The Right to the City and the Eco-Social Commoning of Water: Discursive and Political Lessons from South Africa

By Patrick Bond
University of KwaZulu-Natal School of Development Studies and Centre for Civil Society, Durban, South Africa (http://www.ukzn.ac.za/ccs)

1. Introduction

To genuinely contribute to a ‘right to the city,’ a crucial challenge for water rights advocacy is to transcend narrow juristic narratives that, as Karen Bakker (2007:447) argues, tend to be “individualistic, anthropocentric, state-centric, and compatible with private sector provision of water supply.” This challenge became acute in South Africa on 8 October 2009, when in Mazibuko versus Johannesburg Water, the Constitutional Court overturned two lower-court rulings that had earlier been celebrated by the urban social movements of Soweto and comparable organizations across South Africa and the world, as well as academics (Bond and Dugard 2008 and Mazibuko & Others v the City of Johannesburg & Others, 2008). That court case provides the basis for rethinking both rights and commons so that both the ecological and the community-control factors are foregrounded, alongside contestation of the deeper logic of capital accumulation that explains the drive to water commodification within which activists campaign for water rights.

Some such campaigns win, but others lose. The Mazibuko case revolved around the amount of water each person needed (on average) each day – the Soweto plaintiffs demanded 50 liters, and the City insisted that 25 was sufficient – and whether the water would be delivered through ordinary credit meters (as the plaintiffs demanded), or on a pre-payment basis (as Johannesburg was doing in low-income areas). The latter was argued to be in violation of the Constitution, anti-discriminatory provisions in the Water Services Act and the Johannesburg water by-laws. This case was the most important test, so far, of possibly the world’s most advanced water rights Constitutional clause: “everyone has the right to an environment that is not harmful to their health or well-being... everyone has the right to have access to... sufficient water” (Republic of South Africa, 1996). The strongest hopes for Mazibuko were expressed by the talented lawyer who was central to developing strategy on the case, Jackie Dugard (2010a):

Rights can be useful to the left, regardless of the ultimate outcome of litigation per se. Advocating a pragmatic approach to rights, I suggest that in contemporary South Africa, with its extreme socio-economic and racial inequalities, while in the normal course of events the law does indeed serve the interests of elites, rights-based legal mobilisation can have a predominantly positive impact on social movements representing disempowered groups, including the poor.... If strategically used, rights-
based legal mobilisation may in certain circumstances offer the left an additional tactic in a broader political struggle. In some instances the additional tactic might be a last resort, but it remains a useful one.

These words preceded the October 2009 defeat (for Dugard and colleagues’ immediate reaction, see Centre for Applied Legal Studies, 2009 and Coalition Against Water Privatization, 2009). The benefits and costs of litigating Mazibuko require full and frank debate, and only then can the political lessons for the broader ‘right to the city movement’ be elaborated. For example, in her review of Mazibuko, Cristy Clark (2011, this volume) insists that “the right to water will largely be a hollow right for poor communities unless it includes a complimentary right of community participation in water management.” That is one lesson, but unless capable of breaking beyond the bounds of neoliberal public policy, it is one acceptable to many water privatisers (as Bakker 2007:448 points out) and other neoliberal advocates of a smaller state.

Moreover, as Chad Staddon, Thomas Appleby and Evadne Grant (2011) argue, it was “a further blow to the plaintiffs [that] the Court ruled that it was inappropriate for Courts to get involved in setting prescriptive levels of water provision,” suggesting that putting this kind of public policy power in the hands of (quite conservative) judges may be inappropriate. Even more generally, Staddon, Appleby and Grant (2011) suggest, “Since it is generally only failed or authoritarian states that do not provide access to water resources complainants are left in the contradictory position of having to complain to the very states which have denied them in the first place!”

In addition to these political concerns, the full set of hydropolitical connections between social and ecological are often not properly conceptualized within a water rights framing. The politics of water rights are, therefore, better contextualized from a classically-Marxist right to the city standpoint advocated by Lefebvre and updated by Harvey, given that both political-economic and political-ecological concepts can be deployed within the strategies of urban social movements. This we see initially by way of understanding the limitations to the Mazibuko case.

2. South Africa’s dash of cold water on water rights

There were, in retrospect, many negative lessons about Mazibuko. This foundational water rights case could be criticized on grounds it was:

- individualist: private/familial instead of public/political
- consumption-oriented, without linkages to production and ecology
- framed not to resist but to legitimise neoliberalism (Roithmayr, 2009)
- unable to transcend society’s class structure, thus ‘bleeding off any real move to dismantle these processes through redistribution and reparations’ (Roithmayr, 2009)
- technicist, thus alienating the mass base and society in general
• guilty of making mass-based organisations the ‘client’ which in the process became ‘domesticated’ (Madlingozi, 2007), for example, told to halt protests during litigation
• subject to the ‘watering down’ of rights, given SA Constitutional clauses of ‘progressive realisation’, and of ‘reasonable’ measures ‘within available resources’
• tempting for scholar-activists to follow its legal alleyways, which in turn distracted from a more transformative route to politics
• dangerous in class-power terms, insofar as judges are amongst society’s most conservative elites
• reflective of the overall problem that even liberal-democratic capitalism won’t deliver basic-needs goods to poor people.

Elsewhere (Bond 2010) I have delved into these specific problems in more detail, as did a group of critical legal scholars in more general terms, debating whether rights narratives are optimal for progressive South African politics: Danie Brandt (2009), Tshepo Madlingozi (2007), Marius Pieterse and Daria Roithmayr (2009). Since Clark (2011) provides detailed case analysis (see also Danchin 2010), it is worthwhile to follow through the political implications in this contribution, including the relationship of the South African water struggles to the right to the city.

One mistake was the narrowness of the litigant’s request for relief partially on grounds of international evidence of minimal water needs, because according to Peter Danchin (2010), the Constitutional Court signaled that while international law is relevant and helpful for constitutional analysis (as the Constitution itself requires) it does not intend to adopt the minimum core approach but rather will develop its more flexible reasonableness doctrine in an effort to forge a distinctly South African attitude to the justiciability of economic and social rights.

But as Dugard (2010b) replied, the way ‘reasonableness’ was posed ignored the realpolitik of Soweto:

First, the Constitutional Court misunderstood the applicants as arguing for a minimum core approach to the right to water. They did not. Rather, the applicants pursued the approach established by the Constitutional Court in Grootboom (in its rejection of the minimum core content approach, as being too inflexible), which is that rights and obligations can only be established in context. This is precisely what the applicants did in Mazibuko: they asked the Court to determine the reasonableness of the City’s Free Basic Water policy in the context of a high-density urban township with waterborne sanitation and no alternative water or sanitation sources. The Court, however, cast this as a minimum core content argument. And, displaying an extraordinary degree of deference, found the City’s Free Basic Water policy to “fall within
the bounds of reasonableness”, which appears to me to be a worrying retreat from the standard of reasonableness and of inquiry set in Grootboom.

However, in rebuttal to Dugard it might be argued that the Mazibuko plaintiffs (and especially their legal team) did not stress strongly enough the extent to which wealthy white residents had access to plentiful, inexpensive water on credit (not pre-paid), for comparative water consumption across race and class was not a major part of the case, as the effort to win a victory meant narrowing the narrative to a relatively non-contextualised terrain.

Dugard (2010b) then points out other areas where the Constitutional Court justices appeared both class- and race-biased:

Second, contrary to the findings of both the High Court and the Supreme Court of Appeal, the Con Court found the City’s interpretation of the by-laws as allowing the installation of prepayment meters to be “textually permissable”, which seems to be a new form of highly deferent legal interpretation.

Third, in dismissing the applicants’ arguments that prepayment meters amount to unfair discrimination based on race – because, despite proven debt across the City, prepayment meters have only been installed in poor black areas – the Court said that the applicants had not proven that prepayment meters were installed in ALL black areas. This is nonsensical and goes against all its previous equality decisions. It would mean that, for example, if I allege that my dismissal on the grounds of my sexual orientation (a listed ground in the Constitution) amounted to unfair discrimination, I would have to prove that my employer had dismissed all other gay employees in the organisation. In South Africa, there is growing concern about the Mazibuko judgment and the Court’s apparent retreat from enforcing socio-economic rights.

The legal-technicist arguments deployed by the Constitutional Court were thus subtly political, in defense of the status quo. These arguments would lead not only to denial of water to low-income people, but also to a confirmation of segregatory processes in South Africa’s cities. It is here that we see the broader merits of a ‘right to the city’ campaign that avoids Mazibuko’s pitfalls, through awareness of the simultaneous role of water in politics, accumulation processes and state-society-nature relations.

3. The right to water within the right to the city

Can water rights be recast in terms set out by urban revolutionaries such as Henri Lefebvre and David Harvey? The ‘right to the city’, in Lefebvre’s (1996:154) class-conscious understanding of community, meant that:
Only groups, social classes and class fractions capable of revolutionary initiative can take over and realize to fruition solutions to urban problems. It is from these social and political forces that the renewed city will become the oeuvre. The first thing to do is to defeat currently dominant strategies and ideologies. In the present society that there exist many divergent groups and strategies (for example between the State and the private) does not alter the situation. From questions of landed property to problems of segregation, each project of urban reform, questions the structures, the immediate (individual) and daily relations of existing society, but also those that one purports to impose by the coercive and institutional means of what remains of urban reality.

In itself reformist, the strategy of urban renewal becomes ‘inevitably’ revolutionary, not by force of circumstance, but against the established order. Urban strategy resting on the science of the city needs a social support and political forces to be effective. It cannot act on its own. It cannot but depend on the presence and action of the working class, the only one able to put an end to a segregation directed essentially against it. Only this class, as a class, can decisively contribute to the reconstruction of centrality destroyed by a strategy of segregation found again in the menacing form of centres of decision-making.

At a time in South Africa (and everywhere) when debate is intensifying about the alliances required to overthrow urban neoliberalism, we should heed Lefebvre’s warning about the centrality of the working class to these struggles, but also of Harvey’s on accumulation. After all, in his New Left Review article on ‘The Right to the City’, David Harvey (2008) draws upon the historical lessons of capital accumulation and urban form in mid-nineteenth century Paris and the post-war United States, before turning to the recent global property boom – which left very few cities untouched – and locating within it a profound and potentially unifying class struggle that also has important implications for water rights:

A process of displacement and what I call ‘accumulation by dispossession’ lie at the core of urbanization under capitalism. It is the mirror-image of capital absorption through urban redevelopment, and is giving rise to numerous conflicts over the capture of valuable land from low-income populations that may have lived there for many years... Since the urban process is a major channel of surplus use, establishing democratic management over its urban deployment constitutes the right to the city. Throughout capitalist history, some of the surplus value has been taxed, and in social-democratic phases the proportion at the state’s disposal rose significantly. The neoliberal project over the last thirty years has been oriented towards privatizing that control...

One step towards unifying these struggles is to adopt the right to the city as both working slogan and political ideal, precisely because it focuses on the question of who commands the necessary connection between urbanization and surplus production and use. The democratization of that
right, and the construction of a broad social movement to enforce its will is imperative if the dispossessed are to take back the control which they have for so long been denied, and if they are to institute new modes of urbanization.

Contrast this analysis with a near-simultaneous statement – in a 2009 booklet, ‘Systems of Cities: Integrating National and Local Policies, Connecting Institutions and Infrastructure’ – from what many consider to be the brain of urban neoliberalism, the World Bank (2009). There is, to be sure, a confession that the neoliberal project was not successful in what the Bank had advertised since at least its 1986 New Urban Management policy:

Starting in the early 1990s, many developing country governments and donors adopted an ‘enabling markets’ approach to housing, based on policies encouraged by the World Bank. This approach focused reforms on securing land rights, providing access and cost recovery for infrastructure, and improving the balance sheets of housing institutions. World Bank and donor projects helped to reform and expand mortgage credit, spreading these systems worldwide. The hope has been that pushing this and other aspects of the formal sector housing systems down market would eventually reach lower income households. Despite some successes, affordability problems persist, and informality in the housing and land sectors abounds. By the mid-2000s, it became clear that the enabling markets approach was far too sanguine about the difficulties in creating well functioning housing markets where everyone is adequately housed for a reasonable share of income on residential land at a reasonable price. The general principles of enabling markets are still valid, but must be combined with sensible policies and pragmatic approaches to urban planning and targeted subsidies for the urban poor... Experience suggests that only a few regulations are critical: minimum plot sizes and minimum apartment sizes, limitations on floor area ratios, zoning plans that limit the type of use and the intensity of use of urban land, and land subdivision ratios of developable and saleable land in new greenfield developments.

Unlike Harvey, the Bank has virtually nothing at all to say about ‘rights’ (except property rights and ‘rights of way’ for new roads and rail), and nothing at all to say about urban social movements. The closest is the document’s reference to ‘community-based organisations’ which operate in ‘partnerships’ in Jamaica and Brazil to ‘combine microfinance, land tenure, crime and violence prevention, investments in social infrastructure for day care, youth training, and health care with local community action and physical upgrading of slums.’ Civil society in its most civilized form hence lubricates markets and acts as a social safety net for when municipal states fail.

Yet notwithstanding the confession, this discursive strategy leaves states with more scope to support markets, because rapid Third World urbanization generates
market failures: ‘The general principles of enabling markets are still valid, but must be combined with sensible policies and pragmatic approaches to urban planning and targeted subsidies for the urban poor.’ Recall that from the late 1980s, the World Bank had conclusively turned away from public housing and public services as central objectives of its lending and policy advice. Instead, the Bank drove its municipal partners to enhance the productivity of urban capital as it flowed through urban land markets (now enhanced by titles and registration), through housing finance systems (featuring solely private sector delivery and an end to state subsidies), through the much-celebrated (but extremely exploitative) informal economy, through (often newly-privatized) urban services such as transport, sewage, water and even primary health care services (via intensified cost-recovery), and the like. Recall, too, the rising barriers to access associated with the 1990s turn to commercialized (sometimes privatized) urban water, electricity and transport services, and with the 2000s real estate bubble. As a result, no matter the rhetoric now favouring ‘targeted subsidies’, there are few cases where state financing has been sufficient to overcome the market-based barriers to the ‘right to the city’, a point we will conclude with.

As Swyngeouw (2008:3) pointed out, the context was a general realization about the limits to commodification in the private sector, if not the World Bank:

This seems to be the world topsy-turvy. International and national governmental agencies insist on the market and the private sector as the main conduit to cure the world water’s woes, while key private sector representatives retort that, despite great willingness to invest if the profit prospects are right, they cannot and will not take charge; the profits are just not forthcoming, the risks too high to manage, civil societies too demanding, contractual obligations too stringent, and subsidies have often been outlawed (the latter often exactly in order to produce a level playing field that permits open and fair competition).

This contradiction was especially important where social and natural processes were integrated. During the 1990s, the ‘Integrated Water Resource Management’ perspective began to focus on the nexus of bulk supply and retail water provision – in which water becomes an economic good first and foremost – but only to a limited extent linked consumption processes (including overconsumption by firms and wealthy households) to ecosystem sustainability. Hence the rights of those affected by water extraction, especially those displaced by mega-dams that supplied cities like Johannesburg, are often ignored.

Making hydro-socio-ecological connections will be one of the crucial challenges for those invoking water rights. As Lefebvre (1996:72) put it,

Carried by the urban fabric, urban society and life penetrate the countryside. Such a way of living entails systems of objects and of values. The best known elements of the urban system of objects include water, electricity, gas
(butane in the countryside), not to mention the car, the television, plastic utensils, ‘modern’ furniture, which entail new demands with regard to services.

Indeed, the ecological challenge of mobilizing water has, traditionally, been an important process of more general social and spatial organization (Strang 2004). As Lefebvre (1996:106) explained,

One knows that there was and there still is the oriental city, expression and projection on the ground, effect and cause, of the Asiatic mode of production; in this mode of production State power, resting on the city, organizes economically a more or less extensive agrarian zone, regulates and controls water, irrigation and drainage, the use of land, in brief, agricultural production.

Each different struggle for the right to the city is located within a specific political-economic context in which urbanization has been shaped by access to water. The early ‘oriental despotism’ that Karl Wittfogel (1957) discovered would follow from this Asiatic mode of production’s emphasis on a strong central state’s control of the water works gave way, in successive eras of city-building, to the central square role of water fountains in medieval market cities, and to huge infrastructural investments in capitalist cities. Within the latter, the neoliberal capitalist city has embarked a variety of techniques that individualize and commodify water consumption, delinking it from its sources and disposal even though both these terrains are more difficult to accomplish through public-private partnerships. Given the emphasis on decentralization, as Bakker (2007:436) suggests, ‘The biophysical properties of resources, together with local governance frameworks, strongly influence the types of neoliberal reforms which are likely to be introduced’.

The next logical step on a civilizational ladder of water consumption would not, however, be simply a Mazibuko-style expansion of poor people’s access (and technology) within the confines of the existing system. Acquiring a genuine right to water will require its ‘commoning’, both horizontally across the populace, and vertically from the raindrop or borehole, all the way to the sewage outfall and the sea. But to get to the next mode of extraction, production, distribution, consumption and disposal of water requires a formidable social force to take us through and beyond rights, to the water commons.

5. The right to the city and to the water commons in South Africa

Tactically, anger about violations of water rights has taken forms ranging from direct protests, to informal/illegal reconnections and destruction of prepayment meters, to a constitutional challenge over water services in Soweto. While having the potential to shift policy from market-based approaches to a narrative more conducive to ‘social justice’, even in the face of powerful commercial interests and imperatives, the limits of a rights discourse are increasingly evident, as South
Africa’s 2008-09 courtroom dramas indicated. If the objective of those promoting the right to the city includes making water primarily an eco-social rather than a commercial good, these limits will have to be transcended. The need to encompass ecosystemic issues in rights discourses is illustrated by the enormous health impacts of unpurified water use (Global Health Watch 2005: 207-224).

Thus once we interrogate the limits to rights in the South African context, the most fruitful strategic approach may be to move from and beyond ‘consumption-rights’ to reinstate a notion of the commons, which includes broader hydropolitical systems. To do so, however, the South African struggle for water shows that social protests will need to intensify and ratchet up to force concessions that help remake the urban built environment. As expressed by David Harvey (2009), “My argument is that if this crisis is basically a crisis of urbanization then the solution should be urbanization of a different sort and this is where the struggle for the right to the city becomes crucial because we have the opportunity to do something different.”

One of the first strategies, however, is defense. The struggle for water rights entails staying in place in the face of water disconnections and even evictions. Apartheid-era resistance to evictions is one precedent, but another is the moment in which a prior downturn in South Africa’s ‘Kuznets Cycle’ (of roughly 15-year ups and downs in real estate prices) occurred, the early 1990s. The resulting ‘negative equity’ generated housing ‘bonds boycotts’ in South Africa’s black townships. The few years of prior financial liberalization after 1985 combined with a class differentiation strategy by apartheid’s rulers was manifest in the granting of 200,000 mortgage bonds to first-time black borrowers over the subsequent four years. But the long 1989-93 recession left 500,000 freshly unemployed workers and their families unable to pay for housing. This in turn helped generate a collective refusal to repay housing bonds until certain conditions were met. The tactic moved from the site of the Uitenhage Volkswagen auto strike in the Eastern Cape to the Johannesburg area in 1990, as a consequence of two factors: shoddy housing construction (for which the homebuyers had no other means of recourse than boycotting the housing bond) and the rise in interest rates from 12.5 per cent (-6 per cent in real terms) in 1988 to 21 per cent (+7 per cent in real terms) in late 1989, which in most cases doubled monthly bond repayments (Bond 2000).

As a result of the resistance, township housing foreclosures which could not be consummated due to refusal of the defaulting borrowers (supported by the community) to vacate their houses, and the leading financier’s US$700 million black housing bond exposure in September 1992 was the reason that its holding company (Nedcor) lost 20 per cent of its Johannesburg Stock Exchange share value (in excess of US$150 million lost) in a single week, following a threat of a national bond boycott from the national civic organization. Locally, if a bank did bring in a sheriff to foreclose and evict defaulters, it was not uncommon for a street committee of activists to burn the house down before the new owners completed the purchase and moved in. Such power, in turn, allowed both the national and local civic associations to negotiate concessions from the banks (Mayekiso 1996).
However, there are few links between the early 1990s civics which used these micro-Polanyian tactics successfully, and the 2000s generation of ‘new social movements’ which shifted to decommodification of water and electricity through illegal reconnections (Desai 2002). The differences partly reflect how little of the late 2000s mobilizing opportunities came from formal sector housing, and instead related to higher utility bills or forced removals of shack settlements. Still, there are profound lessons from the recent upsurge of social activism for resistance not only to the implications of world capitalist crisis in South Africa, but elsewhere.

The lessons come from deglobalization and decommodification strategies used to acquire basic needs goods, as exemplified in South Africa by the national Treatment Action Campaign (TAC) and Johannesburg Anti-Privatization Forum which have won, respectively, antiretroviral medicines needed to fight AIDS and publicly-provided water (Bond 2006). The drugs are now made locally in Africa – in Johannesburg, Kampala, Harare, and so on – and on a generic not a branded basis, and generally provided free of charge, a great advance upon the US$ 15,000/patient/year cost of branded AIDS medicines a decade earlier (in South Africa, half a million people receive them). The right to healthcare in the South African city, hence, requires the communing of intellectual property rights, which were successfully achieved by the TAC by mid-decade in the 2000s after extreme resistance was required.

The ability of social movements such as in the health, water and housing sectors to win major concessions from the capitalist state’s courts under conditions of crisis is hotly contested, and will have further implications for movement strategies in the months ahead. Huchzermeier (2009:3-4) argues that the Constitution mandates ‘an equal right to the city’. However,

It was only in 2000 that the Bill of Rights was evoked by a marginalized and violated urban community (represented by Irene Grootboom) in the Constitutional Court. In what was received as a landmark ruling, the Court interfered with the Executive, instructing the Ministry of Housing to amend its housing policy to better cater for those living in intolerable conditions. It took 4 further years for the policy changes to be adopted into housing policy. Chapters 12 and 13 were added to the national Housing Code: Housing in Emergency Circumstances and Upgrading of Informal Settlements. In the following 5 years, these two policies have not been properly implemented, if at all. Unnecessary violations have continued and marginalized communities have had to resort to the courts. However, the landscape has changed significantly. Whereas the Grootboom case involved an isolated community with only a loose network of support through the Legal Resources Centre which acted as ‘Friends of the Court’, today cases reach the Constitutional Court through social movements such as Landless People’s Movement, Inner City Tenant Forum, Abahlali base Mjondolo, Anti-Privatization Forum and the
Anti-Eviction Campaign. These movements coordinate, exchange, and take an interest in one another’s legal struggles.

Huchzermeyer (2009, 4) suggests this strategy fills a “gap in left thinking about the city (the gap derived from the Marxist ideology of nothing but a revolution)” and that the ‘Right to the City’ movement articulated by Henry Lefebvre and David Harvey should include marginal gains through courts: “Urban Reform in this sense is a pragmatic commitment to gradual but radical change towards grassroots autonomy as a basis for equal rights.” After all, “three components of the right to the city – equal participation in decision-making, equal access to and use of the city and equal access to basic services – have all been brought before the Constitutional Court through a coalition between grassroots social movements and a sympathetic middle class network” (even though “this language is fast being usurped by the mainstream within the UN, UN-Habitat, NGOs, think tanks, consultants etc., in something of an empty buzz word, where the concept of grassroots autonomy and meaningful convergence is completely forgotten”).

As we have seen, however, critics point to the opposite processes in the water case, and consider a move through and beyond human rights rhetoric necessary on grounds not only that – following the Critical Legal Scholarship tradition – rights talk is only conjuncturally and contingently useful. Ashwin Desai (2010) offers some powerful considerations about the danger of legalism when building the South African urban social movements:

If one surveys the jurisprudence of how socio-economic rights have been approached by our courts there is, despite all the chatter, one central and striking feature. Cases where the decision would have caused government substantial outlay of money or a major change in how they make their gross budgetary allocations, have all been lost. Cases where money was not the issue such as the TAC case or where what was being asked for was essentially negative – to be left alone – the courts have at times come grandly to the aid of the poor. And even to get some of these judgments enforced by the executive is a story in and of itself.

I have no problems using the law defensively but when it comes to constitute the norms by which political advances are determined, it is extremely dangerous. By flirting with legalism, movements have had there demands become infected with court pleadings. We have heartfelt pleas for the observance of purely procedural stuff, consult us before you evict us. We have demands for housing, now become “in situ upgrading” and “reasonable” government action.”

In addition, the limits of neoliberal capitalist democracy sometimes stand exposed, when battles between grassroots-based social movements and the state must be decided in a manner cognisant of the costs of labor power’s reproduction. At that point, if a demand upon the state to provide much greater subsidies to working-class people in turn impinges upon capital’s (and rich people’s) prerogatives, we can
expect rejection, in much the same way Rod Burgess (1978) criticized an earlier version of relatively unambitious Urban Reform (John Turner’s self-help housing), on grounds that it fit into - not fought against - the process by which capital lowered its labor reproduction costs. It may be too early to tell whether court victories won by social movements for AIDS medicines and housing access are the more durable pattern that reifies rights talk, or whether the defeat of the Soweto water-rights movement is more typical. Sceptics of rights talk suggest, instead, a ‘Commons’ strategy, by way of resource sharing and illegal commandeering of water pipes and electricity lines during times of crisis (Bakker 2007, Desai 2002, Bond 2002, Naidoo 2009, Ngwane 2009).

The challenge for South Africans committed to a different society, economy and city is combining requisite humility based upon the limited gains social movements have won so far (in many cases matched by the worsening of regular defeats) with the soaring ambitions required to match the scale of the systemic crisis and the extent of social protest. Looking retrospectively, it is easy to see that the independent left – radical urban social movements, the landless movement, serious environmentalists and the left intelligentsia - peaked too early, in the impressive marches against Durban’s World Conference Against Racism in 2001 and Johannesburg’s World Summit on Sustainable Development in 2002. The 2003 protests against the US/UK for the Iraq war were impressive, too. But in retrospect, although in each case they out-organized the Alliance, the harsh reality of weak local organization outside the three largest cities - plus interminable splits within the community, labor and environmental left - allowed for a steady decline in subsequent years.

The irony is that the upsurge of recent protest of a ‘popcorn’ character - i.e., rising quickly in all directions but then immediately subsiding - screams out for the kind of organization that once worked so well in parts of Johannesburg, Durban and Cape Town. The radical urban movements have not jumped in to effectively marshall or even join thousands of ‘service delivery protests’ and trade union strikes and student revolts and environmental critiques of the past years. The independent left’s organizers and intelligentsia have so far been unable to inject a structural analysis into the protest narratives, or to help network this discontent.

Moreover, there are ideological, strategic and material problems that South Africa’s independent left has failed to overcome, including the division between autonomist and socialist currents, and the lack of mutual respect for various left traditions, including Trotskyism, anarchism, Black Consciousness and feminism. A synthetic approach still appears impossible in 2010. Aside from a campaign against a $3.75 billion World Bank loan to Eskom that unites red (including labor and community) and green against electricity privatization, extreme price increases (127% in real terms over four years) and climate damage, nor do strategic convergences appear obvious. For example, one strategic problem – capable of dividing major urban social movements - is whether to field candidates at elections. Another problem is the independent left’s reliance upon a few radical funding sources instead of following trade union traditions by raising funds from members (the willingness of
German voters to vote Die Linke may have more than a little influence on the SA left).

By all accounts, the crucial leap forward will be when leftist trade unions and the more serious SA Communist Party members ally with the independent left. The big question is, when will Cosatu reach the limits of their project within the Alliance. Many had anticipated the showdown in 2007 to go badly for unionists and communists, and they (myself included) were proven very wrong. There is probably no better national trade union movement in the English-speaking world than Cosatu, so that error requires a rapid correction. By March 2010, after a disappointing State of the Nation speech by Zuma followed by a reactionary budget speech that opened up a two-tier labor market (characterized by hated labor-broking outsourcing) and retained orthodox monetary policy, the showdown appears much closer. It may hinge around Zuma’s alliance with his radical-sounding youth, led by Julius Malema, whose ‘tenderpreneur’ skills in accessing state contracts reeked of corruption.

These challenges are not particularly new nor unique, with many leftists in Latin America and Asia reporting similar opportunities during this crisis but profound barriers to making the decisive gains anticipated. It is, however, in South Africa’s intense confrontations during capitalist crisis that we may soon see, as we did in the mid-1980s and early 2000s, a resurgence of perhaps the world’s most impressive urban social movements. And if not, we may see a degeneration into far worse conditions than even now prevail, in a post-apartheid South Africa more economically unequal, more environmentally unsustainable and more justified in fostering anger-ridden grassroots expectations, than during apartheid itself.
References


Huchzermeyer, M. (2009) ‘Does recent litigation bring us any closer to a right to the city?’, Paper presented at the University of Johannesburg workshop on Intellectuals, ideology, protests and civil society, 30 October


Mazibuko & Others v the City of Johannesburg & Others (2008) Unreported case no 06/13865 in the Johannesburg High Court


