

## **Leaving Boxes Behind: Civil Society and water and sanitation struggles in Durban, South Africa**

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### **Abstract**

This article examines the complex space between the commodification and de-commodification of water, showing how civil society leaves these ‘fictitious’ boxes behind in water and sanitation struggles. Drawing on Polanyi (1944), it looks at how the balance between what is commodified and what is not, can – and is – affected by the engagement between government and civil society in all its forms. In response to the local municipality implementing policy or introducing innovations, civil society in all its forms responds, and acts as a catalyst for significant policy shifts. Important changes in people’s lives can result from civil society engagement with the municipality through dialogue and negotiation alongside protest. It examines this engagement in four critical areas of water and sanitation in Durban, South Africa, namely connections and disconnections; water pricing, affordability and free basic water; dry sanitation and urine diversion toilets; and participation and citizen voice. Although constrained by structural realities, there is evidence that civil society agency can ‘make a difference’ in people’s every day lives, spurring us on to more extensive policy challenges to widen this space, while contributing to the development of counter hegemonic alternatives.

Key words:

‘Free Basic Water’, Urinary Diversion, Water Dialogues, eThekweni Water, civil society, Polanyi, Citizens Voice, Durban water, commodification

### **Introduction**

Hydropolitics in the global South have been characterised by ideological debates over ‘commodification’, or the use of market mechanisms to allocate water. The spread of ‘water wars’ especially since the April 2000 Cochabamba, Bolivia struggle against the World Bank and Bechtel, and including the 2003-09 Phiri, Soweto campaign by activists against prepayment meters installed by Johannesburg Water, shows that these debates have far reaching impacts on poor people’s ability to access water.

Lauded internationally as a top water utility in Africa and largely exceptional, Durban is an ideal example of the socio-political change possible through civil society challenges. While Durban<sup>1</sup> has experienced pockets of intense social protest around service delivery, including housing and water, it would be an exaggeration to classify these as ‘water wars’. Civil society has affected water policy in a variety of ways that are not as immediately apparent but nonetheless powerful. These include street protests and legal action. But they also include dialogues and negotiating with eThekweni Water and Sanitation (EWS), Durban’s public water authority, through community based and non-government organisations (CBOs and NGOs).

Activists and scholars of new social movements focus their attention on street protests. Protest can be an important strategy - both as a means of forcing governments to change, and as a means of initiating dialogue which then proceeds in more social democratic or socialist directions. Yet these other forms of civil society organisation engagement are as important – if not more so. It is this range of civil society responses to the municipality’s water and sanitation interventions, including innovations that have received numerous international, African, and national accolades, that have been a catalyst for technological, financial and social changes such as more progressive tariffs and free basic water; emptying of urine diversion toilets and productive use of waste; and a nationwide citizen voice project.

In thinking about struggles between civil society and government over commodification, it is useful to draw on Polanyi (1944). Polanyi argued that society will resist the extension of market relations into areas seen as threatening to society itself – notably with regard to labour and land. Like labour and land, water could be seen as one of Polanyi’s ‘fictitious’ commodities, i.e. goods which have the appearance of commodities (in that a price exists) but which can never be fully commoditised without threatening the existence of society (or at least a significant part of it). It is this level of conceptual precision and analysis that Bakker (2007) calls for as a means to avoid the false dualism between the ideal types of “public” in the form of rights and “private” in the form of commodities that “risk reinforcing or even reproducing the idealism of neo-liberalism itself” (Sparke 2006 in Bakker 2007). It contributes to current debates over urban water governance in eThekweni by engaging with the hegemony of governance concepts and practices described by Harris et al (2013), provides an analysis of civil society agency that leaves scope for people to consider themselves as equal citizens (Hellberg 2014), and refutes Nash’s ideological oversimplification of dynamics in eThekweni (2013) by describing potential shifts in power relations at the municipal level.

What is particularly interesting about water policy is that it can be partly commodified and partly decommodified (for example, by allowing an allocation of free water and tariffs above that amount). The balance between what is commodified, and what is not, can – and is – affected by dialogue between government and civil society. To see water policy as either commodified or decommodified - in “boxes” - misses this subtle dimension. Furthermore, it is important to recognise that in negotiating over the balance, civil society may actually consent to some tariffs in order to raise funds for local government’s extension of water and other services to needy people. To adopt a purist position towards water policy by demanding that water should never be commodified at all, misses the very real resource constraints that local governments face – and which many people recognise and accept.

As a means of exploring how this balance between commodification and decommodification is negotiated, this article examines the interaction between the municipality and civil society organisations in four different areas of Durban’s water and sanitation provision: connections and disconnections; water pricing, affordability and free basic water; dry sanitation and urine diversion toilets; and public participation and citizen’s voice. It shows that civil society engagement with EWS, in all its forms, can achieve and promote progressive policy change that has a significant and immediate impact on citizens’ lives in the metro. This engagement is critical to

deepening the democracy (Fung and Wright 2003) for which so many people struggled and died.

The analysis emphasises the agency of researchers and activists to engage with the municipality to improve both its approach to citizens and its service delivery.<sup>2</sup> In the spirit of Evans, Reuschmeyer and Skocpol (1985), it points to changes that have taken place under a democratic government and with committed, capable civil servants and engaged citizens over the course of a decade.

However it is important to note the limitations to agency within the Durban context. Structuralists may argue that the failure of South Africa's 'elite transition' to fundamentally change the economic structure means that water is another example of the urban 'class apartheid' which replaced racial apartheid. Although well-intentioned civil servants may be committed to delivery, the limits to water access are dictated by the political-economic structure of liberal-democratic capitalism and fiscal austerity pressure. Alterations to policies and practices through increasingly participatory routes may create a compelling 'human face', but they have not changed the nature of structural imperatives and therefore they legitimise neo-liberalism (Bond 2002, 2006). While there is some merit to this criticism, it is of limited practical relevance because nothing short of a radical change of governing structures is seen as progressive. Such an analysis is limited also in that it pays insufficient attention to the real, every-day struggles of people to improve their lives within the constraints of a liberal market democracy.

An alternate view is that such innovations create openings for people to contest the extent of commodification, to redistribute income and resources, and to develop counter-hegemonic alternatives which could affect the nature of capitalism itself. There is a lot of room for manoeuvre to push policy in more social democratic or socialist directions – thereby facilitating a more egalitarian socio-economic structure. Understanding water policy developments in Durban as the outcome of a Polanyian 'double movement' by civil society using different strategies, is useful in guiding current and future struggles to improve water and sanitation access on the part of both officials and civil society.

Although it is not possible to assert a direct causal link between relations with civil society and policy change, this article explores dynamics between civil society actors and officials who were asked to interpret their own actions, events and their impact on policy change. It is based on primary data from the municipality, which has not been publically released; longitudinal interviews with eThekweni Water and Sanitation officials over a five year period; interviews with key informants and social movement leaders; and a review of secondary literature. The overall context for the article is based on participatory observation through the author's work in the water sector over the past two decades.<sup>3</sup> For validation reasons, Neil Macleod, then Head of EWS, read the article submitted for publication and indicated that there were no factual errors.

### **Protest forces engagement with civil society: Disconnections**

While Durban has made impressive progress with new connections, its disconnections have been the focus of analysis—and civil society action. In Durban, the

municipality, through eThekweni Water and Sanitation, is responsible for the provision of infrastructure and the maintenance and operations of water systems. This section discusses how EWS's success in addressing backlogs and establishing new water connections meant the end of free water provided under apartheid and the introduction of cost recovery and painful water restriction practices. This commodification of water resulted in citizen protest not to decommodify water completely, but to utilize a fairly administered system that respects people's right to water. This battle to partial decommodification was won on the streets and in court. The municipality found an improved method of restricting, not disconnecting, water to the free basic amount or what people can afford. Of course the City held to its position of charging people for water over the free basic amount, but civil society influenced the manner in which this is done. Many users then shifted to ongoing engagement with the City—with both parties aware of the possibility of resumed protest-- allowing for a practical and immediate response to problems with implementation.

Since 1994 South Africa's central water challenge has been on rapid rollout of water systems and lowering backlog numbers.<sup>4</sup> In eThekweni municipality, referred to here as "Durban metro", the second largest metro with nearly three and a half million residents<sup>5</sup>, the City reports that its water provision backlog of 250,000 households in 1997 was brought down to 17 000 households by 2009 (Macleod interview, 18 October 2009). This was notwithstanding the absorption of vast backlogs from neighbouring peri-urban areas when Durban's boundaries were expanded in 2000, the rapid influx of people from rural KwaZulu Natal as well as migrants and refugees from other countries. Such rapid urbanization resulted in sprawling peri-urban areas where shack settlements create a persistent challenge for the municipality.<sup>6</sup>

So, with the exception of households in informal settlements or relatively new to Durban, the issue faced by poor households is not gaining infrastructure but avoiding disconnections. Disconnections are a way to establish "a credible threat of cutting service" to those who are not paying their water bills.<sup>7</sup> From 1999-2004, national water minister Ronnie Kasrils and his civil society critics vigorously debated the number of people who had suffered from water disconnections between the end of apartheid and 2003. Then Director General of the national Department of Water Affairs, Mike Muller (2004), conceded that in 2003 alone, 275 000 households, or nearly 1.5 million people, were disconnected from water services at least once due to inability to pay.<sup>8</sup> In this context, the level of dissatisfaction about water disconnections during these first post-apartheid years is not surprising.

Research has reported an 'inhumane' number of disconnections in Durban (Loftus 2005a:250) In a 2003 interview, Macleod, head of eThekweni Water and Sanitation, said that the municipality was disconnecting an average of 800 to 1000 households daily, or 4000 to 5000 per week, affecting an estimated 25 000 people (Loftus 2005b). Disconnections were the focus of protest through a 2001 court case between the Council and one of the Concerned Citizen members, Christina Manquele, who argued that her right to water was breached by disconnections. The court case was ultimately lost on the basis that she had not limited herself to free basic water and tried to reconnect illegally. The municipality then stated that, instead of cutting off people's water, it would use tricklers so that everyone could access the free basic water amount (Loftus 2005b; Desai 2002).

Loftus concludes that the implementation of free basic water in Durban ironically meant that ‘a right to water is thus accomplished with a clampdown on many households’ access to water’ (Loftus 2005b). Although he acknowledges the fact that the municipality used the word ‘disconnections’ to refer to water restrictions through a trickler<sup>9</sup>, this technology was considered so objectionable that there was no differentiation by both researchers or citizens between restriction and ‘clampdown’. The word ‘disconnection’ created the impression of the supply no longer working at all, as this is essentially what people experienced.

Indeed it was the dreaded “trickler”, alongside huge faulty bills due to dilapidated infrastructure, which drove Chatsworth residents to protest by using a range of actions including street protests, illegal connections, and legal action:

“Local government is bending under citizen movements’ pressure. In Chatsworth neighbourhoods of Bayview, Crossmoor and Westcliff, for example, water is now flowing where it once was restricted. The reason is a ten year mobilisation by the Flatdwellers Association, initially supported by the Durban Concerned Citizen Forum organised by Prof Fatima Meer. Strategies and tactics in the water wars ranged from street protests and widespread illegal connections to intense negotiations with state officials” (Bond and Naidoo 2008).

After an eight year disconnection battle in which some people reconnected themselves and widened the drip hole in tricklers, and physically fought those sent to disconnect water to the point that they came accompanied by guards, the City agreed to a moratorium on evictions and services disconnections in 2007. It also “began rehabilitating leaky plumbing and faulty electrical wiring throughout the flats... Chatsworth activists have won some battles but face others because after upgrading the city will install built in restrictors on consumption” (Bond and Naidoo 2008).

However the dynamic between city and citizen had shifted from battle to discussion and negotiation. Orlean Naidoo, a prominent member of the Westcliff Flats Residents Association, recounts how she discussed the misapplication of fixed property value and water loss charges with a Durban water official, who then identified it as an IT problem and ensured it was corrected. She states that ‘If there is a problem with the bureaucracy, they have an ‘open door policy’. She explained that:

“when flow limiters<sup>10</sup> were installed, the water department was very good, they came with officials and did education on debt relief and people signed for meters. There were 18 workshops in our area. People are allowed to choose whether to have a flow limiter installed, even if they are in debt—provided that they pay their current bill. I have been monitoring people’s bills and they are very low, some people are not even paying anything” (Naidoo personal interview, 22 June 2010).

It is this shift to engagement that many academic and policy analyses fail to acknowledge, whether due to inadequate engagement with technical data or disinterest in capturing subtle changes that are often perceived as weakening the movement. Although important progress has been made in the use of flow limiters rather than tricklers, and in the improved communication between the municipality and its citizens, reports still fail to differentiate between flow limiters and full disconnections from repeated tampering. They miss the fact that even the new flow

limiters in Chatsworth (and elsewhere) may be captured in data as disconnections.<sup>11</sup> In 2008 the Centre for Applied Legal Studies (CALs) reported that 15,106 households in eThekweni were disconnected over a six month period (Tissington et al, 2008). Yet the number of “actual” disconnections or ferrule disconnections (removing the connection at the mains) was *twelve times less* than reported by CALs: instead of 15,000 for less than six months, the accurate figure is 2,529 over the period of a year. And this was done after tampering for the third time.<sup>12</sup> In other words, civil society engagement with EWS resulted in new policies that leave scope for negotiation with EWS and result in many fewer actual disconnections.

The case of Chatsworth shows how the Polanyian dynamic played out at the local level in terms of disconnections. Citizens actively and consistently resisted the way in which the commodified cost recovery approach was applied locally by the municipality, EWS eventually responded with constructive changes, and communication and negotiation between the municipality and residents now exist and generally work for both parties. In short, militancy ended with expansive negotiation between the parties and changes not only to municipal water policy and practice in Chatsworth but also to wider Durban. If this communication is sustained, it may level a more fundamental challenge to a how citizens perceive themselves in relation to the City, as described by Hellberg (2014).

Of course the on-going relationship between civil society and the municipality does not end there; civil society, whether progressive NGOs and CBOs, social movements, or citizens themselves, continues to find openings to challenge the impacts of commodification. While civil society exerted its power and made important gains, it continues to monitor the application of policy and its effect on citizens-- such as large, poor households who cannot live within the free basic water allocation. One way to distinguish between large poor households and those not wanting to pay is to bill according to the number of household members. To date municipal officials in Durban and elsewhere insist on the impracticability and exorbitant cost of such billing, but have not yet found an alternative method. While this reflects a typical municipal reaction of first considering cost, we may expect some adjustment following more concerted civil society engagement.

### **Dialogue in the context of legalism: affordable water**

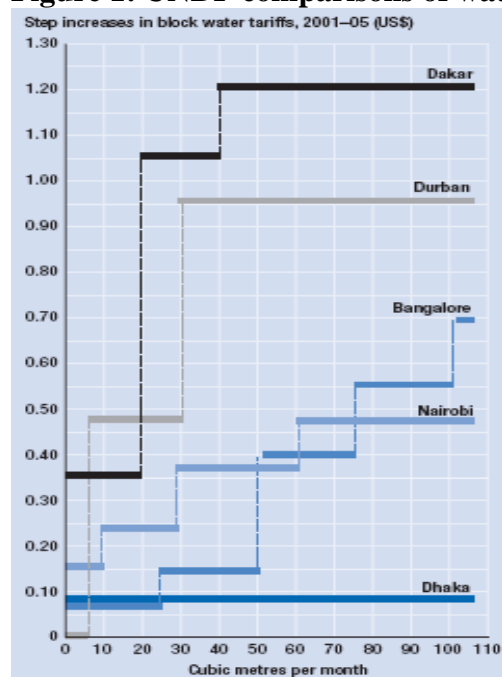
Affordability and FBW were the main focus of struggle in the 2000s, but civil society engagement with the municipality resulted in an increase in the FBW allocation and positive changes in the tariff structure to the extent that citizens no longer note them as main concerns (Neilson 2010). Their positive impact on citizen’s every-day experience of being able to afford water resulted in a payment level across the municipality of 96 per cent and an annual drop in disconnections by 10 per cent (Scruton personal correspondence, 22 June 2010). This section will consider civil society engagement as a key factor behind positive changes in FBW and the tariff structure; civil society and trade unions had regular, structured interactions with national and local government, and the private sector over a four year period through The Water Dialogues. Together they engaged with complex and contested issues of water and sanitation delivery.<sup>13</sup>

The starting point for affordability considerations in Durban was its setting the trend of providing Free Basic Water of 6 kilolitres per household per month in 1998.<sup>14</sup> The rationale behind its introduction was rooted in concern for the poor alongside mounting pressure from civil society and was pursued once this amount was identified as the break- even point for the cost of administering bills.<sup>15</sup> There is no doubt that this was a welcome change for people struggling to pay for water, and makes South Africa stand apart from other southern countries.

A debate over water pricing raged alongside FBW, as many households used more than the 6kl FBW allotment. The tariff structure in Durban had only three steps, and the first step or payment band was so high these households found themselves with large and often unpayable bills. A study by Bailey and Buckley (2005) showed that the real price of an average litre of water consumed by billed residents with the lowest-income had more than doubled between 1997 and 2003. More importantly, this price increase resulted in their average consumption falling from 22 to 15 kl/household/month, showing that the price change had a significant negative impact on poor people accessing a basic need.<sup>16</sup>

Making a similar point, the United Nations Development Programme’s 2006 *Human Development Report* compared Durban to several other Third World cities, showing that it had by far the highest prices in the 6-20 kl/month range, the block in which many of the lowest-income people consume, as demonstrated in Figure 1 (Watkins 2006).

**Figure 1: UNDP comparisons of water pricing in selected Third World cities**



Source: UNDP 2006.

The pressure of unfavourable public reports on Durban’s tariffs, resources freed by diminishing numbers of households requiring new services, and the cost and negative impact on consumer relations of installing a high number of restrictors in response to non-payment set the scene for the municipality to make water more affordable for poor people in two ways.

First, in 2007/08, Macleod introduced two new steps in the tariff so that it has five bands. One new step makes the first band after FBW more affordable, while the other raises the tariff for over consumption (or luxury consumption). It is likely that EWS was influenced by Bailey and Buckley's report, which suggested that higher price increases would not adversely affect revenue inflow from the upper income bracket. While the tariff curve could be still more concave,<sup>17</sup> this was an important step nonetheless, as it increases affordability and penalises high consumption. In fact, as a result of these tariff changes, average household consumption dropped from 30kl per family per month in 1997 to just less than 24kl per month in 2010 (Macleod email, 22 June 2010). While a breakdown of price elasticity by income bracket is needed for a full analysis, it is likely that the drop in usage is primarily from high end users.

Second, in 2009, eThekweni Water and Sanitation increased the amount of FBW from 6kl to 9kl. Macleod explains that this was a result of his increased engagement with civil society, both through pilots of user platforms in eThekweni and particularly through his participation in The Water Dialogues process over a four year period (Galvin 2009:3). Here civil society organisations including unions, NGOs, and social movements repeatedly provided detailed accounts of problems faced by poor people in accessing water.

It is likely that Macleod's openness to consider changes promoted by civil society groups was bolstered by protest taking place in court and in the streets. This was the period when Johannesburg Water (on whose board Macleod served) was enmeshed in a high-profile court case on water that reached the Constitutional Court and service delivery protests were witnessed all over South Africa (Alexander 2010). However this remained a backdrop in Durban, which witnessed only five service delivery protests that possibly included water and sanitation issues.<sup>18</sup>

Together civil society dialogue, backed by citizen protest, again challenged the nature of commodification and won important gains that made water more affordable for poor Durban residents.

### **Quiet resistance to “innovative technology”: Urine Diversion Toilets**

EWS is often recognised for its innovations, including the introduction of Urine Diversion toilets (UDs)<sup>19</sup>. This section describes how people are expressing their non-acceptance of UD through everyday forms of resistance, which has led EWS to pursue further innovations to use waste productively. This may lead to improved usage and emptying or, despite these efforts, citizens and civil society may embark on a “louder” round of pressure for the municipality to take full responsibility for UD emptying. This section traces the development of UD as a neo-liberal step to make citizens responsible for their own waste, citizen resistance, and present innovations to increase citizen acceptance. Behind the innovations, EWS is feeling the pressure from citizens, NGOs and councillors, and is quietly reassuming responsibility for waste.



Sanitation poses a serious challenge to the municipality, particularly in the rural areas absorbed into Durban when its municipal boundaries were extended in 2000. With the outbreak of cholera in that year, the City was under serious pressure to provide sanitation to these areas virtually overnight. *Science* magazine reported:

“A cholera outbreak in Durban in 2000, which killed more than 70 people and infected tens of thousands in poor neighborhoods, increased pressure on Macleod’s unit to speed up water service and sanitation improvements... There were about 100,000 pit toilets in Durban, which posed disease-transmission problems when they were full. And they often were, because the hilly areas on the outskirts of the city are inaccessible to vacuum tankers that pump out deep pits.” (Koenig 2008).

Due to problems with Ventilated Improved Pits (VIPs)<sup>20</sup>, the decision was made to instead provide dry sanitation in the form of UD shallow double-pit toilets, which separate urine from faeces to allow the latter to dry and decompose faster. UDs were also considered an eco-option, requiring no water and, based on the Swedish experience, using dried faecal matter as compost. 90 000 UDs were rolled out from 2000 to date (Gounden 2014). There is little question that the introduction of UDs was handled very poorly. Officials explain that the education around use of UDs was organised through local councillors, who are their bosses and the democratically elected leaders. Councillors were tasked with outsourcing education to Institutional and Social Development (ISD) trainers. Only a handful of trainers fulfilled their terms of reference adequately (Umphilo waManzi and UCL, 2010). Households were advised to bury the composted waste in a hole and to plant a tree there (Buckley personal interview, 6 May 2010).<sup>21</sup>

The introduction of UDs raised significant questions about user and City responsibility for sanitation. If UDs do not produce human compost that can be of benefit users, households are forced to take on responsibility for maintaining toilets so that they can be provided with one. The City’s commodified, market approach is evident in its shifting of both responsibility and cost for emptying toilets to households. This has led some researchers to refer to UDs as ‘the neoliberal loo’ (Amisi, Bond, Khumalo and Nojiyeza, 2008). Penner (2010) goes into more detail, describing EWS’s ‘preference for self-contained sanitation options’ as being consistent with a ‘more troubling pattern in the world’s water and sanitation community, where costs and maintenance responsibilities are being shifted onto users as a matter of (neoliberal) policy’. She asks:

If the main aim of the government is to improve public health, then is it wise to make householders responsible for moving potentially infectious matter? Rather than making public health paramount, this closed system, which puts users in charge of maintaining their own infrastructure and disposing of their own feces, transfers labour and risk from public bodies onto individual householders” (Penner 2010).

This is far from the public-public model that is often promoted as a means of the state working with citizens around the operation of services (Galvin 2016).

UDs have not been a welcome solution to poor sanitation options at the local level. While an extensive survey of households in eThekweni showed that a high percentage of households continue to use their UDs, they also express their dissatisfaction (Roma et al 2013). In depth interviews in five wards found that households take issue with

not being given a choice of toilets<sup>22</sup>, receiving inadequate education on UD use, and having to empty them (Galvin and Nojiyeza 2011; Adriaan, Ngcobo, and Mngoma 2010).

As a result, many UDs are not used as toilets but as storage cupboards. Instead of using UDs, households revert to former pit toilets, or presumably to open defecation. In some outlying rural areas, a number of seemingly better off households have transformed their UD toilets into flush toilets, using a type of French drain. Considered a self-upgrade, these changes defeat the very purpose of using minimal water, will be expensive to use when the area is billed for water usage, and may result in groundwater contamination. (Galvin and Nojiyeza 2011)

The non-use and self-upgrade of toilets is an ‘everyday form of resistance’, a response described by Scott (1992) in *Domination and the Arts of Resistance*. People in many areas are resisting UDs because they do not understand the City’s reasoning and failure to provide choices or to explain how UDs can work. They are stating their case by not using the toilet, by showing that a safe storage area is more important to them or by changing the very nature of UDs (Galvin and Nojiyeza 2011). This is the ‘hidden transcript’, a collective ‘discourse that takes place ‘offstage’ beyond direct observation by power holders’, that makes people using it feel that they have finally ‘spoken truth to power’. It is ‘essential to any dynamic view of power relations’ (Scott 1992:4, 9).

The reality is that few users engage the municipality directly until an issue becomes one that is clearly hurting them. If they voice dissatisfaction, their expectations are regarded as unrealistic and any lack of understanding is blamed on the ISD appointed by the Councilor. (Galvin and Nojiyeza 2011) This creates a sense of a closed shop in which EWS officials maintain control and resistance from users remains low profile. According to organisational theory, significant policy change would occur as a result of a crisis of some kind, inside or outside the organisation (Grindle and Thomas 1991). For example, this could take the form of public health problems resulting from the non-use of toilets or their not being emptied properly.

What is needed is a social approach that involves citizens in discussion from the outset and gives them a voice and a sense of involvement. This is the participation that people yearn for (Friedman 2005), but frightens officials who worry about the rejection of their plans by users, which would cause problems with their political bosses in the Council.<sup>23</sup>

Over the past years, there have been a range of responses and counter-responses. First EWS stopped outsourcing education. Even more importantly, it eagerly pursued innovations expected to make UDs more attractive to citizens so that they accept and use the toilets. For example, EWS began experimenting with a machine that uses high temperatures to turn the UD compost into pellets that are safe to use as fertilizer (Macleod presentation, 9 March 2011), and piloted buying people’s urine from their UDs to extract phosphorous, a finite resource needed for farming that is reaching its peak (Veith 2010). While these innovative incentives are shocking to what some EWS officials refer to as a “faeces phobic” population, they force people to think about the future of human waste management.

In 2010 councilors complained publically about UD's and promised to deliver flush toilets to all citizens (Adriaan, Ngcobo and Mngoma 2010). Officials hold that Council approved UD rollout and councillors are disregarding the financial and water resource expense of flush toilets. Meanwhile the City gained international recognition as the Gates Foundation provided significant support to EWS to test technological innovations emerging from its "Toilet Challenge".

There are signs that the municipality will quietly reassume responsibility for emptying toilets, in the guise of yet another technical innovation that is expected to produce funds and become self-sustainable, the Black Soldier Fly Project. Contractors will empty UD toilets every two years, and transport compost to a central site where it is mixed with organic matter. Soldier flies feed on this mixture and produce larvae, which are processed into animal feed (Gounden interview 2015). The pilot has not yet been rolled out, but people have heard that their toilets will be emptied. Once it is introduced, monitoring this service will require civil society vigilance.

This section has shown how UD's sparked everyday forms of resistance that resulted in improved construction, new educational efforts, a focus on innovation to increase UD acceptance, and a re-assumption of responsibility for its citizens' waste—all without open, "loud" engagement with the City. However, if these changes do not result in greater and improved use of UD's, it is likely that public health problems will begin to harm citizens, and that the nature of civil society engagement will adjust toward more visible action that forces state power to re-consider its responsibility for service provision.

### **Deepening Public Participation: 'Citizens' Voice'**

As in most municipalities in South Africa, eThekweni Water and Sanitation's approach was to engage with its users through extremely limited forms of consultation and one way communication (Galvin 2009). From 2005 onwards, officials began to recognise the need for on-going participation and dialogue around systemic issues. This section shows how the municipality's engagement with citizens changed, as a result of its experience with an early pilot project on user platforms run in conjunction with the University of KwaZulu Natal, exposure to public participation debates through The Water Dialogues, and the commissioning of a large NGO to conduct 'citizens' voice' training (Wilson, Malakoana, and Gounden, 2008; Galvin 2009; Smith 2010). EWS subsequently took on the setting up and running citizens' voice user platforms itself. This section will describe how civil society initiatives influenced the municipality and the resultant changes in its approach to citizens.

As part of a 2005 university study, researchers from the University of KwaZulu Natal engaged the City in establishing user platforms (Wilson, Malakoana, and Gounden, 2008). This was an early step toward community communication with EWS, although the way it was structured did not necessarily create opportunities for users to hold officials to account but rather allowed officials to pick and choose what to respond to. It could be used either as good public relations for the City, an extension of the already established approaches of road show type events and 'consumer consultation', or to broaden EWS' concept of community participation.

Around the same time, Macleod became active in The Water Dialogues, a national multi-stakeholder group engaging in research on the impact of institutional choices on water delivery. One of the main points of discussion was whether municipalities were engaging in largely procedural consultation rather than participation. Macleod has publically stated how his interactions with Water Dialogues stakeholders changed his view of civil society and resulted in his making significant policy changes vis a vis civil society (Galvin 2009).

Building on positive experience with the university's user platform pilot study, Macleod approached a fellow Water Dialogues stakeholder about extending her ground-breaking 'Citizens' Voice' project to Durban.<sup>24</sup> Briefly this entailed a two day training of 70 to 100 people from civil society in each of 17 zones, feedback from the municipality on issues raised and the identification of people to serve on the user platform. The aim is to familiarise trainees with water and sanitation policy and their rights and responsibilities, enabling them to articulate problems repeatedly experienced at the household level into broader systemic issues. User platforms then meet at regular intervals to provide a structure for engagement between the municipality and civil society, comprised of local government ward committees, civics, and CSOs (Gounden interview, 3 June 2010).

The introduction of this initiative by the Mvula Trust, a large water sector NGO, with support from a caucus comprised of local activists, was politically sensitive. This is predominantly because the starting point for EWS engagement was to rebuild a sense of trust between councillors, civil society and officials. Facing pressure from its councillors around their mandated role vis a vis that of civil society representatives, EWS had its own ideas about how the project should unfold in order to meet this objective. As a result its NGO partnership was ultimately relied on for technical/community engagement expertise rather than as an equal partner in driving the project forward.

From the start, EWS had the intention of turning this programme into an on-going initiative and thus ensured that its own staff was trained on the 'Citizens' Voice' approach so that the municipality itself could run the programme beyond an initial piloting, done in partnership with NGOs. In addition to cost considerations, the municipality took on the programme with an impeccable logic of such programmes resting in public hands, building public institutional capacity to implement them, and the municipality establishing its own direct relationship with communities.<sup>25</sup> Included as a component of the National Water Regulation Strategy, the Citizen's Voice initiative was anticipated to be extended throughout the country. Yet years after its inclusion, there was no sign of its wider application, until in 2015 the Chief Director of Economic and Social Regulation met with EWS to learn from its experience and to inform the planned implementation of a national citizen's voice programme (Gounden interview 2015).

Originally this initiative seemed to have the potential to promote greater public participation in fundamental ways. EWS points to significant changes that it made based on its learnings from interactions with citizens: redesigning its bills based on user forum feedback, increasing FBW to 9kl, and introducing its water amnesty initiative while improving call centre responsiveness to leaks past international best practice. There appears to be scope for citizens to get EWS to change its thinking,

approach and policies, moving past perfunctory participation to open engagement with citizens.

However its likelihood is circumscribed by the present conjuncture of Councillors at the local level and at the municipal level. Councillors want to control their areas through ward committees and block out real participation, all underpinned by a problematic electoral system heavily weighted toward proportional representation and a political culture not mature enough or too scared to create and vote for independent parties at the local level. Perhaps ironically one of the most noticeable improvements EWS has experienced from this initiative is that councillors feel more confident about their understanding of the sector through their participation in user platforms. This has enabled councillors to play their role more effectively in bringing this learning forward into ward committee meetings (Smith 2011).

While user platforms work for the City when they can educate people on its approach, resolve a conflictual situation and get their “buy in”, the control of the process by the municipality mean that they are a form of ‘paternal participation’. This is an example of the tension between a traditional hierarchal approach to governance and a network approach (van de Meene et al 2011). It is not clear whether the hierarchical approach emanates from officials’ attitudes toward community members or whether it is a result of Councillors trying to obstruct the city’s attempts to engage citizens. Councillors typically argue that they represent citizens and their needs, and that the involvement of organised civil society undermines this role. So this is a standoff in agency between local officials and civil society leaders.

## **Conclusion**

Maintaining an ideological purity between commodification and decommodification threatens to oversimplify and render invisible a variety of state-society interactions that are moving water and sanitation struggles forward. Instead of trying to ascertain whether the municipality or civil society has compromised its position, it is important to consider the agency of civil society, whether citizens or NGOs, to resist and discuss, and to influence municipal policies. Understanding this interaction will contribute to current and future struggles to improve water and sanitation access on the part of both officials and social justice activists.

The contribution of this article is to show how this movement results from a range of civil society engagement, not from protest alone. In Durban, examples of disconnections, FBW and UDs show how the municipality introduced problematic or even damaging policies and, in response, civil society engaged with EWS through a variety of approaches that won the attention and response of EWS. . Eventually the EWS refined its policy, resulting in improved service delivery that people are generally satisfied with, although requiring vigilance in holding the municipality accountable. The push toward commodification described by Polanyi will certainly continue in the water sector, but civil society provides important counter-pressure through a range of engagements with the municipality.

This paper outlined three specific areas in which civil society exerted this counter-pressure. Civil society’s response to affordability and free basic water was an

assertive straight talk through the Water Dialogues and other fora, which ultimately persuaded officials to initiate a change. Civil society's response to Urine Diversion Toilets is a form of everyday resistance, using them as storage sheds or converting them to flush toilets in many areas, resulting in pressure for the municipality to create incentives for their use before a public health crisis emerges. Finally the citizens' voice initiative created space for citizens to engage with the municipality. Largely as a result of this engagement, EWS recognises water and sanitation as a human right through free basic water and its extension, provides toilets in rural areas that meet environmental and people's needs while working to improve their social acceptance, and creates channels to regularly engage with citizens to improve delivery of services. It also adopts policies so it can support delivery and cross subsidisation and afford to operate and maintain systems, making them more equitable and user friendly, through a five step tariff and flow limiters that can assist people to balance their water use and affordability if administered fairly.

While EWS is a well-resourced leader in terms of its income, financial reserves, independence and skilled personnel, it confronts the limitations of South African economic and political structures as well as massive inequality and pervasive poverty. We can still wish that the South African transition had been less reformist, undertaking structural changes that would have better equipped people to survive and prosper. But we cannot act today from a place of wishing away the past to the extent that it prevents us from honestly confronting present challenges and opportunities. Instead we need to use civil society engagement in all its forms to widen power and develop anti-hegemonic alternatives-- while improving people's everyday lives. This is what the citizens of South Africa deserve.

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<sup>1</sup> Durban is correctly used to refer to the city centre, while eThekweni refers to the entire metropolitan area that includes surrounding peri-rural and rural areas. This article refers to the wider area as

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Durban. While this is technically incorrect, Durban is generally a more commonly recognised and easily accessible name.

<sup>2</sup> Some people who engaged with eThekweni Water and Sanitation around its approach to citizens include Zoe Wilson, Laila Smith, Orlean Naidoo, Bryan Ashe, and individuals from the People’s Budget Process.

<sup>3</sup> This has included coordinating a provincial network of local community organisations through the Regional Consultative Forum on Rural Development in the 1990s, assisting with the development of new participatory methods to report on citizen’s experience with municipal water delivery with the Human Sciences Research Council in the early 2000s, managing an extensive research and multi-stakeholder dialogue process as head of the Water Dialogues-South Africa through 2000s and then establishing and directing a NGO that conducts action research, largely in eThekweni. Through much of this period she was a member of the South African Water Caucus, a network of progressive civil society organisations, and the national organiser of the Council of Canadians’ Blue Planet Project—as well as serving on the Water Sector Leadership group and working as a consultant for the Department of Water Affairs and Oxfam Australia around water programmes. To date she moderates a national multi-stakeholder listserv on critical water sector issues.

<sup>4</sup> This refers to a “basic” level of service, typically using the Reconstruction and Development Programme’s short term rather than medium term definition (25 litres instead of 50-60 litres per capita per day within 200 meters). Government’s focus has been on rapid rollout to all people, but there is increasing recognition by all stakeholders that this was at the expense of operations and maintenance (Galvin 2009), often done without quality or sustainability in mind (Bond 2002, McDonald and Pape 2002, McDonald and Ruiters 2005).

<sup>5</sup> According to Stats SA ([www.statssa.gov.za](http://www.statssa.gov.za)), the 2011 Census recorded 3.442 million residents in eThekweni municipality.

<sup>6</sup> Macleod reports that providing services past the basic entry level in informal settlements is constrained by the environment’s ability to absorb the waste water generated, meaning that ‘further upgrading is only possible once formal housing is constructed and settlement densities are reduced’ (Macleod interview, 30 April 2010).

<sup>7</sup> The impact of the sudden introduction of cost recovery on many areas was evident in rural Ngwelezane, the epicentre of a major cholera epidemic in 2000 (Hemson 2001).

<sup>8</sup> This excludes people with insufficient funds for pre-paid meters (Bond and Dugard 2008).

<sup>9</sup> Trickle looks like a five rand coin with a very small hole fitted onto taps, allowing just enough water to trickle through to provide the free basic water amount. Macleod reports that these will be phased out, as flow limiters achieve the same purpose.

<sup>10</sup> Flow limiters allow for the use of a daily, mutually agreed upon amount of water; then the supply switches off until the next day. They were designed for Durban’s needs, used by indebted households to access no more than the 300 litres of free basic water per day or by households wanting to limit their daily consumption to an agreed upon higher amount (Macleod email, 22 June 2010).

<sup>11</sup> Flow limiters can carry over the amount of water not used until the next day over one month, but they were not programmed to do so (Naidoo interview 22 June 2010).

<sup>12</sup> Analyses seem to have missed the City’s use of the word “disconnection” to mean *both* a restriction, previously a trickle and now a flow limiter, and “ferrule disconnection” in which the City removes a connection after household tampering three times. To show the significance of this difference, the author sought a breakdown of disconnection statistics from Durban water:

“During the one year period from June 2009 to June 2010, the City implemented a total of 123, 867 restrictions and disconnections. Of this, 73,239 users paid their outstanding bills in full and were reconnected with full water supply. The remainder were comprised of:

Full disconnections for vacant properties 4,323

**Full disconnection domestic (for tampering) 2,529**

Paid installed flow limiter 40,789

Restricted on disk (trickler) 2,987”

(Gounden email correspondence, 23 June 2010).

<sup>13</sup> See [www.waterdialogues.org](http://www.waterdialogues.org).

<sup>14</sup> Macleod estimates a cost in the region of R40 million to change administration to charge individuals.

<sup>15</sup> This explanation was provided by Neil Macleod to the author on a number of occasions, including interviews in 2011.

<sup>16</sup> Price elasticity for water (the impact of price on demand) for the poorest third of residents was -0.55 compared to -0.15 and -0.11 for middle and high income water users. A possible contributing factor is

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the extension of city boundaries to include many peri-rural, low income residents who consume less water.

<sup>17</sup> Arguably the City is influenced by a political drive to protect the economic elite from a steep price increase. Financially it fears the revenue repercussions of a more concave tariff curve. If price elasticity proves to be high for the wealthy, the City will lose the “goose that lays the golden egg” as high income consumers change their behaviour and consume less. Then the City would either need to raise the price still higher for high consumption levels, so as to achieve the appropriate revenue levels, or charge poor consumers more to cover the shortfall. Macleod says the Council’s concern about this prevented him from proposing the new tariff structure earlier.

<sup>18</sup> Although ‘Terrains of Civil and Uncivil Society in Durban- 2009 Protests’ [www.ccs.ukzn.ac.za](http://www.ccs.ukzn.ac.za) highlights the significance of the high number of protests overall, my conclusion is based on a detailed examination of Durban protests.

<sup>19</sup> Most accurately toilets should be referred to as UDTs (Urine Diversion Toilets) or UDDTs (Urine Diversion Dry Toilets); here the term “UDs” is used as it is the way that the toilets are commonly known.

<sup>20</sup> Almost all VIPs more than five years old are unusable ‘full-ups’ (Eales 2005). Their location often makes emptying virtually impossible or extremely expensive. The City commissioned Hunt Lascaris to study people’s choice of toilet, which found that users were strongly opposed to VIPs (Shangase 2009).

<sup>21</sup> The pathogen load and long lifespan of some worms made the dried solid waste too risky for use as compost in Durban.

<sup>22</sup> While EWS’ water borne edge maps the limit of sewerage provision, the relative proximity of flush toilets raises painful equity issues and fosters citizen resistance in some areas receiving UD.

<sup>23</sup> This is the dynamic that appears in the press, in which vocal Councillors have equated UD as the equivalent of bucket toilets. While these allegations have not made a noticeable difference in the continued implementation of UD, they are likely to have made officials more circumspect in their approach.

<sup>24</sup> The Cape Town pilot influenced Durban, but also created the basis for a bottom-up approach to regulation nationally as it appears in DWA’s regulation strategy.

<sup>25</sup> This brought to the fore underlying issues concerning the overall ownership of the project, as well as how to monitor and protect its integrity, impartiality, and quality (CSO Regulation Group, April 2010). An independent evaluation of materials and user forums has not been done to date.