Participatory Systems as Precipitators of Protest - A Case Study of Two Municipalities in South Africa

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Abstract

Over the course of the past two decades the need for citizen participation in state governance systems has been raised to a first order principle in orthodox development discourse. During this time, however, there has also been a proliferation of studies demonstrating the ineffectiveness of participatory systems and practices in developing states and their predisposition to elite capture and to government manipulation. Building on this critique, a further literature has focused on the ways in which disaffected citizens have mobilised to actualise their right to basic social services and to ensure that the participatory systems in place deliver on their promise of inclusive decision making. Missing in much of this literature is a discussion of why, despite a commitment in legislation and policy, there is such a disjuncture between the expectations of citizens, and particularly the poor, of what participation might yield and the capacity or willingness of the local state, in particular, to deliver the services which have been promised. Such analysis as there is tends to reduce local governments in developing states to caricature, ruled by patrimonial rent seeking elites and bereft of any form of agency. In attempting to address this lacuna, this paper looks at the process of local level service delivery from both the demand side of citizen expectations and the supply side of local government. Based on a qualitative investigation of two case study municipalities in South Africa, the paper looks at the participatory systems set in place to promote citizen engagement at the local level and the varied factors (including political interference, administrative incapacity, oversight and accountability mechanisms, and inter-governmental coordination amongst others) which, individually and collectively, are inhibiting both effective service delivery and more meaningful public participation; the systemic shortcomings, it was found, frequently served as the triggers for protest action.

Introduction

Over the course of the past three decades citizen participation in the formulation and implementation of state policy has been portrayed as integral to the notion of good governance, however amorphously defined this concept might be. The literature is replete with debates on the prospects for participatory and deliberative democracy and co-production as ways of strengthening the state-civil society interface (Fung and Wright 2003; Cornwall & Coelho 2007). By far the bulk of this writing has focused on the design of effective participatory systems and processes, on the dangers of elite capture, and on state co-optation amongst other issues (Hickey & Mohan 2009). Where attention has focused on forms of state-civil society engagement which fall outside of the participatory

domain, namely protest action, this has been addressed in the extensive social movement literature which has examined the multiple ways in which different social groups mobilise to actualise their rights. However, despite the proliferation of protests, particularly, but not exclusively, in emerging democracies in the global South, little attention has been paid in the literature to the administrative factors which might have given rise protest action, whether by omission or commission. Still less attention has been paid to the ways in which states respond administratively to this form of engagement and whether state officials pay any heed to the demands put before them (Tapscott; 2016). Yet, in essence, this relates to Foucault's notion of governmentality, the means by which modern states exercise power through an ensemble of "institutions, procedures, analyses,.. reflections,… calculations, and tactics" (Foucault; 1994:219). In this conceptualisation the exercise of state power is masked under the mantle of democratic practice, leading to what Chaterjee has elsewhere described as "the antinomy between the lofty political imaginary of popular sovereignty and the mundane reality of governmentality" (Chaterjee; 2004:36). Importantly for the discussion which follows, however, Foucault suggests that the exercise of state power is far less coherent and far more discordant that some analysts would have us believe. The state, he maintains, "no more probably today than at any other time in history, does not have this unity, this individuality, this rigorous functionality, nor, to be speak frankly, this importance" (Foucault; 1994:220). Furthermore, he asserts, it is the "governmentalization" of the state which has opened up space for citizen contestation of its rule "since it is the tactics of the of government that make possible the continual definition and redefinition of what is within the competence of the state and what is not, the public versus the private, and so on" (Foucault; 1994:220). It is in this context that nexus between participation and protest might be understood. Citizen participation is typically portrayed as a means of deepening democracy and of building a harmonious relationship between the state and society. However, ineffective implementation of participatory systems give rise both to protest and to contestation over state-civil society relations which the state must attempt to resolve in order to retain its legitimacy.

Although some studies have linked the upsurge in protest action to the austerity measures introduced following 2008 global financial crash, Ortiz et al assert that popular grievances extend well beyond the short term. "It is instead", they maintain, "a measure of people's growing awareness that policy making has not prioritised them – even when it has claimed to do so…Many of the world's protest arise when the majority of people feel left out, and when neither the middle classes nor the poor find public services adequate for their needs" (Ortiz et al. 2013:19). Such protests are invariably directed not towards the attainment of first order democratic rights (such as the right to vote, to free association or to freedom of speech) but rather towards the actualisation of rights already recognised in legislation and policy. In a seeming paradox, such protests also frequently occur in new democracies in a context where legislation and policy exists to facilitate citizen participation and, formalistically at least, to encourage their input in state decision making. In practice, as has been documented in the literature (Cooke and Kothari, 2001; Cleaver, 2001), it is frustration with the shortcomings of these very systems of participatory democracy and their failure to deliver positive outcomes for the poor which gives rise to protest action.

Whilst participatory policies invariably include prescriptions on how the views of citizens must be heard and taken into consideration, this provision appears not to extend to

citizens who take part in protest action. This disconnect between rights formalised in constitutions and their exercise in protest activity appears to be missed by state officials and the police in particular. In large part this is due to the fact that protest action, whilst tacitly recognised as a legitimate form of social/political mobilisation, is seen as a form of deviance and, as such, it is not recognised as a valid form of interaction between the state and civil society. Protesters, as a matter of course, cease to be rights-bearing citizens and instead are viewed as adversaries. In that respect, the official notion of participation denies the latent tension which exists in the relationship between the state and its citizens. In part this might be ascribed to an unwillingness on the part of officials to engage with citizens on anything other than their own terms. Those who step outside of the formally created spaces for participation (Cornwall, 2009), and create their own platforms for engagement with the state, stand to lose their legitimacy. However, as indicated, numerous studies have pointed to the fact that this form of engagement with the state is the product of frustration and anger at the repeated failure of formal participatory structures to deliver the favourable outcomes which were promised. It is also evident that protest action is only one of several modes of interaction adopted by protestors and it is often a last resort once other measures have been exhausted.

States characteristically display little reflexivity and seldom systematically assess the factors which might have led to protest action and, instead, resort to shorthand caricatures of the motives of those so engaged. Labelling a protest as 'politically motivated' is a typical conceit intended to de-legitimise the concerns raised by protesters and to suggest that their demands fall outside accepted ways of holding the state to account. Yet state-civil society interactions are, by their nature, decidedly political and whilst it would be naïve to ignore the fact that political parties and movements contesting for power do, in certain circumstances, mobilise their supporters to confront the state, it is also true that many local protest organisers shun party politics precisely because it can divert attention from their core grievances (Mohanty; 2010).

The actions of the state, thus, are frequently both the cause and the effect of the escalation of protest activity. People protest in the first instance as a consequence of dissatisfaction with the performance of the state and its lack of accountability. Thereafter, they protest further when the state fails to take seriously the demands which they have raised or to respond in a satisfactory manner. This occurs especially, as indicated, in cases where protest is reduced to a law and order issue devoid of any social or political legitimacy. However, as experiences from many parts of the world have illustrated the involvement of police in protests invariably leads to confrontation and violence (The Global Justice Clinic 2012; Areola, 2013). As Mitra points out in the context of popular mobilisation in rural India, "One of the critical determinants of the form and intensity of protest is state responsiveness... the more unyielding the state, the more radicalised collective protest gets, whereas through the accommodation of some strategic demands, the state can enhance its legitimacy and take the wind out of the sail of revolution" (Mitra, 2002:213).

Whilst there are multiple forms of protest and some are decidedly political in their intent to supplant prevailing leadership structures and/or to bring about regime change, it is equally certain that there is a range of protest action which is not intended to be either disruptive or violent but which is genuinely seeking some form of engagement with and redress by the state. It is this type of protest, and the responses of state officials to it, that forms the focus of this paper. In that respect the paper looks at state, and specifically local state, responses to protest action in South Africa where, in a seeming paradox, there has

been an escalation of social mobilisation notwithstanding the existence of a comprehensive legislative framework and a plethora of policies which compel all tiers of government to ensure effective citizen involvement in official decision making. It argues that it is in the failure of participatory systems, and, in particular, the failure of the local state to deliver on the commitments made through participatory process, that the seeds of public protest are sown.

The Paradox of Participation and Protest – A Case Study of Two Municipalities

With the ending of three centuries of colonial and Apartheid rule and the advent of democracy in 1994, the incoming African National Congress (ANC) government placed considerable emphasis on the need for citizen participation and particularly at the local level where legislation explicitly instructs municipalities to "establish appropriate mechanisms, processes and procedures to enable the local community to participate in the affairs of the municipality" (Republic of South Africa 2000: section 17.2). However, despite these measures over the course of the past decade there has been an unprecedented upsurge in social mobilisation at the local level in what have come to be known as service delivery protests. According to a report by the South African Police Service, during the year 2012/13 the police had to respond to a total of 13 575 'crowd-related' incidents, 14% of which were violent and 86% were peaceful, an average of 32 'peaceful' and five 'violent" incidents a day (South African Police Service, 2013:26; Burger 2014). Significantly, however, while peaceful incidents increased by 47% in the three years from 2009/10 (7 913 incidents), incidence of violent protests increased by 92% (994) in the same period (Burger 2014).

There is aggrement in the literature that while frustration with the slow pace of service delivery and job creation are the proximate stimuli for protest actions, a variety of reinforcing factors has given rise to this state of affairs and serve to inhibit the substantive participation of the poor in democratic institutions and processes (Bond, 2000; Daniel, Southall, and Lurchman, 2005; Tapscott, 2008). Faced with the reality that the state has been slow in responding to demands raised through formal institutional channels, disaffected citizens and the organizations that represent them have increasingly sought alternative means to express their grievances. The majority of these protests have been directed against local governments. The triggers for protest are multiple and context specific, nevertheless, a number of trends are discernable. The most often reported reason relates to concerns that municipalities are failing to provide such basic services as public housing, water and sanitation to poor communities. A second relates to an inability on the part of dissatisfied citizens to determine whom they might hold to account for the failings of the state. In the context of a complex system of inter-governmental relations where responsibilities for the delivery of services are shared concurrently by all three tiers of government (national, provincial and local) ordinary citizens are often unsure where ultimate responsibility for administrative shortcomings is to be located. A third reason relates to the failure of the participatory structures in place to bring about any meaningful change in the lives of poor people.

The research on which this paper was based was undertaken in two small rural municipalities, Metsimaholo in the Free State Province and Lesedi in Gauteng Province, both of which were ruled by the ANC and both of which has had a history of service

delivery protests in the preceding five years or more.[1] Some of the protest action which has taken in the past five years has resulted in the loss of life and in the destruction of public and private property. The focus of these protests was varied and related to concerns about electricity disconnections, poor service delivery, the registration of indigents, the demarcation of municipal boundaries, and municipal labour relations amongst others. The factors which triggered the protests were similarly varied as was their leadership. However, in the analysis of the most prominent of the protests it is possible to discern a number of recurring themes which gave rise to popular discontent, to the breakdown of communication between communities and the municipality, and which ultimately lead to confrontation and violence. It is in analysing these common trends that insight is gained into the underlying factors which give rise to protest action.

Participatory Structures

National legislation and policy, as intimated, sets out a broad framework for citizen participation in the affairs of a municipality[2]. Under this mandate, all municipalities are expected to establish structures, systems and practices to advance citizen participation and these include the Integrated Development Planning (IDP) process, the Ward Committee system, public hearings, and newsletters amongst other mechanisms. The existence of these systems holds the promise that ordinary people will be able to influence decisions which affect their daily lives. However, a significant amount of research[3] conducted over the course of the past decade has pointed to the fact that the participatory systems in many, if not most, municipalities are largely ineffective in meaningfully engaging citizens at the local level. This has, in part, been attributed to the mismatch between the promise of substantively influencing local decision making, the expectations of local communities, and the capacity of municipalities to deliver.

A key instrument in the array of measures established to promote public engagement in local decision making is the IDP process which is intended to situate citizen participation at the apex of municipal policy formulation. However, it is evident from the research conducted for this paper, and from other studies on the subject, that the IDP process is largely formalistic and it has little substantive meaning for the vast majority of municipal residents across the country. To begin with, the case study municipalities faced a number of practical challenges in the way in which they set about engaging with the public. Although officials in both municipalities maintained that there had been fairly widespread engagement in the IDP process, it was conceded that it was generally only the representatives of a limited number of stakeholder groups such as ratepayers organisations (where these exist), faith based organisations, non-governmental organisations, and various community based organisations, rather than the general public, who take part in public engagements with the council. Furthermore, it was

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[1] The fieldwork for this study was undertaken in 2015 and 2016. The information generated was largely qualitative in nature and was based predominantly on key informant interviews (with national, provincial and local officials, local office bearers, community leaders etc.), and on focus group discussions with members of the community. Due to the sensitivity of the issues under discussion and expressed fears of recrimination, individuals interviewed were assured of anonymity in their responses and none have been quoted in the text.

[2] Amongst these are the 1998 White Paper on Local Government, the Local Government: Municipal Structures Act of 1998, and the Local Government Municipal Systems Act of 2000.

[3] This included work done for the 2009 *State of Local Government in South Africa: Overview Report National State of Local Government Assessments*, the 2009 *Local Government Turnaround Strategy*, and the 2014 *Back to Basics* report.

reported, the degree to which the input of these stakeholders represented the interests of the wider communities in which they were located was very limited and the extent to which the deliberations of meetings were communicated back to communities was minimal and often non-existent.

Municipal officials also reported that their efforts to communicate with the community at large were generally poor and participation at the public meetings convened was extremely low. This could, in the first instance, be attributed to the manner in which public hearings were advertised. Thus, in preparation for its 2015/2016 IDP, stakeholders in the Lesedi municipality "were invited in writing and electronically to the meetings" (Lesedi; 2015: 5). In the case of Metsimaholo it was reported that "The draft 2014/15 IDP and MTREF as tabled before Council on March 2014 and for community consultation will be published on the municipality's website and hard copies will be made available at municipal notice boards and various libraries" (MLM; 2014:35). In a context where functional literacy rates are low (80% in Metsimaholo) and access to the internet is extremely limited, it is evident that only the more educated and affluent would be able to review the IDPs which have been prepared. This state of affairs was aggravated by the fact that in both municipalities IDPs are published solely in English, despite the fact that less than 5% of the population in either is English speaking[4]. A second constraint related to the times at which public meetings were held. A schedule of the times when IDP and Budget public meetings were held in Mestsimaholo in 2013 revealed that, in all but 4 of the 21 wards, meetings were convened at 5pm in the evening. As a consequence of this scheduling, respondents stated that many of those in formal employment were either unable to attend the meetings or arrived late. Similarly, women with domestic responsibilities also likely found the time inconvenient and many were discouraged from attending.

Whilst both municipalities reported that they had consulted with local communities in the formulation of their IDPs, neither gave any indication of the proportion of the population who might have been reached through this process. However, information provided in the Metsimaholo Annual Report for 2012/13 is instructive. According to the report an IDP Representative Forum meeting, which was convened on 29 November 2012 to discuss projects and programmes in the IDP, was attended by 36 people, whilst an IDP and Budget meeting convened on 29 April 2013, to provide feedback on the implementation of projects and tabling of the budget, was attended by 150 people (MLM 2013: 37). In total 646 people attended the public meetings convened by the municipality during the 2012/2013 financial year; given that population of Mestimaholo at the time was roughly 150 000 people, those attending amounted to no more than 0.45% of the total population. In other words, in no sense could the IDPs formulated by either municipality be considered a reflection of the popular will of their constituents. Despite these limited numbers, the Annual Report felt confident to assert that "Through the public meetings held the municipality managed to strengthen partnerships with communities by empowering them with information and involvement in decision making" (MLM; 2013:38).

Whilst the preparation of an IDP is isupposed to be based on input derived from key stakeholders and the broader community, it is evident that a municipality's capacity to

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[4] The Lesedi 2015/16 Integrated Development Plan states "IDP material is in English, but presentations are done in vernacular and translation will be provided as, and when the need arises" (Lesedi; 2015:5).

ensure delivery of the projects and services identified through this consultation process is largely contingent on the funding which it is able to secure from provincial or national sources. This state of affairs would impl either that the IDP prepared by a municipality was unrealistic (in that it was based on unsecured funding) or that funding commitments made by provincial and national departments were not forthcoming.

The Metsimaholo IDP review reveals that the implementation of roughly 20% (50) of the 300 or so actions set out in the 2012/13-2016/17 IDP was contingent of receipt of funding from the Municipal Infrastructure Grant (MIG)[5], on the provision of funding by other national or provincial departments (for example Human Settlements or Health) or on "availability of funds from funders". What this implies is that there is no certainty that the expressed wants of citizens set out in an IDP, limited as they might be, will be implemented and many merely form part of a wish list. Confirming this reality the Lesedi IDP states "It is recognized that the funding expectations as reflected in the project list seems optimistic and that funding for all projects may probably not be forthcoming during the next 3 years. However, all projects were listed as a true reflection of the most urgent needs in Lesedi, and the project list will form the basis of future capital budgeting and funding applications by the local authority" (Lesedi; 2015: 108).

Whilst this mismatch between planning targets and outputs is likely to be influenced by the municipality's own administrative capacity, it is also certain that the shortcomings are also influenced by funding constraints and the need to address backlogs in service delivery. Uniformly, the Metsimaholo IDP Review reports stated that the municipality's failure to meet targets for the delivery of water, sanitation, electricity, housing and infrastructure was due to insufficient MIG funding to address both backlogs and growing demand. In that regard, municipal officials raised concerns that the allocation of MIG funding only took into account backlogs up to 1994 and took look little or no account of the rapid growth in the population since then. This is evident in the Lesedi IDP which states "The present MIG funding that is available to the municipality is surely not enough to address the present backlog; hence other sources of funding should be advanced" (Lesedi; 2015:42). In other words, the municipality is expected to fund the costs of new infrastructure the need for which is occasioned by in-migration trends beyond their control.

The fact that municipalities appear unable to meet many of the targets set out in their IDPs, particularly those at the ward level, undermines the credibility of the planning process for ordinary people. This factor, combined with very low levels of public participation in the formulation of the plans, diminishes the effectiveness of the IDP process as a method of citizen participation. This is aggravated by the fact that most citizens have little or no knowledge of the IDP process or of the content of plans which emanate from this. As a consequence, they have little way of knowing whether a municipality is fulfilling its legal obligations or of holding it to account. In this context, in effect, the IDPs formulated could not be considered participatory in any meaningful sense.

Ward Committees

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[5] Municipal Infrastructure Grants are allocated by the national Department of Cooperative Government and Traditional Affairs with funding supplied by the Treasury.

The second key instrument in the participatory system are the ward committees, the objectives of which are set out in Section 74 of the Municipal Structures Act of 1998. The Act, however, provides little detail on the specific functions of a ward committee other than to state that it "a) may make recommendations on any matter affecting its ward (i) to the ward councillor; or (ii) through the ward councillor, to the metro or local council, the executive committee, the executive mayor or the relevant metropolitan sub-council; and b) has such duties and powers as the metro or local council may delegate to it in terms of section 32" (RSA 2008: Section 74.3). Although the then national Department of Provincial and Local Government (DPLG, now the Department of Cooperative Development and Traditional Affairs, COGTA) prepared a set guidelines on the roles and responsibilities which ward committees should assume, these are not binding, and the approaches adopted by municipalities vary both in their format and in the extent to which the functions of ward committees are taken seriously (DPLG; 2005).

Whilst the formulation of a ward committee policy was an important step in clarifying the intended functions of these participatory structures, the roles and responsibilities outlined are largely abstract and provide little guidance on what ward committee members should *actually* do and *how* they should do it. A consideration of the essence of just three of the roles outlined above is illustrative of a general problem confronting virtually all of the others. Thus, the stated need to "create harmonious relationship between the community of a ward, the ward councillor, geographically spread community and the municipality" says nothing about what constitutes a "community" (particularly a "geographically spread community") or how "harmonious relationships" might be created (would ward committee members, for example, be expected to address conflicts amongst community members?). Given that they have an extremely limited mandate, limited resources, and are operating on a voluntary and part time basis, it is also uncertain how ward committee members would be able to ensure that "the community participates fully in the decisions that affects them at local level". Similarly, there is no indication of how they would be able to "mobilise partnerships for the development of local projects". It is also unclear who would be included in these partnerships, and what certainty ward committee members would have that the projects they have identified will be funded.

From the above, it is evident, that the ward committee policy provides very little practical guidance, to either ward councillors or ward committees, on exactly what they should be doing on a day to day basis. Furthermore, were they to be unpacked into a series of actionable tasks, the responsibilities outlined would take up a considerable amount of time in the daily lives of individuals who are unremunerated volunteers, who might have full time jobs, or who might be looking for work. This reality supports the findings of other research which points to the limitations of voluntarism in supporting participatory processes (Tapscott and Thompson; 2013). Apart from the time which they are expected to commit, it is evident that many ward committee members feel that their participation is a largely thankless exercise in that their ability to impact local development activity is extremely limited and, by association, their ineffectiveness is seen by the community which they represent as reflective of their ineptitude or lack of commitment. This is a finding similar to that of a study of ward committee in three municipalities conducted by the Community Law Centre which found that "many community members see ward committees as a structure that should take some responsibility for service delivery, as if they are an extension of the municipality. This is arguably a dangerous notion as it

inevitably sets ward committees up to disappoint communities and threatens the credibility of the committees" (Smith; 2008: 53).

A further constraint to the functioning of ward committees relates to their perceived party political bias. Amongst the principles of ward committee composition set out in a South African Local Government Association (SALGA) Handbook is that community representatives should "represent clearly identifiable interest groups'', that they "should not be 'hand-picked' by councillors", that they should "represent a community mandate and not a party's mandate", and that they should "not allow the participation of individual citizens to be 'crowded out' by the participation of community" (SALGA, 2006:119). The DPLG guidelines also cautioned that "political parties should not influence how a ward committee is elected or appointed" on the grounds that "(i)t may simply reproduce the main political forces already represented on council and it therefore becomes difficult for council to hear anything new from local civil society as most feedback will be filtered through the party machine" (DPLG; 2005:31). Despite this caution, individuals interviewed in both municipalities claimed that those serving on ward committees were frequently confidants of the ward councillor and were nominated by his or her supporters. In such instances, it was stated, ward committees amounted to little more that the councillor's political committee and on the occasions when meetings were convened the focus was on party political matters rather than community issues.

Over and above concerns that ward committees were politicised, further questions were raised about the extent to which individuals serving as ward committee members represented the interests of the community which ostensibly elected them. In terms of the DPLG guidelines there are two principal ways in which individuals can become members of a ward committee. The first is election or nomination as a representative of an interest group (such as a street committee or a women's group), and the second is election or nomination as representatives of a geographic area. In neither approach can those elected or nominated be considered to be representative in any recognised democratic majoritarian sense. According to the Lesedi ward committee policy, "No quorum is required at a ward committee election meeting, but the ward councillor must ensure that the meeting is well attended" (Lesedi; 2013:13.1.5).

In both instances those who are elected or nominated have a very limited mandate to speak on behalf of the community they are expected to represent. This means that the influence which they are able they exercise is limited, as is their capacity to "make sure the community participates fully in the decisions that affects them at local level" and to "mobilise partnerships for the development of local projects". Furthermore, the election or nomination of representatives from interest groups runs the risk of excluding individuals who are not part of any association or identifiable sector of the community. This means that the most marginalised and vulnerable are often those who have no say in the affairs of a ward committee. Concerns were also raised about the extent to which ward committees serve to advance the interests of the communities they ostensibly represent. There was broad consensus amongst municipal officials and community members interviewed, that members seldom report back the deliberations of a ward committee to their constituencies.

Interviews conducted in poor communities in the two municipalities during the course of the study indicated that ward committees seldom met and in Lesedi, a municipal official maintained that in some wards members merely met to sign a register in order to receive

their R600 (US$45) attendance stipend and dispersed thereafter. Although ward committees are supposed to forward the minutes of their meetings through the municipalities Speaker's Office to the Council, there was no indication that this practice was ever monitored. It is also evident that many of those who are elected to ward committees have little understanding of the functioning of councils, of the objectives of their participatory systems, or of their own role in this process. It was further evident from interviews with officials and community members in both municipalities, that there is widespread cynicism towards ward committees and they appear to be failing as the frontline structures for citizen participation. In a context where poor people have expectations that their engagement in participatory structures and processes will lead to tangible improvements in their own lives as well as those of their communities, it is perhaps not surprising that the ward committee system, as currently operating, is perceived to be failing in its intended objective.

Ward Councillors

The role of ward councillors is of critical importance to the functioning of ward committees. This applies to their establishment, the composition of their membership, the regularity of their meetings and the extent to which they are effective in communicating with their communities. They also have a pivotal role to play in ensuring that the concerns raised through the ward committees are effectively channelled through the Speaker's Office to the Council, and in ensuring that there is feedback to the community. However, over the past decade and a half a number of studies have raised concerns about the extent to which ward councillors serve the interests of the constituencies they are supposed to represent (Piper and Deacon; 2008).

A primary concern relates to the inherent tension that exists in the fact that local councillors, who were elected as part of a competitive political process and who are reliant on the continued support of a particular political constituency for re-election, should be expected to act in an entirely a-political and neutral manner in establishing ward committees and in performing their duties as chairpersons. Where they fail to do so, as many evidently do, they run the risk of alienating segments of the community they are supposed to represent. As a DPLG resource book cautioned more than a decade ago:

> "Many wards contain citizens who do not all vote for the same party. When the ward committee is seen to be controlled by a single party, potentially important interest groups and individuals aligned to other parties inevitably become alienated from the ward committee and feel that there is little or no point in participating as their opinions, ideas and suggestions will not be listened to" (DPLG; 2005a:31).

A further concern relates to the extent to which local councillors can be held accountable for their activities. South Africa is a developing democracy overcoming a long history of racist and authoritarian rule, and in elections most citizens vote for a specific party rather than for an individual candidate. Whilst this is of less significance at the national and provincial levels, it is an issue at the local level where ward councillors are expected to directly represent a particular constituency. Due to party loyalty, councillors who fail to represent their constituents are often unlikely to be voted out if they are re-nominated on a party list and, in the process, a key element of democratic accountability is forfeited.

Conversely, due to intra-party wrangling, diligence in performing their duties is no guarantor that incumbent councillors will retain their position on party electoral lists.

As a consequence of this, COGTA, and municipalities themselves, have proposed measures to hold ward councillors to greater account. Under the "Actions for immediate implementation" specified in COGTA's 2014 "Back to Basics" policy, is the need for "Each councillor to report to Speaker on a monthly basis: How they have made themselves available in communities to serve the needs of communities? How many people at community level they have served? When last they reported back on initiatives of council to an open public meeting in their community/ward?" (COGTA; 2014:19). Whilst the introduction of this system is a positive step towards holding councillors to greater account, it is focused largely on compliance rather than on the promotion of effective citizen participation. In other words, the focus is on measurable outputs, the number of ward committee meetings, the number of people contacted etc., rather than on tangible outcomes such as improved safety in the community, improved refuse removal, or the completion of a community development project.

Schedule 1 of the Municipal Systems Act sets out a code of conduct for councillors but its focus is also on issues of compliance, relating to the attendance of council meetings, the disclosure of interest, personal gain, and the receipt of gifts for favours. The code is noticeably silent on matters relating to a councillor's effectiveness in engaging with ward committees and it is not clear, outside of party political structures, what sanctions might be applied to those who do little more than comply with the minimum requirements of the posts which they hold. It is evident that many councillors owe their allegiance to the party leadership rather than to the communities they have been elected to serve. It is perhaps because of this, that the refrain "they don't fight for" was heard on several occasions during the course of this investigation.

Although not specifically prescribed in legislation, in both municipalities the Office of the Speaker had been assigned responsibility for oversight of the activities of ward councillors and for the functioning of ward committees. These include responsibility (together with ward councillors) for ensuring that ward committees are established and for ensuring that issues raised by them are forwarded to the municipal council. However, in neither municipality was there a dedicated unit (as is the case with IDPs) established to support and track the activities of the ward committees and engagement with these structures appears to be on ad hoc basis. Recognising the need for greater oversight of ward committees, COGTA's "Back to Basics" document decreed that a Speaker must, on a monthly, present to council a "Summary of ward committee meetings (including issues raised) held since the previous Council meeting… How many issues were brought to the attention of councillors and how these are being addressed" (COGTA; 2014:19). As in the case of ward committees, ward councillors in the two municipalities, appear to play an insignificant role in promoting effective public participation.

Although responsibility for the promotion of public participation vests in the Office of the Speaker, in neither municipality were there staff who had specialist skills in promoting citizen participation and this activity was an 'add-on' to their normal job descriptions. It is also clear that, lacking any induction into the subject, across departments most officials do not fully comprehend the policy objectives behind citizen participation. As a consequence, in a context where community participation is not understood by officials to have any intrinsic value, there is tendency to treat this largely as matter of compliance.

It is because of this understanding, that the success of participation exercises is typically measured in terms of outputs (the number of meetings held, the submission of minutes of meetings held), rather than by assessing citizens' satisfaction with the process.

Factors Contributing to Public Dissatisfaction and Protest

Over and above the weaknesses in the participatory systems discussed above, it is evident that there are a number of further factors which give rise to citizen dissatisfaction and form the basis for protest action. These include systemic weaknesses in the design and implementation of administrative systems which affect the livelihoods of poor households, and the sense of political exclusion. It is also evident that over the years there has been a breakdown in trust between certain segments of the community and the local council and, consequently, the actual triggers for protest action might sometimes appear relatively trivial. In the context of long standing dissatisfaction with access to housing, jobs, services etc., a particular protest might prove to be a proxy for more deep seated anger against perceived injustice.

Concerns about political interference in the administrative affairs of the local councils was a recurring theme which surfaced in interviews with municipal officials and community leaders in both municipalities but especially in Metsimaholo. This, indeed, is an issue which had been raised by the DPLG a decade previously and which cautioned that "Local government is increasingly vulnerable to allegations of political cronyism, i.e. practices of nepotism and patronage that favour those who are powerful or influential within the party rather than those with proven leadership ability or professional competence" (DPLG; 2005a:32). The reported political interference came in several forms and in Metsimaholo the most frequently cited charge was that of nepotism and the appointment of people from outside the municipality to both political and administrative positions. It was stated that where, in the immediate aftermath of Apartheid, the ANC's policy of deploying political cadres into key state sectors had been intended to advance its ideological and transformative agenda, this had been supplanted by a form of crony deployment. In several interviews it was maintained that political directives from the provincial government exceeded the mandate prescribed by the Constitution and were undermining the authority of the local council. This was stated to be the case in the proposal to amalgamate the neighbouring Ngwathe (Parys) and Metsimaholo local councils which had been proposed by the Free State provincial government and which met with widespread disapproval in Metismaholo. The Metsimaholo Concerned Residents organisation, which had formed to oppose the proposed merger, complained that there had been no consultation with the community on the subject and that it had been presented to them as a fait accompli. Their resistance to the amalgamation was principally due to the fact that they believed that Ngwathe was badly run and in debt. It was also maintained that Parys was the Premier's home town and that he and his supporters stood to gain were the merger to go ahead, since it was the intention to have the new municipality upgraded to metropolitan status.[6]

Of particular concern to the protesters at the time, was that the fact that their own councillors had not attempted to elicit their support and had merely gone along with the proposal because, it was stated, the matter had been decided by the political leadership

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[6]Vusi Xaba, "Zamdela rejects merger", *Sowetan Live*, 21 January 2013

of the province. A mass meeting, attended by more than 4000 people, was held in the town stadium to discuss the matter but when senior council officials failed to address the gathering,[7] the mood turned angry and in the violence which ensued four people were killed and there was widespread looting and extensive damage to public property. The proposal to merge the merger was subsequently halted by the national government.

The demarcation case cited above is reflective of both public distrust in their local political leadership and poor communication between municipalities and their citizens. The need for effective communication is a basic tenet of the participatory model set out in national legislation and policy as it is intended to empower citizens to make informed decisions when called upon to participate in processes of policy formulation. It became evident in this investigation that many, if not most, citizens had a limited understanding of the functioning of government and who they might hold to account. It was also evident that the methods used by the municipalities to communicate with their citizens, on the limited occasions when this took place, was largely ineffectual, as seen in the case of the IDP process. Much of the communication undertaken appeared to be for the sake of compliance rather than a concerted initiative to inform members of the community. The use of the internet, whilst a necessary form of communication with those who have access to digital services, is completely ineffectual in reaching the vast majority of poor people. On the other hand, neither municipality made much use of local radio stations which do have a wide listenership and which are capable of reaching a wide audience.

Linked to concerns of political interference were claims made in both municipalities (in some instances by local government officials themselves) of patronage and nepotism in the awarding of state tenders. It is also became apparent that some municipal officials are afraid to report corruption when this involves individuals who are known to be politically influential. A municipal official, when questioned in this investigation why he had not exposed a developer who had been paid by a provincial government department despite having failed to fill his contractual obligations (and who, by implication, was guilty of fraud), responded "(h)e is politically untouchable and my job would be in jeopardy if I were to report him".

Administrative Systems

It is evident that the design and implementation of certain administrative systems had led to dissatisfaction and anger of the part of municipal residents, particularly when these impacted on household livelihoods and their overall welfare. This was evident in the protests which arose in Metsimaholo in 2008 around registration for and access to indigent entitlements. According to the 2005 National Framework for Municipal Indigent Policies, individuals who are classified as living below the poverty line (and hence as indigent) are entitled to a range of free basic services.[8] The process of determining an applicant's eligibility to these entitlements is a complex and time consuming one. In order to register someone as indigent, it is necessary to verify their personal particulars, their employment status, and their total family income as part of a means test. The registration process is frequently a protracted one (due to limited staff capacity and the need to verify claims of indigency) and in the past, the applications were subject to the endorsement of

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[7] It was reported that the leadership of the Council were attending the funeral of a colleague.
[8] These include the right to free public (RDP) housing, to free basic water up to 6kl a month, and to free basic electricity up to 50kWh per month.

a local councillor. Whilst this process was intended to assist those (such as the elderly and infirm) who had difficulty in verifying their status (either due a lack of supporting documentation such as an Unemployment Insurance Fund card, bank statements, a letter from an employer etc., or their own immobility) it also led to charges that this practice opened up opportunities for corruption. Community members maintained that corruption occurred in two ways: either through nepotism, where ineligible applicants were entered onto the indigent register, or through bribes which eligible applicants were compelled to pay in order to receive a councillor's endorsement.

The involvement of councillor's in the registration process has since been discontinued and the process of registering indigent citizens was taken over by the Finance Department. Notwithstanding this administrative reform, community leaders interviewed maintained that many individuals who are indigent are still not receiving the support to which they are entitled. Municipal officials also conceded that at the time of the protest the indigent register was not up to date and that perhaps fifty percent of those who were eligible for support were not receiving it. Since then, there has been a concerted drive to register more households, although a sizeable number of eligible households are still without support. Significantly, the administrative shortcomings discussed above appear led not only to corruption, but to widespread public distrust of systems set to promote their welfare.

Whilst municipalities are uniformly held responsible in the media, and by many in the polity, for poor service delivery and, ultimately for citizen unrest, it is clear that the weak inter-governmental coordination between local government and provincial and national spheres of government is a contributing factor to their under-performance. The system of cooperative governance outlined in the Constitution and in subsequent legislation provides a framework for the inter-governmental fiscal transfers and for the management of areas of concurrent responsibility. However, it is evident that differences in the interpretation of the respective responsibilities of different spheres of government, and particular those of provincial and local government, have given rise to problems of accountability. These relate to the awarding of tenders for housing and bulk infrastructure development, to the oversight of contractors, to co-ordination of the simultaneously delivery of services (for example, housing, sewerage and water), and to support for capital development projects set out in a municipality's IDP.

Responses to Protest

In contrast to the range of mechanisms established to promote citizen participation, limited or no provision is made to accommodate opinions advanced by the population outside of these formalised structures and particularly those raised through protest action. This is despite the fact that the right to protest is enshrined in the Constitution which asserts that "Everyone has the right, peacefully and unarmed, to assemble, to demonstrate, to picket and to present petitions" as well as the right to freedom of association (RSA; 1996: sections 17 and 18). The Municipal Services Act further stipulates that "A municipality must establish appropriate mechanisms, processes and procedures to enable the local community to participate in the affairs of the municipality.. (and) and must for this purpose provide for .. the receipt, processing and consideration of petitions and complaints lodged by members of the local community" (RSA; 2000: section 17. 2a). However, neither municipality had in place effective mechanisms for responding to protests, despite the frequency with which these events had taken place. These related

both to mechanisms to engage with protesting groups or to assess the validity of their claims. In both municipalities petitions and memoranda were delivered to the Office of the Speaker, who was responsible for responding to the issues raised. However, in neither was there any formal structure or process in place, or staff dedicated to assess the validity of the concerns raised, to strategise how they should be responded to, or to assess the risks which might be entailed in different courses of action.

The response to protest action, as a consequence, was addressed on an ad hoc basis. In none of the protests analysed, in either municipality, was there evidence that their councils had initially conceded to the demands of protesters or had set time frames for the redress of their concerns. This is not to say that the municipalities never implemented ameliorative measures or administrative reforms subsequent to protest action, but rather that any concession to the demands of protesters appeared to be viewed as a sign of weakness.

Although peaceful protest action is permitted in municipal and provincial legislation this is a highly formalised process which generally serves to disempower those taking part. Groups wishing to demonstrate must formally apply to the municipality which may set stringent conditions or refuse permission. In the case of the latter, this measure is seen as disrespectful and highly confrontational. Mass protest was a key instrument deployed in the struggle against Apartheid and it remains strong in collective memory as a means to bring about change in state policy and practice. Studies elsewhere have also shown that protest action serves a number of social and symbolic actions. In the first instance, the process of mobilising people serves to build commitment and solidarity in otherwise fragmented communities and, in the second, it is an empowering process for individuals who feel marginalised and ignored by the authorities. Where political office bearers and public officials are perceived to be dismissive of the complaints raised by protesters (as in the case of the mass meeting in the Metsimaholo stadium), this is often interpreted as a disrespect for their concerns and a provocation. A denial of the right to protest, delays in granting permission for a march, and the setting of restrictive conditions for one are also seen as factors which set the tone for the interaction which follows.

A failure to address minor protest inevitably fuels frustration and over time this gives rise to more violent forms of interaction with the state. To that extent, state responses to protest action become self-fulfilling. Following this sequence, legitimate protest action is either ignored or is dispersed by the police, protesters become angry and sometimes violent and this reinforces state stereotypes of their behaviour. However, recognition of the fact that the resolution of protest action should be addressed at an administrative level rather than a law and order issue is evident in a report of the South African Police Service itself, which states that in order "to mitigate the proliferation of public incidents, it is critical for the parties involved in wage disputes and service delivery complaints to establish means to resolve matters in order for the aggrieved parties to avoid escalating their dissatisfaction to the streets and encounter the police" (South African Police Service, 2013:26).

Although officials did concede that there was legitimacy to the concerns raised by some protesting groups, the complaints of disgruntled residents appeared all too often to be dismissed as 'political'. Furthermore, there appeared to be little interest on the part of municipal officials to understand the reasons why a segment of the population had mobilised, to assess the validity of the demands being made, or to determine what ameliorative measures might be introduced to alleviate further action. In contrast to

participation, which had a dedicated unit and an array of formal systems, protest had no such structures and was typically referred to the disaster management unit and or the police.

Whilst it is certain that some protests in the lead up to municipal elections in 2016 were decidedly political in nature and that, in their bid for power, opposition parties focussed on popular grievances as a means to mobilise supporters, it is equally certain that not all protests were driven by narrow party political interests. It is also evident from studies conducted elsewhere in the country, and from the findings of this investigation, that a resort to protest is not the first step taken by citizens with a grievance. Dissatisfied community members typically use a variety of methods to convey their dissatisfaction, including appeals to their ward councillors, petitions and memoranda to the municipal authorities, and the decision to protest is often a last resort.

Conclusion

The formal commitment to participatory democracy in South Africa has been in existence since the adoption of a democratic constitution in 1996 and the legal framework to ensure its implementation has been in place for more than a decade and a half. Despite a broad range of mechanisms intended to advance citizen participation, to deepen democracy and to improve service delivery, it is evident that the participatory system in place is not meeting the goals which were set for it. Whilst it is recognised that many of the factors which give rise to popular dissatisfaction are shaped by broader socio-economic forces (such as unemployment and in-migration), by the form of the state, or by broader socio-political forces which pit different constituencies against each other, it is indisputable that the ineffectiveness of participatory systems does influence the way in which citizens interact with the state and the local state in particular.

In the first instance, as discussed, the failure of formal participatory structures either to engage with citizens in an effective manner or to deliver favourable welfare outcomes has prompted people to seek more direct forms of engagement with the state. The failure of these formal spaces for participation is aggravated by the fact that disgruntled citizens are unsure who in the government hierarchy to hold to account and to whom to direct their concerns. It is further evident that when protests do take place state officials do not see them as a legitimate form of citizen engagement and they are either ignored or suppressed. In this context the potential for more violent forms of protest increases significantly. At a broader level, however, the protest may be viewed as part of a process of actualising rights and of deepening of democracy both in established and newly democratised states.

Despite official rhetoric, public participation processes generally appear to be undertaken in a highly mechanistic way and as end in themselves. Citizen participation appears to be seen as a necessary feature of a modern democratic state and as end in itself. However, as previously intimated, citizens engage in participatory processes in the expectation that this will lead to improvements in their daily lives and those of the communities in which they live. Despite this reality, there was a strong sense, gained from both interviews and municipal documents, that citizens are expected to participate for participation's sake. This was clearly illustrated in the fact that both municipalities

reported on the number of engagements with members of the community without any reflection on the meaningfulness of these engagements for those participating. Despite the stated commitment to monitoring and evaluation in their IDPs, neither municipality had any mechanism to assess the effectiveness of their participatory structures and systems in place. No citizen satisfaction survey has ever been conducted to assess whether citizens were happy with the forms of participation which were open to them and whether they believed that their engagement in these processes had improved their lives.

From the research undertaken it was evident that municipal officials had little understanding or appreciation of the fact that citizen participation constitutes a basic democratic right, underscored in the Constitution and in a variety of laws and policies, and that it is the responsibility of the government to make sure that the process of state-society engagement is a meaningful one. It was further evident that considerably more attention would need to be paid to the resources (in terms of dedicated staff and budget) necessary to support effective participatory systems. The time needed to engage with community members was a further factor which had evidently not been factored into the design of community-based programmes. Above all, there is a need to establish a strong connection in the minds of poor people that their participation will lead to positive outcomes in terms of service delivery and improvements in their general welfare.

There is also need for a wider recognition, both in the literature and in official understandings, of the reality that peaceful protest is frequently symptomatic of shortcomings in existing participatory systems. Linked to this is a need to understand that protest is no longer an aberration, that it has become a well-established and alternative form of citizen participation, and that it needs to be addressed in both a more interactive and pro-active fashion. The current response to protest, as indicated, is invariably adversarial, reducing what might be legitimate grievances to a law and order issue. Whilst this approach serves to diffuse the immediate threat of disorder, it generally does little to address the root causes of citizen dissatisfaction and can lead to an escalating spiral of confrontation and potentially violent social unrest.

Finally, while the question has been posed by Cooke and Kothari and others as to whether participatory systems should be view as form of tyrannical subjugation of the impoverished masses, the cases studies on which this paper was based suggest a more mundane set of factors which serve to undermine the lofty goals of participation. Whilst extant power relations, asymmetries of knowledge, and elite interests amongst others, do, undoubtedly play a role in minimizing the extent to which the population at large is able to meaningfully influence decision making at the local level, it is also certain that the administrative systems in place to promote citizen participation determine the extent to which this occurs and the manner in which ordinary people are able to assert their rights. Where these administrative systems routinely fail, as in the case of the two case studies, protest frequently becomes the default mode of citizen engagement with the state.

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