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## ***'Water is the Burning Issue':*** **Fluid Politics and the Contradictions of Local Government**

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**Note to Readers:** A revised and extended version of this paper will be incorporated into a book of essays provisionally entitled *Replacing the Nation* that will bring together my efforts to comprehend the turbulent forces at play in South Africa since 2000/1. The paper starts by plunging its readers into the vicissitudes of struggles over water in Ladysmith/Emnambithi and Newcastle, two former white towns and surrounding predominantly black settlements where I have been engaged in research since 1994. I use the contentious politics of water in these settings that remain heavily racialized as a lens through which to focus on the contradictions of local government. In *Disabling Globalization* (2002) I identified local government as a key site of contradictions in the first phase of the post-apartheid order (1994-2000). Since 2001 the ANC national government has engaged in an intensifying battle to bring unruly local governments under control and contain popular discontent. Here I draw on dynamics in Ladysmith and Newcastle to reflect on unfolding contradictions more broadly, and suggest how official measures aimed at disciplining and damping down discontent might actually be feeding into it.

The title of this essay was given to me by a trade unionist in Ladysmith in mid-2005. He was describing a march he had helped organize on October 30, 2004 to protest the sharp increase in water tariffs that accompanied the handing over of water control from the Ladysmith/Emnambithi local municipality to the Uthukela Water Company – a public corporation launched in late June 2004 in northwestern KwaZulu-Natal encompassing three district municipalities. Along with many other residents of the town and surrounding townships, he described broken pipes, gushing hydrants, evil odours, and raw sewage running in the streets and emptying into rivers following the takeover. 'The whole town could unite behind us,' he declared.

Under the headline 'Protesting Against High Water Tariffs', the *Ladysmith Gazette* of November 5, 2004 carried a report of how 'the community of Ladysmith took to the streets' and presented a memorandum of demands to the mayor of the district municipality, one of the shareholders in Uthukela Water Company. In addition to the

African National Congress (ANC), South African Communist Party (SACP), and Cosatu (Congress of South African Trade Unions), the signatories included the New National Party (NNP), the right-wing Freedom Front, the African Christian Democratic Party, and the Ladysmith Chamber of Commerce. Only the Democratic Alliance (DA) and the Inkatha Freedom Party (IFP) were missing. One of the photographs accompanying the report shows an elderly white municipal official marching alongside a row of toyi-toying young black men in ANC T-shirts.

The organizers of the Ladysmith march had tried, unsuccessfully, to co-ordinate with the ANC in Newcastle, about 100 kilometers away. Newcastle had also been incorporated in the Uthukela Water Company, and residents experienced similar increases in water tariffs and a terrifying deterioration of water and sanitation services. Although the Newcastle ANC backed away from public protest, an organization calling itself the Newcastle Concerned Residents Association staged some spectacular protests in the second half of 2004 – including an incident when several hundred township residents barged into a town council meeting and barricaded the doors. Terrified councillors called the police who threatened to bring in the dog squad to disperse the crowd – but, as one of the organizers later told me, ‘we know they aren’t allowed to use dogs – and in any case, how would the dogs know the difference between the councillors and the Concerneds?’ ‘Eventually’, reported the *Newcastle Advertiser* of October 1 2004, ‘some calm was restored as the councillors held hostage agreed to listen to the ratepayers’ demands.’

These two expressions of popular anger and local democracy certainly didn’t make it into the national press, and it’s uncertain whether or not they are included in national statistics. In October 2005, the Minister of Safety and Security announced that his department had recorded 5085 legal protests and another 881 illegal uprisings the previous financial year in what have become widely labeled service delivery protests.<sup>1</sup> In the larger scheme of things, and for all that they have a certain entertainment value, these events in Ladysmith and Newcastle appear pretty mundane and easily explained either by ‘poor service delivery’ or ‘bottom-up resistance to top-down neoliberalism’.

In fact, both explanations are totally inadequate. My purpose in this paper is to dig beneath the surface of these slightly-out-of-the-ordinary happenings in very ‘ordinary’ and unglamorous places where brutal histories of racialized dispossession remain powerfully evident, and trace their connections to goings-on elsewhere. What will emerge is a multi-layered and rapidly changing montage that sheds light on how profound tensions and contradictions inherent in local government are moving in new directions in South Africa today. Through the lens of ‘water is the burning issue’, I’m going to suggest how intensifying national efforts to surveil and control local government are rendering it more fragile in ways that are far more complex than just resistance to

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<sup>1</sup> These figures are contained in an article entitled ‘66 cops injured in illegal service delivery protests,’ *Cape Argus* October 13, 2005. I am indebted to Patrick Bond for this reference.

neoliberalism. At the same time, I trace how ostensibly ‘pro-poor’ measures are feeding into and inflaming the popular anger they were designed to contain.

Water is, of course, only one of many sources of conflict at local government level. Part of what makes water so powerfully compelling, as Fontein (2008: 743) points out, is that it ‘has a multiplicity of cultural, social, symbolic, discursive, imaginative and ideational meanings, values and practices coupled with it, which exist in complex ways alongside, and intermingle with, its basic material qualities as something that is essential for life, for agriculture and for society as a “natural resource”’. Water is also the single most important focus of biopolitical intervention. Yet, while pipes, drains, and sewers form an essential part of a strategy of indirect government, ‘inducing cleanliness and hence good moral habits not through discipline but simply through the material presence of fast-flowing water in and through each private household’ (Osborne 1996: 115), they are also the focus of intense and deeply racialized conflict in South Africa today.

Local government has long been a key site of contradictions. Going back to the early 1980s, efforts to devolve fiscal and administrative responsibilities to so-called Black Local Authorities rapidly became the Achilles heel of the apartheid state in its reformist guise. In *Disabling Globalization: Places of Power in Post-Apartheid South Africa* (2002), I drew on historical and ethnographic research in Ladysmith and Newcastle to develop a broader argument about how local government had come to embody some of the key contradictions of the neoliberal post-apartheid era – namely the tensions between fierce fiscal austerity combined with massive new responsibilities for local government and pressures to commodify basic services on the one hand, and invocations of local participation, social justice, and democracy on the other – with all of this playing out on viciously uneven terrains carved by the racial geographies of apartheid, and opening to the global economy.

*Disabling Globalization* concluded with local government elections in December 2000. In retrospect, this was a major turning point in post-apartheid local government. In the first place, fiscal allocations from national to local government have increased substantially since 2001. These resources remain radically inadequate in relation to needs, and pressures to commodify basic services have intensified. Yet the expansion in national allocations is significant, and has gone hand in hand with increasing central surveillance and control of local government.

In addition, since 2001 national policies have radically reconfigured the terrain of local government along three other key dimensions, all of which were powerfully at play in the 2004 protests in Ladysmith and Newcastle, and each of which turns crucially around water. First, a new system of municipal demarcations that came into effect at the end of 2000 fundamentally redrew the map of local government. Outside the six major metropolitan areas, the new demarcations have generated powerful pressures for urban-rural redistribution from a limited base, along with fierce battles for control over key resources – most importantly water – between district and local municipalities.

Second, confronted by disastrous experiments in water privatization in the 1990s, the ANC government started giving active support to alternative models of corporatization without privatization.<sup>2</sup> The Uthukela Water Company is one such experiment that has, as we shall see, failed spectacularly.

Third, and perhaps most significant, is Municipal Indigence Policy, which has its origins in a revelation received in 1999 by Ronnie Kasrils, then Minister of Water Affairs, that poor people are unable to pay for water. On a visit to the village of Lutsheko he was shocked to discover a young mother scooping water out of a hole in a riverbed because she couldn't afford R10 (US\$1) a month to pay for water from a communal tap. His shock was compounded, no doubt, by the cholera epidemic that raged through Southern Africa the following year. In 2001 the government instituted a policy of providing a minimal allocation of free water to each household, followed by electricity and sanitation, all of which are administered by municipalities. Especially in relation to water, this ostensibly protective 'pro-poor' policy is at the same time profoundly punitive through its tight links with credit control – i.e. debt collection – and the crisis of municipal indebtedness.

A large and important body of research documents how restrictions on water to poor households provoke popular anger, especially in townships where residents are accustomed to running water and flush toilets.<sup>3</sup> Most of this work is in the main metropolitan areas, where local authorities have the coercive capacity to install prepaid meters or restrictive devices. In the Ladysmith and Newcastle townships we shall see how local authorities have battled mightily to install water meters – and how, even in those sections of townships where meters have been installed, they are not being read. Battles over water meters and over indigence/credit control diverge sharply in the two places, as do changing relations among municipal officials, local councillors, and residents of former white towns and black townships. Yet, taken together, these divergent dynamics reveal how intensifying national efforts to bring unruly local governments and their populations under control are generating new tensions and contradictions.

Municipal Indigence Policy forms part of a larger ensemble of 'pro-poor' measures that fall under the rubric of the Second Economy. Former president Thabo Mbeki first asserted this discursive divide between a First and Second Economy at a press conference following a Cabinet Lekgotla in July 2003, pointing with disarming frankness to a relatively uneducated, unskilled, stratum of the population that is 'not required in terms of modern society' but in need of protection and social safety nets. This was, in other words, an effort to construct a category of second-class citizens who are seemingly more amenable to being transformed into responsible members of society – or, at least, more

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<sup>2</sup> See the Introduction to *The Age of Commodity* (McDonald and Ruiters 2005) for a useful discussion.

<sup>3</sup> In addition to the excellent collection of studies in McDonald and Ruiters (2005), these include among others Bond (2004), Bond and Dugard (2008), Loftus (2006) and Naidoo (?)

subject to discipline (Hart 2006a, 2007). Second Economy discourses emerged in the wake of a vicious attack by Mbeki and other strategically-placed figures in the ANC on 'ultra-leftists' in the period following the upsurge in oppositional movements in 2001/2 (Hart 2006b). Part of what I want to suggest in this essay are some of the deep circuits through which measures designed to contain popular discontent might actually be feeding into it.

### ***Reconfiguring the Terrain of Local Government: Urban-Rural Tensions***

The new system of municipal demarcations, inaugurated with the local elections held in December 2000, entailed a fundamental restructuring of local government that has reconfigured the relationship between rural and urban areas, especially outside the six main metropolitan centres.

The earlier phase of local government restructuring (1994 – 2000) in towns like Ladysmith and Newcastle involved the amalgamation of former white towns and nearby formal black townships as single administrative entities, known as 'transitional local authorities'. During this period, the former white areas retained disproportionate representation in local government.<sup>4</sup> Surrounding black settlements – often referred to as 'rural' to distinguish them from formal townships despite quite high population densities – were excluded from this first phase of local government restructuring, and remained largely under the sway of traditional leaders (the *amakhosi*), the vast majority aligned with the Zulu nationalist Inkatha Freedom Party (IFP).

In 2000 the Demarcations Board slashed the number of local authorities in the country as a whole from 843 to 284, vastly increasing their size. In addition to the six metropolitan areas (Category A), these include 232 so-called Category B municipalities which encompass towns and small cities and adjacent rural areas, as well as predominantly rural areas with no urban centre. Outside the metros, groups of Category B municipalities in turn form part of a set of 46 Category C or District municipalities.

In addition to a fundamental administrative restructuring, the new demarcations redrew the map of electoral politics at the local level by defining wall-to-wall wards of roughly equal size in terms of population. In effect, for the first time in the country's history, each vote at the local level counts equally and, in principle at least, traditional leaders in former bantustan settlements excluded from the first phase of local government restructuring were replaced by elected representatives. While this process has been extremely contentious, the new system of demarcations and equal weighting of votes has intensified pressures for redistribution of resources to these formerly excluded settlements from former white towns and formal black townships.

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<sup>4</sup> I explain this more fully in Hart (2002), Chapter 7.

Map 1 shows how the new demarcations expanded the boundaries of Ladysmith (now Ladysmith/Emnambithi) and Newcastle to incorporate surrounding rural areas (the former white towns and black townships that formed part of the Transitional Local Councils appear as shaded areas). Each became part of a larger District Municipality, which also includes newly-formed predominantly ‘rural’ local municipalities. Thus Newcastle is part of Amajuba District Municipality (DC25), while Ladysmith is included in Uthukela District Municipality (DC 23).<sup>5</sup> In terms of demography, Newcastle is larger and more urban than Ladysmith/Emnambithi – but Uthukela District is considerably larger than Amajuba District:<sup>6</sup>

**Table 1: Population**

Ladysmith/Emnambithi Local Municipality	225,459	Newcastle Local Municipality	332,981
Other Local Municipalities in DC 23	431,527	Other Local Municipalities in DC 25	135,056
<b>TOTAL UTHUKELA DISTRICT</b>	<b>656,986</b>	<b>TOTAL AMAJUBA DISTRICT</b>	<b>468,037</b>

Source: 2001 Census data

Although Newcastle is larger and more industrialized, the two former white towns and adjacent black townships are structurally quite similar (Hart 2002). Both were the focus of industrial decentralization policies during the apartheid era, and the formal townships (Ezakheni outside Ladysmith, and Madadeni and Osizweni outside Newcastle) were formed through forced removals of black South Africans from the surrounding ‘white’ countryside. Yet my research during the 1990s made clear powerful differences in political dynamics in the two places. Ladysmith/Ezakheni had a long history of political organization and mobilization, whereas politics in Newcastle/Madadeni/Osizweni were generally chaotic. These differences reflected the political coherence and strength of the ANC in Ladysmith in contrast to Newcastle, where the ANC was divided and relatively weak in relation to the IFP.

One of the immediate consequences of the new demarcations was the weakening of the ANC in the newly-demarcated municipality of Ladysmith/Emnambithi. In the December 2000 local government elections the ANC won a resounding victory in Ezakheni (the township adjacent to Ladysmith) with very high turnout rates – but lost most of the rural wards included in the newly demarcated municipality to the IFP. An especially bitter loss was St Chads, a densely populated informal settlement immediately adjacent to Ezakheni that had been excluded from the Ladysmith municipality in the interim demarcations. Other than a few boreholes and pumps, residents of St Chads received

<sup>5</sup> The map includes the largely rural Umzinyathi District Municipality to the east which, as we shall see, joined with Amajuba and Uthukela to form the Uthukela Water Company.

<sup>6</sup> See Table 7.2 (Hart 2002: 278) that contains demographic data from the 1996 population census that were used as the basis of the new demarcations. These data show Ladysmith/Emnambithi with a population of 178,551 and Newcastle with 287,550; 60% of household in Ladysmith/Emnambithi are classified as urban, compared with 81% in Newcastle. Municipal officials insist that census data vastly underestimate the number of people living within their boundaries.

very little in the way of material improvements, despite the fact that pipes bringing water to Ezakheni run through St Chads. In the second half of the 1990s, provincial representatives of the ANC argued that local resources should be deployed to provide running water to residents of St Chads, but were stymied by ward councillors in Ezakheni who were adamantly opposed to resources being diverted from their constituents.

These tensions surfaced dramatically in the fierce fight over the control of water between Ladysmith/Emnambithi and Uthukela district municipality. My first inkling of the scope and intensity of this fight came in June 2001, when Mike Sutcliffe – a fellow geographer and chair of the Demarcation Board at the time – invited me to a meeting between district and local authorities in Ladysmith to discuss which level of government would control water. The meeting turned into a set of heated exchanges between the municipal managers of the local and district municipalities (both white men).

The larger issues and context of this battle are usefully summarized in a paper entitled 'Local Government Powers and Functions' published by IDASA:

The Water Services Act established the separation of a *water services authority* (the municipality with statutory responsibility to ensure that water services are provided) from *water services provider* (the body actually responsible for providing the service). With the coming of two-tier local government in the country this provided a new challenge for the sector, namely to decide whether the local or district municipality should be the water services authority. The Municipal Structures Act implied it should be the latter, but the Minister of Provincial and Local Government has the authority to amend this position and therefore instituted a process to decide where local municipalities should be the authority. This process, completed in 2002, resulted in a non-uniform outcome with 23 district municipalities being the authority in largely underdeveloped areas and 126 local municipalities having this function for the rest of the country. (IDASA 2004: 25).

In other words, when this meeting took place in 2001, there was deep ambiguity on the question of powers and functions. On the drive back to Durban, Mike Sutcliffe agreed that the Ladysmith municipality had the technical and administrative capacity to control water, but that in the larger scheme of things district municipalities should, in his view, be empowered. He also mentioned that he envisaged the ANC doing away with provinces in the future, and that beefing up district municipalities would provide the ANC national government with direct access to large municipalities.<sup>7</sup> In the larger debate over powers and functions, opponents of this position pointed out that assigning powers and functions to newly-formed district municipalities meant, in effect, that small cities and towns (and their adjacent formal townships) would bear the brunt of redistribution to dense 'rural' settlements.

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<sup>7</sup> Following the 2009 election, the possibility of doing away with provinces has become the focus on intense political debate.

In 2002 the Minister of Provincial and Local Government designated Newcastle a water services authority, leaving Amajuba district municipality with authority for water over the remaining 30% of the population in the relatively small local municipalities of Utrecht and Dannhauser. Ladysmith/Emnambithi, however, was required to hand over its water functions to Uthukela district municipality. As we shall see, local officials in Ladysmith/Emnambithi waged a fierce and relentless battle to retain control over water, but in July 2004 they were finally forced to relinquish control.

The consequences of these differential divisions of powers and functions in terms of allocations of resources from the national fiscus have been massive. Later we shall see how, particularly after 2004, the volume of national resources going to local government rose rapidly. Most significant is the so-called Equitable Share which, although technically unconditional, is clearly intended to fund basic services (mainly water) for the poor. Although all municipalities received more generous allocations, increases have been far larger for those designated as water service authorities:

**Table 2: Equitable Share Allocations between Local and District Municipalities:**

<i>R thousand</i>	2002/03	2003/04	2004/05	2005/06	2006/07	2007/08	2008/09
Ladysmith/Emnambithi Local Municipality	12,191	12,397	18,537	28,473	31,316	40,115	49,193
Uthukela District Municipality	11,791	21,573	32,937	57,320	63,286	104,886	128,819
Newcastle Local Municipality	20,559	28,178	39,663	75,432	83,900	110,311	135,603
Amajuba District Municipality	3,256	5,858	6,452	11,263	12,509	48,135	57,718

*Sources of data on Equitable Share:*

2002/03: Government Gazette Vol. 442 No. 23330 April 2002;

2003/04 – 2008/09: Division of Revenue Bills

In principle, the Uthukela district municipality could have retained Ladysmith/Emnambithi local municipality as the water services provider. In practice, a much more far-reaching set of plans to take control over water in the region was underway.

### ***The Conception, Birth, and Death of a Water PUP***

A major figure in the initiative that produced the Uthukela Water Company was the late Willie Schoeman, a former National Party member of parliament under the apartheid regime, and until 1996 chair of the Joint Services Board – the entity in charge of water provision to dense rural settlements in this region of northwestern KwaZulu-Natal prior to 2001. Working in conjunction with a water engineer in Newcastle, Schoeman envisaged a water utility for the whole of the Thukela Basin, and raised funds from an Australian aid agency in the late 1990s to demonstrate its feasibility.



When David Szanton and I met with Willie Schoeman in 2005, he talked about his anticipating the incorporation of rural areas and the imperative for a water utility that could realize economies of scale in this relatively well-watered region. At the same time, he was insistent municipalities should retain control. At the time the model for large-scale water utilities was a water board, which would come under the control of the national Department of Water Affairs and Forestry. 'I wanted to avoid that at all costs,' he declared.

In September 2001, as deputy mayor of Amajuba District, Willie Schoeman presided over the formation of the Thukela Water Partnership (TWP).<sup>8</sup> The signatories were the three newly-demarcated District Municipalities in the Thukela catchment area – Amajuba, Uthukela, and Umzinyathi (Map 1). The partnership agreement unequivocally asserted the jurisdiction of the District Municipalities over component local municipalities, and defined the District Municipalities as the water service authorities responsible for 'effective and sustainable delivery of water'.<sup>9</sup> The TWP was designated a Multi-jurisdictional Water Services Provider – in effect, a public-public partnership – which evolved into the Uthukela Water Company, launched in Newcastle on June 28, 2004.

When Willie Schoeman forged ahead with the TWP and designated the District Municipalities as water service authorities in 2001, he was effectively riding roughshod over the Newcastle and Ladysmith local municipalities – both of which expected to retain control over water. While Newcastle was successful in its bid to remain a water service authority, municipal officials and DA councillors tried to prevent Uthukela Water Company from becoming the water service provider. In fact, it was only in May 2004 – a month before the launch – that the Newcastle council finally agreed to Uthukela Water's becoming the water services provider for the town.

Ladysmith municipal officials also fought tooth and nail to retain control over water. The municipal archives are filled with complaints to national government departments about the unfairness of handing over the water services authority to the Uthukela district municipality, and the dire consequences likely to follow. There are also bitter exchanges with district officials, and minutes of meetings in which Ladysmith officials walked out on their district counterparts.

Local politicians in Ladysmith were in a more complex position. ANC councillors, now in a minority, found themselves treading a difficult path between directives from

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<sup>8</sup> Funding for this initial stage came from the Municipal Infrastructure Investment Unit, the Development Bank of South Africa and the European Union.

<sup>9</sup> 'Each Partner is a water services authority and will remain the water services authority in its respective area of jurisdiction with the functions and power as stipulated in terms of Section 84 of the [Municipal] Structures Act as well as Section 11 of the Water Services Act'. *Partnership Agreement of the uThukela Water Services Provider Partnership*, September 18, 2001, p. 5.

their ANC superiors in national government to support the handover of water to the district municipality as well as the Uthukela Water Company; their antagonism towards the IFP; and the imperative to appeal to rural constituents demanding water. The alliance between the IFP and the DA/NNP that had taken over the council after the 2000 elections also came under pressure. IFP local councillors were heavily under the sway of a powerful IFP mayor in Uthukela District who was pushing very hard for the District to wrest control of water from the local municipality – and who envisaged a key position for himself in the new water utility. As captains of commerce and industry in the town, DA/NNP councillors were deeply apprehensive at the prospect of losing control over water.

These tensions exploded in late 2003, when two NNP councillors broke with the DA/IFP and crossed the floor to join the ANC. The move came following a meeting with the national Minister of Provincial and Local Government, which was also attended by the IFP mayor of Uthukela district municipality. He had, according to the NNP councillors, promised to support their bid for the Ladysmith/Emnambithi municipality to determine water tariffs in the town – but then reneged on this promise at the meeting. The floor-crossing resulted in the ANC's taking back control of the council. DA councillors found themselves confronting the worst possible situation, effectively losing control of everything. This political realignment helps to explain the political unity displayed in the march described at the start of this essay – and it also explains why the DA was notably missing from the list of signatories to the memorandum of demands handed over to the IFP district mayor.

Newcastle politics also became deeply entangled in the process leading up to the formation of the Uthukela Water Company – but in dramatically different ways. Following the formation of the Thukela Water Partnership in 2001, Willie Schoeman hired Ceenex, an engineering consulting firm based in Pretoria (with offices in Washington DC), to drive the process forward. Headed by its CEO Johan Wagner, Ceenex quickly came to play a major role. In the process, he and Schoeman came into headlong conflict with one another. In the course of this conflict, key figures in the ANC in Newcastle became involved in the project, and Schoeman pulled out. One key result was that contentious Newcastle politics within and between the IFP and ANC became incorporated in the formation of Uthukela Water Company, amplifying the already contentious politics that accompanied its conception. This is also why the ANC Alliance in Newcastle refused to collaborate with the Ladysmith march in October 2004.

Uthukela Water (Pty) Ltd was launched on June 28 2004 in the Newcastle Showgrounds amid great fanfare and with national Minister of Water Affairs Buyelwa Sonjica and IFP Chief Gatsha Buthelezi in attendance. Minister Sonjica's speech was fascinating for its emphasis on how this was a highly innovative public-public partnership (PUP) – implicitly, at least, contrasting it with the public-private partnerships in water delivery that had proven so problematic in other parts of the country. What became clear was that the ANC government saw the PUP model as a potential solution to the

disastrous experiments with water privatization in other regions of the country.<sup>10</sup> Other speakers picked up this theme, with the Managing Director Bheki Khumalo promising to ‘marry corporate governance with cooperative government.’ What was not clear from the speeches or the glossy brochures was the role that Ceenex would play in this PUP – although in fact it turned out to be substantial and deeply problematic.

Sonjica also drew direct links between indigence policy, credit control, and financial sustainability: ‘the indigent policy needs to be implemented to ensure that poor people who cannot afford to pay for services are assisted while those who can pay should be encouraged to pay...This particular challenge calls for the municipality to develop an effective credit control and debt collection policy to ensure financial sustainability’.

Several speakers waxed lyrical about how poor rural people, deprived for so long in a region rich in water (much of it piped to Gauteng), would reap the benefits of economies of scale and high tech solutions – such as billing via cellphones. Laurence Sithole, Chief Director of Water Affairs at the Department of Water Affairs and Forestry, sounded a more cautious note:

*It is fitting that the Minister should launch Uthukela Water in her second month. It is innovative and novel – but full of bugs. Our request as the Department is please accept it in its shapelessness and ambiguity. Build on it – don’t break it down.*

In less than four years Uthukela Water did break down in a rather spectacular fashion. The first major crack appeared in December 2004, when Uthukela district municipality withdrew – some say it was expelled – from the company, leaving behind huge debts. In March 2008, the Provincial Department of Local Government and Traditional Affairs essentially took over Uthukela Water. Citing allegations of maladministration, fraud and corruption, provincial officials suspended the directors of the company; appointed an administrator and technical staff to ensure water delivery; took over water service authority functions from the constituent municipalities; and ordered a forensic investigation and comprehensive assessment of the operations of the company.<sup>11</sup>

The brief, intensely turbulent history of the Uthukela Water Company remains to be written, and its larger lessons distilled. That is not my purpose here, except for underscoring some of the major tensions incorporated within Uthukela Water from the moment of its conception. Such an exercise must, in any case, await publication of the forensic report that had not been made public at the time of writing. Instead, I want now to dig more deeply into the divergent forms of opposition that Uthukela Water provoked in Newcastle and Ladysmith and their adjacent formal townships, and show how they are

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<sup>10</sup> See McDonald and Ruiters (2005) for an eloquent analysis of these problems.

<sup>11</sup> *Provincial Interventions: Report to the Select Committee on Local Government.* Department of Local Government and Traditional Affairs, KwaZulu-Natal Provincial Government, March 2008.

linked with the very different ways in which indigent policy and credit control/debt collection have operated in the two places.

### ***Reservoirs of Discontent, Torrents of Fury***

Almost immediately after the launch, fury towards Uthukela Water erupted in both Ladysmith and Newcastle, with accusations of escalating water tariffs and rapidly deteriorating service. Average domestic tariff in Ladysmith increased from R1.85 to R4.63 per kilolitre – although the latter included sanitation charges that used to be charged separately. Even if one takes account of different structure, the increase was significant.<sup>12</sup> Every edition of the *Ladysmith Gazette* and *Newcastle Advertiser* carried horror stories of terrifying deterioration of water and sanitation. Township residents had long confronted water problems – but comparable disruptions in former white areas were highly unusual. Uthukela Water responded that they had taken over delapidated infrastructure - although the Borough Engineer in Ladysmith retorted that the company had given short shrift to experienced engineers who knew how to deal with the fragile, aging system. Anger towards the company extended well beyond rotten service. Many residents were convinced that the company had been privatized, and that they were subsidizing super-profits – along with exorbitant salaries, cushy offices, and luxury furniture.

It is hardly surprising, then, that multiple representatives of ‘the Ladysmith community’ (minus the DA and the IFP) could unite against Uthukela Water in October 2004 – in the process also expressing their collective displeasure at the town’s having lost control over water. The cooptation of Newcastle ANC members onto the Board of Uthukela Water goes part of the way towards explaining why they refused to collaborate with the Ladysmith march. Yet there was, in fact, a moment when many different social forces in Newcastle came together to express their anger – but it very quickly unravelled along racial and spatial lines that reveal much deeper reservoirs of discontent.

On August 10 2004 the Newcastle Ratepayers Association and the Chamber of Commerce called a meeting to protest Uthukela Water service and rising tariffs. The turnout was huge – and, to the surprise of the organizers, extended well beyond the predominantly white membership of these organizations. The *Newcastle Advertiser* of August 13, 2004 carried a front page banner headline ENOUGH! FAT CATS PICKPOCKET US! along with the following report:

All races, religions and political affiliates stood united in one common goal – to take on local council for passing what they believe is a crippling new water tariff. The new water service came under fire as one after another ratepayer slammed

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<sup>12</sup> In Newcastle water tariffs increased from R2.95 to R6.05 per kilolitre (kl) for those using less than 21 kl; however the latter excluded basic water and sanitation charges. For those using less than 21 kl water charges decreased slightly, whereas for larger users charges increased sharply.

the salaries of uThukela officials, saying they were lining their pockets at ratepayers' expense.

The report also calls attention to another key concern discussed at the meeting: 'the subsidisation of Newcastle East by Newcastle West and the non-payment factor in Newcastle East'.

A note on the racialized geographies of Newcastle is necessary here. When the former white and Indian town and black townships were amalgamated in the mid-1990s, white power-brokers dubbed the former 'Newcastle West' and the latter 'Newcastle East'. This simultaneously de- and re-racialized discourse enabled geographically-bounded contrasts between virtuous (mainly white) Westerners imbued with a 'pay culture' and profligate (black) Easterners defined by a 'culture of non-payment.'

What the racially mixed composition of the meeting made clear was that growing numbers of Africans had moved into 'Newcastle West' – and, like their white and Indian neighbours, were alarmed by rising water tariffs and deteriorating services, as well as by high levels of non-payment in the townships. Organized protest very quickly assumed a racialized form, however. Headed by Sibusiso Lukhele, a teacher living in 'Newcastle West', a group calling itself the Newcastle West Concerned Residents' Association (NWCRA) was elected at the August 10 meeting to confront EXCO (the executive committee of the council). A few months later they removed the 'West' from their title as they joined forces with the townships. George Adamson, the convenor of the meeting who was not elected, refused an invitation to join the NWCRA and formed the Newcastle West Development Forum.<sup>13</sup> He and others accused members of the NWCRA of being a front for the ANC, positioning themselves in anticipation of local government elections.

When David Szanton and I met with representatives of the NWCRA in 2005, they insisted that the 'Concerneds' was an a-political organization, but alluded to incipient power of the 'Concerneds' which, they claimed, derived from their expertise:

*At first we were accused of being a wing of the DA. But when things heated up, the DA said they don't want anything to do with us – we are babies of the ANC. The DA disowned us. The ANC said we are loose cannons and political toddlers. The IFP also called us immature. They are all scared that we will run away with the wards. If the Concerneds are calling a meeting, there are at least 3-500 people. If we ran in the elections we would take 3 wards in Madadeni, 6 in Osizweni and 5 in town – with 14 wards we would be the power broker in council But Newcastle Concerneds want to stand as a watchdog, not to contest elections. In the Concerneds, people get education about the political parties. We attend all the meetings, get the documents, and point out the problems.*

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<sup>13</sup> A heated exchange of letters between Adamson and Lukhele appears in the *Newcastle Advertiser* of November 12, 2004 in which Adamson expresses his disdain for NWCRA, and Lukhele asserts that only nine people attended the Annual General Meeting of the Newcastle West Development Forum, of whom five were observers.

By late 2005 the Concerneds seemed to have run out of steam, and they did not in fact contest the 2006 local government elections. What is significant, though, is the popular anger in the townships that they tapped into – and that found expression in series of protests in September 2004. Let me start with reports from the *Newcastle Advertiser*:

Sept. 17, 2004: REBELLION

An angry mob gathered outside town hall to protest among other things the hike in tariffs...Some threatened to kill the local sheriff who, on instructions from the local court, had attached certain household goods due to non-payment of municipal services. It appears the local council is getting hammered by ratepayers from all sides, with Newcastle West ratepayers demanding more stringent measures be taken against their non-paying counterparts in Newcastle East, and Newcastle East residents protesting against the action the municipality has taken against them for non-payment.

September 24, 2004: IN HIDING: TERRIFIED COUNCIL BARRICADES BUILDING IN DEFENCE AGAINST IRATE RESIDENTS

Extra security personnel were posted in and around the municipal building on Tuesday and local police were alerted after a rumour surfaced that Newcastle East residents planned to storm the building. By 1pm on Wednesday, however, this had not taken place but locals were still being barred access to the building unless they were there to pay their municipal accounts. The protest action is believed to have been sparked by non-paying residents' attachment of household goods and high municipal tariffs.

In fact, as we saw at the start of this essay, the invasion took place the following week – and the invaders took over council chambers, not the municipal building.

In our conversation with NWCRA representatives, we noted that, from the pictures, most of the protestors were older women. The response was that:

*When you organize a march, you run a risk. Youngsters are angry and unemployed, and they can end up looting. You have to strategize, and bring in elderly people who are mature and can see right from wrong. Women are more manageable. That makes us unpopular with the youth. We told the council we don't want to see this town burning. We protest in an orderly fashion. We recruit leaders and have a plenary session with them. They identify people they know. When people get into the buses or taxis, we make sure they understand.'*

In further conversation, though, it emerged that it was, in fact, a group of infuriated older women who suggested the hostage taking: 'They said let's barricade the council. We are prepared to stay for four days if necessary.' When we asked why they were so angry about, the response was:

*This indigent thing. They are not given a clear story – there is confusion between R800 and R1500 to qualify as indigent. Also – some properties are being attached. People are saying ‘how can I pay when I am unemployed? Why can’t they write off the debt?’ They are also upset that pension grants are counted as income, but child grants are not. This is illegal. Also, the indigent are said to be owing a lot of money. But the council receives money it can use to write off the debt, and they are not doing that – they are just sending the money back. They are also angry that people have to keep applying to retain indigence. When they are senior citizens, why can’t they just stay, why do they have to keep reapplying? They are also very angry about the 6kl of water – it is not enough.*

When we pointed out that, in fact, water was not being restricted in the townships, the NWCRA representative responded that people were apprehensive that the council would put in restrictive devices along with meters.

Popular anger in the townships, in other words, was directed not just at Uthukela Water, but at the combined indigence and credit control measures in the town. In 2002 the Newcastle Municipality had outsourced Municipal Indigence Policy and credit control to a private company named Zader Municipal Services. Zader set up offices in the municipal building, and moved quickly to set up an indigent register along with a system of debt collection.

When Zader took over, very few households in the townships were in fact paying the flat fee for water, sanitation and refuse removal.<sup>14</sup> The Zader representative with whom we met in 2005 started out saying that ‘In Newcastle West everything is in place; it’s the East that’s a huge problem.’ Zader started out doing a survey of the townships which, she maintained, made clear that most of the existing information was incorrect. Between October 2002 and March 2003 Zader processed the first batch of indigents. The cutoff to qualify as indigent was R800 total household income, as opposed to R1100 in the same period in Ladysmith. Those who qualified had their arrears written off and the flat service fee reduced by about 40 percent.<sup>15</sup>

Zader was immediately flooded with indigent applications - somewhere between 18,000 and 19,000 households.<sup>16</sup> According to the representative they had to close the indigent register, and get people to reapply using far more stringent surveillance systems. ‘We operate like detectives,’ she declared, describing how they now link to a credit bureau and check all claims about residence, jobs, and so forth. People also have to provide their identity documents. Yet she also admitted the utter impossibility of nailing

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<sup>14</sup> The fee varied between R248 and R72, according to whether there was a tarred road and sanitation. For a discussion of diverse conditions in the Newcastle townships, see Hart (2002).

<sup>15</sup> The flat rate depended on the area – if there is a tar road and sanitation it was R248 – indigents get R95 deducted. The lowest rate was R72, and the intermediate R130.

<sup>16</sup> This represents approximately 50 percent of township households, which municipal officials estimate at around 37,000.

down precise information. When I suggested that perhaps ‘households’ are moving targets, she agreed vigorously. ‘That’s exactly right!’ she declared, ‘They’re changing all the time. Just when we think we’ve got it, something shifts – I’m constantly having to change my database.’

Zader’s strategy of linking indigence and credit control turns around the threat of attaching household goods. There is a three-step process. Households who fail to pay receive a final demand. If they don’t respond to that, they receive a summons. Zader then hands the case to municipal lawyers to attach possessions. By mid-2005, the Zader representative explained with clinical precision, they had issued 31,698 final demands; 12,000 summonses; and 3,809 households had had their possessions attached.

The intensity of resentment provoked by this blitzkrieg crack-down on debt collection needs to be situated historically. Townships like Madadeni and Osizweni in Newcastle and Ezakheni in Ladysmith are the product of apartheid-era forced removals through which millions of Africans living in areas designated part of ‘white’ South Africa were uprooted and moved into townships located in ‘bantustans’. Especially for owners and tenants removed from so-called ‘black spots’ (densely-settled areas where black landowners had freehold rights), dispossession and forced removals resulted in radically commodified livelihoods; this was also the case for workers and tenants expelled from white-owned farms. Essentially the apartheid state struck a Faustian bargain through which people moved into these sorts of townships were promised water, electricity, sanitation, and refuse removal at very low, flat fees that were heavily state-subsidized.

In *Disabling Globalization* I describe how, shortly after the 1996 local government elections, newly-elected Newcastle councillors (including ANC representatives with 44 percent of the seats) came under heavy pressure from municipal officials to approve a budget that increased monthly service charges in the townships from R17 to R76. The townships exploded with rage, and the ANC mayor had to take refuge in a police station as Madadeni residents pelted him with stones around which they had wrapped their municipal accounts.<sup>17</sup> Since then, payment rates in the Newcastle townships remained extremely low.

As in 2004-5, a Concerned Residents Association of ambiguous political provenance rose up and subsided in 1996, leaving behind little if any enduring organization.<sup>18</sup> Yet the Concerneds in both periods tapped into very deep reservoirs of anger. In the first phase of my research (1994-2000) I spoke with many residents of Madadeni and Osizweni, mostly women, who described the terrible suffering they endured when they were first moved into the townships – and who saw the low, flat

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<sup>17</sup> That the ANC won the largest block of votes in this election had a great deal to do with the fact that a controversial Taiwanese industrialist ran for the IFP. He has since joined the ANC as a national parliamentary representative.

<sup>18</sup> These processes are described in Hart (2002), pp. 250-254.



rates in effect as reparations. Although I did not meet with participants in the 2004 protests, I have no doubt that their militance was fired in part by memories of dispossession and broken promises by the post-apartheid dispensation – memories that cross generational lines, and endure through ongoing recollections of a past that is decidedly not dead.

Other threads of continuity from the 1990s are evident in the hostile relations between and among ANC and IFP councillors, white municipal officials, and strident ‘Newcastle West ratepayers’. Municipal officials see Zader as protecting them from chaotic politics of the townships as well as pressures from residents of ‘Newcastle West’ – providing the closest they can get to a ‘controlled environment’ (a term used repeatedly by municipal officials): ‘Zader keeps us afloat – politicians can’t intimidate a contractor’ one official remarked. In fact, Zader has become a political football that intensifies conflicts within and between political party representatives, as well as the terms on which they engage with powerful municipal officials.

Zader’s strategy in the Newcastle townships combines indigence policy and credit control *without* the use of meters to monitor and restrict consumption – the threat of attaching household goods is the enforcement mechanism. It was only in 2005 that meters were installed in the townships by Uthukela Water, amid intense conflict and death threats. As I write in July 2010, these meters are still not used to restrict consumption.

On the face of it, the situation in the Ladysmith/Emnambithi township of Ezakheni is quite similar – meters have been installed in most (though not all) sections of the township, but they are neither being read nor used to restrict consumption. Yet the processes through which indigence policy and credit control have come together are, as we shall see, dramatically different.

To grasp the broader significance of the specificities of these processes in Ladysmith and their differences with those in Newcastle, we need first to step back and clarify several aspects of the larger picture – namely, how Free Basic Water and indigence policies are related to one another, as well as to expanding national largesse on the one hand, and tightening pressures for credit control on the other.

### ***Of Carrots and Sticks***

A defining feature of the first phase of local government restructuring, as mentioned earlier, was the devolution of massive responsibility to local government in the face of tight fiscal austerity. Local governments in South Africa have historically been heavily dependent on revenues raised locally from property rates and service charges (water, electricity, and refuse removal). The 1996 Constitution made provision for ‘the equitable division of revenue raised nationally among national, provincial, and local spheres of government’. In 1996/7 the ‘equitable share’ going to local government amounted to

R5.6billion or 10.8 percent of municipal budgets. Between 1998/9 and 1999/2000, the local government equitable share actually fell from R2.3billion to R1.7billion.<sup>19</sup> After hovering between R2-3billion in the early 2000s, the equitable share going to local government grew quite vigorously from 2003/4 onwards, as did conditional grants:

**Table 3: Transfers from National to Local Government**

<i>R million</i>	2002/03	2003/04	2004/05	2005/06	2006/07	2007/08	2008/9
Equitable share	3,964	6,624	7,678	9,643	11,058	12,631	16,515
Conditional grants	4,837	6,048	7,837	7,038	8,443	16,645	18,477
Total	8,801	12,672	15,515	16,681	19,501 (26,501)*	29,276 (37,321)*	34,992 (44,037)*

Source: *Budget Review 2002 - 2010*

\* The figure in parentheses includes the Regional Service Council (RSC) replacement grant received by district municipalities since 2006/7.<sup>20</sup>

The local government equitable share is unconditional, in recognition of local government as a constitutionally defined separate sphere of government. A recently issued *Local Government Budget and Expenditure Review* (LGBER 2008: 57) acknowledges that ‘municipalities can exercise discretion in how to channel the equitable share to beneficiaries’, while also making clear that ‘national free service levels are the main purpose.’ The Review also notes the sharp increase in dependence on conditional grants (mainly for infrastructure) by Category A and B (metro and local) governments and the almost total reliance of district governments on national transfers, warning that ‘An increase in municipal dependence on conditional grants can be problematic if this diffuses direct municipal accountability to citizens and replaces it with reporting to national government’ (LGBER 2008: 63).

Calling attention to colossal outstanding consumer debts owed to most municipalities due to unpaid services, the Review notes that ‘if municipalities had collected half of these debts, they would have had about 18 percent more revenue with which to fund the delivery of services,’ and that ‘the importance of having sound indigent policies, linked to robust debt collection strategies cannot be over emphasised’ (LGBER 2008: 34).

Municipal indebtedness was rife during the first phase of the post-apartheid local government restructuring. By 2000 some 250 of the 843 urban and peri-urban municipalities were effectively bankrupt, many others were under severe financial strain, and most of the Regional (i.e. rural) Councils were ‘financially nonviable’ (Hart 2002: 275).

<sup>19</sup> In 1998/9 Department of Finance devised a formula for allocating the Equitable Share to municipalities: the bulk was designated as an operating subsidy of R86 (\$14) per household earning less than R800 (\$133) per month. Data from the Department of Finance Budget Review (1999/2000) and cited in UNDP 2000 (Table 3.1: 90).

<sup>20</sup> See Hart (2002) p. 247 for an explanation of the RSC grant.

To punish residents for non-payment, many municipalities disconnected water and electricity. While the number of cutoffs and reconnections is heavily disputed, there is no question that taps ran dry, toilets failed to flush, and the lights went out in many urban households – and that these cutoffs coincided with sharply increasing incidence of HIV/Aids infections, as well as escalating unemployment. Angry protests against water cutoffs first erupted in 1997, and – along with cholera and Ronnie Kasrils’ epiphany that poor people can’t pay for water – were key forces behind the Free Basic Services policies.

Free Basic Services (FBS) are tightly connected to increasing pressures for credit control and to growing surveillance by central government over municipal finances. The Municipal Financial Management Act that came into effect in 2004 provides for much tighter central monitoring of municipal finances. At the same time, many senior municipal officials have been placed on performance contracts, and there are reported moves towards establishing a single civil service that will enable far greater central control of local government. Growing national largesse has, in other words, gone hand in hand with intensified centralization of state power.

Let me turn now to the simultaneously protective and punitive logic through which FBS are linked with credit control. In 2000, when policy makers were casting around for an alternative to their insistence on narrow cost recovery, they latched onto the Durban model that Alex Loftus describes as follows:

[O]ne of the key moments in the beginning of Durban’s journey to free water policy was the development of a ground tank system in informal areas. This allowed a fixed amount of water (200 litres per household per day) to be delivered at a relatively low cost to shack areas in the municipality. Initially, residents were charged for the service but the municipality soon realized that the cost of charging individual households outweighed the revenue generated. It was therefore cheaper to provide the service for free. Looking at the rest of the municipality and the costs involved in disconnecting households, it was judged on the grounds of both economic efficiency and universal fairness that the service should be extended to all consumers within the municipality. (Loftus 2005: 191)

The 200 liters per day translates into 6 kℓ(kiloliters) per household per month, regardless of household size. According to the elegant logic of this model, a system of ‘stepped tariffs’ above the free basic minimum of 6kℓ means that high-volume users will cross-subsidize low-volume users, and also encourage conservation (Muller 2008: 78).<sup>21</sup> Loftus paints a far murkier picture of how the ‘Durban model’ has operated in practice. He shows how for many of those living in shack settlements, it meant the ability to access free clean water for the first time in their lives.<sup>22</sup> For households in more established

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<sup>21</sup> Mike Muller was the Director General of the Department of Water Affairs and Forestry from 1997-2005. This article is his account of the process through which Free Basic Water was implemented – along with a defensive reaction to critics.

<sup>22</sup> It should also be noted that the provision of free basic water is far from universal. The Durban (now known as eThekweni) Municipality has denied access to water, sanitation, and electricity to extensive

townships used to a flat service fee, however, the Durban model has meant ‘the escalation of bills, a closer surveillance of the amount consumed and the restriction of supplies to a level barely enough to survive on’ (Loftus 2005: 201).

A key feature of this model of universal free basic water is that it does not entail setting up an indigent register. At the same time, its logic in relation to credit control demands that households in full service areas using more than the 6kℓ minimum who fail to pay their bills have to be punished with either with a prepaid meter that only delivers the 6kℓ minimum, or a device attached to a regular meter that restricts water supply to the minimum. Especially for households with water-borne sanitation, the 6kℓ minimum is brutal – one toilet flush consumes 10 liters. More generally, the inadequacy of 6kℓ – and its failure to take account of household size – is a huge point of contention, as well as a recent lawsuit in Johannesburg discussed later.

The Durban model was initially very influential in Ladysmith. I vividly recall the Municipal Manager at the time describing the beauties of the system in the late 1990s and, as we shall see, a version was set in place in the town (but not Ezakheni) in 2001. What quickly became evident in Ladysmith and other places is that the cross-subsidies require a relatively high proportion of large-scale consumers, and that in smaller towns and cities – most of them heavily cash-strapped – the Durban model simply increases costs.

Architects of Free Basic Water soon recognized that the Durban model can’t work in towns outside the metros, and came up with a targeting model in which only households defined as ‘indigent’ receive free water. While municipalities have some discretion in defining the qualifications for indigence, they are required by the Department of Provincial and Local Government to maintain an accurate indigent register. They must also, obviously, set in place a system of metering to measure and restrict consumption – either a prepaid meter or a restrictive device. The logic of the targeting model is clear: it entails sorting out the ‘can’t pay’ from the ‘won’t pay’, and making things sufficiently unpleasant for the latter to force them to pay up. In effect, towns and small cities with far more limited financial and administrative resources than the metros are being called on to engage in an enormously complex, costly, and conflictual exercise of dividing and disciplining the population.<sup>23</sup>

Official directives also advise local government officials to draw on ward councillors to assist in this exercise. This scenario envisages ward councillors, elected by their constituents and supposed to represent them, as instruments in the campaign to

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areas of shack settlements that officials are trying to move to peripheries far from work, schools, and other services. (See the website of the Durban Shackdwellers Movement, the *Abahlali baseMjondolo*).

<sup>23</sup> The nightmarish quality of indigent registers is made painfully evident in a report issued by the Directorate of Free Basic Services in the Department of Provincial and Local Government in 2005 entitled *Study to Determine Progress with and Challenges Faces by Municipalities in the Provision of Free Basic Services and Supporting those Municipalities Struggling with Implementation*.

identify and cordon off the deserving poor, and ensure that the rest of the population is exposed to the whip of market discipline.

In practice, of course, these idealized models are subverted at every turn. We've already seen how Newcastle local officials and Zader combined credit control and indigence in Newcastle using threats of confiscating property to force payment – and how this coercive strategy was made possible by a history of chaotic politics, while in turn intensifying political turbulence.

We turn now to the dramatically different dynamics in Ladysmith where, under pressure from angry and fearful constituents, ANC ward councillors engaged local officials in two key battles. First, in areas where meters were already in place, they increased the minimum allocation from 6kℓ to 18kℓ. Second, they fiercely opposed the installation of water meters in Ezakheni – forcing a process of negotiation and compromise very different from that in Newcastle. More recently, however, the politics of indigence has become even more complex.

### ***Opening the Taps, (In)stalling the Meters***

Following the 2000 local government election, as we saw earlier, an alliance between the DA/NNP and the IFP took over the Ladysmith/Emnambithi local council, united primarily by their mutual antagonism towards the townships – and determined to make township residents pay (and pay more) for services. It's also important that in the period immediately following that election, the municipality was severely cash-strapped. Despite the increase in population through the new demarcations, the equitable share had not increased – and, like most other local municipalities, Ladysmith/Emnambithi was quite heavily indebted.

The new alliance moved quickly to tighten credit control in areas where there were already meters, and to install meters in Ezakheni where there were none. In 2001 local authorities set in place a partial version of the Durban model in the relatively affluent former white and Indian suburbs, as well as in Acaciaville, an Indian working class area, and in Steadville, the black township immediately adjacent to the town where meters had been in place for some time. In accordance with the logic of the Durban model, all households received the first 6 kℓ free, and were charged according to a stepped tariff for additional consumption.

It soon became evident that the municipality could not afford the Durban model, and it was abandoned within a year for the targeting model. Households with incomes below R1100 a month were eligible to apply for indigent status. In return for having municipal debts written off, they had to have a prepaid electricity meter installed, along with a restrictive device attached to the water meter that reduced water flow to 200 litres a day – in effect, producing a tiny trickle. A municipal engineer described how, if

anyone tampered with the restrictive device, the municipality shut down running water inside the house and put a standpipe in the yard.

Municipal officials were very clear that, in accordance with the targeting model, their aim was to sort out the 'can't pays' from the 'won't pays' – and to make life sufficiently unpleasant for the latter group to force payment. At the end of 2002, when the policy had been in effect for six months, the Municipal Manager remarked that people were scared – and that ward councillors were also scared of losing their popularity.

In fact, the ANC ward councillors from Steadville and Acaciaville were enraged. They pointed to the terrible hardships imposed on women struggling to nurse family members suffering from HIV/Aids; to the indignity of not being able to hold weddings and funerals; and to the utter inadequacy of the drips of water coming out of the taps and the horror of clogged toilets even in households not experiencing health crises or ceremonial obligations. 'This is a total nightmare – the municipality is turning us into social workers!' declared one councillor, explaining how she spent most of her time trying to organize water tankers to supplement totally inadequate water supplies in her ward. Although there was no sustained uprising in Steadville and Acaciaville, there were sporadic outbursts of protest.

In 2003, ANC ward councillors launched a concerted campaign to increase the minimum allocation of water from 6kℓ to 18kℓ a month. As we shall see below, this was also the period in which municipal engineers were struggling to install water meters in Ezakheni, and councillors linked the two issues. In the face of growing pressure, water engineers described how they engaged in a surreptitious strategy to increase the flow. One of them showed me how the restrictive device attached to the meter has three settings – on, off, and 200 litres a day. He and his colleagues figured out how to file the key to increase the flow. Another explained how 'we quietly started opening the meters to let through a bit more water. We read every meter and found that most were using 10-12 kℓ per month.' He went on to say that 'some people are genuinely poor, and we had to do it on compassionate grounds – 6kℓ is really horrendous, especially when you have a flush toilet. It's just not hygienic.' Yet he and his colleagues readily conceded that the move to 'open the taps' was driven by ANC ward councillors.

This move to increase the minimum allocation was quite at odds with directives emanating from the DA/IFP controlled Council. In September 2003, for example, the Executive Committee (EXCO) of the council resolved that 'the National policy regarding the 6 kℓ of free water be adhered to and that the restrictive devices deliver only 6 kℓ as per the policy.'<sup>24</sup> A few months later the ANC took over the council as a consequence of the floor-crossing described earlier, and quickly passed a resolution that 'the volume of water dispensed by the trickle flow device be increased from 200 litres to 600 litres per

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<sup>24</sup> EXCO Resolution EC16/9/2003, September 11, 2003.

day; noting ... that this would be more acceptable to the indigent/non-paying community; further noting that there are [sic] water borne sewerage in Ladysmith, Steadville and Ezakheni which could become a health hazard should there not be sufficient water.”<sup>25</sup>

Ladysmith/Emnambithi is, to the best of my knowledge, the first municipality in which an activist council pushed through this sort of increase in the minimum allocation – in effect, subverting the logic of the targeting model.

Let me turn now to the struggle over the installation of water meters in Ezakheni. Municipal officials in Ladysmith/Emnambithi devoted huge amounts of time and energy to meter technology. In principle, they said, prepaid meters are tremendously attractive in providing ‘a very controlled environment’ – a term used repeatedly by officials in both Ladysmith and Newcastle. In practice, they decided, prepaids were simply not feasible – in addition to being far more expensive. Here is how one of the water engineers explained the decision to install standard meters in Ezakheni:

*There are no successful prepaid meters. They are very open to tampering. We went to Cape Town and the guy said don't do it. Joburg Water has been using prepaids in Kathlehong, and they have had endless battles. We did a huge amount of research. We also took the advice of Stewart Scott [an engineering firm in Pietermaritzburg]. They recommended against prepaids. When the Municipal Manager went to China, he went two days earlier to do research on a new type of meter that runs on a swipe card. We looked at it and it seemed interesting, but they couldn't give any guarantees. In the end we went with standard Kent meters, with a specially engineered restrictive device that is much harder to tamper with.*

The first meters were installed in the largely middle class area (A Section) of Ezakheni towards the end of 2002, although households were still billed the flat service charges.<sup>26</sup> At the time, it was generally understood that households would not be billed for actual water use until meters had been installed throughout Ezakheni. While meter installations in A Section went fairly smoothly, efforts to install meters in other parts of the township met with fierce opposition. ‘The meter story has been driven by politics,’ declared one of the engineers; ‘people were saying “we will not let you into our property – we will kill you”’. People in Ezakheni described their anger and fear when installation teams arrived in their neighbourhoods. Their rage was compounded when they discovered that workers employed to dig trenches had been brought in from rural areas, and were allegedly linked to IFP councillors. A relatively affluent resident of C Section described how she drove around shouting for women to come and join her to fight the workers and meter installers: ‘Women are much more militant,’ she declared – ‘they will have to deal with the consequences of this meter thing’. She also mentioned how the IFP

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<sup>25</sup> EXCO Resolution, January 18, 2004.

<sup>26</sup> In 2002, monthly service charges were as follows: R23 for water; R18 for refuse; R11 for sanitation; and rates in A section averaged R76.

workers were reminiscent of violence in the late 1980s and early 1990s when an IFP warlord bussed troops of heavily armed young men into Ezakheni.<sup>27</sup>

ANC ward councillors in Ezakheni were fiercely opposed to the meters. Under pressure from their angry constituents – and painfully aware of the water restrictions in Steadville and Acaciaville – they fought hard to have the meter installation project in Ezakheni halted. In the face of this fierce opposition municipal officials tried desperately to manufacture consent. One of the water engineers explained how

*We really workshoped the meters. We held meetings very Monday with the councillors and the ward committees, and everyone from the Borough Engineers office would come. The councillors would hold meetings and let people know what was going to happen before we got there. We also bought a PA system, and went around explaining before we went in to install meters. And we distributed flyers in each section.*

Yet, he conceded, some of the community meetings ended up in a shambles and had to be abandoned, and meter installations remained a constant struggle.

A memo from the Borough Engineer in February 2004 noted that councillors demanded to know ‘how we could be installing meters in Ezakheni when over weekends, certain sections of Ezakheni experienced low pressure and in some cases, residents did not receive any water’, and demanding that ‘EXCO address the community with regard to the installation of water meters’. The report concludes that ‘at this stage no meters are being installed in Ezakheni’ and urges that EXCO members address the community to explain the meter installation project. In short, ward councillors – themselves under fire from angry constituents – were holding EXCO members’ feet to the very same fire.

In addition to the sharp contrast with Newcastle, these struggles exemplify the subversion of bureaucratic logic through a sort of popular democracy in action. As I show in *Disabling Globalization* this popular democracy has a much longer history, dramatically exemplified in a series of open budget meetings in the late 1990s. These were extraordinary events in which township residents critically engaged municipal officials and ward councillors, voicing demands and laying out priorities. Open budget meetings came to an end when the ANC lost its majority in the council in the 2000 elections – but they were not reinstated when the ANC regained control at the end of 2003. Several councillors confessed that these meetings were extremely stressful, and that the more perfunctory consultations now required by municipal legislation are far easier. Yet the activism of ward councillors around minimum water allocations and meter installations embodies vestiges of this earlier history.

As we shall now see, however, by 2008 ward councillors had been sidelined from the exercise of bureaucratic power. At the same time, national government hailed Ladysmith/Emnambithi as a model municipality in fiscal terms – one of only about 20% to

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<sup>27</sup> For a fuller description, see Hart (2002) Chapter 3.



receive an unqualified audit. How fiscal probity and the consolidation of bureaucratic power have gone hand in hand with the sharp curtailment of popular democracy help to pinpoint the deep tensions and contradictions through which municipal indigence operates in practice.

### ***The Political Maelstrom of Indigence***

A **maelstrom** (or **malström/malstrøm** in the Scandinavian languages) is a very powerful whirlpool; a large, swirling body of water. A free vortex, it has considerable downdraft. (<http://en.wikipedia.org>)

When we returned to Ladysmith in mid-2005, the big story was how efforts to register households as indigent were spreading very rapidly. Early in 2005, at the start of the surge, some 5,000 households in Ladysmith/Emnambithi were registered as indigent – approximately 12% of the roughly 40,000 urban and township households in the municipality. By 2007, the number of ‘indigent’ households had climbed to around 20,000. This was, of course, a period in which the equitable share was also increasing significantly (Table 2).

Mindful of the earlier experiment with indigence in Ladysmith, reports from other parts of the country, and theoretical preconceptions, my immediate reaction was that being defined as indigent must be a belittling and demeaning source of shame. When I tried to probe this issue with ANC councillors, they immediately responded in terms such as ‘actually it’s a wonderful thing’ and ‘oh no, people love it!’ The newly-defined ‘indigents’ with whom I spoke confirmed this view, conveying a sense that the government was at last providing some of the support to which they were entitled. What also became clear that the connotations of ‘indigence’ in English – a sort of Dickensian image of the cringing poor in 19<sup>th</sup> century London – has no cognate in *isiZulu*, and that indigence was being defined and understood in terms such as ‘giving to people who don’t have enough’ and ‘restoring our dignity’.

The initial impetus came from municipal officials. Until 2004/5 they had relied on an intricate, administratively costly, and time-consuming questionnaire to assess indigence that was focused mainly on households in Acaciaville and Steadville. In 2005, partly in an effort to incorporate Ezakheni households in a comprehensive indigent register in the most efficient way possible, they instituted a system of automatic indigence which the chief financial officer described as follows:

*Where a house value is equal to or less than the national housing subsidy – R36,720 – we give them everything for free. We will rebate 100% of houses in that category. It takes out poor people – you can’t expect them to pay.*

He went on to say that this is much more efficient than chasing them up with bills that they can never pay, and estimated some 7,000-8,000 households fell in this category.

Those who qualified had their arrears written off, paid no rates, and received free refuse removal. The only downside was having to accept a prepaid electricity meter.<sup>28</sup>

The crucial point is that there were – and still are – no restrictions on water in Ezakheni. In December 2004, following its withdrawal from the company, Uthukela district municipality took responsibility for water service provision. While residents of the town complained that water and sanitation was every bit as bad – if not worse – than when the company was in charge, it was clear that things were (and still are) infinitely worse in Ezakheni. In what appears as a sort of quid pro quo, the district municipality did not pursue the meter installation project. Although the supply of water continues to be highly erratic, most Ezakheni residents have, for some time, been getting it for free – or, more accurately, subsidized by the surge in the equitable share going to the district municipality (Table 2).<sup>29</sup> There's also a political quid pro quo: while the ANC in Ladysmith/Emnambithi can blame the IFP-led district municipality for poor water services, the latter can claim to be giving away water for free.

For ward councillors, the new system of indigence translated into a rich source of patronage. They had to approve each application and, as one municipal official later observed, 'each signature was a guaranteed vote'. This was also a period in which, as one ward councillor put it, 'we are afraid of people toyi-toying in the street'.

Mid-2005 was a crucial political turning point in South African politics, ushering in a period of intense turbulence. In June 2005 then-president Thabo Mbeki dismissed Jacob Zuma as deputy president of the country, following the conviction of Zuma's financial advisor on fraud and corruption charges in which Zuma was allegedly involved. At the ANC National General Council meeting held shortly thereafter deep schisms within the ANC became evident, accompanied by an upsurge in popular support for Zuma and powerful anti-Mbeki sentiment (Hart 2007; 2008a).

In addition, municipal uprisings all over the country intensified in 2005, resulting in the postponement of local government elections originally scheduled for late 2005 to March 2006. This was also a period in which the ANC sought to deal with popular insurrection and the problems of local government by exercising tight control over the selection of ward councillors. During this period, I was able to observe several spectacular expressions of popular anger in Ladysmith directed at the Mbeki ruling bloc – and indeed at the figure of Mbeki himself, when he ripped off his T-shirt to placate an

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<sup>28</sup> Although prepaid electricity meters can be topped up, they supply limited amounts at any one time. The most succinct description of what this means in practice was from an Ezakheni resident who described how 'With 60ms you can cook, have a bath, watch TV and iron. With 20ms you can only do one thing at a time.'

<sup>29</sup> In principle, residents are still supposed to pay a flat fee for water. In practice, according to Ladysmith officials, a very small proportion of households actually pay. District officials did not respond to my requests for information.

angry crowd at a pre-election rally in D Section in Ezakheni. What so infuriated the residents was that national and provincial officials of the ANC had replaced the candidate for ward councillor elected by the ANC branch in that ward.

Contrary to widespread expectations of massive boycotts of local government elections in March 2006, the ANC Alliance actually increased its share of the vote from 60% in the 2000 local elections to 66% in the country as a whole, with a very similar turnout rate. In Ladysmith/Emnambithi the ANC won 56% of seats in council, although the IFP held on to Uthukela district municipality by a narrow margin. Despite expectations of victory, the ANC in Newcastle garnered only 44% of the seats and went into alliance with Nadeco, a small party that split off from the IFP. By May 2007 this alliance had fallen apart, and an alliance of IFP and other small parties took over the Newcastle council.<sup>30</sup> Zader remains a key bone of contention; relations between councillors and municipal officials have become increasingly fractious; and the capacity of ward councillors to represent their constituents remains as attenuated as ever.

In contrast, the bureaucracy in Ladysmith/Emnambithi has increasingly come to operate like a well-oiled machine, conforming closely to national directives for greater discipline in local government. Senior white municipal officials died or retired, and former ANC councillors took over the top positions in municipal government since 2006. Their appointments coincided with progressively more stringent surveillance and control by national government, along with generous remuneration packages. Senior municipal officials are now subject to performance contracts, as are the mayor, deputy mayor, and speaker of council.

Since the 2006 local government elections, councillors have found themselves in an anomalous position. On the one hand, their remuneration escalated. According to the Municipal Manager, the salaries of ordinary councillors in Ladysmith/Emnambithi increased by 52% after the election to R168,000 a year, and now (2010) average R180,000 a year – a colossal income in relation to that of most township residents. On the other they were becoming subject to more rigorous discipline and scrutiny, as a consequence of the tightening national control and its transmission through the ANC-controlled municipality.

When I visited Ladysmith in mid-2007, a concerted campaign to ramp up debt collection and limit indigence was taking shape. Municipal officials along with members of EXCO had become deeply critical of the system of automatic indigence, claiming that the number of indigent households far exceeded the fiscal capacity of the municipality, and that large numbers of households (including teachers and nurses) who could afford to pay for services were taking unfair advantage. An often-repeated phrase was the need

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<sup>30</sup> In what seems like an ongoing political game of musical chairs, the ANC managed to wrest control of the Newcastle council from the IFP in mid-2009 through going into alliance with a splinter group from Nadeco.

to cut indigence to the bone. A senior official in the finance department summed up the aggressive new stance from an administrative point of view, emphasizing the imperative to make indigence as unpleasant as possible so as to 'make it very difficult for illegal indigents to jump on the wagon.' In a classic re-statement of the targeting model, he laid out strict and limited terms to qualify for indigence on the one hand, and the imperative to meter and restrict water use on the other. The fundamental problem in sorting out can't pays from won't pays was (and remains) the district municipality's refusal (or inability) to limit water:

*The district and water is a very dicey situation. Ezakheni is still not metered fully – you must have meters to restrict water. We will go to the district and threaten to report them to central government if they don't restrict. They wanted to set up a separate indigent register, and we said this is madness. They have accepted using our indigent register because they don't have the resources to do it any other way. Technically they should do it, but they can't. We will have them on board with indigence.*

In relation to the services over which Ladysmith/Emnambithi has control, he outlined the following ideal strategy:

*Those flagged as indigent will receive rates for free. But we will not pay for refuse - if they don't pay, we will force them. They must be on a prepaid restricted electricity meter. We will interface with the financial system. Whenever they purchase electricity we will know, and take 50% of the purchase for refuse collection.*

What was striking about this and other discussions with long-serving municipal officials was the sense that, in the past, they had always been constrained by 'political interference' – but that ANC councillors were now being brought under control by the new dispensation. As one of them put it, 'Ward councillors have been put on terms – you support this policy or you are out; there is a very strong move to discipline councillors and use performance agreements.' In accordance with the logic of the targeting model, ward councillors were being positioned as frontline troops in the battle to divide and discipline the population. At the same time, they were painfully aware that moves to limit indigence and apply water restrictions to those who qualified would call forth the wrath of their constituents. As one of them put it in July 2007, 'these days, it's not nice to be a councillor'.

On returning to Ladysmith in December 2007, I discovered that ward councillors had thrown a spanner in the indigence/credit control machine. The district municipality (under pressure apparently from provincial officials) had accepted the indigent register from Ladysmith/Emnambithi officials and made tentative moves to apply water restrictions to some of the households in Ezakheni. Both the handing over of the lists and moves to apply restrictions called forth an enraged outcry from ward councillors. They focused their wrath on the dilapidated infrastructure that resulted in massive water losses. 'How can you just come with meters only – you must first repair the pipes' they

insisted. In the face of this incontrovertible logic and threats of popular unrest, the district authorities backed off.

It's important to bear in mind that the second half of 2007 was a period of heightened political mobilization leading up to the ANC conference in Polokwane, and the titanic battle between Thabo Mbeki and Jacob Zuma. That ward councillors were able to break out of the straitjacket in which they found themselves after the election was, I think, partly made possible by their tapping into powerful anti-Mbeki sentiment.

By the second half of 2008 there was yet another twist in the saga of credit control and indigence in Ladysmith/Emnambithi: municipal officials were forging ahead with constructing a far more limited indigent register – and councillors no longer had any involvement in the process. The councillors with whom I spoke insisted that the initiative to withdraw came from them. One rationale was that 'this way we can put more pressure on the administration' – but what also became evident was that, in the face of the fierce clampdown on indigence, councillors found it politically expedient to distance themselves.

Municipal officials drew a sharp distinction between an idealized model in which councillors help to manufacture consent, and practical reality – in effect, the messy and inconvenient practices of everyday democracy. As one of them put it,

*In principle the ward councillor is the spokesperson for the community. It looks fantastic on paper. In practice it only works if the ward councillor gives you something – the councillors always want to give something away for free. The moment the administration starts to make you pay, they [the councillors] run with complaints... We would prefer to share responsibility with the councillors, but it's just not practical. We have now taken a much more scientific route.*

This 'scientific route' formally commenced on July 1, 2008 – although information was disseminated from February. The old register based on house valuation was terminated, and aspiring indigents had to apply using a detailed form:

*We learned from our mistakes [i.e. the administratively simpler automatic indigence that drew in huge numbers of applicants]. The new form is much more comprehensive. You must declare your income correctly – you have to prove that you don't have income. We run an ITC [credit bureau] check – the beauty of it is it's so much easier to capture data. We send in a request and four days later we get a response...the end result is that we find out that some of those who claim to be unemployed are actually not – we've thrown out about 20% [of the approximately 6,000 new applications]..*

The official went on to describe how he works for three hours every night going through the remaining applications on a case by case basis – but that 'capture' is far from complete. In a litany strongly reminiscent of the Zader representative, he talked about how people move in and out of households; how there are discrepancies in residential addresses; how 'if you are married in the Zulu way' there is no marriage certificate; how

child support is uneven; how he checks bank accounts to track deposits, but deposits can fluctuate – and so on. In other words, the scientific route is slippery and treacherous.

It also proved practically impossible. By 2009 municipal officials had abandoned the scientific route, and gone back to a system of automatic indigence based on house valuation. Those living in houses valued at less than R70,000 pay no rates and have prepaid electricity meters that provide the free basic minimum of 150 kWh. In addition, municipal officials instituted ‘application indigence’ for those living in houses valued at more than R70,000. The latter group has to go through a system of credit checks and accept a prepaid electricity meter. By mid-2010 estimated that about 8,000 households qualified for automatic indigence, and another 500 were ‘application indigents’.

Yet this apparent solution is a political minefield waiting to explode if and when water restrictions go into effect – especially if the level is set at 6kℓ. As one official put it, ‘The moment you exercise restrictions, you will lose 40% of the indigency; no-one can be happy with 6kℓ – it’s impossible’. Simultaneously he made clear the impossible situation in which he and his colleagues found themselves: ‘We don’t have the tools; but if we do have the tools, we sit with resistance’.

At the same time, the councillors find themselves in an increasingly precarious position in relation to their constituents. They have, as Ari Sitas (2008) puts it, become ‘a petty bourgeoisie on the road to class power’ – and, simultaneously, their capacity to respond to their constituents on this most crucial of issues is eroding rapidly. Even the most diligent and accountable councillors are effectively being sidelined through the logics built into the way municipal indigence operates in practice.

What makes these reconfigurations of relations among councillors, municipal officials, and residents all the more significant and ironic is that, in fiscal and administrative terms, Ladysmith/Emnambithi features as a model municipality on the larger canvas of South African local government.

When we consider the dynamics unfolding in Ladysmith in relation to those in Newcastle, what’s important is not just that these are divergent ‘path dependent’ processes rooted in specific historical geographies. Of far greater significance is that both places exemplify how interconnected tensions and contradictions around water provision, indigence, and debt collection are tearing apart the fabric of local government, albeit in locally specific ways – and how national interventions aimed at imposing order and discipline are contributing to this unravelling. Let me turn now to suggesting how our excursions to Ladysmith and Newcastle shed light on the escalating tensions of local government in South Africa today.

### ***Water Wars, Indigence, and the Contradictions of Local Government***

Mindful of local government elections scheduled for 2011, the Zuma administration turned its attention to the generally chaotic state of local government immediately upon assuming power in May 2009.<sup>31</sup> The Department of Provincial and Local Government was replaced by a new Department of Cooperative Governance and Traditional Leadership, with what Minister Sicelo Shiceka described in his budget vote on June 23 2009 as a new and expanded mandate. Shiceka also launched a remarkable attack on his predecessor, accusing him of a narrow technocratic approach, and failing to play an appropriate 'choir conductor' role among different levels of government. The previous week Shiceka had declared that many of South Africa's 283 municipalities were in a 'state of paralysis and dysfunction', citing 'a problematic political/administrative interface, lack of accountability, fraud and corruption, dysfunctional caucuses, weak financial management, poor service delivery, unsatisfactory labour relations and weak public participation structures'.<sup>32</sup> Making clear that he intends to wield what he calls his choir conductor's stick to keep 'choristers in government and civil society' in line in order to 'protect, guide and direct local government', Shiceka announced a series of initiatives – including 'Operation Clean Audits' aimed at ensuring that all municipalities achieved unqualified audits by 2014; surveys of all municipalities to identify problems and solutions; halting the outsourcing of services that could be performed by municipal employees; training programs for councillors; and threats to fire non-performing councillors and officials.

Just as the Zuma administration has been gearing up to play a far more interventionist role in local government, a resurgence of rebellions directed at local government in many parts of the country flared up in July 2009 – some of them quite violent.<sup>33</sup> Almost every night television screens beamed images reminiscent of apartheid-era popular fury and state violence – angry crowds toyi-toying in the streets, burning tires and on occasion municipal buildings; the cameras then swivel to police in riot gear firing rubber bullets, stun grenades and tear gas, and pushing screaming people into armored vehicles.

In comparison with these often brutal confrontations, the protests over water described at the start of this essay seem tame – perhaps even quaintly comical. On the surface, at least, Ladysmith and even Newcastle appear as relatively quiescent and well-governed, especially when located on the larger canvas of municipal dysfunction and urban rebellion. While water (and water restriction) is a burning issue in many municipalities, disputes over housing and threats of removal of shack settlements are

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<sup>31</sup> A more aggressive stance towards local government was actually signalled in late 2008 when, following the toppling of Thabo Mbeki and the resignation of Minister of Provincial and Local Government Sidney Mufamadi, then-President Kgalema Motlante appointed Sicelo Shiceka to the position. Shiceka moved quickly to appoint task teams to address municipal problems.

<sup>32</sup> Article entitled 'SA's municipalities in "state of paralysis"' *Mail & Guardian online* June 10, 2009.

<sup>33</sup> For an incisive analysis of the problems of attaching the label 'service delivery' to these protests, see Pithouse (2009).

probably the chief catalyst of protest and confrontation with local authorities. In addition, even in those areas where struggles over water have figured prominently, most of these protests have turned around the imposition of prepaid water meters. So how, then, can battles over water in these two seemingly mundane towns and adjacent townships shed light on the generally parlous state of local government in South Africa today?

Most immediately, they point to the limits of widely held views that the problems with local government derive from 'poor service delivery' that can be laid at the feet of incompetent, uncaring officials and lazy, corrupt councillors. Without question rotten councillors and officials are enormously problematic in many areas; and, no doubt, bringing in more efficient and accountable replacements would produce some improvements in municipal services. Yet by probing beneath the surface of contestations over water in northwestern KwaZulu-Natal, my research reveals much deeper systemic tensions and contradictions than 'lack of capacity' or a 'democratic deficit'.

Broadly speaking, local government is the impossible terrain of official efforts to manage poverty and deprivation in a racially-inflected capitalist society marked by vicious inequalities which, since 1994, have become simultaneously de- and re-racialized. Close attention to Ladysmith and Newcastle over the past 15 years helps to highlight several related dimensions of this turbulent and shifting terrain. First is the pernicious logic of indigence, linked in turn with debt collection, which seeks to render technical that which is inherently political. We've seen how, in Ladysmith and Newcastle, this process has embroiled municipal officials in ongoing conflicts with councillors and township residents, along with endless battles to sort out the 'can't pays' from the 'won't pays'. That these battles have thus far remained relatively muted in comparison with those in many other places has a great deal to do with the inability of officials to impose water restrictions.

There are some instructive comparisons here with the techno-logics and politics of indigence in large metropolitan municipalities that have far greater coercive capacity than that in many smaller cities and towns, as well as more resources with which to cross-subsidize services. As we saw earlier, well-resourced municipalities can in principle sidestep the morass of means-testing and indigence registers by providing a free basic minimum to all households, cross-subsidized through a stepped-tariff system. According to the logic of the Durban model, indebted households 'self-select' by accepting water restriction in return for debt write-offs, thus minimizing bureaucratic intervention. At the same time, the 'can't pays' in principle take responsibility for disciplining themselves. A great deal of critical attention has focused on prepaid meters as the quite literal technology of rule through which this form of neoliberal governmentality operates. In fact, eThekweni (Durban) authorities use flow restrictors rather than prepaid meters.<sup>34</sup>

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<sup>34</sup> Installation of the flow restrictor is accompanied by a 15 minute training session that 'makes customers aware of how to manage with 200 litres a day' according to the city's Water Policy statement – which goes on to note that any tampering with the flow restricting device will result in permanent



While the specific form of the technology is significant for water users and those who govern them, what is most fundamental to the workings of this neoliberal model of government at a distance is the coercive capacity of the state to impose and maintain water restrictions.<sup>35</sup>

To residents of established townships, the installation of water meters represents a form of dispossession from the most basic means of life that is, at the same time, deeply racialized. In relocation townships like Ezakheni and Madadeni, we've seen how meters represent a double dispossession – a violation of the *quid pro quo* through which residents (or their forebears) were forcibly removed from land in 'white' South Africa. More generally, the installation of meters in urban townships that have historically had access to water, electricity and other urban services at relatively low, flat rates amounts to ongoing warfare that takes a variety of forms.

From a comparative perspective, what is significant about the Durban model is that meter installation combined with water restriction appeared as a swift surgical strike at a relatively early point. Neil MacLeod, the head of Durban (now eThekweni) Water Services, is reported as having described the rapid installation of replacement meters in townships throughout the city in 1998 as a 'military operation' (cited by Loftus 2006: 1032) that quickly incorporated township residents within new infrastructures of discipline while, at the same time, replacing decaying water pipes that accounted for massive water losses.

Johannesburg authorities have wielded much clunkier weapons and more openly aggressive strategies in their battles to deal with debt and impose water restrictions. In the late 1990s, just as Durban authorities were gearing up for their blitzkrieg, Johannesburg officials ruthlessly disconnected those who didn't pay for water and electricity – with the backing of none other than then provincial MEC for Local Government Sicelo Shiceka who declared in August 1997 that 'Persuasion hasn't been taken seriously, so we are now at the stage of coercion, and it's paying dividends'.<sup>36</sup> Disconnections sparked fierce protests and fed into the formation of oppositional movements that came together under the banner of the Anti-Privatisation Forum. They also spawned a veritable army of what have come to be known as struggle plumbers and electricians engaged in reconnecting their neighbours.

While following in the footsteps of their Durban counterparts in providing universal free basic water through a stepped tariff system starting in 2001, Johannesburg authorities have pursued a far cruder strategy that is also more vulnerable to counter-

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disconnection until the amount owing has been paid in full. For a description of debt and disconnection policies, see [http://www.durban.gov.za/durban/services/water\\_and\\_sanitation](http://www.durban.gov.za/durban/services/water_and_sanitation).

<sup>35</sup> Indeed one could argue that flow restrictors are more oppressive than prepaid meters in that they don't allow for the option to purchase additional water.

<sup>36</sup> 'Gauteng Authorities Recoup R500 million in service arrears', South African Press Association, 13 August 1997. I am grateful to Patrick Bond for this reference.

attack. Meter installation in Soweto only began in 2003 – until then, residents still had an unmetered, flat-rate water supply.<sup>37</sup> In that year, Johannesburg Water launched the deeply controversial ‘Operation Gcin’amanzi’ (Save Water) in the Phiri section of Soweto. In contrast to Durban where township residents received conventional meters (to which flow restrictors could be attached), Soweto residents had to accept either a yard tap or a prepaid water meter that delivers 6kl of free water a month.<sup>38</sup> In July 2006 five residents of Phiri led by Lindiwe Mazibuko and represented by the Centre for Applied Legal Studies launched a high-profile legal challenge to the adequacy of the minimum water allocation and the constitutionality of prepaid water meters.<sup>39</sup> The Mazibuko case, along with ongoing popular discontent and protest, have exerted tremendous pressure on the City of Johannesburg.

Accompanying these pressures are a series of policy shifts through which the City of Johannesburg has retreated from the Durban model of universal free water and government at a distance, and moved instead towards defining and targetting the indigent.<sup>40</sup> In mid-2006, just as the Mazibuko case was launched, the City made allowance for an additional 4kl of water per month to households registered as indigent, with an additional annual allocation of 4kl for emergencies.<sup>41</sup> A fully-fledged targetting model made its appearance in mid-2009 when Amos Masondo, the mayor of Johannesburg, announced an entirely new ‘Expanded Social Package Policy’ (ESP) dubbed *Siyasizana* (‘We are helping one another’).<sup>42</sup> *Siyasizana* figured prominently in efforts by the City of Johannesburg and Johannesburg Water to answer the charges levelled against them in the Mazibuko case, and formed a key element in their appeal to the Constitutional Court in September 2009 – and it appears to have played an important role in the judgment which went against the Phiri applicants.<sup>43</sup>

Like the targetting model with which smaller cities and towns have been grappling for some time, *Siyasizana* abandons universal free water. In almost every other respect,

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<sup>37</sup> I am drawing here on a chronology laid out in the Founding Affidavit of the Leave to Appeal *Mazibuko v City of Johannesburg* (2009/08/035) assembled by the Centre for Applied Legal Studies (CALS 2009) and available at <http://web.wits.ac.za/Academic/Centres/CALS/>.

<sup>38</sup> According to the Founding Affidavit (paragraph 74), ‘regardless of whether they had any arrears, no Phiri residents were ever given the option of a conventional metered supply such as is available in the richer suburbs of Johannesburg’. Critical literature on prepaid meters in the Johannesburg townships includes Bond and Dugard (2008), Harvey (2005), Naidoo (nd), Ruiters (2007), and von Schnitzler (2008). Muller (2008) articulates a defensive position.

<sup>39</sup> Detailed documentation of the Mazibuko case can be found on the website of the Centre for Applied Legal Studies <http://web.wits.ac.za/Academic/Centres/CALS/>. *More here on the Mazibuko case and Constitutional Court judgment.*

<sup>40</sup> For a description of these shifts, see CALS (2009) Chapter 3.

<sup>41</sup> Johannesburg authorities instituted an indigent register in 1998 and in 2001 estimated about half a million households in the city to be indigent – yet in 2005 only 118,000 households were registered (CALC 2009: paragraph 117.3), and this number fell to 108,000 in 2008 according to figures supplied to CALS (CALC comment on City of Johannesburg proposed tariffs, 25 April 2008).

<sup>42</sup> City of Johannesburg *Expanded Social Package Programme* 24 June 2009 [www.joburg.org.za](http://www.joburg.org.za).

<sup>43</sup> See De Vos (2009).

though, it represents a dramatic departure from existing strategies of dealing with indigence. Instead of identifying households on the basis of income (or house value), Siyasizana trains its sights on the individual – or, more specifically, on individuals with ‘special needs’ and pathologies rather than those that are simply impoverished. In addition to disease, advanced age, ‘very low basic skill level’, and residing in a household headed by a child, pensioner, or single parent, these include ‘history of abuse, history of substance dependency, ex-combatant status and prior incarceration/history of criminal activity’.

To register, individuals have to appear at a customer service centre with a South African identity document, a copy of the City account for the property on which they live, and the numbers of their prepaid water and electricity meters. They will then be fingerprinted, and the fingerprint ‘will be used as confirmation that the City has permission to verify information about them with other government information systems’ (City of Johannesburg 2009: 2). Instead of credit bureau checks and forays into townships to ensure that there are no Mercedes parked in the yard, those administering Siyasizana will draw on a comprehensive system of state surveillance through a massive integration of data bases.<sup>44</sup> Applicants will then be assigned ‘poverty scores’ and placed in one of three bands that determine the level of assistance for which they qualify. In addition to varying levels of water and electricity, the three packages include transport, rental and rates subsidies – as well as registration with the Jobs Pathways programme ‘designed to help people become economically self-reliant, and ultimately lift themselves beyond the need of Siyasizana’ (City of Johannesburg 2009: 6).

In effect, the neoliberal logic of government at a distance has given way to an enormously intricate welfarist system of individual poverty scores, backed up by massive combined data systems designed to barcode and stratify the poor, and shepherd them in appropriate directions. In a high-tech guise Siyasizana conjures up the project spearheaded by William Beveridge who, in early 20<sup>th</sup> century Britain sought to disaggregate and classify what had been seen as an undifferentiated mass of ‘the poor’, and subject each ‘problem’ to a specific form of regulation and intervention.

The Centre for Applied Legal Studies is deeply critical of Siyasizana, pointing to the chronic under-representation of low-income households in registration-based endeavours, the demeaning character of the application process, and the lack of public

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<sup>44</sup> ‘This Expanded Social Package system is a national pilot for Social Development’s 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. This will allow us to verify people’s eligibility for benefits without the poor having to produce any documents to prove their own level of poverty’ (City of Johannesburg 2009: 1). In his illuminating account of biometric government in South Africa, Breckenridge notes that the ‘poorest of the poor’ are far more directly affected by cutting edge technologies and database systems than their middle-class contemporaries (2005:282).

consultation.<sup>45</sup> What my work in Ladysmith and Newcastle suggests is that, with this new Orwellian strategy of techno-fixing poverty, officials of the City of Johannesburg may well be heading into a far deeper and murkier political quagmire of measuring and monitoring indigence than that in which their counterparts in smaller municipalities have been flailing around for some time.

A closely related set of considerations turns around the increasingly precarious position in which councillors now find themselves. Calling attention to how local councillors are being transformed into a petit bourgeoisie in the context of intensifying struggles over resources flowing into local government, Sitas (2008:91) observes that 'because of the broader mix of polarising greed and need, each locale (involving branches and councillors and large numbers of expectant people) is animated by class contestations, inclusions and exclusions, crises and differential strains'; he goes on to note that 'class struggles and competition are rife *within* branches of the ANC (and Inkatha for that matter) than they are between workers, bosses and the state in broader society'.

In addition my research suggests how divisive politics of this sort are cross-cut by a widening gulf between councillors and their constituents. Even in Ladysmith, with its history of intense political mobilization, the most diligent and accountable of councillors are becoming increasingly unable to engage with their constituents because of the structural divide inherent in how municipal indigence policy operates in practice to sideline councillors and erode their powers.

There are important parallels here with Claire Bénit-Gbaffou's research in Johannesburg where, she argues, councillors' powers are attenuated in the face of rising discontent, at the same time as they are presented as being at the forefront of local delivery; in addition, some councillors 'are caught between their possible sympathy for needs expressed at ward level on the one hand, and council policies and policy directions on the other' (Bénit-Gbaffou 2008: 28-29). If experience in Ladysmith is anything to go by, the chances are high that a depoliticizing strategy like Siyasizana will feed into and intensify the corrosion of councillors' relations with their constituents.

More generally, I've tried to show how the tensions that took shape in the first phase of local government restructuring have given way over the past decade to far more complex contradictions, deeply entangled with efforts to govern indigence and manage access to the most crucial of natural resources in conditions of intense inequality and escalating unemployment. By the same token, efforts to frame the malaise of local government in terms of 'service delivery', 'capacitation' and so forth are not merely inadequate; they actively play into the contradictory dynamics sketched out in this paper.

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<sup>45</sup> Jackie Dugard 'Phiri: lawfare rather than warfare' *Mail & Guardian* July 24-30 2009: 33.

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