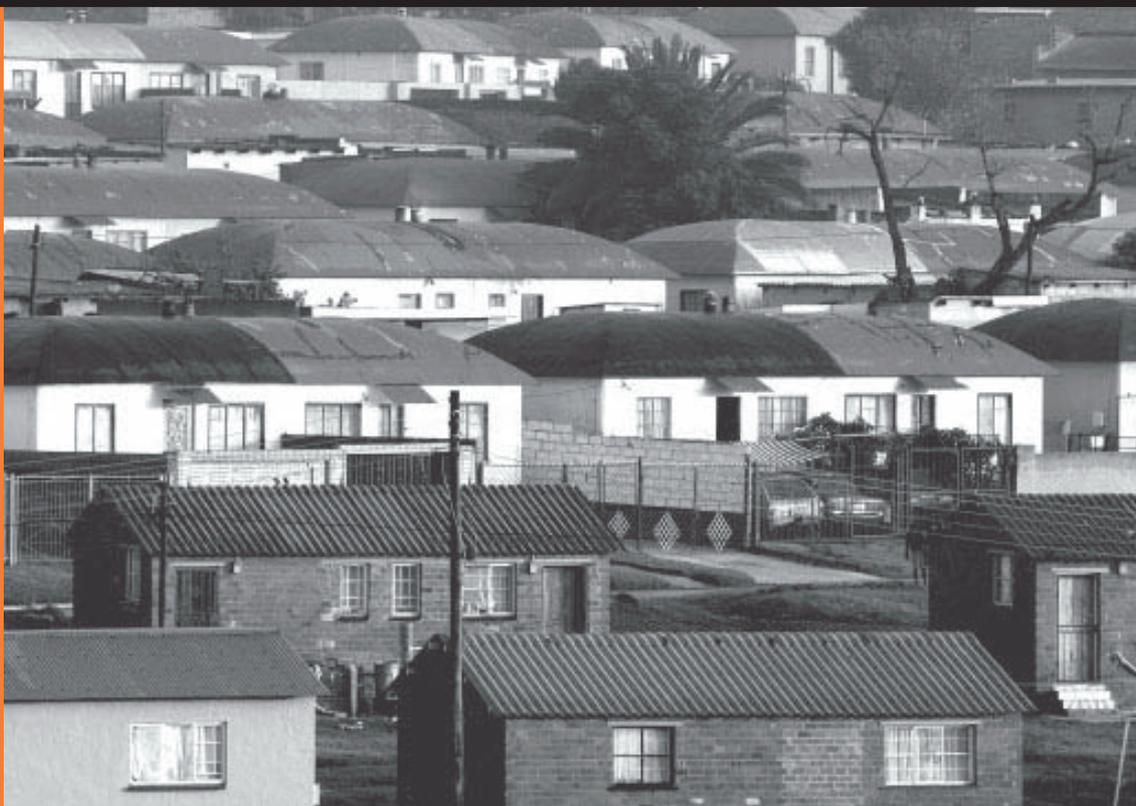




THE (POTENTIAL) ROLE OF CIVIL SOCIETY ORGANISATIONS IN ENHANCING GOOD GOVERNANCE IN SOUTH AFRICAN LOCAL AUTHORITIES: *A CASE STUDY OF SOWETO CONCERNED RESIDENTS*

By Gaynor Paradza & Lebogang Mokwena, Centre for Policy Studies (CPS)

This paper considers the notion of governance from the perspective of three different cases of civil society action in South Africa, namely, citizen actions in Phumelela local municipality, Abahlali baseMjondolo, and the Soweto Concerned Residents (SCR).



Picture by: Brett Eloff

THESE different actions are characteristic of contentious relations between local government structures and residents in post-apartheid South Africa on issues of service delivery and citizens' enjoyment of their socio-economic rights. Three case studies are presented to show how communities use alternative methods to engage the state when efforts to use prescribed channels have failed. This engagement has included protests, lobbying, and a legal challenge. Conceivably, this type of engagement

has an impact in enforcing local government accountability and transparency. The cases provide a model of citizen-initiated engagements that can themselves be the subject of scrutiny in a context where the nature of citizens' collective action potentially undermines the rule of law. The paper concludes by reflecting on the experiences of the three organisations and highlighting lessons from the activities and impacts of the civil society organisations efforts on the municipal governance.

EVOLVING LOCAL STATE - CIVIL SOCIETY RELATIONS IN SOUTH AFRICA

The State of Local Governance report published in 2008, asserts that despite the gains made since the establishment of a constitutional democracy, local government in South Africa still faces serious challenges in delivering services to the citizens. These challenges have largely been attributed to institutional incapacity, the lack of an effective relationship of oversight between elected and appointed local authority officials and contentious relations between municipal officials and civil society. This has resulted in poor service delivery, increased mistrust of the state and local government institutions by the public, poor management and waste and abuse of resources. The South African government has taken steps to deal with some of these challenges, and interventions include an extensive legislative framework, and policies and structures intended to improve the working relationship between municipalities and their communities. In spite of these noble initiatives, local government officials continue to deliver what residents perceive as sub-standard service.

The international best practice suggests that the limited success of state-led initiatives at improving the performance of local authority leaders can be enhanced through increased civil society involvement in local governance processes and structures. This is because civil society as the recipient of local government services is well placed to evaluate and make demands on local government officials to improve the levels and quality of services delivered by local government. In South Africa, civil society also wields power through its electoral mandate to vote for leaders and councillors in local government.

Good governance refers to a desirable relationship between the state and the other

stakeholders. As distinct from government, governance describes the environment within which government functions (Atkinson 2002:2). It is the relationship between those who govern (loosely translated as the state and its representatives on the one hand) and those who are governed (including civil society). This paper focuses on the relationship between local government and civil society in the communities of South Africa. While there are a range of attributes that constitute good governance, in its broadest terms a good governance system is participatory, transparent, effective, responsive, accountable, consensus oriented, inclusive, and upholds the rule of law (GGLN 2008:11; IDASA 2008:3, Gauteng Department of Local Government 2009:16). This approach will largely be based on and incorporate elements of the Local Governance Barometer (LGB), which is an index that was developed by the Institute for Democracy in South Africa (IDASA), SNV Netherlands Development Organisation, and Pact (IDASA 2008:12) in order to establish quantitative measures of governance, to enable comparative analysis and help stakeholders to define a plan of action to address identified gaps in governance. The LGB uses effectiveness, rule of law, accountability, participation and civic engagement, and equity as the most relevant criteria for measuring good governance (IDASA 2008:3). The perceptions of citizens, government and its representatives, and the relationships between these institutions can also be used to assess existing governance regimes and their proximity to the ideal of good governance.

The South African government has since 1994 made efforts to increase good governance, specifically as measured by participatory governance systems in local government. The motivations to democratise came from international pressure to democratise (Olowu 2003:43). The South African

government has had to consolidate the democratisation process and demonstrate compliance with the principles enshrined in the Constitution. Domestically, the continued and in some cases increasing levels of political activism, coupled with ever more sophisticated forms of political engagement and claims-making through usage of the legal system and the Constitution, have also increased pressure on the government to yield ever greater space in decision-making processes (ibid). The demands for the state to be more democratic in South Africa have emerged out of an apartheid history where the state and its institutions have historically monopolised the decision-making space, leaving the vast majority of South Africans to engage the state extra-institutionally (that is, outside the limited formal institutional framework afforded by the state). Historically civil society organisations were nonetheless able to exert some influence over the state through street protests and sometimes, though rarely, through negotiations (Seekings 1997:11). Civil society also boycotted rents and user charges to resist what they considered an illegitimate state (Fjeldstad 2004:540). Although such actions did at times paralyse local government and resulted in an acrimonious relationship between the state and its citizens, these actions also resulted in concessions to citizens' demands by the apartheid state. These included charging residents a flat rate for water and electricity and non-disconnection of services for defaulting residents (McInnes 2003:10).

When South Africa became a democracy in 1994 there followed a period of institutional reorganisation of the state and its various institutions. The reforms were aimed at making the state and its institutions more responsive to the needs of all South Africans, particularly the historically disadvantaged majority. The efforts also aimed to increase the involvement of civil society in a social partnership for the direct

The reforms were aimed at making the state and its institutions more responsive to the needs of all South Africans

provision of services. It was envisioned that increasing civil society's capacity to work with the state would enable community-based organisations to act as watchdogs on the government's propensity to act unilaterally, without transparency, corruptly or inefficiently (Camay and Gordon 2004:250; Gauteng Department of Local Government 2009:120). There was also recognition that improving governance would increase the legitimacy of the democratic government (Gauteng Department of Local Government 2009:17). Thus a range of initiatives to achieve this were initiated. These included research into the incidence of corruption, the drafting of codes of ethical behaviour for officials and elected representatives, and the development of legislation that incorporated good governance principles as a guide for both state and non-state actors. Examples include: the Constitution with its Bill of Rights (Act 108 of 1996), the Non-profit Organisations Act of 1997, The Local Government: Municipal Structures Act (117 of 1998), the Promotion of Access to Information Act of 2000, the Local Government: Municipal Systems Act of 2000, the Local Government Municipal Finance Management Act (56 of 2003) and the Local Government: Municipal Property Rates Act of 2004 (Camay and Gordon 2004:48-57; GGLN 2008:22; Gauteng Department of Local Government 2009:24-26). Among the mechanisms developed to enhance good governance was the incorporation of a statutory requirement in the Municipal Systems Act of the promotion of public participation in municipal planning and implementation processes (Gauteng Department of Local Government 2009:25). It was envisaged that

this would require municipalities to build the capacity of residents, councillors and appointed municipal officials to engage in participatory processes, provide services and help facilitate local economic development.

The development of local government legislation opened up new formal spaces for citizens to participate in the governance process (GGLN 2008:16). The government also set up institutions to facilitate co-operation between local authorities and civil society together. These included ward committees, community development workers and ward-based planning. Community development workers are responsible for bringing the government closer to the people and it was envisaged that they would facilitate the representation of the community at council meetings while also transmitting important information to communities about municipal processes. With specific reference to the ward councillor, it was envisaged that this role would involve the representation of the community at council meetings and providing information to the people. As an elected member of council, the ward councillor is expected to serve the people in their constituency ward. By contrast, the proportional representation councillor does not have a ward constituency but represents the interests of those who voted for the political party they represent. A good councillor remains in touch with the people and their issues in the ward which they represent, monitors development and understands key issues in service delivery. In council meetings, it is expected that the councillor acts as a spokesperson for the people of the ward and contributes towards making municipalities more responsive to the needs of local

A good councillor remains in touch with the people and their issues in the ward in which they represent

In council meetings, it is expected that the councillor acts as a spokesperson for the people of the ward and contributes towards making municipalities more responsive to the needs of local communities

communities (Watson 2003; Gauteng Department of Local Government 2009:16).

In spite of all the efforts by the government to improve governance and service delivery in South Africa, recent research shows that while there has been some improvement in civil society and community participation in decision-making processes at the local level, significant challenges in terms of municipal responsiveness still remain. Statistics compiled by the Good Governance Learning Network (GGLN) have shown that more citizens than ever before have access to basic services. The GGLN attributed this to an enabling environment for service delivery and changes in local government (GGLN 2008:8; IDASA 2008:11). In contrast a study by Heller concluded that officially endorsed forms of public participation have largely failed to enable meaningful popular participation in South Africa (Heller cited in Pithouse and Butler 2007:22). The report cites cooptation and compliance requirements as some of the impediments to fostering effective public participation. IDASA's State of Local Governance report in South Africa also noted that consultation with citizens was limited to compulsory moments defined in the legislation and not connected to decision-making (IDASA 2008:18). A study of Merafong Local Municipality in Khutsong revealed that citizens felt that consultations with local authorities were limited to the compulsory consultation moments defined in the various pieces of legislation and was usually conducted for reasons of compliance instead of a genuine desire to consult

with and engage communities.¹ The residents also complained that decisions made in this instance with regard to municipal demarcation processes were not connected to the consultation and the participating community was not given feedback on why their plans were excluded from the final plan (Bernstein and Johnston 2007:146). A 2007/2008 survey by IDASA's Local Governance Unit concluded that South African citizens were increasingly dissatisfied with the quality and quantity of services provided by local government. The report observed that citizens in South Africa generally feel removed from local government and "development" as opposed to being an integral part thereof (IDASA 2008:11).

In addition, many municipalities face daunting problems (Bernstein and Johnston 2007:135). A 2008 survey of selected municipalities in Gauteng showed that 50% have official public participation policies and dedicated staff with the necessary resources to facilitate public participation in policy processes like the Integrated Development Plan (IDP). However, despite these key endowments, there has been limited success at incorporating residents' needs into governance and service delivery processes (Gauteng Department of Local Government 2009:4). Atkinson's research in 2002 cited the local authorities' lack of technical capacity as a limiting factor. In other local authorities challenging conditions combined with weak management, hesitant or absent leadership, poor communication, political favouritism and ineptitude compound residents' frustrations with local authorities and even councillors in addressing residents' service delivery needs (Atkinson 2002:6, Bernstein and Johnston 2007:138, Botes, Lenka, Marais, Matebesi and Sigenu undated:4-9). A 2009 report on participatory governance in Gauteng noted that the limited co-operation between the ward councillors and community development workers

had a negative impact on the extent to which municipal officials received important information from and transmitted information to residents (Gauteng Department of Local Government 2009).

Furthermore, it has widely been argued that notwithstanding the existing legislative arrangements that have been promulgated in an effort to enhance public participation in local government processes, there still exist a host of municipalities that lack clear systems for engaging the public. Other institutional weaknesses that undermine the possibilities for effective public participation include poorly structured communication systems with the public and language barriers where the dominant language used is not spoken or understood by members of communities.

The perception among some communities that their councillors were rude and unresponsive does not augur well for the citizen-local municipality relationship

The perception among some communities that their councillors were rude and unresponsive does not augur well for the citizen-local municipality relationship. The inadequacies are compounded by allegations of nepotism, corruption, and a lack of transparency in the way local authorities and their officials transact their business (Olowu 2003:46; Bernstein and Johnston 2007:135; GGLN 2008:9, Botes *et al* undated:1). This has resulted in citizens' frustration and a loss of confidence in the local government system. In a governance context where there is no trust between the communities and municipal officials and elected representatives, there is likely to be no basis for co-operation among the various stakeholders. This limits opportunities for residents to hold their officials and representatives to account. This has further eroded people's belief in

the government's capacity or willingness to provide the required service (Fjeldstad 2004:547).

While the benefits of government partnerships with community groups and the private sector to foster good governance are clear, building such partnerships remains a challenge. The deteriorating relationship between the state and other social partners like the beneficiaries of government services is highlighted by the increased frequency of protests, litigation and the boycott of service charges by disaffected communities throughout the country. This widening gap between local government and civil society does not augur well for democracy and governance in South Africa. The government has, however, taken various steps to address the shortcomings of its efforts at engagement. Notwithstanding these efforts, government-led initiatives have largely failed to meet civil society's expectations of the outcomes of good governance vis-à-vis tangible improvements in the quality and levels of service delivery. Disillusioned citizens have tried to engage the government, given up or explored alternative means of engagement outside the formal governance framework, such as protest action. While not all extra institutional engagement has yielded positive outcomes for residents, some of these

While the benefits of government partnerships with community groups and the private sector to foster good governance are clear, building such partnerships remains a challenge

actions, which include collective protest and local authority boycotts by residents mobilised through community-based organisations (CBOs), have provided neglected and disaffected communities with opportunities to influence elements of local governance by, for example, putting pressure on

local authorities to strengthen formal processes of public participation (Seekings 1997:25).

That said, however, many CBOs are not equipped to hold local government and politicians accountable (Olowu 2003:50; GGLN 2008:19). This is because for all the official mechanisms and initiatives that exist for engaging civil society, the necessary skills required for civil society to execute this function effectively has not been prioritised to the same extent as efforts at increasing and enhancing the capacity of national, provincial, and local government to execute their governance functions (Olowu 2003:50). The strategies pursued by CBOs depend on their resources and the specific issues they seek to address. The more effective CBOs have a broad membership base and technical knowledge. The broad base is buttressed by the prevalence of a critical mass of dissatisfied residents whose grievances combine with optimism and the belief that joining forces with similarly aggrieved people can remedy the situation (Kamete 2009:61). Effective CBOs also have knowledge of official policy discourses as well as the capacity to effectively use the media to further their cause (Olowu 2003:49).

The following section uses three case studies to highlight civil society organisations that have engaged the state in an effort to improve governance state responsiveness by effectively claiming their space in the governance process. The cases were selected on the basis of the diverse community interests they represent. These range from the shack dwellers in Durban to more formal residents in Phumelela. The cases were also selected on the basis of the different strategies that were employed to engage the state outside of the formal structures. While the experiences of the organisations in the cases studies cannot be generalised to the rest of the country, they do provide a useful lens within which to analyse the civil society–local government interface.

PHUMELELA MUNICIPALITY²

Phumelela Municipality is located in the Free State, encompassing three towns of Vrede, Memel and Warden. The towns are characterised by rapid migration, a poor population and economic stagnation. The main complaints from poor municipal residents has been the inadequate provision of water, housing and poor sanitation as well as interrupted electricity supplies, and poor garbage collection. The council was incapacitated by internal differences between the councillors, a lack of skilled staff, a lack of financial management and corruption. All this was brought to the attention of the council by residents who had formed a ratepayers' association to protest against poor services. The ratepayers' association consisted of commercial farmers and owners of businesses in the municipality. As part of its strategy, the ratepayers' association encouraged its members to withhold payment for tariffs and rates from the municipality which reduced council revenue. The community highlighted the problems in a series of petitions and memorandums of demand made to the municipal officials. This was followed by a series of meetings spanning a period of a year between the various community groups and council representatives. Besides the council failing to rectify the problems, residents made allegations of nepotism, corruption, as well as arrogant and indifferent behaviour by council employees. Eventually the community erupted into protests that lasted for two months and resulted in extensive damage to municipal property.

In response to the unrest, the Free State Provincial Government assumed responsibility for the running of the municipality, under section 139 of the Constitution. The council and municipal authorities were relieved of their duties and an outside administrator was appointed.³ The combination of community protest and dwindling municipal revenues (given the position of the rate payers association and a largely indigent population), required a rapid response to ensure proper governance and compliance with payment policies. The national Department of Water Affairs and Forestry responded to the protests by making R26 million available for the upgrading sanitation in the local authority. In another section of the municipality, a project to upgrade the main road was initiated. The provincial government took measures to correct the critical staff shortages, to restore financial management administration, and to ensure that local communities had access to the minimum level of basic services. Focus groups with residents reported that management of complaints and communications with residents had improved and all councillors and municipal managers seemed more accessible. While the sustainability of the intervention could not be established at the time of writing, the expectation among residents was that their situation would improve in the future (Bernstein and Johnston 2007:143).

AB AHLALI BASEM JOND OLO⁴

Abahlali baseMjondolo is a militant organisation of arguably the most organised poor in post-apartheid South Africa (<http://www.abahlali.org/node/16>). Abahlali baseMjondolo (Shack Dwellers) is a social movement that was founded in Durban in early 2005. The movement represents tens of thousands of people from more than 30 informal settlements around the country. Abahlali baseMjondolo fights to stop forced removals and evictions, while demanding of the state the upgrade of existing informal settlements instead of evicting and forcibly removing residents from those settlements. Furthermore, Abahlali baseMjondolo have argued that local municipalities rarely talk to communities living in informal settlements. The organisation endeavours to have municipal officials talk to shack dwellers before imposing eviction orders. It has been alleged by Abahlali baseMjondolo that instead of representing the residents when there is a face-off with the municipality, ward councillors try to benefit from the sites whose residents are under threat of eviction. They have alleged that councillors demand bribes and other payment in kind from residents in exchange for facilitating the residents' registration on the social housing waiting list or accessing alternative housing.

The movement's first action involved a road blockade organised from the Kennedy Road settlement. Abahlali baseMjondolo was protesting against the sale, to a local industrialist, of a piece of land in the city. According to Abahlali baseMjondolo, the shack dwellers' committee had previously held a meeting with the chair of the housing portfolio committee of the municipality, the director of housing and the ward councillor where the three officials had promised Abahlali baseMjondolo the vacant land for housing. Ever since this initial action, Abahlali baseMjondolo has tended to be seen as an unrelenting representative of the interests of shack dwellers, having adopted a range of sophisticated, formal, and informal actions like marching to and occupying the offices of local councillors (Abahlali baseMjondolo 2006). While the movement seeks to democratise municipal processes and policy with regards to the rights of communities living in informal settlements, another primary site of contestation has been the internal organisation of settlements, where a key concern has been to try and democratise the governance systems of many settlements (Ibid).

Over and above the movement's demand for 'land and housing in the city', Abahlali baseMjondolo has also broadened the range of issues around which it organises to include access to education and the provision of water, electricity, sanitation, health care and refuse removal. Essentially, they see housing and its provision by the state as a key mechanism through which to demand broader service delivery and increased access to basic public goods and services. In some settlements, however, the movement has opted for self-provisioning or extending social services to enable citizens to improve their quality of life and livelihoods (ibid).

Initially affected municipalities and the relevant councillors reacted to Abahlali baseMjondolo in a heavy handed manner. The affected municipalities and the relevant councillors refused to speak to Abahlali baseMjondolo when invited by the movement, ignored their petitions, removed shacks without warning, withheld services and used armed police to evict shack dwellers. Reliance on the police to administer evictions made it possible to arrest protestors and to threaten the movement's leadership. The eThekweni municipality also denied Abahlali baseMjondolo access to information on the city's housing and other service delivery plans.

Abahlali baseMjondolo has continued to put pressure on local authorities by using mass mobilisations and sits-ins outside municipal offices, councillors' houses and media houses. They also approached the court in 2006 and secured an interdict against the eThekweni Municipality to prohibit further evictions. Since then, no evictions in settlements aligned to Abahlali baseMjondolo have taken place, although shack dwellers' evictions have continued in settlements where the movement does not have a strong presence. Abahlali baseMjondolo approached the court on the basis of the Promotion of Access to Information Act (2 of 2000) to force municipal officials to give shack dwellers information about matters that affect them. In 2006, Abahlali baseMjondolo used the media and the Internet to publicise violations by the police and local authorities and to demand access to officials' plans regarding shack dwellers' possible relocation or settlement upgrading. Owing to the international attention that Abahlali baseMjondolo has attracted, the municipality in one of the sites of the movement's activities agreed to hold a meeting with Abahlali baseMjondolo. Abahlali baseMjondolo's website lists amongst their victories, their success in developing a sustained voice for shack dwellers; democratisation of the governance of many settlements, stopping evictions in a number of settlements, forcing government officials, offices and projects to 'come down to the people' and increased service delivery to people in the informal settlements. Abahlali baseMjondolo and other commentators have argued that national government's commitment to an informal settlement upgrading programme in the form of a policy called "Breaking New Ground" is a response to the sustained mobilisations against relocations by the social movement (<http://www.abahlali.org>).

The two cases summarised above capture some of the dynamics of the deterioration in the governance relationship between local authorities and residents and the diverse consequences resulting from the various ways governing institutions chose to react. The two experiences highlight the limits of the existing local governance machinery to resolve tensions, the resulting impasses, and the subsequent actions by residents to rectify what they find to be an untenable and state of affairs. While the outcomes from the two experiences differ, they share similarities in the ways in which relationships between local government and the people on the ground is compromised when government refuses to engage citizens, with the view of facilitating civil society's capacity to partner with the state and influence policy. The cases also show the inconsistency of government's responses to protest and mass mobilisation: in Phumelela, provincial authorities assumed administrative management and control of the local authority. In the case of Abahlali, the state has largely tried to turn a blind eye to the social movement and where it has been responsive, this has been a consequence of sustained protest action and the movement's leverage through institutions like the courts. It is however clear, even in the latter case, that the state is not completely insulated from demands and policy influence – albeit indirect – of organised groups with sustained and innovative tactics. The different ways in which the state engages with protesting citizens could in these two cases be attributed to the perceived legitimacy of the respective resident groupings as typically, informal settlement dwellers are largely not considered legitimate residents in local government. It could also be that the state's reaction to the two communities was influenced by its own capacity to respond to the demands made and the perceived consequences of non-intervention by the state.

THE SOWETO CONCERNED RESIDENTS

The Soweto Concerned Residents (SCR) was formed in 2005 as a break-away group from the Soweto Electricity Crisis Committee (SECC). The SCR has extended its geographical reach and established satellite offices in Vosloorus and the Eastern Cape. While the SECC's mandate was limited to tackling pre-paid electricity meters, the SCR has engaged the government on issues such as the allocation of RDP housing, the costs of supplying basic municipal services to the user, and has contested the installation of prepaid electricity and water meters. The SCR leadership argued that while pre-paid meters are an important issue against which to mobilise communities, the problem extended beyond electricity and water meters to include what the inadequate quality and levels of service delivery to township residents in general, as well as the limited access that residents had to other social services like social grants (for pensioners, orphaned children, as well as people and children who are HIV positive). As such the SCR understands its mandate in terms of three primary issues, namely: (i) the promotion of residents' access to and enjoyment of free basic services like water, electricity, education and health services; (ii) citizen education and providing information; and (iii) consolidating the organisation's 'R5 Campaign'.

INCREASING ACCESS TO BASIC SERVICES

The SCR has adopted a literal interpretation of section 27 of the Constitution, which stipulates that everyone has the right to have access to health care services, sufficient food and water, and social security. During their weekly meetings which are held in the community hall and attended by more than 300 people, the SCR invites residents who have had their water or electricity disconnected to approach the SCR's technicians who will reconnect the services. While there is no constitutional guarantee that the state is obliged to render services without any charge to the user, the SCR's position is that since the democratic elections of 1994, the government had promised that these services would be provided free of charge and thus their campaign to take out pre-paid water and electricity meters and illegally reconnect residents to services is merely "helping the residents to enjoy" what they were promised by officials during their election campaigns.

CITIZEN EDUCATION AND THE PROMOTION OF RIGHTS

According to the leadership of the SCR, while there are a range of government initiatives that have been introduced for the benefit of residents, many do not have adequate - if any - information about these. SCR argues that this limited access to information is related to a number of things. The first is the failure of government officials to disseminate information to residents (as in the case of social grants for indigent households or children under the age of 14). The second is the problem of politicised local government structures which the SCR sees as facilitating the involvement of African National Congress (ANC) aligned residents in local participatory municipal structures (like ward committees) to the exclusion of other residents. This has in turn created significant tensions between the leaders and members of the SCR, on the one hand, and ANC ward councillors and ward committee members, on the other, to the extent that the SCR actively encourages residents not to consult the ward councillor when they are experiencing problems or need information. Rather, residents are encouraged to consult with the SCR leadership about whatever problems that they might be having and where the SCR does not have the necessary information or

competence to deal with the matter, they direct it to the relevant non-governmental organisations working in that area, lawyers, or directly to the relevant government departments.

The SCR has adopted this strategy of circumventing the ward councillor in the organisation's initiatives to resist what they view as "arbitrary evictions" of residents from municipal housing in Soweto.⁵ The SCR sees itself as the protector and promoter of the rights of the residents of Soweto, particularly those who are long term residents, illiterate, and poor and have limited access to information about municipal processes and their constitutional rights. The SCR believes that instead of informing residents and representing them at the municipality when decisions to evict them are made, ward councillors collude with municipal administrators and court officials to arbitrarily evict residents who are not knowledgeable about the law from the houses they occupy. According to the SCR, it is precisely these township residents who are increasingly at risk of the unscrupulous behaviour of councillors and municipal officials, who allegedly issue eviction orders so that they can attract potential buyers for the homes of those evicted. In this regard, the general perception of the SCR is that as with apartheid era evictions, post-apartheid evictions are characterised by official disregard for human rights, with local authorities who do not have the interests of poor households at heart and are thus illegitimate (to the extent that they fail to promote these in the democratic era). Between May and June 2009, for example, the leaders of the SCR asserted that they had prevented two such illegal evictions, which, they argued were a direct result of the corruption, lack of leadership, and dishonesty of councillors who do not represent the interests of communities, particularly households that are under threat of, or vulnerable to, municipal evictions. Instead, councillors take advantage of the positions of leadership that they occupy to enrich themselves, in this instance siding with the council to facilitate eviction of residents from their homes. The organisation has declared that the government's principles, which are enshrined in the *Batho Pele* (People First) slogan, have instead been subordinated to an ethic of "Profit First".

In response, the organisation has introduced a strategy called *Project Buyel' Ekhaya*, which means project 'Return Back Home' and intends to reinstate evicted household members to their homes. Once the evictee is reinstated, some of the members and leaders of the SCR remain at the home of the household members that were evicted for 48 hours, in an attempt to safeguard the evictees and deal with any confrontations with police, municipal officials, or the councillor. The SCR has also assisted affected residents to take legal action through the courts. This, they stress, is because previous attempts by the SCR to engage municipal officials on the issue have failed. When dealing with evictions, the SCR has tried to access the specific documents and files from the municipality on the disputed properties. However, such attempts have not been successful. The SCR believes that the local authority denies them access to the documents because either the municipalities' files are not up to date or the municipality has something to hide (as in the case where municipal officials cannot prove that the potential evictee was given proper notice of the eviction and or "sold" the property as they sometimes allege). Since this is supposedly public information, which the municipality refuses to disclose, the SCR seeks alternative forms of engagement. The SCR now circumvents government structures including those that have been created to foster public participation and the elected representatives and ward councillors. The SCR has lost confidence in the potential role of the councillor as a mediator because they allege that councillors routinely accompany the institutions that enforce evictions showing that councillors are incapable of representing the resident.

Through *Project Buyel' Ekhaya*, the SCR claims it has given residents important information about the correct procedure with regards to evictions, but they have also prevented the further impoverishment of poor residents who were vulnerable to being illegally evicted from their homes thereby promoting the rights of the poor in Soweto.

R5 CAMPAIGN

In some respects, the SCR's R5 Campaign, which was introduced at the start of 2009, can be seen as a slight departure from the organisation's insistence on free basic services and hence discouraging residents from paying for services. The R5 campaign, which involved disconnecting the pre-paid water and electricity meters installed by the City of Johannesburg, was the SCR's main intervention since its inception. The Supreme Court of Appeal (SCA) found the installation of the pre-paid water meters to be unconstitutional and ordered that the municipality avail 42 litres of water per day per resident for free (City of Johannesburg and Others v L. Mazibuko and Others, 2009). Presumably in the light of this judgement the SCR introduced its R5 campaign, where residents pay only R5 for municipal services as opposed to paying nothing at all or paying the amounts stipulated by the municipality.

The R5 campaign aims to achieve two outcomes: The first outcome is that the SCR hopes to achieve through this campaign greater transparency and consultation regarding the determination of service rates. The organisation argues that the rates applied by the municipality have not been determined in a manner that is transparent and cognisant of the needs of the poor, but rather, in an arbitrary manner that disadvantages the poor. While the initial approach in dealing with this lack of transparency and the cost of paying for municipal services was to refuse to pay anything pending proper negotiation and consultations between residents and government officials and councillors, the R5 campaign encourages residents to pay this minimal amount, with the hope that this would lead to a series of consultations. Through these consultations the process by which municipal rates and taxes are set would be explained to residents who would in turn be able to convey their challenges with regards to paying the amounts required. Out of this process, a more equitable arrangement between the municipality and residents could be arrived at in respect of service payments. Linked to this, the second aim of the R5 initiative is advocating a flat rate for services. Owing to the organisation's perception of the arbitrary and untransparent nature of rates determinations, the SCR's R5 initiative has been introduced to demonstrate the potential effectiveness of raising municipal revenues through a flat-rate that will be observed by all residents as opposed to differentiated rates, which, according to the SCR, pose a significant financial burden that only a few residents pay for municipal services.

The third aim of the SCR's campaign is to refute government officials' claims that township residents have adopted a general culture of non-payment — a relic of anti-apartheid struggles in the townships during the 1980s.

As with the two previous cases, the SCR argues that elected representatives and councillors do not treat them well, with councillors failing to provide important information to residents about policies and municipal decisions that affect their lives. Further, according to the members of the SCR, councillors are directly involved in the impoverishment of poor households by facilitating evictions.

CONCLUSION

The three cases illustrate what happens when municipal authorities and citizens fail to engage through conventional channels, as well as the limits of formally prescribed engagement. The consequences are deadlocks between the state and citizens. As a result, resolutions to the challenges of service delivery are likely to remain unresolved and communities fail to access much-needed information about service delivery and municipal progress towards provisioning. The cases show how disillusioned communities organise to confront (not always successfully) an unresponsive local government.

Though the circumstances in the three cases differ, the dissatisfied communities all initially attempted to engage the state through the established formal channels. This included attempts at non-violent engagement with the municipalities, using petitions, inviting the municipalities to meetings and organising marches. However, the case studies demonstrate that these mechanisms can only work in so far as the local municipality is responsive to residents' attempts to engage them through the formal channels. Where this does not happen, the formal mechanisms of engagement are clearly an ineffective means for ensuring good governance.

In all three cases, the civil society organisations relied on the power of collective action by dissatisfied community members to exert pressure on local government

It is only where these strategies failed to garner a response from the municipal officials that citizens have resorted to alternate forms of engagement with the state. The activities include forceful strategies like boycotting local government structures, including elections in the cases of Abahlali and SCR

and in Phumelela, the organisation of mass action on such a scale as to paralyse local government. In all three cases, the civil society organisations relied on the power of collective action by dissatisfied community members to exert pressure on local government.

The literature review showed that government-led initiatives not only concentrate power in the state but do little to change the status quo. The unsuccessful attempts by the SCR and Abahlali baseMjondolo to extract public information from their respective municipalities regarding evictions expose the state's neglect of its obligation to empower citizens through information dissemination. This renders the citizenry weak, uninformed and compromises the citizens' role as watchdogs on the activities of the state. This also undermines the citizens' capacity to participate in decisions that affect their lives.

Community-led initiatives potentially open up new avenues through which governance relationships can be progressively strengthened. The examples of Phumelela and Abahlali baseMjondolo demonstrate that citizens not only managed to communicate their demands to local government, but also obtained redress on some of their concerns. Such responses improved the governance relationship by restoring residents' confidence in the state. This was evidenced by feedback from the focus group discussions held with residents in Phumelela. The Phumelela residents felt that municipal officials and councillors were more accessible which improved communication between residents and local authority officials. The Phumelela case illustrates that lost public confidence can be restored and that the state can be responsive to citizens' demands even though the engagement takes place outside the established channels.

While it is not possible to make national

generalisations on the basis of three cases, the Phumelela case presents some important insights. It shows the importance of transparency and openness in support of good governance. While all residents' service delivery complaints were not addressed, the fact that residents incrementally gained access to officials and their leaders increased the residents' trust in the system of local government and in so doing increased resident's hope that the local municipality would eventually deliver services. The sustainability of provincial and municipal relations remains to be seen and remains a challenge in the context where significant co-operative governance between the spheres of government is not always healthy.

The sustainability of provincial and municipal relations remains a challenge in the context where significant co-operative governance between the spheres of government is not always healthy

The three cases provide some insight into the possible means through which the impasse between local government and civil society could be progressively resolved. This would improve governance, service delivery and increase citizens' confidence in their local government institutions. An improved relationship would increase the potential for stakeholders in governance to improve service delivery and communication.

The success of the SCR's R5 campaign in convincing residents to pay for services shows the potential capacity of CBOs to effect progress where the state has failed. The R5 campaign is a strategy which can be used to deal with communities who withhold payment for services where they perceive the service delivered to be inadequate or local government to be acting in bad faith. The SCR, using

its mass appeal and the trust that citizens have in it as an alternative to the local authority structures, has managed to mobilise residents to make regular payment for services to the local authority. This is an important breakthrough in a society where withholding payment for services has undermined the capacity of local municipalities to enforce payment for services rendered.

The extent to which social movements succeeded in improving the relationship between communities and local authorities could only be established in the case of Phumelela and to an extent the Abahlali baseMjondolo. This was through the resolution of the dispute in Phumelela. As far as the Abahlali baseMjondolo are concerned, the organisation managed to persuade local government officials to communicate with them and include the shack dwellers' concerns in spatial development. At the time of writing, the SCR was focused on the short-term goal of consolidating its role in the community by providing an alternative means by which residents could access information and to some extent services from the local municipality. The SCR made it clear at the time of fieldwork that the organisation did not want to be co-opted into the municipal structures as this would undermine its watchdog role.⁶

The community-based organisations analysed above have played an important role in systematically organising communities, offering them a platform on which they can collectively explore alternative ways of engaging the state, voicing their concerns, and exploring new methods of engagement. This they achieve by using the resources at their disposal which include the law, their sheer numbers and (in the case of Abahlali baseMjondolo) the media, resources which would have limited impact for poorer individuals in society.

Concerns about the legitimacy of the alternative

As such, when citizens seek recourse outside the formal structures, this is in part a demonstration of their disillusionment with local authority responses to their voiced concerns

methods used by the civil society movements to engage the state have to be considered in light of the alternatives that citizens have in situations where the municipalities ignore the citizens' attempts to engage them through the legitimate channels. While the municipality can leverage its control of governance resources by disconnecting residents from services to deal with non-payment and ensure compliance of residents, petitioning and initiating meetings by the residents are not sufficient to compel the state to act. This highlights the limits of such mechanisms in trying to improve governance and leaves citizens with no option but to explore extra-institutional mechanisms to compel the state to act in a manner

that is consistent with their expectations. As such, when citizens seek recourse outside the formal structures, this is in part a demonstration of their disillusionment with local authority responses (or lack thereof) to their voiced concerns.

The citizens' actions demonstrate that solutions to problems can also be found outside the formal institutions and efforts to solve governance problems could do well to embrace non-state initiatives like these (for example utilising the SCR's perceived popular legitimacy as a means through which municipal officials can engage community members outside the seemingly politicised formal structures of community engagement). Citizens' actions not only put pressure on unethical local authorities by drawing attention to the activities through the media, they also force institutions such as the courts and national government to act against errant local authorities, thus mediating contentious relationships between communities and their local municipalities.

BIBLIOGRAPHY

- Abahlali baseMjondolo. 2006. *Introduction to Abahlali baseMjondolo*. www.abahlali.org Retrieved June 23, 2009.
- Atkinson, D. 2002. *Local Government, Local Governance and Sustainable Development. Getting the Parameters Right*. Pretoria: HSRC.
- Bernstein, A. and Johnston, S. 2007. Voices of Anger: Protest and Conflict in Two Municipalities-Phumelela and Khutsong. In Southall, R. (ed). *Conflict and Governance in South Africa. Moving Towards a More Just and Peaceful Society*.
- Botes, L., Lenka, M., Marais, L., Matebesi, Z. and Sigenu, K. (undated). *The Cauldron of Local Protest: Reasons, Impacts and Lessons Learned*. University of the Free State: Centre for Development Support.
- Camay, P. and Gordon, A. 2004. *Evolving Democratic Governance in South Africa*. Johannesburg: Co-operative for Research Education.
- Fjeldstad, O. 2004. What's Trust Got to do With it? Non-Payment of Service Charges in Local Authorities in South Africa. *Journal of Modern African Studies*, Volume 42, no 4: pp.539-562.
- Gauteng Department of Local Government. 2009. *Provincial Framework for Public Participation in Gauteng* (final draft).

GGLN (Good Governance Learning Network). 2008. *Local Democracy in Action. A Civil Society Perspective on Local Governance in South Africa*. Cape Town: GGLN.

IDASA (Institute for Democracy in South Africa). 2008. *The State Of Local Governance In South Africa: What Does the Local Governance Barometer Tell Us?* Pretoria: IDASA.

Kamete, A. 2009. For Enhanced Civic Participation in Local Governance. *Environment and Urbanization: City Governance and Citizen Action*, Volume 21, no 1: pp.59-75.

McInnes, P. 2003. *Rights, Recognition and Community Mobilisation to Gain Access to Basic Municipal Services in Soweto*. CSRI Conference Proceedings.

Olowu, D. 2003. Local Institutional and Political Structures and Processes: Recent Experiences in Africa. *Public Administration and Development*, Volume 23: pp.41-52.

Pithouse, R. and Butler, M. 2007. Lessons from eThekweni: Pariahs Hold Their Ground Against a State that is Both Criminal and Democratic. www.abahlali.org Retrieved June 23, 2009.

Seekings, J. 1997. SANCO: Strategic Dilemmas in a Democratic South Africa. *Transformation*, Volume 34: pp.1-30.

Watson, V. 2003. Conflicting Rationalities: Implications for Planning Theory and Ethics. *Journal of Planning Theory and Practice*, Volume 4, no 4: pp.395-407.

NOTES

- ¹ Though the case was about conflict over municipal boundary demarcation, the study provides useful insights into the consequences of the failure by the state to understand and respond appropriately to expressions of popular discontent or choice (Botes *et al* undated:1; Bernstein and Johnston 2007:145)
- ² (The case study was extracted from Bernstein and Johnston 2007 and Botes *et al*'s undated publication)
- ³ It is not clear from the literature whether the mismanagement, skills and resource shortages were of such an extent that the situation could not have been resolved without the application of section 139.
- ⁴ Section 26 of the Constitution of the Republic of South Africa states that 'No-one may be evicted from their home, or have their home demolished without an order of court made after considering all the relevant circumstances. No legislation may permit arbitrary evictions'. This provides legal protection against forced evictions without a legal court order. In issuing an eviction order, the court has to consider, the length of the potential evictee's occupation, the importance of the residence to the person's economic and social well-being, that there is suitable alternative accommodation, and potential evictees have to be given 14 days written notice of eviction. The notice must also be in a language that the people facing eviction understand, must be clear regarding the grounds for eviction and explain that the people facing eviction have the right to oppose the eviction in court and access to legal aid to do so (www.abahlali.org/node/984).
- ⁵ Soweto Concerned residents launches the R5.00 Service Campaign http://apf.org.za/article.php3?id_article=331 accessed on 15 May 2009.
- ⁶ The SCR was undecided on how it would re-engage the municipality and whether it would field a candidate in the 2011 local government elections.