

# Public participation as participatory conflict resolution: Shortcomings and best practices at the local level in South Africa

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## **Abstract**

In South Africa the constitutional order brought about by the transition to democracy, and the subsequent policy and legislation frameworks, have enabled ordinary people to participate in governance and policy making. Yet, according to some studies, the importance of participation – agreed to by politicians, practised and promoted by academics – has yet to be translated into a lived reality at the local level. In this paper, I write about the debates on participation, its advantages, and disadvantages.

This paper offers an additional resource to public participation practitioners and beneficiaries, aiding them in the use of negotiation, mediation, and generic conflict resolution approaches to resolve public participation stalemates, and in the process, to strengthen and legitimise those public participation processes. Drawing on the existing literature, I describe what works and why; I also

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point out the strengths and weaknesses of these approaches. Ultimately, the objective is to share the complementary nature of conflict resolution and public participation, and show how – if they are combined effectively – public participation can be enhanced.

While I strongly believe that the literature supports my contention that conflict resolution principles and practices are useful for fair and equitable public participation, I do not have authoritative empirical evidence to state this as fact. Nonetheless, I believe that the ‘best practices’ outlined in the paper are useful and valuable tools and should be implemented as far as possible.

### **Public participation in democratic local government**

Public participation is particularly important in South Africa, where (before 1994) African, Coloured and Indian communities were excluded from meaningfully participating in decision making within state and government institutions or structures. Statutory mechanisms such as the Group Areas Act (No. 41 of 1950)<sup>1</sup> and the Population Registration Act (No. 41 of 1950)<sup>2</sup> made it illegal for the majority of communities to engage with decision-makers openly and gainfully. Following the transition to democracy, culminating in the 1994 elections, the new Government of National Unity (GNU) embarked on the challenging task of addressing these injustices and forms of statutory exclusion by (among other methods) rebuilding the status and importance of local government through bringing communities closer to decision-makers. Local government, as the sphere of government closest and most accessible to

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1 The Group Areas Act of 1950 (Act No. 41 of 1950) was an act of parliament created under the apartheid government on 27 April 1950. The act assigned racial groups to different residential and business sections in urban areas – in effect excluding Blacks, Coloureds and Indians from living in the most developed areas of South Africa.

2 The Population Registration (Act No. 41 of 1950) required that each inhabitant of South Africa be classified and registered in accordance with their racial characteristics. Social rights, political rights, educational opportunities and economic status were largely determined by the group to which an individual belonged. The South African parliament repealed the act on 17 June 1991. However, the racial categories defined in the Act remain ingrained in South African culture and they still form the basis of some official policies, aimed at correcting past economic imbalances.

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the community, is therefore tasked with ensuring that communities and the general public participate actively.

Local government in South Africa had no constitutional protection until the early 1990s. It was perceived as an extension of the state, and as carrying out the same functions as those carried out by provincial government. This situation was compounded by the exclusion of the majority from political participation until 1994. Instead, South Africa's form of government 'was highly centralised, deeply authoritarian and secretive .... The approach to planning in general was influenced in Britain, which stressed "efficiency concerns" and was dominated by scientists such as architects and engineers, who held the view that all planning had technical solutions...' (Williams 2000, cited in Pretorius 2008:175). It was within this context that the post-apartheid Constitution (The Constitution of the Republic of South Africa 1996: section 40) sought to move progressively towards the social and economic upliftment of local communities, and ensure universal access to essential services.

Since 1996, the Constitution has guaranteed local government its own sphere of governance, so that it is no longer an extension of national or provincial government. To ensure a developmental approach, and people-centred, integrated development planning at the local level, the constitution (1996: section 152 (1)) states that 'The objects of local government are ... (e) to encourage the involvement of communities and community organisations in matters of local government'. Within the framework of co-operative governance, the South African government has enacted an impressive basket of

legislation on local government that demands public participation in municipal decision-making, planning, budgeting and finances.<sup>3, 4, 5, 6</sup>

Particularly relevant is the requirement of the Local Government: Municipal Systems Act 32 of 2000: that municipalities have to develop a culture of public participation by building the capacity of local communities, councillors and officials to participate in municipal affairs. From the constitutional and legal frameworks discussed above, it is evident that the unequal *de jure* access to formal participation under apartheid no longer exists. In South Africa, participation in local government takes place in terms of two main objectives. The first relates to upholding the principles and systems of participatory democracy through participation in formal structures such as elections and referendums. The second relates to the local government development mandate to alleviate poverty through service delivery and localised socio-economic development initiatives.

In the context of participation as a democracy through elections and referendums, on balance South Africa has shown stability due to largely peaceful, free and fair electoral processes. The state enjoys continued legitimacy thanks to a set of functional institutions, separation of powers between the legislature, the judiciary and the executive, and a fairly robust and independent media.

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3 The Municipal Structures Act (1998), section 19 (3), states that a municipal council must develop mechanisms for public participation in performing its functions and exercising its powers. Additionally, the Act stipulates that a municipality's executive must give an annual report on the extent to which the public has participated in municipal affairs.

4 The Municipal Systems Act (2000), chapter 4, determines that a municipal council must develop a culture of participatory governance, and for this purpose must encourage and create conditions for residents, communities and other stakeholders in the municipality to participate in local affairs.

5 The Municipal Finance Management Act (2003) encourages the participation of communities in the finances of municipalities, including the development of municipal budgets.

6 The Municipal Property Rates Act (2004) stipulates that the public must participate in the determination of municipal property rates.

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The increased electoral turn-out during the 2011 local government elections,<sup>7</sup> and the continued majority support for the dominant party (the African National Congress, or ANC)<sup>8</sup> and growing political support for the main opposition party (the Democratic Alliance, or DA)<sup>9</sup> means there is much to be celebrated as far as progress towards democratic consolidation is concerned. The functioning institutions of democratic processes and procedures are indeed worth noting. However, democracy and its sustainability need more than structure, a set of rules and procedures. Democracy needs substance to remain relevant and legitimate. Davids (2005:6) perhaps sums up this challenge best:

Democracy is not just a structure; it's a process that depends on the ongoing participation of its stakeholders, the South African citizenry. There is much at stake in the long-term success of South African democracy, and while much depends on what happens at national and provincial levels, the stakes are equally high at the local government level.

The following questions must also be reviewed: To what extent do formal public participation spaces represent voices fairly and equitably when expressing community dissatisfaction? Moreover, how inclusive and effective are they in the promotion of social justice? South Africa's public participation discourse draws mainly from two influences: the anti-apartheid struggle, and the new Constitution. The struggle against apartheid inculcated a highly participatory notion of citizen participation in the majority of the population. Mass democratic organisations such as the United Democratic Front (UDF) and many civic organisations established models of debate, consultation and accountability that carried over from the 1980s to the drafting of the new Constitution in the

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7 Independent Electoral Commission local government elections results released 22 May 2011. The 2011 elections were the fourth local government elections in a free South Africa – with 57.6 per cent voter turn-out, the biggest ever since 1994.

8 The ANC won the highest number of seats and councils: 198 councils and 5 633 seats, constituting 62 per cent of the vote.

9 The main opposition party, the DA, increased its support and came second with 18 councils; 1 555 seats and 23.9 per cent of support. The ANC has always been (and continues to be) the dominant force in post-1994 South African politics. The gradual growth of an opposition party – in this case, the DA – is good for multi-party politics and, in the long term, democratic consolidation.

Constitutional Assembly. Drawing on these principles of engaged citizenry, the Constitution provides a framework for public participation in all spheres of government – especially at the local level: the Municipal Systems Act 32 of 2000 institutionalises community participation as a core function in all the activities of a municipality.

Furthermore, it specifically gives a mandate to local councils to ‘determine mechanisms, processes and procedures for interaction’<sup>10</sup> between municipal management, councillors, ward committees and the local community. More specifically, the Municipal Structures Act promulgates that members of local councils be allowed to join these committees.<sup>11</sup>

However, the dominant discourse in democratic South Africa is that the legal framework provided for in the Constitution is nothing more than ‘hurdles that are inadvertently and sometimes deliberately erected ... to undermine public participation and in effect weaken social citizenship’ (Skenjana and Kimemia 2011:56). The assumption prevails that there is an inclusive, elected leadership representing only their specific constituencies in all spheres of government, which is in contrast to the objective of the electorate participating directly at all levels of decision making. The second weakness of the current practice of public participation is based on the false premise that all humans in South Africa have equal access to rights. Cases such as *Grootboom vs. SA State* (Wickeri 1999) exist in which socio-economic rights were successfully defended in a court of law. However, even in this case, the poor were not able to access their rights as the judgement had proposed. The court did not compel local authorities to provide quality, sustainable services to the affected communities in whose favour the court had ruled; also, the right to adequate service delivery was not enforced.

South Africa’s structural articulation between the politics of participation and that of substantive social change is weak (vis-à-vis the constitutional right to equal citizenship) for two main reasons. Firstly, although unequal relations of power were inherited from the past, there has not been a clean and lasting break with those societal imbalances. The dominance of functionaries and learnt

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10 Section 56 (6).

11 Section 73.

practices from the past (the apartheid order) still prevail. Secondly, institutional compliance with the policies introduced by the new democratic order is lacking. Those charged with promoting and facilitating participatory democracy have failed to cater adequately for the greater populace, or to appreciate the various tools, methods, skills and expertise necessary to include everyone in the structures and institutional arrangements that have been set up.

### **Role of councillors in promoting public participation at the local level**

The model of developmental local government adopted in 1998 was formulated through legislation, in the form of the Municipal Structures Act (1998) and the Municipal Systems Act (2000). In 2001 the number of municipal entities was rationalised, from 1 000 down to 284 municipalities. This was aimed at promoting effective local government in order to make better use of limited development resources. To facilitate the forms of participative democracy outlined in these Acts, the ward committee system was introduced. This system has become the main form of public participation in local government.

The work of councillors is guided by the framework in the White Paper on Local Government (1998), which proposes a developmental model of local government. This model promotes the philosophy of using sustainable methods to meet the socio-economic needs of residents – particularly targeting the poorest and most marginalised members of society.

There are two broad categories of councillors: ward councillors and Proportional Representative (PR) councillors. PR councillors are elected through their party lists, and are accountable primarily to their parties (South African Local Government Association and German Technical Cooperation 2006:54). A PR councillor may interact with local and provincial party structures, and may sometimes serve as a substitute chairperson on a ward committee if the ward councillor cannot be present. PR councillors are also allocated to particular wards in order to increase their accountability to their communities (Jossel 2005). Ward councillors,<sup>12</sup> on the other hand, are expected to make sure that

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12 Ward councillors are elected by a specific, geographically defined ward.

the concerns of the wards in which they serve (as ward committee chairpersons) are represented in Council. Apart from representing the needs of residents in council, ward councillors are responsible for:

- giving ward residents progress reports explaining council decisions in committing resources to development projects and programmes affecting them,
- assessing intended impact of municipality programmes and plans,
- assessing whether services are being delivered fairly, effectively and in a sustainable way,
- determining whether capital projects are being rolled out in accordance with Integrated Development Plans (IDP),
- keeping in close contact with their constituencies to ensure that the council is informed of all issues on the ground, and
- conveying important information to residents from the council.

Councillors serve a key role as the interface between the citizens they represent<sup>13</sup> and the municipal officials who design and implement development policies. Councillors also act as watchdogs and ensure that the municipality implements policies to address the needs of citizens. The ward councillor, as chairperson of his or her ward, must also raise concerns to council on behalf of ward members when residents experience problems relating to the financial management of a council.<sup>14</sup>

## **Ward committee system weaknesses and community dissatisfaction**

A number of studies have highlighted key weaknesses and challenges facing public representatives. These include high councillor turnover (Atkinson 2002), poor decision-making and communication structures in municipalities, and ineffective councillors (Atkinson 2002; Sebugwawo 2011; Karamoko 2011; Hirsh 2010).

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13 See, for case studies on the Port Elizabeth municipality and Motherwell in the Nelson Mandela municipality, Masango 2011 and Shaidi 2010, respectively.

14 See Municipal Finance Management Act, Section 17 (f).

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Councillors serve as members of Council committees and are usually charged with the development of new policies. Committees include the Executive Committee, which decides what policies and proposals are put before Council to be discussed and (where possible) enacted as municipal policy.<sup>15</sup> Section 33 of the Municipal Structures Act (2000) provides that a municipality may establish committees, detailing the specific powers of such committees and the need for delegation and commitment of resources to such committees. Section 79 committees are established by Council and its members for the efficient and effective performance of Council. The Executive Mayor may appoint a person from the Mayoral Committee or Executive Committee to chair a Section 79 committee, and may also delegate powers and duties to the committee if necessary. Section 80 committees are also established by Council, specifically to support the mayor. To promote inclusive, participatory governance, municipalities are encouraged to use the committee system, with preference given to Section 79 committees (Community Law Centre, University of the Western Cape 2009:12–14). However, municipalities are not obliged to establish Section 79 committees, and in fact the general trend is rather to establish Section 80 committees (De Visser et al. 2009). These authors state that where Section 79 committees do exist, the trend (in larger municipal entities) is to relegate them to a management function covering more generic areas, rather than those which deal specifically with oversight (De Visser et al. 2009:25). This renders Section 79 committees ‘toothless’ in respect of the effective oversight role they should be playing through the portfolio committees.<sup>16</sup> By restricting portfolio committees to Section 80 committees, ordinary councillors are excluded from discussions on plans and policies to be implemented:

The deliberations and recommendations of Section 80 committee meetings are conveyed to the executive through a member of the executive in a meeting that may well be behind closed doors. This also means that councillors who have a seat in Section 80 committees have no knowledge of how the

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15 This is in terms of the Municipal Finance Management Act, Section 17 (f).

16 Portfolio committees are responsible for oversight in specific sectors such as water, sanitation, roads and parks.

recommendation of the latter was delivered to the mayoral committees. In a municipality that is dominated by Section 80 committees, the room for an ordinary councillor to exercise oversight is therefore limited (De Visser et al. 2009:25).

Despite these weaknesses, councillors are still expected to make important decisions by voting in Council on issues such as Council resolutions, policy changes, the IDP and annual budget. Moreover, many councillors, especially opposition councillors, are excluded from key discussions that reveal the content of policies and plans. Once decisions have been taken in a party caucus, party members are expected to vote in Council according to that decision. This is usually the responsibility of the PR councillors (South African Local Government Association and German Technical Cooperation 2006:50, note 91).

Municipalities are accountable to their citizens. The code of conduct incorporated in the Municipal Systems Act (2000:106–110) is meant to ensure that councillors and Council abide by the principle of accountable government. Councillors are also prohibited from interfering with municipal administration, and may not enforce an obligation in terms of the Systems Act (Municipal Systems Act 2002). The code of conduct is enforced through the intervention of a number of parties, including the Speaker, the Council and the Member of the Executive Committee for local government.

Despite the provisions in the Structures and Systems Acts, De Visser (2006) notes that there may be weaknesses in the process for deciding which body investigates councillor misconduct, as well as for deciding to whom councillors are actually accountable with respect to the code. These issues become important when there is a need to ensure rapid action following a contravention of the code by a councillor. Since councillors are the first point of contact with citizens, this uncertainty about who should enforce the code may fuel anger among citizens, especially when they already feel that the municipality is not addressing their needs adequately (De Visser 2006).

## **Marginalised voices in the Integrated Development Planning (IDP) systems**

The Municipal Structures Act requires the formation of the ward committees to reflect the diversity of local interests, as well as gender equity.<sup>17</sup> The local government policy framework requires processes, mechanisms and procedures for public participation that take into consideration the special needs of the disadvantaged groups in society. The major weakness with this arrangement is that it fails to recognise marginalised communities who, because of political vulnerability and socio-economic deprivation, are not able to participate meaningfully in such structures. Moreover, 'Political affiliation and the desire to maintain control over ward committees take precedence over concerns of fair representation and the pursuit of the set developmental objectives' (Skenjana and Kimemia 2011:58). In rural communities, the weaknesses found in the ward committees are reflected in their inability to attract diverse, strong and effective committees. This failure to achieve equity in representing all social formations and interests has resulted in a sizable 'voice' not being heard, and the interests of a sizeable population not prioritised at the local level.

The introduction of the IDP systems in 2001 required municipal councils to develop strategies for community involvement, including: communication strategies, community outreach programmes and stakeholder involvement strategies (Skenjana and Kimemia 2011:59). These strategies were meant to improve the levels and quality of public participation; however, critics argue that 'the IDP processes are still far from achieving full community involvement in policy making as stipulated in the legislation – they remain very much top-down and communities are merely allowed to comment on proposals developed by municipal officials rather than being invited to contribute to the content before its drafting' (Friedman et al. 2003:56).

The same study also found that ward meetings are dominated by questions about unrealised promises, and lists of demands the municipality is expected to address (Friedman et al. 2003:56). This is seen most often in the poorer areas of municipalities, where challenges are huge. Besides practical challenges, there are

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17 Municipal Structures Act 1998, section 72a (i)–(ii).

related constraints of a logistical nature. For example, a lack of transport, a lack of technical and specialised skills to provide legal interpretation of documents and policy, and a lack of language skills and capacity to compile written submissions are raised as some of the inherent weaknesses hampering public participation in ward committees (Friedman et al. 2003:56).

As noted above, the challenges are more severe in poorer communities, where ward committees display low levels of education and overall expertise. Additionally, there are power imbalances that make it impossible to have meaningful participation from the public with knowledgeable municipal officials. This imbalance and resultant exclusion and alienation are extended to the broader community and undermine the objectives of public participation: equity and equality.

### **Getting to grips with reality at ground level**

In the National Ward Committee Survey (Idasa et al. 2005:17), the percentages of municipal respondents who reported that their municipality had formulated municipal policy to structure the roles and functions of ward committees ranged from highs of 100 per cent in the Eastern Cape and Gauteng, to lows of 41 per cent and 50 per cent in the Northern Cape and KwaZulu-Natal, respectively. The study reported that documents meant to guide the roles and functions of ward committees were very often contained in Council guideline documents, but that policy documents at the municipal level were frequently only copies of Department Provincial and Local Government (DPLG) and South African Local Government Association (SALGA) guidelines (Idasa et al. 2005:17). This suggests that despite the importance of Ward Committees in facilitating participatory democracy, a lack of guidelines limits the effectiveness of the structure. The Afrobarometer<sup>18</sup> Round 4 Survey (Ndetlanya et al. 2008) exposes key weaknesses in the current performance of local councillors nationally. When respondents were asked how often they had been contacted by a range of public representatives during that year, more than two-thirds (72 per cent)

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18 The Afrobarometer is a research project that measures public attitudes on economic, political and social matters in sub-Saharan Africa.

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reported they had never been contacted, and a further 10 per cent reported being contacted only once by their local councillor. A quality of life survey in low-income areas in the City of Johannesburg found low levels of contact between residents and local officials (Richards et al. 2006). Fewer than half of the residents surveyed in Joubert Park, Zandspruit and Diepsloot reported attending ward councillor meetings; not even a third reported knowing their councillor's name, and fewer than a quarter of respondents reported being able to contact local government officials if they needed to. Respondents were more likely to contact friends and family (51 per cent) than their ward councillor or the local municipality (12 per cent) if they needed to resolve a problem in their residential area.

Community dissatisfaction has become a more common occurrence in South African townships (Hough 2009). While incidents are often referred to as 'service delivery protests', a report commissioned by Parliament (2009:VI) found that:

... The term [service delivery protest] is a misnomer since, while dissatisfaction with poor service delivery has certainly been a factor in triggering some of the protest, the causes of the protest are far more varied and complex than this. It must therefore be acknowledged that there are a multiplicity of factors at the root of the current protest and that these can be placed into three broad categories: systemic (such as maladministration, fraud, nepotism and corruption in housing lists); structural (such as healthcare, unemployment, and land issues); and governance (such as weak leadership and the erosion of public confidence in leadership).

Interviews conducted by researchers support this statement (Görgens and Van Donk 2011, cited in Good Governance Learning Network 2011). In addition, researchers found 'A growing awareness amongst individuals and communities about their rights, disappointment with the limited participatory potential of current mechanisms, a lack of reaction by officials and politicians to less violent protest and the growth of [relative deprivation] within and amongst communities' (Görgens and Van Donk 2011, cited in Good Governance Learning Network 2011:120).

Other researchers have found state-created public participation spaces insufficient, and at times ‘ill-suited to facilitate meaningful community engagement in local planning, decision making, resource allocation, implementation and evaluation’ (Friedman 2011:3). Pithouse (2009) summarises this dissatisfaction with current efforts to promote public participation, arguing that ‘There is a considerable extent to which the technocratic agenda, with its inability to enable genuinely popular participation in planning and its inability to confront elite interests with popular counter power, is inherently undemocratic’ (Pithouse 2009:8).

In an in-depth analysis of 14 community protests from 2007 onwards, Booysen (2009) highlights the poor performance of public representation and the dysfunctionality of local government administrative structures as being the main focal points of the anger directing community protests. Booysen claims there is a sense of desperation over the lack of ‘connection’ to local councillors; and surmises that because public officials do not listen to the people, many community protests were caused during this period. According to Municipal IQ,<sup>19</sup> ‘the incidence of municipal [community] protests rose from 27 in 2008 to a high of 104 in 2009 (Municipal IQ Briefing 2009, cited in Paradza et al. 2010:19).

## **Trends in community protests**

According to monthly briefings from the South African Local Government Briefings Report<sup>20</sup> and the South African Media News Database, South Africa experienced an average of 8.73 protests per month in 2007, and 9.83 protests per month in 2008. In 2009, the average number of protests increased significantly, to 17.75 per month. Since mid-2009 – despite the reduced frequency of community protests – an increasing proportion of protests have resulted in violence: 53 per cent of protests taking place during or after April 2009 were violent. This figure dropped slightly in the 3<sup>rd</sup> quarter of 2009 (50.65 per cent), then increased in the 4<sup>th</sup> quarter (52.38 per cent) and the 1<sup>st</sup> quarter of 2010

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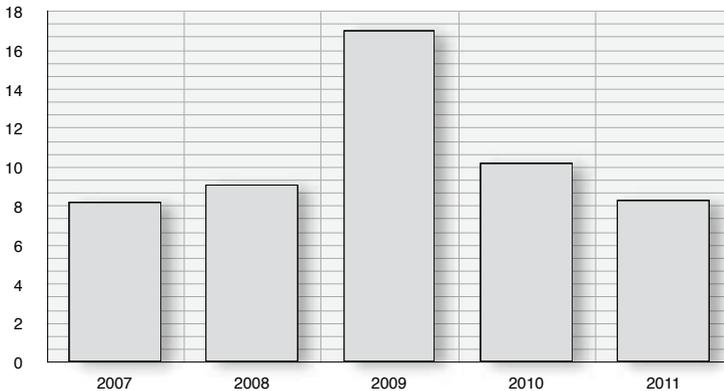
19 Municipal IQ is an organisation that monitors the socio-economic performance of South African municipalities.

20 The SA Local Government Research Centre publishes the South African Local Government Briefing monthly.

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(64.06 per cent) (Karamoko 2011; Hirsh 2010). With the advent of the FIFA Soccer World Cup in June 2010, the average number of community protests fell dramatically and remained comparatively low, with only 6.14 protests per month for the remainder of the year.<sup>21</sup> Numbers remained low during the first five months of 2011, with an average of only 8.80 protests per month. According to this research, 'Protesters cite the lack of accountability of government officials, along with the absence of public participation as factors that further aggravate their service delivery complaints' (Karamoko 2011; Hirsh 2010). Figure 1 depicts the increased frequency of community protests from 2007, with 2009 showing almost double the figures from the previous year, and 2010 to 2011 showing a decrease in protests. The studies by Karamoko and Hirsh indicate that despite the reduction in the number of community protests since June 2010, the proportion of protests that have turned violent increased (Karamoko 2011; Hirsh 2010).

**Figure1: Average Number of Protests per Month, 2007–2011**



Source: Karamoko 2011.<sup>22</sup>

21 The report attributes the low number of protests occurring during the month of June 2010 to the FIFA World Cup. Holiday periods often feature lower levels of protests than normal. However, this does not explain why protesters missed the motivating factor of attracting attention to their grievances during the FIFA World Cup. Moreover, the trend is for protests to be more frequent during the winter months (June, July, August) and less frequent during the summer months (December, January, February). The 2010 FIFA World Cup was held in winter.

22 For 2011, data are only available from January through May.

These figures demonstrate increased community frustration and are cause for concern. Protesters are excluding created and legislated platforms for dialogue and participation, opting instead to voice their frustrations through acts of intimidation and violence. It can be said that community protests are a symptom of a deeper problem.

The relationships between communities and local government officials need to be strengthened, to address those particular shortcomings found in current public participation set structures. As a state response to community protests, the values, ethos, principles and practices of conflict resolution would be a good option for addressing community concerns, as they do not incentivise violence. As long as communities believe they can draw the attention of leaders to their grievances through acts of violence, these protests will remain a common phenomenon. Improving the effectiveness of dialogue with communities with respect to development issues, and promoting win-win situations with the involvement of communities as equals can assist in easing the alienation protesters often feel towards local authorities – eroding the belief that violence and civil disobedience are the only possible outlets for effective public participation. Moreover, constructive and creative alternatives can reduce the perception that government officials are uncaring, uncooperative and display exclusionary practices.

### **Consensual approaches as a considered model for strengthening public participation**

This section deals with the effectiveness and potential value of conflict resolution practices in facilitating more acceptable and equitable public participation at local levels. For the purposes of this article, 'best practices' for conflict resolution will mean a hierarchy of principles, approaches, processes and tools, which have been proven effective in a variety of circumstances, situations and contexts. Generally, best practices for conflict resolution will be understood using the following framework: principles (why best practices should be used); approaches (strategies that achieve principles); process steps (for developing high quality and meaningful processes); and, tools and skills (for implementing each of the steps). This does not provide a blueprint; rather,

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it is a set of principles to guide the process, and includes approaches and tools to use as needed.

The participatory approach used against apartheid and the internal peace initiatives adopted during the talks for a democratic South Africa fostered the emergence of a community network that wants (and sometimes demands) participation. This is very significant in a national context marked by an incomplete consolidation of democracy and the persistence of socio-economic challenges, coupled with institutions that have not lived up to expectations. Consider, for example, this statement by Laurie Nathan (2007:2):

South Africa's transition to democracy, widely regarded as a success, highlights the significance of local ownership. To a large extent the success was due to the process that was followed. The process was inclusive horizontally in the sense that all political parties were invited and urged to participate in the negotiations. The process was also inclusive vertically as numerous civil society bodies engaged in debate on all aspects of the settlement. Most importantly, the process was driven by local actors without dictates from external actors. In every sector, policies and models were designed by South Africans and not imposed on them by outsiders. As a result, the system of governance enjoys substantial legitimacy and this has contributed greatly to political stability.

The negotiated settlement was thus consensual, following a principle relevant to public participation. However, public participation practice ought to go beyond the customary rhetoric about local ownership, and must consider in detail how public participation can and should be applied by officials and other agencies. This process must empower participants and beneficiaries by offering analytical and diagnostic tools as a form of conflict resolution that can overcome some of the limitations in public participation as currently experienced.

Public policy formulation is frequently contested. It attracts both support and opposition. Susskind and Cruikshank (1987:8–9) capture this tension as follows: 'The [laws] of public policymaking tend to parallel the laws of physics: for every imposed action, there is an equal and opposite reaction. Thus, the act of imposing a decision can trigger a more heated and protracted dispute than the

content of the decision originally merited'. The shortcomings of compromise, which require parties to make concessions on stated needs and wants, are frequently off-putting for adversaries. This often results in a stalemate, with the matter in dispute going to court. The role of the courts is not to reconcile parties; neither is it to satisfy the needs and interests of either party. Often (if not always) the application of the law will favour one side. The losing party is left aggrieved and bitter.

In democracies such as South Africa, the assumption is that elected officials are the custodians of policy-making. However, what often happens is that 'many important public policy issues cross political boundaries ... an electoral victory for a given candidate is hard to interpret as a statement of the public's will on a specific controversy'(Susskind and Cruikshank 1987:9). It is for these reasons that alternative approaches to resolving public disputes become relevant. Susskind and Cruikshank (1987:11) describe alternative tools for achieving consensus as follows:

Consensus building requires informal, face-to-face interaction among specially chosen representatives of all [stakeholding] groups; a voluntary effort to seek [all-gain] rather than [win-lose] solutions or watered-down political compromise; and often, the assistance of a neutral facilitator or mediator. Such approaches must be treated as supplements – and not alternatives – to conventional decision making. Officials with statutory power must retain their authority in order to ensure accountability.

Moreover, to strengthen and legitimise public participation practitioners and beneficiaries, conflict resolution approaches must be applied to resolve public stalemates. Ultimately, the objective is to display the complementary nature of conflict resolution and public participation, and show how they are mutually reinforcing. The four types of conflict resolution action of Bercovitch et al. (2009) must be applied to public participation: prevention, management, resolution, and transformation. Some will act to remove or decide the conflict, while others will merely work to keep it at a manageable, political level. However, all of these necessitate a form of conflict mapping.

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In the words of Paul Wehr, 'conflict mapping is a first step in intervening to manage a particular conflict. It gives both the intervener and the conflict parties a clearer understanding of the origins, nature, dynamics and possibilities for resolution of the conflict' (Wehr 1979:18, cited in Ramsbotham et al. 2005:74–75). Conflict mapping is a useful analytical tool for examining disputes and uncovering the root cause of conflict behaviour. By examining a conflict and evaluating it according to the five categories – relationship, data, interest, structure and value – we can begin to determine what caused the dispute, identify the primary sector, and assess whether the cause is a genuine incompatibility of interests, or merely differences of perception between the parties involved. These insights may assist us in designing a resolution strategy that will have a higher probability of success than an approach which is exclusively trial-and-error (Moore 2003:64).

### **The need for public participation as conflict transformation**

How can we assess each specific situation to determine the most relevant and potentially effective approach in which public participation could be oriented towards using one or more of the methods of conflict resolution (as outlined by Bercovitch et al. 2009)? How can we determine what are the circumstances under which they work as 'universal' or 'uniform' practices of public participation?

The theory of conflict prevention may be pursued as policy and (where possible) embedded in the practice of public participation – without necessarily discouraging expressions of discontent from the public.

*Conflict prevention* refers to efforts to prevent the outbreak of violence. Ideally, conflict prevention should focus not only on containing a potentially violent situation, but also addressing the fundamental causes of conflict. According to Ramsbotham et al. (2005), conflict prevention goes further than problem solving in that it is proactive in preventing violence by bringing parties together to analyse and transform a dispute: 'The effort to resolve conflict at an early stage is at the heart of prevention. It involves identifying the key issues, clearing

mistrust and misperceptions and exploring feasible outcomes that bridge the opposing positions of the parties' (Ramsbotham et al. 2005:125).

Conflict prevention is still a relatively marginal concern, and very few agents and agencies focus on it. According to Lund (2009), one reason is that there is a lack of agreement and uniformity about stages and types of prevention. He proposes that conflict prevention can be strengthened and made relevant by (a) having a structured framework that pulls together preventive measures and instruments available, and providing guidelines about approaches which are likely to be most feasible and productive in various conditions; (b) developing multi-faceted strategies that link such processes to existing country-specific development planning procedures, for diplomatic and military agencies as well as inside stakeholders; and finally (c) providing support and incentives to governments to encourage compliance with international norms for strengthening equitable state service-provision, and preventive deployment.

*Conflict management* is described by Gartner and Melin (2009:564–565) as 'meaning any steps taken to help resolve a conflict peacefully, from bilateral negotiations to third-party mediation'. It has been widely used in business and organisational settings, to describe processes and efforts to manage the negative implications and manifestations of conflict. The problem with the concept is the implication that only the symptoms of conflict are being dealt with; that the conflict and its effects are *contained*, without due attention being paid to the causes. Some scholars bemoan the limitations of conflict management, arguing that it represents only a short ceasefire, failing to allow peace to consolidate so that a political settlement can take root. As Gartner and Melin note: 'many management efforts result in ceasefires that last only a few hours and do not enable true resolution. In the recent Yugoslavian case, there were 91 mediated settlements, almost half of which lasted one week or less' (Gartner and Melin 2009:566). On the other hand, preventing the judgement as to how long peace agreements last after they are agreed upon – rather than focusing solely on whether an agreement was reached – excludes the goal of the effort, which is especially problematic. In certain instances, the goal of conflict management might be to bring regional stability, to satisfy economic or military interests, to promote an ideology or to uphold human rights. It is

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therefore necessary to separate the goals of conflict management as a strategy (sometimes an interim one) from the ideal of addressing the underlying causes of conflict.

*Conflict resolution* may include responding to current grievances, needs and conditions, as well as learning from participants to attach new values to the practice of public participation. However, resolution implies that conflict can be *resolved*, meaning that it is possible to find solutions to conflict in ways that will resolve all tension. However, conflict resolution is limited. Though it aims to address the causes of conflict, conflict resolution does not necessarily change the relationship amongst the parties enjoined in conflict, nor the systems that are in place, and therefore is not addressing the factors underlying the conflict. Conflict management has its own constraints in mostly referring to settlement or containment of conflict (Ramsbotham et al. 2005).

In contrast, *conflict transformation* has become popular because, as the name suggests, the goal is not only to end or prevent. 'It asserts the belief that conflict can be a catalyst for deep-rooted, enduring, positive change in individuals, relationships, and the structures of the human community' (Kraybill et al. 2005:5). Conflict transformation therefore refers to a process that seeks to change the entire context of conflict. It is a process that denotes changing or transforming the actors, the issues, the rules, the relationships, the perceptions, the communications, and the structural causes of conflict in non-violent ways. The essence of conflict transformation can be summarised as follows:

Changing communication, [analysing the conflict] (sometimes contrasted but paired with problem solving), changing stereotypes and enemy images, changing options available and developing new ideas for solutions, changing one's perceptions of change, both in the other and in the relationship, connecting the individual with his or her system and yet internalising change, and finally, transforming the inter-group/intersocial relationship (Pearson d'Estree, cited in Bercovitch et al. 2009:151).

Compared with other processes, conflict transformation is most closely aligned with the South African context. Diana Gordon (2006:2) captures this precisely by arguing that *transformation* is the preferred and overarching word

that South Africans use for what is needed to make their country the vibrant, non-racial democracy they yearn for:

Interpreted narrowly, transformation is merely the shifting of political and economic power from the white minority to the black majority. Frustrated whites often complain that [transformation] is merely affirmative action, which is in turn a justification for substituting unqualified blacks for competent whites in jobs, legislative bodies, or university classrooms. And blacks – police, teachers, journalists – argue that because racial representation in their occupations still doesn't reflect the demographics of the society, transformation is lagging. But the broader and deeper meaning of transformation emerges in the constitutional context – not that the word is part of the text but that it embodies the spirit of that document's provisions for rights and powers, especially as they elevate the protection of dignity and equality.

Like the public participation model, conflict transformation assumes that all problem-solving processes involve moving through a systematic, constructive thinking process to reach a desired goal state. In the case of South Africa, where there are often differing and sometimes opposing views and expectations, it is assumed that the desired state will come from putting together those who have divergent views, experiences and expertise. In fact, public participation in a conflict context assumes that all parties *must* participate, because the nature of the conflict comes from parties that are interdependent and intertwined.

Two other public participation assumptions are made when considering the problem-solving approaches used in the conflict context. First, because the sources of intergroup conflict are linked to unmet human needs, addressing these human needs (such as identity and security) must be the focus of the problem solving. Second, because public participation is dynamic and evolves, these assumptions will drive choices that lead to a certain standardisation of format, participants, agenda, and process.

Yet, the core of the model remains basically the same: inclusivity and the ability to listen to all sides with an emphasis on fair, open and transparent process. In the end the value of such processes should be to serve, primarily, not the

interests of the powerful, but rather the interests of those who Edward Said (1994:113) describe as ‘the poor, the disadvantaged, the unrepresented, the voiceless, the powerless’.

### Conclusion

Given the current limitations of public participation, consensual approaches offer the most comprehensive and coherent ways for people to express differences and discontent. There is significant overlap between public participation and the principles of (and tools for conducting) conflict resolution – especially if conducted as a form of conflict transformation. Extensive use of consensual approaches for involving the public would help in promoting working structures that will restore public confidence in government – especially at the local level.

A society like South Africa’s – with a history of violence, but also a peaceful transition to democracy – would do well to enhance its legislated public participation processes with a conflict resolution system that is transformative in nature. Such a system, if applied in a considered manner, has (imbedded in its practice) psychological and cultural expectations, rules and regulations, processes and administrative and governance structures that go beyond the facilitation of dialogue and peace. This system would address basic human needs, which, if not satisfied often undermine effective and equitable public participation.

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