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**Participatory governance and
citizen action in post-apartheid
South Africa**

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Introduction

South Africa's post-apartheid government needed no convincing of the virtues of participatory governance mechanisms.

The value of channels to enable citizens' organizations to communicate with government has been a canon of governance thinking in the new democracy, for it has strong roots in the fight against apartheid. In their fight against apartheid's exclusion of the majority from decision-making, activists frequently demanded 'people's power',¹ a slogan which could mean many things, but which certainly included the notion of popular participation in governance. Mobilization played a significant role in winning change: 'Our negotiated transition was considerably (if unevenly) mass-driven.... (m)ass-driven features ... were ...an important factor both in driving forward the process... and in laying down the foundations for a relatively durable democracy'.² But the balance of power between the resistance and the white authorities increasingly prompted negotiation between civic organizations representing disenfranchised black city-dwellers and the white authorities, and so the participatory local forum became a key instrument of the fight for majority rule.³ During the negotiation period of the early 1990s, a core concern of the 'liberation' movement was to prevent the minority government from taking unilateral decisions which would bind the new democracy. By far the most successful demand for joint decision-making was agreement to the demand of the Congress of South African Trade Unions for a National Economic Forum which would allow for negotiated decisions on economic policy.⁴ This became part of a broader trend in which around a dozen national negotiating forums, each dealing with a social policy sector and bringing together resistance groups, business and, in some cases, political parties, discussed social and economic policy.⁵

These forums sought to balance the two key South African realities of the time – the strength of mobilization against minority rule ensured that policy could not be made without popular movements, the recognition that the old order could not be defeated and had to be negotiated out of power meant that the authorities and the affluent needed to be parties to decisions. Even after majority rule was achieved, the continued hold of the white minority over capital and skills made compromise with it an imperative if the new order was to consolidate and grow. This reinforced enthusiasm for participatory forums by impressing on policy-makers that policy needed to be negotiated with a range of social interests because neither they nor the government could impose solutions unilaterally. The anti-apartheid 'struggle' therefore impressed on the new government the need to incorporate both grassroots citizens and affluent interests in decision-making. But, rooted as they were in the fight against apartheid, the forums

¹ Johannes Rantete and Mark Swilling 'Organization and strategies of the major resistance movements in the negotiation era' in Robin Lee and Lawrence Schlemmer (eds) *Transition to Democracy: Policy Perspectives 1991*, Cape Town, Oxford University Press, 1991, pp.198-222.

² Jeremy Cronin *The people shall govern – class struggles and the post-1994 state in South Africa*. Part 1 – the Freedom Charter and the post-1994 state Internal ANC document accessed at www.sundaytimes.co.za/2005/11/20/cronin.pdf p.4.

³ See for example Mark Swilling 'City Politics Comes of Age: Strategic responses to Local Government Restructuring' in Robert Schrire (ed.) *Critical Choices for South Africa: an agenda for the 1990s*, Cape town, Oxford University Press, 1990, pp. 411-427.

⁴ Omano Edigheji 'State-Society Relations in Post-Apartheid South Africa: The Challenges of Globalisation on Co-Operative Governance' in Guy Mhone and Omano Edigheji (eds.) *Governance in the New South Africa: The Challenges of Globalisation*, Cape Town, University of Cape Town Press, 2003, p.77.

⁵ Khehla Shubane and Mark Shaw, *Tomorrow's Foundations?: Forums as a Second Level of a Negotiated Transition in South Africa* Johannesburg, Centre for Policy Studies, 1993.

also tended to assume a spurious social and economic community of interest among the black majority. One consequence was the assumption that entire 'communities' could be represented at forums by a single organization. Popular participation thus came to be equated with forums at which 'community organizations' would participate in decisions on behalf of entire residential 'communities' despite the manifest evidence that many residents were not represented by these groups.⁶

This history ensured that formal mechanisms of participation became an important feature of post-apartheid governance. The National, Economic, Development and Labour Council (Nedlac) was established in 1995 largely as a conventional tripartite bargaining council, comprising business, labour and government who negotiated in three chambers dealing with economic policy. In response to claims that the poor and unorganized were not represented, Nedlac includes a development chamber in which organizations assumed to represent key social sectors are represented.⁷ School governing bodies comprising teacher, parent and learner representatives were established by the South African Schools Act with significant formal powers over school governance.⁸ A desire to ensure a police service accountable to citizens prompted the establishment of Community Police Forums.⁹ Participation in water matters is provided for by the establishment of Catchment Management Agencies,¹⁰ that in health by 'greater representation from communities on Hospital Boards and legal recognition of Community Health Committees, consisting of elected local representatives and ordinary community members'.¹¹ The committees are said to 'bring community representatives together with health care providers and government representatives to ensure quality health care and communicate and support health campaigns'.¹² Legislation compels local governments to 'encourage, and create conditions for, the local community to participate in the affairs of the municipality' through 'appropriate mechanisms, processes and procedures'¹³ Ward councillors are required to establish 'ward committees',¹⁴ while all municipalities must develop an Integrated Development Plan (IDP) in discussion with citizens.¹⁵ Legally, councils are required to submit IDPs and budgetary proposals to popular assemblies.¹⁶

It is also common for policy processes to include a stipulation that public participation precede the drafting of policy. For example, the National Land Transport Transition Act of 2000,

⁶ Steven Friedman *The Elusive 'Community': The Dynamics of Negotiated Urban Development*, Johannesburg, Centre for Policy Studies, 1993; Thozamile Botha 'Civic Associations as Autonomous Organs of Grassroots' Participation' *Theoria* 79, May 1992.

⁷ Edigheji 'State-Society Relations' p.78.

⁸ South African Schools Act, No.84 of 1996

www.polity.org.za/html/govdocs/legislation/1996/act96-084.html?rebookmark=1 - 78k -

⁹ South African Police Service Act, No. 68 of 1995, www.saps.gov.za/const_framework/acts/achapt7.htm

¹⁰ Department of Water Affairs and Forestry Evaluation of the Involvement of Previously Disadvantaged Individuals in public participation processes leading to the establishment of a CMA in three WMAs of DWAF/DANCED IWRM Project: Summary of Findings, Pretoria, DWAF, April 2002.

¹¹ *African National Congress Western Cape Towards Equity in Health for the People of the Western Cape*, www.anc.org.za/ancdocs/policy/wc-health.html

¹² Nozizwe Madlala-Routledge Budget Speech by Deputy Minister of Health Nozizwe Madlala-Routledge 17 June 2004, www.pmg.org.za/briefings/briefings.php?id=154

¹³ *Local Government: Municipal Systems Act*, No. 32 of 2000 Chapter 4, clauses 16, 17.

www.communitylawcentre.org.za/localgov/legislation/32of2000.pdf

¹⁴ Ward councillors are those elected to represent voters in a particular geographic area – as opposed to those elected as party representations on a proportional representation list. *Local Government: Municipal Structures Act* No. 117 of 1998 clause 72-77

www.communitylawcentre.org.za/localgov/legislation/117of1998.pdf

¹⁵ *Municipal Systems Act*, Chapter 5.

¹⁶ Cronin 'The People Shall Govern' p.1.

which introduces a ‘comprehensive transport planning and implementation process’, includes a stipulation that the public participate ‘throughout the process’ of devising policy.¹⁷ Participation may be interpreted merely as calling for public submissions, but it can entail structured discussions with citizens’ groups.

While some government critics insist that the ethos of participation has withered as post-apartheid governance increasingly relies on management technique¹⁸ - and there are cases, such as the government response to HIV/AIDS, where this clearly is so¹⁹, the participatory idea still influences government thinking. In 2005, the local government minister, Sydney Mafumadi, responded to a wave of grassroots protest against municipal councils by urging the strengthening of ward committees,²⁰ a theme repeated by other government representatives. Civil servants and politicians remain enthusiastic proponents of public participation in government, which they insist is being energetically pursued.²¹

The plethora of formal mechanisms which enable citizens to participate in government should make South Africa a model of participatory governance, in which citizens have ample opportunity to shape decisions which affect their lives. This paper will argue, however, that the participation mechanisms do not enhance participatory governance. They are biased towards those with the capacity to organize, who would be able to bring their concerns to government attention without these mechanisms - indeed, they are intrinsically hostile to effective participation by the poor, who most need access to government decisions. Nor have formal participatory structures enabled citizens to influence policy. By contrast, the most effective example of citizen participation in post-apartheid governance, the change in government policy towards dispensing anti-retroviral medication to people living with AIDS, was a product not of participation in formal governance mechanisms but of activists using their constitutional rights to make demands on the government.

The contrast between the impact of AIDS activism and the inability of formal participatory mechanisms to provide a voice to citizens in general, the poor in particular, suggests a need to rethink participatory governance. Instead of viewing it as the product of government willingness to create formal channels for citizen participation, we need to see it as a process in which citizens use rights, employing methods and channels of their choice (within the constraints imposed by democratic order) to compel governments to deal with them on their terms, not those convenient to power-holders. Citizen participation in government – and in particular that of the poor – is more likely, therefore, not when governments create formal mechanisms to ensure it but when they develop attitudes and institutions accessible to citizen action.

Before beginning this discussion, however, we must clarify the purpose of participatory governance, generally and in South Africa.

¹⁷ Department of Transport National Transport Planning Guidelines, and Requirements for the Implementation of the National Land Transport Transition Act: Public Participation Final Draft (Following COTO Workshop on 27 March 2001, Pretoria DoT, April 2001.

¹⁸ Patrick Heller “‘Technocratic creep’ threatens local government reform’ *Synopsis* Vol. 4, No. 1, Johannesburg, Centre for Policy Studies June 2000.

¹⁹ Steven Friedman ‘HIV/AIDS Strategies: Society Must be brought on board’ *Synopsis* Vol. 4, No. 1, Johannesburg, Centre for Policy Studies June 2000.

²⁰ FS Mafumadi Address by Minister of Provincial and Local Government
www.dplg.gov.za/speeches/29Mar2005Min.doc

²¹ Author’s discussions with national and provincial governments, September and October, 2005.

Why participation?

'Participatory governance' is described as 'a regulatory framework in which the task of running public affairs is not solely entrusted to government and the public administration, but involves co-operation between state institutions and civil society groups.'²² Similarly 'co-operative governance' – the same idea, albeit using different terminology - has been defined as 'the interlocking of the state and societal groups in a mix of public-private policy networks in the formulation and implementation of public policy'.²³ Both definitions envisage arrangements in which governments include organized citizens' groups in making and implementing policy.

But why should governments, particularly those whose election bestows on them a popular mandate, allow citizen groups to become partners in governing? There are, broadly, two reasons. While they overlap to a degree, they display differing logics. Amidst the rhetoric advocating participatory government, the distinction between them is often lost.

First, governments may recognize that their goals cannot be achieved without organized private constituencies whose acquiescence to or active support for government objectives is essential. In an attempt to secure the required co-operation, they invite the representatives of these constituencies to join in making policy and overseeing its implementation. The implicit or explicit expectation is that the organizations invited to participate will support decisions to which they are party – and will be able to bind their constituents to agreements. These arrangements, often justified as vehicles for enhancing values such as 'social partnership' and co-operation in the common interest²⁴ are pragmatic devices to prevent resistance by, and induce co-operation from, organized interest groups. This form of participation is classically referred to as corporatism or 'concertation'²⁵ and its most familiar vehicle is the tripartite government-labour-business forum.²⁶ Those who are afforded a role in governance in this model are not being given a voice – because they are organized, they already have one. They are, rather, offered an opportunity to express that voice directly to the government and other key interests in officially sanctioned channels and in ways which give them a guaranteed say in policy. The intent is not to broaden and deepen democracy but to ensure smoother government.

The second rationale for participatory governance is that it broadens and deepens democracy by expanding the range of citizens engaged in making or influencing government decisions. A stated or an implied rationale is that democracy is, in essence, an expression of popular sovereignty in which all members of the political community are entitled to an equal say in public affairs. Voting is not a sufficient guarantor of participation because a vote for a particular party cannot be automatically interpreted as support for any of its policy positions²⁷ - and so

²² International Institute of Labour Studies Workshop on: "Participatory Governance: A New Regulatory Framework?" 9-10 December 2005 ILS, Geneva.

²³ Edigheji 'State-Society Relations' p. 71.

²⁴ See for example Thabo Mbeki President Thabo Mbeki to the Growth and Development Summit Johannesburg, 7 June 2003 www.info.gov.za/speeches/2003/03061015461005.htm; Loet Douwes Dekker 'Nedlac - Creative tensions to avoid tendencies towards authoritarianism'. *Industrial Democracy Review* Vol. 3, No. 4, December, 1994.

²⁵ Jeremy Baskin 'Labour in South Africa's Transition to Democracy: Concertation in a Third World Setting' in Glenn Adler and Eddie Webster (eds), *Trade unions and democratization in South Africa, 1985-1997*, New York, St Martin's Press, 2000 pp.42-56.

²⁶ Philippe Schmitter and Gerhard Lehbruch (eds.), *Trends toward Corporatist Intermediation* London, Beverly Hills, Sage, 1979; Alan Cawson *Corporatism and Political Theory*, Oxford, Blackwell, 1986.

²⁷ Parties inevitably approach voters with a range of policy positions and citizens tend to vote for that party whose positions most approximate their own – a citizen who only voted for a party whose policy positions exactly mirrored theirs would probably never vote. Because a vote for a governing party cannot

democracies are required to maximize opportunities for participation between elections. Here, participation is a means of giving voice, of hearing citizens who would otherwise be ignored. The intent is not primarily the instrumental desire to ensure that the government engages those whose collaboration it needs but the normative goal of broadening the range of citizens who participate in governance.

This neat division is hardly watertight; the two rationales are not mutually exclusive. Thus some advocates of corporatism believe that it broadens decision making by bringing more parties to the policy-making table. And many normative advocates of participatory governance also stress its utility as a development tool (although there is an important difference between corporatism's concern to include organized groups in decisions so that they can bind their constituency to them and the assertion that people need to be heard so that their preferences will be known to planners and policy-makers, enhancing the efficiency of policy). Thus participatory governance has been advocated on the grounds that: 'Apart from being regarded as a tool for effective public management, [it] is often also seen as a pre-condition for durable and sustainable development'.²⁸ And this author has repeatedly argued that South African social policy is hampered by a representational gap in which the needs of the poor are unknown to policy-makers.²⁹

The distinction remains important, however, because attempts to evaluate participatory governance tend to conflate the two rationales and thus to miss the point. This happens most often when corporatism is discussed – critics complain that only the organized are at the table.³⁰ But, if the rationale is to make government decisions more capable of implementation by reaching agreement with organized interests, then by definition only the organized will be engaged. If we understand corporatism or concertation as a pragmatic governance strategy rather than a vehicles for deepening democracy, the pertinent question is whether the organized groups capable of derailing policy are represented, not whether all of society is. Citizens of democracies are meant to enjoy means of influencing public opinion other than sitting in participatory governance institutions and so their exclusion does not necessarily relegate them to spectators in the policy debate. Indeed, if we see these forums not as opportunities to be heard but as a means of taking part responsibility for policy, then some may prefer not to be party to them because that would mean accepting the restraints which co-responsibility may entail. If corporatism is judged by inappropriate criteria it becomes impossible to assess whether it is performing its function - hammering out consensus between organized social actors.

In a more subtle sense, misapprehensions arise also about forms of participation which seek to offer citizens a voice. Emphasis is placed on attracting 'stakeholders' or 'community groups'

be assumed to denote support for any particular position, citizen support for any particular government policy initiative cannot be assumed. William Riker and Peter Ordeshook. 'A theory of the calculus of voting' *American Political Science Review*, 1968, 62:25-42. In addition, governments may face new circumstances which did not exist at the time of the previous election and on which citizen opinion could not therefore have been tested by the vote.

²⁸ ILS 'Participatory Governance'.

²⁹ Steven Friedman 'South Africa: Globalization and the Politics of Redistribution' in Joseph S Tulchin and Gary Bland (eds.) *Getting Globalization Right: The Dilemmas of Inequality*, Boulder, London, Lynne Rienner, 2005 pp. 11-49.

³⁰ Jim Harris 'Let market forces work since Nedlac doesn't' *The Free Market Foundation of Southern Africa* 7 July 2003

www.freemarketfoundation.com/ShowArticle.asp?ArticleType=regulation&ArticleID=979. See also discussion in Gregory Houston, Johannes Mpanyane and Ian Liebenberg 'The National Economic Development and labour Council (Nedlac): A tripartite dialogue' *Journal of Public Administration*, Vol. 34, No. 2, www.up.ac.za/academic/soba/SAAPAM/vol34n2/houston.htm

to forums in the belief that this expands voice –both the definitions cited here see participatory governance as a means for organized groups to participate. But, since the purpose is to deepen democracy rather than to reach implementable agreements, the test of these mechanisms is whether they offer people who would otherwise remain voiceless a means of participating in decisions. Organized interests are expanding voice only if it can be shown that they represent those who would otherwise be ignored; but this is rarely if ever demonstrated. Approaches to participatory governance which stress its role as a democratizer often simply assume that organized groups are giving voice to the voiceless. If forums are offering only a more structured opportunity for voice to organized interests who would otherwise be heard in another way, they are not broadening democracy.

Participatory governance's rationale is either to bind organized constituencies to agreed policy outcomes or to offer voice to the voiceless. While the two are not mutually exclusive, it is important to recognize the distinction not only in the interests of enhanced understanding but because, if it is not maintained, attempts to evaluate participatory governance mechanisms are impaired – either because organized interests are judged by whether they extend voice or engagement with organized groups is meant to broaden voice. Neither effective governance nor enhanced voice are served by the conflation.

The South African approach

In South Africa, post-apartheid formulations have tended to stress the second rationale for participatory governance mechanisms – extending voice.

One reason has already been implied: the later stages of the domestic anti-apartheid struggle included demands for popular participation in decisions. The context in which these were raised left some ambiguity as to whether the demand was a call for an end to the white monopoly of decision-making or whether it also sought popular participation.³¹ But this second rationale was prominent enough to ensure that calls for popular participation had greater resonance than they might have had if they had not been an important feature of the fight against apartheid. This affected the design of even South Africa's experiment in 'classic' corporatism, Nedlac, which includes constituencies which cannot be expected to conclude binding compromises but whose voices, it is assumed, need to be heard.

It could be argued, however, that the South African approach is a prime example of the fallacy criticized here – the tendency to confuse the need to accommodate the organized who are capable of 'delivering' constituencies with the desire to deepen democracy. Thus, while the rhetoric and normative framework in which participation is pursued stresses 'deepening democracy', the choice of participants and the expectations placed on the processes suggest assumptions more appropriate to a corporatist mechanism.

On the first score, while participatory governance mechanisms will inevitably be restricted to organizations, those in South Africa favour those which are already articulating policy positions, rather than the less visible network of associations in low-income townships and shack settlements. Thus a study of youth policy found that grassroots youth groups did not participate in the National Youth Development Forum in the 1990s because they did not believe it was available to groups like them.³² And a study found a plethora of grassroots groups which had

³¹ Ivor Chipkin City and community: Local government and the legacy of the 'one city' slogan, Johannesburg, Centre for Policy Studies, 1996.

³² Gardner Khumalo, Sivuyile Bam and Owen Crankshaw, *Youth Dynamics in Gauteng*, unpublished Centre for Policy Studies commissioned study for Gauteng legislature petitions and public participation

never been near forum processes.³³ At first glance, the excluded groups are not those we would expect to participate - they not advocacy groups, but 'survivalist' associations or organizations 'of mutual collective sustenance'³⁴ which seek to address common problems such as HIV/AIDS or mutual endeavours such as crafts production. But, if we see participatory governance as a means of including those who need voice, not those capable of delivering a constituency, these may be precisely the organizations whose participation an authentic deepening of democracy requires.

One potential exception to this stress on the visibly organized is the increasingly frequent use of *izimbizo*, 'open-ended community meetings in church halls and township meeting places in which the president or ministers listen to community concerns and engage with their interlocutors, explaining policies, promising interventions and assigning officials to effect follow-up'.³⁵ Modeled on mechanisms used by traditional leaders to consult their subjects, they are frequently used by national and provincial governments: outcomes of *izimbizo* have been quoted by the President in his State of the Nation address to Parliament³⁶ and they are seen by government officials as a reliable means of testing public preferences. Whether they allow the unorganized to acquire a voice, however, depends on the selection process which determines attendance, something on which there is no empirical research known to this author. If participants are chosen by a random method - by, for example, advertising gatherings and admitting people on a 'first come, first served' principle - they clearly are attempts to deepen democracy but are open to serious doubts, of which the most pertinent is that there is no way of establishing the popular support for any preference expressed at the assembly. Genuinely participatory public policy formulation is the outcome of contest between contending positions which is resolved either by a compromise between them or the ability of one view to gather majority support. There is no room for processes of this sort at *izimbizo*. It might, therefore, be useful to see them as vehicles (of questionable accuracy) for testing grassroots opinion, not mechanisms for participation.

Participatory mechanisms are often used to establish presumed willingness to comply with particular development options as if those present had both the support and the degree of organization to bind citizens to agreed approaches. During the 1990s, participation processes were said by development planners to have established the amount which local residents were willing to pay for water.³⁷ Immediately after 1994 they were used to elicit approval for development projects.³⁸ And school governing bodies have significant formal governance functions including the allocation of priorities despite the fact that at least one of their constituent parties, parents, are not organized.³⁹

committee, 1996.

³³ Centre for Policy Studies, *Civil Society and Poverty Reduction in Southern Africa*, Johannesburg, CPS, mimeo, July, 2002.

³⁴ 'Their basic project was to...provide some sustenance collectively' Monty Narsoo, 'Civil Society: A Contested Terrain' *Work in Progress*, 76, Johannesburg, 1991, p.27.

³⁵ Cronin 'The People Shall Govern' p.1.

³⁶ Thabo Mbeki *State of the Nation Address of the President of South Africa*, Thabo Mbeki: Houses of Parliament, Cape Town 6 February 2004 www.info.gov.za/speeches/2004/04020610561002.htm

³⁷ Friedman 'Elusive Community'.

³⁸ One example was the RDP forums, established to elicit grassroots preferences in the implementation of the post-1994 Reconstruction and Development Programme (RDP). Other examples of attempts to use forums to discern grassroots needs were community reconstruction and development committees and community development forums. National Economic Development and Labour Council 'Guidelines for Local Development' www.nedlac.org.za/top.asp?inc=docs/agreements/agree16.html

³⁹ Caroline Kihato, with Mogudi Maaba and Paul Thulare *Building in power: problems of community empowerment in a Gauteng development project*, Johannesburg, Centre for Policy Studies, 1998.

Given the stated rationale of South African participatory governance mechanisms, they must be evaluated not as means of securing co-operation or consent for policy by negotiating it with organized actors capable of binding a constituency but as means of deepening democracy by including citizens in decisions. It also seems necessary to analyse particularly whether these arrangements are serving the poor since we would expect more affluent groups, who enjoy the means of organization and are more likely to be able to gain access to government, to be heard without recourse to participatory governance mechanisms. While corporatism or ‘concertation,’ are seen by some as an important route to more effective economic and social policy-making⁴⁰, the purpose of this paper is to test whether formal mechanisms of participatory government can give a voice to people who would otherwise be excluded from public policy making and implementation. It will, therefore, ignore the rich literature on negotiated social and economic policy-making and examine whether participatory governance mechanisms give citizens – and the poor in particular – an effective voice in government.

Participatory government: Organizing the organized

South Africa’s participatory governance mechanisms have not offered citizens an effective say in policy making. This can be illustrated by examining two case studies, local participatory governance and Community Police Forums, and then by analysing perhaps the most important weakness of these mechanisms, their failure to offer the poor a voice.

Closer to the people: Local participatory governance⁴¹

Evidence of the workings of formal mechanisms at the local level is the case of Johannesburg, South Africa’s largest city.

Its council, like others, has completed an Integrated Development Plan (IDP) in which it sought to include citizens in identifying priorities. It insists that consultation is not simply an exercise required by law: ‘The City of Johannesburg is committed to strengthening and extending public participation of stakeholders in all aspects of the life of Council’.⁴² But closer examination suggests that rhetorical enthusiasm for participation is not matched by practice. According to the council, a strategic agenda and ‘indicative budget allocations’ were agreed some five months *before* the consultation process—citizens were allowed to comment on an IDP which was largely a *fait accompli*.⁴³ Nor were they directly invited to comment on the document – time constraints ensured that not even the metropolis’s 109 ward committees learned of the contents of the draft IDP. Instead, ward councilors were given the responsibility ‘of cascading the information to their committees and communities...’.⁴⁴

Where the council did allow limited opportunities for participation, these were extended to organized, more affluent, groups. Thus a meeting was held with ‘non-governmental organizations, community-based organizations, labour and other service-oriented groups’ as well as a

⁴⁰ Baskin ‘Labour in South Africa’s Transition’.

⁴¹ This section is modelled on the analysis in Steven Friedman, Kenny Hlela and Paul Thulare ‘A question of voice: informality and pro-poor policy in Johannesburg, South Africa’ in Nabeel Hamdi (ed) *Urban Futures: Economic Growth and Poverty Reduction*, Rugby, United Kingdom, ITDG, 2005, pp.51-68.

⁴² Greater Johannesburg Metropolitan Council (GJMC) Integrated Development Plan 2003/4 www.joburg.org.za/2003/budget/idp/ p. 25.

⁴³ GJMC, p.26.

⁴⁴ GJMC, p. 26.

'representative group of socio-economic development and cultural organizations' at which the council also tabled its 'final draft policy for social funding'. Business organizations were briefed and invited to comment at a special meeting and 'a grand finale', a 'stakeholder summit' in the city hall, was convened at which interest groups submitted comments and received a response from the Executive Mayor.⁴⁵ Notice of these meetings was posted in newspapers and 14 'stakeholder sessions' were convened, although it is unclear who attended these.

It is difficult to see how the grassroots could have participated to any degree in these exercises. That ward committees were not shown the IDP draft may speak volumes about the importance attached to these structures, which are chosen by councilors, not elected by residents. Perhaps not surprisingly, a recent study for the government's Department of Provincial and Local Government, based on a questionnaire circulated to councils, found that 'the roles of the ward committees and the ward councilors seemed to be regarded as inter-changeable'. Two thirds of councils reported that their ward committees had 'no powers' and only 44% confirmed that ward councilors tabled reports on issues raised by ward committees; less than half – 47% - claimed that committees affect council decisions.⁴⁶ An analyst and ANC activist acknowledges that 'the majority of ward committees, those that are actually convened, are not functioning as dynamically as envisaged'.⁴⁷ Since the other Johannesburg meetings were convened for organizations and the grassroots poor are, in the main, not organized, it seems unlikely that many grassroots residents were represented— indeed, there may be no more revealing aspect to this exercise than the council's acknowledgement that it advertised the meetings in English and Afrikaans language newspapers. The print media are the least effective communication medium in South Africa since low literacy levels and, in many cases, unfamiliarity with English or Afrikaans, make vernacular language radio the most effective medium for reaching the poor. The council seemed unaware of or unwilling to use it.

Documents produced by city planners talk of a 'participatory process aimed at empowering the poor and marginalized.' But what does the word 'empowering' - ubiquitous in contemporary South Africa - mean? It could simply be intended in a procedural, facilitative, sense: a process may bestow the formal power to participate. But it may also imply that power is, somehow, a capacity which can be transferred from those who have it to those who do not⁴⁸ by a technical process. This implies that the 'poor and marginalized' can attain power only if the technicians find the appropriate 'participatory process' to grant it. But the 'power' bestowed in this way is far more likely to try to remake the poor in the planners' image than to open the frontiers of choice. City documents thus display great enthusiasm for 'new' management techniques.⁴⁹ It is these, not responsiveness to citizens, which are considered the key to effectiveness. The presumed ability of the officials and technicians in council offices to 'deliver' to a grateful citizenry continues to be assumed.

Perhaps inevitably, the voices which the council hears in its IDP consultation process are mostly those of the better resourced groups who participate in the public policy debate – issues emerging from the process include a desire for better debt management, the imposition of safety standards in buildings, pleas for better protection from crime, controls on urban sprawl and concern at tariff increases.⁵⁰ Perhaps the clearest confirmation that the grassroots poor were not

⁴⁵ GJMC, pp.26/27.

⁴⁶ Afesis-Corplan and Idasa GTZ-Department of Provincial and Local Government Ward Committee Baseline Survey 2005 PowerPoint Presentation (full report forthcoming).

⁴⁷ Cronin, 'The People Shall Govern', p. 2.

⁴⁸ I am grateful to Caroline Kihato for this observation.

⁴⁹ Greater Johannesburg Metropolitan Council (GJMC) iGoli Online www.joburg.org.za 2002.

⁵⁰ GJMC, 2003, pp. 30,31.

heard is the ‘Vision and Strategy’ which emerged from this exercise.⁵¹ In contrast to other Johannesburg planning documents, it does not even explicitly mention poverty. Only one sentence could be construed to apply directly to the poor: ‘The City’s social package includes a minimum amount of free electricity and water for those people who are not in arrears, and rates rebates for indigent households’.⁵² ‘Lifeline tariffs’ for bulk services such as water and electricity which require more affluent users to cross-subsidize the poor are the city’s primary anti-poverty strategy. It is worth noting, however, that the amount it says it spends directly on supporting the poor⁵³ is only some 3% cent of its budget.

Johannesburg’s participation exercise is, therefore, largely limited to filling in detail to a plan already largely devised – and those invited to fill it in are primarily those whose access to resources and organization would have ensured that they were heard anyway. The process seems to have created a hierarchy of limited participation – one in which more organized, affluent, groups are permitted to influence the details of plans which have already been devised while the unorganized grassroots poor are excluded entirely.

Unguarded guardians: Community police forums

Community-police forums (CPFs) were conceptualized in 1993, before constitutional negotiations ended, and established in 1995, only one year after democracy was achieved. They perhaps best express the ethos which underpinned early efforts at participatory governance.

CPFs were born of a desire to turn away from the apartheid-era approach to policing – in which the police, besides ignoring human rights norms, were insulated from civilian scrutiny (the staff of the national police ministry under apartheid was supplied by the police itself). This ensured a concern for effective civilian oversight of policing and, more broadly, for ‘community policing’, defined by one proponent as ‘a strategy which local communities develop to ensure the rendering of a more humane and effective service’; it was seen as part of an effort to ‘transform the [police] into a transparent and accountable service’.⁵⁴ Legislation establishing the forums says they must be established at each police station and must be ‘broadly representative’ of the community which the station serves. They are meant to ‘[promote] communication between the [police] Service and the community’ and to ‘[promote] co-operation between the Service and the community in fulfilling the needs of the community regarding policing’.⁵⁵

Two trends have prevented CPFs from playing their envisaged role. The first has been a progressive transmutation from citizen watchdogs to police helpers. According to one analysis, they were originally intended as oversight bodies but began life as vehicles for ‘building relations between the police and the community’ and, two years later, were altered by a departmental policy document into ‘problem solving “partnerships”’. Only a year later, a national government White Paper directed them towards co-operation with local government, ‘community mobilisation against crime and other social crime prevention functions’. In 2001, the national police ministry committed itself to integrating CPFs with the liaison structures of other government departments ‘to bring communities on board’.⁵⁶ There is thus a clear progression

⁵¹ GJMC, 2003.

⁵² GJMC, 2003, p. 36.

⁵³ www.joburg.org.za/2003/budget

⁵⁴ Melanie Lue *Input on Community Police Forums* Research Paper. Johannesburg, Centre for the Study of Violence and Reconciliation, 1994 www.csvr.org.za/papers/paplue2.htm

⁵⁵ *South African Police Service Act* Chapter 7: Community Police Forums and Boards Section 18.

⁵⁶ Eric Pelsler ‘Going through the motions: Community Police Forums, Eight Years on’ *Nedbank ISS*

from citizen voice to police support group – CPFs in the Western Cape province now provide their provincial government with people to perform security work in exchange for a stipend.⁵⁷

This is not what citizens were hoping for: a study of attitudes towards CPFs published in 2002 found that, among the minority of citizens who were aware of them and their functions, the largest group believed that their purpose is to ‘ensure that police know community needs’. But none of the people who served on CPFs ‘mentioned representing community needs to the police as one of their main activities’. Also, very few CPF participants reported that ‘they played a role in determining local priorities to the police’. They were, rather, engaged in ‘crime prevention projects, community awareness campaigns and assisting to resource the [police]’.⁵⁸ The CPFs seem too preoccupied with helping police to enable citizen participation.

The second trend has been the failure of CPFs to act as representatives of citizens. Thus the same study presents overwhelming evidence that the forums ‘cannot be viewed as representative of the communities in which they function’. It concluded, therefore, that they had ‘not been effective in realizing the core goals of the [community policing] policy’. They had not ensured ‘wide-ranging input on community needs and priorities, improving police responsiveness to community needs and developing a joint responsibility and capacity for addressing crime’.⁵⁹ Most citizens (56%) had not heard of CPFs and only one third were aware of one functioning in their area. Only two-thirds of those who had heard of them could describe their functions and, as indicated above, many wanted CPFs to play a role inconsistent with their actual function. Participation in CPF meetings and activities – including meetings called by the forum – was very low, with only about 6,5% of respondents reporting that they participated. The forums also appeared unable to communicate with people in their area – only 24% of those who knew of a CPF in their area, or 8,4% of the sample, reported receiving a CPF communication. The authors conclude that the weakness of CPFs ensures that ‘...public safety and policing is a long way from being seen as everybody’s business. Rather, in the sceptical perceptions of the public, these remain very much police business’.⁶⁰

Forums which communicate with around one in 12 of their putative constituency and attract the participation of about one in 16 are obviously not giving citizens a voice in how their neighbourhoods are policed. CPFs’ experience may indicate a further potential pitfall of relying on structured mechanisms to ensure participation in government – that they may become adjuncts of government agencies rather than participants in decisions. The most important contribution which citizens can make to a ‘partnership’ with democratic government is to convey public concerns and preferences. But pressures to substitute for this function a role as a support service to plans and priorities shaped by authorities is strong – and in this case, it seems, irresistible.

No voice for the voiceless: Participatory governance and poverty

Perhaps the most significant indictment of structured participatory governance mechanisms is that they have not enabled the authorities to understand the needs of the poor.

Crime Index, Vol. 5, No. 5, September-October 2001 Pretoria Institute for Security Studies.

⁵⁷ Cronin, ‘The People Shall Govern’, p.19.

⁵⁸ Institute for Security Studies ‘Not Everybody’s Business: Community Policing in the SAPS Priority Areas’ Chapter 8 ‘The Public Reach of the Community Police Forums’ *Monograph 71*, March 2002 www.iss.co.za/PUBS/MONOGRAPHS/No71/Chap8.html

⁵⁹ ISS ‘Not Everyone’s Business’.

⁶⁰ ISS ‘Not Everyone’s Business’.

Research and observed behaviour over the past decade has revealed a consistent gap between anti-poverty policy and the preferences of the poor. Housing policy illustrates this. During the early 1990, it provided a model for negotiated policy-making between all social interests. The policy adopted by the first post-apartheid government was, in effect, that negotiated by the National Housing Forum; its participants included sections of the ANC alliance who are assumed to champion the poor (such as trade unions and civic associations) and one of its focuses was a lengthy negotiation between ‘popular interests’ and business on ways to ensure that mortgage finance reached the poor – none of the participants questioned the assumption that the poor desired mortgage finance.⁶¹ Research, however, finds that years were spent finding ways to offer poor people something they did not want: respondents in nation-wide focus group interviews insisted that they associated mortgages with evictions and therefore were anxious to avoid them.⁶² (The perception was largely based on experience – when home ownership was opened to black people in the cities in the mid-1980s, housing was ‘oversold’ and many purchasers proved unable to meet their obligations). Assembling organized interests around a table could not, therefore, allow the voice of the poor to be heard in policy negotiations.

Research has identified other social policy areas in which progress has been hampered by a gap between grassroots preferences and social policy.⁶³ For our purposes, the key point is that an official approach which has stressed the value of formal participatory governance mechanisms has been unable to discern the preferences and needs of the poor with sufficient accuracy to generate viable social policy. The fact that policy so often misreads grassroots wants and dynamics is a failure of representation – and, therefore, of the formal mechanisms which are meant to ensure that the grassroots are heard. Two examples may illustrate the way in which structured forums are an impediment, not a means, to effective participation by the poor.

Substituting for voice

The limits of formal participatory mechanisms are demonstrated by Nedlac’s development chamber, an attempt to use a corporatist vehicle to give voice to those whose preferences are not articulated by business and labour organizations.

NEDLAC was a response to union mobilization during the negotiation period of the early 1990s and also reflected an approach by the post-apartheid Labour ministry which saw classic tripartism as a key to framing labour law.⁶⁴ But critics, on the left⁶⁵ as well as the right,⁶⁶ insisted unions did not represent the unemployed and unorganized and that a corporatist forum would therefore entrench the voicelessness of the weak. The response was a fourth chamber⁶⁷ charged with discussing development which was to include those considered to have been excluded by the tripartite formula: women, youth, rural-dwellers, the disabled, and ‘the community’.

⁶¹ Mary Tomlinson *Mortgage Bondage?: Financial institutions and low-cost housing delivery*, Johannesburg, Centre for Policy Studies, 1997.

⁶² Mary Tomlinson, *From Rejection to Resignation: Beneficiaries' Views on the Government's Housing Subsidy Scheme*, Johannesburg, Centre for Policy Studies, 1996.

⁶³ For other examples see Friedman ‘Globalization’

⁶⁴ ‘Tito’s Triumph’ Mail and Guardian 21 July 1995

www.mg.co.za/articledirect.aspx?articleid=202968&area=%2farchives__print_edition%2f

⁶⁵ Adrienne Bird and Geoff Schreiner ‘Cosatu at the Crossroads: Towards Tripartite Corporatism or Democratic Socialism?’ *South African Labour Bulletin* Vol. 16, No. 6 July/August 1992.

⁶⁶ Harris ‘Let market forces work’.

⁶⁷ The three chambers in which only labour, government and business are represented deal with Labour Markets, Public Finance and Monetary Policy, and Trade and Industry Nedlac The Four Chambers www.nedlac.org.za/

The structural problems inherent in identifying a single organization which could claim to represent large and diverse social constituencies (let alone entire 'communities') was evident in the manner in which participants were chosen: a government ministry charged with reconstruction and development chose them.⁶⁸ While this is hardly a recommended method of ensuring inclusive participation, it is difficult to imagine an alternative which would have ensured even a semblance of representativeness. The constituencies which were to be represented are vast, diverse and unorganized; it would have required hundreds of organizations to represent them. If only one is to be chosen, assigning an official to make the appointment was arguably no worse than any other method. The producer interest groups⁶⁹ which participate in corporatism are capable of achieving high if not universal coverage of their interest groups. The constituencies which were meant to be accommodated in the development chamber are not. It was, therefore, no surprise when research indicated their representativeness is dubious and that at least one (the National Women's Coalition) clearly did not have any constituency among the group for which it claimed to speak.⁷⁰

While it has been argued that the inclusion of 'community groups' has forced the policy process to take into account the concerns of their constituencies,⁷¹ no concrete evidence is offered to support this claim. Indeed, the evidence suggests the opposite—the 'community' groups complain of their exclusion from hard bargaining at NEDLAC.⁷² And even if they were to wield influence, it would be far from clear on whose behalf they were speaking. Choosing one organization to represent categories as diverse as women or young people is certain to exclude many voices. In principle, development chamber participants cannot be selected in a way which would ensure that these constituencies are adequately represented.

The problem is a model of the fallacy referred to earlier, judging a mechanism established to achieve compromise between organized interests able to bind their constituencies by whether it can offer the voiceless a voice in policy-making. A structured tri-partite forum can never offer a platform for the unorganized. The futility of requiring it to do so is amply demonstrated by the fact that, despite the fourth chamber (or because of it?), a wide divide exists between official development policy and the preferences and experiences of the poor.

Government-initiated forums seem no better at ensuring inclusion at the local level. Thus an assessment of the Department of Water Affairs' Catchment Management Agencies' (CMA) finds that 'mechanisms for identifying the correct beneficiaries and the mechanisms of consultation which will lead to the incorporation of the needs of the rural poor in project design are in general not practiced'.⁷³ Issues of importance to the rural poor are 'frequently excluded as they are regarded as not relevant...'. There was, not surprisingly in the light of these revelations, low participation from black women and the rural poor. Crucially, the report finds that the exercise

⁶⁸ Steven Friedman 'South Africa is getting democracy back to front' *Business Day* 3 April, 1995.

⁶⁹ Cawson 'Corporatism and Political Theory'.

⁷⁰ Darryl Gershater *Sisterhood of a sort: The Women's National Coalition and the role of gender identity in South African civil society* Johannesburg, Centre for Policy Studies, 2001.

⁷¹ Edigheji 'State-Society Relations' p.79; Omano Edigheji and Karl Gostner 'Social Dialogue: The South African Experience' *Labour Education* Volume 3, No 120, International Labour Office, Geneva, 2000.

⁷² Gregory F Houston 'Interest Group Participation and Democratisation: The Role of the National Economic Development and Labour Council' in Meshack M Khosa (ed.) *Empowerment Through Economic Transformation*, Pretoria, HSRC Press, 2001.

⁷³ Department of Water Affairs and Forestry (DWAF) 'Evaluation' cited in Omano Edigheji 'Globalisation and the Paradox of Participatory Governance in Southern Africa: The Case of the New South Africa' Paper prepared for presentation at CODESRIA's 30th Anniversary Celebrations, Southern Africa Sub-Regional Conference on Southern Africa: From National Liberation to Democratic Renaissance Gaborone Botswana 18-19 October 2002.

did not adequately address ‘capacities at the local level to participate meaningfully in the decision-making process’.⁷⁴

The problem cannot lie in the inability of the poor to express their preferences and interests – research confirms that, when poor people are able to address social and economic issues in their own language on their own terms, they eloquently express needs and balance these against available resources.⁷⁵ But it does lie in the capacities expected of participants in structured participation exercises – the ability to engage, usually in English, with technical issues in settings where the degree of technical background expected, the ambience and the way in which meetings are run, combine to make these forums at which the voice of the poor cannot be heard even if they happen to get to the table. The fact that the poor did not have the capacity to participate in the water participation exercise is an indictment not of their limitations but of the propensity of forums to require capabilities which ensure the exclusion of the grassroots poor.

Like the ‘development chamber’, these forums cannot become a viable channel for the expression of grassroots concerns. Even an interest as highly organized and as used to negotiation as the South African trade union movement found participation in social and economic policy forums difficult because unions often lacked the capacity to bargain effectively in these unfamiliar settings.⁷⁶ It is difficult to imagine circumstances in which forums unable to provide unions with an adequate voice could do this for the largely unorganized poor.

A further key flaw in the forum approach is that it ignores the reality that the poor, like other social constituencies, speak with multiple voices. There are important differences between the poor – gender, and whether people are undocumented migrants or South African citizens are two obvious examples – which cannot be expressed by a single ‘voice of the poor’. If policy is to reflect grassroots preferences, these voices need to be heard in conversation with each other in open, democratic, processes in which multiple voices compete to win the argument and in which the voices of the poor engage in negotiation and compromise with each other and with those who command power and wealth. Participation forums, which are invariably focused on achieving quick, determinate, outcomes, are ill-suited to these processes.⁷⁷

That post-apartheid social policy misreads the needs of the poor is telling evidence that formal participatory mechanisms have not given the voiceless a voice. This is not a consequence of the failure of vehicles of participatory governance to operate as they should, but confirmation that these forums cannot, however well run they are, provide a platform for the poor.

Participation from below: The treatment action campaign and HIV/AIDS

The evidence shows that participatory governance mechanisms have not included the public in decisions or ensured government more responsive to the people. A sharp contrast is presented by the Treatment Action Campaign (TAC) and its fight on behalf of people living with AIDS.

⁷⁴ DWAF cited in Edigheji *ibid*.

⁷⁵ Craig Charney *Voices of a New Democracy: African Expectations in the New South Africa*, Johannesburg, Centre for Policy Studies, 1995.

⁷⁶ Steven Friedman and Mark Shaw ‘Power in Partnership?: Trade Unions, Forums and the Transition’ in Adler and Webster ‘Trade Unions and Democratization’ pp.190-210.

⁷⁷ For a critique, in the light of this argument, of the Poverty Reduction Strategy Processes (PRSPs) used by international financial institutions to develop anti-poverty strategies in Highly Indebted Poor Countries, see Centre for Policy Studies, ‘Civil Society and Poverty Reduction’.

The story of TAC's efforts to ensure effective treatment for people living with AIDS has been told in some detail elsewhere.⁷⁸ In essence, however, TAC, supported by key international NGO allies and influential South African civil society figures, was able to pressure the government into reluctantly agreeing, in late 2003, to the distribution by the public health system of anti-retroviral medication to people living with AIDS.⁷⁹ Since this change in policy, it has been engaged in an attempt to hold the government to its promise to fight AIDS. It has earned the hostility of the Minister of Health and some provincial health departments, but has forged co-operative relations with some provinces and key figures in public health decision-making.⁸⁰

TAC can, therefore, be said to participate in governance in two ways. It has played a crucial role in forcing the government to heed the concerns of an important social constituency - people living with a deadly virus by which well over 5m are estimated to be infected.⁸¹ These gains have been won not for the affluent or people likely to gain access to government - most TAC members are unemployed black women aged 14-24. It has, therefore, given voice to people who would not otherwise be heard.

It has also participated in the attempt to ensure that government policy, adopted in response to citizen demands, is implemented. While the attempt to hold government to its promises is often conflict-ridden, there are also examples of co-operation. Nor need it be assumed that participation must be free of conflict - indeed, participatory governance which excludes conflict is arguably not really participatory since one of the key goals is to enable citizens to speak freely and frankly to government, often telling it that which it does not want to hear.

TAC is, therefore, a vehicle for citizen engagement in policy making and implementation, central elements of participatory government. Two points about the manner in which it has done this are crucial. First, participation in structured forums has not been a key to influence - on the contrary, TAC was initially excluded from the SA National AIDS Council (SANAC), the forum established by the government to offer civil society a role in determining AIDS policy and programmes; once it forced its way in (through a decision allowing civil society organizations to choose their representatives), the Minister of Health began to devalue SANAC's role.⁸² In the main, formal forums have deflected, not channeled, pressure for adequate treatment for people living with AIDS. While TAC activists do seek to use participatory structures such as community health committees to press their case, they see these vehicles as a complement to organizational gains already achieved, not a substitute for them.⁸³ Second, its campaign has operated within the

⁷⁸ This section is based on research by the author and Shauna Mottiar discussed in Steven Friedman and Shauna Mottiar 'A Rewarding Engagement? The Treatment Action Campaign and the Politics of HIV/AIDS' *Politics & Society* 2005 No. 33, pp. 511-565. DOI 10.1177/0032329205280928 and on continuing research by the author for the project Citizen Engagement and National Policy Change organised by the Ford Foundation and Prof John Gaventa of the Institute for Development Studies, Sussex University * See also Peris Jones "'A Test of Governance": rights-based struggles and the politics of HIV/AIDS policy in South Africa', *Political Geography*, Vol 24, No 4, May 2005, pp. 419-447; Mandisa Mbali 'The Treatment Action Campaign and the History of Rights-Based, Patient-Driven HIV/AIDS Activism in South Africa' in Peris Jones and Kristian Stokke (eds) *Democratising Development: The Politics of Socio-Economic Rights in South Africa*, Leiden and Boston, Martinus Nijhoff, 2005, pp.213-243.

⁷⁹ TAC Welcomes Cabinet Statement Committing to Antiretroviral Treatment Rollout" *TAC News Service* (moderator@tac.org.za) 8 August 2003.

⁸⁰ Interviews, October/November 2005.

⁸¹ Directorate Health Systems Research, Department of Health *National HIV and Syphilis Antenatal Sero-Prevalence Survey in South Africa 2002* Pretoria, Department of Health, 2002.

⁸² Interview, Mark Heywood, TAC, cited in Friedman and Mottiar.

⁸³ Interview, Mark Heywood, TAC, October 2005.

rules and norms of constitutional democracy – its role is to mobilize its constituency to make use of the rights conferred by the governance system to participate in public decisions. It is thus a vehicle for participatory governance, understood not as participation in formal forums but as a process in which citizens use democratic rights to claim a say in how they are governed.

TAC has, therefore, shown that the most effective means of participatory governance is not the channels established by governments but the rights entrenched by constitutions and the democratic context which sustains them. Its experience suggests, therefore, that participatory governance is most likely to be achieved when citizens actualize their democratic rights in ways which they choose and governments engage with them. Forums may provide channels for engagement with organizations whose members have already acted to voice their concerns. But they cannot extend voice – only citizen action can do that.

Participation despite government: TAC's campaign

TAC's first public foray into the AIDS debate was, interestingly, in support of the government – although its help was unbidden and unstructured. Its activists demonstrated in 2001 against international pharmaceutical companies which had taken legal action in an attempt to prevent the government importing cheaper medicines. In response to the moral pressures placed on the companies from a variety of sources, including the TAC demonstrators, they withdrew their case, opening the way for cheaper medicine imports.⁸⁴ In this case, the community of interest between TAC and the Ministry of Health prompted activists to take to the streets in support of the government position. The effect was to make this an example of a form of participatory governance in which civil society organization supports the government, but entirely on its own terms and in its own way and without any agreement to co-operate. The effect is that of a participatory governance mechanism but the origins lie in voluntary collective action by citizens in pursuit of their interests.

This uncoordinated co-operation by spontaneous combustion was, however, the last time TAC and the government found themselves on the same side of an argument for several years. While the government had been expected to respond to the successful outcome of the case by importing cheap AIDS medication, it adopted an increasingly hostile position not only to anti-retroviral medication but also to mainstream scientific AIDS explanations and remedies.⁸⁵ This precipitated a struggle in which TAC and its allies employed strategies which included international pressure, mass mobilisation, legal action, coalition building and moral suasion. By the time the Cabinet bowed and endorsed the 'roll out' of anti-retrovirals, a broad consensus sympathetic to TAC's position had been built in society and among domestic and international opinion-formers.

The role of participatory governance mechanisms in this battle is of some importance. Even before TAC's influence shaped the battle for AIDS medication, relations between, on the one hand, the health ministry, on the other, AIDS activists and medical professionals who dealt with the virus, was conflict-ridden. Public tensions at a national conference⁸⁶ confirmed a distrust born of a government insistence that the appropriate response to AIDS was one in which the

⁸⁴ Treatment Action Campaign *An Explanation of the Medicines Act and the Implications of the Court Victory* Treatment Action Campaign Statement on the Court Case 24 April 2001.

⁸⁵ See for example 'Mbeki Aids stance "not a PR disaster"' *Daily Dispatch* September 14, 2000

⁸⁶ 'Furious activists chanted and booed at the Minister of Health, Dr Manto Tshabalala-Msimang, this week after she became involved in a slanging match with delegates to the country's foremost HIV/AIDS gathering'. Ranjeni Munusamy 'Delegates boo minister' *Sunday Times* 12 March 2000
www.suntimes.co.za/2000/03/12/politics/politics01.htm

health ministry took the lead and activists and professionals rallied round to implement its decisions; the ministry was, therefore, not open to working with activists (or medical professionals) who insisted on the right to frame policy with government.⁸⁷

Pressure for participation prompted the government to form SANAC as a civil society forum which would articulate citizen concerns and perspectives on AIDS. Its formation, however, further angered AIDS professionals and activists. SANAC's members were initially chosen by the Minister who proceeded to exclude from it all the voices, including those of medical specialists, which had criticized the government's response to the virus. Eventually, criticism of SANAC seemed to yield results when the ministry agreed that civil society could choose its own representatives. TAC officials were among those elected.⁸⁸ Enhanced representativeness was, however, followed, according to activists, by reduced influence. SANAC is said to have played a diminishing role, one which dwindled almost into nothingness when the then deputy president, Jacob Zuma, was forced to resign after being charged with corruption – the deputy president convenes SANAC. The council is now said to meet very rarely and to play no significant role when it does meet.⁸⁹ So moribund has it become that James Ngcuku, the chair of the parliamentary committee on health, has proposed that the National AIDS Trust, created to fund SANAC, should be closed 'for failure to deliver'.⁹⁰ This apparent attempt to exclude the voice of organizations such as TAC is a repeated pattern in the government's response. Thus, when a task team was formed to plan the government's comprehensive AIDS strategy, TAC submitted recommendations, but was not included in – or engaged by – the task team.⁹¹ While TAC has served on at least one provincial AIDS council (which advises the province's government on AIDS),⁹² its influence over government has been wielded overwhelmingly outside formal participatory governance forums.

The AIDS issue may have highlighted the weakness of formal participatory governance mechanisms in another way. A crucial source of conflict between TAC and the government after 2003 was its claim that the government refused to sign an agreement at NEDLAC agreeing to an AIDS treatment plan.⁹³ While the government challenged its version of events, what was not in dispute is that the one attempt to use a formal participatory mechanism to reach an implementable agreement on a plan to fight AIDS failed. While the politics of AIDS in South Africa is complex, it could be argued that, if a formal forum could not achieve agreement between the government and key social actors to co-operate to fight a virus which threatens millions of lives, it is hard to see on what it could achieve partnership.

Lessons from the street: Implications

TAC activists believe that the lack of formal mechanisms to engage with government has limited TAC's ability to influence official AIDS strategy since the 2003 concessions.

They are frustrated by what they see as the slow pace at which people with AIDS are gaining access to medication as well as a more generalized failure to implement a coherent prevention plan. If they were offered the opportunity of participating directly in policy

⁸⁷ Friedman 'HIV/AIDS Strategies'.

⁸⁸ Heywood in Friedman and Mottiar.

⁸⁹ Heywood interview, October 2005.

⁹⁰ SA Broadcasting Corporation 'Parliament blasts Aids trust for underperforming'
www.sabcnews.com/south_africa/general/0,2172,115948,00.html

⁹¹ Friedman and Mottiar 'Rewarding Engagement'.

⁹² Interview, Western Cape health department official, 8 November 2005.

⁹³ Friedman and Mottiar 'Rewarding Engagement'.

implementation they would enthusiastically accept.⁹⁴ Also, a key TAC strategy is its attempt to gain influence over AIDS policy and practice in the provinces and local areas. Securing selection for its activists to health committees is, in its view, an important step in this direction.⁹⁵ But this does not mean that its experience vindicates the proposition that citizens require formal participation forums if they are to participate in governance.

Its exclusion from SANAC, then the only formal national forum dealing with AIDS, did not prevent it and its allies from winning the policy change which committed the government to a more energetic response to the virus; pressure for change was exerted outside SANAC by TAC and a variety of allies. A formal forum would not have been able to exercise the degree of pressure required to win the change.

And, as suggested above, TAC's presence in participatory governance forums is a consequence of its influence, not a cause. Where provincial government is sympathetic to TAC and the fight against AIDS, activists serve on formal provincial AIDS councils⁹⁶ or in more broadly-based participation initiatives.⁹⁷ But in these cases there is no evidence that its presence gives it an influence over events which it would have lacked if the forum had not been created. A provincial politician sympathetic to the fight against the virus is said to have told activists that he wanted them to engage in public protest because this strengthened the province's hand in its attempt to tackle the virus (in the context of national government reluctance)⁹⁸ - he clearly finds spontaneous mobilization a more useful form of participatory governance than the structured variety. Where authorities are interested in fighting AIDS, TAC is present in participatory governance forums. Where they are not, it is not. The key variable is not participation in formal processes but the extent of its influence and the willingness of authorities to engage with it. At most, participation in forums may enable it to consolidate gains, not to make them.

It is, however, important to repeat that, while many social movements in South Africa tend to be sceptical of the opportunities created by formal democracy, TAC is not. It regularly proclaims its loyalty to the constitutional order (some of its leaders go further, publicly supporting the ruling African National Congress) and its activism is designed to make use of the levers offered by constitutional democracy - the courts, the media - and the rights it entrenches, the right to assemble and express grievances chief among them. It also accepts, implicitly and at times explicitly, the constraints imposed by constitutionalism, including respect for elected authorities.⁹⁹ Perhaps the only seeming exception was its decision to embark on a civil disobedience campaign. But civil disobedience is not necessarily inconsistent with respect for constitutional order if those engaging in it recognize the right of the state to arrest them for peacefully breaking the law and accept restraints consistent with democratic principles such as respect for the rights of others - all of which TAC attempted to do. TAC activists are, in effect, participating in governance not only by respecting the rules which underpin the business of government but also by seeking to engage public officials in dialogue on the framing and implementation of government policy. It is not an alternative to participatory governance but a means of engaging in it - on citizens' terms.

Thus, while some may see TAC's activism as an indication that participation in governance in a formal democracy is not enough to ensure that citizens' voices are heard, it may be most

⁹⁴ Interviews, TAC activists, October and November, 2005.

⁹⁵ Interview, Mark Heywood, October, 2005.

⁹⁶ Interview, Western Cape health official, 8 November 2005.

⁹⁷ The province in question here is Gauteng. Interview, Heywood 'Rewarding Engagement'.

⁹⁸ Interview, Zackie Achmat, chair, TAC, October 2005.

⁹⁹ Friedman and Mottiar 'Rewarding Engagement' pp.534.

accurate to see it as an indication of the sort of participation which can yield results in liberal democracies by turning the promise of participation offered by formal democracy into reality. It is participating in the governance system at least as vigorously as those who participate in forums. It chooses to do so in a way which stresses citizen-initiated action. And its experience suggests that this mode of participating is better at influencing policy and ensuring that the poor and the weak are heard than structured participation.

Conclusion: Rethinking participatory governance

The evidence presented here suggests that structured participation forums cannot deepen democracy by including those who need to be heard in government decision-making. Rather than seeing participatory governance as a process in which governments create the appropriate forums to include citizens in decisions, it must be viewed as one in which citizens use organization and mobilization to claim a say in how they are governed.

This does not mean, however, that governments have no potential role in encouraging participation. Governments which want to encourage participation by citizens can help to make this easier – but not by devising more effective forums. The key to effective participation lies in governments' willingness to make themselves as accessible as possible to citizens in general, the poor in particular. Their role lies in making citizen activism more possible and in responding to it if citizens engage in it.

One response would begin by recognizing that the poor cannot gain a voice through structured participation forums because they are usually unorganized and because they lack the capacity to participate. Research suggests that, while the South African poor do not belong in great numbers to organizations equipped to participate in structured forums, significant numbers of poor people participate in 'collective sustenance' organizations which do not take on advocacy functions.¹⁰⁰ While many may have chosen not to engage in advocacy, some may be simply unaware of how to do so because there is no link between them and the institutions of government. If government made contact with them in an environment in which they were free to express themselves, they might well become articulate voices, enabling the poor to participate.

This suggests that effective participation is most likely if governments seek out, and engage in dialogue with, grassroots 'survivalist' organizations. But the manner of this contact is as important as whether it happens at all – rather than channeling it into a structured mode convenient to government officials, the engagement would need to be open-ended and to be preceded by a period in which organizations would be introduced to the workings of government in a way which left it to them to determine whether and how they participate. The end-point would not necessarily be a forum, but a mode of engagement most suited to the capacities and preferences of the organizations. This strategy would not, of course, enable governments to reach all those who may need to participate. But it could significantly broaden participation, acting as a catalyst to a process which would widen significantly the range of voices heard in policy-making.

A similar proposal is that of member of parliament Jeremy Cronin who argues for an approach in which governments would become aware of, and build on, examples of citizen activism and then seek to form partnerships with activists to address social challenges. Writing about transport policy (he is chair of parliament's transport committee), he argues that initiatives ranging from spontaneous policing arrangements devised by train commuters through to union

¹⁰⁰ Centre for Policy Studies, 'Civil Society and Poverty Reduction'.

campaigns for safer trains to community radio phone-in shows in which commuters can call in complaints which are then relayed to officials can become seeds of partnership between government and citizens which would allow 'popular power at community level' to become a key influence on transport policy and programmes.¹⁰¹ While some of his proposals would see citizens implementing policy rather than framing it, not all would – there is room in this model for direct and effective citizen voice as well as for joint action.

Second, governments who wish to encourage greater grassroots participation have more effective options than establishing structured forums.¹⁰² They could concentrate on seeking fully to inform affected interests, particularly, the poor, of government plans in ways which explain options and invite choices. Strategies which seek to ensure that all citizens are informed of their policy options in ways which allow them to choose between alternatives may be better able than participatory governance structures to trigger broader participation.

This strategy is not as simple as it sounds. First, ensuring that information reaches those who are usually denied access to it by lack of literacy and English fluency and by distance from the places and media through which it flows may require capacities to reach the grassroots of society which have thus far eluded most governments and development agencies throughout the global South. In South Africa, the narrow view of communication which has prevailed is perhaps best summed up in the fact that local governments are legally mandated to communicate with citizens only through newspapers and radio.¹⁰³ There is no provision for direct contact with voters (and, if Johannesburg is a guide, not much enthusiasm for radio, the most powerful communications medium in the society). Indeed, given that it would require a major effort, bringing adequate information to the grassroots may best be viewed as a medium-term goal of governance and development strategy than a task to be completed immediately.

Second, officials who communicate with beneficiaries of development programmes usually succumb readily to the temptation to 'explain' options in a way which predetermines the choice by stressing the advantages of the route preferred by the explainer and the disadvantages of the other choices – the temptation is at its greatest when technical information is conveyed to lay people. But, since government officials are meant to be serving citizens, they should be seeking to convey choices in ways which enable listeners to understand their options but leaves the choice to them. The more official approaches begin to hold this out as a norm and an aspiration, the more likely is it that the public will be permitted to choose rather than to endorse the choices of others.

If more information is available, the chances that grassroots people may respond by expressing a view is obviously enhanced. But much may depend on the way in which information is disseminated. The more officials are able to form links with, and remain in contact with, those they inform, the more likely is it that they will receive a coherent response. Thus a set of pamphlets dropped over a neighbourhood or an announcement on radio, while in themselves advances on current practice, are likely to have far less effect than direct contact. The key is an attempt to establish a link between officials and grassroots citizens in which the latter are better able to respond to the former.

If this approach were adopted, and poor citizens began responding, the response of officials would be crucial. While channeling responses into administratively neat channels such as forums or other forms of structured discussion might best suit administrators and the politicians they

¹⁰¹ Cronin 'The People Shall Govern' p.19.

¹⁰² This section relies heavily on Friedman, Hlela and Thulare 'A Question of Voice'.

¹⁰³ Municipal Systems Act, Chapter 4, Clause 21.

serve, citizens, particularly at the grassroots, might prefer less structured forms of engagement including the expression of democratic rights through peaceful public protest. If policy is to be informed by the voice of the grassroots, it is essential that it not be stilled by strait-jacketing it into forms which prevent its expression.

A new orientation from governments is needed – one which recognizes the organized, politically effective, voice of citizens and the open, often conflictual, politics which it would prompt as indispensable assets to effective governance and which seeks not to artificially create citizen voice but to act as a catalyst to its emergence – and to engage seriously with it if it emerges.

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