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## **1.2 Statement of the problem**

Policy management is central to the effective and efficient implementation of the public policy for the provision of water and sanitation services. The problem of lack of provision of water and sanitation services is mostly incurred in the informal settlement where there are no adequate sanitation facilities on the backdrop of high population density. The communities in the informal settlement utilize bucket system, communal taps and toilets that are located far away from their residential areas. The community members have to cross the roads to get water from taps that are located on the other side of the road. This is dangerous especially for the children who have to cross busy roads in order to get water. Providing adequate water and sanitation facilities for the poor is one of the South Africa's major challenges, and Khayelitsha is no exception.

An estimated eight million South Africans are without access to such facilities and may be using the bucket system, pit toilets, or the veld (Strategic framework for Water Services, 2003). An acute housing shortage coupled with service delivery to informal settlement is forcing squatters to dig their own toilets, as these are preferable to bucket system. Residents decided to dig their toilet after they had to share one bucket toilet between four shacks, with an average of five people living in each shack (Cape Argus, December 12, 2007). When the sanitation system fails it impact negatively on the health of the community, on the health of families and can be extremely serious on the environment. This is evidenced by sporadic outbreaks of diseases such as cholera and diarrhea in children under the age of five.

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<sup>1</sup> In South Africa, all major roads are referred to as National Roads and designated as N1,N2 etc

<sup>2</sup> Khayelitsha is also divided into sites

<sup>3</sup> South Africa is divided into nine provinces with Eastern Cape being one of them

















































into authoritative decisions requires support of the whole society. The concept of system also implies that elements of the system are interrelated, that the system can respond to forces in its environment. Wssink and Coete (2000:39) are of the opinion that the value of system approach lies in the framework that it provides, which describes the relationship between the demands, the political system and the results or outputs in terms of stabilizing the environment. This suggests that political system transforms demands generated in the environment into public policy.

It is of critical importance to mention that competition and participation has important consequences for public policy reinforcement of the value placed on the variables in the prevailing pluralist ideology (Dye, 1995:287). He further argues that political variables such as party competition and voter participation affect public policy rested more on a priori reasoning than on systematic research. In relation to this study, the political environment in the Western Cape has changed at provincial and local government levels, which were previously led by African National Congress (ANC) and currently lead by Democratic Alliance (DA). These fundamental changes have brought new dimensions in terms of restructuring government structures, policy implementation and priorities in terms of service delivery.

## **2.7 Legislative and Policy Framework**

### **2.7.1 The Constitution**

It is of critical importance to articulate the legislative framework that enables the implementation of the public policies. The Constitution is the supreme law of the country which entrenches the rights of the citizens. The Constitution states that government has a responsibility to ensure that all South Africans have access to adequate sanitation. Furthermore, the signing of the new Constitution in 1996 heralded the adoption of local government as the epicenter of the government delivery system and at the heart of poverty eradication initiatives. The Constitution further signified the adoption of the relatively new and innovative concept of spheres as opposed to tiers of government, manifesting itself through political and administrative system and structures (Edigheji and Mhone, 2003:277). This marked the establishment of new relations between public institutions, government structures and civil society. Section 40 (1) of the Constitution stipulates that ‘In the Republic, government is constituted as national, provincial and local spheres of government which are interdependent and interrelated’. This indicates the fact that implementation of polices is the program that involves all spheres of government and other relevant stakeholders such as Community Based Organizations, Non- Governmental Organizations, etc. Section 15(4) of the Constitution provides for a system of intergovernmental relations in which the rights of municipalities are protected and the national or a

provincial government may not compromise or impede municipality's ability or right to exercise its powers or perform its functions.

Constitutional innovations introduced by these principles in the South African system oblige all spheres of government to help authorities in other spheres to build their legislative and executive capacities, including the capacity to empower civil society and to secure the well-being of the citizens. With regard to municipalities this approach is illustrated by section 154(1) of the Constitution: 'the national government and provincial governments, by legislative and other measures, must support and strengthen the capacity of municipalities to manage their own affairs, to exercise their power and to perform their functions. Most importantly, the Constitution regulates the transformation of the local government system, while providing it with a pivotal and distinctive role in underpinning and promoting social development and democracy at local level.

### **2.7.2 The National Water Act**

The National Water Act 36 of 1998 is yet another legislative provision that deals with water resources and it aims to protect, use, develop, conserve, manage and control water resources as a whole. It also recognizes that water is a natural resource that belongs to all people in South Africa. The Act ensures that water for basic human needs and the environment is reserved before water is allocated for other uses (National Water Act 36 of 1998).

In recognition of the citizens' right to basic needs like water, the government of South Africa enacted the National Water Act in 1998, through which modalities for providing water to people would be executed.

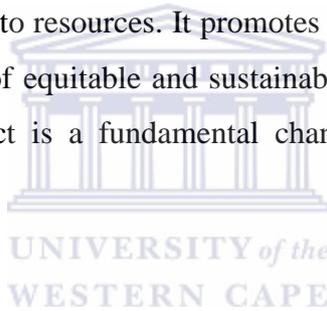
The National Water Act set its objectives primarily around the need to provide efficient water services to residents as follows:

- (i) meeting the basic human needs of present and future generation;
- (ii) promoting equitable access to water;
- (iii) redressing the results of past racial and gender discrimination;
- (iv) promoting the efficient, sustainable and beneficial use of water in the public interest;
- (v) facilitating social and economic development
- (vi) reducing and preventing pollution and degradation of water resources;
- (vii) meeting international obligations.

To achieve these objectives the National Government has to ensure that the nation's water resources are protected, used, developed, conserved, managed and controlled in ways that took into account the aforementioned objectives. In terms of 5(4) of the National Water Act of 1998 a national water

resource strategy must be established in a phase and progressive manner. The national water resource strategy must set out the strategies, objectives, plans, guidelines and procedures of the institutional arrangements relating to the primary of objectives of the Act to protect, use, conserve, and control of water resources within the framework of existing relevant government policy.

The National Water Act promotes the participation of the people in water resource management. It promotes the management of resources at the lowest possible level. It does this through the establishment of regional and local institutions, such as Catchment Management Agencies (CMA). These institutions are representative of and facilitate the involvement of communities and other stakeholders in decision making. The primary purpose of establishing Catchments Management Agencies (CMA) is to involve local communities in water resource management. Catchment management agencies must ensure that all interested and affected stake holders including poor communities that have been disadvantaged and marginalized are able to participate in the consultation process and decision of CMA. The National Water Act does away with the old apartheid ideals of privileged access to resources. It promotes water use that is in the public interest and beneficial for the achievement of equitable and sustainable economic and social development. In addition, the National Water Act is a fundamental change in how water resources will be managed and accessed.



### **2.7.3 The Water Services Act**

Water Services Act No. 108 of 1997 deals mainly with water services or portable drinkable water and sanitation services supplied by municipalities to households and other municipal water users. It contains rules about how municipalities should provide water supply and sanitation services. However, it is imperative to articulate the main objectives of the Act, which are to provide for:

- (i) the right of access to basic water supply and the right to basic sanitation necessary to secure sufficient water and environment not harmful to human health or well-being;
- (ii) the setting of national standards norms for tariffs in respect of water services;
- (iii) the preparation and adoption of water services development plan by water services authorities;
- (iv) the monitoring of water services and intervention by the Minister (national ) or by the relevant Province;
- (v) financial assistance to water services institutions.

Through these objectives, the National Government is obliged to provide for the water needs of residents and empowers municipalities to implement the Water Services Act within their constituencies and makes accessibility to clean drinking water a constitutional right. According to the Water Services Act, 1997 (No.108 of 1997), local municipalities, which do not have Water Services Authority Status, are required to prepare a Water Sector Plan (WSP). While the WSP is a legal requirement, the real value of preparing a WSP lies in the needs to plan for water services whereby key targets are set.

In terms of the Water Services Act, 1997 (Act No. 108 of 1997) every water services authority has a duty to all consumers or potential consumers in its area of jurisdiction to progressively ensure efficient, affordable, economical and sustainable access to water services. In addition to the formulation of the water provision policy, Chapter 3 of the Water Services Act empowers National Government to provide monitoring services to municipalities to ensure that water provision is done according to the provisions of the Act. Where a water services authority fails to provide satisfactory services to residents, the Act empowers the Minister to request the Province to intervene, in terms of section 139 of the Constitution and to offer financial assistance to water authorities. The legislative framework is very clear in terms of the structures that have authority to implement the policies. This seems to suggest that there are policies in place that give guidelines in the provision of services to the water and sanitation sector. In addition, this also supports the view that there are good policies in place and the problem might be in the implementation of the existing policies in this sector.

### **Provision of Free Water and Sanitation**

In terms of Water Services Act of (1997) the primary purpose of free basic water policy is to assist in promoting sustainable access to a basic water supply by subsidizing the ongoing operating and maintenance of costs of a basic water supply. In terms of the free basic water policy, the provision of the basic amount consumed by poor households per month is free of charge. The policy allows water services authorities to decide how they will apply the policy specifically and practically. The cost associated with providing free basic water to poor households is not large for a country of our economic size and strength. However, free basic water services can be financed from local government equitable share as well as through cross-subsidization between users within a system of supply or within a water services authority area where appropriate.

Where sustainable, water services authorities should give consideration to increasing the basic quality of water provided free of charge, aiming for the free provision of at least fifty (50) litres per person per day to poor households.

### **The Key Challenges of Free Basic Water Policy**

The development of subsidy mechanisms which benefit those who most need it, including households in remote areas, especially those served by small local system and vulnerable groups such as households lead by a women or children. The key challenges include the following:

- Collecting revenue for services rendered over and above an allocated free basic amount.
- The equitable treatment of large households and multiple households sharing is one collection.
- The provision of the infrastructure necessary to provide access to water to all households.

### **Institutional Reform of Water Services Provision**

It is the responsibility of water services authorities to make arrangements for water services provision within their areas of jurisdiction. The water services have been transferred from national government to water services authorities. Water boards are state owned regional water services providers that provide both bulk services and more than one service authority area regulated directly by Department of Water Affairs and Forestry, and retail services on behalf of water services authorities regulated by contract with the water services authority.

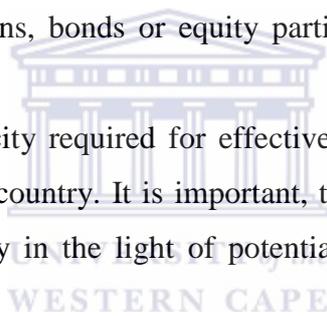
### **Factors that Motivated the Reform of Water Services Institutions**

The Strategic Framework for Water Services (2003) indicated a number of factors that motivated the reform of the water services institutions. Among the factors include the following:

- (1) **Financial viability** – some water services providers as presently constituted are not financially viable.
- (2) **Inefficiencies and economies**- the institutional framework for water services provision is highly fragmented, with a substantial number of water services institutions acting as water services providers. These include district and local municipalities, water boards, municipal entities, national government, water use associations, community –based organizations and private companies. This fragmentation may result in the loss of economies of scale,

duplication of administration and technical, inability to attract and retain good management and technical staff, and inability to invest in the development and training of specialist skills.

- (3) **Under investment**- poor revenue collection, rising inputs costs and downward pressure on retail water tariffs are placing many water services providers under financial pressure and resulting in inadequate spending on maintenance and under investment in rehabilitation. This will result in the deterioration of assets over time and a breakdown in service provision.
- (4) **Revenue management**- late payment and poor rates of payment are critical issues for many water services providers in South Africa. The physical functions of service provision are separated from revenue management in the case of most municipal water services providers. This often hinders effective consumer and revenue management.
- (5) **Financing**- considerable ongoing investment is required to expand and sustain water services infrastructure in South Africa. This investment is of both social nature and economic nature. It is important that the water services sector has the ability to attract financing in the form of loans, bonds or equity particularly for investments necessary to meet economic demand.
- (6) **Lack of capacity**- the capacity required for effective water services provision is in short supply in many parts of the country. It is important, therefore, to make the best use of the existing capacity, particularly in the light of potential losses in human resource capacity through HIV/Aids.



### **Objectives of Institutional Reform**

The Water Services Act (1997) states that the objectives of institutional reform of the water services include the following:

The first objective is to ensure that the provision of an appropriate level of water and sanitation services that are sustainable to all households in South Africa, and to implement the free basic water and sanitation policies effectively and efficiently. Secondly, is to improve the performance of water services providers, and to improve financial viability and sustainability of water services sector by significantly enhancing revenue collection and improving consumer management. Thirdly, is to improve the accountability of water services providers to water services authorities and to consumers. Fourthly, is to use existing capacity, skills and resources in the water services sector in an integrated and optimal way and to attract, develop and retain the necessary professional and technical skills, and improve employment and gender equity. Lastly, is to improve the efficiency of

water use as to ensure the wise use of South Africa's scarce water resources through appropriate demand management and conservation initiatives.

### **Water Services Providers**

Protecting consumer's interests must be the key consideration when water services authorities consider how water and sanitation should be provided. This means that, irrespective of whether services are provided by the water services authority itself or an external water services provider, a water service authority must ensure that water services are provided effectively, efficiently and sustainably and that at least basic water services are provided universally. Water services authorities have the constitutional responsibility to ensure that all poor people have access to at least a basic water supply and sanitation services which is affordable. Where a water services authority appoints a public or private external water supply services provider, the water services authority must comply with all relevant legislation including the Municipal Systems Act, the Water Services Act, and the Municipal Financial Management Act.

#### **2.7.4 The Municipal Systems Act**

The Municipal Systems Act provides for municipal operations and introduces management system intended to strengthen municipalities. According to Edigheji and Mhone (2003:230) the Act addresses financial and human resource management issues, governs integrated development planning, municipal service partnerships and performance management in a holistic manner. The Municipal Systems Act requires municipalities to review their Integrated Development Plans (IDP), at least once a year in accordance with an assessment of its performance measurement and to the extent that changing circumstances warrant. Edigheji and Mhone (2003:231) further note that the value of IDPs is that they provide information relating to municipal strategic objectives to other spheres of government in regard to capacity, and they identify possible areas of supportive intervention to comply with minimum standards. It is important to monitor evaluate and review the performance of the municipality against the indicator and target as set out in the IDP to able to improve the plan. For example, the eradication of the bucket system by December 2007 forms part of the IDP in terms of budget, infrastructure, etc. In essence IDP is the five year plan for municipalities to prioritise the services to the people, especially the poor people who have been denied the basic services for a long time. This includes the prioritization of service delivery to the informal settlement where living conditions are inhabitant in terms of water and sanitation services.

Furthermore, the Municipal Systems Act, 2000; states that each local municipality must prepare a Water Sector Plan (WSP) as part of its IDP process. The WSP therefore, links closely with IDP

process and its guidelines are aligned to the IDP. In terms of section 26(a) of the Municipal Systems Act, 2000, an integrated development plan must reflect the municipal council's vision for the long term development of the municipality with special emphasis on the municipality's most critical development and internal transformation needs. In addition, the demarcation process has created fundamental building blocks for sustainable and viable municipalities.

### **2.7.5 The Municipal Structures Act**

The Municipal Structures Act of 1998 provides for determination of types of municipality. These types of municipalities are classified into category A and B. Category A municipalities are metropolitan areas with exclusive legislative and executive authority within their areas of jurisdiction, and category B municipalities operate within the administrative boundaries of district. The Act provides for the establishment of two-tier local government outside the metro-politan areas to facilitate the flexible exchange of powers and functions between the local and district municipalities (Edigheji and Mhone (2003:230).

In terms of section 19(1) of Local Government Municipal Structures Act of 1998 a municipal council must strive within its capacity to achieve the objectives set out in section 152 of the Constitution. In terms of section 19(2) the municipal council must annually review the following:

- the needs of community;
- its priorities to meet those needs;
- its processes for involving the community;
- its organizational and delivery mechanisms for meeting the needs of the community; and its overall performance in achieving the objectives mentioned above.

### **2.7.6 White Paper on Local Government**

Edigheji and Mhone (2003:228) stipulate that the White Paper recognizes the local government sphere as primarily developmental in the sense of being committed to working with the citizens and groups within the community to find suitable ways to meet their social, economic and material needs, and to improve the quality of their lives. Reddy, Sing, and Moodley (2003:05) state that the White Paper on Local Government (1998) suggests that institutional reform must be initiated and implemented to meet the following challenges:

- Skewed settlement patterns that are functionally inefficient and costly.

- Huge backlog in service infrastructure in historically underdeveloped areas, requiring municipal expenditure in excess of the revenue available within the local government system
- Entrenched modes of decision – making, administration and delivery inherited from municipalities that were geared for the implementation of urban and rural apartheid.
- Substantial variations in capacity, with some municipalities having little or no pre – existing institutional foundations to build on.
- The need to build a relationship between municipalities and the local community they serve.

In fact, municipalities should be particularly sensitive to the needs of the marginalized groups within the communities, and should be responsive and accessible to people with disabilities (Reddy, Sing, and Moodley, 2003:05). In order to assist local governments to meet developmental requirements and speed up service delivery to the poor, exclusive resource acquisition in terms of funding, human resources, appropriate institutions and most importantly the adoption of key and enabling legislative measures becomes essential.

## **2.8 Potential Source of Funding**

The implementation of public policies requires the availability of funds in order to achieve the goal of providing services to the people. Without the availability of funds all the plans in place such as IDPs will come to nothing due to the fact that any project or programme depends on the feasibility of funds. The sources of funding for sanitation improvement that are available to local government include, Municipal Infrastructure Grant (MIG) and Equitable Share funding transfers from national to local government, and the revenue collected by local authority. Municipal Infrastructure Grants are conditional grants for capital investment provided by national government. It is intended to provide capital finance for basic municipal infrastructure for poor households and to a limited extent micro enterprises and deserving institutions (White Paper on Water Supply and Sanitation Policy, 1994).

Municipalities in the urban renewal and rural development programmes are given preference in terms of providing them with support. The Municipal Infrastructure Grant will have an overall target of removing the backlog with regard to access to basic municipal services such as water and sanitation. According to Framework for a National Sanitation Strategy (February, 2002) the backlog can be cleared within the next five years using a contractor driven approach and with an annual budget of R720 million. The success of the implementation of the projects and programmes at local government requires persons with financial and project management skills.



































































































