Comments on a Presentation to the Portfolio Committee

DEPARTMENT OF WATER AND SANITATION COVID-19 INTERVENTIONS

by DG: Mr M Tshangana

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1. Introduction

On 21 April 2020, the joint Portfolio Committee and Select Committee on Human Settlements, Water and Sanitation were addressed jointly by the Minister, Deputy Minister, Director-General and chairperson of the National Command Centre, on the impact of COVID-19 and initiatives undertaken by Department to address this.

The following summary is provided by the Parliamentary Monitoring Group (PMG): The joint Portfolio Committee and Select Committee on Human Settlements, Water and Sanitation were addressed jointly by the Minister, Deputy Minister, Director-General and chairperson of the National Command Centre.

A report was given on the impact and initiatives undertaken in providing water and sanitation to communities, as well as the initiatives undertaken on de-densification of settlements during the COVID-19 lockdown period. Praise was given for the efforts of the Department of Water and Sanitation (DWS) and the Department of Human Settlements (DHS), while issues involving challenges with implementation were discussed.

Due to the proclamation of a state of disaster, the DHS was governed by the Disaster Management Act (2002), necessitating the establishment of a National Command Centre, chaired by the CEO of Rand Water. By 20 April, 7 698 water tanks had been installed across the country, while 1 239 water tankers had been delivered as well. These figures were moving targets which changed on a daily basis as more delivery occurred.

In the DWS, R306 million had been secured from the Department, and a further R831 million had been requested from the National Treasury.

The DHS reported that de-densification projects had been expedited to curb the spread of COVID-19, as overcrowding had been identified as a major issue, particularly in informal settlements, city centres and hostels. A ruling had been made by that no evictions were to be made during this time, as they were now illegal. Both the DWS and DHS were providing hygiene support to officials and some households where possible, but the budget for this was limited.

The Committee commended both departments for the work done so far, but also raised pertinent questions about the implementation and co-ordination of efforts, key issues and the approaches to be adopted after the era of the COVID-19 pandemic had ended.
The Director General (DG), M Tshangana, provided a presentation (the presentation) on **DWS: Covid-19 interventions** in this meeting.

The Socio-Economic Rights Institute of South Africa (SERI) subsequently requested an engagement with the Department. On Thursday 30th April, SERI, the Centre for Environmental Rights (CER) and other civil society organisations who are members of the South African Water Caucus (SAWC), discussed the Department’s plans and progress with the Minister’s Advisory Panel. As result of that engagement, civil society organisations (CSOs) were asked to submit comments and questions to the Minister’s Advisory Panel within 10 days to which the Minster would respond, also within 10 days.

SERI’s comments set out a) background to the organisation and its work, b) comments and questions related to the DG’s presentation, and c) recommendations.

### 2. The Socio-Economic Rights Institute (SERI)

SERI is a registered non-profit organisation and public interest law clinic that provides professional, dedicated and expert socio-economic rights assistance to individuals, communities, community-based organisations (CBOs) and social movements in South Africa. SERI conducts applied legal research, litigates in the public interest, facilitates civil society mobilisation and coordination, and conducts popular education and training. SERI’s core work relates to the advancement and protection of access to socio-economic rights in socio-economically marginalised (poor) communities.

One of SERI’s focus areas is ‘Securing a Home’, which includes protecting and fulfilling the right of access to adequate housing; challenging unlawful evictions; promoting greater tenure security for the urban poor; informal settlement upgrading; advocating for spatial justice; and defending and promoting access to basic services such as water, sanitation and electricity, particularly in informal settlements.¹

Over the last ten years SERI has been involved in legal research and advocacy work around evictions, relocations, affordable rental housing, allocation of state-subsidised houses, and informal settlement upgrading. We have published several resource guides, research reports and working papers, including the following:

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¹ For more on SERI visit the SERI website: [https://www.seri-sa.org](https://www.seri-sa.org).

Turning Off the Tap: Discontinuing Universal Access to Free Basic Water in the City of Johannesburg 22 March 2018.

Informal Settlement: Norms, Practices and Agency, June 2019. The first report, The Promised Land: Ratanang Informal Settlement, looks at life in the first research site, the Ratanang informal settlement, located in the west of Klerksdorp CBD in the City of Matlosana, North West province. The second report, Our Place to Belong: Marikana Informal Settlement, shares findings from the second research site, the Marikana informal settlement, located in Philippi East in the City of Cape Town, Western Cape province. The third report, Left Behind: Siyanda Informal Settlement, provides findings from the third research site, the Siyanda informal settlement, located in KwaMashu, eThekwini, in the KwaZulu-Natal province. The fourth report, Here to Stay: A Synthesis of Findings and Implications from Ratanang, Marikana and Siyanda synthesises and compares findings across the three research sites and considers the implications for upgrading in a comparative way across all three sites.

Three working papers on the rights to housing, water and sanitation, commissioned by the Foundation for Human Rights (FHR), published individually and collectively in a publication entitled, Socio-Economic Rights: Progressive Realisation? The papers each provide a human rights analysis of the right in question in the South African context by reviewing the legal, policy and functional frameworks governing the right, and undertaking a rights-based fault-line analysis of systemic problems with the realisation of the right.

The right to housing in South Africa, January 2018.

The right to water in South Africa, January 2018.

The right to sanitation in South Africa, January 2018.


2. Comments and questions to the DG of DWS’ presentation made 21 April 2020

Overall, we welcome the rapidity and scale of the Department’s efforts to provide emergency water relief, particularly to rural areas and to informal settlements.

2.1 Approach to providing sanitation in informal settlements

Given the logistical challenges associated with emptying some 4 million pit latrines (not including chemical toilets), the plan to provide Communal Ablution Blocks (CABs) in informal
settlements is welcomed. From SERI’s research listed above, CABs provide a comparably better service to end users in informal settlements than any other sanitation option currently used.

The disadvantage is that CABs are shared and so people are vulnerable to infection and to crime and violence by standing in queues. One advantage is that CABs are usually lit making them safer to use than unlit shared sanitation facilities. Another is that CAB’s connections to municipal sewage infrastructure reduces the potential for faecal infection and enables wastewater treatment plant monitoring of the severity of Covid-19 infections.

Although the presentation does not provide this level of detail, CABs currently in place are serviced by community caretakers or janitors, paid for by the EPWP or the municipality, supported by district O&M teams, and so they are more safely managed, provided of course that they are maintained routinely and that caretakers/ janitors are selected with meaningful community participation and properly equipped with Personal Protective Equipment (PPE).

We hope that all CABs will be lit and properly serviced, and that wherever feasible, they are linked to municipal sewerage infrastructure to reduce the risk of Covid-19 infection through faecal transmission.

2.2 Linking emergency water supply with sustainable services provision

The presentation’s references to “tap into what exists” including return flows and “fix what is broken” cannot be over-emphasised.

SALGA notes municipalities’ concerns about the sustainability of emergency water supply in its presentation to the CoGTA Portfolio Committee on 28 April 2020.

SALGA notes that Department’s provision of emergency tanks made enormous impact in previously unserved communities, and/ but it has raised expectations within communities which are not sustainable; and must be considered interim solutions (emergency interventions which are immediate and short term in nature).

“Continuing this programme over many months will divert limited funding available from the provision of reliable and sustainable solutions. Given municipal existing constraints, it is likely that once emergency funding has dried up, the tanks will not be serviced and will stand empty. There is an urgent need to move rapidly to exit the current emergency response and move into the next phase of the programme. The focus must shift to sustainable solutions – a programme to support WSAs to provide and sustain water services both technically and financially”.

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Consistent with the Water Services Act (108 of 1997), water and sanitation facilities are necessary but not sufficient to provide water services. It is essential that the focus on emergency interventions in this period of disaster does not neglect or undermine the institutional, financial, operational and maintenance systems required to provide effective, affordable, sustainable services to all, now and after the state of disaster declared by CoGTA on 24 March 2020.

2.3 Redirecting the Regional Bulk Infrastructure Grant

SERI is extremely concerned about the impact of emergency services on long term sustainable services delivery, including redirecting hundreds of millions of rand from the Regional Bulk Infrastructure Grant to emergency water tanks and tankers. This will reduce the funds available to maintain and refurbish wastewater treatment plants and other essential infrastructure by two thirds and is potentially catastrophic from a public health and environmental perspective.

It may also have severe financial implications and result in the Department seeking expensive loan finance in order to refurbish bulk infrastructure, which has contributed to policy capture and crippling debt in many countries. This must be mitigated.

2.4 Reviewing standards for basic water supply

The presentation notes that “Post COVID-19 recommendations” will include a “Review Standards for Basic Water Supply and adopt an interim rudimentary standard to allow for acceleration towards addressing the backlog”.

Planning for 10 litres of water per capita per day at a time when sufficient water for drinking, frequent handwashing and cleaning of surfaces (amongst other important protective actions) is even more critical than usual, is of significant concern.

This raises a number of important questions:

- Why is this described as a “post” Covid-19 intervention?
- How long is “interim”?
- Is the ‘rudimentary’ standard to be applied to the remaining proportion of people without access to improved water supply services, or is this the proposed “new normal”?
• What public consultation processes is the Department planning to undertake in order to change the minimum standard?

2.5 Institutions and monitoring

Given the poor performance record of municipalities, the institutional arrangements seem pragmatic, but the role of municipalities must be clarified. There are tensions about the role of the Department vis-a-vis municipalities regarding filling of water tanks, and as noted earlier, about the sustainability of these measures.

Related questions:

• What will happen after Covid-19?
• At what point are the water, sanitation and hygiene interventions considered to be "post" Covid-19?

The disaster management oversight systems are a breath of fresh air with respect to intended monitoring, not only of water quality, but in general and especially of the water and sanitation services provided in informal settlements and remote rural areas.

Publicly accessible monitoring information, of both water supply and sanitation provisions made, and of budget and expenditure information, is essential.

3. Recommendations

SERI requests that the Minister’s Advisory Panel provide responses to the questions in this submission.

SERI further requests that the Department create a mechanism for civil society engagement, possibly as a sub-group of or related to the NDHS&WS Informal Settlement Sector Platform.

SERI further recommends that the Department:

a) Ensures that any prospective changes to minimum norms and standards meet administrative justice and procedural muster, regardless of how interim these measures are intended to be
b) Clarifies what is meant by “interim” and what the boundaries of “Covid interventions” in fact are. This includes differentiating emergency interventions from ongoing water services provision, and the role of the Department vis-a-vis municipalities along this continuum.
c) Prioritises and allocates sufficient resources to fulfil its obligations to maintaining and refurbishing bulk water and sanitation infrastructure, and to improve existing water supply rather than over rely on emergency water supply.

d) Makes available publicly accessible monitoring information, of both water supply and sanitation provisions in all areas, and of budget and expenditure information.