TOWARDS THE ACCOMODATION OF DISSENT: FOUR CASE STUDIES OF STRUGGLE AND CONTESTATION IN INFORMAL SETTLEMENTS

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Since 2004, protests in poor urban areas in South Africa have continued to rise, reaching a historical high in 2014 (Powell et al. 2015). These protests are indicative of the 'governance deficit' (van Donk 2012) within local government, where 'meaningful community participation in socio-economic development remains elusive' (Tissington 2012: 51). While a rich collection of literature already exists on citizen participation in development (see for instance GGLN 2012), citizen participation also needs to be considered in the context of responsive and responsible governance for two reasons.

(1) AS AN AREA of governance that continues to be heavily contested, participation reveals vulnerabilities and trends, which responsive and responsible government must take into account. (2) The local government elections are looming in 2016 and elections significantly affect government–citizen participation, as well as the contexts of popular protest (see Municipal IQ 2012), with different stakeholders using the elections for their own ends.

Popular protests continue to be represented, especially in the media, as the flaring up of communities frustrated by a lack of basic services provision. Yet these protests are a sign of the lack of responsible and responsive governance by the state. On a conceptual and policy level[1], government accommodates protests but, in practice, increasingly represses them. This failure to recognise protests, as legitimate avenues

of democratic engagement and participation by communities, is one of the strongest indictments on local government in general, and structured participatory governance mechanisms in particular.

Democracy is strengthened when there is 'a degree of "synergy" between the state and civil society'. Such synergy creates 'more favourable conditions for ensuring that state and civil society resources are deployed in a developmental manner so that poverty and inequality are addressed' (Pieterse and Oldfield 2002: 2).

This paper looks at popular protests in the struggle for development in four informal settlements: Makause (Ekurhuleni Metropolitan Municipality), Rooigrond (Mahikeng local Municipality), and Thembelihle and Joe Slovo (City of Johannesburg). The residents of all four settlements have been involved in lengthy struggles for development, and particularly for the *in situ* upgrading of their settlements. The Socio-Economic Rights Institute of South Africa (SERI) has been actively involved with and has litigated on behalf of the communities.[2]

Foregrounding the experience of these communities, and others like them, is an important component of a discussion about responsible and responsive government. They have attempted to democratically advance inclusive local development and have held local government institutions and private developers to account.[3] Relatively resilient, locally based community-based organisations (CBOs) have been established in each of the four settlements, which are responsive to their members' needs, mobilising around issues of housing and basic services at a settlement scale.

The paper explores the different ways in which these CBOs have organised and mobilised communities to improve development and service delivery in their areas. Through selected 'snapshots' of the long and complex struggles of these four communities, the paper highlights how informal

settlements are often sites of varied and contesting interests, in which protest is used as one among many methods for holding the state accountable.

After explaining responsible and responsive governance in the context of this paper, the four case studies are used to illustrate the different forms of contestation and the various avenues used by communities to have their voices heard. It also describes instances of state repression, which raises the question of just how responsible and responsive South African government is to communities living in informal settlements.

THE FOUR CASE STUDIES

Rooigrond is located in Mahikeng Local Municipality in the North West province. About 1500 people live in the settlement, which is made up mostly of shacks, with some brick and some mud houses. Farm workers, who had been dismissed from neighbouring commercial farms, established the settlement in 1993. Residents get their water from two boreholes and use self-dug pit latrines for sanitation. A third of the households have access to a formal electricity connection.

Thembelihle is located to the south-west of Johannesburg, in the suburb of Lenasia. Rural migrants and employees of a brick manufacturing company established the settlement on municipal-owned land in the mid-1980s. Currently between 7000 and 8000 households live at the settlement, and some residents have lived at the settlement for over 20 years. Thembelihle is partially regularised and serviced, and very densely populated. Despite its location relatively

far from the economic opportunities of Johannesburg, residents are able to leverage some of the economic benefits offered by the suburb and light industrial area of Lenasia.

Slovo Park is located next to the Nancefield industrial area, between Eldorado Park and Bushkoppies in the City of Johannesburg municipality. Around 7000 people live in the 3700 households in Slovo Park. Established in the early 1990s, the settlement covers approximately 47 hectares. Most of the occupied land is publicly owned, with much of the surrounding land owned by the Gauteng provincial government. The settlement has approximately four

communal standpipes per street and 1050 ventilated improved pit latrines. There is no electricity at the settlement and residents use candles for lighting and paraffin stoves for cooking, both of which pose significant fire risks.

Makause informal settlement is located in Primrose, Germiston. At least 10 000 people currently live in the densely populated settlement, which is spread over approximately 60 hectares. Residents consider the settlement to be well-located because of the economic opportunities and social amenities in the surrounding suburbs.

Name	Location	History	Population	Access
Roogrond	Mahikeng Local Municipality (North West province)	Established in 1993 by farmworkers who had been dismissed from neighbouring commercial farms	1500 people living mostly in shacks, with some brick and some mud houses	Water from two boreholes. Self-dug pit latrines for sanitation A third of households have access to a formal electricity connection
Thembelihle	Lenasia, south-west of Johannesburg, in the City of Johannesburg municipality	Established on municipal land in the mid-1980s by rural migrants and employees of a brick manufacturing company	Very densely populated: between 7000 and 8000 households. Some residents have lived here for over 20 years	Partially regularised and serviced. Relatively far from the economic opportunities of Johannesburg, residents can access economic benefits offered by the suburb and light industrial area of Lenasia
Slovo Park	Nancefield industrial area, between Eldorado Park and Bushkoppies in the City of Johannesburg municipality	Established in the early 1990s, covers approximately 47 hectares of mostly publicly owned. Much of the surrounding land owned by the Gauteng provincial government	Around 7000 people live in 3700 households	About 4 communal standpipes per street and 1050 ventilated improved pit latrines (VIPs). No electricity, so residents use candles for lighting and paraffin stoves for cooking, both of which pose significant fire risks
Makause	Primrose, Germiston	Established in the mid-1990s after retrenched mine workers occupied the abandoned vacant site	At least 10 000 people currently live in the densely populated settlement, which is spread over approximately 60 hectares	Residents consider the settlement to be well-located because of the economic opportunities and social amenities in the surrounding suburbs

RESPONSIBLE AND RESPONSIVE GOVERNANCE

Responsible and responsive governance may refer to any number of norms, decision-making and action-taking processes, or the production, regulation, and sustaining of those norms and processes, in government or among citizens. While being concerned with general norms such as accountability and efficiency, responsible governance implies that the state is acting in such a way that addresses current trends in governance. Therefore, responsible governance must address the governance deficit (van Donk 2012), which includes recognising the voice of citizens and the consequent politics of disagreement. For this voice and politics to emerge, government must 'act as a catalyst' (Friedman 2006: 21) and meaningfully engage with citizens and communities. This engagement suggests that responsiveness is an important part of responsible governance.

Responsiveness is a key factor in many understandings of good governance. For instance, good governance occurs when '[a] state allocates and manages resources in ways that *respond* to collective problems and when it efficiently provides public goods and services of sufficient quality to its citizens' [emphasis added] (Ngamlana and Mathoho 2012: 30). This paper argues for responsiveness of a more particular kind. Engaging with citizens in invited[4] spaces, such as ward committees, may suit politicians and administrators, but citizens (and particularly those struggling for access to housing and basic services) may be more inclined to engage outside the avenues initiated by government, including peaceful protests. Thus *responsive governance* implies responding to this preference and accommodating invented spaces of engagement, not only in policy (where, as noted, progressive steps have been taken) but also in practice.

CONTESTATION IN STRUGGLES FOR DEVELOPMENT

Development of informal settlements is often characterised by competing interests. While the communities living in the informal settlements are heavily invested in upgrades, the range of vested interests of private capital and local political parties also play out in the context of informal settlement upgrading in various ways. This confirms claims that urban politics are 'embedded in local, regional, and national state processes, in party-political politics […] and the vagaries of day-to-day governance dynamics', and that they 'get wrapped in local intra-urban agendas and interests that are geographically specific' (Pieterse and Oldfield 2002: 4). These competing interests often impede on communities' access to upgrading and services, and will be unpacked below in some of the experiences of the communities living in the Makause, Thembelihle, Slovo Park and Rooigrondinformal settlements.

THE ROLE OF PRIVATE INTERESTS

Rose Acres Development, the private landowner of the land on which the Makause informal settlement is situated, has obstructed the community's access to upgrading and services on more than one occasion. After acquiring the land in September 2007, Rose Acres began the process to establish an industrial township on the property, to be zoned for light industrial and business use. In 2008, the Ekurhuleni Housing Department said that it had no objection to the establishment of an industrial township on the property but was concerned about the future of the community already occupying the land. By 2010, the Gauteng Department of Agriculture and Rural Development (GDARD) was ready to authorise the development of the land and so asked the housing department what was happening about the relocation

of the people living at Makause. Despite no relocation plan being in place, in September 2010 GDARD authorised the establishment of an industrial township on the land owned by Rose Acres.

Since the proposed removal of residents from Makause in 2007, the Makause Community Development Forum (Macodefo) tried on numerous occasions to engage with the municipality and other stakeholders. In 2008, representatives of the Informal Settlement Network (ISN), of which Macodefo was a member, met with the Office of the Speaker of the municipality to discuss the provision of services at Makause. When the municipality refused to install services, Macodefo explored a pilot pit latrine improvement system at the settlement, with ISN and Toilet Boss Distributors, a private company. During 2009, Macodefo attended ward committee meetings, to push for various upgrades and services to be delivered. However, these engagements were largely ineffective.

In 2011, local government elections year, the Ekurhuleni Mayor visited Makause to hear the grievances of residents, and a meeting was held between the MMC for Housing, Macodefo, the ward councillor, and the landowners. However, Rose Acres rejected the municipality's proposal to install interim services, while the relocation of Makause residents was being explored. A year later Macodefo, represented by SERI, launched an application to the South Gauteng High Court to compel upgrading of the informal settlement at Makause. Rose Acres responded by launching a counter application, as well as issuing a summons against the municipality,

requesting that it pay constitutional damages[5] and demanding that the municipality either purchase the land or relocate the Makause residents to suitable land in the area.

The Makause case study highlights the pressures faced by even long-established informal settlements from private developers, as well as the inertia of municipalities and the lack of coordination between spheres of government.

THE ROLE OF LOCAL POLITICS

The complexities of local party politics play a central role in the struggle for development in informal settlements. Many communities chose to work from within local government structures for development, with varying degrees of success. In the 2006 local government elections, the spokesperson for the Thembehlihle Crisis Committee (TCC), Bhayi Bhayi Miya stood as an Operation Khanyisa Movement (OKM) candidate, while in the 2009 local government by-election, the chairperson of the Slovo Park Community Development Forum (SPCDF), Mohau Melani, stood as an ANC candidate. Both prospective candidates were unsuccessful.

At the 2011 local government elections, Monametsi Moeti, community leader and founder of Operation Rooigrond[6], became the local ward ANC councillor. Her experience gives substance to claims that the governance deficit is often framed by issues of 'political culture', wherein interference by political-party structures and caucuses or factions negatively affects the political–administrative interface and undermines the integrity of municipalities (van Donk 2012: 16). The stance taken by Moeti – to upgrade the settlement – was contrary to the local ANC faction's position. The ANC-led municipality wanted to relocate the Rooigrond community, so that an upmarket housing development could be built on the land. Despite winning most of the votes in her branch's electoral meeting, Moeti's name

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was inexplicably removed three times from the party's list. After the Independent Electoral Commission (IEC) intervened, Moeti's name was added to the provincial list, and she was elected as the party's ward councillor. According to Moetsi, however, she was side-lined from decision-making processes by ANC councillors, who also attempted to turn the Rooigrond community against her. In contrast to Rooigrond, characterised by internal ANC conflicts, in Makause local tensions between the ANC and the Democratic Alliance (DA) came to the fore during the 2011 local government elections. The local ANC branch members accused Macodefo members of being paid by the DA not to vote for the ANC. When the ANC lost the Primrose ward (where Makause is located) to the DA, tensions grew worse between Macodefo and the ANC and eventually directly affected the struggle for development. The ANC established an alternative community structure in the settlement, undermining Macodefo's various and extensive organised struggles for upgrading and services.

DISSENT AND REPRESSION
FAILED ENGAGEMENT

Residents of informal settlements may end up engaging with government through alternative avenues, such as protests. However, protests usually occur only after a long history of failed attempts by CBOs to engage with local government, as illustrated by the TCC in Thembelihle and Macodefo in Makause. In both instances, the CBOs felt that they had exhausted all possible avenues with the municipality, but intimidation and violence marred their attempts to protest. Acknowledging and accommodating these histories is central to responsible and responsive governance in the context of informal settlement upgrading as they shape the relationships between residents of informal settlements and those mandated with the development of those settlements.

Before organising its first protest, the TCC had attempted various formal and informal tactics to negotiate with the City of Johannesburg regarding relocations. In 2002, the municipality declared that Thembelihle was unsuitable for human habitation, and *in situ* upgrading was unfeasible because the settlement was located on dolomitic land of various risk categorisations (Huchzermeyer 2009), based on two geological reports from 1992 and 1998. The municipality informed the community of their relocation to the comparatively poorly serviced area of Vlakfontein, on the periphery of the municipality. The TCC resisted the relocation, questioning the legitimacy of the geotechnical surveys, and requested the municipality to undertake a more comprehensive study to properly assess the dolomite threat. Despite the TCC's attempts to engage, the municipality sent security personnel from the Red Ants to demolish dwellings at the settlement and forcibly relocate 647 households to Vlakfontein. In response to the relocation and the City's 'decade-long intransigence over proclamation' (Tselapedi and Dugard 2013: 59), the TCC organised its first protest, which ended in violence between the Red Ants and community members.

In Makause, actions taken by Macodefo included obtaining an urgent High Court interdict in February 2007, prohibiting the municipality from unlawfully demolishing people's shacks at the settlement, and approaching the South Gauteng High Court in June 2012 to compel upgrading at the settlement. Before organising its first protest, Macodefo had also engaged with a range of social movements and civil society organisations, lawyers, provincial government

officials and the land owners. In September 2012, Macodefo organised its first protest and notified the local police. However, the protest did not go ahead because of intimidation.

A result of these failed engagements is a mistrust of local government by residents of informal settlements. The frustration born from the long histories of struggles for development shapes the terrain on which residents of informal settlements and local government engage around issues of housing and basic services.

DIVERSE AND DECENTRALISED TACTICS

Protest is an important strategy for communities living in informal settlements but is also part of broader attempts to participate in processes that affect their lives. Aware of the increasing difficulty to access the spaces in which such participation is possible, communities have diversified and decentralised their efforts. CBOs are no longer willing to rely only on avenues allowed for by local government, such as ward committees or the IDP process, in their struggle for development. They are looking for other ways to garner support for their cause and to develop their settlements.

For instance, from the very start, Operation Rooigrond understood that problems could be solved by connecting people from inside and outside the community (SERI, 2014b), through the use of social media platforms, such as Twitter and Facebook. This led to engagement with academics and civil society organisations that became involved in the Rooigrond community's struggle. Other tactics used by the community at Rooigrond included working within local government structures (election of Monametsi Moetsi as ward councillor) and putting external pressure on local government to deliver on its promises, such as marching to the Provincial Legislature in 2011, to

hand over a list of the community's grievances to the MEC for Housing, Local Government and Traditional Affairs.

Towards the end of 2010, the SPCDF collaborated with ISN and the Community Organisation Resource Centre (CORC) towards establishing a partnership with the University of Pretoria's Department of Architecture to design and upgrade the community hall at the settlement. The project was a resounding success, utilising the various building skills of community members and donations from nearby businesses.

The tactics employed by Operation Rooigrond and the SPCDF clearly show the developmental potential of effective community organisation and mobilisation. They should be a clear indicator to municipalities of the positive role that communities can play in the development of their settlements when they are afforded the necessary assistance. However the reliance on alternatives means also highlight the gap in the responsiveness of the state in the context of informal settlements.

THE TACTICAL VALUE OF PROTEST WITHIN BROADER POLITICAL CLIMATES

Data referring to service delivery protests (e.g. Municipal IQ 2012) show an increase before and a decrease after elections, which indicates that communities are leveraging the political momentum they provide. The decrease in protests after elections suggests that communities have managed to make themselves visible and obtain some action from local government.

Of course, service delivery protests also occur outside election time. In June 2012, service delivery protests in the North West province attracted the attention of national media and, in turn, direct response from government. After local government

officials failed to engage with protestors, anger erupted, with roads being barricaded, a school set alight and shops looted. Following protests by the Rooigrond community, the national Portfolio Committee on Human Settlements conducted an oversight visit to the province. Surprised that no houses had been built at Rooigrond, the Committee ordered the municipality to stop the proposed plans to relocate people living at Rooigrond, and to open negotiations with them.

The protests organised by Operation Rooigrond managed to leverage the broader political climate in the province at the time. The struggle against relocation in the settlement became visible to higher spheres of government, and successfully stopped the planned relocation of the community living at Rooigrond.

REPRESSION

Despite describing protests as 'powerful forms of civil society participation in governance and engagement in the policy processes' (The Presidency 2008), the state's response to community protest in informal settlements is often characterised by repression. The state uses the criminal justice system to narrow people's access to effective participation and engagement through protest, as shown in Makause and Thembelihle with the arrest and detention of community leaders General Alfred Moyo and Bhayi Bhayi Miya.

In late 2012, South African Police Services (SAPS) officers arrived at a mass meeting convened by Macodefo and Makause residents and dispersed the peaceful crowd. They arrested Moyo and, later, two members of the Makause Community Youth Brigade (MCYB), who all appeared in court a number of times during 2013. Each time their case was postponed. After several unreasonable delays, the state decided to drop charges against the two MYCB members but pursued a charge of intimidation (under the Intimidation Act No.

72 of 1982) against Moyo. However, only a full year after his arrest was Moyo's complete charge sheet and a docket provided (SERI 2014a).

When Thembelihle residents embarked on a large-scale, week-long protest in September 2011, SAPS responded by firing rubber bullets at protestors and making multiple arrests. Of those arrested, 13 faced charges of public violence and malicious damage to property, all related to their participation in the protest. SAPS arrested Miya, as one of the ringleaders of the protest and responsible for the protest, but later acknowledged that he had been instrumental in subduing violence. Yet, despite the police having no substantial evidence, Miya was detained for over a month, appearing in court on several occasions. The case was eventually struck from the roll, as the state was unable to provide any particulars of the charges against the accused Thembelihle residents and Miya (Clark 2014). However, the effect of these legal proceedings following the arrests was to derail the protests in which Moyo and Miya had been involved, thereby relieving pressure on local political authorities. This pattern of repressing dissent continues: in early 2015, prominent members of the TCC and their families were harassed following protests at the settlement. Community members, including bread winners and minors, were detained for five days without being charged. While the law demands that accused people must be brought before a court within 48 hours of arrest, police used the fact that the residents were arrested late in the week to abuse the usual processes and detain them over the weekend.[7]

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CONCLUSION AND IMPLICATIONS

The struggle for the development of informal settlements is a heavily contested space, in which the interests and responsibilities of the communities, private land owners, and local political parties play out in different ways. Political tensions take various shapes according to tensions between parties, or the internal tensions and factions inside a party.

The case studies discussed here demonstrate, through the documentation and analysis of four lengthy struggles for development, and particularly for *in situ* upgrading, that responsible and responsive governance regarding engagement with and participation of citizens is still lacking. The paper foregrounds the reality that, in the contested space of informal settlement upgrading, people living in informal settlements often experience a series of failed engagement with local government, and that their struggles for development unfold over many years. These histories have important implications for community engagement and participation around issues of development, as well as for popular protests and the democratic spaces they attempt to access.

Any developmental efforts by local government should accommodate these histories in processes of engagement with the residents of informal settlements.

As a result, existing relationships between state and CBOs prior to local government interventions are often characterised by frustration, mistrust and contestation. Responsible and responsive governance in the upgrading of informal settlements should be characterised by much greater awareness of these long histories than is currently the case. Likely implications of this awareness include an emphasis on building cooperative relationships – an essential ingredient for community engagement and processes of participatory informal settlement upgrading.

Protest should be conceptualised as a component of democratic participation in political, policy and popular discourse. Diverse forms of dialogue and engagement between the state and residents of informal settlements should be institutionally valued, and room to participate above and beyond invited spaces of public participation should accordingly be encouraged. Further, the state, particularly through its public order policing functions, should immediately stop criminalising forms of dissent, and using arbitrary arrests and lengthy detentions to deter protests.

The four communities discussed in this case study experienced long histories of failed engagements with local government. As a result of these failures they have invested in decentralising their tactics, no longer relying only on the avenues allowed for by local government. These tactics are diverse, turning to litigation, social media, and engagements with civil society and social movements in order to hold government to account across a number of tactical locales. Protest is among these varied tactics, and is a part of the long and complex struggles in which communities are involved for the development of their settlements. While protests do reflect the frustration of communities, they are as much a reflection of the confidence of communities in the state to achieve development. Despite often being depicted in popular forums, like the media, as sites of disorder and chaos, protests exhibit communities' conviction that local development remains the function of the state, as well as their willingness to openly hold the state responsible in this regard. Protests also stand for communities' awareness of the tactical potential of highly visible forms of engagement to leverage local government during particular political moments, especially in the lead up to elections.

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NOTES

[1] See for instance the White Paper on Local Government (1998), The Municipal Systems Act (No. 32 of 2000), The Municipal Structures Act (No. 117 of 1998) or the National Development Plan (2011).

[2] For accounts of these struggles, see SERI (2014a, 2014b, 2014c and 2014d).

[3] Tissington (2012), for instance, outlines the democratic processes that characterise the Slovo Park Community Development Forum (SPCDF). A high level of accountability is secured by the buy-in of the majority of the Slovo Park community to the efforts. The SPCDF accommodates various political affiliations and, despite internal power dynamics, follows its 'mandate to improve the lives of those living at Slovo Park'.

[4] Broadly speaking, the distinction between 'invited' and 'invented' spaces rests on who initiates the engagement: the state initiates invited spaces, while citizens initiate invented spaces. Invited spaces are generally 'backed […] by legal or constitutional guarantees and regarded by state actors as *their* space into which citizens and their representatives are invited', while invented spaces are those 'conquered by civil society demands for inclusion' (Cornwall and Coelho 2007: 1).

[5] The landowners claimed that they were unable to use and enjoy their property, as outlined in Section 26 of the Constitution of the Republic of South Africa (1996), and that the municipality should pay them the resulting damages.

[6] The catalyst for launching Operation Rooigrond came when the settlement's two water pumps broke down and there was no water for drinking, washing or cooking. 'The main aim of Operation Rooigrond is to facilitate positive change within the community, [but] the project has also taken on board other priorities of the community: to resist relocation and have the settlement upgraded, to get access to improved services, to increase the frequency of the mobile clinic visits, and to have access roads that can accommodate emergency vehicles' (SERI, 2014b: 11)

[7] F Rabkin. Law matters: Rough and ready justice at the magistrate's courts. *Business Day*. http://www.bdlive.co.za/opinion/columnists/2015/03/05/law-matters-rough-and-ready-justice-at-the-magistrates-courts. 5 March 2015.