations and commitments outlined in the Sustainable Development Goals (SDGs), the National Development Plan (NDP), Vision 2030, the KZN Provincial Growth and Development Strategy (PGDS), and the National Water and Sanitation Master Plan. This will require R150bn in the next 10-15 years, co-funded by government and business. It requires municipalities to ringfence 8% of their budgets for the maintenance of infrastructure. The plan aims for universal access by 2030.

The MEC further noted that 77% of rural households are indigent and entitled to free basic water, placing strain on municipalities with low revenue. The interim provision of water through tankers places a burden on finances but is required as municipalities are plagued by inadequate and ageing infrastructure, aggravated by restrained budgeting and poor maintenance. Apartheid spatial planning impacted on rural access to water and sanitation, with less than 2% of the province having access to water in 1994. COGTA's study on access to water reveals 78% of households have access to water infrastructure. The majority of households with no water infrastructure access water through collection.

The KZN Water Master Plan focuses on the extraction of water and development of bulk infrastructure, the distribution of water through bulk systems, and delivery of water and maintenance of infrastructure, including work on KZN dams and bulk water supply plants. The MEC noted that the KZN Executive Council has adopted a coordinated approach to addressing the water crisis, as detailed in its Master Plan, to eradicate backlogs. Campaign Khawuleza (hurry up) has been introduced through the district development model (DDM), to fast-track service delivery, with water identified as a central component of this campaign. The MEC noted community challenges in accessing water and the varying methods of delivery. He noted that refurbishment is required across almost the entire water infrastructure, costing R5bn, as a result of ageing and dysfunctional infrastructure, high non-revenue water because of indigent households and leaks, drought and climate change, and groundwater over-exploitation.

The MEC spoke to KZN interventions as detailed in the KZN Water Master Plan, which are outlined in action plans addressing the repair of water schemes, the introduction of boreholes and purification of water to ensure provision, and where no infrastructure exists, then provision through water tankers, as a last resort. Ideally, water tankers should be insourced through municipalities. Some tankers have been vandalized – for instance, 19 tankers in Ugu were burnt during the July 2021 unrest.

Water war rooms were established in July 2022, in all districts, and the DDM tasks each district to address water provision. A water expert task team has been established to monitor and develop plans for municipalities. COGTA plays a key role in coordinating PGDS provisions pertaining to water, also chairing the KZN Cabinet sub-committee on Water and Sanitation. In the KZN Legislature, the Portfolio Committee for COGTA plays a monitoring role.

In engaging with the MEC, the panel noted the disconnect between policy intent contained in the Water Master Plan and the community complaints of a complete lack of water delivery for months, the lack of municipality capacity to address maintenance of infrastructure and delivery of services, the persistent historical backlog in services disproportionately impacting on the poor, and implementation gaps between spheres of government. The reality on the ground is one of regression, and a sense is created that blame is being levelled on the community, when accountability should rest with government to redress imbalances of apartheid and the colonial past, after 28 years of democracy.

The panel noted further that the DWS Green and Blue Drop reports indicate the Water Master Plan is not going according to plan and requires analysis of what is going wrong. 50 wastewater systems in KZN were in a poor state, compared to its 2013 findings. The State of Local Government report indicates that only one municipality is stable, and 11 were declared completely dysfunctional. Issues of scarce skills, intra- and inter-political party issues within the public service, corruption and fraud, maladministration and weak civil society engagement were flagged in this report – yet none of these issues are apparent in the province’s submission. The panel advised that the Water Master Plan needs to consider this regression and provide for radical measures to address these, including fraud and corruption, and inter-political party fighting within the public service. The Water Master Plan should consider future demands and include this, noting, for instance, the impact of the floods on the plan and budget.

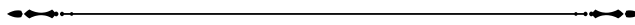
Effective inter-governmental relations (IGR) across the spheres are a must, particularly pertaining to the role of the Office of the Premier (OTP) and COGTA in monitoring the work of local government. In response, COGTA highlighted structures such as the Premier’s Coordinating Forum, and the fact that COGTA has Muni-MEC – where the MEC meets with municipal mayors as part of fostering effective IGR. COGTA referred to the radical increase in demand for water services from apartheid-era infrastructure, noting that capacity has not increased along with demand. In addition, the recent land-use summit with traditional leaders and key stakeholders reported the prevalence of communities building property on low-lying and in unsafe areas, which requires education. Challenges are experienced in the removal of communities settling unlawfully and then demanding services which are not planned for. The province is plagued by illegal connections, community refusal to pay for services, and the burning of infrastructure upon disconnections.

The MEC reported that the district development model (DDM) process is beginning to align the implementation gap, with key national, provincial, and local stakeholders coming on board to district steering committees to address shortcomings. The Premier’s office has a desk to prioritise direct complaints. The panel observed that on average, municipalities are budgeting between 2-3% for infrastructure maintenance, and not the referenced 8%. The MEC noted that the 8% provision is a National Treasury recommendation and is not regulated.

However, this inadequate maintenance is resulting in a decaying infrastructure. The panel noted that it is apparent that the local government funding model requires review. Allocation is made by national treasury for water and sanitation, yet there are deviations in favouring one service at the expense of others.

The panel referenced the complaints received by the Commission, primarily from vulnerable communities, and identified the need for efficient tracking and monitoring of the Water Master Plan, to identify progress and achievements, with time-bound targets set. The panel stressed the need to prioritise water and sanitation service delivery, and ensure a pro-poor budget in this regard, delivering on basic human rights. The MEC agreed that monitoring should begin upon implementation.

The panel informed the MEC of the pleas raised by the Tongaat and Ugu communities, highlighting the lack of water provision since November 2021, the irregularity of tankers, unresponsive officials, and the ignoring of petitions, complaints, and correspondence. The province reported that a task team was established to deal with the floods fall-out, especially in Tongaat where the water plant had collapsed. The MEC noted that engineers have advised it would take five months to rebuild the plant, which is still underway, and that water tankers have been made available in the interim. In this regard, the panel raised with the MEC the unintended consequence of the implementation of the water tankering system, in the form of emerging corruption, and damage to infrastructure to secure tenders to deliver water. The province was requested to be mindful of this.



D. DEPARTMENT OF WATER AND SANITATION (DWS)

The DWS spoke to its mandate derived from the National Water Act, 36 of 1998 and the Water Services Act 108 of 1997, in relation to the protection, use and sustainability of water. It referred to the National Water Resource Strategy, with Strategy III being developed. DWS has oversight over several statutory bodies – water resource institutions and water boards, and Water Research bodies.

The DWS identified challenges pertaining to water resource availability, as the raw water Umgeni system, with five dams, is in deficit, with demand exceeding supply. The uMkhomazi Project has been implemented to introduce an additional source of water into the Umgeni catchment, through dams and tunnels, and water purification, channelled through aqueducts. Umzimkulu and Richards Bay system interventions have been introduced to augment supply and ensure water security. DWS provides funding to municipalities through its infrastructure grant for immediate and short-term interventions, in the form of springs, boreholes and bulk infrastructure, and conducts annual infrastructure self-assessments, which are shared with local councils.

DWS assessments indicate that many municipalities are in high dysfunction, with increasing regression. 71% of municipalities are not updating their water service delivery plans and identifying interventions needed. 78% of municipalities are dependent on grant funding, which raises doubt over the sustainability of the services in question. 85% of municipalities do not invest in asset management or renewal, such as infrastructure maintenance, resulting in water leaks and illegal connections. 21% are owing huge amounts of money to Eskom and Water Boards. Many municipalities face billing collection challenges, impacting on resources available to deliver water. Municipalities cannot account for water losses, do not collect sufficient revenue, do not conduct maintenance on their infrastructure, and their responses to leaks reported take too long. The population groups they service are largely indigent and rely on social grants. Few municipalities have asset management protection plans, or adequate technical support staff, and in many instances, staff are not competent to perform necessary actions.

DWS as the regulator undertakes Green Drop assessments in relation to sewage. Of the 147 wastewater sewage work treatment plant assessments conducted, only three complied. 42 are at high risk – the highest risks are Zululand, Umkhanyakude and Amajuba, which are on the watch list regarding the poor state of their wastewater treatment plants. This was exacerbated by the floods, with raw sewage running into rivers and dams. DWS also undertakes Blue Drop assessments, assessing 204 water treatment plants to assess the quality of the water supply. 26 of these are at high risk and not complying with water quality standards – Umzinyathi, Ugu, Zululand, Umkhanyakude and Zululand are on the watch list. The report indicates that technical skills are lacking, and there are high levels of process non-compliance. Water losses and water non-revenue are a major concern in KZN, with no improvement

over five years, increasing to 48.6% in 2021. 1,054ML of water per day is unaccounted for, through illegal connections, water losses through leaks and burst pipes and water provided through free basic water. eThekweni water loss is up to 52%.

The DWS provides disaster management support, for instance in response to floods. It has established a war room, where it undertakes assessments and provides water tankers. Municipality priority action plan support is provided, to assist municipalities to develop water service and development plans. DWS provides induction training to incoming councillors to understand their role regarding water, and other training. In addition, DWS addresses non-compliance by water users, such as farmers, mines, and municipalities, issuing directives in instances of pollution or non-compliance, for illegal extraction, construction of illegal dams and illegal sand mining. It obtains interdicts and takes non-compliant users to court.

In deliberation, the panel noted the shocking issues that surfaced and the absence of consequence management measures, questioning whether municipalities will be able to achieve their planned objectives. An assessment of the impact of high non-revenue water use on water service delivery reveals two categories: non-revenue water, where water is not paid for, and real water loss, through leaks and ageing infrastructure. DWS noted that non-payment is exacerbated in instances where people can afford to pay for water but do not - rural communities are categorised as indigent and are not billed for water services.

Issues of municipal fiscal constraints and the inability to maintain or replace ageing infrastructure were linked to an unviable financial model – the recovery model is inadequate to finance the provision of water. This requires revenue collection, which means that the “indigent” claim needs to be challenged, and the register model reviewed for affordability.

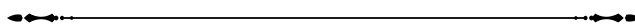
DWS noted that water quality and pollution are increasing the cost of purification and the provision of water, and observed that 85% of municipalities do not invest in their assets and take charge of their infrastructure. What DWS does as a regulator is to monitor, issue directives, demand action plans from municipalities, and monitor implementation, creating technical committees with municipalities, industry, and farmers, to try and find solutions. DWS noted that municipality response is poor, in terms of prioritizing water service delivery.

The panel requested follow-up information on compliance with Municipal Self-Assessment (MUSA) reports, and what action DWS as the regulator will take. The panel further suggested the transformation of catch management forums and water user associations to include diverse communities and increase community buy-in and representation, noting the need for enhanced community awareness, education, and advocacy programmes.

The panel further requested information on action being taken against non-revenue water usage, and planning with municipalities for the settlement of informal settlement communities, to bring them in-system. The panel requested follow-up information on cases taken to court, and compliance with court orders – DWS reported that there is a case-management system to track this. It noted that Intervention with municipalities is through the OTP and COGTA; for COGTA to take action, and that DWS cannot fix water problems if the municipality is not functional.

Powers of the DWS in terms of section 63 of the WSA to take over the water services function, in parallel with COGTA powers in terms of section 139 of the Constitution to put municipalities under administration for failing to deliver water, were discussed. DWS reported that it has invoked section 63 in Umkhanyakude DM to take over the water services function, and that governance of the municipality remains critical.

The panel raised the concern that for municipalities to access grants, they need to develop water services development plans. While the majority (71%) seem to not have such plans, yet 78% are accessing grants, raising questions on why these municipalities are being provided with funds. The DWS advised that the municipalities do have the plans, but the quality is poor, and these are not updated. DWS has interventions to try and strengthen these. The panel suggested that municipal access to grants should be leveraged to encourage municipalities to improve and update their plans.



E. COMPLAINANT, UMSUNDUZI LOCAL MUNICIPALITY

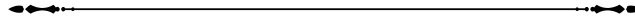
The complainant noted historic grievances of the Vulindlela community, which has experienced water cuts since 2016, with water available for one week, and then cut off for three weeks. Commitments were made by the local councillor and Mayor to address these challenges, but nothing has happened. The community undertook service delivery protests, which resulted in their being invited to put together a task team to engage with the municipality. The council was under administration, and the community was advised to engage with the administrator. This meeting was held on 4 June 2022. The community was advised of constraints as a result of the increase in demand for water, and the municipality's plans to increase dam storage. Most community members have JoJo tanks to see them through the cuts.

The administrator devised a plan to provide water two days a week, to be stored in the JoJo tanks, which was acceptable to the community. This was successfully implemented for 2-3 months, and then it stopped. The community wanted to protest, but the task team attempted to engage with the council. A new executive council had been put in place, and the mayor requested an opportunity to learn of the problem and arrangements reached. The council advised that water trucks were the only solution, even though this did not suit the community, in terms of access, as the majority are at work during the day and unable to collect water. The community refused to be billed for services they were not receiving.

The Umgeni Water Board billing system was scrapped and replaced with a flat rate billing system. This is viewed by the community as inadequate, noting the diverse water usage by individuals and small businesses. The Vulindlela community advised the council that they can afford to pay for water, and they are not indigent, but the municipality is not responding to this willingness.

In deliberations with the panel, the community advised that they have sought other remedies, such as boreholes, which were promised by COGTA in 2020 during COVID, but these have never materialized. Regarding the reservoir improvements, the community was advised this would be completed in 2022 and has been updated by the councillor on

this. There has been no communication regarding connecting the community to the reservoir. The infrastructure was put in place in 2014 and is still in good condition. The community is requesting that the council implement a temporary measure, such as building a borehole if the bigger plan will take time, as community boreholes are inadequate.



F. HARRY GWALA DISTRICT MUNICIPALITY (HGDM)

The HGDM is a Water Services Authority and a Water Services Provider, with 61 wards in the DM. 28% of the community is unserved in terms of water, and 18% is unserved in terms of sanitation. Demand for the district is projected to increase radically by 2020. The HGDM noted its key challenges in water service provision include ageing water infrastructure – most is dilapidated, with frequent interruptions. This is further impacted in times of drought, with boreholes drying up and failing systems. The HGDM reported the challenge of illegal water connections and the impact this has on communities connected downstream. The HGDM has an over-stressed system due to increased demand and is unable to deliver services to all. There is a high proportion of diesel-driven schemes, impacting on the municipal budget, which is severely affected by vandalism and theft of infrastructure and cables. The HGDM has designed a set of solutions to address these challenges.

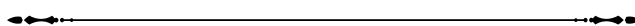
In the interim, to augment water service delivery, the HGDM has purchased its own water tankers, as hiring was not sustainable. It has implemented numerous infrastructure projects funded by COGTA grants, reporting 100% delivery and spending against many of these grants, and some in the planning, design, and procurement stages. There are a host of villages with no water service infrastructure whatsoever, where the HGDM relies on using tankers to deliver water in the interim, while they are developing and implementing projects. These include the construction of a new dam, which will substantively address the backlog. This is a DWS project, where Umgeni Water Board will implement the construction, as per a June 2020 ministerial directive. The project is at the procurement stage, and it is anticipated that it will be completed by March 2027.

In deliberation, the panel noted the challenges raised, confirming that these tally with complaints received from this DM. The panel observed that from a planning perspective, the infrastructure challenges should have been noted and planned for from the outset, to address maintenance and ageing, and yet these were not taken into consideration. Equally, the increased demand and impact on an over-stressed system should have been known and anticipated and planned for. This was not, however, done and 28 years later, there are effects of the fall-out and gaps. The panel noted that HGDM as a WSA has been in place since 2008 and its plan should have included maintenance to ensure excellence in service delivery related to its core mandate as a WSA.

The deficit in the funding model was discussed, in that the HGDM should be receiving grant funding for operational maintenance, but budgeting 8% from its own budget is difficult. The HGDM noted that revenue collection is poor, because of the high indigence rate, resulting in a poor revenue base. The HGDM is rolling out smart meters in areas where communities can afford to pay and has community awareness programmes around the need to pay for services. The HGDM reports that it is effective in billing government departments. The unauthorised connections figure is high, with compliance officers dealing with disconnections, but this is problematic, especially where the HGDM is not able to provide an alternative.

The HGDM has a complaints division that records and tracks complaints received, with feedback on resolved complaints provided to complainants, using cellphone technology. Most of these are resolved. The system generates a report automatically, which is submitted to the council. The panel requested a report in this regard, the nature of complaints, when they were lodged and when they were resolved, for the past six months. The HGDM reported that it receives, on average, 500 complaints per month, and confirmed that it has an updated, council-approved water services development plan, reviewed, and updated annually.

The HGDM reported that theft and vandalism and the need for security is a critical issue. The socio-economic conditions in the community, and the number of impoverished families and child-headed households put the HGDM in a precarious position. They are looking for best practices and recommendations in this regard.



6.3 DAY THREE: WEDNESDAY, 17 AUGUST 2022

A. ETHEKWINI MUNICIPALITY

EThekwini Municipality is a Water Services Authority for the eThekwini Metro, and Umgeni Water is the Water Services Provider. The municipality reported that more people live in informal settlements and rural areas than in settled communities in eThekwini. 80.56% of households have access to a basic level of water, 71.51% have access to a basic level of sanitation; 76.23% of indigent households have access to free basic services, and 58.56% to free basic sanitation services. The municipality reported that no one has to perform open defecation – everyone has at least access to chemical toilets. The municipality reported that it owns 130 tankers and needs a further 102 tankers to ensure delivery of water to those not reached through the water system.

Challenges cited in water service provision raised by the municipality include an increase in the number of households, through uncontrolled migration, and burgeoning informal settlements. More than 60% of the city is rural, where water services are metered, but collections are problematic. Distribution of services to rural residents, because of distances, is expensive. In informal settlements, no connections are made. EThekwini is engaged in partnerships with the University of KwaZulu-Natal (UKZN) and the Bill and Melinda Gates Foundation, regarding alternative technologies for delivering services to rural areas. The plan is not to connect the rural areas to the wastewater system but to rather introduce a new mechanism for decentralized wastewater treatment.

The deficit in available raw water is a key concern, and the proposed Umkhomazi Dam to be constructed by DWS, possibly by 2030, is cited as a key solution in this regard. Without this dam, eThekwini is unable to meet the full demand for water. Inland sources of water are being reduced by 5-10% each year. Ageing infrastructure is an issue – some pipes date back to the 1950s. The municipality has calculated total replacement costs, which are projected at R8.2bn on infrastructure with zero years projected useful life, a further R4.5 bn on infrastructure with 1-10 years' life, and R4.4bn on sanitation infrastructure. It noted that 2%

of the value of assets should be spent on maintenance every year, which should be a total of R1.6bn per year, yet currently only R500m per year is allocated for water infrastructure maintenance.

The municipality reported theft and vandalization as a huge issue impacting on infrastructure, leading to a disruption in services. Security provisions are being implemented to address these. eThekweni has a 25-year infrastructure plan, which has been submitted to the Commission. eThekweni is to be included in Umgeni Water's Universal Access Plan. Further, non-revenue water is sitting at 54%, as a result of water losses through illegal connections, and through infrastructure shortcomings such as leaks – this is a total of R1.7bn. The further additional cost of tankers to provide water to informal settlements is non-revenue, adding to costs. The municipality reported that costs to service informal settlements far exceed that of formal settlements. Money is being taken from fee-paying customers in formal settlements, without maintaining these services, to finance non-revenue residents in informal settlements.

The municipality also noted that deficiencies in sanitation services are serious. Of its wastewater plants and treatment works, 17 have run to failure and do not meet necessary specifications, placing a burden on the city. The plants were designed for smaller-scale usage and are ageing. The floods also destroyed some of these.

In engagements with the panel, the discussion centred on urgent interventions to service the growing population, beyond the long-term strategy of building the dam. The municipality reported that it has started drilling boreholes and examining licenses to extract from certain rivers, and is working with Umgeni Water to obtain water through the Hazelmere system. There are additional projects relating to the desalination of seawater and the treatment of sewage for industrial purposes. Only clean water is being used for human consumption. Further, eThekweni has introduced water rationing, which is damaging to the infrastructure and is addressing its non-revenue water losses, through for instance, satellite leak detection, which is being piloted.

Regarding rurality and the informal nature of households, eThekweni is making use of boreholes to ensure access to water for inland communities, but this is not a coastal solution, for instance in Tongaat. The Blue Drop programme requires the monitoring of the quality of

water from individual boreholes. EThekwini has 29 active, and 54 decommissioned boreholes. A further 11 new boreholes are being drilled since the floods. The issue of location is the relevant point here. Some of the municipalities' decentralised solid waste solutions that have been piloted will be upgraded to permanent interventions. The panel recommended that the municipality consider replicating this model in informal settlements and new housing developments.

The municipality acknowledged that new housing developments do place pressure on existing infrastructure and that approvals for some new developments are on hold, because of a lack of capacity. The planned budget spend on treatment works for sanitation and housing development was disrupted by the floods, which required the re-routing of funds. The municipality reported that it does not have the budget to address the water infrastructure that has reached its useful limit. It reported that its maintenance budget is shrinking as a result of the need to spend money on services that are not generating income. The pump station in Isipingo had no pump, resulting in the loss of fish life. EThekwini has the engineers and experts but needs the finances to affect the infrastructure demand. In this regard, an infrastructure surcharge or levy is going to be introduced, as the funding model is inadequate.

EThekwini does draw on COGTA grants for infrastructure needs, and this is fully spent on operational projects. EThekwini had to take out a further loan of R1.5 bn in 2022, and now has a total loan of R10bn, which needs to be serviced. R5.7bn is the calculated total loss resulting from the floods. Wastewater plants have suffered great damage, but no resources have been forthcoming from national and provincial governments, despite submissions. The municipality is awaiting insurance claim calculations.

EThekwini is using a forced disruption in supply to conserve water. Vandalism and theft are critical issues impacting on the delivery of services. National law reform is apparently envisaged regarding the sale of scrap. Security is provided at some of the borehole sites, as the Critical Infrastructure Protection Act, 8 of 2019 requires the protection of reservoirs as well, which the municipality is seeking to address. When plumbers and electricians are sent out, they have to be accompanied by security guards, which consumes the budget. EThekwini currently spends R900M on security. SAPS is not responding to violent protest action even, let alone, these security issues.

Regarding economic diversity in rural communities, and those potentially benefiting from the indigent policy who could be billed for services, eThekweni is piloting the use of smart meters, to ensure free water is going to people who really are not able to afford this service. Currently, the billing system recognises people as indigent per the area in which they live – it is unable to distinguish affordability. EThekweni does do a demand projection for each year and undertakes planning and contracting volumes on this basis. It participates in the City Water Managers' Forum to share notes, and staff do a benchmark against other cities. The state's notion of DDM appears to be the perceived solution if this can be funded. 4 million of the 7 million of KZN's population currently live in eThekweni. EThekweni does not have the capacity to absorb this influx and can only plan with the resources at its disposal.

The panel raised the Tongaat community's complaint about the lack of attention and care from the municipality, and concerns regarding the community's sense of being ignored. Regarding communication and leadership from the municipality in this regard, it was reported that the Mayor and Minister Mchunu have been visiting Tongaat, meeting with the management of Tongaat-Hulett, and deploying officials. Tankers have been deployed as an interim relief measure, filling JoJo tanks in the evenings, with these allocated to Ward and Proportional Representation (PR) or party councillors, augmented by local business. The municipality reported that the MEC, Deputy-Mayor and Mayor have engaged with community structures in numerous meetings, examining plant damage and deliberating on possible repair solutions. The municipality reported that Tongaat has been prioritised and allocated more tankers than any other community around Durban. Tongaat Civic Association is contributing engineers to assist, and the municipality welcomes this. It confirmed that the new waste treatment plant should be up and running by the end of October 2022.



B. UGU DISTRICT MUNICIPALITY

The municipality reported that the greatest challenges in water services are experienced in the urban areas, where the infrastructure is ageing. Rural areas mostly access water services through tankers, and Ugu is 60% rural. The Mayor engaged with the Minister of DWS and the Premier, regarding the challenges it faces, and is seeking assistance. An inter-ministerial stakeholder engagement was convened, and these key stakeholders sit on the municipal war room. Ugu has accordingly developed a turnaround strategy addressing its water service challenges. Ugu has aligned its interventions with the KZN Water Master Plan and undertakes the MUSA self-assessment administered by DWS, and it's No Drop programme.

Key challenges experienced are intermittent water supply, with demand exceeding supply and production, further aggravated in the tourism season. Ugu is plagued by dysfunctional, ageing infrastructure requiring repair and maintenance. Universal access to water for all is aggravated by urban migration and non-revenue water through illegal connections and losses. The municipality also suffers low revenue collection and reports inadequate human resources in terms of necessary skills and capacity.

Ugu's immediate intervention to address shortcomings in water provision is through tankers - 33 are Ugu-owned, with 15 additional tankers hired. Ugu is plagued by burst pipes, leaks, low reservoirs, illegal connections and vandalism, pump failures as a result of repair and maintenance challenges, and load shedding. The social unrest resulted in 39 service-delivery vehicles being destroyed; in addition, panels and cables have been stripped and stolen.

In the short-term, Ugu is undertaking borehole drilling, pipeline repairs, looking at raw and bulk supplies, and sanitation backlogs, mostly financed through COGTA grants and the Municipal Infrastructure Support Agent (MISA). Its focus has also been on building technical capacity in the municipality to ensure compliance with regulations for Blue Drop, Green Drop and No Drop (water conservation and demand management). 25 of its vacant posts have been filled, but only one is an engineer.

Medium-to-long-term plans are in place for the maintenance and construction of infrastructure: A COGTA grant is being used for the St Helen's Rock Pump Station refurbishment, and also the construction of Cwabeni and Weza Dams, and pipeline replacement, water treatment works and bulk water supply schemes. A community dispute regarding access to land needed for plant refurbishment is currently derailing one of these projects. Ugu is able to budget around 0.9 – 1.1% of its CAPEX for maintenance, and not 8%, due to funding constraints. Low revenue collection is plaguing Ugu, with most of the debt sitting with residential owners.

The panel noted that poverty, unemployment, and inequality are acting as drivers for social unrest and acts of vandalism, which requires people-centred rather than technical solutions, and the creation of a shared vision. It noted that there is a breakdown in trust between residents and municipalities, resulting in disbelief in motives and actions. Leaders need to articulate a clear vision and convince others to share this vision. Municipalities need to invest more time in this.

The panel noted that it would appear to be more cost-effective for municipalities to buy tankers rather than outsource this service, observing that in the future, more permanent solutions are needed, with tankers only drawn on for emergencies. Ugu reported that it used to rent 35 tankers, and is now down to 15 tankers being hired at a cost of R2,2M per month. It is trying to build up its own fleet of water tankers, which is included in the infrastructure component of its 5-point plan.

The panel observed that Ugu has historic supply challenges, that were exacerbated by the unrest, yet it is a WSA with the sole mandate to deliver on water and sanitation. The panel referred to submissions received of the municipality's failure to respond to complaints, its failure to communicate, and challenges lodged concerning tankers and drivers. The municipality committed to following-up on these complaints and advised that it use social media platforms to share information with community stakeholders. It has started visiting areas, especially those governed by traditional leaders, and addresses communication strategy in its weekly war room meetings. It reported that it completed the MUSA, and tabled this with Council, using the MUSA findings to push for a budget for maintenance and repairs. Its planned deadlines on many projects have been affected by the floods, and these deviations are reported in war room meetings where the majority of stakeholders sit.

The panel noted with concern that the majority of the Commission's complaints received come from Ugu, yet the plan presented does not speak to the plight of the people who have complained, and the desperation of the situation in Ugu. The panel expressed the view that the Ugu delegation had not conveyed a sense of understanding of this situation. The panel noted that some areas have no water whatsoever, such as shopping malls and old age homes, and that people inland have not had water for years.



6.4 DAY FOUR: THURSDAY, 18 AUGUST 2022

A. MGUNGUNDLOVU DISTRICT MUNICIPALITY

Mgungundlovu District Municipality (MDM) is a WSA in 6 local municipalities and 51 wards. UMgeni provides bulk water. Water is delivered through reticulation services to households, through communal standpipes (within 200m of the household), and through water tankers, where no bulk infrastructure or boreholes or communal standpipes exist. The municipality noted that its water services backlog sits at 14%, in water tanker delivery areas. The cost to deliver bulk infrastructure water to all is R2.9bn, over a period of 15 years, at the current levels of funding. The MDM is seeking to eliminate its reliance on tankers, as these are expensive, there are difficulties in access, and this undermines communities' dignity. It strives to at least make use of groundwater harvesting through boreholes and communal standpipes. It is engaging COGTA and MISA for appropriate studies and grants to facilitate this.

The MDM reports that sanitation services are available through waterborne sewage/septic tank systems, and through ventilated pit latrines (VIPs). Its backlog in the provision of VIPs stands at 26,000 to be rolled out to rural communities, and it is engaging DWS through a business plan costing R400M. Plans are to develop and upgrade water treatment plants in local municipalities, build the Umkomazi Dam to ensure water security, and the Vulindlela project to increase water storage. The MDM observes that there is a high demand for services from the community, and high levels of complaints, particularly when supply is intermittent. It reports a population growth under the municipality's jurisdiction, and that people want to move from standpipes to reticulated water. There are many illegal connections and security issues as a result. Rural areas rely on boreholes and water tankers, which are unreliable in the rainy season. The MDM is implementing cluster (static) tanks, that are refilled by tankers, to ensure a more reliable supply. It reports intermittent power supply through load shedding is a major challenge.

The MDM reports that it does not experience major challenges pertaining to wastewater treatment plants and that it has a new plant under construction to service the demand arising from an increase in development. However, non-revenue water and illegal connections result in water losses. It has introduced a campaign to improve revenue collection, including restricting services to encourage payment, and its collection rate has improved as a result from 46% to 61%. Ageing infrastructure remains an issue inherited from local municipalities, and the MDM is relying on grant funds to gradually improve this. The MDM has attempted to improve service delivery through tankers by supplying cluster JoJo tanks, for water tankers to fill these so that people will have access to these through standpipes. This project is almost complete.

The panel observed that ageing infrastructure is an issue raised by all the municipalities – the detail of the infrastructure and its life span is known to municipalities. Maintenance, repair, and replacement should have been built into the planning and budgets of municipalities. Most municipalities have clearly neglected this over the years, resulting in this crisis. The MDM acknowledged that this was neglected and marred by procrastination in taking decisions, noting that this is the fifth generation of local governance while acknowledging the balancing that municipalities have had to undertake to overcome apartheid spatial planning and neglect of rural communities. There is inadequate provisioning for maintenance, and the MDM is struggling to meet the 8% provisioning bar. It has set aside R11M for maintenance and repairs for water, and R66M for wastewater. It has obtained a loan from the DBSA for R250M, to replace dilapidated infrastructure, and the MDM continues to service this debt.

Regarding improving revenue collection, especially on billable services, the MDM noted that non-revenue water, in the form of illegal connections, leakages, and non-payment on the system is a challenge. The MDM has been engaging the community and is seeing improvements, as noted. An example is “Operation Clean Bill” which addresses community queries and complaints regarding billing services. The mayor has been leading this project, and people have started paying once their query has been addressed. The indigent register was just over 1,000, which did not tally with an unemployment rate of 34%, and 64% below the poverty line, and was out of keeping with other social security statistics. The MDM has been proactive in engaging with communities through door-to-door and community meetings, to see

where the need is. The register is now standing at 4,000, and the MDM is committed to delivering free basic services to the poor, while billing those who can afford services.

The MDM reported poor coordination with human settlement projects, impacting on infrastructure and supply – 14 such projects have stalled over the years. It is engaging the Department of Human Settlements and was encouraged to engage with COGTA for cooperative governance support. It was noted that the DDM model should assist further and ensure better coordination and planning.



B. UTHUKELA DISTRICT MUNICIPALITY

The uThukela District Municipality (uThukela DM) is under section 139 of the Constitution intervention (administration), and the Municipal Manager obtained the necessary delegated authority from the administrator to attend and present at the inquiry. It is a Water Services Authority, with 75% of its municipality being rural, impacting on its ability to collect revenue. In terms of DWS Blue Drop assessment scores, the uThukela DM moved from 54.4% in 2010, to 34.50% in 2014.

The uThukela DM noted that key challenges experienced in delivering services include ageing infrastructure, the prevalence of clogged and leaking pipes (some dating back to 1957), lack of competent staff, staff vacancies, inadequate provision for operation and maintenance, breakdown in ageing water tankers, and old electrical installations impacting on pump stations and water treatment facilities. It also experiences illegal connections, vandalism, and theft, in the form of damaged and stolen pipes. The uThukela DM noted that the municipality operates on overtime and standby, at a cost of R4.5M per month, with deliberate sabotage of assets to warrant overtime repair. This situation was further exacerbated by the floods, all impacting on the uThukela DM's budget and provision of water.

The uThukela DM noted that its budget is in the region of R211M, with a further R85M in various grants. It has a low revenue base. Settlements have mushroomed, and demand far exceeds supply. There are revenue losses through non-payment for services, household leaks, as well as infrastructure sabotage. The uThukela DM notes that it has numerous water treatment plants, all operating satisfactorily.

In addition, several interventions have been implemented, many with COGTA's assistance, such as the replacement of pipes, and the development of the Dukuza Package Plant. Numerous projects, however, date back some 10 years, and have still not been completed. Other short-term interventions include outsourcing water tankers, the upgrade of sewer pipes, sewer maintenance, refurbishing building facilities and pump stations, restoration of boreholes, drilling of boreholes, creation of storage tanks, installing hand pumps, and identification of springs.

In the interim, the municipality relies on water tankers to deliver water. The uThukela DM has 28 operational tankers, and an additional 14 have been hired. Partnerships have been entered into for community campaigns, such as Operation Mbo with the ministerial representative, the creation of the Uthukela Water War Room, and collaboration with Gift of the Givers, who have assisted with drilling boreholes and supplying water tankers.

The panel noted that the uThukela DM's challenges mirror those raised by all municipalities, and questioned where responsibility for maintenance resides. It is apparent that the municipality is failing in its responsibility to maintain infrastructure. The uThukela DM acknowledged that operational maintenance had been neglected, but stated that this was now being prioritised. The panel expressed concern at the uThukela DM's Blue Drop status. Officials referenced the backlog and dysfunctional infrastructure, as well as illegal connections, noting the increased demand is impacting the quality of water available. In addition, skilled competency is lacking, because of the rurality of the area, and the DM is struggling to attract and retain competent capacity. The uThukela DM stated that with its revenue limitations, the ringfencing of 8% of its equitable share for maintenance is impossible.

The panel noted that community members are of the view that the uThukela DM has failed them, with members complaining of 10 years of failing to receive a consistent water supply and resorting to reporting water service challenges to the Commission. The uThukela DM was

asked to report on how it has addressed complaints, and for progress on the implementation of short-term measures in delivering water, and ensuring access to water. The uThukela DM conceded that they are not able to ensure delivery of water to everyone, and their district is marked by community protests, particularly after the floods. Regarding engaging communities directly, and communicating challenges and progress, the uThukela DM advised that they convene community meetings, some of which are attended by the Municipal Manager. There are also engagements with businesses in the district. The uThukela DM reported that there have been instances where officials sent to repair damages have been intimidated, with one having been shot dead.

On the overtime and standby situation, the panel noted that this is self-created, and becomes an industry in itself. Officials have made threats when overtime has been curbed and withheld. The uThukela DM was asked how it intends to address this practice, as well as curb sabotage at the hands of disgruntled officials. It advised that it has engaged with municipal employees, and commissioned a forensic investigation into the abuse of overtime and standby.



C. NEWCASTLE LOCAL MUNICIPALITY

The Newcastle Local Municipality (NLM) has a population of 400,000, in the form of 90,000 households, although there are additional settlements in traditional areas demanding services. The municipality has an unfunded budget, impacting on its ability to provide services, including water. Numerous critical positions, in the technical division, have been left vacant for a long time, and this is being prioritised. Uthukela Water Services provides bulk water supply to the LM, which is the largest of three WSAs in the area. The LM has requested a meeting with DWS, COGTA and Uthukela to renegotiate the three WSA's arrangement so that they can deliver optimal water and sanitation services. There are numerous challenges pertaining to water resources, which the NLM is seeking to address through the construction of a dam, using tanker services to address shortcomings.

The NLM reports that 48% of households have piped water and house connections. About 25% have piped water in their yards. 18% rely on communal standpipes. 6% obtain water through boreholes and tankers – primarily the two wards in traditional areas, which is a challenge to address, geographically. The NLM has a fleet of three water tankers, being more of a semi-metropolitan area, and not a predominantly rural area. The NLM has commissioned the construction of a water plant, but the water source is not reliable, comprising in the main boreholes, and the NLM has undertaken a study to determine how best to augment this. There are bulk water projects to address extension to ward connections, and a water reticulation project, funded by grants.

The NLM reported that all community members have access to water in some form, but the nature and reliability of the connection varies. The key challenge is the ageing infrastructure, with maintenance having been neglected, resulting in burst pipes, and impacting on water supply. There are projects underway to replace the aged infrastructure to ensure reliability. Staff shortages are an issue, and the water services department needs to be capacitated. Budget constraints impact on maintenance, and the NLM is sourcing funding to augment its budget and implement planned infrastructure upgrades and maintenance.

Community awareness and communication are needed to encourage community members to pay for services, as non-payment impacts on revenue collection and the NLM's ability to deliver services. This is aggravated through illegal connections and water leakages. The NLM asserted that the community has become violent and arrogant, pleading poverty. The NLM asked that the Commission assist in spreading the message of the need to pay for services.

The panel engaged with issues pertaining to the provision of water by tankers. It encouraged the NLM to consider better managing the demand, recycling and re-using of water for industrial purposes. The NLM called for more damming and water harvesting measures. Regarding community education and awareness regarding payment of services, the NLM advised that it has introduced a door-to-door campaign to engage with communities, and an incentive programme to write off 50% of bills by paying half of the amount owing; writing off 75% by setting up a debit order, and writing off 100% of household debts by taking charge of future bills. This has resulted in the NLM securing at least half of the R1.4bn owed. This figure includes households, businesses, government departments and employees. The NLM is

addressing the issue of non-payment through disconnections, the attachment of property, and its debt-collection strategy. The NLM is reviewing its bylaws to initiate punitive measures regarding illegal connections, which impact on its non-revenue water.

The panel referenced the NLM's assertion that it enjoys 100% water service delivery, noting the numerous complaints to the contrary received by the Commission. The NLM reported that it has a call-centre and suggested that complaints could pertain to burst pipes and interrupted supply, not the ability to access water generally. On average there are 50 complaints in this regard. Tankers are used when attending to repairs. The Commission undertook to provide the LM with details of the complaints it has received for follow-up.



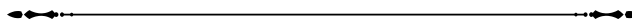
D. UTHUNGULU (KING CETSHWAYO) DISTRICT MUNICIPALITY

The King Cetshwayo District Municipality (KCDM) reported that there are two WSAs in its district, which service five local municipalities. The KCDM district services 44 traditional authorities, with the remaining part of the district serviced by the City of Umhlathuze. The KCDM noted that there are many areas where there is no infrastructure at all. In other areas, there is rudimentary infrastructure, but there are challenges in terms of its functionality. Rudimentary schemes include borehole schemes, small package plans, springs, and communal standpipes. Where there are rudimentary schemes that are dysfunctional and there is no infrastructure, these are the problem areas in terms of planning. Politics in the allocation of resources and services historically marked unequal provisioning to communities under the rule of a different political party, which has now been resolved in that one party controls all the local areas. The backlog of providing water to households is currently about 29%.

The KCDM has 37 operational water tankers that are owned by the municipality, although of these, six are dysfunctional. It hires a further 22 water tankers, and added a further 14 after the floods, bringing the total number of tankers hired to 36.

The KCDM has now allocated funds for purchasing tankers and hiring drivers, to insource this service. The KCDM has five water supply schemes, and each scheme has multiple project components, including waste treatment works, reservoirs, bulk mains, pump stations and reticulation networks. Each supply scheme is subdivided into sub-supply areas to manage them easily. These sub-supply areas are at different levels in terms of the implementation of infrastructure.

The panel noted that the Auditor General has commended the KCDM for the quality of financial reporting, for which it was congratulated. It reported that complainants from the municipality have noted that for years they have not enjoyed sustained access to water. The panel noted the impact of the lack of access to water is having on access to housing, with permission denied to proposed settlements where there is inadequate water to service these. The KCDM noted that the move to cut after-hours service delivery impacted on the municipality's ability to provide communities with water, but the recruitment of new drivers will address this. The municipality is able to double its delivery by water tankers through savings in overtime expenditure. Consultation measures between the municipality and traditional leaders have facilitated the delivery of services to these areas.



E. ZULULAND DISTRICT MUNICIPALITY

The Municipal Manager failed to appear, having requested the team to appear in his stead, without advising the Commission. He was requested to attend in person, and did so, later that day, at the end of proceedings. The Zululand District Municipality (ZDM) noted that communities do complain, but the issue is the availability of resources to meet these needs. Approximately 60% of its budget is available for operational costs, of which 95% is flagged for salary and other costs. The ZDM's revenue collection is poor, with its 95 wards all being rural. The ZDM has a financial recovery plan and a five-year water service delivery plan.

Water is currently provided to approximately 183,642 households, through boreholes and protected springs, communal standpipes within

allowable distances, and yard or house connections. This is supplemented through the provision of water through 28 water tankers, all of which are outsourced. The ZDM acknowledged the resulting financial burden and is in the process of insourcing this service. Regarding backlogs in providing water to households, the ZDM is relying on the 2016 Census for its figures, escalating these appropriately, and estimating its backlog. In terms of water service provision, it is 19.71%, and in terms of sanitation, it is 12.27%. The ZDM anticipates it will take until 2037/8 to address these backlogs, at the level of funding received to date, but it is seeking additional grants to accelerate this.

The rurality of the area, the challenging geographic terrain, and the scattered nature of human settlements impact on the municipality's ability to deliver water. Mining contamination impacts on water quality, forcing the ZDM to rely on regional water schemes, which are expensive. Sanitation supply patterns are marked by waterborne diseases in urban areas, septic tanks, and VIPs in rural areas. There are various community development and skills development projects implemented by the municipalities, to create job opportunities for local youth, and contracts for community businesses.

Challenges are experienced in terms of limited funding support, as noted, as well as water losses occasioned by maintenance issues. This is exacerbated by infrastructure vandalism. The ZDM has experienced limited technical support from mandated departments such as COGTA and DWS, as a result of the scarcity of necessary engineers to assess applications, impacting on its ability to deliver on its services. It also experiences challenges from local business forums demanding contracts. There are further challenges in attracting and retaining skilled staff to work in this rural area and execute services.

The panel questioned whether the ZDM had availed itself in terms of various infrastructure grants that are available. The ZDM provided examples of their attempts to secure grants to enable it to proceed with major projects, and not being successful in securing same. The pace of funding is simply inadequate to address the backlog and increasing community demand. The panel noted that the complaints received correlate with the areas in the ZDM report which are marked by no access to water services. The panel noted with concern municipal challenges in the lack of adequate skilled and qualified personnel.



6.5 DAY FIVE: FRIDAY, 19 AUGUST 2022

A. UMGENI WATER (UW)

UW is a parastatal responsible for bulk distribution, bulk potable water, secondary bulk water and in some instances, the recycling of water. UW outlined the WSAs it services and spoke to some of the key projects it is engaged in with each of these WSAs. It noted that demand far outweighs supply capacity, particularly in areas like uMgungundlovu and eThekweni. UW reported that the recent floods have had a negative impact on construction and contracts, with contractors falling behind on scheduled delivery. All of the projects reported are up and running, but delays have been occasioned. This was further aggravated by Treasury delays in putting out tenders for advertising, which took some months, as did approval of variations. UW reported that tender appeals are becoming one of the most significant problems affecting the start of construction, as do land access issues. It also experiences site disruptions by so-called “business forums” and by local labour and community protests.

UW spoke to high water losses and non-revenue water in KZN, which affects the reliability of equitable supply. This is something that must be elevated, failing which will lead to municipalities ailing in terms of servicing, only to find that the bulk supplier has in some instances provided enough water. UW is engaging with municipalities to address skills-shortages in this regard, to assist them in reducing these losses. Losses are aggravated by illegal connections.

B. UTHUKELA WATER

Uthukela Water is a bulk water supplier to Newcastle LM, uMzinyathi DM, and Amajuba DM. Uthukela has a Water Master Plan, detailing numerous projects and their maintenance. They noted that most components of the infrastructure have outlived their design life, with the entity largely operating with unreliable infrastructure, and failure of these components is imminent.

Despite these challenges, the supplier is meeting its demands, largely delivering uninterrupted water supply to the WSAs, and maintaining reduced water losses. It notes that its assets are old and require replacement – they are expensive to maintain, and limited refurbishments have been affected. There is further a lack of commitment from the three WSAs in terms of bulk water services rendered, and the tariff charged is unrealistic in terms of operating and maintenance costs and is the lowest in the country. There is an outstanding debt to the Department of Water Affairs, which the supplier is attempting to finance.

There are plans to upgrade and refurbish water sources and water treatment plants to meet the WSAs' needs, and these should be incorporated into the WSAs' IDPs. The supplier has also facilitated regular engagements with WSAs, COGTA and DWS, and has proposed a payment commitment plan for old and new debts of the WSAs, to be facilitated by COGTA and the DWS.

The panel expressed concern at the WSAs' non-payment and requested details of the recovery rate from municipalities, questioning the feasibility of its master plan in the face of resulting inadequate funding. The supplier noted that municipalities tend to pay only what they can afford and finance current costs, rather than debt repayments, and has engaged COGTA and the AGSA on these challenges. The panel queried the supplier's engagements with its Board to secure its assistance in strategizing on debt recovery, raising concern at the sustainability of the entity, and noted further the common challenge of ageing infrastructure, poor recovery, and water losses. The supplier sets aside 6-8% of its budget for maintenance.



C. UMZINYATHI DISTRICT MUNICIPALITY

The uMzinyathi District Municipality (uMzinyathi DM) consists of four local municipalities: Endumeni, Nquthu, uMsinga and Umvoti. The uMzinyathi DM is a WSA and has as its main focus the supply of water to the community of uMzinyathi. It has significant backlogs, particularly in the uMsinga area, standing at 66%. The backlog in the Nquthu area is

37%. Endumeni is mostly an urban area where most of the people have access to services. But in uMsinga, which comprises a deep rural area, the municipality experiences many challenges in delivering water services.

The uMzinyathi DM raised several challenges in this regard. These include the challenge of scarce resources, with municipalities and departments unable to meet the resulting demand. The uMzinyathi DM also cited the political environment as a challenge, with political interference impacting on the municipality's intended interventions. This has seen the allocation of loans and grants to the uMzinyathi DM, totalling R303 million, yet it has been unable to deliver on a single intended project, and service delivery has been stalled. Other challenges include forensic investigation findings by the Public Protector of South Africa in 2014/15, with recommendations still not implemented. The incoming administration in 2017 attempted to ensure delivery to the community but was faced with inherited challenges such as adverse findings and a disclaimer from the Auditor General South Africa. The uMzinyathi DM has managed to move progressively to an unqualified audit since then.

In relation to water service provision, the uMzinyathi DM is marked by ageing infrastructure. It further experiences staff overtime challenges, with staff claiming overtime for work that is not undertaken, resulting in the depletion of its budget. There is apparent corruption, which is prevalent, in that while 50 tankers were said to be procured, only 23 are actually on the ground. The uMzinyathi DM has moved towards buying tankers instead of hiring them, but it experiences fuel challenges for these tankers. Staff members have also conspired with others to mobilise community protests, tampering with and damaging infrastructure including pipelines and substations, to ensure tankers are needed – this issue persists, and some people have been killed. Finally, the uMzinyathi DM is plagued by Eskom's service delivery failures, resulting in six of its projects failing to go ahead, impacting on service delivery. Eskom, nonetheless, bills the uMzinyathi DM approximately R10M per month, yet cuts the electricity supply in three of the uMzinyathi DM's regions, impacting its ability to attend to water service issues.

The uMzinyathi DM acknowledged community protests, for instance in Nquthu, where pipes were laid in 2009, but water has still not been

provided, as the water treatment works need to be capacitated to increase its capacity. This project is near completion, and water is being delivered in some areas. Conversely, in the Umvoti region, a project initiated in 2009 has still not been completed, despite a spend of almost R592 million. DWS has advised that no further funds will be forthcoming, and the uMzinyathi DM needs to address any remaining shortfall, which stands at R40M. As noted, the uMzinyathi DM is plagued by the challenge of infrastructure vandalism and revenue, through non-payment for services, with communities alleging that they have been over-charged.

In the short-term, to address water service delivery needs, the uMzinyathi DM makes use of water tankers. In the medium-term, it seeks to drill boreholes in areas where there is no piped water. The long-term plan is to provide piped water, through the allocation of municipal infrastructure grants (MIG) and Water Service Infrastructure Grant (WSIG). The uMzinyathi DM has received a directive from the DWS for this financial year that the municipality must address their sewage treatment works because these are overflowing. As a result, out of a provision of R202M, R80M needs to be set aside to address this challenge.

The panel engaged with the issue of the uMzinyathi DM's non-payment of invoices for bulk water services from uThukela, and the request that it includes infrastructure development in its integrated development plan (IDP) so that this can be funded. The uMzinyathi DM acknowledged this historic debt of R8M since 2009 and advised that it has engaged with uThukela regarding repayment. It also owes DWS R69M from 2002. The uMzinyathi DM acknowledged the need to address the sewage treatment works but stated that it cannot address all these needs simultaneously.

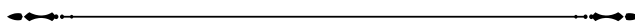
It has budgeted R18M for this financial year to address water treatment plants and requires a further R22M in the next financial year to complete this project. The uMzinyathi DM noted that when the sewage works were built, they were designed to service only a few communities. Sewage is now overflowing with the increase in communities being serviced, including informal settlements. The uMzinyathi DM is seeking an audience with the Minister to request additional funding.

The uMzinyathi DM noted that the state initiated the uThukela Water Authority – this was a joint project of Uthukela DM, uMzinyathi DM, Amajuba DM, and Newcastle. Unfortunately, the project failed along the

way, and the uMzinyathi DM wanted to withdraw from this project as it was not benefitting. uMzinyathi DM has invested money as a shareholder but is uncertain whether it will benefit from this project. The panel engaged with the issue of the impasse with Eskom and the Uthukela Water Authority, and possible discriminatory treatment at the hands of DWS, and enquired what actions have been taken, including briefing the AGSA on these challenges. The uMzinyathi DM has not seen any positive outcome from its attempts to resolve these issues.

The provision of water through tankers does ensure the delivery of water, but there are backlogs to ensure that households are able to access water within a walking distance of 200m. For instance, some households are obliged to walk almost a kilometre to the nearest borehole. Many households have no access at all and have to be serviced by tankers. Services are affected by illegal connections by some households that have their own small pumps and JoJo tanks. They fill these 500L JoJo tanks when the water is running to their pipes, with the result that water does not reach other households.

The uMzinyathi DM is not of the view that it is being discriminated against, as it collaborates with COGTA and DWS. However, regarding the uThukela water provider, the uMzinyathi DM no longer wishes to be a shareholder, as it does not want to fund a project that will not benefit it. The panel recognised the challenges of backlogs, and advised that it has received numerous complaints pertaining to these, which the uMzinyathi DM has explained, but sought possible solutions to these challenges. The panel raised concern that the uMzinyathi DM has not used optimally the resources that were made available to drive transformation, but instead has just occupied positions and “played politics”.



D. AMAJUBA DISTRICT MUNICIPALITY



Amajuba District Municipality (DM) is located in the northern parts of KZN. Amajuba district municipality is responsible for Newcastle, eMadlangeni and Dannhauser local municipalities. The DM presented on developmental priorities, acknowledging that the provision of portable

water and access to decent sanitation are basic human rights; and that non-access to basic water and sanitation services is a violation of this right and contributes to poverty.

The DM outlined the challenges it experiences in relation to the delivery of water and sanitation services. These include an ageing infrastructure inherited from mining companies. There are water losses of more than 60%, limited human capacity to meet the vision of the Council, lack of adequate water systems in the area, lack of built services in the rural settlement, and insufficient funds for maintenance. In addition, the DM has inadequate data to update the Geographic Information System (GIS), problems in the alignment of capital projects budget with sector departments, and outdated sector plans to support its Water Services Development Plan (WSDP). It noted further that services provided do not generate revenue for the DM, with 80% of its communities located in indigent areas, together with an extremely high unemployment rate and poor socio-economic status in the area; all of these factors have had an adverse impact on services provided.

The DM has experienced an influx of new settlements and households. Coupled with poor maintenance of water infrastructure and unauthorised water connections to the bulk infrastructure, the DM is seeing high water losses and poor revenue collections, both from business and rural communities. The DM has limited capital projects funding for new infrastructure and refurbishment and lacks both numbers and skills of operators at the works to meet requirements. In addition, load shedding also contributes to an erratic water supply.

The key challenge the DM faces is a limited budget allocation from WSIG and MIG. It suffers unfilled vacancies due to budget constraints. Most areas are still dependent on water tankers and boreholes for water supply. There are some challenges of vandalism by the communities, and water and sanitation backlogs increase due to infills. There are some delays in tendering processes that lead to price escalations, and the DM is planning to appoint new bid committee members. Amajuba has a shortage of tankers but is planning to buy more. There is insufficient water supply from bulk service providers, and the DM is planning to construct a dedicated 20ML reservoir. It has also experienced social conflict and unrest. It has put some mitigation measures in place, including plans to replace the existing infrastructure. It has adopted business plans to increase its budget and is prioritising the filling of critical posts.

The DM has well-established traditional urban settlements in Utrecht, Newcastle and Dannhauser. It has a good track record in the utilisation of infrastructure grants. It has reduced its backlog for water and sanitation, has eradicated the bucket system, and has a fully functional GIS system and updated special development framework. It further has installed a meter system for revenue enhancement and has shared services with local municipalities. It has engaged in public-private partnership opportunities to augment its capacity. It is drawing on available technical support from sector departments, and is exploring alternative technologies to aid in sanitation-related challenges.

The DM reported that 40% of the community does have access to piped water, while 22% has unauthorised connections. 79.2% of the Dannhauser Local Municipality community has access to safe drinking water, and 67.7% in Emadlangeni have access to safe drinking water. The DM has three Water Treatment Works; three Wastewater Treatment Plants; 44 reservoirs; 14 pump stations; 1,983 boreholes; 2,429 water pipelines; 156 sewer pipelines; and 2,897 septic tankers. The DM outlined several MIG capital projects and WSIG projects to improve access to water and sanitation in the district. In addition, there are four current accelerated access to water projects funded by WSIG, including the refurbishing of existing infrastructure, drilling of new boreholes and project springs for water. Additional projects funded by COGTA and MISA are ensuring the drilling of additional boreholes, and the provision of a reticulation network for water. In addition, the DM has implemented a water conservation and demand programme. Here, the DM plans to connect all unauthorised water connections from the community and install meters to track community use.

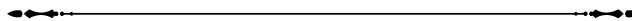
The DM requires R250M to eradicate its backlog within the timeframe it has identified, but receives only R100M, including WSIG and MIG programmes, to accommodate close to 300,000 people. It will not achieve the National Development Plan goals and implement important projects if it does not secure the funding needed.

The panel raised questions regarding the DM's relationship with Uthukela Water, funds outstanding, and some of the challenges identified by the DM. The DM has entered into an agreement with Uthukela Water to pay its outstanding dues and would like to see a better relationship and more engagement moving forward. The DM raised an issue pertaining to the universal water access plan, developed

by Umgeni Water, which speaks to a bulk water system and collaboration with districts and the region. Clarity is required on how this will function, how this will be managed and at what cost. Regarding misalignment, considering housing projects, water systems, waste treatment plants and road access plans in KZN, there appears to be no comprehensive infrastructure plan that feeds into a national master plan. There is a need for better planning and collaboration between departments on developments.

The DM confirmed that it owns four water tankers and hires an additional four. It noted disparities in the indigent system, stating that in many rural areas, the DM notes impressive houses, and is aware that there are teachers and nurses living there, as well as local businesses who can afford to pay for the water. The DM is assessing its indigent register and is cognisant of the fact that some community members register their parents for municipal accounts. This needs to be investigated to make sure that the DM has a proper indigent register. Regarding complaints, the DM reports that it has a good monitoring system and that most of its complaints are resolved.

The panel noted that the DM is in a relationship with the Ingonyama Trust Board, with much of the land in Amajuba shared between the DM and Ingonyama Trust Board. The panel enquired about implications pertaining to land and informal settlements, mining rights and the impact on water services. It further requested additional information pertaining to the DM's relationship with the DBSA, as well as measures it has enacted to address the 60% water losses mentioned, and its provisioning for maintenance as a percentage of its annual budget, amongst other issues for follow-up.



E. ILEMBE DISTRICT MUNICIPALITY

The Ilembe District Municipality (DM) has a mandate which is to ensure access to water and sanitation for all its consumers. Water is taken from rivers and is treated accordingly and distributed to people. It has identified nine strategic objectives in this regard, to achieve by 2025/26. These include the commissioning of the Umshwathi and Macambini Water Schemes, the upgrade of bulk sewer facilities, the reduction of non-revenue water, the eradication of water and sanitation backlogs, and the commissioning of several waste treatment works. The DM noted that it faces the challenge of demand exceeding water supply, due to an influx within the district. Ilembe DM is 70% rural.

The DM's strategic planning for 2022 includes long-term projects such as securing additional water resources. It notes that so-called "Business Forum" subcontractors disturb many of its projects, resulting in substantive delays. The DM is attempting to address this through public-private partnerships. It is also seeking to procure generators to deal with Eskom power cuts, noting that if it does not have power, it cannot pump water. Several additional initiatives include moving away from the shift system and implementing stand-by with immediate effect, the establishment of an internal fleet maintenance workshop, the implementation of a Telemetry call centre system, and strengthening of its bid evaluation process. It is also seeking to acquire leak detection, through drones, pipeline cameras and equipment. It has further measures to address skills capacity for all staff, and the installation of surveillance cameras to address infrastructure theft. It is implementing measures to raise community awareness of illegal connections and servitude encroachment.

The DM has identified short-term plans for improved water and sanitation, which require a budget of R3.3 billion. It has only received R1.5 billion, which is problematic. It is in negotiations with COGTA regarding operations and maintenance, and has requested COGTA for 10% of MIG funding to be set aside to address operational issues. It wishes to focus on the refurbishment of Water Treatment Plants, especially Mvoti Water Works, and prioritise the recommissioning

of dysfunctional water schemes. It has successfully implemented the drilling of boreholes and the protection of springs in several areas.

Population growth has seen an increased strain on the DM's infrastructure. It currently has backlogs in water services at around 15.29% and in sewage services at about 13.32%. It has implemented several strategic projects in various areas, including the Umshwati Regional Bulk Water Scheme in Ndwedwe. This project is implemented by Umgeni Water to augment the bulk water supply. There is also a bulk sanitation project to cater for a housing project, a regional waste treatment works, and the Southern Regional Bulk Water and Sanitation project planned for KwaDukuza's current and future needs. In Mandeni, the Macambini and Ndulinde Sub-regional water scheme projects are being implemented to eradicate water backlogs in the entire Macambini and Ndulinde areas. Ndwedwe will also see a bulk water and sanitation project to provide these services to Ndwedwe town.

In terms of challenges, the DM experiences water losses of about 46% and has an ageing infrastructure. It has implemented several projects to address these challenges, and in 2021, reduced water losses by about 10%, saving R12 million in 1 year. In 2022, it anticipates reducing water losses by a further 3%. It also has several non-revenue strategy projects. Non-revenue water results in insufficient funds to refurbish the ageing infrastructure, and the DM's focus is on routine operations and the need to develop a dedicated unit for it. The greatest impact on non-revenue water volumes is the issue of unregistered consumers in the billing database. The DM is planning to consolidate data with local LMs in this regard. There is additional no-cost recovery from some of the rural water schemes, which are supplied by standpipes. The DM plans to install yard connections. It further has established partnerships with Vuthela-SECO (a local economic development programme funded by the Swiss State Secretariat for Economic Affairs) and Umgeni Water to deal with collection issues.

The DM's challenges were exacerbated by the recent floods, and it received funding from the Municipal Disaster Response Grant for flood intervention. The service provider to undertake Phase 1 of flood intervention projects has been appointed. The DM also experiences operational challenges, including a high-water table, lower-uThukela water cuts, and the desludging of VIP toilets, which is expensive. There are sewer blockages due to old infrastructure and consumer behaviour,

and funding constraints for the refurbishment of sanitation infrastructure as opposed to that required for water. Additional challenges include encroaching on servitudes, the lack of a Telemetry system, poorly maintained roads, increases in crime, illegal water connections and high backlogs in water and sanitation services. To address these shortcomings, the DM has implemented a temporary water intervention through water tankers, at a cost of R21,599,246. The DM bought 41 water tankers and hires the rest needed.

In engaging with the panel, the DM noted that it has replaced infrastructure at a cost of more than R160 million. Most of the boreholes that the municipality is drilling are in inland areas, and the municipality is, therefore, not affected in terms of diseases and a high water table. Challenges are experienced in coastal areas, with some boreholes becoming saline. The municipality is seeking multiple approaches to secure more funding, including engaging with DWS and other grants to assist the municipality with water demand management and interventions. The municipality has spoken to the Development Bank of Southern Africa (DBSA) and the Presidency regarding infrastructure funding and has secured some contributions from developers.

In relation to addressing Business Forum challenges, the DM noted that there are multiple groups involved. The DM has developed a database to register all local companies and has drawn on the police to assist with law enforcement. The DM has implemented a call centre to facilitate communication with communities, as well as working with ward councillors, and will be augmenting these approaches with social media.



F. MSUNDUZI DISTRICT MUNICIPALITY

Pietermaritzburg is one of the oldest cities in the province and is marked by an ageing infrastructure. In addition, the municipality has expanded, as Msunduzi Municipality (MM), to include the central business district of Pietermaritzburg and the surrounding suburbs, but also the surrounding townships. The piping system is asbestos-based, which

needs to be replaced, and the MM has had to set aside 10% of its budget to ensure adequate repairs and maintenance to its system. It liaises closely with its business community and the Development Bank of South Africa to enter into partnerships to assist with development costs.

The MM acknowledged that it is failing to supply water to certain communities because of its capacity constraints, rapid increase in rural population migration, and burgeoning housing developments. These problems are exacerbated by a deficit in raw water supply from Umgeni Water, and challenges of non-revenue water, which has increased.

The MM has developed a water master plan to address its ageing infrastructure – it is plagued by bursting pipes, theft, vandalism, and sabotage, which impact on water losses. To address this, the MM has implemented a rotating water supply among communities but is mindful of the impact of the lack of water on the dignity of residents, the ability of schools to function, and the impact on health and disease among community members. Some of the sabotage is caused by municipal staff manipulating the system to secure overtime, or external stakeholders to secure contracts.

Approximately 30% of the community is receiving water intermittently, and around 10% is not receiving water at all. The MM has initiated water tankering to deliver water to these communities. The MM has submitted business plans with an estimated amount of R390 million to upgrade its system and foresees its backlog being resolved in approximately two years' time, which is not good news for its communities.

The panel cited concerns and allegations raised in complaints pertaining to the lack of skilled staff and delays in turn-around in response to reported faults. The panel also cited concerns in terms of the MM's Blue Drop rating. The MM responded that it has embarked on a training programme for call centre staff and developed a system to ensure rapid response to complaints.

7. COMMISSION FOLLOW-UP ENGAGEMENT WITH MUNICIPALITIES

The SAHRC followed up with many of the municipalities that appeared before it, requesting additional details referred to in their submissions and panel deliberations. As of the deadline imposed of 19 October 2022, the following municipalities and stakeholders had responded to the SAHRC, providing the outstanding information and reports requested:

- Msunduzi Local Municipality
- Ugu District Municipality
- Harry Gwala District Municipality (Sisonke)
- uThungulu (King Cetshwayo) District Municipality
- uMgungundlovu District Municipality
- Department of Water and Sanitation

Unfortunately, the following municipalities failed to respond to the SAHRC's correspondence and meet this deadline. The SAHRC will take appropriate measures to address this:

- eThekweni Municipality
- Amajuba District Municipality
- Newcastle Local Municipality
- Zululand District Municipality
- Umzinyathi District Municipality
- uThukela District Municipality



8. PANEL FINDINGS AND RECOMMENDATIONS



A. COMMISSION'S FINDINGS

This report has established that the state has a constitutional obligation to respect, protect, promote, and fulfil the rights contained in the Bill of Rights, and in particular, the right of access to sufficient water as stated in section 27(1)(b). This is amplified by the state's obligations in terms of international law and section 27(2) of the Constitution to ensure that reasonable measures are enacted within available resources, to ensure the progressive realization of these rights.

The state further has assigned statutory obligations in terms of the Water Services Act to ensure the delivery of water to communities. These obligations have been analysed and interpreted in related court judgements, and the standard is set for the state to deliver on these rights. Clear pronouncements have been made directing the state to ensure communities' access to water, protect the integrity of groundwater systems, prioritise the needs of vulnerable households and previously discriminated communities, and uphold rights to dignity, information, and just administrative action.

The Commission accordingly makes the following findings:

- a. The Commission finds that in KZN, municipalities in general and Water Service Authorities (WSAs) in particular have violated residents' right to access clean drinking water, as provided for in international, constitutional, and statutory provisions. This violation of rights is aggravated by the pervasive sense of neglect, disregard and in some instances, contempt, for people's suffering, and their attempts to engage with their municipality through officials and elected representatives.
- b. The extent of the challenges in access to water, and the rights violations experienced by communities, evidenced by the complaints tabled by residents and communities across the province of KZN, is profound, and indicative of systemic failures in water provisioning, and the violation of multiple human rights.
- c. The impact on the rights, livelihoods and dignity of communities is particularly aggravated in impoverished communities and vulnerable households. The impact on businesses, and the resulting undermining of employment, livelihoods and local economic development is devastating.
- d. The Commission further notes and finds that stark disparities between rural and urban communities in terms of access to basic services, such as water and a. sanitation, exist, which impacts on rural residents' rights to equality, dignity and equal access to rights and freedoms as guaranteed by the Constitution.
- e. The Commission notes the challenges faced by municipalities in redressing apartheid-era spatial planning that excluded the majority of communities from basic service provision, the inheritance of ageing and dilapidated infrastructure, and the overwhelming demand for water far

exceeding supply. Nonetheless, the Commission finds that these challenges outlined by municipalities and WSAs reflect poor planning and management of resources, particularly in relation to non-revenue water and maintenance of infrastructure, a reluctance to deal with corruption and non-performance, and an inability to plan and budget for future needs and expenditure.

f. The Commission finds unacceptable the failure of the state, 28 years post-apartheid, to transform colonial and apartheid-era spatial planning to benefit previously excluded and disadvantaged communities.

g. The violation of rights evidenced in complaints received and submission made are indicative of a gross dereliction of duty on the part of municipalities and WSAs to enact reasonable measures to deliver on rights and fulfil their obligations to communities, in flagrant disregard of international, constitutional, and statutory obligations imposed on the state.

h. The Commission finds that most components of the infrastructure used by the respective water boards have outlived their design life, with the entity largely operating with unreliable infrastructure, and failure of these components is imminent. Further that their assets are old and require replacement. The Commission has noted that they are expensive to maintain, and limited refurbishments have been affected.

i. The Commission finds that there is a lack of commitment from the three WSAs in terms of bulk water services rendered and that the tariff charged is unrealistic and incompatible with operating and maintenance costs and is the lowest in the country.

j. The Commission finds that in respect of the KZN Water Master Plan, Municipalities are not adhering to the guidelines to reserve 8% of their annual operational budgets for operations and maintenance - which is causing an imminent disaster in terms of the functionality of the infrastructure.

k. Following testimony received at the Inquiry from various municipal entities and members of the public, The Commission finds a number of challenges with the water tankering system. These include but are not limited to: inadequate and disproportionate supply to communities;

manipulation and commercialisation of the system, such that those community members with connections and money receive regular delivery and supply at the expense of others; the politicisation of the tankering system; possible financial benefit from the system by municipal officials and members of municipal councils.

l. The Commission finds that there is a disproportionate impact in respect of the lack of water on women and girls.

m. The Commission finds that there is a lack of reporting and monitoring systems through municipal call centres in many instances.

n. The Commission finds that stakeholders such as the DWS, COGTA and the KZN Legislature, all of whom hold constitutional and legislative oversight and monitoring responsibilities for the delivery of water services by municipalities have failed in effectively ensuring that municipalities and water service authorities do not violate the residents of KZN's right to access clean drinking water.

o. The Commission notes in a serious light the impact of the extractive nature and consumption of local water resources by industry, particularly the mining industry, for its profit, with the indulgence of the state, at the expense of communities.



B. RECOMMENDATIONS



In view of the findings in paragraph 8.1 above, the Commission makes the following recommendations:

(a) Department of Water and Sanitation (DWS)

i. Annually monitor municipalities' implementation of Blue Drop and Green Drop report findings, including technical measures proposed, and report to the Commission on an annual basis.

- ii. Engage with COGTA and local councils on annual municipal infrastructure self-assessments findings, monitor take-up of recommendations, and report to the Commission annually.
- iii. Drive a process to ensure the transformation of catch management forums and water user associations to include diverse communities and increase community buy-in and representation, and implement enhanced community awareness, education, and advocacy programmes.
- iv. Guided by section 62 of the Water Services Act, read with section 154 of the Constitution, pay more focused attention to monitoring the effective performance of water services institutions in the Province.
- v. Invoke where appropriate, powers in terms of section 63 of the Water Services Act to take over the water services function, in parallel with COGTA powers in terms of section 139 of the Constitution, to put municipalities under administration for failing to deliver water.
- vi. Leverage municipal access to grants to encourage municipalities to improve and update their water service delivery and infrastructure maintenance.

(b) COGTA

- i. Review the funding model for municipalities and consider the provisioning of a special grant to effect upgrades and rehabilitation of critical water infrastructure and report to the Commission within 12 months from the date of this report.
- ii. In appropriate instances, enact measures to declare a state of disaster in terms of the Disaster Management Act 57 of 2002, to escalate the immediate restoration of water services, and to effect necessary repairs to damaged or neglected infrastructure.
- iii. Where appropriate, invoke powers in terms of section 139 of the Constitution, to put municipalities under administration for failing to deliver water.

- iv. Annually monitor municipalities' implementation of Blue Drop and Green Drop report findings, including technical measures proposed and report to the Commission on an annual basis.
- v. Monitor the implementation of the District Development Model, and Campaign Khawuleza, to fast-track water service delivery.
- vi. Escalate the support by the water expert task team to monitor and develop plans for municipalities.
- vii. Monitor the development and implementation of municipal water services development plans (WSDPs), considering introducing incentives for best performers.
- viii. Ensure that the KZN Water Master Plan considers the regression in municipality performance, and identifies radical measures to address this, including fraud and corruption, and intra-political party fighting within the public service. The Water Master Plan should further consider future demands for water and include these, noting, for instance, the impact of the floods on the Plan and budget.
- ix. Develop an efficient tracking mechanism to ensure the monitoring and evaluation of the Water Master Plan, to identify progress and achievements, with time-bound targets set and submit such to the Commission within 12 months from the date of this report.
- x. Adopt measures to strengthen inter-governmental relations across the spheres, particularly pertaining to the role of the Office of the Premier, the Legislature and COGTA in monitoring the work of local government and submit within 12 months from the date of this report to the Commission a detailed report on the measured adopted.
- xi. Monitor findings and implementation of recommendations by municipal infrastructure self-assessments and report to the Commission annually.
- xii. Leverage municipal access to grants to encourage municipalities to improve and update their water service delivery and infrastructure maintenance.

(c) KZN Provincial Legislature Portfolio Committee on Cooperative Governance and Traditional Affairs

i. Monitor municipalities' implementation of Blue Drop and Green Drop report findings, including technical measures proposed.

ii. Monitor the implementation of the KZN Water Master Plan, calling for regular reporting by COGTA, particularly pertaining to the delivery of water and sanitation.

iii. Monitor findings and implementation of recommendations by municipal infrastructure self-assessments.

iv. The legislature is to conduct oversight in order to ensure the implementation of the SAHRC's findings and recommendations as contained in this report.

(a) Water Boards

i. Prioritise the development of additional bulk-water supply schemes by reporting unreasonable delays to the relevant authorities.

ii. Undertake necessary infrastructure maintenance and replacement to ensure continuity in water services provisioning to WSAs.

iii. Investigate prospects and opportunities in groundwater exploration and excavation.

iv. Address governance challenges in the respective Water Boards, and their impact on service delivery.

v. Prioritise engaging with municipalities to ensure the settling of debts owed, to minimise the impact on water delivery.

vi. Prioritise urgent steps to address the ageing infrastructure and maintenance of the respective water boards in order to prevent their functions from collapsing. These steps are to be undertaken within 12 months of the release of this report and should also include interim measures to ensure the sustainability and continued operations of the water boards.

vii. Prioritise on-going engagements with the three (3) WSA's to secure and maintain commitments for the provision of bulk water services and further take steps to review the respective water tariffs as they are incompatible and unsustainable to provide for both operating and maintenance costs.

(e) For the following District Municipalities, in their capacity as Water Service Authorities (WSA): Amajuba District Municipality; eThekweni Municipality; Harry Gwala District Municipality; Ilembe District Municipality; Ugu District Municipality; uMgungundlovu District Municipality; uMzinyathi District Municipality; uThukela District Municipality; uThungulu District Municipality; Zululand District Municipality:

i. Revive and ensure the regular convening of Water Services Committees in areas of jurisdiction, to oversee local service delivery and report to the Commission within 12 months from the date of this report.

ii. Implement Campaign Khawuleza through the DDM, to fast-track water service delivery.

iii. Replicate decentralised solid waste solutions in informal settlements and new housing developments.

iv. Develop, keep, and maintain a regularly updated Water Service Development Plan in terms of the Water Services Act.

(f) All the above District Municipalities, as WSAs, and the Local Municipalities appearing before the Commission, in their capacity of providers of water service delivery to households, are recommended to enact the following measures, reporting on their uptake of these recommendations within 12 months of the date of this report.

i. Implement appropriate customer care divisions with a dedicated customer services team. Institute call-centre mechanisms to receive and refer complaints, with appropriate standard operating procedures to ensure the maintenance of a register of complaints, maximum (six-hour) turn-around time to restore water service delivery and monitoring of resolution of complaints.

ii. Implement local accountability mechanisms with communities, such as sign-off on water delivery by tankers, and filling of JoJo tanks, managed by local ward councillors.

iii. Implement appropriate community education and outreach mechanisms to educate and inform communities of their rights and the municipal services available. Implement campaigns to communicate planning and response measures in instances of water service provision challenges, consult communities on impact, design and prioritise appropriate remedies, and partner with community stakeholders in monitoring implementation and outcomes.

iv. Be mindful of and give effect to stakeholders' constitutional rights to just administrative action (Constitution, section 33(1)), and their right to written reasons in instances where their rights have been adversely affected by administrative action (Constitution section 33(2)).

v. Strengthen local accountability measures by entering into service-level agreements with local industry, to guarantee the reliability of water provision.

vi. Use the DWS Blue and Green Drop programme as a guideline for running municipal services and implement the technical and practical measures proposed in these reports.

vii. Urgently address the emerging corruption relating to the water tankering system and overtime system, investigate allegations of damage to infrastructure and manipulation of the tender mechanism.

viii. Implement consequence management measures for failure by officials to perform.

ix. Revise the indigent register model in rural communities, to ascertain those households entitled to receive free basic water, while ensuring revenue collection from households that can afford to pay for water services. Roll out the installation of smart meters in such areas and implement community awareness programmes around the need to pay for services.

x. Undertake a cost-effectiveness study to consider buying tankers as opposed to outsourcing this service. Move towards implementing permanent solutions to water service provision, utilising tankers only in instances of emergency.

xi. Table Municipal Self-Assessment reports with Council, using findings and recommendations to inform planning.

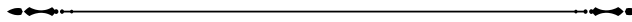
xii. Revise the management of demand, recycling and re-using of water for industrial purposes.

xiii. Prioritise addressing high water losses and non-revenue water, noting the impact of water leaks in this regard.

xiv. Ensure compliance with the recommended 8% budgeting provision for operations and maintenance of water infrastructure.

xv. Prioritise and address longstanding backlogs in infrastructure maintenance.

xvi. Fast-track the implementation of the National Water and Sanitation Master Plan.



9. REFERENCES

Al Jazeera Staff Reporter 'Floods hit South Africa's Kwa-Zulu Natal Province again' Al Jazeera 23 May 2022, available at [Floods hit South Africa's KwaZulu-Natal province again | Floods News | Al Jazeera](#).

Auditor-General South Africa Consolidated General Report on local government audit outcomes MFMA 2020-21 (2022).

BBC Staff Reporter 'KwaZulu-Natal floods: South Africa army sends 10,000 troops' BBC News, 18 April 2022.

Constitution of the Republic of South Africa, Act 108 of 1996
Convention on the Elimination of All forms of Discrimination Against Women (CEDAW), 1979.

Convention on the Rights of the Child (CRC), 1989.

Convention on the Rights of Persons with Disabilities (CRPD), 2006.

Damons, Marecia 'July riots caused more than R100 million in damage to schools in Gauteng and KZN' Groundup 4 August 2021, available at <https://www.groundup.org.za/article/unrest-july-2021-more-r100-million-damages-schools-kzn-and-gauteng/>.

Department of Water and Sanitation (DWS) Blue Drop Progress Report 2022 (2022).

Draft White Paper on Water Services (2002).

Erasmus, Des, 2022a. 'KZN unrest cost eThekweni businesses R70bn, and counting – survey' Daily Maverick, 4 July 2022, available at <https://www.dailymaverick.co.za/article/2022-07-04-kzn-unrest-cost-ethekweni-businesses-r70bn-and-counting-survey/>.

Erasmus, Des, 2022b. 'Levels of financial stress – The best and worst municipal performers in KwaZulu-Natal' Daily Maverick 26 June 2022, available at <https://www.dailymaverick.co.za/article/2022-06-26-levels-of-financial-stress-the-best-and-worst-municipal-performers-in-kwazulu-natal/>.

Expert Panel into the July 2021 Unrest Report of the Expert Panel into the July 2021 Civil Unrest (29 November 2021).

Government of the Republic of South Africa, Reconstruction and Development Programme, 1996 (RDP).

Human Rights Watch, 'The Human Right to Water: A Guide for First Nations Communities and Advocates', 2019, [The Human Rights to Water | A Guide for First Nations Communities and Advocates | HRW](#), accessed on 30 November 2022.

International Covenant on Economic and Social Rights (ICESCR) ICESCR Committee, General Comment 15

International Labour Organization (ILO) Convention No. 161 Concerning Occupational Health Services, 1985.

Kunene, Mazisi, 1982. 'A Vision of Nomkhubulwane'

KwaZulu-Natal Economic Sectors, Investment, Employment, and Infrastructure Development (ESIEID) Cluster Draft KwaZulu-Natal Economic Reconstruction and Transformation Plan (September 2020).

KwaZulu-Natal Provincial Government Province of KwaZulu-Natal: Socio-economic review and outlook 2021/2022.

JBA Risk Management 'South Africa: KwaZulu-Natal floods' (undated), available at [South Africa: KwaZulu-Natal Floods | JBA Risk Management](#).

Mäki, Harri, 'Jon Fletcher and the development of water supply and sanitation in Durban, 1889 – 1918' (2009) *Journal of Natal and Zulu History*, 60 – 82.

Mahlatuze Water Annual Report 2020/2021 (2021).

Mbatha, S., Wilson, Z. & Buckley, C. "Zulu indigenous practices in water and sanitation: Preliminary field research on indigenous practices in water and sanitation conducted at Ulundi" (WISA paper, undated).

National Water Act, Act 36 of 1998.

National Water Resources Strategy (2004)

O'Regan, Victoria & Onke Ngcuka 'Flood-ravaged communities turn to NGOs after a fortnight without water supply' Daily Maverick 2 May 2022.

Sibanda, S. 'When do you call time on a compromise? South Africa's discourse on transformation and the future of transformative constitutionalism' (2020) 24 Law, Democracy and Development 384.

South African Human Rights Commission Act, Act 40 of 2013

South African National Standard (SANS) 241 Drinking Water Specification (SANS 241-1), 2015).

Statistics South Africa, 2022a. 'Statistical release PO318 – General Household Survey (GHS)'

Statistics South Africa, 2022b. 'Statistical release PO302: Mid-year population estimates 2022', available at <https://www.statssa.gov.za/publications/P0302/P03022022.pdf>.

Tempelhoff, J. "The Water Act, 54 of 1956 and the first phase of apartheid in South Africa (1948 – 1960) (2017) 9 Water History 189 – 213.

UN Committee on Economic, Social and Cultural Rights, General Comment No. 15, The Right to Water, U.N. Doc. E/C.12/2002/11(2003).

UN General Assembly, 'The human rights to safe drinking water and sanitation,' Resolution 70/169, U.N. Doc. A/RES/70/169/ (February 22, 2016).

UN General Resolution 64/292 of 28 July 2010.

UN Human Rights Council, 'Report of the independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation', UN Doc. A/HRC/27/55 (June 30, 2014).

UN Sustainable Development Goals, 2015.

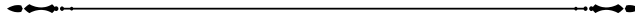
UMgeni Water Infrastructure Master Plan 2021: 2021/2022 – 2051/2052 (June 2021).

UNICEF "Briefing Note#11: Drinking Water" (undated).

UThukela Water uThukela Water (Pty) Ltd: Annual Report 2021 (2021).

Water Services Act, Act 108 of 1997.

White Paper on Basic Household Sanitation (2001).



CASE LAW:



ASTRAL OPERATIONS LIMITED V EKURHULENI METROPOLITAN MUNICIPALITY AND ANOTHER [2016] ZAGPJHC 380.

BHUSHULA V UKHAHLAMBA DISTRICT MUNICIPALITY (2200/09) [2012] ZAECGHC 1.

FEDERATION FOR SUSTAINABLE ENVIRONMENT AND ANOTHER V MINISTER OF WATER AFFAIRS AND OTHERS [2012] ZAGPPHC 140.

Government of the Republic of South Africa v Grootboom (2001) (1) SA 46 (CC).

Mangaung Metropolitan Municipality v Bloemwater [2019] JOL 45665 (FB).

MAZIBUKO AND OTHERS V CITY OF JOHANNESBURG AND OTHERS 2010 (4) SA 1 (CC).

MINISTER OF PUBLIC WORKS AND OTHERS V KYALAMI RIDGE ENVIRONMENTAL ASSOCIATION AND OTHERS 2001 (7) BCLR 652 (CC).

Mnisi and Others v City of Johannesburg [2009] ZAGPJHC 55.

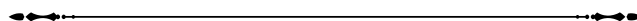
Premier, Gauteng and Others v Democratic Alliance and Others [2021] ZACC 34.

Residents of Bon Vista Mansions v Southern Metropolitan Local Council 2002 (6) BCLR 625 (W).

South African Human Rights Commission v Msunduzi Local Municipality and Others 2021 (6) SA 500 (KZP).

THUBAKGALE AND OTHERS V EKURHULENI METROPOLITAN MUNICIPALITY AND OTHERS 2022 (8) BCLR 985 (CC).

Van Staden and Another v Mookgopong Local Municipality and Others [2018] ZAGPPHC 217.



APPENDIX I: ENTITIES APPEARING BEFORE THE COMMISSION'S INQUIRY

Water Boards/Bulk Water Supply

uThukela Water Board

Umgeni Water Board

District Municipalities

Amajuba District Municipality

eThekweni Municipality

Harry Gwala District Municipality

Ilembe District Municipality

Ugu District Municipality

uMgungundlovu District Municipality

uMzinyathi District Municipality

uThukela District Municipality

uThungulu District Municipality

Zululand District Municipality

Local Municipalities

uMhlathuze Local Municipality

uMsunduzi Local Municipality

Government Departments

COGTA, Hon Sihle Zikalala, MEC

Department of Water and Sanitation, KZN Regional Office

Civic associations

Abahlali Base Mjondolo

Msunduzi Association of Residents, Ratepayers, and Civics

Ntokozweni Village of the Vulnerable

Tongaat Civic Association

Ugu Rate Payers Association

Women's Leadership and Training Programme

Individual complainants

Experts

Professor Peter Ochalla



APPENDIX II: SCHEDULE OF COMPLAINTS

Date Received	Reference Number	Contact Details	Municipality	Summary of Complaint	Status
23/04/2019	KZ/1920/0039	Area: Areas under uThukela Municipality	uThukela District Municipality	Complaint is an own initiative. Complaint relates to the shortage of water in the uThukela District. Municipality.	Active
22/05/2020	KZ/1920/0039/2	Area: Ladysmith	uThukela District Municipality	<p>Complainant makes reference to sms from the Municipality in regard to water shortages in several areas due to a power failure at the Ezakheni Water Treatment Works.</p> <p>Complainant alleges that water shortages happen regularly and alleges that residents were without water for weeks when a protest took place</p>	Active

				by taxi bosses wanting to oust the local mayor.	
22/05/2020	KZ/1920/0039/3	Area: Ladysmith	uThukela District Municipality	Complainant alleges that they do not have water for several days.	Active
26/03/2022	KZ/1920/0039/4	Area: Ladysmith	uThukela District Municipality	Complaint relates to water challenges in the Ladysmith area. Complainant alleges that blame and or excuses are made that Eskom is the problem, that there is no water in the river and further that of clogged silts.	Active
03/04/2020	KZ/1920/0039/5	Area: Ladysmith	Alfred Duma Local Municipality	Complaint relates to poor service delivery in the Ladysmith area.	Activem.33
22/03/2020	KZ/1920/0039/6	Area: Ezakheni	uThukela District Municipality	Complaint relates to the shortage of water in the Ezakheni area.	Active

19/02/2021	KZ/1920/0039/7	Area: Aloe Park -Ladysmith	uThukela District Municipality	Complaint relates to water shortages in the Aloe Park area.	Active
10/01/2021	KZ/1920/0039/8	Area: Hlathikhulu	uThukela District Municipality	Complaint relates to lack of access to water. Complainant alleges that residents are sharing water with animals and drinking water from borehole/s.	Active
28/02/2020	KZ/1920/0039/9	Area: Ladysmith	uThukela District Municipality	Complaint relates to the water crisis in Ladysmith area.	Active
10/01/2020	KZ/1920/0039/10	Area: Ladysmith	uThukela District Municipality	Complainant alleges that they have been without water for 4 days.	Active
10/01/2020	KZ/1920/0039/11	Area: Ladysmith	uThukela District Municipality	Complainant alleges that for the past 7 years, they have not had a steady supply of water.	Active

10/01/2020	KZ/1920/0039/12	Area: Ladysmith	uThukela District Municipality	Complaint relates to the continuous interruption of residents' water supply. Complainant alleges that no water tankers are dispatched to areas affected.	Active
10/01/2020	KZ/1920/0039/13	Area: Ladysmith	uThukela District Municipality	Complainant alleges that they have not had water for the past week and no water tankers have come through to supply residents with water.	Active
10/01/2020	KZ/1920/0039/14	Area: Colenso	uThukela District Municipality	Complaint is vague however the complainant advises that he phones the Municipality every time and they tell her that there is a problem with the	Active

				water and raw sewage.	
22/05/2022	KZ/1920/0039/15	Area: Ladysmith	uThukela District Municipality	<p>Complaint relates to residents in the Mbulwane area that are living in inhumane conditions.</p> <p>Complainant alleges that person's rights to access to water and basic sanitation services have been violated by the Municipality.</p>	Active
15/05/2019	KZ/1920/0090	Area: Pietermaritzburg	Msunduzi Municipality	Complaint relates to allegations of raw sewage that is flowing through the streets in Denmark.	Active
17/05/2019	KZ/1920/0101	Area: Several areas under Ugu Municipality	Ugu Municipality	Complaint is an own initiative and relates to water shortages /restrictions under	Active

				the Ugu District Municipality.	
30/08/2019	KZ/1920/0285/1	Area: Mtubatuba	Umkhanyakude District Municipality	Complainant alleges that Mtubatuba Municipality is not providing residents with water, and this has been the case since the year 2008.	
10/02/2020	KZ/1920/0285/2	Area: KwaMsane	Umkhanyakude District Municipality	Complaint relates to lack of provision of water, bad condition of roads and no street lights in the area.	
30/08/2019	KZ/1920/0285/3	Area: KwaMsane Township	Umkhanyakude District Municipality	Complainant alleges that the roads in their area are in a poor condition and their street lights seldom work. Complainant alleges that the main issue the	

				<p>residents face is access to water.</p> <p>Complainant further alleges that the Municipality has installed one “water tanker” where the whole community has to line up to access same.</p>	
09/09/2019	KZ/1920/0285/4	Area: KwaMashaya	Umkhanyakude District Municipality	<p>Complainant alleges that is a shortage of water in ward 14 - KwaMashaya Area.</p> <p>Complainant alleges that he has engaged the Umkhanyakude District Municipality and was promised to be contacted however this did not happen.</p>	

04/09/2019	KZ/1920/0310	Area: Msinga	uMzinyathi District Municipality	<p>Complaint relates to the shortage of water in the Msinga area.</p> <p>Complainant alleges that they approached the Municipality for a request for water however there was a no response.</p>	Active
13/09/2019	KZ/1920/0311	Area: Areas under UMzinyathi District Municipality	uMzinyathi District Municipality	<p>Complaint is an own initiative and relates to a protest in the Umsinga area related to the lack of water provision.</p>	Active
04/01/2020	KZ/1920/0311/2	Area: Dundee	uMzinyathi District Municipality	<p>Complainant alleges that residents of Dundee are without water for days.</p> <p>Complainant alleges that</p>	Active

				residents are punished due to lack of maintenance of water infrastructure.	
27/08/2020	KZ/1920/0311/3	Area: Nkande Village	uMzinyathi District Municipality	Complaint relates to lack of water provision to residents of the Nkande area.	Active
09/10/2019	KZ/1920/0311/4	Area: Unknown	uMzinyathi District Municipality	Complaint relates to several district Municipalities under uMzinyathi Municipality that are experiencing a lack of water provision.	Active
14/11/2019	KZ/1920/0397	Area: Shakaskraal Postal Address: PO Box 282	iLembe District Municipality	Complaint relates to several issues in the local clinic relating to safety and security and access to water.	Active
05/02/2020	KZ/1920/0525	Area: Ntuzuma Township	eThekwini Municipality	Complaint relates to water shortages in the Ntuzuma Area.	Active

10/02/2020	KZ/1920/0552	Area: Verulam	eThekwini Municipality	Complaint relates to lack of water in the Verulam area.	Active
21/05/2020	KZ/2021/0091	Area: Umlazi	eThekwini Municipality	Complaint relates to water shortages in the Umlazi area.	Active
03/06/2020	KZ/2021/0121	Area: Nondubula (Ndwedwe)	iLembe District Municipality	Complaint relates to water challenges in the Nondubula area.	Active
22/10/2020	KZ/2021/0121/2	Area: Stanger	iLembe District Municipality	Complaint relates to residents of Stanger having no access to water.	Active
09/06/2022	KZ/2021/0130	Area: Ward 4 (Ulundi Local Municipality)	Zululand District Municipality	Complaint relates to the shortage of water in ward 4 under Ulundi Local Municipality.	Active

17/12/2020	KZ/2021/0380/1	Area: Vulindlela Area	Msunduzi Municipality	<p>Complaint is an own initiative and relates to water shortages in the Vulindlela area in Pietermaritzburg.</p> <p>It's alleged that residents protested due to a lack of water and schools and or clinics were shutdown.</p>	
11/01/2022	KZ/2021/0380/2	Area: Pietermaritzburg	Msunduzi Municipality	Complaint relates to the shortage of water in several areas in Pietermaritzburg.	Active

18/01/2021	KZ/2122/0054/1	Moga Pather	Area: Shallcross	eThekwini Municipality	Complaint relates to the shortage of water in the Shallcross area. Complainant alleges that the same was reported to	
					the Municipality and the councillor advised that water tankers will be sent out, but none came.	
09/06/2021	KZ/2122/0054/2	Area: Burlington Heights		eThekwini Municipality	Complaint relates to the constant interruption of water supply in the Burlington Heights area. Complainant alleges that the roads are in a bad condition and there are no streetlights.	



02/08/2021	KZ/2122/0054/3	Area: Harinagar Township - Shallcross	eThekwini Municipality	Complaint relates to the shortage of water in January 2021 which lasted for 5 days. Complainant is aggrieved by the lack of assistance from	
------------	----------------	---------------------------------------	------------------------	---	--

				the eThekweni Municipality.	
22/07/2022	KZI/2122/0054/4	Area: Shallcross	eThekweni Municipality	<p>Complaint relates to water shortage in the Shallcross area.</p> <p>Complainant alleges there has been no assistance from the Municipality and that when they call to report the issue, they are told that the reservoir is filling.</p>	
22/07/2021	KZI/2122/0054/5	Area: Shallcross, Queensburgh	eThekweni Municipality	<p>Complainant alleges that they have been without water for 5 days.</p> <p>Complainant alleges that attempts to get answers from the Municipality have been unsuccessful.</p>	

27/07/2021	KZ/2122/0054/6	Area: Shallcross	eThekwini Municipality	<p>Complaint relates to the shortage of water in the area and no water tankers were sent out to the area.</p> <p>Complainant is concerned about the impact of having no water with being faced with the COVID-19 pandemic.</p>	
06/08/2021	KZ/2122/0179	Area: Esikhawini		Complaint relates to the disruption in the water supply to the Esikhawini area.	Active
23/08/2021	KZ/2122/0214	Area: Botha's Hill	eThekwini Municipality	Complaint relates to the shortage and or access to water in KwaNyuswa, Botha's Hill.	Active

02/10/2021	KZ/2122/0269	Area: Pietermaritzburg	uMgungundlovu District Municipality	<p>Complainant alleges that his water bill was extremely high and as a result, his water supply was disconnected.</p> <p>Complainant is aggrieved as he alleges that for several months in the year 2018, they have been billed for usage however nobody was at home for the said period and water was not used. Complainant alleges that upon making enquiries with the Municipality he was advised to make payments and once the account was up</p>	Active
------------	--------------	------------------------	-------------------------------------	---	--------

				<p>to date, the matter will be looked into.</p> <p>Complainant alleges that the problem still persists and they are without water</p>	
06/10/2021	KZ/2122/0280	Area: Pietermaritzburg	Msunduzi Local Municipality	<p>Complainant alleges that their water supply was disconnected even though the Municipality is aware that they were awaiting a payment plan from them.</p> <p>Complainant alleges that he and his wife are pensioners and have been making regular payments on their account.</p>	
19/10/2021	KZ/2122/0310	Area: uMhlatuze Local Municipality		Complaint relates to shortage of	Active

				water in areas under Umhlathuze Local Municipality.	
11/11/2021	KZ/2122/0319	Area: Adams Mission	eThekwini Municipality	Complaint relates to disruption/s of residents' water supply	Active
22/11/2021	KZ/2122/0361	Area: Unknown	Msunduzi Municipality	Complaint relates to a billing dispute with the Municipality. Complainant alleges that her water supply has been cut off.	Active
22/11/2021	KZ/2122/0366	Area: Driefontein	uThukela District Municipality	Complainant alleges that they don't have access to clean water and drink water from the river. Complainant alleges that the water tanker comes to distribute water sometimes however, they are	Active

				far from the main road and don't access water.	
14/01/2022	KZ/2122/0420	Area: Ixopo	Harry Gwala District Municipality	<p>Complainant alleges that residents are being supplied with water that is not fit for human consumption.</p> <p>Complainant alleges that he has queried his water account and issues that he had with his geyser but has not been successful. As a result, his account was not paid.</p> <p>Complainant further alleges that prepaid meters have been installed for residents however,</p>	Active

				attorneys are requesting payments on outstanding water accounts.	
10/02/2022	KZ/2122/0438	Area: Drywook	Harry Gwala District Municipality	<p>Complaint alleges that residents made applications for water connections to the Municipality however applications were unsuccessful.</p> <p>Complainant alleges that as a result, they connected water illegally which has since been disconnected.</p>	Active
14/02/2022	KZ/2122/0441	Area: Tongaat	eThekwini Municipality	Complainant alleges that they have been without water for several days.	Active
18/02/2022	KZ/2122/0447	Area: Pietermaritzburg	Msunduzi Municipality	Complainant alleges that	Active

				<p>residents of Pietermaritzburg have been without water and electricity for several days.</p> <p>Complainant alleges that the Municipality is taking long to repair faults and upon enquiry, persons receive generic a message.</p>	
18/02/2022	KZ/2122/0448	Area: Pietermaritzburg	Msunduzi Municipality	Complaint relates to water and electricity outages in the complainants area.	Active
18/02/2022	KZ/2122/0454	Area: Bishopstowe	Msunduzi Municipality	Complainant alleges that residents of Bishopstowe were without water and electricity for several days.	Active

07/02/2022	KZ/2122/0458	Area: Montrose	Msunduzi Local Municipality	Complainant alleges that their water has been on and off for the past month and no water tankers have been dispatched to distribute water.	Active
18/03/2022	KZ/2122/0460	Area: Pietermaritzburg	Msunduzi Municipality	Complaint relates to residents in the Northern suburbs who allege that they have been without electricity and water for several days.	Active
24/02/2022	KZ/2122/0463	Area: Areas under Msunduzi Municipality	Msunduzi Municipality	Complaint is an own initiative and relates to water challenges in Msunduzi Local Municipality.	Active
24/02/2022	KZ/2122/0463/1	Area: Eastwood	Msunduzi Municipality	Complaint relates to water challenges in the Eastwood area.	

17/02/2022	KZ/2122/0463/2	Area: Pietermaritzburg	Msunduzi Municipality	<p>Complaint relates to water outages in areas in the Pietermaritzburg area.</p> <p>Complainant further alleges that there are concerns that contractors employed by the Municipality may be sabotaging the infrastructure to rack up exorbitant fees.</p>	Active
28/04/2022	KZ/2223/0021	Area: Isipingo	eThekwini Municipality	Complaint relates to water and electricity challenges in the Isipingo area.	Active
06/05/2022	KZ/2223/0027	Area: Durban	eThekwini Municipality	Complaint relates to water shortages in ward 96.	Active
09/05/2022	KZ/2223/0036	Area: Umgababa	eThekwini Municipality	Complaint relates to water shortage in	Active

				the Umgababa area.	
09/05/2022	KZ/2223/0038	Area: Demat	eThekwini Municipality	Complaint relates to water shortages in the Demat area.	Active
09/05/2022	KZ/2223/0039	Area: Moorton, Chatsworth	eThekwini Municipality	Complainant alleges that after the heavy rains in April 2022, residents have been without water on more than four occasions. Complainant alleges that water tanks come around every now and again and residents are restricted in the amount of water they can take.	Active
16/05/2022	KZ/2223/0043	Area: Umnini (Umgobhozini)		Complainant is aggrieved by the water cuts experienced by the residents of Umnini.	Active

				<p>Complainant alleges that they have sent numerous complaints via the Municipality WhatsApp number and all they receive are reference numbers.</p> <p>Complainant further alleges that the Umgeni water board took the Induna to the dam to show the Induna that the problem is not on their side as the dam is full to capacity.</p>	
16/05/2022	KZI/2223/0048	Area: Pinetown	eThekwini Municipality	Complainant alleges that it has been over a month since the floods, however, the industries	Active

				<p>located in Mahogany Ridge, Stockville Road are without the supply of water.</p> <p>Complainant alleges that to keep operating Pacrite collects water in flobins for ablution facilities.</p> <p>Complainant alleges that if they did not do this, they would have to put off staff on unpaid leave.</p>	
23/05/2022	KZ/2223/0049	Area: Anerley -South Coast	Ugu Municipality	Complaint relates to the Anerley Haven Frail Care that does not have access to water for about a week.	Active

				Complainant alleges that in the past, water tanks would be dispatched by the Municipality however none have been provided.	
23/05/2022	KZI/2223/0049/2	Area: Anerley	Ugu Municipality	Complainant alleges that she is a resident of the Anerley Frail Care, and they have water for three days in a month,	Active
18/05/2022	KZI/2223/0052	Area: Inanda	eThekweni Municipality	Complainant alleges that after the floods his community has not had access to running water.	Active
12/05/2022	KZI/2223/0055	Area: Newcastle	Newcastle Municipality	Complaint relates to disruption in water supply and or shortage of same.	Active

APPENDIX III: KZN WATER SERVICE AUTHORITIES, CONSTITUENT LOCAL MUNICIPALITIES AND BULK WATER PROVIDERS

Umgeni Water		Mhlatuze Water	
Water Service Authority	Constituent Local Municipalities	Water Service Authority	Constituent Local Municipalities
eThekweni Metropolitan Municipality	N/A	City of uMhlatuze Local Municipality	N/A
Msunduzi Local Municipality	N/A	uMkhanyakude District Municipality	Big Five Hlabisa Municipality Jozini Municipality Mtubatuba Municipality uMhlabuyalingana Municipality
uMgungundlovu District Municipality	uMgeni Municipality Mpofana Municipality Impendle Municipality uMshwathi Municipality Richmond Municipality Mkhambathini Municipality	Zululand District Municipality	abaQulusi Municipality Nongoma Municipality Ulundi Municipality eDumbe Municipality uPhongolo Municipality
iLembe District Municipality	KwaDukuza Municipality Mandeni Municipality Maphumulo Municipality Ndwedwe Municipality	uThukela Water	
Ugu District Municipality	Umdoni Municipality uMzumbe	Water Service Authority	Constituent Local Municipalities

	Municipality Ray Nkonyeni Municipality uMuziwabanti Municipality		
Harry Gwala District Municipality	Dr Nkosazana Dlamini- Zuma Municipality Greater Kokstad Municipality uBuhlebezwe Municipality uMzimkhulu Municipality	uThukela LM	N/A
King Cetshwayo District Municipality	Mfolozi Municipality Mthonjaneni Municipality Nkandla Municipality uMlalazi Municipality	Amajuba	Dannhauser Municipality Emadlangeni Municipality
		uThukela	Alfred Duma Municipality Inkosi Langalibalele Municipality Okhahlamba Municipality
		Umzinyathi	Endumeni Municipality Msinga Municipality Nqutu Municipality uMvoti Municipality

Source: Adapted from Umgeni Water (2021).

APPENDIX IV: SUMMARY OF BLUE DROP 2022 BLUE DROP ASSESSMENT TOOL TO CALCULATE BLUE DROP RISK RATING (BDRR)

Blue Drop Risk Category	KZN Performance	Overall Assessment	
<p>Risk Indicator A: Design Capacity</p> <p>Every water treatment plant must be classified with DWS as per Regulation 2834.</p> <p>The risk rating is allocated according to the size of the treatment plant with a higher risk rating given for a larger plant and a lower risk rating for a smaller plant. A larger plant serves a larger community and therefore presents a higher risk if the plant is not functioning or producing unsafe drinking water.</p> <p>Risk Indicator B: Operational</p>	<p>73% of treatment plants in KZN are categorised as small plants (0 - 2 MI/d) which can include rural borehole schemes. 20.8% are in the medium-risk category (>2 - 25 MI/d) and only 5.5% are “high-risk” large plants (>25 MI/d) which are typically located in metropolitan areas or are part of bulk regional schemes.</p>	<p>Although only 5.5% of the water supply systems in KZN are high risk based on their size, the large number of rural schemes also present challenges as these plants are usually located across a large geographical area with some plants in remote areas. This requires additional resources such as staff, chemical supplies, spares, and vehicles to ensure optimal operations of these systems</p>	<ul style="list-style-type: none"> ✓ WSAs must ensure all treatment plants have updated plant registration certificates on IRIS. ✓ WSAs must provide updated copies of plant registration certificates supported with documents on the design capacity of the treatment plant for future BDRR assessments. ✓ WSA to install flow meters at raw and final water points, monitor daily flows and ensure annual calibration of meters for accuracy of results. ✓ Budget and plan for an upgrade of treatment plant when operational capacity is at 90% to ensure sufficient time for implementation of civil projects. ✓ Consult Census, WSDP and Reconciliation strategies to determine current and future allocation and demand, use a 10-year forecast period

<p>Capacity³</p> <p>Indicates the current operational capacity of the treatment plant in each supply system as a percentage of the design capacity of the plant. The ideal value is between 50 - 100%; higher values indicate the plant is overloaded and lower values indicate the plant is receiving too little flow which may also compromise performance due to a lack of retention time (flocculation, sedimentatio).</p>			
<p>Risk Indicator C: Water Quality Compliance</p> <p>SANS 241:2015 is the definitive reference on acceptable limits for drinking water</p>	<p>Compliance with biological and chemical determinants</p> <ul style="list-style-type: none"> ✓ Only 32% of systems achieved microbiological compliance 	<p>The poor water quality in KZN is of concern to DWS. All WSAs must urgently implement the recommended steps to ensure both microbiologica</p>	<ul style="list-style-type: none"> ✓ Develop and implement microbiological monitoring as per SANS 241:2015 requirements: <ul style="list-style-type: none"> o Monitor final water weekly. o Monitor distribution fortnightly ✓ Develop and implement a risk-based chemical monitoring programme as

³ Operational capacity seems to not have been assessed.

<p>quality parameters and provides limits for a range of water quality characteristics and water meeting this standard is deemed safe for lifetime consumption. The actual water quality depends on both microbiological and chemical determinants. Both microbiological and chemical compliance limits outlined in SANS 241:2015 are evaluated against the population size: for a population <100 000, compliance is >98% while for a population >100 000, compliance limit is >99%. In addition, the SANS 241:2015 standard stipulates the frequency of sampling as well as the number of sample points</p>	<p>and 14% achieved chemical compliance. This is of serious concern to DWS as the majority of supply systems present a potential health risk to consumers.</p> <p>68% of systems do not comply with microbiological determinants: this indicates microbiological failures which present a serious health risk to the consumers in these supply systems. For sustained failure, 'Boil Water' notices must be issued to safeguard consumers while the root cause of the failure is investigated and resolved.</p> <p>86% of systems do not comply with chemical determinants. This may present</p>	<p>and chemical compliance is improved so that all the citizens of KZN can have access to safe drinking water, which is a basic human right enshrined under our Constitution</p>	<p>per SANS 241:2015 requirements:</p> <ul style="list-style-type: none"> o Conduct full SANS 241:2015 analysis annually on raw, final and distribution network to identify current problem determinants. o Conduct a risk assessment of the system including catchment, treatment plant and reticulation to identify current and potential water quality risks and their associated determinants. e.g., presence of pit latrines means the possibility of nitrates in groundwater and surface water. o Develop and implement risk-based chemical monitoring programme for all identified determinants. ✓ In the event of non-compliance: <ul style="list-style-type: none"> o Precautionary measures including 'Boil Water' notices must be issued to consumers in systems with sustained microbiological failures. o 'Water Quality' Advisories must be issued to consumers in systems with sustained chemical failures for chronic health determinants. <p>WSAs must investigate the root cause of the failure and implement remedial actions to ensure compliance. If this cannot be achieved, an alternative water supply must be provided to ensure the safety of consumers.</p> <p>Compliance monitoring to be undertaken by an accredited laboratory</p>
---	--	--	---

<p>required per supply system to ensure sufficient coverage of the network.</p>	<p>immediate or potential long-term health risks depending on whether non-compliance is for acute health determinants or chronic health determinants.</p> <p><i>Compliance with microbiological and chemical monitoring</i></p> <p>53% of supply systems have <80% for microbiological monitoring compliance. This indicates there is an insufficient number of microbiological samples to guarantee the safety of water at all points in the distribution system. These supply systems, therefore, do not comply with Table 2 in SANS 241-2 which outlines the required number of sample points based on</p>		<p>o WSA to ensure that there is sufficient budget for compliance monitoring</p> <p>o Laboratory to comply with accreditation requirements as per Blue Drop: SANAS accredited, participation in proficiency testing with acceptable Z-Score, or Quality Assurance system.</p>
---	---	--	---

	<p>population size.</p> <p>73% of supply systems have <80% for chemical monitoring compliance. This indicates either an insufficient number of samples collected or insufficient chemical determinants were analysed as per the requirement outlined in SANS 241:2015.</p>		
<p>Risk Indicator D: Technical Skills</p> <p>Regulation 2834 states all plant personnel must be classified as per their qualifications and years of experience. This is conducted by DWS and plant personnel are provided with a classification certificate which reflects their current classification based on</p>	<p>Technical Skills</p> <p>✓ Only 8% of supply systems have excellent technical skills: 90 - 100% compliance,</p> <p>10% of supply systems have good technical skills: 70 - <90% compliance,</p> <p>28% of supply systems have average technical skills: 50 - <70% compliance,</p>	<p>In general, the province has performed poorly with regard to technical skills. The KZN province has performed poorly with regard to technical skills. WSAs are encouraged to evaluate the performance of each system with regard to process control and use this information to determine the operational model which is</p>	<p>WSA must allocate a budget to appoint suitably qualified process controllers and supervisors to ensure water quality compliance improves through ongoing process optimisation. The WSA must appoint a qualified maintenance team to ensure that the life span of the treatment plant is increased by regular maintenance and ensure there are a sufficient number of personnel to cover the entire distribution network to reduce water losses and maintain the integrity of the supply system.</p> <p>✓ Register all process controllers and supervisors on IRIS as per Regulation 2834</p> <p>Ensure all process control staff complies with Blue Drop requirements.</p> <p>Ensure the maintenance team includes civil, mechanical, and</p>

<p>qualification and years of experience. Blue Drop requirements cover process controllers, supervisor compliance and maintenance team, as follows:</p> <ul style="list-style-type: none"> ✓ Process controllers: required number and class of process controllers per shift for a specific class of plant. <p>Supervisor compliance: Class V required, either at the plant or available at all times.</p> <p>Maintenance Team: civil, mechanical, and electrical expertise required, as follows:</p> <ul style="list-style-type: none"> o Civil team: plumbing qualification / trade test. o Mechanical team: millwright or similar 	<p>54% of supply systems have poor technical skills: <50% compliance.</p> <p>Process controller compliance:</p> <ul style="list-style-type: none"> ✓ Process controller compliance is poor with only 16% of supply systems with a sufficient number of suitably classified process controllers per shift. Lack of a sufficient number of process controllers presents a serious risk due to a lack of daily monitoring and process optimisation. <p>64% of supply systems are compliant with regard to Supervisors. These plants either have Class V supervisors permanently based at the plant or available as roaming supervisors</p>	<p>best suited to ensure effective operations and maintenance.</p>	<p>electrical personnel.</p> <p>Provide details of operational staff at all future assessments: copies of process controller and supervisor registration certificates, organograms with shift patterns, and copies of qualifications/certificates/current training.</p> <p>Provide details of the maintenance team at all future assessments: organogram, shift patterns, names, and qualifications of team, copies of qualifications/certificates/current training, details of external service providers.</p>
---	--	--	---

<p>mechanical qualification.</p> <p>o Electrical team: electrical qualification / trade test.</p>	<p>available at all times to assist process controllers. The presence of a qualified supervisor can mitigate some of the risks associated with an insufficient number of process controllers on site provided the supervisor is available at all times.</p> <p>Maintenance team</p> <p>✓ 73% have insufficient maintenance teams and this can lead to a shutdown of treatment plants or processes which will affect the quality and quantity of water.</p> <p>39.6 % have Electrical staff and mechanical competency, and only 20.9% have civil staff. Civil works at treatment plants and in</p>		
---	--	--	--

	<p>the distribution network is conducted by plumbers: lack of this skill will lead to water losses which will negatively impact on water supply.</p>		
<p>Risk Indicator E: Water Safety Plans</p> <p>Risk management is the cornerstone of risk-based regulation and a fundamental part of the SANS 241:2015 requirements to ensure effective management of both current and future potential risks. The application of risk management in drinking water management is through the Water Safety Plan developed by the WHO which is a comprehensive risk assessment and risk management</p>	<p>✓ Only 38% of supply systems have Water Safety Plans in place. This presents a serious risk as effective risk-management is not taking place as per SANS 241:2015 requirement.</p> <p>Only 16% have excellent Water Safety Plans in place with $\geq 90\%$ compliance indicating comprehensive Water Safety Plans with all required components.</p> <p>The average compliance for the province is 24.4% which indicates a poor understanding of the Water Safety Planning</p>	<p>Water Safety Planning is being implemented in the province in only 38% of supply systems. The completeness and quality of these Water Safety Plans are below average with a lack of risk-based monitoring and implementation of mitigating measures to reduce risks. All WSAs must adopt risk management principles embodied in the Water Safety Planning approach as this is a regulatory requirement as per SANS 241:2015 and will assist in</p>	<p>✓ Conduct full SANS 241:2015 analysis on raw, final, and distribution networks to identify problem determinands.</p> <p>Develop and implement risk-based monitoring programme to include all current and potential determinands.</p> <p>Register SANS 241:2015 compliant monitoring programme on IRIS.</p> <p>Conduct monitoring as per programme and upload information on a monthly basis.</p> <p>Develop WSP: conduct an annual risk assessment of the supply system, assign risk rating, validate control measures and determine residual remaining risk.</p> <p>Develop and implement an action plan to mitigate remaining risks. Action plan to include budget, responsibility, and timeframe for implementation. Note approval for implementation and budget must be given by senior management (municipal manager of WSA).</p> <p>WSA is to provide a copy of the signed approved Water safety plan with proof of implementation of corrective</p>

<p>approach that encompasses all steps in a drinking-water supply chain, from catchment to consumer to ensure continuous feedback and improvement to manage all current and future potential risks. The Water Safety Plan advocates for the development of a risk-based monitoring programme and this is also a requirement as per SANS 241:2015</p> <p>Risk indicator E: Water Safety Plans evaluates the following three critical components which are required for effective risk management as per the WHO guidelines and the SANS 241:2015 requirements.</p> <p>Completeness of the Water</p>	<p>process amongst the WSAs in this province.</p>	<p>driving down risks in the entire supply system from catchment to consumer.</p>	<p>actions from previous risk assessment; uploaded on IRIS.</p>
--	---	---	---

<p>Safety Plan as per the World Health Organisation Water Safety Planning Manual</p> <p>Development and adoption of a risk-based monitoring programme as per SANS 241:2015</p> <p>Proof of implementation of the findings of the Water Safety Plan to ensure there is continuous risk management and movement towards overall lower risk rating</p>			
---	--	--	--
