



**SURPLUS  
PEOPLE  
PROJECT**

**Submission to the National Assembly Portfolio  
Committee on Water Affairs and Forestry on the  
National Water Act No 36 of 1998.**

**8 October 2008**

**Introduction**

Surplus People Project (SPP) is a Non Governmental Organization (NGO) that facilitates land and agrarian reform in the Western and Northern Cape. SPP's main objective is to work towards the transformation of rural areas to ensure that poor black women and men gain access to, ownership of land, and natural and productive resources to improve their socio economic condition.

We believe that agrarian reform is not possible or sustainable if it is not accompanied by comprehensive land, agricultural and water reform i.e. an agricultural reform that seeks to empower the rural poor to ensure that agrarian reform contributes towards the development of the rural economy.

The resolution of the agrarian question in South Africa is critical to address the increasing problem of poverty, unemployment, rural underdevelopment and displacement.

Agrarian reform for food sovereignty is a basic human right of the rural and urban masses, which forms the basis for transforming the rural economy and broader societal change.

The public hearings on the National Water Act of 1998 comes at an opportune time to review the extent to which the Act empowers the rural poor and contributes to the democratization and transformation of water.

The Surplus People Project welcomes the opportunity to comment on the National Water Act.

Our submission would highlight issues within the National Water Act that constrains the water transformation for agricultural purposes, democratization of water governance institutions and the extent to which the Act empowers small scale and resource poor farmers and allows for the redistribution of water resources to the rural poor.

## **Review of the National Water Act No 36 of 1998**

A decade after the implementation of the 1997 White paper on Water Policy, and more than nine years since the promulgation of the National Water Act, the distribution of water in South Africa remains unequal across class, race and gender.

Moreover slow progress has been made with the allocation of water for agricultural and irrigation purposes to small scale and resource poor farmers and communities.

The slow process of transformation calls for a review of the National Water Act which have at its basis public participation at a local level.

### **1. The redistribution of water across race, class and gender remains unequal after 14 years of democracy.**

The empowerment of small scale and resource poor farmers to water reform are constrained by the slow process of land and agrarian reform. White male commercial farmers and industry continues to control and being the largest consumers of water within South Africa. This is further compounded by the fact that land ownership patterns remains the same with less than 5% of agricultural land being redistributed.

The Act in its current form has been unable to reverse the concentration of water resources for agricultural purposes within white male hands.

In the Olifants Doorn Water Management Area access to water needs remain high, but the main constraint remains access to land. White male farmers dominate ownership of land.

Small scale and resource poor farmers have limited access to good quality agricultural land and are sidelined in terms of access to water

### **2. Water management institutions (water users associations and catchment management agencies) in its current form further entrenches gender, racial and class inequality.**

Water User Associations are established by the Minister under Section 92 of the National Water Act of 1998. The purpose of WUAs, created at a more local level than the CMAs, is to transform existing irrigation boards, subterranean water control boards and water boards established for stock watering purposes.

The WUAs are obliged to ensure continuity of operations within the new legislative and policy environment; to decentralize water resource management to local level structures to ensure effective regulation; to empower historically disadvantaged water users through support; and to promote integration of localized water resource management.

Research within the Olifants Doorn Water Management Area indicate that Water Users Associations and Catchment Management Agencies in its current form do not lend itself to transformation and the redistribution of water resources to the rural poor, particularly small scale farmers.

These water management institutions remain institutions where the power of the rural elite and men are entrenched where the participation of women, rural poor and small-scale farmers are marginal. Gender representation remains poor in the Olifants Doorn Water Users Associations. Old power relations have proven very resilient and commercial farmers still dominate WUAs.

### **3. The limitations contained in Schedule 1 of the Act, which prohibits the use of water accessed under schedule 1 for commercial purposes.**

Schedule 1 of the National Water Act, which permits basic water use for domestic consumption, domestic livestock use and gardening for subsistence; is ambivalent about how the basic income needs of poor producers are to be met from the national water reserve.

Resource-poor small-scale farmers who own less than one hectare, who may use water for 'productive purposes' and for some market-based activities linked to economic survival, are not given rights to water under Schedule 1. This is particularly important in the context of the looming world food crisis where the rural poor have to ensure their food sovereignty.

"Food sovereignty is the right of peoples to healthy and culturally appropriate food produced through ecologically sound and sustainable methods, and their right to define their own food and agriculture systems. It puts the aspirations and needs of those who produce, distribute and consume food at the heart of food systems and policies rather than the demands of markets and corporations." *Nyeleni Declaration, February 2007*

### **3. Climate change and its impact on the rural poor**

Studies indicate that climate change is expected to alter the present hydrological resources in Southern Africa and add pressure on the adaptability of future water resources. The 2000 South African study on climate change predicted that West Coast estuaries would experience the greatest reductions in flow in South Africa – up to 84%. This requires that irrigation efficiencies must increase dramatically.

### **4. The National Water Act sees water as an economic good.**

One consequence of this is that water is turned into a commodity to be bought and sold, which places the poor at an immediate disadvantage. This plays itself out not

only in restricting access to water for those that cannot pay, but also in marginalising them in the management of the water.

Those that pay for water use feel entitled to take the lead in the Water User Associations. Once again this causes whites and men who were advantaged by racism and sexism in the past to be still advantaged today. Thus the commodification of our water resources further leads to the concentration and exclusion of the rural poor and small-scale farmers.

## **Recommendations**

- I. The National Water Act be reviewed where the rural and urban poor, small-scale farmers and farm workers can actively participate in the process. The review should further take the issues highlighted in this submission into consideration.
  
- II. The Act afford greater power to the state and communities to expropriate water for transformation purposes as outlined within the provisions of water allocation reform which in some way protect the interest of existing lawful users. Radical overhaul of the inequitable distribution of water resources particularly for livelihood creation by the rural poor and small scale farmers.
  
- III. Water management institutions like water users associations and catchment management agencies are reviewed. In its current form it entrenches the power of rural elites where the rural poor, women, small scale and resource poor farmers are marginalised. The state should play a more direct role in the day to day running of these institutions, which takes on the form of private institutions.
  
- IV. Municipalities are given a stronger oversight functions within these institutions to ensure the democratisation of these governance institutions. The water management institutions have the same provisions for public participation as outlined within the Municipal Systems Act. The Act should also allow great control by the rural poor and small scale farmers of these institutions.
  
- V. The principles of the Act to see water as a public good to be controlled by the public at a local level to oversee the transformation of water. This should include the equitable sharing of the water resources while ensuring the sustainability of the ecosystem.

- VI. The limitations contained in schedule 1 of the Act should give rights to farmers of small plots who may use water for productive purposes linked to economic survival.
  
- VII. The Act should make for stringent measures where both the public and the state can enforce compliance with the Act considering climate change and the impact it would have on our water resources. This should particularly be in the case of inefficient irrigation users and industry.

In conclusion the Surplus People Project wish to state the importance of the review of the National Water Act to bring about greater transformation within the rural area. Water reform is an essential component of agrarian reform for food sovereignty. The 14 years of democracy has been ample time for the beneficiaries of apartheid to extend the hand of transformation.

The inequitable distribution of our water resources across race, class and gender is undermining democracy and transformation of South African Society.

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