

# Restorative justice lies at the heart of how we ought to think about water management

By [Professor Anthony Turton](#)

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World Water Week, which took place between 15 and 22 March 2021, provides an opportunity to rethink where we are as a nation. It provides an opportunity to re-evaluate our journey from the past as a country with a fundamentally water-constrained but highly skewed economy, to a future in which inclusive growth can be achieved as a form of restorative justice. In my professional opinion, it is this journey towards restorative justice that lies at the heart of the way we ought to be thinking about our water management.



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Let me build the argument by describing key elements of this journey to restorative justice. Facts are our friends, so let me identify the key items that shape our journey. The most fundamental of all facts is that South Africa is one of the 30 driest countries on the planet. We often hear this from the media, but what does it mean, and what (if anything) can we do about it? The simple reality is that drought is normal in our part of the world.

This simple fact, first written about in 1875 by JC Brown in a book with the grand title of *Hydrology of South Africa; or Details of the Former Hydrographic Conditions of the Cape of Good Hope, and of Causes of its Present Aridity, with Suggestions of Appropriate Remedies for this Aridity*, defined the simple truth that we live in a water-constrained area. This book became the first coherent body of knowledge about the constraints to economic development in our country. In engineering terms, once you know the problem, the next step is to find the solution; so, two years later, the same JC Brown published his sequel titled *Water Supply of South Africa and the Facilitation for the Storage of It*. The core logic in these two books was simple. Because South Africa is arid, all economic development is constrained, so to achieve a desired level of future prosperity, we need to build dams to store water. The dam-building era was born. Stated simply, if you define the problem as a nail (water shortage), then the solution is to use a

hammer (dam).

A young professional by the name of Thomas Bain – a road engineer – was so deeply impressed by Brown's work, that he began thinking about dam building in the arid areas where he was building roads. Road engineers draw maps and understand elevation and topography, so within a decade of Brown's seminal work, Bain published his book *Water-finding, Dam-making, River Utilization, Irrigation* in 1886. The difference between Brown and Bain was startling because it created a radical shift in our thinking about water. Whereas Brown recorded local water scarcity as a limitation on local development, Bain said that localised scarcity could be resolved by capturing water from a different river basin and diverting it from where it is relatively abundant, to where it is relatively scarce. His mapping skills demonstrated that water could be diverted from the Orange River, across the escarpment, into the Fish and Sundays Rivers in the vicinity of what was then known as Port Elizabeth.

Bain's work became the intellectual foundation for the future economic prosperity of the country a century later when the Commission of Enquiry into Water Matters officially launched the South African hydraulic mission. In less than half a century, every major river had been connected to every other river in South Africa, driving economic diversification as the economy transitioned from an agricultural base to a mining, and subsequently to an industrial base. In all cases, this diversification was based on inter-basin transfers of water, to the extent that today our national economic well-being is

totally dependent on this practice.



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## What is the restorative justice?

But what of restorative justice? Have the fruits of democracy been translated into growing prosperity for the historically disadvantaged members of society? Have enough jobs been created to give dignified employment to the growing number of job-seekers – with high expectations but diminishing probability of actually finding work? More importantly, is the problem still a nail (water scarcity), and is the use of a hammer (dam) still the most appropriate response?

This is where it becomes interesting because a few new facts have been added to the equation. There is no more surface water to transfer from one basin to another. On top of this, climate variability is changing rainfall patterns and existing dams are silting up, making storage and prediction a challenge. So, even if we have become very good at inter-basin transfers, that hammer is no longer appropriate because the problem has morphed itself into a screw and is no longer a simple nail.

More importantly, public trust has been abused, as government has been transformed from a public service provider into a rent-seeking predatory machine that converts problems into patronage flows. Nowhere is this more evident than in the water sector. In 2018, the Auditor General reported a staggering R6.4bn in fruitless and irregular expenditure, placing the Department of Water and Sanitation (DWS) on the list of worst performing entities on record. The purging of skills from the DWS, combined with corruption in the procurement of professional services from the consulting engineering community – the place where the intellectual property for our national water security actually resides – has left a trail of destroyed companies in its wake. Professionals have been given a stark choice to either cooperate with rent-seeking structures in government and be compromised forever, or to perish from the lack of contractual work.



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Jay Bhagwan 18 Mar 2021



## Stabilising the consulting engineering companies a national priority

In my professional opinion, this is our current national priority. How do we stabilise the consulting engineering companies, many of which have either closed or downsized because skills have migrated offshore, as the process of deindustrialisation and decolonisation advances relentlessly to its logical conclusion? If we fail in this endeavour, then our repository of knowledge needed to create the future inclusive economic growth for restorative justice to be realised will simply collapse.

It is in this context that the mooted National Water Resources Infrastructure Agency (NWRIA) needs to be evaluated. Our unfortunate experience has been the loss of public trust in the face of massive looting, without any apparent consequence for the looters. One of the objectives of this proposed agency is to 'streamline procurement and recruitment', which is a code word for 'gaining total control over the levers of patronage flows'. We now need about R1tn simply to restore systems that have failed because they have been looted into destruction. This is a big prize for those thriving on the future flow of patronage and is the actual target of the NWRIA.



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Mike Muller 3 Mar 2021



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## Focus first on creating an independent water regulator

The question that we need to reflect on as a nation is whether this new hammer is an appropriate tool for driving a nail that has now morphed into a screw with a specific head that requires a hexagonal tool to shift? What we do know is that the Trans-Caledon Tunnel Authority (TCTA) has been extremely successful as a special purpose vehicle. Where failure has occurred, it has always been when political interference has sought to wrestle control of the procurement process away from the TCTA. This means that the problem is *not* the TCTA as alleged. The real problem is the inappropriate effort by political elites to bypass procurement procedures, entrenched within the TCTA, to divert patronage flows needed to sustain the now predatory ruling elite.

The problem is the lack of governance and the immunity from prosecution enjoyed by cadres connected to the ruling elite. Because this is the actual problem, the NWRIA cannot be the solution, and public debate is needed to flesh this matter out. Government's track record in state-owned enterprises is dismal, so why create yet another? The TCTA already exists and has been extremely effective in its core role, so let us improve governance, oversight, and empower the criminal justice system to hold looters accountable before they sink their teeth into the R1tn needed to restore our failing water systems.

Let us focus first on creating an independent water regulator, capable of the governance and oversight needed to restore confidence in our failing economy before we create a new machine designed to specifically gain control over future patronage flows.

### ABOUT THE AUTHOR

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