

TURNING OFF THE TAP

Discontinuing Universal Access to Free Basic
Water in the City of Johannesburg



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Cover photo by Kelebogile Khunou.

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CONTENTS

Executive Summary 4

1. Introduction 7

2. The City of Johannesburg and Free Basic Water Services 9

3. Legislative and Policy Framework for Free Basic Water 11

3.1. National Laws and Policies 11

3.2. Case Law 15

3.3. The Evolution of the City of Johannesburg's
Indigent Management Policy 18

4. Targeting the Poor 27

4.1. Universal Approach 27

4.2. Narrow Approaches 27

4.3. Lessons from International Experience 32

5. Implications 37

6. Conclusion 43

7. Bibliography 44



Executive Summary

This report analyses the City of Johannesburg's indigent management policy named the "Siyasizana, Expanded Social Package" (ESP) in light of the administration's recent decision (March 2017) to withdraw the universal provision of six kilolitres (6kl) of free basic water. The research, which includes a review of policy and legislation regarding the provision of free basic water services in South Africa and a summary of international lessons about targeting versus universal provision of social benefits, concludes that the City of Johannesburg's method to target the poor to provide them with free basic services is ineffective and inequitable, and that its decision to withdraw the universal provision of 6kl of free basic water is regressive.

The Constitution of the Republic of South Africa, 1996 makes explicit reference to the right of access to sufficient water and enjoins the state to take reasonable legislative and other measures to progressively realise this right within its available resources. Towards this end, the Department of Water Affairs and Forestry (DWAF) introduced the Free Basic Water Policy in 2001 (approved by Cabinet) based on the right to water in section 27 of the Constitution and the Water Services Act 108 of 1997. DWAF's Free Basic Water Implementation Strategy (2002) set the minimum standard for free basic water supply at 25 litres per person per day or 6 kilolitres (kl) per household per month.

The Municipal Systems Act (2000) states that municipalities need to develop indigent policies to provide free basic services to poor households. In developing their own indigent policies, municipalities are guided by the Department of Cooperative Governance and Traditional Affairs' (CoGTA) *National Indigent Policy Framework and Guidelines* (National Framework) which aims to improve access to basic services and goods and consequently reduce levels of poverty.

The National Framework notes that it is important for municipalities to remain financially viable, and encourages municipalities to adopt a narrower approach, targeting poor households and ensuring that benefits are conferred only to them. Most municipalities identify indigent households through means-testing, using monthly household income to determine indigent status according to municipally-defined thresholds. Qualifying households are required to register as indigent.

While indigent policies are required, in no way does the National Framework recommend the use of indigent registers to target the allocation of free basic services.



The City of Johannesburg's ESP applies an indigent register and, at the point of registration, a poverty index which combines means-testing with a deprivation component, to determine eligibility.

Prior to 1 July 2017, when the new policy was implemented, 6kl of Free Basic Water (FBW) was provided to all residents within the City's jurisdiction (with higher tariffs charged to households that used more than the FBW amount), but since then low income households are required to register to receive FBW, which was previously required to access other free basic services (FBS) through the ESP.

International experience shows that some methods of targeting the poor, particularly means-testing, often involve hidden costs which usually cancel out the efficiencies of targeting. These include the exclusion of the genuinely needy; high administrative costs associated with determining who is poor and who is not; significant personal costs incurred by poor people in order to obtain and provide the necessary documentary evidence; unintended negative incentives and a breakdown in social cohesion between beneficiaries and non-beneficiaries in communities.

The National Framework, referring to section 9 of the Constitution, states that the principle of non-discrimination implies that municipal indigent programmes must be accessible to all residents.¹ The City's registration criteria however excludes the undocumented poor, as only those with a South African ID are eligible to register.

While charging users who can afford to pay for services will generate additional revenue, the administrative costs associated with promoting and administering indigent registration at 6-month intervals will be as significant. According to Statistics South Africa there are approximately 650 000 households in Johannesburg that are considered poor and yet in the last financial year only

¹ Department of Cooperative Governance and Traditional Affairs, "National Indigent Policy Framework and Guidelines" (2005), p. 16.

approximately 321 984 *individuals* were registered for the ESP.² This number includes registrations for metered services like free basic water and free basic electricity, and registrations for individual benefits. Although this is a significant improvement from past years, the majority of the poor are not registered and the systems required to ensure that all indigent households are registered will come at high cost, both administratively and to the people registering.

The withdrawal of the universal provision of FBW has significant implications for the poor and their right to access sufficient water. The City is not constitutionally obligated to supply its residents with immediate access to water. It is however obligated to take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of the right to access sufficient water. Over time, the City should take steps to increase access to water. The decision to withdraw the universal provision of 6kl of FBW and to provide FBW to residents whose names appear on an indigent register is regressive as it has significantly reduced access to water for hundreds of thousands of households that are poor but not registered. The City's application of an indigent register as a targeting method is ineffective as it is neither reaching the poor nor fulfilling the purpose of an indigent policy. It is also inequitable as it excludes genuinely poor residents from access to free basic water.

There are more effective and equitable targeting methods available to the City. The National Framework outlines two methods worth considering: Geographical targeting entails identifying impoverished areas for the allocation of free basic services, a method that could be applicable given Johannesburg's pervasive and prevailing apartheid city structure. The use of property values as a method to identify the poor presents another option. This method of targeting, used by the eThekwin municipality, means that no or low administrative costs are incurred in determining who is poor; property values are obtained from the municipality's Rates Department.

The objective of the National Indigent Policy Framework and Guidelines is to "substantially eradicate those elements of poverty over which local government has control".³ This paper examines the use of an indigent register as a targeting method and recommends it be reconsidered in order to ensure that low income households receive the intended benefits of FBS and are able to make meaningful inroads to not only the realisation of their socio-economic rights, but to reducing poverty.

² City of Johannesburg, "2017/18 IDP Review", p. 23. See also City of Johannesburg, "Tabling of the 2017/18 Draft Integrated Development Plan (IDP) Review and Draft Municipal Entities Business Plans for Public Consultation" (March 2017), p. 12. City of Johannesburg, "CoJ has increased ESP income threshold to align with Consumer Price Index", Press Statement (6 November 2017), available at: https://joburg.org.za/index.php?option=com_content&view=article&id=12151&catid=217&Itemid=114.

³ Department of Cooperative Governance and Traditional Affairs, "National Indigent Policy Framework and Guidelines", p. 8.

Introduction

Since 1994 the South African government has sought to undo the effects of colonial and apartheid policies, including putting measures in place to address spatial injustice and the deliberate impoverishment of a majority black population.⁴ In its efforts to redress poverty and inequality the government has prioritised the provision of free basic services (FBS) to low income households. Since its introduction in 2001, the Free Basic Water Policy and its implementation have been subject to widespread debate and discussion.⁵ The policy emanates from a rights-based legal framework, but the actual provision of free basic water services to poor communities in South Africa is far removed from the vision of poverty eradication and rights realisation.

The purpose of this paper is to analyse the City of Johannesburg (the City)'s indigent policy, "Siyasizana: Expanded Social Package" (ESP), and the City's decision to, from 1 July 2017, withdraw the universal provision of 6 kilolitres (6kl) of free basic water (FBW) to all residents.⁶

The paper begins with an account of the City of Johannesburg's decision to discontinue the universal provision of FBW to its residents. It then provides an overview of policy and legislation regarding free basic services and FBW services and offers a summary of the evolution of the City's indigent policy since 1998.

⁴ Wilson & Ramphele, "Uprooting poverty — The South African challenge" (1989).

⁵ The FBW policy is deemed to have come into effect in February 2001 when Department of Water Affairs and Forestry (DWAF) issued a statement formalizing President Mbeki's policy statement on Free Basic Water (FBW) given a few months earlier. DWAF's statement read, "The Cabinet has approved an implementation plan for 6000 litres of free water per household as part of the government's integrated rural development strategy and urban renewal programme". From Modsell, "Free Basic Services: The Evolution and Impact of Free Basic Water Policy in South Africa", in Pillay et al (eds), *Democracy and Delivery: Urban Policy in South Africa* (2004), p. 289. In 2002 DWAF introduced the Free Basic Water Implementation Strategy which set 6kl per household per month as a minimum free basic water amount.

⁶ The announcement was made by Johannesburg Water. See Johannesburg Water, "COJ Water Policy and Registering for the Expanded Social Package for Customers with Prepaid Water Meters", Johannesburg Water (undated), available at: <https://www.johannesburgwater.co.za/withdrawal-of-the-6kl-free-water-and-expanded-social-package/>

Thereafter the paper describes approaches to the provision of FBS, namely the universal and narrow approaches and goes on to summarise the different targeting methods used by South African municipalities. It then discusses international experience related to targeting versus the universal provision of social benefits. The paper concludes with a reflection on the targeting method employed by the City.

The paper builds on and updates SERI's 2013 publication *Targeting the Poor? An Analysis of Free Basic Services (FBS) and Municipal Indigent Policies in South Africa* through desk research and key informant interviews.



The City of Johannesburg and Free Basic Water Services

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In March 2017 the City of Johannesburg, under the leadership of Mayor Herman Mashaba, announced its decision to withdraw the universal provision of FBW services (defined as 6kl per household per month) to all residential metered households in its jurisdiction.⁷ From 1 July 2017, all households paid for their water services from the first litre unless they registered as indigent on the City's indigent register. This, the City states in numerous press communications, is in line with the trend across South African metropolitan cities to provide FBW only to registered indigents and the National Water Policy and recommendation from National Treasury.⁸

By withdrawing FBW services from those not registered as indigents and narrowly targeting households in need of FBW, the City announced that it would recover more than R320 million which it would use to improve service delivery to the poor.⁹ According to City officials this amount was calculated using "the number of billed customers multiplied by the tariff from first consumption (currently R7.14 per kilolitre) minus the current number of registered indigents".¹⁰ This means that those who have not registered as indigent have an increase of R42.84 on their monthly water bills. Furthermore, the City justifies its withdrawal of the universal provision of FBW by stating the fact that the trend across the country's metropolitan municipalities to provide FBW only to registered indigents which is in line with the National Water Policy and recommendation from National Treasury.¹¹

⁷ Johannesburg Water, "COJ Water Policy and Registering for the Expanded Social Package for Customers with Prepaid Water Meters".

⁸ City of Johannesburg Press Release, "30/03/2017: Proposed tariffs in line with City's pro-poor agenda" (30 March 2017), available at: https://joburg.org.za/index.php?option=com_content&view=article&id=11449&catid=217&Itemid=114

⁹ City of Johannesburg, "Presentation to Inner City Partnership Forum - Budget 2017/18 by MMC Funzi Ngobeni", (2017) available at: <https://drive.google.com/file/d/0B9bSjvbPH7EGYwXvZGIDeVZvTVk/view>

¹⁰ From a telephone conversation with a City official from the Department of Finance.

¹¹ Dagada, "A Budget for Joburg's Forgotten People" (23 May 2017), speech by the MMC for Finance on the occasion of the tabling of the City of Johannesburg's Proposed 2017/2018 Budget in the New Council Chamber, Metropolitan Centre, Braamfontein, Johannesburg.

The withdrawal of the universal provision of 6kl of FBW has significant implications for low income households. While it has always been a requirement to register in order to benefit from the City's indigent policy, the ESP, and access other FBS such as electricity and refuse removal, all low income households had access to FBW prior to July 2017.

The City's decision to withdraw the universal provision of 6kl of FBW, and the requirement to register as an indigent to receive benefits is unreasonable because the use of an indigent register, in the City's experience spanning nearly two decades, has proven to be ineffective as the register has been and is currently significantly under-representative of those who should have been receiving the full benefits of the ESP. Moreover, the City is yet to provide a convincing financial argument for the withdrawal of the universal provision of FBW, given that the City's rising block tariff structure had always allowed it to remain financially viable.

The result of the decision is that there are now hundreds of thousands of households who are excluded from receiving FBW, and who need to be informed of the ESP and undergo the registration process which itself is a deeply flawed method. The reasons for this will be explored later in the paper. The decision constitutes a regressive step by the City of Johannesburg, which is required to take reasonable legislative and other measures to progressively realise the achievement of the right to sufficient water, within available resources.

The City's administrative decision provides an opportunity to review the method it employs to provide FBS to poor households, examine the impact of the mechanisms the City uses to identify the households who will be entitled to access FBS and explore alternative methods to administering FBS.

The next section sets out the legislative and policy framework governing the provision of FBW and the evolution of the City's indigent policy since 1998. It outlines and analyses specific policies namely the Indigence Management Policy of 1998; the Special Cases Policy of 2002; the Municipal Services Subsidy Scheme of 2005; and the Reathusa Scheme of 2006. It ends with a discussion of the City's current indigent policy, the ESP.

Legislative and Policy Framework for Free Basic Water

3.1 National Laws and Policies

The Constitution of the Republic of South Africa, 1996 (the Constitution) is considered one of the most progressive in the world. The Constitution sets out justiciable socio-economic rights in the Bill of Rights, and compels the state to “respect, protect, promote and fulfil” these rights.¹² In the context of access to water and sanitation services, the most important constitutional provisions are the right of access to sufficient water; and the right to an environment that is not harmful to their health and well-being.¹³ The Constitution also places a number of duties on local government to provide essential services. Although these rights and duties are the most important constitutional provisions related to access to water and sanitation services, a number of other fundamental rights are also closely linked to these rights. These include the right to human dignity, privacy, security of the person, health care and the rights of children.¹⁴

Section 27 of the Constitution protects the right of access to water. It contains two provisions that relate to the right of access to water. Section 27(1)(b) of the Constitution provides that everyone has “the right to have access to ... sufficient water”. Section 27(2) of the Constitution obliges the state to take “reasonable legislative and other measures, within its available resources, to achieve the progressive realisation” of the right of access to sufficient water.¹⁵ The exact

¹² Wafer et al, “A Tale of Six Buildings: The Lived Reality of Poor People’s Access to Basic Services in Johannesburg’s Inner City”, Centre for Applied Legal Studies (CALS) Research Report (April 2008), p. 9.

¹³ See section 27 and 24 of the Constitution.

¹⁴ See sections 10, 14, 12, 27 and 28 of the Constitution.

¹⁵ The right is qualified in three important respects. First, the state must take steps. The state must do something, and if it fails to do anything to increase access to water, it fails to discharge its constitutional duties. Second, these steps must be reasonable. Whether this criterion is met is always a question of fact, weighing up all relevant circumstances. Third, these steps must constantly be reviewed by the state in light of available resources and the progression or regression of the provision of socio-economic resources. See *Mazibuko and Others v City of Johannesburg and Others* 2010 (4) SA 1 (CC), para 67.

interaction between these two provisions has not been entirely clarified. This is due to the fact that the courts have adopted an interpretation of the section 27(1)(b) right of access to sufficient water that is qualified by the section 27(2) restriction of the state's obligation to take reasonable steps to progressively realise the right of access to sufficient water. This means that neither section 27(1)(b) nor section 27(2) exist as stand-alone entitlements but rather that the content of the right of access to sufficient water is dependent on the reasonableness of the programmes or policies which the state adopts to give effect to the right.¹⁶

The right to sanitation is not explicitly provided for in the Constitution but a number of rights contained in the Constitution are fundamentally related to access to sanitation. These include the right "to an environment that is not harmful to [a person's] health or well-being", the right of access to adequate housing, and the right to human dignity.¹⁷

The Constitution also places a number of obligations to provide basic services, including water, sanitation, electricity and refuse removal, on municipalities. Section 152 of the Constitution lists a number of overarching developmental objectives for local government, including to "ensure the provision of services to communities in a sustainable manner" and to "promote social and economic development" in the communities within their municipal area. Section 153(a) of the Constitution states that municipalities are "obliged to prioritise the social and economic development of the community". The duties are further strengthened by section 139(5) of the Constitution, which provides that municipalities are required to ensure that each member of the community has access to at least a minimum level of basic services.¹⁸

Announced by Cabinet in 2000, the Free Basic Services Policy allows for at least a basic level of water, sanitation and electricity services to be provided to households that cannot afford to pay for them.¹⁹ Subsequently, various national government departments produced sector specific policies and strategies for the implementation of FBS. In 2001, the Department of Water Affairs and Forestry

¹⁶ Langford et al, "Water", in Woolman and Bishop (eds), *Constitutional Law of South Africa*, 2 ed (2013 Revision Service 5), pp. 56B-1, 56B-24 and 56B-25.

¹⁷ See sections 10, 24(a) and 26 of the Constitution.

¹⁸ The Constitutional Court has ruled in two cases about local government duties with regard to provision of basic municipal services. Both of the cases related to the provision of electricity but the principle arguably applies to the provision of any basic municipal service. In *Mkontwana v Nelson Mandela Metropolitan Municipality* 2005 (1) SA 530 (CC) (Mkontwana), para. 38, the Constitutional Court said that local government bears a responsibility to provide electricity "as a matter of public duty", and in *Joseph and Others v the City of Johannesburg and Others* 2010 (4) SA 55 (CC) (Joseph), paras. 34 and 39, the Constitutional Court stated that "electricity is an important basic municipal service which local government ordinarily obliged to provide".

¹⁹ President Mbeki first announced government's intention to provide FBS in a COSATU congress in September 2000. The FBS policy is seen to have taken effect from that point onwards. See Modsell, "Free Basic Services: The Evolution and Impact of Free Basic Water Policy in South Africa", HSRC Research Report (2004), p. 283.

(DWA) introduced the Free Basic Water Policy based on the right to access sufficient water enshrined in section 27 of the Constitution and the obligation to provide basic water services contained in section 2(a) of the Water Services Act 108 of 1997 (the Water Services Act).²⁰ The Water Services Act, which is the primary law governing the provision of water and sanitation in South Africa, provides for “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”.²¹ Section 3 of the Water Services Act states:

- “(1) Everyone has a right to access to basic water supply and basic sanitation.
- (2) Every water services institution must take responsible measures to realise these rights.
- (3) Every water services authority must, in its water services development plan, provide for measures to realise these rights.”²²

In 2001 DWA published the Regulations Relating to Compulsory National Standards and Measures to Conserve Water, setting out the minimum standards for basic water supply and sanitation services.²³ The regulations state that the national minimum standard for basic water supply is:

“The provision of appropriate education in respect of effective water use; and a minimum quantity of potable water of 25 litres per person per day or 6 kilolitres per household per month at a minimum flow rate of not less than 10 litres per minute, within 200 metres of a household; and with an effectiveness such that no consumer is without a supply for more than seven full days in any year”.²⁴

Subsequently DWA's Free Basic Water Implementation Strategy (2002) set 6kl per household per month as a minimum amount of FBW. In terms of the strategy, Water Services Authorities or WSAs (i.e. any metropolitan, district or local municipality that has the executive authority to provide water services in their municipal area) can decide how they will apply the FBW Policy and better resourced WSAs are encouraged to increase their free basic water amount.²⁵

²⁰ Tissington, “Targeting the Poor? An Analysis of Free Basic Services and Municipal Indigent Policies in South Africa”, Socio-Economic Rights Institute of South Africa (SERI) Research Report (2013), p. 16.

²¹ See section 2(a) of the Water Services Act.

²² See section 3 of the Water Services Act.

²³ Department of Water Affairs and Forestry (DWA), “Regulations Relating to Compulsory National Standards and Measures to Conserve Water” (June 2001), available at: <https://cer.org.za/wp-content/uploads/2011/10/Regulations-relating-to-compulsory-national-standards-and-measures-to- conserve-water.pdf>.

²⁴ Ibid, p. 17.

²⁵ Ibid, pp. 17-18.

As mentioned above, the provision of basic services is a function of local government.²⁶ The Municipal Systems Act 32 of 2000 (the Systems Act) states that municipalities should give effect to the provisions of the Constitution and echoes the constitutional duty to “ensure that all members of the local community have access to at least the minimum level of basic municipal services”.²⁷ The Systems Act states that municipalities must develop indigent policies in order to target FBS to poor households.

In 2005 the Department of Cooperative Governance and Traditional Affairs (CoGTA, then the Department of Provincial and Local Government) developed the National Indigent Policy Framework and Guidelines (the National Framework).²⁸ The National Framework states that municipal indigent policies are aimed at improving access to basic services and goods and, consequently, reducing levels of poverty. The National Framework also provides a foundation upon which municipalities can build their own indigent policies in order to provide FBS to poor households as stipulated by the Municipal Systems Act.²⁹

The National Framework defines “indigent” as “lacking the necessities of life” with the view that sufficient water, basic sanitation, refuse removal, environmental health, basic energy, health care, housing, food and clothing are goods and services considered to be the necessities of life.³⁰ According to the National Framework, local government is responsible for an “essential household services package” to indigent households which comprises water supply, sanitation, refuse removal, supply of basic energy³¹ and assistance in the housing process.³² The National

²⁶ Ibid, pp. 17-18.

²⁷ Ibid, p. 15.

²⁸ Department of Provincial and Local Government, “National Framework for Municipal Indigent Policies” (September 2005), available at: https://www.westerncape.gov.za/text/2012/11/national_framework_for_municipal_indigent_policies.pdf. In 2009 a number of government department had their names changed. The Department of Provincial and Local Government became the Department of Cooperative Governance and Traditional Affairs (CoGTA).

²⁹ Tissington, “Targeting the Poor”, p. 31.

³⁰ Department of Cooperative Governance and Traditional Affairs (CoGTA), “National Indigent Policy Framework and Guidelines” (2005), p. 13.

³¹ See the Department of Provincial and Local Government, “National Framework for Municipal Indigent Policies”, p. 23, which states that: “There is no currently accepted national policy associated with access to energy and the emphasis has been placed on electricity, as described in the Free Basic Electricity (Electricity Basic Services Support Tariff) policy. An amount of 50kWh per household per month has been defined as the basic amount of electricity to be provided free to the indigent. The policy states that this amount of electricity is suitable to meet the needs for ‘lighting, media access and limited water heating and basic ironing (or basic cooking)’. There are concerns over the sufficiency of the amount of electricity, particularly for cooking which is clearly a basic need. Considerable attention has been given to improving the distribution of paraffin and bottled gas (LPG) as alternative fuels which have greater efficiency for thermal requirements (heating and cooking) than electricity. But the current policy remains as stated in the Free Basic Electricity policy that the national emphasis will be focused on providing an amount of 50kWh of electricity free.”

³² Ibid, p. 15.

Framework holds that municipalities are responsible to decide on an appropriate targeting method to provide free basic services to indigent households.

3.2 Case Law

In South Africa, socio-economic rights are specifically justiciable and the South African courts have handed down a number of socio-economic rights cases. This has meant that the judgment of the courts have clarified and developed socio-economic rights. This section briefly discusses the most important case related to the right of access to sufficient water, *Mazibuko v City of Johannesburg (Mazibuko)*.³³

In the *Mazibuko* case, a number of poor households living in Phiri, Soweto, challenged the lawfulness of the City of Johannesburg's decision, in 2009, to install prepaid water meters as part of Operation Gcin'amanzi. The households claimed that the City's decision to install prepaid water meters unjustifiably infringed their right of access to sufficient water enshrined in section 27 of the Constitution. The case was concerned with two major issues: the first issue regarded the reasonableness and sufficiency of the City's FBW allocation of 6kl per household per month (which the applicants argued was in conflict with section 27 of the Constitution or section 11 of the Water Services Act); and the second issue was whether the installation of prepaid water meters in Phiri, to address the challenge of water losses and non-payment for water services, was lawful.

In the case, the City made plain that its FBW policy has been under constant review since it was adopted and argued that the installation of prepaid water meters was permissible as the system provided residents with 6kl free water per household per month whereas under the former system, the deemed consumption tariff, residents were charged a flat rate. Further with the introduction of prepaid meters, the amount of unaccounted for water in Soweto had been successfully curtailed. The City also argued that it had taken reasonable steps to combat the risks of emergencies, which are continuously reviewed and revised, by establishing a 4kl per household annual emergency allocation obtained through application.

In its judgment, which has since been heavily criticised by scholars and socio-economic rights experts,³⁴ the Constitutional Court held that the obligation placed on the government in terms of section 27 of the Constitution is an obligation to take reasonable legislative and other measures to seek the progressive realisation of the right of access to sufficient water and noted that it is implicit in the concept of progressive realisation that it will take time before everyone

³³ For a full discussion of the *Mazibuko* case, see Dugard, "The Right to Water in South Africa", Foundation for Human Rights (FHR) Position Paper (2017), pp. 9-11.

³⁴ See, for example, Dugard, "The Right to Water in South Africa", pp. 9-11; and Liebenberg, *Socio-Economic Rights: Adjudication under a Transformative Constitution* (2010), pp. 466-480.



• Delwyn Verasamy (Mail and Guardian)

has access to sufficient water.³⁵ The Court found that the City's FBW policy "fell within the bounds of reasonableness and therefore did not breach either section 27 of the Constitution or the national legislation regulating water services".³⁶ On the issue of prepaid meters, the Court held that national legislation and the City's own by-laws authorised the City to introduce prepaid water meters as part of Operation Gcin'amanzi, and concluded that their installation was neither unfair nor discriminatory.

It is worth noting that a central thread of the City's argument in support of the reasonableness of its FBW policy was that the FBW allocation was provided on a universal basis to all households within its municipal area, with an additional opportunity for poor households who were registered on the City's indigent register to be allocated an additional 4kl per household per month.³⁷

The City argued that the provision of 6kl to all households was reasonable because the rising block tariff structure the City adopted for water use meant that wealthier consumers, who were likely to use more water, were charged more for their heavier water use. The effect of the rising tariff was that the 6kl that were provided for free to all consumers were "counterweighted by the extent to which the heavy water users cross-subsidise the free allocation".³⁸ The City therefore acknowledged that its fee structure had been developed in a way that ensured that the universal FBW allocation did not create a financial loss for the City or Johannesburg Water.

³⁵ *Mazibuko*, paras. 90-97.

³⁶ *Mazibuko*, para. 9.

³⁷ *Mazibuko*, paras. 83 and 98-102.

³⁸ *Mazibuko*, para. 83.

In addition, the City stated that universal provision was necessary because of the difficulty and unreliability of establishing a method to target which households should benefit from FBW provision.³⁹

The City's justification of the universal provision was set out as follows in the supporting affidavit of Rahid Seedat (the Director of the Central Strategy Unit in the Office of the Mayor):

"There are therefore two broad approaches to administering the current social package. One approach – a so-called universalist approach – gives benefits to all households regardless of income. This approach is easy (and therefore cheaper) to administer, but it has the disadvantage of not being targeted only at poor households. Wealthy households that do not really need subsidies also benefit. The second approach – a so-called means-testing approach – evaluates whether applicants do or don't have the means to pay for a service. This approach targets the benefit effectively towards poor households, but it also has some disadvantages. One disadvantage is that it asks poor households to present themselves to the City as poor. This is often regarded as undignified, and it results in a situation where many potential beneficiaries prefer not to come forward. Another disadvantage is that means-testing is extremely onerous administratively. The system is expensive to run. It is time consuming. It is open to fraud. And it also requires that the City has the ability to check whether the applicants' statement of income is correct or not, and keep this information continuously updated. The City must constantly make difficult decisions between systems which while more suitable, are prohibitively expensive to run and those that, while imperfect, are more cost-effective."⁴⁰

The City's arguments in *Mazibuko* raise serious questions about the City's rationale for its decision to withdraw the universal provision of FBW to all households in its municipal area. As these arguments show, the City realises that targeting poor households by requiring them to register on its indigent register is degrading and administratively onerous for the beneficiary households, and entails "prohibitively expensive" costs. Moreover, the City acknowledges that its fee structure has been used to cross-subsidise the universal provision of FBW. These statements also stand in stark contrast with the City's claims that narrow targeting would be more cost effective.

³⁹ *Mazibuko*, para. 83.

⁴⁰ *Mazibuko*, para. 99.

3.3 The Evolution of the City of Johannesburg's Indigent Management Policy

The City implemented its first indigent policy in 1998, seven years before the introduction of the National Framework. With the introduction of the FBW policy in 2001 (and other sector specific policies), the City sought to incorporate national laws and policies into its indigent policy. From the beginning, the City adopted means-testing as a method to identify poor households who were subsequently required to register on the City's indigent register. Means-testing uses monthly income to determine a household's (or individual's) indigent status according to a municipally-defined threshold. The following is a summary of the evolution of the City's indigent management policy.

Indigence Management Policy (1998)

There is little documentation related to the City's first indigent policy called the Indigence Management Policy introduced in 1998. Aimed at creating a safety-net for poor households, the policy provided subsidised below-cost water for the first 10kl consumed monthly, subsidised refuse removal and sanitation, and a 25% net assessment rate calculated on the value of the average stand.⁴¹ In order to register, a household needed to prove that their monthly household income was R800 or less, or not more than two state pensions with a ceiling of R1080.⁴²

In 2001, following the announcement of FBW, the Indigence Management Policy included 6kl of free basic water and, in 2002, added 50kWh of free basic electricity to qualifying households.⁴³ The Indigence Management Policy saw the registration of only 25 199 applicants and a study conducted by Palmer Development Group (PDG) stated that the Indigence Management Policy was plagued by administrative and process problems that made it difficult to implement.⁴⁴

⁴¹ See the Supporting Affidavit of Mr Rahid Ahamed Seedat, the Director of the Central Strategy Unit within the Office of the Executive Mayor of the City of Johannesburg, in the case of *Mazibuko and Others v City of Johannesburg and Others* 2010 (1) SA 1 (CC) (*Mazibuko*) (all affidavits, including Mr Seedat's are available on the CALS website: <http://www.law.wits.ac.za/cals>). See also Wafer et al, "A Tale of Six Buildings: The Lived Reality of Poor People's Access to Basic Services in Johannesburg's Inner City", CALS Research Report (April 2008), p. 17.

⁴² Supporting Affidavit of Mr Rahid Ahamed Seedat, the Director of the Central Strategy Unit within the Office of the Executive Mayor of the City of Johannesburg, in *Mazibuko*.

⁴³ *Ibid.*

⁴⁴ The study was commissioned by the City and done by Palmer Development Group in 2004. See Naidoo, "The Making of 'the Poor' in Post-apartheid South Africa: A Case Study of the City of Johannesburg and Orange Farm", thesis submitted for DPhil in Development Studies at the University of KwaZulu-Natal (October 2010), p. 207.

Special Cases Policy (2002)

In 2002 the Special Cases Policy replaced the Indigence Management Policy and attempted to determine “special cases in respect of payment for basic services provided by local government to those who [could] not afford to pay for basic services, the elderly and HIV/AIDS patients and orphans”.⁴⁵ Its objectives included the provision of subsidies for refuse removal and sanitation to individual households unable to pay for these services (in addition to the universal allocation of free basic water and electricity set out at a national level), the establishment of a “poverty register [which] inform[ed] poverty mapping and targeted socio-economic developmental programmes”, and enhanced credit control measures by providing a safety-net for the poorest of the poor and “identifying those [who were] using poverty to not pay for basic services”.⁴⁶

At the same time, as part of the roll-out of prepaid meters through Operation Gcin’amanzi in Soweto, the City ran a debt write-off programme initiated by Johannesburg Water.⁴⁷ The idea was to progressively write off arrears in particular consumption areas on condition that a prepaid meter was accepted and used.⁴⁸ The City deemed the initiative successful as it “adresse[d] the affordability and access to water simultaneously whilst a culture of payment [was] engendered with the incentive of having the historical arrears proportionately written off over an extended period of time on condition that the customer manage[d] [their] prepaid water meter”.⁴⁹

In 2004, the City commissioned a number of research projects in response to the results of its Residents’ Satisfaction Survey, which revealed high levels of dissatisfaction with the delivery of basic services especially in informal settlements and in Ennerdale and Orange Farm.⁵⁰ The aim of the research was to contribute to the City’s attempts to understand and develop ways of intervening in the problems of marginality, precariousness and vulnerability present in the lives of those it refers to as “the poor”.⁵¹

The result was several documents including a PDG report, entitled “Developing a Profile of Urban Poverty in the City of Johannesburg”.⁵² PDG’s review (2004) of the Special Cases Policy found that the policy had not been implemented in a manner that met its multiple objectives.⁵³ The report highlighted the City’s

⁴⁵ Ibid, p. 207.

⁴⁶ See the Palmer Development Group (PDG), “Social Services Package” (2004), p. 49. See also Naidoo, “The Making of ‘the Poor’ in Post-Apartheid South Africa”, p. 207-208.

⁴⁷ Naidoo, “The Making of ‘the Poor’ in Post-Apartheid South Africa”, p. 209.

⁴⁸ Ibid, p. 209.

⁴⁹ Ibid, p. 209.

⁵⁰ Ibid, pp. 191-192.

⁵¹ Ibid, p. 192.

⁵² Ibid, p. 192.

⁵³ Palmer Development Group (PDG), “Social Services Package”, p. 49. See also Naidoo, “The Making of ‘the Poor’ in Post-Apartheid South Africa”, p. 208.

objective to establish a single city-wide poverty register for targeted social welfare programmes: It found that the City's requirements for application for the register excluded the bulk of poor households because it was restricted to formal account holders, concluding that the use of a register and map of poor households in the City was not appropriate.⁵⁴ It was conceded that the City could substantially increase the level of administrative effort applied to the Special Cases Policy and thereby develop a formal register of poor households, however, the administrative cost would only be warranted if such a register was used to target a broader set of social benefits than refuse removal and sanitation rebates.⁵⁵

Notwithstanding this, the report recommended that there is "no compelling argument" for the City to abandon the universal allocation of basic services to develop a more comprehensive Special Cases register, stating that "there are sound reasons for the universal targeting approach being followed by some services (such as electricity and water) and there are possibly other reasons for the targeting approaches being followed by other welfare support of the City".⁵⁶

The consultants also highlighted a number of problems associated with the use of an indigent register, including the exclusion of those in need of benefits and inclusion of those who do not need benefits; that registers gave rise to possible concerns about corruption (bribing City staff to include certain people on the register); and concerns regarding the policing of the register (the City would have to exercise strong controls over people who falsely claimed to qualify).⁵⁷

The Special Cases Policy continued to be implemented until 2005 when the City introduced the Municipal Services Subsidy Scheme.

Municipal Services Subsidy Scheme (2005)

The key principles, objectives and mechanisms of Special Cases Policy and debt write-off programme were brought together to craft a new indigent management policy which consisted of Municipal Services Subsidies Scheme (MSSS) and the Reathusa or so-called "We are helping" scheme.⁵⁸ MSSS was launched in May 2005 and, according to a press release by the City, was "a major incentive to poor communities in Johannesburg to relieve the burden of debts but [simultaneously] create a new culture of payment".⁵⁹ The MSSS sought to target half of the households in Johannesburg.⁶⁰ Those eligible to register for the MSSS were:

⁵⁴ Palmer Development Group (PDG), "Social Services Package", p. 49.

⁵⁵ Ibid, p. 49.

⁵⁶ Palmer Development Group, "Social Services Package", pp. 49-50. See also Naidoo, "The Making of 'the Poor' in Post-Apartheid South Africa", p. 208.

⁵⁷ Palmer Development Group (PDG), "Social Services Package", pp. 49-50.

⁵⁸ Naidoo, "The Making of 'the Poor' in Post-Apartheid South Africa", p. 210.

⁵⁹ Naidoo, "The Making of 'the Poor' in Post-Apartheid South Africa", p. 211 from City of Johannesburg Press releases 2005-2006.

⁶⁰ Ibid, p. 211.

- Account holders who were pensioners;
- Unemployed, self-employed, or employed people with a total family income of less than R1 100 a month;
- Account holders who were recipients of disability grants who had a total family income of less than R1 100 a month;
- Account holders whose partners also received a government pension and had a total family income of less than R1 241 per month (the equivalent of two government pensions plus R1); and
- Breadwinners living with HIV or AIDS and/or their orphans.⁶¹

People who met the above criteria were encouraged to apply to have their arrears written off in exchange for signing a binding agreement to pay for services in the future and to install prepaid water and electricity meters within 12 months of being accepted into the scheme.⁶² Furthermore those households on the City's poverty register would receive 6kl of free water and 50kW of free electricity, their refuse removal and sanitation charges would be covered, and there would not be charged for assessment rates if their properties valued less than R20 001.⁶³

Between May 2005 and 30 January 2006 the City reported that 92 000 people had registered for the scheme and approximately R1.2 million in debt was written off.⁶⁴ These figures are not far from the target the City had set for itself which was 100 000 households with a collective debt of R1.5 million.⁶⁵ However, it is important to note that the City set the 100 000 target while acknowledging that more than 50% of the households in Johannesburg earned R1 600 or less in a month.⁶⁶ The City was therefore aware of the fact that the poor households were drastically under-represented in the scheme.

Reathusa (2006)

Reathusa was introduced in February 2006 (until 31 December 2006) and was the continuation of the MSSS. It targeted municipal account holders with a gross monthly income of R6 500 or less.⁶⁷ Poor households, referred to in this scheme as "customers" had to conclude a formal repayment arrangement for half their debt as well as keep their current account up to date. If they managed to pay their arrears within the agreed period, the City would write off half of their debt.⁶⁸ Successful applicants were also expected to install prepaid meters in their homes

⁶¹ City of Johannesburg, "Joburg City, How It Works? Subsidies.", (16 May 2007), available at: https://joburg.org.za/index.php?option=com_content&task=view&id=724&Itemid=131

⁶² Naidoo, "The Making of 'the Poor' in Post-Apartheid South Africa", p. 211.

⁶³ Ibid, p. 211.

⁶⁴ Ibid, p. 212.

⁶⁵ Ibid, p. 212.

⁶⁶ Ibid, p. 212.

⁶⁷ Ibid, p. 212.

⁶⁸ Ibid, p. 212.

within 12 months of acceptance into the scheme. In January 2006 Mandy Jean Woods, a spokesperson for the City's Revenue Department said,

"People with this level of income have some means to pay, but perhaps not the means to settle huge arrear debts immediately. So this programme aims to create an incentive for these account holders to begin paying their accounts regularly and in so doing, create a culture of paying for municipal accounts as a priority."⁶⁹

MSSS and Reathusa made use of a poverty register and were subject to the same critique levelled at the Special Cases Policy. The schemes functioned mainly as debt-write off mechanisms without developing any means to collect information about indigent households to inform or enable interventions that would benefit them.

Some commentators have argued that this indicates that "the City's commitment to the poor does not lie in any real distributive desire, but in a concerted effort to entrench a logic of access to different standards of living and qualities of life dependent on one's individual ability to pay for them".⁷⁰

Expanded Social Package (2008 to date)

The City's current indigence management policy, entitled Siyasizana: Expanded Social Package (ESP), was approved by the municipal council in 2008. A significant departure from previous policy is the ESP's inclusion of non-account holders such as tenants, backyard dwellers and those who live in inner-city apartments.⁷¹ Additionally, it provides individual benefits over and above household benefits⁷² and applicants are not required to install pre-paid meters.⁷³ The ESP is a pilot of the National Integrated Social Information System (NISIS), which combines data from the Unemployment Insurance Fund (UIF), the South African Social Security Administration (SASSA), the Department of Housing and the Department of Home Affairs.⁷⁴ Ideally this would allow the City to verify people's eligibility for benefits without them having to produce any documents to prove their own level of poverty.⁷⁵

Regarding household benefits such as free basic electricity and free basic water, the ESP works on a poverty index that incorporates a deprivation component as well as household income levels.⁷⁶ The index uses a score of 100 points – 70

⁶⁹ Ibid, p. 213.

⁷⁰ Ibid, p. 213.

⁷¹ Ibid, p. 232.

⁷² Ibid, p. 219.

⁷³ Ibid, p. 223.

⁷⁴ See Naidoo, "The Making of 'the Poor' in Post-Apartheid South Africa", p. 232. See also Tissington, "Targeting the Poor", p. 52.

⁷⁵ Tissington, "Targeting the Poor", pp. 52-53.

⁷⁶ Ibid, p. 52.



points are based on household income and personal circumstances of the person applying, and 30 points are based on how deprived the area where the household is based.⁷⁷ The higher the score, the poorer that household is considered to be. Personal circumstances of the applicants (the municipal account holders) such as the number of dependents are considered and households are then slotted into different poverty bands at the point of registration. The ESP provides for those in different poverty bands to receive different indigent benefits. The difference between the band income levels is small while the difference in subsidies is significant. The ESP is essentially a combination of means-testing, as 70 points are based on income, and proxy means-testing, as 30 points are based on other characteristics which indicate or affect deprivation.

A “score” for each household is calculated based on a small number of easily observable weighted characteristics (ideally obtained from factor or regression analysis of household data). Eligibility is determined by comparing the score against a predetermined cut-off which changes each year.

As with the preceding indigent policies, registration is only open to South African citizens (and permanent residents) residing within the City’s boundaries with a monthly income of R5 578.91 or less. In the initial roll-out ten (10) main customer service centres and thirty (30) additional registration centres located across the

⁷⁷ Ibid, p. 52.

City were used to help people register.⁷⁸ Social workers were also used to conduct registrations.⁷⁹ Currently, there are 23 registration sites across the City. The ESP is fully digital and biometric and is updated daily. Depending on household income, indigent households will receive between 10 and 15 kilolitres of free water per month, above the national recommendation of 6kl. Since 2010, individuals and households are required to re-register every six months in order to continue receiving benefits.⁸⁰

To successfully register, households would have to provide the following documents:

- South African identity document (ID);
- Proof of income in the form of a bank statement or a South African Social Security Agency (SASSA) card;
- Proof of residence; and
- Latest receipt for prepaid service meters.

In an effort to encourage registrations since the announcement to withdraw the universal 6kl FBW the City makes use of Extended Public Works Programme (EPWP) staff to assist with registration.⁸¹ Three clinics and several multi-purpose centres across the city are being used as registration points. In 2008 the City reported that 108 000 households had been registered.⁸² Nearly a decade later only 130 000 *individuals* benefited from the ESP in the 2016/2017 financial year.⁸³ Recently, the City announced that since July 2017 the number of registered individuals has increased to 321 984.⁸⁴ It should be noted however that this number includes those registered for metered service benefits (water and electricity subsidies) *and* those registered for individual benefits (programmes and services offered by the City of Johannesburg such as skills development programmes, social service interventions, food security, youth programmes, and intervention programmes for the homeless). This means that the number of registrations for metered service benefits could be significantly lower.

⁷⁸ Masondo, "Statement by the Executive Mayor of Johannesburg, Cllr Amos Masondo, at the media briefing on the City of Johannesburg Expanded Social Package Programme" (24 June 2009), available at: https://joburg.org.za/index.php?option=com_content&id=4012&Itemid=114.

⁷⁹ Conversation with employee from the Department of Health and Social Development at the City of Johannesburg.

⁸⁰ Masondo, "Statement by the Executive Mayor of Johannesburg, Cllr Amos Masondo, at the media briefing on the City of Johannesburg Expanded Social Package Programme".

⁸¹ Conversation with employee from Department of Health and Social Development at the City of Johannesburg.

⁸² Ibid.

⁸³ See City of Johannesburg, "2017/18 IDP Review" (2017), p. 105. See also City of Johannesburg, "Tabling of the 2017/18 Draft Integrated Development Plan (IDP) Review and Draft Municipal Entities Business Plans for Public Consultation" (March 2017), p. 12.

⁸⁴ City of Johannesburg, "CoJ has increased ESP income threshold to align with Consumer Price Index", Press Statement (6 November 2017), available at: https://joburg.org.za/index.php?option=com_content&view=article&id=12151&catid=217&Itemid=114.

The City of Johannesburg's indigent policy has evolved over nearly two decades from the administratively flawed Indigence Management Policy to the MSSS and Reathusa Schemes where the identification of indigents was interweaved with debt write off measures and efforts by the municipality to engender a culture of payment. All of these schemes adopted means-testing, using monthly household income to determine indigent status according to a defined threshold.

Regardless of the changes in the requirements of each scheme, one aspect of the City's indigent policy has remained the same: the use of an indigent register has always yielded poor results. Notwithstanding this, before the March 2017 decision to withdraw universal provision of FBW the City was consistent in reviewing and refining its FBW policy, investigating ways to ensure that low income households in its jurisdiction gain access to water and other services, and ensuring that every change made is a progressive step towards the realisation of the right to sufficient water to its residents.

While Mayor Mashaba's administration inherited the indigent policy from the previous administration, the City made its decision to withdraw the universal provision of 6kl of FBW with the full knowledge that the current register is dramatically under-representative of those households which should receive FBW. The City prioritised revenue recovery over the provision of FBW with disregard to the implications this action has on the lives of poor households and refugees, asylum seekers and undocumented migrants whose access to FBW was unaffected prior to July 2017.

Even though the drawbacks of using an indigent register and abandoning universal allocation of basic services were identified by its own studies, the City is fervently promoting registrations for the ESP.⁸⁵ Several studies have been conducted to review the effectiveness of various targeting strategies to provide free or subsidised services to the poor. The following section will discuss two approaches to providing FBS namely, the universal approach and narrow approaches. It will discuss the different types of narrow approaches recommended by CoGTA and explore lessons from international experience with respect to the effectiveness of targeting strategies overall and means-testing in particular.

⁸⁵ Palmer Development Group, "Social Services Package", p. 49-50. See also Naidoo, "The Making of 'the Poor' in Post-Apartheid South Africa", p. 208.



4

Targeting the Poor

4.1 Universal Approach

Different targeting methods are used to ensure that low income households are able to access FBS. One method is the universal provision of minimum FBS to all households, including poor households, in a municipal jurisdiction. This method ensures maximum inclusion of the poor as it does not create barriers that would hinder a poor individual or household from accessing services. There are also no administrative costs involved.⁸⁶ Further, universal approaches are “non-stigmatising” and “non-paternalistic”, and contribute to the strengthening of social solidarity.⁸⁷ The apparent disadvantage that households that can afford to pay benefit equally is mitigated through stepped tariffs, through which basic service level costs are recovered by charging higher tariffs to households with higher consumption.

4.2 Narrow Approaches

“Narrow targeting” is more commonly employed internationally, aiming to identify and provide benefits specifically to the poor. Limited public finances are frequently cited as the rationale for adopting narrower targeting approaches. In this rationale, narrow targeting approaches are likely to concentrate the allocation of public resources to specific “target groups”, including poor households. This approach is deemed better to leverage impact from poverty-alleviation budgets or to achieve a given impact at the lowest budgetary cost.⁸⁸ The range of narrow targeting approaches can be clustered into three main categories:

⁸⁶ Bitran and Munoz, “Targeting Methodologies: A Conceptual Approach and Analysis of Experiences”, Partnerships for Health Reform (PHR) and Latin America and Caribbean Health Sector Reform Initiative (LACHSR) Research report (September 2000), p. 4.

⁸⁷ Standing, “Conditional Cash Transfers: Why Targeting and Conditionalities Could Fail”, International Poverty Centre for Inclusive Growth (IPC-IG) One Pager No 47 (2007)

⁸⁸ Coady et al, “Targeting Transfers in Developing Countries: Review of Lessons and Experiences”, World Bank Research Report (2004), p. 1.

- Targeting approaches based on individual or household assessments, for example targeting beneficiaries who earn a monthly income below a determined income threshold;
- Targeting approaches based on categorical targeting, for example targeting beneficiaries by having regard to property prices; and
- Targeting approaches based on self-targeting, for example methods that dissuade the well-off by de-incentivising them by offering lower “packaging” quality of goods and services or by controlling for waiting time for access to free basic services.

A combination of these methods is typically adopted. The table below describes each of the main methods adopted:

*Three Broad Categories of Targeting*⁸⁹

- **Individual/ Household Assessment**

Means-testing An official (usually a government employee) directly assesses, household by household or individual by individual, whether the applicant is eligible. It has three main variants: those with third-party verification of income, those in which the applicant provides documents to verify income or related welfare indicators, and those in which a simple interview is used to collect information.

Proxy means test A “score” for each household is calculated based on a small number of easily observable characteristics and a weight is allocated (ideally obtained from factor or regression analysis of household data). Eligibility is determined by comparing the score against a predetermined cut-off.

Community targeting A community leader or group of community members whose principal functions in the community are not related to the programme decides who in the community should receive benefits.

- **Categorical targeting**

Geographical targeting Eligibility for benefits is determined, at least partly, by location of residence. This method uses existing information such as surveys of basic needs or poverty maps.

Demographic targeting Eligibility is determined by age, gender, or some other demographic characteristic.

- **Self-targeting**

A programme, good, or service is open to all but is designed in such a way that its take up will be higher among low income residents.

⁸⁹ Ibid, pp. 46-48.

In South Africa, CoGTA's National Framework emphasises the need for municipalities to remain financially viable by raising revenue from people who can afford to pay for the services.⁹⁰ The National Framework notes that the challenge for municipalities in rolling out basic services is to ensure that subsidies are correctly targeted to the poor while ensuring that financial viability is not compromised.⁹¹ The National Framework provides for the following targeting methods:

Targeting methods described in the National Indigent Policy Framework and Guidelines

Means-testing or household income targeting which uses monthly household income to determine indigent status according to municipally-defined thresholds. The Framework recommends the threshold be an amount equal to but no more than double the state pension amount.

Property value targeting which uses property values to determine indigence against a municipally defined threshold.

Service level targeting where a specific level of service is provided free of charge, for example water obtained from a communal standpipe within 200m of each household.

Consumption threshold targeting in which households that consume services below a specified consumption threshold are not charged.

Geographic targeting where the municipality determines whether tariffs for services provided within a specific geographical area should be adjusted or provided at no charge.⁹²

Although the National Framework provides that municipalities can employ any combination of these methods to regulate access to FBS in order to ensure that subsidies are targeted to indigent households, the Framework does not require municipalities to make use of indigent registers. Municipalities are in no way compelled to use indigent registers to identify or allocate FBS to the poor; municipalities apply their discretion in determining whether an indigent register is an appropriate method or tool to allocate FBS to low-income households.

Despite its policy position, CoGTA has frequently made reference to its support of municipalities in establishing and updating their indigent registers. In official documents such as CoGTA's 2015/2016 Annual Report and various media statements, it lists the development of a "national indigent register for municipalities to monitor and register access to the FBS programme" amongst its priorities in 2014/2015.⁹³

⁹⁰ CoGTA, "National Indigent Policy Framework and Guidelines", p. 12.

⁹¹ Tissington, "Targeting the Poor", p. 37.

⁹² Ibid, p. 37

⁹³ See CoGTA, "Annual Report 2015/2016" (2015), p. 39; and CoGTA, "Programme: Free Basic Services", Presentation to the Parliamentary Portfolio Committee on Energy (10 September 2013).

However, some municipalities, such as the eThekweni Metropolitan Municipality, have decided against the use of an indigent register, opting instead for property value targeting. The municipality has indicated that they consider this approach more affordable, more “customer friendly” and less likely to exclude those in need of FBWS when compared to an indigent register.⁹⁴ Another method worthy of consideration is geographical targeting which entails identifying impoverished areas for the allocation of free basic services, a method that could be applicable given Johannesburg’s pervasive and prevailing apartheid city structure.

South African municipalities use different combinations of targeting methods to provide a range of basic services to indigent households. A number of municipalities extend FBS to “special groups” such as child-headed households, pensioners and orphans.⁹⁵ Households in these categories are also required to go through an application process to access FBS.⁹⁶ The majority of municipalities (59%) which provide FBW to indigent households in their jurisdiction apply means-testing to allocate FBW.⁹⁷

The quantity of FBW services provided is mutually determined by the Water Services Authority (WSA, authorised municipality) and the water services provider in accordance with sector specific policy. The WSA also determines the method to identify indigent households. Thirty four (34) percent of municipalities apply a broader approach in which each consumer unit receives FBS including FBW on the municipality’s billing system.⁹⁸

According to Statistics South Africa a total of 3.6 million indigent households were registered in 278 municipalities in 2016.⁹⁹ The criteria used to define indigence varies across municipalities. Indigent households are usually identified through means-testing, and poor households are required to undergo an application process in order to register. Most municipalities use a household income threshold equal to or less than the value of two state pensions.¹⁰⁰ Once registered, poor households have access to FBS which include electricity and gas reticulation;

⁹⁴ Insights shared by Neil Macleod on eThekweni’s FBW policy.

⁹⁵ Tissington, “Targeting the Poor”, p. 50.

⁹⁶ See Lepelle-Nkumpi Local Municipality, “Indigent Policy 2011-2012” (2011).

⁹⁷ See Statistics South Africa (Stats SA), “Non-Financial Census of Municipalities for the Year ended 30 June 2010” (2010), p. 27, where this approach is referred to as “self-targeting” and described as an approach in terms of which “only indigent households receive the benefits of the FBS programme as mutually determined by the service provider and service authority”. In this regard, “self-targeting” is synonymous with the definition of “narrow targeting” on page 10. Definitions in this paper are consistent with international definitions in the discourse on targeting of social services.

⁹⁸ Tissington, “Targeting the Poor”, pp. 48-49.

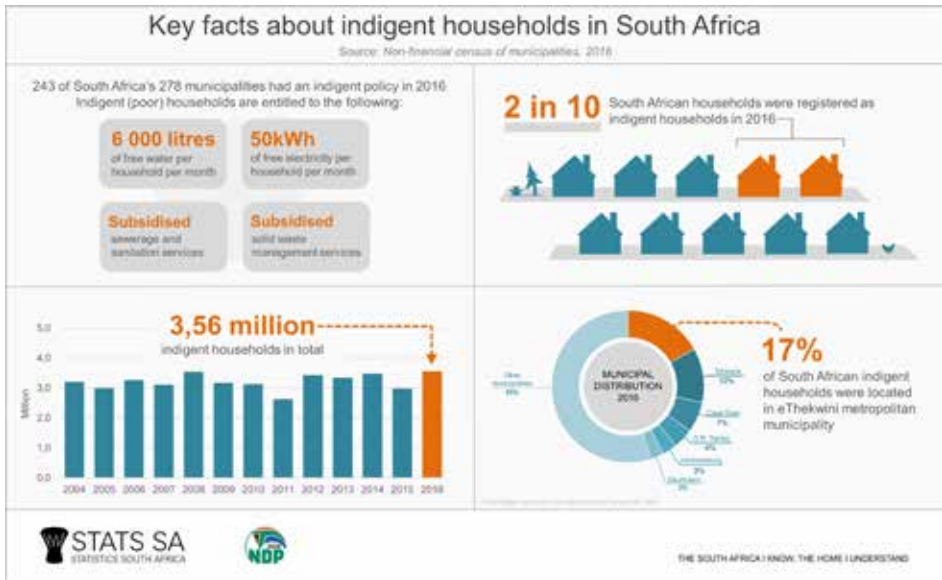
⁹⁹ Stats SA, “The indigent net widens, but gaps remain”, Stats SA (24 July 2017), available at: <http://www.statssa.gov.za/?p=10215>.

¹⁰⁰ Tissington, “Targeting the Poor”, p. 50. At the time of the study a state pension was R1600 (R1620 if older than 75 years) <https://www.gov.za/services/social-benefits-retirement-and-old-age/old-age-pension>.

water and sanitation services limited to potable water supply systems and domestic waste-water and sewage disposal, and refuse removal and disposal.

There is no blueprint with respect to indigent registration and FBS implementation and, as noted above, a register is one of many possible approaches that a municipality can adopt in order to implement its indigence policy and provide FBS.¹⁰¹ As a result, there is no uniformity in how municipalities target poor households. For example, the City of Cape Town and Ekurhuleni Metropolitan Municipality provide all residents in their jurisdictions with 6kl of FBW. Johannesburg, Tshwane, Buffalo City, Nelson Mandela Bay and Mangaung, on the other hand, only provide 6kl FBW to registered indigent households.¹⁰²

The figure below summarises information about indigent households in South Africa and the provision of FBW across all provinces in 2016:



Stats SA

¹⁰¹ Tissington, "Targeting the Poor", p. 44.

¹⁰² City of Johannesburg, "Presentation to Inner City Partnership Forum - Budget 2017/18 by MMC Funzi Ngobeni", (2017), available at: <https://drive.google.com/file/d/0B9bSjvbpH7EGYWxVZGIdeVZvTVk/view>

4.3 Lessons from International Experience

Debate continues about whether a universal approach or selectivity through targeting should underpin government provision of services to the poor.¹⁰³ Applying the universal approach means that minimum service levels reach all households whereas targeting intends to benefit the poor and typically involves some kind of means-testing to determine the “truly deserving”.¹⁰⁴ Policies are seldom purely universal or targeted and may involve various blends along a continuum from universal to targeted. Where policies are located along the continuum however has significant implications for the livelihoods of the poor.¹⁰⁵

Globally, the 1980s saw a shift in favour of targeting in both developed and developing countries in contrast with the previous two decades, where most countries tended towards universalistic policies.¹⁰⁶ The corresponding ascendance of neoliberalism in development thinking was a clear driver of this change.¹⁰⁷

Mkandawire argues that even though the choice between targeting and universalism is usually expressed in the language of budgetary constraints, at the heart of this choice is a fundamental question about a polity's values and responsibility to all its members.¹⁰⁸ In some cases the exclusion and administrative costs involved in narrowly targeting the poor outweigh the cost of universal provision of social benefits. With this knowledge a government's decision to target the poor instead of providing social benefits universally is usually based on ideology or is a question of political will. Thus ultimately, municipalities make a value judgement with respect to identifying the poor, how they should be perceived and, subsequently, attach weights to the types of costs and benefits of the approaches chosen.¹⁰⁹ This weighing-up exercise is often influenced by a country's ideological predisposition. The rise of the political right in the 1980s and 1990s with its emphasis on the limited role of the state and on individual responsibility profoundly influenced developed countries' social policies and introduced a preference for “user fees”, means-testing and market delivery of social services. This in turn influenced the social policies of developing countries whose governments until that point were inclined towards the universal provision of a number of services, including free healthcare, education and subsidised food.¹¹⁰

¹⁰³ Mkandawire, “Targeting and Universalism in Poverty Reduction”, United Nations Research Institute for Social Development (UNRISD) Social Policy and Development Programme Paper No 2 (December 2005), p. v.

¹⁰⁴ *Ibid.*, p. v.

¹⁰⁵ *Ibid.*, p. 2.

¹⁰⁶ *Ibid.*, p. 1.

¹⁰⁷ *Ibid.*, p. 2.

¹⁰⁸ *Ibid.*, p. 1.

¹⁰⁹ *Ibid.*, p. 1.

¹¹⁰ *Ibid.*, p. 2.

Currently, targeting is widely considered desirable by governments especially those in developing countries and arguments in favour of narrower approaches to targeting are often informed by the belief that 1) a significant number of those who receive benefits do not really need them and therefore providing them with benefits is wasteful; 2) Universal provision of benefits is unhelpful and unwise during times of serious budget constraints; and 3) It is unfair to those in need as many times benefits go to those who do not need them instead of the poor.¹¹¹ While these statements might ring true, each situation should be carefully examined on its own merits because targeting often involves high indirect costs which may cancel out the advantages of targeting in the first place.¹¹²

The Costs of Targeting

Approaches that narrowly target the poor often involve a variety of hidden costs, which sometimes cancel out the advantages of targeting. Often these costs are concealed and are likely to be ignored by government officials.¹¹³ The following section considers some of these costs in more detail.

Exclusion costs:

The question of which targeting methods are appropriate under which circumstances is best understood by enumerating the benefits and costs of the method.¹¹⁴ Targeting in general always runs the risk of what are called type I errors which occur when someone who deserves benefits is denied them or type II errors, also known as leakage, which occur when benefits are paid to someone who does not deserve them.¹¹⁵ Among others, Sen (1995) and Mkandawire (2005) argue that in practice targeting (especially means-testing) inevitably results in inclusion and exclusion errors.¹¹⁶ In other words, some 'truly needy' households are bound to be excluded from the schemes, while part of the benefits will definitely leak out to those not in need.

¹¹¹ Beresford, "Why means-testing is not efficient or fair", The Guardian (14 January 2013), available at: <https://www.theguardian.com/social-care-network/2013/jan/14/means-testing-benefits-not-efficient-fair>.

¹¹² Van de Walle, "Targeting Revisited", World Bank Research Observer, 14(2) (2008), p. 245.

¹¹³ Ibid.

¹¹⁴ Coady et al, "Targeting Transfers in Developing Countries", p. 5.

¹¹⁵ Mkandawire, "Targeting and Universalism in Poverty Reduction", p. 9.

¹¹⁶ Ibid, p. 9.

Administrative costs:

The first cost governments usually incur are associated with obtaining information about the poor. This process often necessitates high administrative costs like setting up the department that would administer FBS, staff payments, information systems management and fraud control.¹¹⁷ The costs are compounded in the case of developing countries where a significant number of the population engage in informal sector work and cannot provide a reliable proof of income and in countries where the state's overall capacity is low.¹¹⁸ Where means need to be verified by a third party such as a bank, or documents that verify income or other welfare-related indicators, high-levels of literacy and documentation of economic transactions is required.¹¹⁹ Numerous studies show that identifying the poor with precision involves extremely high administrative costs, sophistication and capacity seldom found in developing countries.¹²⁰ Administrative costs also include the salaries of social workers who are tasked with conducting house visits, or national household surveys to assess the socio-economic conditions of different population groups.

In response to this challenge governments have made attempts to use other less demanding covariates of poverty through categorical targeting methods such as geographic location while others have made attempts to include community based targeting.¹²¹ Community-based targeting usually involves community agents such as social or religious groups, NGOs, locally elected officials, or governing bodies in the process of selecting beneficiaries.¹²² This is based on the belief that these community agents have better information about their neighbours' poverty levels. For example in a rural region of Burkina Faso, the community selection process for indigents eligible to receive free health, took into account other factors related to social vulnerability such as age, social isolation and health status. These factors are often beyond those based on income-related criteria and more likely to be known by community members.¹²³ There is a very real risk that community-targeting may run counter to the universalistic cultures of local communities; exacerbate local discrimination and be captured by elites who give transfers to their friends and relatives living above the poverty line. In many cases this method has led to the exclusion of women.¹²⁴

¹¹⁷ Van de Walle, "Targeting Revisited", p. 238.

¹¹⁸ Mkandawire, "Targeting and Universalism in Poverty Reduction", p. 9.

¹¹⁹ Coady et al, "Targeting Transfers in Developing Countries", p. 46.

¹²⁰ Mkandawire, "Targeting and Universalism in Poverty Reduction", p. 9.

¹²¹ Ibid, p. 9.

¹²² Conning and Kevane, "Community Based Targeting Mechanisms for Social Safety Nets: A Critical Review", *World Development*, 30(3) (2002), p. 375.

¹²³ Atchessi et al, "Is the Process for Selecting Indigents to Receive Free Care in Burkina Faso Equitable?", *BioMed Central (BMC) Public Health*, 14 (2014), p. 2.

¹²⁴ Mkandawire, "Targeting and Universalism in Poverty Reduction", p. 10.

Costs to the poor:

Another major drawback of targeting is the social stigma associated with publically identifying as poor, which it frequently entails.¹²⁵ This discourages many potential beneficiaries from applying. Moreover, private costs are incurred by poor households applying for these services as well. Poor households bear costs like transportation costs and the costs involved in obtaining certification required to prove eligibility like identity documents and proof of residence.¹²⁶

Negative Incentives:

Targeting also has the problem of incentivising some beneficiaries and non-beneficiaries to alter their behaviour as a result of policy.¹²⁷ Potential beneficiaries may misrepresent their incomes and change their behaviour either to become or remain eligible for a social benefit.¹²⁸ Individuals may avoid activities that may improve their incomes so that they are no longer eligible for public support. In some cases a high marginal effective tax rate can act as a disincentive to getting out of the “poverty trap”. Referring to means-testing specifically, Van Oorschot (2002) states that “through its disincentive effects, means-testing tends to be dysfunctional with regard to social policy’s broader aims of doing away with poverty and dependency”.¹²⁹ Universal benefits, on the other hand, do not damage market incentives to take a job or save for one’s own pension.¹³⁰

Other effects:

Furthermore there is growing evidence that targeting has a negative impact on social cohesion.¹³¹ Divisions between beneficiaries and non-beneficiaries can be created because of targeting itself and as a result of targeting inaccuracies between households of similar socio-economic backgrounds. Universal approaches by contrast contribute to the strengthening social solidarity and shared understanding.¹³²

¹²⁵ Ibid, p. 14.

¹²⁶ Coady et al, “Targeting Transfers in Developing Countries”, p. 8.

¹²⁷ Van de Walle, “Targeting Revisited”, p. 238.

¹²⁸ Ibid, p. 238.

¹²⁹ Mkandawire, “Targeting and Universalism in Poverty Reduction”, p. 15.

¹³⁰ Ibid, p. 15.

¹³¹ Kidd and Wylde, “Targeting the Poorest: An Assessment of the Proxy-Means Test Methodology”, Australian Agency for International Development (AusAID) Paper (September 2011), p. 29.

¹³² Ibid, p. 29.



5

Implications

The City of Johannesburg's indigent policy has evolved over nearly two decades, from schemes which fundamentally functioned as debt write-off programmes to incentivise "customers" to rehabilitate their accounts and be offered a second chance at becoming "responsible paying citizens", to the Expanded Social Package which aims to provide the indigent with a basket of basic services to help alleviate poverty.¹³³ Throughout this evolution the effectiveness of the use of means-testing to target indigent households versus the universal allocation of FBS has become less of a debate as experience, both local and international, shows that narrowly targeting poor households for the provision of FBS is ineffective.

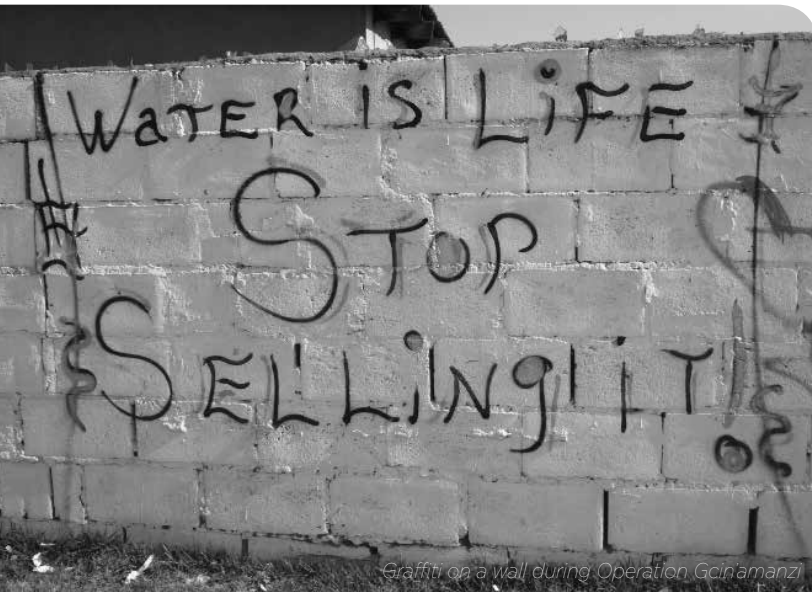
The City of Johannesburg first encountered this view in 2004, through the research findings of the Palmer Development Group (PDG), in a study commissioned by the City. PDG found that there was "no compelling argument" for the City to abandon the universal allocation of basic services to develop a more comprehensive indigent register stating that "there are sound reasons for the universal targeting approach being followed by some services (such as electricity and water) and there are possibly other reasons for the targeting approaches being followed by other welfare support of the City".¹³⁴ The report also highlighted a number of problems associated with the use of an indigent register including the exclusion of those in need of benefits and inclusion of those who do not need benefits; corruption and concerns regarding the policing of the register.¹³⁵

Moreover, in the *Mazibuko* case the City itself underscored the primacy of universal allocation of FBW when it argued that the installation of prepaid water meters was permissible as the system provided residents with 6kl free water per household per month. The City also stated that universal provision was necessary

¹³³ Naidoo, "The Making of 'the Poor' in Post-Apartheid South Africa", p. 210.

¹³⁴ Palmer Development Group, "Social Services Package", pp. 49-50. See also Naidoo, "The Making of 'the Poor' in Post-Apartheid South Africa", p. 208.

¹³⁵ Palmer Development Group, "Social Services Package", pp. 49-50.



Graffiti on a wall during Operation Gcinamanzi

because of the difficulty and unreliability of establishing a method to target which households should benefit from FBW provision.¹³⁶

Furthermore, it addressed concerns regarding financial viability of the municipality, by arguing that the provision of free 6kl to all households was reasonable because the rising block tariff structure the City adopted for water use meant that wealthier consumers, who were likely to use more water, were charged more for their heavier water use, subsidising the free allocation.¹³⁷ The City therefore acknowledged that its fee structure had been developed in a way that ensured that the universal FBW allocation did not create a financial loss for the City or Johannesburg Water.

Even before the decision to withdraw the universal allocation of 6kl FBW and the subsequent changes to the water and sanitation tariffs, the City's tariff structure had always allowed "Johannesburg Water to comply with its commitments of financial sustainability..."¹³⁸ What is more, the City is entitled to an equitable share of revenue (local government equitable share) raised nationally to enable it to provide basic services and perform its allocated functions. The City of Johannesburg, therefore, receives a national transfer that supplements the

¹³⁶ *Mazibuko*, para. 83.

¹³⁷ *Mazibuko*, para. 83.

¹³⁸ The City of Johannesburg Council, "Amendment of tariff charges for water services and sewage and sanitation services: 2016/17", (18 March 2016), available at: <https://joburg.org.za/images/stories/2016/April/EIS.%20AMENDMENT%20OF%20TARIFF%20CHARGES%20FOR%20WATER%20SERVICES%20AND%20SEWERAGE%20AND%20SANITATION%20SERVICES%20%202016-17.pdf>, p. 8.

revenue it raises through service charges.¹³⁹ Given that the City benefits from both national transfers and subsidisation through the rising block tariff structure, an important question then arises: what is the financial argument for narrowing the pool of households that would benefit from FBW through its universal allocation and introducing the difficult administrative hurdles that come with administering FBW through an indigent register?

In the international sphere, experience shows that methods to narrowly target the poor often involve a variety of hidden costs and pose challenges which may outweigh the potential advantages of using targeting methods in the first place. Given the often concealed nature of the costs associated with narrowly targeted methods, they are likely to be ignored by government officials.¹⁴⁰ However, numerous studies reviewing the effectiveness of targeting have brought to light its many shortcomings and have cautioned against taking a simplistic view of targeting. The decision to withdraw the universal provision of 6kl of FBW and apply an indigent registration process in order to target the poor carries, in addition to other limitations, significant unseen costs which challenge the extent to which the City's chosen method to administer FBW is equitable:

Exclusion Costs:

Although the majority of municipalities in South Africa use means-testing to identify indigents in the administration of FBS, most municipal officials admit that the number of registered indigents is grossly under-representative of those who actually qualify and would benefit from FBS.¹⁴¹ Johannesburg's indigent register experience illustrates this. In 2008 the City had 108 000 households registered, yet data from Stats SA and the City's 2005 Human Development Strategy showed an estimated 500 000 households that formally qualified as indigent.¹⁴² Nearly a decade later the City's register has seen some improvement albeit limited. In November 2017 approximately 321 984 *individuals* were registered as opposed to the 650 000 households (out of a total of 1 434 856 households in the City of Johannesburg) that are considered poor according to Stats SA.¹⁴³ (The number

¹³⁹ National Treasury, "2016 Budget Review" (2016), available at: <http://www.treasury.gov.za/documents/national%20budget/2016/review/Annexure%20W1.pdf>, p. 32.

¹⁴⁰ Van de Walle, "Targeting Revisited", *World Bank Research Observer*, 14(2) (2008), p. 245.

¹⁴¹ Tissington et al, "Water Services Fault Lines: An Assessment of South Africa's Water and Sanitation Provision across 15 Municipalities", Centre for Applied Legal Studies (CALS), Centre for Housing Rights and Evictions (COHRE) and Norwegian Centre for Human Rights (NCHR) Research Report (2008), p. 36.

¹⁴² *Ibid*, p. 36.

¹⁴³ City of Johannesburg, "2017/18 IDP Review", p. 23. See also City of Johannesburg, "Tabling of the 2017/18 Draft Integrated Development Plan (IDP) Review and Draft Municipal Entities Business Plans for Public Consultation" (March 2017), p. 12; and City of Johannesburg, "CoJ has increased ESP income threshold to align with Consumer Price Index", Press Release (6 November 2017), available at: https://joburg.org.za/index.php?option=com_content&view=article&id=12151&catid=217&Itemid=114. See also Statistics South Africa, "The City of Johannesburg" (2011), available at: http://www.statssa.gov.za/?page_id=1021&id=city-of-johannesburg-municipality.

321 984 includes registrations for household and individual services. Therefore the number for registrations for household services like FBW and FBE will be lower.)

The City's registration criteria also excludes the undocumented poor. This restriction is problematic because the Constitution states that everyone living in the country has the right to FBS.¹⁴⁴ Furthermore, international experience shows that an income threshold or means-testing will inevitably exclude poor households who could benefit from FBS because several factors emerge that serve as a deterrent. Poor households incur costs and the application process is burdensome and excludes many poor and vulnerable people.¹⁴⁵ Municipalities require extensive documentation and "proof of poverty" to accompany the application. Proof of income comes in the form of pay slips; a letter from employers; proof of pension or disability or maintenance grant; unemployment certificates and other acceptable proof of income. In the case of proof of income being unavailable, income may be declared by means of a sworn affidavit.¹⁴⁶ Obtaining certification required to prove eligibility for FBS is a significant cost to the poor and in instances where individuals are employed in the informal economy it becomes almost impossible.



Estcourt News

¹⁴⁴ Tissington et al, "Water Services Fault Lines", p. 37.

¹⁴⁵ Ibid, p. 37.

¹⁴⁶ Ibid, p. 37.

There is also no contingency plan for those who fall just outside the criteria but who require FBS. A household that earns just over R5 578.91 will be charged R99.50 for consuming 12kl of water while another household from the same community, if registered as indigent, will pay R56.66 for the same amount of water.

The City's method of targeting the poor is *inequitable* as it excludes genuinely poor residents. The indigent register is not required by policy or legislation and experience thus far shows that it is not always an effective targeting mechanism. The purpose of FBW is to supply a minimum standard of water supply services to households "*to support life and personal hygiene*" but the indigent register method is not effective in providing FBS to indigent households.¹⁴⁷

Administrative Costs:

Currently the City's indigent register falls under the purview of the Health and Social Development department however the City's Revenue Department is the custodian of the register. While no information regarding the costs of running a register can be found in municipal documents, that the administrative costs associated with promoting registration and registering potentially hundreds of thousands of people are substantial cannot be doubted. These costs would include the labour costs of running the section responsible for registrations at the City's customer revenue centres; the costs involved in running the additional centres opened up at clinics and multipurpose centres, and the costs of information systems management. The requirement for households to re-register every 6 months further compounds these costs.

Furthermore, although the City used local print and online media to inform residents of its decision to withdraw the universal allocation of free basic water, no consultation processes were undertaken prompting a question with regard to procedural fairness.

The City of Johannesburg needs to reconsider its decision to move from universal provision of 6kl of FBW to administering FBW through means-testing and an indigent register, as it constitutes an unreasonable, regressive step in the realisation of the right to sufficient water. Section 27(2) of the Constitution states that the state must take "reasonable legislative and other measures, within its available resources, to achieve the progressive realisation" of socio-economic rights, such as the right to water.

¹⁴⁷ See section 3 of the Water Services Act.

It is not the intention to confine the City to the method of universal provision. There are other methods like geographic targeting and property value targeting that can be considered. The paper argues however that, the City's chosen method, from the range of other targeting strategies available, is the most restrictive and least effective.



Marc Feldman

6

Conclusion

The purpose of this paper was to analyse the City of Johannesburg's indigent policy (ESP) and the recent decision by the City to withdraw the universal provision of 6kl FBW to residents. This paper argues that the City of Johannesburg's decision to withdraw the universal application of 6kl of FBW and to adopt means-testing for the provision of FBW is *inequitable* as it excludes the genuinely poor.

The method selected by the City to target FBW to poor households through a poverty index and indigent registration is *ineffective* as it is not reaching the poor nor is it fulfilling its purpose. Further the City is yet to provide a convincing financial argument for the withdrawal of the universal allocation of FBW, given that the City's rising block tariff structure had always allowed it to remain financially viable. Ultimately, this is a *regressive* step in the realisation of the right to sufficient water for Johannesburg's residents and arguably *unreasonable* in light of the associated administrative costs. This calls for the City to review its decision in light of the arguments presented in this paper.

7

Bibliography

Books and chapters in books

- Langford, M, Stacey, R and Chirwa, D. "Water." In Woolman, S and Bishop, M (eds.). *Constitutional Law in South Africa*, 2 ed (2013), chapter 56.
- Modsell, T. "Free Basic Services: The Evolution and Impact of Free Basic Water Policy in South Africa." In Pillay, U, Tomlinson, R and Du Toit, J (eds.). *Democracy and Delivery: Urban Policy in South Africa* (2004), pp. 283-301.

Journal articles

- Atchessi, N, Ridde, V, and Zunzunegui, M. "Is the Process for Selecting Indigents to Receive Free Care in Burkina Faso Equitable?" *BioMed Central (BMC) Public Health*, 14 (2014), p. 1158.
- Conning, J and Kevane, M. "Community Based Targeting Mechanisms for Social Safety Nets: A Critical Review." *World Development*, 30, 3 (2002), pp. 375-394: <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.569.6107&rep=rep1&type=pdf>.
- Van de Walle, D. "Targeting Revisited." *World Bank Research Observer*, 14, 2 (1998), pp. 231-248.

Research reports, working papers and resources

- Bitrán, R, and Muñoz, C. "Targeting Methodologies: Conceptual Approach and Analysis of Experiences." Partnership for Health Reform (PHR) and Latin America and Caribbean Health Sector Reform Initiative (LACHSR) Research Report (2000).
- Coady, D, Grosh, M, and Hoddinott, J. "Targeting Outcomes Redux." International Food Policy Research Institute (IFPRI) FCND Discussion Paper No 144 (2002).

- Coady, D, Grosh, M, and Hoddinott, J. "Targeting Transfers in Developing Countries: Review of Lessons and Experiences." World Bank Research Report (2004).
- Dugard, J. "The Right to Water in South Africa." Foundation for Human Rights (FHR) Position Paper (2017).
- Kidd, S and Wylde, E. "Targeting the Poorest: An Assessment of the Proxy-Means Test Methodology." Australian Agency for International Development (AusAID) Paper (2011).
- Mkandawire, T. "Targeting and Universalism in Poverty Reduction." United Nations Research Institute for Social Development (UNRISD) Social Policy and Development Programme Paper No 2 (December 2005).
- Naidoo, P. "The Making of 'the Poor' in Post-apartheid South Africa: A Case Study of the City of Johannesburg and Orange Farm." Thesis submitted for DPhil in Development Studies at the University of KwaZulu-Natal (October 2010).
- Palmer Development Group (PDG). "Social Services Package." City of Johannesburg Commissioned Paper (2004).
- Standing, G. "Conditional Cash Transfers: Why Targeting and Conditionalities Could Fail." International Poverty Centre for Inclusive Growth (IPC-IG) One Pager No 47 (2007).
- Tissington, K. "Targeting the Poor? An Analysis of Free Basic Services and Municipal Indigent Policies in South Africa." Socio-Economic Rights Institute of South Africa (SERI) Research Report (2013).
- Tissington, K, Dettman, M, Langford, M, Dugard, J, and Conteh, S. "Water Services Fault Lines: An Assessment of South Africa's Water and Sanitation Provision across 15 Municipalities." Centre for Applied Legal Studies (CALS), Centre on Housing Rights and Evictions (COHRE) and Norwegian Centre for Human Rights (NCHR) Research Report (2008).
- Wafer, A, Dugard, J, Ngwenya, M, and Sibanda, S. "A Tale of Six Buildings: The Lived Reality of Poor People's Access to Basic Services in Johannesburg's Inner City" Center for Applied Legal Studies (CALS) Research Report (2008).
- Wilson, F, and Ramphela, M. "Uprooting Poverty: The South African Challenge." Second Carnegie Inquiry into Poverty and Development in South Africa Report (1989).

Legislation

- Constitution of the Republic of South Africa, 1996 (the Constitution).
- Municipal Systems Act 32 of 2000.
- Water Services Act 108 of 2000.

Case law

- *Joseph and Others v the City of Johannesburg and Others* 2010 (4) SA 55 (CC) (*Joseph*).
- *Mazibuko and Others v City of Johannesburg and Others* 2010 (1) SA 1 (CC) (*Mazibuko*).
- *Mkontwana v Nelson Mandela Metropolitan Municipality* 2005 (1) SA 530 (CC) (*Mkontwana*).

Popular media

- Beresford P. "Why means-testing is not efficient or fair." *The Guardian* (14 January 2013): <https://www.theguardian.com/social-care-network/2013/jan/14/means-testing-benefits-not-efficient-fair>.

Policies and government documents

- City of Johannesburg. "2017/18 Integrated Development Plan Review." (2017): <https://joburg.org.za/images/stories/2017/June/PDF/201718+Integrated+Development+Plan+Review.pdf>
- City of Johannesburg. "2017/18 Draft Integrated Development Plan Review." (2017): https://joburg.org.za/images/stories/2017/April/PDF/IDP_Public.pdf.
- City of Johannesburg Press Release. "30/03/2017: Proposed tariffs in line with City's pro-poor agenda" (30 March 2017): https://joburg.org.za/index.php?option=com_content&view=article&id=11449&catid=217&Itemid=114
- City of Johannesburg. "Joburg City, How It Works? Subsidies." (16 May 2007): https://joburg.org.za/index.php?option=com_content&task=view&id=724&Itemid=131
- The City of Johannesburg Council. "Amendment of tariff charges for water services and sewage and sanitation services: 2016/17." (18 March 2016): <https://joburg.org.za/images/stories/2016/April/EIS.%20AMENDMENT%20OF%20TARIFF%20CHARGES%20FOR%20WATER%20SERVICES%20AND%20SEWERAGE%20AND%20SANITATION%20SERVICES%20%202016-17.pdf>

- City of Johannesburg. "Tabling of the 2017/18 Draft Integrated Development Plan (IDP) Review and Draft Municipal Entities Business Plans for Public Consultation." (2017): http://joburg.org.za/images/stories/2017/April/PDF/IDP_Council.pdf.
- City of Johannesburg. "Presentation to Inner City Partnership Forum – Budget 2017/18 by MMC Funzi Ngobeni." (2017): <https://drive.google.com/file/d/0B9bSjvbPH7EGYWxVZGIDeVZvTVk/view>
- Dagada, R. "A Budget for Joburg's Forgotten People." (23 May 2017), speech by the MMC for Finance on the occasion of the tabling of the City of Johannesburg's Proposed 2017/2018 Budget in the New Council Chamber, Metropolitan Centre, Braamfontein, Johannesburg: <https://joburg.org.za/images/stories/2017/budget%20speech%20final%20presented%20by%20mmc%20abelani%20dagada%20.pdf>.
- Department of Cooperative Governance and Traditional Affairs (CoGTA). "Programme: Free Basic Services." Presentation to the Parliamentary Portfolio Committee on Energy (10 September 2013): <http://www.pmg.org.za/report/21030910-free-basic-electricity-department-cooperative-governance-municipal-infrastructure-support-agent-misa-briefing>.
- Department of Cooperative Governance and Traditional Affairs (CoGTA). "National Indigent Policy Framework and Guidelines" (September 2005): https://www.westerncape.gov.za/text/2012/11/national_framework_for_municipal_indigent_policies.pdf.
- Department of Cooperative Governance and Traditional Affairs (CoGTA). "Annual Report 2015/2016." (2016): http://www.cogta.gov.za/cgta_2016/wp-content/uploads/2016/06/DCoGAnnualReport2015-16FA-ScreenRes-1.pdf.
- Department of Water Affairs and Forestry (DWAF). "Regulations Relating to Compulsory National Standards and Measures to Conserve Water" (June 2001): <https://cer.org.za/wp-content/uploads/2011/10/Regulations-relating-to-compulsory-national-standards-and-measures-to- conserve-water.pdf>.
- Government of the Republic of South Africa. "Old Age Pension." *South African Government* (2018): <https://www.gov.za/services/social-benefits-retirement-and-old-age/old-age-pension>.
- Johannesburg Water. "COJ Water Policy and Registering for the Expanded Social Package for Customers with Prepaid Water Meters." Media Statement (undated): <https://www.johannesburgwater.co.za/withdrawal-of-the-6kl-free-water-and-expanded-social-package/>.

- Lepelle-Nkumpi Local Municipality. "Indigent Policy 2011-2012." (2011): <http://www.lepelle-nkumpi.gov.za/lepelle-nkumpi-admin/pages/sites/lepellenkumpi/documents/policies/INGIDENT%20POLICY%204%20LEPELLE-NKUMPI%20MUNICIPALITY.pdf>.
- Masondo, A. "Statement by the Executive Mayor of Johannesburg, Clr Amos Masondo, at the media briefing on the City of Johannesburg Expanded Social Package Programme." (24 June 2009): https://joburg.org.za/index.php?option=com_content&id=4012&Itemid=114.
- National Treasury. "2016 Budget Review." (2016): <http://www.treasury.gov.za/documents/national%20budget/2016/review/Annexure%20W1.pdf>

Internet Sources

- Statistics South Africa (Stats SA). "The indigent net widens but gaps remain." Stats SA (24 July 2017): <http://www.statssa.gov.za/?p=10215>.
- Statistics South Africa (Stats SA). "Non-Financial Census of Municipalities for the Year ended 30 June 2010." Statistical Release P9115 (30 August 2011): <http://www.statssa.gov.za/publications/P9115/P9115June2010.pdf>.
- Statistics South Africa (Stats SA). "The City of Johannesburg." Stats SA (2011): http://www.statssa.gov.za/?page_id=1021&id=city-of-johannesburg-municipality.
- Supporting Affidavit of Rahid Ahamed Seedat (Director of the central Strategy unit within the Office of the executive Mayor of the city of Johannesburg) in the case of Mazibuko & Others v city of Johannesburg <http://www.law.wits.ac.za/cals>

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