

GIFT

GLOBAL INITIATIVE FOR
FISCAL TRANSPARENCY

A RIGHT TO BE HEARD:

Citizen Participation, Democratic Rights and the
Budget in South Africa

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I. A Right to Be Heard: Citizen Participation, Democratic Rights and the Budget in South Africa

CITIZENS' right to decide how their money is spent and on what it should be spent lies at the core of democratic citizenship. But that does not necessarily mean that it must be exercised only or even mainly in a formal participation forum convened by a government.

This is the key message of the South African experience in which a plethora of formal forums (on the spending side rather than on the formulation of the budget) has not been matched by a discernible increase in citizen participation in decisions, particularly of people in poverty who are the intended beneficiaries of most programmes in which citizens are meant to participate. There have been successful examples of citizen participation in budget decisions, but they have stemmed not from formal participatory processes. It has, rather, been the effective use of democratic rights to mobilise support for a position and to persuade the government to adopt it which has enabled people to participate. This has important implications for strategies which aim to enhance citizen participation in budget decision-making. It suggests that approaches which seek to open avenues for citizens to participate on their own initiative and in their own chosen way would be more likely to ensure effective participation than formal forums.

This paper will seek to make this case. It will begin by discussing formal processes to enable citizens to engage in budget discussions (and, in most cases, their absence). It will show that, despite the existence of avenues to encourage participation initiated by the National Treasury, current official thinking is opposed to direct citizen participation in the formal processes which formulate the budget. It will then argue that this is not the

constraint to citizen participation which it appears to be. It will discuss a current government initiative which aims to enable citizens to monitor how budget money is spent; it will argue that its potential to offer citizens a meaningful say will depend on the extent to which it is able to move beyond structured participation and to adopt an approach which enables citizens to use democratic rights to insist on a say.

Finally, it discuss three cases – one a campaign for national change, the other a strategy employed by a supreme audit institution (SAI) and the third an activist innovation at the local level, to show how harnessing democratic politics rather than structured participation can work. The cases confirm the theme of the paper – that the GIFT assertion that ‘Citizens should have the right and they, and all non –state actors should have effective opportunities to participate directly in public debate and discussion over the design and implementation of fiscal policies’¹ does not necessarily mean formal participation in structured processes. On the contrary, it will try to show that this value is most likely to be realised by an approach which regards structured participation as at most an adjunct to the effective exercise of citizen voice.

I.1. No Seat at the Table: The Treasury, Civil Society and Formal Participation in Budgeting

The absence of formal participation in budgeting in South Africa seemed to be confirmed in 2012 when the country, which ranked second on the Open Budget Index’s

¹ The Global Initiative on Fiscal Transparency: *High-Level Principles on Fiscal Transparency, Participation, and Accountability* DRAFT: 4 August 2012, p.4

measure of transparency, scored only 19 out of 100 on participation.² South Africa's participation ranking has since then, improved markedly – in the 2015 OBI, it is fifth in the world in participation. However, it will be argued below that this ranking and assessment says far more about the way in which participation is currently assessed than it does about the efficacy of the South African programme. Despite the high ranking, and the fact that the national Treasury does give attention to engaging with citizens and has established channels for this purpose, South African citizens do not participate in formulating the country's budget and have little influence over the way public money is spent.

The South African authorities are likely to question this second judgement. Since it became a democracy in 1994, South Africa has also established a wide range of formal forums which are designed to give citizens a direct say in spending decisions – it may well have more of these forums than any other system of government in the world.³ The national Department of Planning, Monitoring and Evaluation (DPME) in the Presidency is operating a citizen based monitoring (CBM) pilot process which is meant to give citizens direct access to decisions on how budget money is spent. This paper will argue that the forums do not offer citizens an effective say and that the CBM programme is too new to be evaluated. The assertion that budget formulation is one area in which citizens do not formally participate in decision-making is far less controversial.

I.2. Current Channels for Budget Participation

² Telephone Interview, Albert van Zyl, International Budget Partnership, Cape Town, November 20, 2015

³ Steven Friedman *Participatory governance and citizen action in post-apartheid South Africa* Geneva, International Institute of Labour Studies, 2006, Discussion Paper /164/2006

To the extent that a formal participation process exists, it was introduced by the 2009 Money Bills Amendment Procedure and Related Matters Act⁴ which is cited by some senior Treasury officials as the key vehicle for citizen participation.

This law's chief purpose is, however, not to provide vehicles for citizen participation – it is to allow members of parliament to influence the budget by proposing amendments to money bills. While this is a routine right in some legislative systems, it flies in the face of South African practice. Both before 1994 when most citizens were excluded from parliament and in the democratic era which began in that year, budgets are introduced by finance ministers who can be assured of the loyal support of their party caucus. South African governing parties rely on their public representatives to insulate them from any attempt to challenge or change the budget. The party discipline which ensures this has been strengthened since 1994 by the introduction of a closed list proportional representation electoral system in which voters choose parties and seats in the legislature are allocated to candidates on a party list: legislators cannot change parties without losing their seats and this acts as a powerful disincentive to members who might wish to challenge parts of the budget.

Since the idea that legislators should change budget items is foreign to South African political culture, it is no surprise that the 2009 law was introduced not because the Treasury (Finance ministry) wanted it but because it reluctantly agreed to it. A clause in the constitution adopted in 1994 provided that: 'An Act of Parliament must provide for a procedure to amend money Bills before Parliament'.⁵ That the required act was delayed by well over a decade indicates the lack of enthusiasm for extended participation in budgeting. Eventually the then Minister of Finance was persuaded 'that it could not do any harm' to allow Parliament to amend the budget. But: 'the concession was qualified,

⁴ The law can be accessed at <http://parliament.gov.za/content/act%209%20-%202009%20%28money%20bill%20amendment%20procedure%29.pdf>

⁵ *Constitution of the Republic of South Africa, 1996* Section 77(3)

since the law sets a high hurdle on amendments, effectively making them possible but difficult'.⁶ They must, for example, take into account a lengthy list of technical fiscal criteria including local and international tax trends and the impact of the proposed amendment on 'development, investment, employment and economic growth'.⁷ This, and the persistence of party discipline, have ensured that, in the 6 years since the law was introduced, no member of Parliament has proposed an amendment to the budget and there is little sign that this will change any time soon. Parliamentarians have tried to use the law once – not to change the budget but to suspend allocations (which the law allows) to the SA Broadcasting Corporation, the national public broadcaster. They were, however, 'persuaded not to' do this.⁸ The Parliamentary Budget Office established by the law to assist members to evaluate the budget (prior to seeking to amend it) has only been established recently.

The putative public participation component of the law is contained in a provision which allows parliamentary committees to consider 'spending issues' and changes to the budget and to report on them. They are also expected to examine the budgets of all departments and the way in which their money is spent and may make recommendations on 'the forward use of resources'. These reports must be submitted well before the budget process commences so that, in theory, they can influence decision-making.⁹ Since all parliamentary committees are open to citizen participation – they hold formal hearings at which citizens are invited to raise issues of concern to them – this process, in theory at least, allows citizens to influence the committees which in turn could propose amendments to the budget. A further potential spur to participation in the view of officials is that the law requires the Minister of Finance to submit to Parliament at least three months before the tabling of the national budget a Medium Term Budget Policy Statement (MTBPS) which proposes a fiscal framework for the next

⁶ Interview, Kuben Naidoo, SA Reserve Bank, Johannesburg, 18 November 2014

⁷ *Money Bills Amendment Procedure and Related Matters Act 2009* Section 11 (3)

⁸ Interview, Naidoo

⁹ *Money Bills Amendment Act* Section 5

three years, reviews actual spending in the current fiscal year and spells out government spending priorities over the next three years. Parliament's finance committee must consider the MTPBS and report on it, proposing any changes it wants, within 30 days.¹⁰ Since the MTPBS sets out the framework within which the budget will be drafted, citizens' opportunity to persuade the committee to propose amendments is seen as a vehicle for participation.

If we evaluate these measures by whether they directly achieve their stated goal, they have not enabled citizens (or indeed legislators) to influence anything. Just as there has been no attempt to amend the budget formally, so there has been no attempt to change the fiscal framework. The established practice, in which the budget is agreed on by the majority party and then adopted, has remained unchanged. But this must be qualified in two ways. First, some NGOs and civil society organisations have, on occasions, used the committees to raise issues with implications for the budget. For example, Equal Education, an advocacy organisation concerned with continued inequities in the school system, appeared at the appropriations committee to complain about underspending on school infrastructure and to propose subsidies for school transport. Its submission appeared in the committee's report.¹¹ Second, the MTBPS does provide a vehicle for formal consultation at the National Economic Development and Labour Council (Nedlac), a formal forum created by statute which includes the government, organised labour and business – Treasury consults Nedlac both before and after the MTBPS is tabled.¹² Nedlac's 'community constituency' – citizens' organisations who are assumed to speak for key constituencies – were allowed for three years to participate in the public finance Chamber where budget issues were discussed but were forced to leave when the auditor-general ruled that their presence contravened the law.¹³

¹⁰ Money Bills Amendment Act Section 6

¹¹ Interview, van Zyl

¹² Interview, Naidoo

¹³ Interview, Isobel Frye, Studies in Poverty and Inequality Institute, Johannesburg, February 11, 2015

Once again, in formal terms, these engagements mean little – getting submissions into a report is, of course, not a sign of policy influence if the report is not implemented. While one interviewee suggests that consultations on the MTBPS do affect decision-making, if only by floating ideas which might make their way into the budget,¹⁴ much of the process is concluded at that stage, which clearly leaves little leeway for change. But it remains possible that ideas which are raised in these processes do make their way into official thought processes and from there into the budget. As evidence that citizens can change the budget (although not by direct participation in formal structures), an interviewee cites three examples of changes which were a response to civil society pressure – increases in the child support grant paid to some parents, a decision to exempt some public schools from requiring fees from pupils and the provision of antiretroviral medication for people living with HIV and AIDS (see below).¹⁵ But these are not the result of formal access to decisions – they are, rather, the product of campaigns which sought to rally public opinion in support of change. They suggest that the sort of indirect influence offered by the structures set up by the law could provide avenues for citizens to alter budget decisions – but only if they regard them as a platform to enhance campaigns rather than a direct source of influence.

While there are no other formal engagement processes, Treasury officials are engaging with civil society organisations and are interested in formalising this relationship. Thus a Treasury unit has been working with the Budget and Expenditure Monitoring Forum (BEMF), an alliance of civil society organisations which emerged out of the fight for comprehensive treatment for people living with HIV and AIDS – it has assisted BEMF to produce a ‘people’s guide’ to the budget explaining it in lay terms.¹⁶ Treasury officials say they are eager to sign a memorandum of understanding with BEMF which will structure their relationship, although they recognise the need to avoid ‘institutional

¹⁴ Interview, Naidoo

¹⁵ Interview, Naidoo

¹⁶ Interview, Kay Brown, National Treasury, Pretoria, 27 November, 2014

capture’ – whatever they do for BEMF, they will need to be willing to do for everyone.¹⁷ One consequence might, they add, be BEMF’s inclusion in some of the committees which discuss the budget: they acknowledge, however, that there would be strong resistance to this from Treasury.

Including BEMF in committees is not seen by anyone at Treasury, including those who are willing to consider it, as desirable: as we shall see shortly, the finance ministry is extremely resistant to including citizens’ groups in the formal processes. The reason those who work with BEMF in Treasury are prepared to consider this is that it is that they say that it has asked for it and they want to maintain the relationship. But this is not because they feel that it is essential that civil society organisations become part of the formal budgeting process – they have an entirely different reason for wanting to deal with them. In the view of the Treasury, one of the key fiscal constraints which it and the country face is that the public does not always get ‘value for money’ from the budget either because money is misappropriated or because government spending is not effective. In their view, the Treasury has ‘good information on finances but less good information on performance on the ground’ by the agencies which spend budgeted money. Their hope is that the civil society organisations with which they work will fill the gap by drawing attention to problems which inhibit effective spending. ‘They can help us identify problems’ and can help to solve them. This strategy is also motivated by a more immediate concern – the sense that citizens blame the failure of government to address social needs on Treasury’s controls on spending rather than governments’ failure to spend effectively: ‘ We are trying to prevent people blaming Treasury for everything’.¹⁸ Similar thinking motivated the Treasury to disseminate information on municipal finances in the hope that this would enable citizens to insist on more effective

¹⁷ Interview, Brown

¹⁸ Interview, Brown

municipal spending.¹⁹ As with budget transparency, Treasury officials are interested in participation as a means to a wider goal. But, while there was substantial support in the Treasury for transparency as an end in itself, there is no similar enthusiasm for participation.

Treasury is interested in informing key interests of what it does and in disseminating information on the budget, rather than inviting them or citizens to help it frame the budget. It is interested in debating the fiscal framework with academic economists and is willing to allow civil society organisations a greater insight into the budget process. It drafts a 'people's budget' which seeks to explain the document in lay terms and distributes this at the taxi ranks and traffic lights where citizens gather as well as placing them in newspapers. It is interested in extending its current outreach work in universities to schools.²⁰ It includes civil society organisations in the MTBPS and budget 'lock down' in which the media and invited guests join officials several hours before the budget or policy statement is issued – they are allowed to look at the documents, to question officials on them and thus to gain access to first-hand information which it would otherwise take them much research to gather. Because the documents are embargoed until the speeches are given, guests are locked in until the minister presents the budget, hence the name.²¹ Some officials have even suggested that it might be appropriate to issue a draft budget ahead of time to give citizens' organisations a picture of its budget thinking.²² But the Treasury it is not interested in direct participation by the citizenry in formal budget formulation processes.

¹⁹ Steven Friedman 'What We Know Can't Hurt Them: Origins, Sources of Sustenance, and Survival Prospects of Budget Transparency in South Africa' in Sanjeev Khagram, Archon Fung and Paolo de Renzio (eds) *Open Budgets: The Political Economy of Transparency, Participation and Accountability*, Washington DC, Brookings Institution Press, 2013 pp. 51-76

²⁰ Interview, Brown

²¹ Interview Frye

²² Interview, Naidoo who was quoting a Treasury official

I.3. Reasons for Reluctance

Officials offer a variety of reasons for their resistance to direct participation by citizens in budget processes.

Advocates of budget participation would argue that, whatever reasons officials give, the real one is that they believe that only a select group of specialists is capable of understanding what is required to produce a workable budget and that the process had better be left to this small elite. This strand of thinking certainly does feature in the responses of senior officials. Thus one of the drafters of the 2009 law acknowledges that Treasury was reluctant to allow its passage because many of its officials ‘didn’t feel that Parliament had the capacity to amend the budget and were afraid of what they would do’.²³ Suggestions by some officials that few contributions by citizens’ organisations are helpful as well as their preference for talking to academic specialists rather than citizen activists could be seen as further confirmation of this attitude. Similarly, opposition to participation could stem from a concern that decisions will be made which do not conform to the preferences of decision-makers: ‘there is some concern at the danger of populist decisions’.²⁴ Treasury officials also seem sceptical of the negotiation capacity of civil society organisations. Nevertheless, government reluctance is not simply an elitist prejudice. Some of the reasons cited do raise issues which require serious scrutiny by supporters of public participation in budget processes.

One set of reasons is technical – it stresses the practical difficulties facing direct citizen participation in budgeting. Substantial sections of the budget are not amenable to

²³ Interview, Naidoo

²⁴ Interview, Naidoo

change - salaries and wages are a huge percentage of social service budgets²⁵ and they are determined by negotiations with trade unions. Governments are often bound by debt commitments. It is worth noting here that, for similar reasons, participatory budgeting exercises in local government in Brazil, which have been hailed as innovative sources of popular participation, usually allow citizens to influence less than one-tenth of the budget. South African officials say they also point out to civil society organisations that much of the decision-making on priorities happens within specific government departments and that the budget process over which Treasury presides is largely concerned with negotiation between departments on how much each will get: participation in Treasury processes may in theory allow citizens' organisations to influence whether money goes to health or defence but not what health priorities will be. If they want to influence those they would need to engage with departments before they submit their proposals to Treasury: 'We are telling civil society organisations that by the time departments have submitted their motivations to us it is already too late'²⁶ because, of course, departments have already decided on their priorities. This implies that organisations which want to change priorities are more likely to be able to do this by engaging with specific departments. The point is reinforced by the fact that key social services such as education and health are provided by nine provinces, all of which have their own budgets (even if these are primarily derived from block grants extended by the central fiscus according to a formula applied by a Fiscal and Financial Commission).

Similarly, they stress that the budget is the product of a lengthy process at each stage of which information is required for decision-making – it would be virtually impossible for civil society participants to acquire all the information they needed to make the necessary decisions: 'CSOs would not want to subject themselves to the whole process' (partly, presumably, because it would absorb much of their time and energy) – they would thus be more effective if they were more strategic about 'choosing their points of

²⁵ Interview, Naidoo

²⁶ Interview, Brown

influence in the process'.²⁷ A national budget is more complex than its municipal equivalent since it synthesises the financial allocations of a much wider range of government structures - if only a small fraction of municipal budgets is available for negotiation, the proportion in the national budget would be significantly smaller.

Proponents of citizen participation in budget formulation will no doubt see these arguments as an attempt to obscure and excuse the Treasury's desire for control. They might argue that the current process is a product of a particular way of doing things which could be replaced by another method. They might add that decision-making over a very small percentage of budget items may be a very important vehicle for citizen influence if those items are the ones relevant to their concerns – winning 'no fee schools' may affect a tiny fraction of the budget but may be the difference between an education and no schooling for many learners. But the technical concerns offer an important corrective to simplistic views of budget participation which ignore technical constraints. Even where governments are sympathetic to participation, as in Brazil, there is a distinct limit to the scope for citizens to participate in formal budget formulation.

The second set of reasons is political: it is concerned with power and the way it is distributed. Here the concern is that allowing particular organisations to decide the budget will grant substantial power to small groups who represent only a fraction of the citizenry. If the points made here show that it would be difficult for organised groups to participate directly in the budget process, it would clearly be infinitely more difficult for large numbers of people to be involved – 'mass participation in the budget simply is not possible'.²⁸ Inevitably, then, those who do participate are certain to represent relatively few citizens. One concern is that these small groups might not be civil society activists seeking to speak for the poor but 'organised vested interests' who could dictate

²⁷ Interview, Brown

²⁸ Interview, Naidoo

outcomes which should be decided by elected representatives.²⁹ But even if that could somehow be avoided, there is no defensible reason why particular groups should enjoy a say when others are excluded. About the only group currently seeking a say in budget priorities is the trade union movement which, although the strongest organised force in the society, still only represents a fraction of the citizenry. Officials who take this view also stress the importance of giving priority to the role of elected representatives who, unlike civil society organisations, have demonstrated the extent of their support in the society. Civil society groups who want to influence priorities should, in this view, respect democratic principle by seeking to persuade members of parliament to support their priorities rather than seeking to engage directly with the Treasury.

These arguments must be taken particularly seriously given the strong tendency of structured negotiation processes to favour organised groups who are connected to political office holders. For all their flaws, free elections remain the only reliable method of determining who has a mandate from the citizenry - elected representatives do therefore enjoy a greater claim to the right to decide than civil society groups. In South Africa, it could be argued that the Treasury's insistence on respecting representative democracy is expedient given its stated reluctance to allow members of parliament to amend the budget. One answer is that the officials who now stress the need to respect the outcomes of elections are not necessarily those who had doubts about the 2009 law. Another – which is more important – is that, even if some officials are latching onto a convenient argument, this does not alter its validity. And the point is perhaps strengthened by the fact that the civil society organisations which are said to demand a seat at the table despite their lack of representativeness say that they do not demand it.

While a Treasury official insists that a BEMF representative specifically asked for a seat at the table³⁰, a civil society activist who has been central to attempts to engage

²⁹ Interview, Naidoo

³⁰ Interview, Brown

government says that this was not its position. BEMF, she says, did not seek a relationship with Treasury because it believes that it has a right to determine budget priorities – it did so because it was seeking to change policy away from what it sees as a preference for austerity towards more generous social spending.³¹ It never claimed to be representative and it never demanded a formal seat in the budget process and so it has no interest in rebutting the Treasury arguments presented here. It was simply seeking to win a change of policy. For that reason, the response – that it should talk to line departments because they set priorities – missed the point because it misinterpreted a broad demand for a new policy approach as a concern with the details of the budgeting process.

Whether or not BEMF asked for a seat at the table, a formal memorandum of understanding between it and the Treasury seems extremely unlikely because BEMF ‘doesn’t really exist any more’ chiefly because the donor which was funding it has withdrawn.³² Treasury claims that civil society organisations currently lack the capacity to engage are conceded by activists. It was not always so – earlier in South Africa’s democratic history, researchers and activists devoted considerable talent and energy to producing alternative budgets: a People’s Budget, a Women’s Budget and a Children’s Budget are three key examples. Civil society could then rely on significant technical and intellectual capacity in the budget project of the Institute for Democracy in South Africa (Idasa), which trained civil society activists to engage with the budget. But these efforts have dissipated, partly because of changing donor preferences. Idasa no longer exists and the projects which drew up alternative budgets ceased to operate a long time ago.³³ The union movement, once the key source of capacity, is beset by internal difficulties and its ability to engage has been weakened.

³¹ Interview, Frye

³² Interview, Frye

³³ Interview, Frye

Even if civil society organisations were admitted to formal budget processes, there is little likelihood that they would be able to use them to change budget priorities: besides the capacity problem, they lack the organisational muscle to force through changes. And if they somehow managed to do this, they would be doing it on behalf of very few people. Even if it is assumed that the Treasury arguments against direct participation are motivated more by a desire to control the process than democratic commitment, the substance of the argument – that a democratised budgeting process is more likely to emerge from citizen organisations engaging in democratic politics by seeking to influence elected representatives and public opinion than by a willingness by the government to admit small groups of citizens into the budget process - is essentially valid. We will return to this theme. Before doing so, however, it is necessary to look beyond the budget formulation process to the government’s attempt to engage citizens in monitoring the way in which budget money is spent.

I.4. Budget Spending: The Structured Approach

While the South African government may be unenthusiastic about the notion of citizen participation in framing the budget, it has no reservations, at least in principle, with the proposition, also essential to GIFT, that citizens should play a direct role in deciding how money is spent. As noted earlier a wide array of statutory committees has purported to offer citizens a direct say in decisions which affect them.³⁴ In addition, and consistent with this, the government has adopted a range of technologies designed to ensure that it knows what citizens think of the way in which services are provided to them. They include the appointment of community development workers who are meant to provide a link between citizens and the provision of services – a Cabinet minister

³⁴ Friedman ‘Participatory Governance’

urged them to 'live with the people, walk with them and talk their language',³⁵ indicating that they were meant to enable citizens to talk to government as well as hear what it had to offer them - as well as a Presidential hotline to which aggrieved citizens could direct telephone complaints.

The notion that government needs to establish channels to enable citizens' organisations to communicate with it has been a canon of governance thinking in the early days of the new democracy because it has strong roots in the fight against apartheid.³⁶ As the struggle gathered pace in the cities in the 1980s, popular participation was a key rallying cry for people excluded from the formal political system. In their fight against apartheid's exclusion of the majority from decision-making, activists frequently demanded 'people's power',³⁷ which could mean many things, but certainly included popular participation in governance. This mobilisation played a significant role in defeating apartheid: 'Our negotiated transition was considerably (if unevenly) mass-driven.. Contrary to liberal opinion, these mass-driven features ... were not destabilising anomalies. They were an important factor both in driving forward the process, particularly in moments of impasse and crisis, and in laying down the foundations for a relatively durable democracy'.³⁸ The balance of power between the resistance and the white authorities also increasingly prompted negotiation between civic organisations representing disenfranchised black city-dwellers and the white authorities, and so the participatory forum as an element in local governance became a key instrument in the

³⁵ **South Africa. Info South Africa's community workers 28 November 2005**
<http://www.southafrica.info/services/government/communityworkers.htm#.VQaN747Cc8s>

³⁶ This discussion of the origins of participatory forums is drawn from Friedman 'Participatory Governance'

³⁷ 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

³⁸ 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

fight against minority rule.³⁹ During the early 1990s, when the representatives of the minority government and the resistance to it were negotiating a new order, the insistence that the government not take unilateral decisions which would bind the new democracy was a core concern of the 'liberation' movement. By far the most notable success of its campaign was agreement to the demand of the Congress of South African Trade Unions for a National Economic Forum which would allow for participatory decision-making on economic policy.⁴⁰ This breakthrough became part of a 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, representatives of political parties, sought to frame social and economic policy. While they negotiated few substantive policy compromises, they were seen as a key feature of the process which negotiated an end to apartheid.⁴¹

The forums of the early 1990s were an attempt to balance the two key realities of the time – that the minority government could not defeat popular mobilisation against minority rule and the old order could not be defeated and therefore had to be negotiated out of power. The fact that social and economic negotiating forums ran in parallel with the constitutional equivalent reflected a further reality: that 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 remained a key reality after democracy was achieved. This experience reinforced enthusiasm for participatory forums. But, rooted as they were in the fight against apartheid, the forums also tended to assume a social and economic community of interest among apartheid's victims which the evidence belied. One consequence was the assumption that activist civic organisations

³⁹ 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

⁴⁰ 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

⁴¹ 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

represented entire 'communities' who could thus be represented at a forum by a single organisation. As a consequence, popular participation came to be seen as a process in which forums would be established at which 'community organisations' would participate in decisions on behalf of entire residential 'communities' despite the manifest evidence that many residents were not represented by these groups and that divisions between competing interest groups was a key feature of these supposedly united 'communities'.⁴²

This history ensured that formal mechanisms of participation became an important feature of post-apartheid governance. While an early enthusiasm for establishing multi-interest bodies charged with policy-making dissipated, mechanisms for participatory government are built into law. 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 dealings with different aspects of social and economic policy. In response to claims that the poor and unorganised were not represented, it included a development chamber in which organisations which were assumed to represent key social sectors such as women, youth, disabled people, rural residents and 'communities' are represented.⁴³ School governing bodies comprising teacher, parent and learner representatives were established by the South African Schools Act with significant formal powers over school governance.⁴⁴ The fight to reduce high levels of crime while ensuring a police service accountable to citizens prompted the establishment of Community Police Forums.⁴⁵ Participation in water provision was made possible by the establishment of Catchment

⁴² 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

⁴³ Edigheji 'State-Society Relations' p.78

⁴⁴ *South African Schools Act*, No.84 of 1996 www.polity.org.za/html/govdocs/legislation/1996/act96-084.html?rebookmark=1-78k -

⁴⁵ *South African Police Service Act*, No. 68 of 1995 http://www.saps.gov.za/const_framework/acts/achapt7.htm

Management Agencies,⁴⁶ in health care by ‘greater representation from communities on Hospital Boards and legal recognition of Community Health Committees, consisting of elected local representatives and ordinary community members’.⁴⁷ 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’.⁴⁸ Local governments are compelled to consult citizens - legislation mandates them to ‘encourage, and create conditions for, the local community to participate in the affairs of the municipality’ through ‘appropriate mechanisms, processes and procedures to enable the local community to participate....’⁴⁹ Ward councillors are required to establish ‘ward committees’,⁵⁰ while all municipalities are required to develop an Integrated Development Plan (IDP) in discussion with local citizens.⁵¹ Legally, councils are required to submit both IDPs and budgetary proposals to popular assemblies.⁵² 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, which introduces a ‘comprehensive transport planning and implementation process’, includes a stipulation that the public participate ‘throughout the process’ of devising policy.⁵³ While participation may be interpreted as something as perfunctory as calling for public submissions, it may also entail structured discussions with citizens’ groups.

⁴⁶ 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

⁴⁷ *African National Congress Western Cape Towards Equity in Health for the People of the Western Cape* <http://www.anc.org.za/ancdocs/policy/wc-health.html>

⁴⁸ Nozizwe Madlala-Routledge Budget Speech by Deputy Minister of Health Nozizwe Madlala-Routledge 17 June 2004 <http://www.pmg.org.za/briefings/briefings.php?id=154>

⁴⁹ *Local Government: Municipal Systems Act*, No. 32 of 2000 Chapter 4, clauses 16, 17 www.communitylawcentre.org.za/localgov/legislation/32of2000.pdf

⁵⁰ *Local Government: Municipal Structures Act* No. 117 of 1998 clause 72-77 www.communitylawcentre.org.za/localgov/legislation/117of1998.pdf

⁵¹ *Municipal Systems Act*, Chapter 5

⁵² Cronin ‘The People Shall Govern’ p.1

⁵³ 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

While some advocates of these forums insist that the ethos of participation has withered as the post-apartheid administration has increasingly relied on management technique⁵⁴ - and there are cases, such as the government response to HIV/AIDS, where this clearly was a pattern (see below),⁵⁵ evidence that the participatory idea continued to influence government thinking was offered in 2005 when the local government minister, Sydney Mafumadi, responded to a wave of grassroots local protest against municipal councils by urging the strengthening of ward committees,⁵⁶ a theme which has been repeated by representatives of the government and the governing party throughout the ensuing decade. In theory at least, government officials and senior politicians remain enthusiastic proponents of public participation in government, which they insist is being energetically pursued.⁵⁷

Previous research and analysis has questioned the degree to which these forums and platforms really do offer citizens a say in those decisions. While they may have begun life as instruments of participation, they have become techniques of government – but even in their early days they served only to offer a platform for small groups who claimed to speak for everyone (a pattern which may have influenced the Treasury attitudes discussed earlier). This paper will offer a more detailed critique below but research by this author has also shown that participation exercises not only exclude most citizens who need to be heard – the unorganised – but may also do little more than simulate consultation since the outcome after citizens are said to have participated is no different to the one envisaged in official documents before the exercise began.⁵⁸

⁵⁴ Patrick Heller “‘Technocratic creep’ threatens local government reform’ *Synopsis* Vol 4 no 1, Johannesburg, Centre for Policy Studies June 2000

⁵⁵ Steven Friedman ‘HIV/AIDS Strategies: Society Must be brought on board’ *Synopsis* Vol 4 no 1, Johannesburg, Centre for Policy Studies June 2000

⁵⁶ FS Mafumadi *Address by Minister of Provincial and Local Government* www.dplg.gov.za/speeches/29Mar2005Min.doc

⁵⁷ Author’s discussions with national and provincial governments, September and October, 2005

⁵⁸ Steven Friedman ‘A Quest for Control: High Modernism and Its Discontents in Johannesburg, South Africa’ in Blair A Ruble, Richard E Stren, Joseph S Tulchin with Diana H Varat (eds) *Urban Governance Around the World* Washington DC Woodrow Wilson Center for International Scholars, 2002

Hitherto, this view has received little sympathy inside government. Latterly, however, the government has in effect acknowledged that almost two decades of formal participation forums has not enabled citizens to participate.

This acknowledgement appears in a document approved by the South African Cabinet which establishes a framework for the CBM programme mentioned above, which is currently being managed in partnership with a non-governmental organisation, the Seriti Institute. According to official documents, CBM has been in a piloting phase which ends in March 2015 but the programme manager, Jonathan Timm, says that the term ‘piloting’ is a misnomer. While lessons will be learned from the initial phase, the programme is continuing and hopes to expand to new areas of the country and new parts of government.⁵⁹ The piloting phase ends officially in September, 2105, but the programme is committed to operating in at least 50 facilities by 2018.⁶⁰

CBM aims to ensure that citizens are able to influence directly the way in which government services are provided. Timm says it is not yet dealing with budget issues but is sure to do so in the future.⁶¹ This refers to the fact that the CBM participants are not examining or commenting on budgets – they are monitoring the extent to which public services are being provided in a manner which citizens find satisfactory. But it makes the programme a form of public participation in budgeting even if the budget is never directly discussed. Enabling citizens to influence the manner in which money budgeted is spent is consistent with GIFT’s understanding of participation in budget decisions. This discussion of current government attempts to include citizens in discussions on how money is spent will focus on the CBM programme because its framework adopted by the South African Cabinet begins from the premise that citizens

⁵⁹ Telephone Interview, Jonathan Timm, Citizen Based Monitoring Programme Manager, Department: Performance Monitoring and Evaluation February 16, 2015

⁶⁰ Email Communication, Jonathan Timm, March 16, 2015

⁶¹ Interview, Timm

have not previously, despite the array of committees, enjoyed the power to monitor how budgets are spent. The framework document reports on a research exercise which examined the way in which services are provided to citizens and reached this conclusion:

The more than 250 unannounced monitoring visits conducted at frontline service sites by DPME, together with the Offices of the [provincial] Premier in the period June 2011 to September 2012 revealed the widespread absence of citizen government monitoring mechanisms as well as a ‘compliance approach’ by officials to the use of tools such as complaint systems. Whilst satisfaction surveys, complaints boxes and call centres may have been present, the accountability and responsiveness to citizens was weak and the systematic use of information from these tools for improvements was poor. These findings are supported by monitoring and research undertaken by the Public Service Commission. This lack of responsiveness at the service delivery level means that citizens by-pass local complaints and participation systems and appeal to senior political leadership for assistance. This overloads mechanisms of last resort such as the Presidential Hotline, as increasingly citizens use these as a first line of appeal. Alternatively some citizens turn to violent protest to attract the attention of government. The Public Service Commission has made several findings on the weak and ad-hoc nature of public participation in the public service and recommended that policy and standards setting were needed.⁶²

It may be safely assumed that, if research conducted within government which has received Cabinet endorsement reports that previous efforts have not given citizens a say in the manner in which budgetary allocations are spent – or in government decision-making more generally - it is unnecessary for this paper to devote space to demonstrating the same point. The framework document suggests that it is now

⁶² Presidency of the Republic of South Africa Department: Performance Monitoring and Evaluation *A Framework for Strengthening Citizen-Government Partnerships For Monitoring Front-line Service Delivery* August 2013 p.4

common cause that, despite the array of formal forums available to them, South African citizens have not been able to shape how public money is spent. If this is to change, it is presumably the CBM which will have to change it.

The CBM programme, which is now in its second year, 'places citizens as active participants in shaping what is monitored, how the monitoring is done and what interpretations and actions are derived from the data'.⁶³ It is currently focussing on monitoring four government agencies with which it has partnership agreements – the police, the SA Social Security Agency which pays out social grants, and the national departments of health and social development. It operates at selected sites where these agencies are active since it is still piloting the programme – sites are 'in more difficult places' where citizens are protesting⁶⁴ because it hopes that CBM will remove the need for protest.

CBM uses a variety of methods to enable citizens to monitor government performance. These begin with a community perception survey which is conducted by 'community members' – mainly young people in the area – and reaches 600-800 households.⁶⁵ Its report is discussed by officials and local citizens who are drawn from formal participation structures - they examine the problems identified and seek to analyse their causes. This leads to the convening of a community meeting at which citizens can engage with officials – it is broken into discussion groups to ensure more direct engagement. CBM also relies on citizens developing 'community scorecards' which are 'based on identifying issues through facilitated focus group discussions with community members. This information is then analysed and used by citizens (to) engage with government service providers to address problems'.⁶⁶ A component of the programme uses free cell phone messaging to enable people to complete online surveys about

⁶³ Presidency 'Framework' p.vi

⁶⁴ Presidency of the Republic of South Africa Department: Performance Monitoring and Evaluation *Strengthening Citizen Based Monitoring Symposium* Report 30 September 2013 p.7

⁶⁵ E-mail Communication, Gavin Andersson, Director, Seriti Institute, 15 March 2015

⁶⁶ Presidency 'Framework' p.8

services they receive.⁶⁷ Timm insists that this is changing the way in which the government engages with citizens because it is not adversarial – it seeks co-operation in an attempt to find solutions. ‘We want to move from power over to power with – from a hierarchical government system based on command and control to one which works with citizens’.⁶⁸ The framework adopted by the Cabinet says that CBM ‘shifts the emphasis to focusing on building local level accountability through the co-production of monitoring information by citizens and frontline officials.’⁶⁹ Or, more simply, CBM ‘is about building a relationship of trust between citizens and government around the improvement of government services’.⁷⁰

Timm says councillors and officials are often threatened by the programme and seek to ‘protect their space’ by relying on ‘protocols and power’. Inevitably ‘departments exposed by CBM become defensive’.⁷¹ The CBM framework document observes that in some cases ‘forums have not succeeded because they have not been supported by local politicians, who have perceived them as a threat’.⁷² But he insists that it has managed both to achieve concrete changes in the way government agencies operate and to change attitudes in government – he cites the case of a police station commissioner who overcame initial hostility to acknowledge the need to engage with citizens, something he now does enthusiastically. While Timm acknowledges that official willingness to co-operate may be more a reaction to the Presidency’s role than to that of citizens, he believes the CBM programme could fill a ‘real need for a partnership between government and the community’. A project document stresses the need to look for ‘low hanging fruit’ – ‘steps that can easily be taken which dramatically improve performance and/or citizens and frontline staff perceptions of the value of learning

⁶⁷ Presidency ‘Framework’ p.13

⁶⁸ Interview, Timm

⁶⁹ Presidency ‘Framework’ p.vi

⁷⁰ Presidency ‘Framework’ p.16

⁷¹ Presidency ‘Symposium’ p.18

⁷² Presidency ‘Framework’ p.11

collaboration through CBM'⁷³ since it believes that this will build momentum for the programme. Timm hopes that, as the programme develops, this momentum will grow enough to enable DPME to play a technical support function only.⁷⁴ Ultimately, government departments, according to the framework document, 'have the responsibility to incorporate citizen-based monitoring into their performance monitoring and management'.⁷⁵

The CBM sees its task both as achieving the technical goal of strengthening government effectiveness by making it more responsive to citizen concerns and deepening democracy. The then minister responsible for DPME described it both as a programme which has the potential to make an important contribution to strengthening active citizenship and as a means of 'building a capable and development State' – in other words it empowers citizens and also enables government to function better.⁷⁶ Timm insists that it has indeed enabled government departments to improve the service they provide— as a result of citizen responses, he says, the SA Social Security Agency is now seeing 60-70 clients a day instead of the 40 it saw previously: the time taken to process applications has declined from two days to one.⁷⁷ But an official document insists that CBM is also a political intervention which: 'Deepens democracy by giving true meaning to public participation in local government'⁷⁸ The DPME says it wants to achieve a 'simple robust, scalable mechanisms to incorporate the voice of citizens in service delivery and we want to use this as a tool for building social cohesion, democratize the state. This is a tool to a bigger end – to strengthen democracy'.⁷⁹ So

⁷³ Presidency 'Strengthening Partnerships' p.3

⁷⁴ Interview, Timm

⁷⁵ Presidency 'Framework' p.20

⁷⁶ Collins Chabane Minister's Foreword in Presidency of the Republic of South Africa Department: Performance Monitoring and Evaluation A Framework for Strengthening Citizen-Government Partnerships For Monitoring Front-line Service Delivery August 2013.

⁷⁷ Interview, Timm

⁷⁸ Presidency of the Republic of South Africa Department: Performance Monitoring and Evaluation *Presentation 1: Citizens' Voice (Mvula Trust), community based monitoring of water service delivery* p.7

⁷⁹ Presidency 'Symposium' p.8

the programme seeks to be judged not only by whether it can make government work better but by whether it can ensure that citizens enjoy a direct say in public spending.

It also seeks to blend two very different frameworks for viewing citizen participation in government. The first is the 'client-oriented' approach which sees citizens as customers of a business. The second is the radical participation approach which is interested in the way in which people force themselves into decisions and discussions from which they have been excluded. According to CBM's programme manager, it is influenced both by the World Bank approach, which stresses the need to hear the client more, and one which 'create(s) citizen agency', recognises 'the value of voice' and seeks to change power relations.⁸⁰ The framework document says that 'many of the approaches are shaped by a participatory research and learning tradition that reaches back to the 1970s; drawing on various international methods, including Participatory Action Research (Paolo Freire, Fals-Borda and others) and Participatory Rural Appraisal (Robert Chambers and others)'. But it also 'draws on the customer satisfaction approaches used by the private sector'. Citizen-based monitoring can employ collective and/ or individual-driven accountability mechanisms.⁸¹ These approaches are normally seen as competing, not complementary.

A further possible tension – or at least ambiguity – is how the programme defines citizens. Is the term restricted to those who participate in official forums, who are identified by the government and participate in a manner designed by it? CBM's documents seem to lean in this direction. According to the framework, it 'does not duplicate or replace existing public participation structures or processes... but rather offers the potential to strengthen (their) monitoring capacity ...'⁸² It is designed to strengthen existing platforms.⁸³ Similarly, CBM 'does not require creating new

⁸⁰ Interview, Timm

⁸¹ Presidency 'Framework' p.7

⁸² Presidency 'Framework' p.vi

⁸³ Presidency 'Framework' p.3

structures’ because it ‘promotes the use of existing citizen engagement/participation mechanisms...’⁸⁴ The framework presents CBM as a continuation of the government’s policy of establishing formal public participation vehicles which, it claims, are aimed at ‘strengthening the voice of citizens in the work of government’. It says ‘public participation in monitoring service delivery and the performance of government’ is an ‘underdeveloped aspect of public participation’⁸⁵ – a gap which CBM is filling.⁸⁶ This portrays CBM as an attempt to make formal participation structures work better. Citizen participants are, it appears, selected by government which uses the networks known to it. At times, this may simply mean drawing names from a database – a ‘community survey’ conducted by the programme uses members of public works programmes and list of social service beneficiaries available from the department of social development.⁸⁷ But the documents suggest a programme which appears to be primarily aimed at the limited groups of citizens who are already engaging with the government in formal forums.

But CBM does seem interested in moving beyond engaging only with those citizens who already participate in government structured forums: ‘Citizen-based monitoring activities may also take place outside of existing public participation structures.’⁸⁸ This may happen ‘either through direct engagement with citizens, or through engagement with the findings from independently conducted monitoring by civil society and community organisations’.⁸⁹ This implies that monitoring should be a society-wide practice rather than a government programme. In places, CBM’s architects also use the by now familiar distinction between ‘invited spaces’ in which citizens engage with government at its invitation only (in structured forums) and ‘invented’ spaces which are created by citizens

⁸⁴ Presidency ‘Symposium’ p.3

⁸⁵ Presidency ‘Framework’ p.7

⁸⁶ Presidency ‘Framework’ p.2

⁸⁷ Interview, Timm

⁸⁸ Presidency ‘Framework’ p.vi

⁸⁹ Presidency ‘Framework’ p.3

to engage with the government on their terms⁹⁰ - it therefore acknowledges alternatives to structured participation through formal forums. The framework acknowledges that CBM 'can be driven by government departments (engaging directly with individual citizens)' but that this not the only possible approach; 'partnerships with organised civil society' and 'independent civil society initiatives'⁹¹ are also appropriate. Civil society organisations do work with the government on aspects of the programme.⁹² They are encouraged to develop monitoring approaches 'and engage government at all three spheres to promote uptake of viable models'.⁹³ While this does still restrict CBM to organised citizens' groups, it does seem to move beyond this in several ways. Monitors are meant to communicate findings back to citizens in partnership with an NGO and findings of the monitoring exercise are 'made available on the Black Sash's website and through the media'.⁹⁴ The monitoring processes tries to use 'a simple and limited list of questions', local languages and 'easily understood options' and design will consider 'different experiences/perceptions according to age, gender, economic status and location'.⁹⁵

The framework also recognises the need to hear voices other than those of the already connected: 'The design and choice of CBM instruments and the way they are introduced needs to take into account ... barriers that may prevent people (particularly vulnerable sectors of a community - elderly, women, disabled, youth, illiterate, immigrants etc.) from being comfortable or able to give their real views ... These perspectives may be overlooked unless conscious provision is made to seek them out in ways that are most suited to the marginalised voices'.⁹⁶ CBM insists it will use 'whatever opportunities exist to communicate its purpose, progress and lessons. Notice boards in public places, community radio discussions, regular reflection in existing

⁹⁰ Presidency 'Symposium' p.4

⁹¹ Presidency 'Framework' p.8

⁹² Presidency 'Framework' p.10

⁹³ Presidency 'Framework' p.20

⁹⁴ The Black Sash is the NGO working with DPME on this aspect of the programme. Presidency 'Framework' p.10

⁹⁵ Presidency of the Republic of South Africa Department: Performance Monitoring and Evaluation *Update - November 2013* : Strengthening Citizen-Government Monitoring Partnerships p.3

⁹⁶ Presidency 'Framework' p.21

forums; these will all be used as vehicles to spread word of the programme'.⁹⁷ Placing budgets on public walls⁹⁸ in the hope of giving citizens the tools to monitor spending is mentioned in project documents. Treasury is reportedly suggesting 'open contracting' to make the tendering process more transparent and to allow citizen to monitor performance.⁹⁹

These commitments and proposals suggest an interest in opening the right to monitor government programmes to as many citizens as possible and to give citizens latitude to choose their mode of engagement with government. The programme's managers insist that it is not restricted to structured forums. Rather, it uses them in the initial stages to evaluate responses from citizens but they are not regarded as 'representative of community views'. The programme aims to focus both the formal structures and government officials on the priorities identified in the community surveys. These surveys and the 'community feedback meeting' which follows them are meant to provide opportunities for deepening participation through engaging on specific issues or reaching out to new participants: they are not seen as the sum total of the participation process. Civil society organisations are expected to create opportunities for unorganised citizens to engage with the government.¹⁰⁰ The project also broadens its scope by holding focus groups and semi-structured interviews with 'people whose voice might not often be heard' – car wash workers, parents at a school soccer match, and patients at a clinic.¹⁰¹ These responses suggest that the CBM sees structured forums as only one area for engagement – and perhaps not the most important one.

Despite their stress on harmony and co-operation, the programme's designers also seem aware that government spending is always the subject of contest between competing interests - that decision-making is about politics, a point which participation technologies largely ignore. They note that CBM can create unrealistic expectations 'and can even lead to increasing tensions

⁹⁷ Presidency 'Strengthening Partnerships' p.3

⁹⁸ Presidency 'Symposium' p.14

⁹⁸ Presidency 'Symposium' p.16

⁹⁹ Presidency 'Symposium' p.19

¹⁰⁰ Email Communication, Timm

¹⁰¹ E-mail Communication, Andersson

between citizens, CSO and government'.¹⁰² It will need to rely on 'stakeholder analysis' in the areas where it is introduced because 'it may heighten suspicions and increase tensions in politically contested communities' – piloting will be guided by a steering committee which will rely partly on 'civil society expertise' in an attempt to avoid this.¹⁰³ They add: 'The risk that civil society organizations can be used to pursue party political agendas needs to be wisely managed, without losing sight of the valuable role played by civil society in a democratic society'.¹⁰⁴ Given high levels of poverty and inequality, citizens in poor areas often expect to benefit materially from participation – they ask 'What is in it for us' and seek jobs and stipends. 'Community gatekeepers' – local power holders who enhance their power by seeing to become the sole conduit to 'the community' - are also a frequent response to structured participation programmes.¹⁰⁵ While harmonious partnership is their ultimate goal, the programme's implementers are aware that conflict often makes co-operation elusive as competing groups battle for control of resources. According to the Director of the Seriti Institute, which works with the Presidency on CBM, the process does sometimes unearth 'a lot of anger'. It does not see this as a problem; it believes it can 'provide a way for anger to find a peaceful focus'. Instead of protests in which the authorities are confronted with anger on the streets but never find out exactly what people's grievances are, 'there is now the chance to put specific complaints or demands to the authority and so give it a chance to decide exactly what it will do to improve the situation'. It could initiate negotiation which could produce concrete gains for citizens.¹⁰⁶ Timm stresses that 'conflict and contest are central to the method' although the goal is to reach agreement on concrete changes - 'the slogan that has emerged from the pilot is *Ndive Nkuwe* (Hear me and I will hear you). This talks to different realities competing for expression'.¹⁰⁷ The programme managers also hope that the *Kutlwano* - the final agreement about what the facility will do to improve its performance – will, once popularised, 'spark an increased and focused

¹⁰² Presidency 'Symposium' p.10

¹⁰³ Presidency 'Framework' p.23

¹⁰⁴ Bernadette Leon and Jonathan Timm Strengthening Citizen-Government Partnerships for Monitoring Frontline Service Delivery in South Africa p.2

¹⁰⁵ Presidency 'Symposium' p.19

¹⁰⁶ E-mail Communication, Andersson

¹⁰⁷ E-mail Communication, Timm

vigilance and monitoring by citizens'.¹⁰⁸ This acknowledges that contest and conflict do not end once an agreement is reached.

The project documentation suggests, therefore, that the officials responsible for CBM are aware of the critiques structured participation– that they are open only to a small group of organised citizens, that they expect citizens to express themselves only in ways designed by government and that they wish away social conflict by assuming an illusory harmony among those who participate. But does this make the approach implied by CBM an appropriate means of ensuring that citizens are able to participate in the processes which decide how budgeted money is spent?

I.5. A Seat But Not a Voice: A Critique of Structured Participation

Public participation, it could be argued, has been reduced in much governance theory and practice from a means to realise democracy's promise to a set of techniques and technologies which seek to enhance the smooth functioning of government administration.¹⁰⁹

The chief normative rationale for participation is that it seeks to realise the core democratic principle that all adult human beings are entitled to an equal say in the decisions which affect them.¹¹⁰ This should, in principle, improve the quality of government by making it more likely that what it does conforms to the wishes of citizens. But improved governance (evaluations of which are, after all, subjective) is a by-product of ensuring that democratic government fulfils its core purpose – to reflect the will of the majority and to serve citizens rather than to act as their master. If

¹⁰⁸ E-mail Communication, Andersson

¹⁰⁹ **For the consequences of reducing social processes to administration see James C Scott *Seeing like a State: How Certain Schemes to Improve the Human Condition Have Failed* Yale University Press, 1998**

¹¹⁰ Steven Friedman *Power in Action: Democracy, Collective Action and Social Justice*. Research Report Submitted to the Institute for Democracy in South Africa and the Ford Foundation 2007

participation is seen in this way, it becomes a vehicle for popular agency and for new power relations in which citizens who were once subject to the decisions of others are able to make those decisions themselves. Governments which purport to take democracy seriously are thus obliged to create opportunities for citizens to participate fully in shaping the decisions which affect them.

The most frequent response of governments seeking to encourage participation, has been to use structured forums and other participation technologies ostensibly to enable citizens to participate directly in decisions and in monitoring government performance. We have noted that, since 1994, the South African government has established a wide array of formal forums and that the CBM documents acknowledge that this array of structured forums has not given citizens a say in the decisions which affect them. This judgement confirms the findings of numerous research papers over the past two decades,¹¹¹ and is confirmed by the experience of the Director of the Seriti Institute, the Presidency's partner in the CBM programme. He sees structured forums as sites where an 'organisational elite' use acumen, information and connections to access forums where they often 'claim benefits or influence' without representing residents. There are rarely adequate rules governing who can and cannot participate and on what terms. The forums contribute to 'an institutional weakness in civil society' because they are said to be meaningful but 'may reflect the views of as few as three or four people'. In policing, for example, who participates in the forum must be approved by the commanding officer of the local police station, which is obviously not conducive to vigorous independent oversight. Even when forums are not compliant, they have few if

¹¹¹ Friedman 'Participatory governance'; Steven Friedman *The Elusive "Community": The Dynamics of Negotiated Urban Development*, Johannesburg, Centre for Policy Studies, 1993; Steven Friedman and Maxine Reitzes *Democratic Selections? Civil Society and Development in Post-Apartheid South Africa*, Midrand, Development Bank of South Africa, 1995; 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

any routines enabling them to ‘distil information or opinion from citizens or to review performance’.¹¹²

While the non-performance of these forums is the subject of broad consensus, what is debatable is whether this is because South Africa has not implemented participation effectively or because there is a structural impediment which ensures that forums cannot give citizens a voice no matter how well they are run. Internationally, some scholars have criticised the way in which governments and development institutions have implemented structured participation forums but have argued that it is possible for structured participation to include citizens in decision-making.¹¹³ But there are good reasons for insisting that structured forums are incapable of granting voice to the majority of citizens.¹¹⁴

First, they include only the organised who would be heard anyway – the unorganised remain without a voice. (This is usually so even when participants are chosen at ‘community meetings’ since these are attended by a very small, connected, section of the ‘community’). They may, therefore, be useful bridgeheads for citizens’ organisations which are already organised and are seeking a place at the bargaining table.¹¹⁵ But this still leaves unorganised citizens – who are most in need of a voice – without one. So they are at best a means of ensuring that some have a voice, not that all or even most do. In effect, formal forums usually give a say to organisations which would enjoy one even if there were no forum – those who are connected and have managed to persuade the authorities that they have a constituency. So they provide no voice to

¹¹² E-mail Communication, Andersson

¹¹³ Leonardo Avritzer *Democracy and the Public Space in Latin America*, Princeton and Oxford, Princeton University Press, 2002; Andrea Cornwall and Vera Schatten Coelho (eds) *Spaces for Change? The Politics of Citizen Participation in New Democratic Arenas* London, Zed, 2007

¹¹⁴ Friedman ‘Power in Action’

¹¹⁵ 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

those who are not usually heard: they entrench a divide between organised insiders who enjoy influence and the unorganised majority who do not.

Second and similarly, they exclude the poor because the manner in which they operate assumes possession of cultural and other forms of capital which poor people rarely possess. Participation requires familiarity with procedures with which the poor are rarely familiar: the routines are generally those with which people who engage in formal governance or organisational life are comfortable but which are strange to people unaccustomed to the conventions of formal politics. Often participation requires access to information which the unorganised poor do not have or the confidence to demand answers from officials who entrench their power by seeking to make the issues under discussion as technical as possible. And often they simply find the ambience intimidating¹¹⁶ – as did the single women in Jane Mansbridge’s study of New England town meetings who avoided participating not because they were formally excluded but because they feared, probably with good reason, that those who controlled the participatory processes would laugh at them if they spoke.¹¹⁷

And third, they ignore difference and the contest between ideas and interests which is crucial to democracy by seeking to distil a consensus out of conflicting views and agendas. In democratic processes, the fact that humans differ in their interests and their views of the world ensures that consensus is very rare and is achieved only by a free contest of ideas - which is excluded by structured participation. It could be argued that, if these differences did not exist, there would be no need for democracy. Mansbridge points out that, if we all had the same interests, it would not matter whether whoever represented us had a mandate from us to represent our interests because we could be

¹¹⁶ Centre for Policy Studies *Analytical overview of the political economy of the civil society sector in Southern Africa with regard to the poverty reduction agenda*, Johannesburg, Centre for Policy Studies, 2002

¹¹⁷ Jane Mansbridge *Beyond Adversary Democracy* Chicago and London The University of Chicago Press, 1983

confident that our representative would see the world in the same way as we do.¹¹⁸ But we don't all have the same values and interests which is why it is necessary, if democracy is to accurately reflect preferences, that representatives must enjoy the mandate of those for whom they speak. This difference also means that consensus, where it appears at all, is forged in political contest in which one set of proposals emerges victorious by majority vote or liveable compromises are found between contending positions. In forums, the cut and thrust of democracy is replaced by processes which essentially wish away difference by distilling a range of voices into a presumed consensus. An example is the Poverty Reduction Strategy Processes (PRSPs) which international financial institutions convened to plan anti-poverty policies for Highly Indebted Poor Countries (HPCs) which were seeking debt relief. A range of actors and interests were consulted and then officials distilled out of the process a view which purported to be that of 'civil society' in the relevant country.¹¹⁹ Participants had no opportunity to engage in contest over their proposals and there could not conceivably have been any way of establishing whether the opinions expressed enjoyed the support of most citizens. So, the more democratic governments seek to show commitment to participation by building it into structures, the more do they obstruct it in practice by ignoring difference and so silencing the many who structured participation cannot hear.

This dilemma clearly influences the architects of the CBM programme. On the one hand, as noticed above, their use of the language of popular empowerment suggests that they are aware of, and accept, core critiques of structured participation. This is also confirmed by the views of programme managers discussed here. CBM documents are sensitive to the criticism that giving a platform to the organised silences the weak who are unable to organise – several of the proposals mentioned above are aimed at ensuring a voice for the weak. And so they acknowledge one of the core flaws of many mainstream approaches to participation – that they concentrate on power relations

¹¹⁸ Mansbridge 'Beyond Adversary Democracy'

¹¹⁹ Centre for Policy Studies 'Analytical overview'

between citizens and government while ignoring those between groups of citizens and so give voice to the powerful among the citizenry at the expense of the powerless. They thus seem open to the objection that formal structures reinforce existing power relations by channelling participation only through platforms which silence the poor. The responses of programme managers discussed here suggest that their awareness of the problem prompts them to see structured forums as at best a way of beginning the process of allowing citizens to voice their concerns and why their strategy seeks to broaden participation to those who are excluded by the structured approach.

The CBM seems, therefore, open to the possibility that governments may best promote participation in decisions when they provide grassroots citizens with the information they need to challenge government and then make themselves available to those who do organise to demand a say in what is budgeted and how it is spent. The CBM framework document thus points to the role of citizen access to information in enabling people to ensure that government spends its budget in ways which meet their needs.¹²⁰ There is also an acknowledgement of the need to equip citizens with information that can enable them to hold government to account. A CBM symposium participant stressed that: 'People cannot engage with government if they do not know what it is that they are entitled to in the first place'. This required 'awareness raising of their rights and knowledge of policies, programmes, service standards'. CBM, it said, is only possible if citizens know their rights as well as government processes and plans'.¹²¹ Another participant adds that 'Government communication is critical'.¹²² The symposium heard suggestions that policies and budgets 'need to be ... simplified so that they can be understood and accessed by all citizens'.¹²³ Some sections of the document may also respond to the criticism that formal participation can rob citizens of agency by forcing them to express themselves in ways chosen by government rather than by acting

¹²⁰ Presidency 'Framework' p.6

¹²¹ Presidency 'Symposium' p.15

¹²² Presidency 'Symposium' p.22

¹²³ Presidency 'Symposium' p.22

independently – participants at the CBM symposium noted that monitoring requires that citizens enjoy ‘recourse through legal protest, responsive government or organised action’.¹²⁴

But it does not necessarily follow that these goals are realisable within the approach adopted by CBM. First, working through forums and with participants chosen through government networks may duplicate the tendency of previous participation exercises to include only the already connected – which, the CBM documents’ acknowledge, has not worked. It could be argued, of course, that CBM may be able to make them work but no case is made in the documents for the argument that what went wrong in the past was a consequence of inadequate method which CBM will now correct. The privileging of organised interests and the tendency to duplicate existing power relations is an inevitable consequence of an approach which sees participation as a process in which governments choose not only the participants but the manner in which they will participate. If CBM is to avoid this criticism, its programmes will need to break decisively with the recourse to formal forums and move towards methods which seek to encourage action by citizens on their own terms.

Second, the relationship between citizens and government assumed by some CBM documents appears to restrict citizen action. Much emphasis is placed on ‘shared problem solving’¹²⁵ – DPME, it says, ‘will focus on strengthening government’s ability to ... achieve constructive partnerships around monitoring for service delivery improvements’.¹²⁶ There is, of course, nothing wrong with partnerships and joint attempts at problem solving. But, given that South Africa has experienced years of protest in which citizens have demonstrated against a lack of government

¹²⁴ Presidency ‘Symposium’ p.15

¹²⁵ Presidency ‘Framework’ p.11

¹²⁶ Presidency ‘Framework’ p.19

responsiveness,¹²⁷ it seems highly unlikely that citizens will, particularly in the initial stages, want to co-operate with government. If they are pressured to do so, no matter how subtly, the programme could become a new form of silencing. Its ability to escape that fate will depend on its willingness to accept the points made at its symposium – that citizens are entitled to engage with government through peaceful protest and public campaigning and that the exercise of voice entails conflict as well as co-operation. Peaceful and legal protest is a legitimate citizen tool and effective monitoring may require this method where citizens do not feel that government is behaving in ways which invite joint problem solving.

Some CBM documents also contain elements which suggest that the programme could be seen as a means to get citizens to listen to government rather than getting government to listen to citizens. The framework says that, in CBM programmes, ‘community members are educated through the project to understand their part in efficient water services delivery. This includes reporting leaks and paying for services.’¹²⁸ ‘Education’ in this context could easily be an exercise in which citizens are instructed in government’s view of the world while the reference to reporting leaks and paying for services envisages a policing function. This view that partnership between government and citizens requires the latter to act as agents of the former is not the view of the DPME unit which runs CBM. But it may well be the expectation of many in government. It may also illustrate just how restrictive some notions of ‘partnership’ between government and citizens can be. It emphasises the point that CBM will only empower citizens if partnership is seen as a desirable final goal rather than an immediate imperative.

¹²⁷ Karl Von Holdt, Malose Langa, Sepetla Molapo, Nomfundo Mogapi, Kindi Ngubeni, Jacob Dlamini and Adele Kirsten 2011 *The Smoke That Calls: Insurgent Citizenship, Collective Violence and the Search for a Place in the New South Africa* Johannesburg, Centre for the Study of Violence and Reconciliation, Society, Work and Development Institute, July

¹²⁸ Presidency ‘Framework’ p.11

Third, CBM documents suggest that individual forms of monitoring – hot lines are the obvious but not the only example – are seen as viable means of holding those who spend public money to account. It is, of course, the right of any individual citizen to complain to government. But individuals rarely if ever have the same ability to be heard as collectives. This continued stress on the individual is integral to the ‘client centred approach’ noted above in which citizens who use government services are seen as ‘customers’ in much the same way as people who patronise a private business. This ignores the reality that, while customers in a market economy are meant to have leverage over businesses – they can go elsewhere if they don’t like the quality of service – citizens living in poverty have no such option when they seek services from government: ‘exit’ is not a viable option – only ‘voice’ is and voice is usually heard only when it is collectively expressed. Businesses compete with each other but governments don’t and so the analogy between citizens and clients is untenable. The more citizens are treated as individual customers, the more power relations remain intact and the efforts of citizens to secure effective service provision are fragmented and diluted. CBM documents’ assumption that it is possible to adopt an approach centred on collective agency and a change in power relations alongside the ‘client-centred’ alternative ignores the reality that the two entail very different attitudes to democracy and the relationship between government and citizens. Whether South Africa’s monitoring programme really does deepen democracy by giving more people a say in how their money is spent will depend on whether it abandons the ‘client centred’ approach and encourages collective agency to ensure that a much wider range of citizens enjoys a say.

Interviews with CBM’s managers and sections of the documentation suggest that it is an attempt to devise a new approach to citizen participation in government spending decisions, one that recognises the limits of structured participation and acknowledges that democratic participation is not possible only on the government’s terms and in places and spaces determined by it. Whether it succeeds in charting a new path will

depend on the extent to which it becomes a vehicle for citizens to use their democratic rights in a manner which they choose to influence decisions and monitor their implementation. The final section of this paper will flesh this out by discussing two cases in which spontaneous political action has achieved many of the effects which are the goal of structured participation and a third which holds interesting possibilities for the future. Before discussing this, it is necessary to return to a subject broached earlier—the disjuncture between the OBI’s assessment of South Africa’s participation programme and that offered here.

I.6. Assessing Participation in South Africa: The OBI

How does South Africa, which has in effect acknowledged the failure of its own participation instruments and whose national Treasury is unsympathetic to public participation in budget formulation, fare so well on the OBI’s participation ranking?

The answer lies in the huge gap between the measures currently employed by the OBI¹²⁹ and those which would be required to assess whether citizens do indeed participate in budget decision-making. The first reason for reaching this conclusion is that the OBI measures place strong emphasis on whether governments provide avenues for participation but contain no method for assessing their quality – or, indeed, even whether they are ever used. Thus South Africa scores highly on its compliance with a question which asks: ‘Has the executive established mechanisms to identify the public’s perspective on budget execution?’¹³⁰ – the high score is not surprising given the point made here that governance is awash with processes of this sort. The question does not seek to assess whether these mechanisms enable citizens to participate effectively – or which citizens enjoy access and which do not. South Africa achieves top

¹²⁹ International Budget Partnership (IBP) *South Africa: Public Engagement in the Budget Process Document* made available by IBP 6 April 2015 (Scheduled for publication September 2015)

¹³⁰ IBP: South Africa Question 124

marks because legislative committees hold hearings on the macroeconomic and fiscal framework and on the individual budgets of central ministries¹³¹ - several questions are devoted to discovering whether legislative committees hold hearings. There is no attempt to measure who appears before the committees, who they represent and whether their contribution achieves concrete changes. A country in which all budget-related issues are discussed in legislative committees to which the public enjoys access scores well – even if only a small group of connected individuals monopolise the hearings and their opinions are ignored.

The second is that the questions seek to establish whether information is made available to the public, not whether the information is used to influence budget formulation and spending. This paper has noted that the Treasury is more than willing to disseminate information but reluctant to include those who receive it in formal decision-making. Thus, although South Africa's Supreme Audit Institutions (SAIs), the office of the auditor-general and the office of the public protector, do not provide for public participation (see below), they get full marks for communicating with the public¹³² - which these offices do assiduously. South Africa also scores highly because legislative committees which hold public budget hearings release reports on the proceedings.¹³³ And it gets full marks for explaining budget data – for example, by releasing a glossary of terms.¹³⁴ It could be argued that many of the OBI questions are tailor made for an approach like South Africa's in which the public are entitled to comprehensive, easily understood, information on the budget but in which direct participation in decisions is not permitted. The questions appear to assume that citizens who are informed will automatically participate, which is hardly a valid assumption. Indeed, the limits of the questions may be explained by the likelihood that participation is seen largely as a natural extension of transparency, which the OBI has traditionally monitored, rather than

¹³¹ IBP: South Africa Question 126, 127, 128

¹³² IBP: South Africa Question 132

¹³³ IBP: South Africa Question 129

¹³⁴ BP: South Africa Question 119

as a process in which disclosure is merely the first step. An equally important problem is that the questions do not ask how the information is disseminated and who it reaches: data placed on a website which is used by a handful of researchers scores as much as a campaign to inform millions of shack dwellers. This ensures that not even the degree to which the information is available to most citizens is assessed.

Third, where a very limited attempt is made to assess the quality of participation, the bar seems to be set very low. Not only does the question make no attempt to assess its quality, frequency or the degree to which the participants really do participate: it seems to accept very limited forms as adequate. Thus a question on which South Africa scores well asks: 'When the executive engages with the public during the budget formulation process, does it articulate what it hopes to achieve from the engagement and provide other information far enough in advance so that the public can participate in an informed manner?'¹³⁵ The fact that South Africa achieves a B, the second highest score possible, may seem odd given the government attitudes to formal participation discussed in this paper. But on inspection, it appears that the very limited engagements discussed here are considered sufficient to qualify as a reasonably high quality participation process. The public hearings held by committees provided for by the 2009 law are cited as is the existence of Nedlac as a forum for 'social dialogue' (no specific mention is made of the fact that the MTPBS is discussed at its meetings). So the fact that business, labour and government engage in dialogue on social and economic issues is enough to establish the point that substantive participation processes exist. This is not surprising given that the question seeks to establish not whether the public really does participate in an informed manner – merely whether the possibility of doing this is available.

The questions asked and the manner in which they are scored, therefore, allows South Africa to achieve fifth status in the globe despite the fact that its budget formulation

¹³⁵ BP: South Africa Question 121

processes are not open to the public and that its SAs allow for no public participation beyond, in one case, the opportunity to submit complaints. There is a certain irony in the OBI's approach: it is closer to that adopted in this paper than a measure which would judge effective participation by whether citizens' organisations sit on the committees which take decisions. The notion that the release of information is potentially a more plausible source of citizen empowerment than allowing a small group of organisations to sit on committees where they will probably exercise no real power seems to lie behind some of the questions. They do seem far more interested in whether openings are created for citizen action than whether citizens' organisations directly participate. But this does not in itself make the OBI in its current form an adequate measure of participation.

The release of information and the establishment of committees is necessary for democratic citizen participation – but it is not at all sufficient. The OBI does not examine whether citizens do use the information and the processes to shape decisions. Also, governments which really are concerned to encourage democratic participation in budgeting would need to do more than simply release usable information and establish committees if they want as many as citizens as possible to shape decisions: they would also seek to establish programmes which enabled those citizens who wished to use this information to influence the budget process to do so. But the OBI does not inquire into whether governments do this. It therefore measures form rather than substance, the existence of avenues for participation rather than the degree to which citizens really do decide. This ensures that impressive-seeming government responses may mask the reality that citizens still lack the means to influence what is budgeted and how it is spent.

II. CASE STUDIES

II.1. National and Regional Government: The Treatment Action Campaign and Participation from Below¹³⁶

An important example of a participation exercise initiated by citizens – in the face of official hostility – is the fight of the Treatment Action Campaign (TAC) on behalf of people living with HIV and AIDS.

The campaign had clear budgetary implications since its aim was to persuade the South African authorities to introduce a comprehensive treatment regime for the more than 5 million people who were, at the height of the virus's impact, living with HIV and AIDS¹³⁷ and, in particular, to secure the provision of anti-retroviral therapy to people living with the virus at public expense. The campaign was startlingly successful. 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

¹³⁶ This section is based on the account offered in Friedman 'Participatory governance and citizen action' which in turn draws on research by the author and Shauna Mottiar discussed in Friedman and Mottiar '**A Rewarding Engagement?**' and on Steven Friedman 'Gaining Comprehensive AIDS treatment in South Africa: the extraordinary "ordinary"' in John Gaventa and Rosemary McGee (eds) *Citizen Action and National Policy Reform*, London, New York, Zed Books, 2010, pp. 44-68. 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

¹³⁷ Directorate Health Systems Research, Department of Health *National HIV and Syphilis Antenatal Sero-Prevalence Survey in South Africa 2002* Pretoria, Department of Health, 2002

AIDS.¹³⁸ It was recently reported that 3 million South Africans are currently receiving the required medication.¹³⁹ Given that people who do not receive it are unlikely to survive, it is reasonable to assume that the campaign saved the lives of up to 3 million people.

TAC did not participate in any formal forum during the period that it campaigned to influence budget decisions. It 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 organisations to choose their representatives), the Minister of Health began to devalue SANAC's role.¹⁴⁰ In the main, formal forums operated to exclude citizens seeking adequate treatment for people living with AIDS. While TAC activists did seek to use participatory structures such as community health committees to press their case, they saw these vehicles as a complement to organisational gains already achieved, not a substitute for them.¹⁴¹ Although TAC was committed to campaigning first, sitting on committees a distant third, it did, in effect, participate in budget decision-making albeit not of the formal variety.

It forced the government to pay attention to the concerns of an important social constituency - people living with a deadly virus. These gains were won not for the more affluent or for people likely to gain access to government – while TAC's membership was small relative to the number of people living with the virus, most members during the campaign were unemployed young black women, perhaps the most powerless members of South African society, to whom it gave voice. After the change of policy, TAC sought to hold the government to its promise to fight AIDS. It earned the hostility of

¹³⁸ TAC Welcomes Cabinet Statement Committing to Antiretroviral Treatment Rollout" *TAC News Service* (moderator@tac.org.za) 8 August 2003

¹³⁹ Nhlanhla Nene 2015 *Budget Speech Minister of Finance* 25 February 2015 National Treasury 12 February 2015 ISBN: 978-0-621-43287-9 p.10

¹⁴⁰ Interview, Mark Heywood, TAC, cited in Friedman and Mottiar

¹⁴¹ Interview, Mark Heywood, TAC, October 2005

the Minister of Health and some provincial health departments, but forged co-operative relations with key figures in public health decision-making.¹⁴² Despite the mutual hostility between it and government during this period it was, in effect, participating in budget decision-making by framing proposals for change and seeking to engage with government on how they might be incorporated into its budgeted programmes.

A key feature of the manner in which it wielded influence is that its campaign, in the main, operated within the rules and norms of constitutional democracy – its role was to mobilise citizens to use the rights conferred by the formal governance system to participate in public decisions, both by pressing for changes in policy and by seeking to monitor implementation. But, as noted above, it did this not by relying on invitations to engage with the authorities but by using the rights conferred by a democratic constitution to insist on doing so on its own terms and in its own way. It therefore showed that the most effective means of participation in decisions in a formal democracy is not the channels established by governments but the rights entrenched by constitutions - and, of course, the broader democratic context which sustains them. Its experience suggests, therefore, that effective participation is most likely to be achieved when citizens act by using their democratic rights to raise their concerns in a manner which they choose and the government engages with them and does not ignore or suppress them. Forums may serve to organise relationships between activists and the authorities – but only if they provide channels for engagement with organisations whose members have already organised to voice their concerns. Structured participation can at most augment voice by enabling the expression of already existing citizen organisation. It cannot substitute for organisation by citizens by extending voice to the unorganised.

II.2. Participation Despite Government: TAC's Campaign

¹⁴² Interviews, October/November 2005

TAC's first public foray into the AIDS debate was, interestingly, in support of the government. Its activists demonstrated in 2001 against international pharmaceutical companies after they took 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.¹⁴³ 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 – but entirely on their own terms and without any formal agreement to co-operate.

This uncoordinated co-operation by spontaneous combustion was, however, followed by several years of conflict between TAC and the government. 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 procuring and supplying anti-retroviral medication but also to mainstream scientific AIDS explanations and remedies.¹⁴⁴ 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 supply of anti-retrovirals, a consensus sympathetic to TAC's position had been built in society and among domestic and international opinion-formers.

On the surface, the campaign which TAC led was the antithesis of a participatory process. Even before its influence shaped the battle for AIDS medication, relations between the health ministry and AIDS activists and medical professionals who dealt with the virus was conflict-ridden. Public tensions at a national conference confirmed

¹⁴³ 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

¹⁴⁴ See for example 'Mbeki Aids stance "not a PR disaster"' *Daily Dispatch* September 14, 2000

that AIDS workers believed that the Minister was arrogant and unwilling to listen; the Minister herself believed the activists were too aggressive to be included in decisions. It was clear that the government believed that the appropriate response to AIDS was one in which the Health ministry took the decisions and activists and professionals rallied round to implement them; it was, therefore, not open to working with activists (or medical professionals) in policy formulation and its notion of participation was one in which activists implemented its decisions.¹⁴⁵

Pressure for participation prompted the government to form SANAC as a forum which would articulate citizen 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 been pressing the government to act more energetically to combat 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 chosen.¹⁴⁶ Enhanced representativeness was, however, followed, according to activists, by reduced influence. After this change, SANAC is said to have played a diminishing role, one which dwindled almost into nothing when the then deputy president, Jacob Zuma, who convened SANAC, was forced to resign his post in government. The council became moribund¹⁴⁷ until a change of power in the governing party, in which Zuma became its president, saw its revival. This apparent attempt to exclude the voice of organisations such as TAC was a repeated pattern in the government's response. When a task team was formed to plan its comprehensive AIDS strategy, TAC submitted recommendations, but was not included in – or engaged by – the task team.¹⁴⁸

¹⁴⁵ Friedman 'HIV/AIDS Strategies'

¹⁴⁶ Heywood in Friedman and Mottiar

¹⁴⁷ Heywood interview, October 2005

¹⁴⁸ Friedman and Mottiar 'Rewarding Engagement'

The campaign may also have highlighted the weakness of formal participatory governance mechanisms. One of the crucial sources of conflict between TAC and the government after 2003 was TAC's claim that the government refused to sign an agreement at Nedlac agreeing to an AIDS treatment plan.¹⁴⁹ While the government challenged this 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 to co-operate to fight a virus which threatens millions of South Africans, it is hard to see on what it could achieve partnership.

While TAC won a decision in principle from the government to provide treatment in 2003, it was only four years later that changing political conditions ended the conflict between it and the government.¹⁵⁰ A change in leadership of the governing party meant that power shifted from a leadership unsympathetic to comprehensive treatment for people living with the virus to one which saw fighting AIDS as a key to winning public support – and a sign that it had broken with the patterns set by the previous leadership. In 2009, a new Health minister was appointed who enthusiastically championed the provision of anti-retroviral medication at public expense and also supported other measures to fight the virus: the fact that 3 million people now receive treatment is a result of this change. But the evidence is compelling that these changes would not have been possible without the campaign which placed on the agenda an approach which was later adopted by the government.

The TAC campaign did not operate at the national level only. While South Africa's provinces enjoy only limited powers, health is one of the areas in which they exercise a

¹⁴⁹ Friedman and Mottiar 'Rewarding Engagement'

¹⁵⁰ Steven Friedman 'Gaining Comprehensive AIDS treatment in South Africa: the extraordinary "ordinary"' in John Gaventa and Rosemary McGee (eds) *Citizen Action and National Policy Reform*, London, New York, Zed Books, 2010, pp. 44-68

degree of power. In three of the nine provinces, and for varying reasons, the campaign found allies in the public service and at times among elected politicians. Where they contradicted official government positions, these alliances were covert in the sense that officials did not publicly endorse the campaign but worked with it out of the public eye – at times they were explicit. Since the national health ministry was, for much of the campaign, entirely hostile to the campaign, these provinces became sites of a form of public participation in which citizens worked with the authorities to influence the way in which a service was provided but in a manner which was anything but structured and formal.¹⁵¹

II.3. Lessons from the Street: Implications

TAC's 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; all the evidence suggests that pressure for the change was exerted outside SANAC – not only by TAC but by luminaries such as former President Nelson Mandela, Archbishop of Cape Town Njongonkulu Ndungane and Medical Research Council chair Malegapuru Makgoba as well as by international opinion and foreign and local media. The government conceded the change reluctantly in the face of pressure. A formal forum would not have been able to exercise the degree of pressure required to win the change.

TAC's later presence in participatory governance forums was a consequence of its influence, not a cause. Where provincial government was sympathetic to TAC and the fight against AIDS, activists served on provincial AIDS councils¹⁵² and other participation initiatives.¹⁵³ But in these cases there is no clear evidence that its presence gave it an

¹⁵¹ Friedman 'Gaining Comprehensive AIDS treatment

¹⁵² Interview, Western Cape health official, 8 November 2005

¹⁵³ The province in question here is Gauteng. Interview, Heywood 'Rewarding Engagement'.

influence over events which it would have lacked if the forum had not been created. A provincial premier 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).¹⁵⁴ Spontaneous mobilisation appears to be a form of participatory governance which the premier found far more useful than the structured variety. Also significant is that in the implementation phase, TAC's representation on SANAC proved of no use given the Health ministry's reluctance to use the Council as a vehicle of participation. Where authorities were interested in fighting AIDS, TAC was present in participatory governance forums. Where they were not, it was not. The key variable was not participation in formal processes but the extent of its organised influence and the willingness of the authorities to recognise this by engaging with it.

At the same time, it is important to repeat that TAC engages in activism of a particular sort. While many social movements in South Africa tend to be sceptical of the opportunities created by formal democracy, TAC is not. It regularly proclaimed its loyalty to the constitutional order and its activism was designed to make use of both 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 accepted, implicitly and at times explicitly, the constraints imposed by constitutionalism, including respect for elected authorities.¹⁵⁵ 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 also recognise 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.

¹⁵⁴ Interview, Zackie Achmat, chair, TAC, October 2005

¹⁵⁵ Friedman and Mottiar 'Rewarding Engagement' pp.534ff

The key point for our purposes is that the TAC case argues against an approach which distinguishes rigidly between protest and citizen mobilisation on the one hand, participation in decisions with budgetary implications on the other. TAC activism was a form of participation– not only because it largely respected the rules which underpin the business of government but also because it sought to engage public officials in dialogue on the framing and implementation of government policy. At times TAC and government officials worked together – even while the conflict between TAC and the authorities was at its most bitter – and, where it and its campaign could participate directly in government decision-making, they did. It was not an alternative to participation in budget decision-making, it was another means of doing this, one which sought to engage on citizens’ terms and on sites of their choosing rather than on the terms and at the venues chosen by government officials and politicians. Instead of seeing it purely as an example of the confrontation which may be experienced if citizens do not sit at official tables participating directly in government decisions (although in its initial stage it was that too), it should also be viewed as a form of direct citizen participation which is capable of yielding results in liberal democracies. It participated in decision-making at least as vigorously as those who participate in forums, but in a way which stressed citizen-initiated democratic action, not structured participation. And its experience suggests that this way of participating is more effective both at influencing policy and ensuring that the poor and the weak are heard than the structured alternative.

II.4. Supreme Audit Institutions: The Public Protector and the Power of Politics

If we adopt the conventional view of public participation, South Africa’s supreme audit institutions appear to be particularly barren territory.

The office of the auditor-general, whose job is to audit all government departments, sees its function as a technical one which does not require a role for the public - while it regularly reports publicly on its findings and engages with the media and other vehicles of citizen expression, the citizenry plays no role in its work. While it is a widely respected institution, the public's role is restricted to admiration from afar. A second audit institution, the Office of the Public Protector – which performs an ombuds function - provides a more complicated and interesting case. Formally, there is a route for public participation since citizens may report to the office cases of alleged improper use of government funds and request it to investigate. But it is the informal role of citizens which is far more important - it could be argued that the office depends on public participation, although not in the form envisaged by mainstream understandings.

The public's role stems from a strategic choice by the current Public Protector, Thuli Madonsela. Legally and constitutionally, she could have chosen to operate as far from the public eye as possible – which is, albeit in varying degrees, what her predecessors did. But she seems to have concluded fairly early in her tenure that this would prevent her discharging the duties of her office in the most effective way possible because public support was the only reliable resource which might protect her office from the almost inevitable wrath of politicians who were threatened by its findings. And so she embarked on a vigorous programme of mobilising support by releasing her findings in a public way (i.e. by publicising their release rather than by simply submitting them to the officials and politicians from whom action was required), by holding media conferences and by accepting public engagements. Her office launched a national stakeholder consultative dialogue which included giving 'special interest groups' an opportunity to interact with Madonsela. Part of this exercise entailed encouraging citizens 'to advise others to lodge ... complaints'.¹⁵⁶

¹⁵⁶ SA Press Association (Sapa) 'Protector's office defends Madonsela's attendance at DA event' Mail and Guardian 11 August 2012 <http://mg.co.za/print/2012-08-11-protectors-office-defends-madonselas-attendance-at-da-event>

In one sense, the Public Protector's strategy could be seen as a standard formal participation exercise – her office identifies 'stakeholders', seeks to engage with them and to work with them. Part of the exercise is encouragement to citizens to bring their grievances to the official entity. But the strategic purpose is not to incorporate citizens into official decision-making: it is, rather, to mobilise them to use a constitutional avenue which has been opened to them in the probable expectation that this will build support for the office and so provide it with a precious strategic resource. It is needed because the office does not enjoy the undisputed power to ensure that its recommendations are implemented.

Formally, the extent of the Protector's powers are currently the subject of a controversy. She and her supporters insist that government office bearers are legally obliged to take action when she makes a recommendation unless they choose to challenge her findings in court. This claim is based on the constitution's stipulation that the Protector enjoys the power 'to take appropriate remedial action'.¹⁵⁷ The governing party insists that this does not mean the right to impose binding decisions on anyone – 'remedial action' could, it and those who endorse its position argue, mean to issue a report or to make a suggestion. The issue is before the courts which will have to decide between the two interpretations. But, even if they were to uphold the Protector's view that 'remedial action' does mean instructing the government to act, neither the power nor the future of her office are determined purely by the legal formalities. Her office was an innovation when it was introduced in 1994 – the idea that an ombuds office should hold government to account and at times tell it what to do was hardly ingrained in South African political culture. This made it vulnerable if it chose to act vigorously. Even long-standing institutions which seek to check government power may find themselves vulnerable to political attack if they rely on the law alone – laws can be changed; so can constitutions. And those with the power to change them are those who institutions which seek to check government are likely to anger. And so these institutions are likely to

¹⁵⁷ *Constitution of the Republic of South Africa 1996* Chapter Nine Section 182(1c)

survive only if they enjoy high levels of public support, in particular from influential interest groups. It was this reality which the Protector's strategy seeks to address.

In the TAC case, we saw that citizens can choose to engage with government on budget-related issues not by relying on formal forums but by using constitutional rights to achieve the change they seek outside the 'invited spaces' which governments open to citizens. In the Public Protector's case, it is an official agency which approaches citizens but not in an attempt to lock them into a formal decision-making process but in an effort to build a constituency in support of the agency's goal (which happens, of course, to be the protection of citizens' interests). The contribution which citizens are primarily expected to make is not airing grievances or making suggestions at formal meetings - it is using their democratic rights to demand accountability from government. If the strategy works, citizens act in much the same way as TAC and its supporters did – they seek to persuade fellow citizens to support them by raising their voice in public. But in this case they do it in support of the agency and the manner in which it is pursuing its mandate.

If we evaluate this strategy by whether it achieves the required level of support, it must be judged a spectacular success. Among those who tend to dominate the public debate – media, lobby groups, and middle class citizens - Madonsela has achieved near folk heroine status. She and her office repeatedly receive favourable publicity – she has won many local awards as well as Transparency International's 2014 person of integrity award,¹⁵⁸ a wide range of political actors cite her reports regularly and one of her recent reports is currently the rallying point which opposition parties and civil society groups are using in a much-publicised attempt to hold the President to account. And, while there is no definitive way of measuring the strategy's impact on the thinking of politicians, it may well also be achieving its wider goal – enabling the office to do its job despite resistance from within government. The current Public Protector has been more effective than her predecessors – probably her most significant success has been to

¹⁵⁸ 'Thuli Madonsela to get integrity award' *City Press* 17 October 2014

secure the dismissal of two Cabinet ministers and a national police chief after her investigations found that they were responsible for financial irregularities. Significantly, given the debate over the extent of her powers, she did not insist on the dismissal of the ministers – her report merely urged the President ‘to do the right thing’¹⁵⁹ – an obvious acknowledgement of the limits of her office’s power in practice if not in law. But the implicit strategy – to rely on public opinion rather than formal powers – worked: the President did ‘the right thing’.

Currently, the Protector’s office is engaged in an even more difficult attempt to insist on accountability for public funds. The controversy in question was triggered by public anger at large amounts of money spent on the President’s rural homestead in Nkandla, a village in the KwaZulu Natal Province, ostensibly in an attempt to ensure the security of the residence. A report by the Protector’s office¹⁶⁰ was highly critical of the overspending – while it did not find that the President had broken any law, it insisted that he was accountable and should pay back an unspecified portion of the money spent. The President asked the Police minister to determine whether he should pay back any money and, if so, how much – the minister, in a report which seemed more interested in defending the President than inquiring into his behaviour, declared that the President was not liable to pay back anything. It could be argued that, thus far, the Protector’s report has had no impact because elected politicians and senior officials have not been held to account for the over-spending identified in the report. But, in many societies, attempts to hold the head of state and government to account if they are accused of violating the Public’s trust are lengthy processes whose outcome depends on a range of political variables – the Watergate scandal in the United States in the 1970s is a case in point. As noted above, a range of social actors has mobilised in an attempt to win implementation of the report – this campaign has prompted dramatic events in Parliament as opposition members demand implementation and the

¹⁵⁹ Sam Mkokeli ‘Protector seeks action against Mahlangu-Nkabinde’ *Business Day* July 15 2011

¹⁶⁰ Public Protector *Secure in Comfort: Report on an investigation into allegations of impropriety and unethical conduct relating to the installation and implementation of security measures by the Department of Public Works at and in respect of the private residence of President Jacob Zuma at Nkandla in the KwaZulu Natal province* Report no 25 of 2013/14 March 2014

government resists and, in the process, the august chamber has at times been turned into something resembling a street protest.¹⁶¹ It is too early to say whether the Protector's strategy of including citizens in the work of her office is effective enough to hold a sitting President to account.

But an important measure of the success of the strategy may be the fact that the Protector's office has proved resilient despite a hostile reaction from the government, which included a claim by a deputy minister that she is a CIA spy,¹⁶² and that, instead of retreating, the Protector has denounced this response as interference and has continued to insist that her report be implemented.¹⁶³ No attempt has been made to remove her from her job and, to a degree at least, the governing party has distanced itself from some of the more bellicose attacks on her and her report.¹⁶⁴ It continues to resist the report and to reject much of it but it has no plans to change the constitution to remove her. It is possible that it is not doing this because the cost is too high – if it wants to act legally it would have to change the constitution: for this it would probably need more opposition support than it can muster and the costs of simply abrogating that section of the constitution may be prohibitive. But there are other ways of trying to remove a troublesome official and, in South African politics, the favoured way is to claim that the person is guilty of irregularities. There may well have been a brief attempt to place pressure on Madonsela in this way – her then deputy claimed in 2012 that she had deliberately withheld a report to protect the official opposition.¹⁶⁵ But the allegations

¹⁶¹ SA Press Association (Sapa) 'SONA 2015 descends into violence' *The Citizen* 13 February 2015

¹⁶² 'Madonsela under attack from ANC over Nkandla' e-news Channel Africa 25 August 2014 <http://www.enca.com/madonsela-under-attack-anc-over-nkandla>; Baldwin Ndaba 'Thuli a CIA spy, says deputy minister' *The Star* September 8, 2014;

¹⁶³ Stop interfering and let me do my job, Thuli Madonsela tells ANC *City Press* 25 August 2014 <http://www.citypress.co.za/politics/stop-interfering-let-job-thuli-madonsela-tells-anc/>

¹⁶⁴ 'ANC Will Deal with Attacks on Thuli Madonsela' *SA Breaking News* March 24, 2014 <http://www.sabreakingnews.co.za/2014/03/24/anc-will-deal-with-attacks-on-thuli-madonsela/>

¹⁶⁵ Gaye Davis 'Madonsela refutes deputy's claims' IOL News October 15 2012 <http://www.iol.co.za/news/politics/madonsela-refutes-deputy-s-claims-1.1403048#.VQLNjI7Cc8s>

never gathered momentum and the deputy was forced to leave because her position had become untenable. Since then, no further attempt has been made to impugn her integrity in an attempt to force her out, which suggests that the governing party feels that the cost of seeking to remove the Protector is too high. If so, the political strategy has succeeded at the very least in protecting the office. A further test is due at the end of 2016 when the current protector's term of office ends. Since the constitution does not allow an incumbent a second term, the governing party could curb the office by appointing a party loyalist to the post. If it does, the strategy used by the incumbent to protect the office may prove to have succeeded only while she holds it. But, given the degree of acrimony between the office and the governing party, this achievement alone would be remarkable.

In sum, government agencies can include citizens in decisions because they believe that this will enhance the quality of the service provided or of the policies which are framed – or they may do this because they wish to be seen to be listening to citizens although in reality they have no desire to do so.¹⁶⁶ But this case study shows that they may also do this if they wish to mobilise a citizen community in their support. It shows too that, when they do this, it may serve the interests of both citizens and the agency best if citizens play their role not by participating in structured forums but by using their democratic rights to make their voices heard. It is this strategy which the office of the Public Protector has pursued. While its gains may be temporary, it has achieved some remarkable successes during the term of office of the incumbent.

II.5. Local Government: The Potential Power of Social Audits

This final case will not be discussed at great length since its use in South Africa is very recent and its potential remains unclear. It also requires less explanation in a GIFT-initiated project because it has been supported by the International Budget Partnership

¹⁶⁶ See for example Friedman 'A Quest for Control'

and is therefore presumably known to GIFT. It is included because it demonstrates some of the key points made in this paper.

The case in question is the use of social audits by the Social Justice Coalition, an alliance of activist organisations in the Western Cape province, to hold the city of Cape Town to account for the manner in which public money is spent. This method, based on one in use in India but modified to suit local conditions, seeks to galvanise citizen energies in areas which rely on government services to monitor the way in which these services are provided. Its first step is to recruit and train local residents to conduct an audit of the way in which a service is provided – the findings are then published in a report. This document is presented to citizens' meetings in the area where it was conducted and is then used to engage with government – officials and politicians are invited to a 'community meeting' and it is hoped that the authorities will work with the activists who conducted the audit to find mutually acceptable ways of improving the service.

Cape Town's social audit investigated the janitorial service provided by the city for residents of the Khayelitsha township who rely on communal flush toilets.¹⁶⁷ It has succeeded in mobilising residents behind demands to improve the service¹⁶⁸ and has been used to begin an engagement with the city authorities – not only at the 'community meeting' but in direct discussions. Thus far the Cape Town experiment has, however, not achieved the co-operative attempt to solve the problem for which the activist coalition hoped – relations between the coalition and the city became acrimonious and the coalition resorted to legal action in an attempt to pursue citizen demands.¹⁶⁹ Thus

¹⁶⁷ 'Our Toilets are Dirty': Report on the Social Audit Into the Janitorial Service for Communal Flush Toilets In Khayelitsha, Cape Town 1 October 2014 <http://nu.org.za/wp-content/uploads/2014/09/Social-Audit-report-final.pdf>

¹⁶⁸ Marianne Thamm Active citizenship: how Khayelitsha residents are leading the charge Daily Maverick 1 October 2014 http://www.dailymaverick.co.za/article/2014-10-01-active-citizenship-how-khayelitsha-residents-are-leading-the-charge/#.VQX_V47Cc8s

¹⁶⁹ Vanessa Poonah 'Coalition to take City of C Town to court over sanitation' SABC News 1 October 2014 <http://www.sabc.co.za/news/a/454df28045acfed89848b90ca3f4715/Coalition-to-take-City-of-C-Town-to-court-over-sanitation-20140110>

far, the audit has not achieved the desired mutual attempt to address a problem and it is not clear whether this particular mode of engagement will become a feature of citizen participation in decisions on how public money is spent.

The social audit case is striking, however, because it shows how the goals of structured participation can be achieved – and many of its processes duplicated - but through an exercise initiated and controlled by citizens themselves. The similarities between the goals and methods of the Cape Town social audit and key aspects of the CBM programme should be clear. Both envisage a process in which citizens armed with information use it to influence the way in which public money is spent. Both see direct engagement between citizens and government as a key means to that end. Both see a co-operative attempt to solve problems as a desirable end goal. The difference, of course, is that in the social audit approach none of this is initiated by government. And so the audit is as much if not more a campaign as a problem-solving exercise. A further important feature is that, in Cape Town’s version of the social audit, engagement happens in a place and in a manner determined by citizens, not government. It is, in this sense, the South African equivalent of a form of engagement used by neighbourhood activists in the United States of America – there too engagement between citizens and government happens in places and at times and in ways determined by citizens, not the government.¹⁷⁰ The obvious lesson is that it is possible to achieve many of the goals of structured participation in an unstructured way and that this may offer a greater prospect of deepening democracy and improving public service than the structured alternative.

At first glance, Cape Town’s experience suggests that the social audit strategy faces a constraint which an official programme like CBM escapes – getting the authorities to listen (formally, if not necessarily in practice). Whichever side is believed in the polemic between the Social Justice Coalition and Cape Town, it is clear that the city has not embraced the audit as an aid to more effective government. But this may not be a drawback at all. The limits of structured

¹⁷⁰ Richard L Wood *Faith in Action: Religion, Race and Democratic Organizing in America*, Chicago and London, Chicago University Press, 2002 p.49

participation suggest that the willingness of government agencies to sit at the table in structured participation exercises may indicate a willingness to be seen to be engaging rather than to engage – the CBM symposium discussed above noted that ‘too many invited spaces are PR campaigns’.¹⁷¹ It may well be that governments and their agencies do not take participation exercises seriously unless they face sustained citizen pressure to do so – that is surely one of the implications of the TAC case study. It also seems likely that, if authorities do agree to include citizens in decisions because they have faced pressure to do so, their commitment to the exercise may be far more significant since they have a strategic interest in its success. The CBM documents imply something of this sort when they choose sites where citizens have protested because they assume that local governments will want to defuse this opposition. If, therefore, the social audit strategy ensures that governments will only engage after a campaign, it may also show that, when this happens, the engagement is more likely to produce results because there is a clear incentive to take the search for solutions seriously. None of this means, of course, that government resistance is inevitable. If governments really do seek democratic engagement with citizens, they would presumably be willing to welcome engagement initiated and organised by them. But it does acknowledge that, as CBM has found, arms of government may well prefer to resist than engage and it suggests that this ironically turns out to be an asset for attempts to ensure real engagement.

As noted earlier, local government in South Africa has been the site of sustained protests which have the potential to initiate engagement between government and citizens on ways to spend money better in the areas where the poor live. They have not realised that potential because citizens have not been organised enough to negotiate their demands with the authorities. The social audit strategy could show the way out of the impasse by offering citizens a way to augment mobilisation with a strategy which initiates negotiation which brings concrete improvements to spending in their area.

¹⁷¹ Presidency ‘Symposium’ p.18

Conclusion: Towards Negotiation?

This last point provides a convenient entrée into the chief conclusion of this paper.

It has been argued throughout that, while the goal of citizen participation in budget decisions is key to deepening democracy and may well lead to better decisions since they will more accurately reflect citizens' needs, this goal cannot be achieved by either structured participation or by the use of 'client centred' methods which confuse governments with businesses. It has argued, therefore, that the goals of the GIFT initiative can only be achieved if citizens are able to participate in decisions on their own terms.

The key to realising these goals is not choosing the technologies most likely to simulate the democratic politics which alone can achieve an effective citizen say in decisions – it is discovering how citizens can be empowered to use their democratic rights to launch the campaigns which can initiate concrete engagement between government and citizens on budget priorities and spending decisions. This does not mean that governments who do want citizen participation are resigned to waiting for citizens to organise to hold them to account. But it does mean that those governments which do want broader participation in budget decisions must ask a different set of questions to those usually asked in participation exercises – not how to channel participation into a forum but how to empower citizens to demand a say and how to respond when they do. In this analysis, the dissemination of government information is seen as a key route to citizen empowerment and the appropriate mode of response is to allow citizens to use this information in the ways they choose as long as those ways are legal and peaceful.

That said, at least two of our case studies suggest that more is required than a discussion of different ways to achieve participation – what is needed is a willingness to abandon the stress on participation and to seek instead to encourage negotiation. While

TAC and the Social Justice Coalition may have been seeking some of the same processes and outcomes as structured participation processes, neither were seeking participation as much as they were insisting on negotiation. Instead of an approach which assumes that citizens talking to government will automatically ensure more democratic decision making, the negotiation approach assumes that citizens can only play their role in these engagements if they are organised, if they wield power and if they have a clear set of goals. When they reach the same table as the government with which they engage, they seek not a conversation so much as an attempt to reach a bargain, a compromise between the positions of the parties which will reflect the balance of power between them. In negotiation, citizen agency and power are not wished away – they are central. Nor is a spurious consensus between angry citizens and defensive government assumed – engagement starts from the assumption that there is no consensus and does not try to achieve one: instead it seeks an outcome with which both parties can live because it accurately reflects their power.

The evidence marshalled here suggests that, where citizen attempts to gain a say over the budget have sought negotiation rather than participation, they have either produced concrete outcomes far superior to those of structured participation or shown the promise to do so because they have elicited far more citizen enthusiasm than formal participation exercises. In sum, negotiation has shown that it can achieve a citizen voice in decisions which yields results but does not place intolerable burdens on government. Structured participation has failed to change in any significant way the manner in which citizens engage with government. This suggests a need for a change of thinking. Instead of repeated attempts to make structured participation work, a strategy which offers citizens a real say is likely to be one which seeks to make unstructured democratic politics work, not one which pins its hopes on finding new technologies to improve a strategy for citizen engagement which will always be unable to achieve the goals it has set itself.

