

Exploring the Tensions within Post-apartheid South African Water Policies

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During the apartheid regime, access to water in South Africa was regulated by different legal systems, according to the policy of racial segregation and the principle of separate development which inspired it. Therefore, it was possible to identify at least three formal systems of laws and regulations, namely one for the white minority inhabiting the country, one for the black population living in the townships and one for the so-called Homelands or *Bantustans*.

After the end of apartheid, the new democratic government embarked on the creation of a new legal framework whose declared aim was that of redressing the inequities resulted from the past racial and gender discrimination and meeting the basic needs of present and future generations of South African citizens. Among the many acts issued by the government for this purpose, it is worth to recall the new Constitution of 1996, which introduced the notion of a human right to water, the Water Services Act of 1997, the National Water Act of 1998 and the Free Basic Water Policy of 2001. Furthermore, these acts were complemented with an interesting jurisprudence on socio-economic rights, whose last and most relevant contribution with regard to water-related issues was the Mazibuko case, which ended in 2009.

The aim of this paper is to investigate the practical outcomes of such pro-poor policies and to show how the water sector in South Africa is still characterized by a multiplicity of governance forms. This circumstance mainly refers to a process of decentralization coupled with the adoption of neoliberal reforms which has brought local authorities to implement the legal framework mentioned above (and hence to provide water services) in quite different ways throughout the country. Moreover, I intend to ask whether the effects of the post-apartheid water reforms ended up with reproducing past inequalities. In particular, I will follow the evolution of the Free Basic Water Policy in order to explore issues of inclusion and exclusion. Finally, I will make some remarks on the role of civil society and Civil Society Organizations (CSOs) in advocating for their right to a just and equitable access to water services.

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