

# INTRODUCTION TO *MOBILISING SOCIAL JUSTICE*: CRITICAL DISCUSSIONS ON THE POTENTIAL FOR CIVIC ACTION AND STRUCTURAL CHANGE

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In October 2009, the Constitutional Court of South Africa delivered its final verdict in the Mazibuko water case. The judgment marked the end of a struggle by a group of residents from Phiri, a poor suburb in Soweto, against the installation of pre-payment water meters. After other forms of protest had been crushed (often violently) or exhausted, the community took the legal route to demand adequate access to water, provided for in South Africa's constitution. This strategy, which saw social movements, human rights NGOs, lawyers and local communities working together in support of citizen action, had previously been followed with some success. Although the Constitutional Court failed to support the complaint of the Phiri community, an earlier 2008 High Court ruling had declared the water meters to be unlawful, signalling that South Africa's emerging 'culture of constitutionalism' had something to offer to the poor. The Mazibuko case showed that the road ahead would be long and difficult, but it did help to further define the terms of the social justice struggle for affordable water; and it served as a positive impulse for activists and movements around the country involved in other struggles for basic human rights.

The Mazibuko case illustrates what this book is about. Drawing on contemporary events in South Africa, the chapters reflect critically on various civic strategies to promote social justice. The results of five research projects (four of which were supported by the Hivos-ISS Civil Society Building Knowledge Programme) examine different dynamics of civic action, ranging from the nature of community protests to civic participation in the national budget process. The findings engage directly with the main questions of the Programme: What are the dynamics of civil society formation? What is the (potential) role for outside actors? And how can civil society-building contribute to structural social change?

The Knowledge Programme focuses on issues concerning civil society, defined as 'the sphere of ideas, values, institutions, organisations, networks located between the family, the state and the market and operating behind



the confines of national societies, politics and economies'.<sup>1</sup> It aims to study the roles of citizens and organisations in processes of societal change. The subtitle of this book reveals our contention that much of the potential of civic action remains to be unlocked. The Programme has recognised that the many dimensions of academics' and practitioners' work on civil society-building require further clarification and research. It aims to fill these knowledge gaps by fostering joint research and critical reflection by academics and practitioners.

We believe that exploring various forms of knowledge – academic knowledge, activist knowledge, educational and cultural expressions of knowledge – can generate new insights and reveal dynamic strategies for civic action. Furthermore, and echoing many of the reflections raised by Pheko and Sebastien in their Preface, we are convinced that in doing so, we must be very conscious of the socio-cultural, historical and political context in which these issues are being discussed.

## 1 THE CONTEXT

South Africa, sometimes referred to as 'a world in one country', provides a fertile context for reflection on these issues. Its history of civic action is still very evident. The country's broad-based civic struggle against apartheid serves as a point of reference for social movements the world over. By common consent, the early years of South Africa's post-apartheid record, following the country's first democratic elections in 1994, were nothing short of impressive, with milestones such as the Truth and Reconciliation Commission, strong macro-economic performance (albeit not sufficiently evenly distributed), a rich and still-expanding record of progressive legislation, and an emerging culture of constitutionalism.

In the early post-apartheid years, civic actors were at the forefront of these change processes. But by the turn of the millennium, optimism had started to wear thin. The South African elite, both in the private and public sectors, had firmly embraced a (neo-)liberal ideology. The optimistic vision of the rainbow nation began to fade against the reality of slow social progress amid persistent poverty, high crime rates, and the devastating and well-publicised effects of the HIV/AIDS pandemic. The ANC government struggled under the weight of its own ambitions and expectations, hampered also by debilitating internal power dynamics and the limited delivery capacity of the state apparatus it had inherited.

As Yasmin Sooka has argued in the epilogue to this book, civil society organisations have struggled as well. The end of the anti-apartheid struggle left a strategic vacuum and generated a civic brain-drain as many former activists and civil society leaders moved into government and politics. Civic actors found themselves negotiating complex problems, while searching for new niches

<sup>1</sup> Kaldor, 2009: 1.



and confronting difficult dilemmas: service delivery or advocacy? Maintaining old loyalties or adopting a critical distance? Walking the road less travelled, or succumbing to the comfort zone of the aid chain?

Fast-forwarding to 2009, we have found that these questions and dynamics are still at play, the dilemmas still relevant. The country's vigorous efforts to celebrate a democratic South Africa with the staging of the 2010 World Cup in the country have been tarnished by xenophobic violence, violence against women, record levels of socio-economic inequality, unprecedented restrictions on informal traders and police violence against social justice campaigners protesting the lack of basic services. The ANC's massive victory in the country's last national elections cannot obscure a continued erosion of public trust in politics and governance, and debilitating constraints such as corruption and official abuses of power. A marked increase in public protests vividly illustrates the growing impatience of ordinary South Africans who have seen too little progress. High levels of state repression, police violence, and unresponsive courts are extremely frustrating for those who fought against similar abuses during the apartheid era. As one of the conference participants remarked bitterly: 'South Africa currently finds itself in a situation where the people have turned against the state, the state has turned against the people, and the people have turned against the people as well.'

## **2 CIVIC-STATE INTERACTIONS: CO-OPERATION OR MAINTAINING A CRITICAL INDEPENDENCE?**

If the future of South Africa rests upon both active citizens and an accountable state, then it is the interplay between the two that merits further investigation. Based on the analyses of a broader study, Handmaker's contribution in chapter 2 reflects on civic-state interactions to protect the rights of refugees in South Africa and to enhance their potential for structural change. Central to this research is a recurring tension faced by many human rights organisations in the context of an emerging culture of constitutionalism. At what point does it make sense for civic actors to provide active support to the government, and under which circumstances is it preferable for civic actors to maintain their critical independence?

Reflecting on more than a decade of civic advocacy for government accountability to protect and promote refugee rights, this chapter explores how the dynamics of civic advocacy in this context may be strengthened. Under what circumstances do civic state interactions lead to structural change, and what do these interactions have to say about the potential and pitfalls of realising rights in general?

The chapter, which is based on a larger study,<sup>2</sup> analyses the results of three critical studies of co-operative and confrontational civic-state interactions in the context of refugee rights. The importance of context, the primacy of the state for the realisation of rights, and the notion of social distance emerge as important ingredients for explaining the potential for strategic civic action. Civic actors are encouraged to reflect more often upon their roles and actions, in order to make strategic use of the limited yet significant space in which civic action can flourish.

### **3 PARTICIPATION IN THE BUDGET PROCESS: WHY BOTHER?**

According to Frank Jenkins, a law advisor to the South African parliament, the budget process presents an important, yet under-utilised space for civic influence. As he argues in chapter 3, at the end of the day, it is the state budgets that reveal the true priorities and choices of the government. Therefore, civic actors who aim to influence government policy should seriously consider participating in the early stages of the budget process.

This is reinforced by the second part of Jenkins' argument, namely that the South African constitution firmly enshrines the right to participate in public processes. The constitutional obligation to guarantee this lies with parliament. This obligation also includes preserving transparency of parliamentary processes, openness towards the media, and public meetings. Parliament can and should be held accountable in terms of this obligation.

Jenkins sounds a wake-up call to activists, while also unravelling the complexity of parliament in action. He sets out the technical workings of the budget cycle and specific provisions for civic intervention. Clearly, the technocratic complexity of the budget process presents great challenges for civic involvement. Jenkins readily admits that interventions offer little guarantee of tangible results. So why bother? Despite the limitations of budget participation, Jenkins argues that it is a form of democratic development in action that, alongside other peaceful civic interventions, may be a constructive alternative to violent expressions of civic anger, which risk spiralling out of control and further deepening the polarisation of South African society.

### **4 LEGAL MOBILISATION: AN OPTION FOR THE POOR?**

The existence of laws and spaces allowing for participation are no guarantee of the realisation of rights, especially for the poor, as discussed in chapter 4. Jackie Dugard, founder of the Social and Economic Rights Institute (SERI), and formerly a senior researcher with the Centre for Applied Legal Studies (CALS) at the University of Witwatersrand, documents the struggle of the residents of Phiri,

<sup>2</sup> Handmaker, 2009.

a poor township in Soweto, against the instalment of pre-payment water meters (PPMs). This struggle first took the form of direct protests, accompanied by concerted efforts to negotiate with local government and the water company, but when these efforts proved unsuccessful, the community turned to rights-based litigation.

The starting point for this litigation is the South African Constitution, which guarantees the right of access to sufficient water. But in 2001, the city of Johannesburg introduced a project to limit water consumption in Soweto by installing PPMs. These meters automatically disconnect the user once the (inadequate) supply of free water is exhausted, forcing very poor citizens to go through a complicated and often unaffordable process of purchasing additional water credits.

Community resistance, which has been supported by the Anti-Privatisation Forum, has ranged from meetings and marches to attempts to physically obstruct the digging of PPM trenches. These efforts were met by a combination of legal action, arrests, and harassment of activists, and ultimately, by disconnecting households that continued to refuse PPMs. By 2005, resistance had virtually been crushed.

It was at this low ebb of the struggle that rights-based litigation emerged as an additional route for activism. This strategy changed the game. In 2008, the High Court in Johannesburg declared PPMs unlawful. The Court's ruling was an unprecedented victory for the poor, and one that attracted widespread national and international media attention.

Just before the conference, in what Dugard terms a 'shock decision', the Constitutional Court overturned the findings of two previous courts. Does this defeat imply that legal action has little to offer the poor? Was it all in vain? Dugard concludes that the process reverberates in unanticipated ways. Such collaborative interventions help to clarify the terms of a social justice struggle; they confront lawyers and academics with the harsh realities of the social justice issues they advocate in the court rooms, or speak about at academic conferences; and in many other respects, they re-energise social activism in South Africa.

## **5 RESISTANCE AND REPRESSION**

Budget participation and legal action may be viable strategies for some civic actors. Yet they require skills, resources and connections that are well beyond the reach of most South African citizens. In chapter 5, Marcelle Dawson from the Centre for Sociological Research at the University of Johannesburg reflects on the increased incidence of community protests, and the police response to these protests. The mainstream media have been quick to define the protests in terms of 'bread and butter issues', fuelled by the global financial crisis. However, critical observers have pointed out that the voices of the dissenting communities were absent in the analyses, and that deeper, more complex causes were often at the

heart of the protestors' dissent. It is crucial to find out what the real motivation was for the people's mobilisation, and why they chose protest (which often turned violent) over other strategies.

Dawson suggests that an over-exaggeration of the service delivery element of popular resistance runs the risk of solving the problems with piecemeal or 'band-aid' remedies that are short-lived, and often glosses over the underlying causes. Yet basic needs cannot be ignored.

For many demonstrators, involvement in popular protests has been met with unreasonably forceful responses from the police. Whatever the drivers behind resistance and repression, the interplay between these factors provides a dangerous cocktail for social unrest. Heavy-handed repression seems to fuel rather than deter violent resistance.

Furthermore, repression of resistance may be used as a mirror to reflect on the state of democracy. A certain measure of stability has been achieved since democratic elections in 1994, but apartheid's legacy of immense social problems remains a grave threat to social order. Beyond the content of rights as contained in the Constitution, and in particular the right to vote, what do these problems say about the quality of South Africa's democracy?

## **6 MOBILISING BELOW THE RADAR**

In chapter 6, Zaheera Jinnah and Rio Haloday from the Forced Migration Study Programme at the University of Witwatersrand turn to the mobilising of rights by and for migrants. How do migrants claim their rights in a context where, despite the guarantees contained in South Africa's Constitution, citizenship is not acknowledged in society, and where the threat of xenophobic violence looms large?

Group interviews in Johannesburg confirm notions from social movement theory that, for some groups, there are benefits in not mobilising. Fears of deportation, self-exclusion and time constraints lead some migrants to accept, rather than protest, infringements of their rights. Migrants tend to rely on social networks, privately funded help and small, community-based organisations such as churches and credit associations. Furthermore, levels of rights awareness are low, which also hinders mobilisation; and xenophobic tensions have exacerbated the low levels of trust between migrants and South Africans.

The overwhelming feeling among migrants is that there are not sufficient institutions to turn to when help is needed. There is a disconnect, confirmed by interviews, between migrant realities and the agendas of NGOs and international organisations. With a few exceptions, national NGOs seldom work exclusively with migrant groups. Migrant-led organisations are better connected, but struggle to maintain stable levels of funding and to establish working relations with other groups. Finally, faith-based organisations tend to provide relief and material



assistance without advocacy. These organisations seem to be the best-connected, and enjoy high levels of credibility among migrants.

Jinnah and Haloday conclude that migrants have not mobilised significantly to close the gap between their constitutional entitlements and the actual realisation of their basic rights. There are several issues that require mobilisation, including protection from police harassment and access to basic services. But civic actors need to develop strategies and co-operate to ensure that the basic human rights enjoyed by citizens also come within reach of migrants who wish to make South Africa their home.

## **7 WEAVING THREADS**

The research projects described in the core chapters of this book served as the backbone for a two-day dialogue on mobilisation and social justice. Sooka's contribution in the epilogue includes the hopeful notion that civil society in South Africa is entering a new era of social activism, illustrated by some of the cases in this book, and including well-known initiatives such as the Treatment Action Campaign and the Abahlali shack dwellers' movement. This is good news for millions of South Africans and others resident here, but these examples can also serve as an inspiration for other social justice movements in the rest of the world. If South Africa's 'world in one country' label also extends to its social dynamics, then these positive signs may (as Handmaker describes) be able to travel across other spaces and time, and once again inspire civic actors around the world to end the macro-structural dimensions of global apartheid.

Unlocking the potential for structural change will not be easy. This book adds to a growing body of critical voices that call upon civil society organisations, and their donors, to become more self-critical and reflective, more analytical and strategic. Good intentions, commitment and the moral high ground of civic action, while crucial, are insufficient on their own. Civic action requires resolve and strategic responses. As one conference participant remarked, civil society spends too much time shouting about what's going wrong, instead of analysing what's going on.

This brings us back to the key questions of the Knowledge Programme. How can we understand the dynamics of civil society formation, and the role of local actors in this process? How does civil society-building as a process contribute to structural changes in the unequal balance of power in society? And how do external actors – donors as well as support or solidarity organisations – contribute to this process?

The concluding chapter also addresses knowledge integration. The findings of the research projects discussed here suggest that the strategies of donors and the organisations they support should be far more knowledge-based than they are at present. Such strategies may indeed hold the key to deeper insights, especially if further research can strengthen grass-roots perspectives and citizen narratives.

In their preface, Pheko and Sebastian suggest that this conference is merely a beginning. Their words demonstrate the extent to which the research projects and the conference together succeeded in creating an inclusive space, and we welcome their critical reflections.

The concluding chapter of this book reflects on all three of these research questions. And yet a grand theory on civic action remains elusive, and may not even be necessary. While some mobilisation strategies (ranging from peaceful marches to civic education) have not been covered by the conference or this book, the studies show that successful collective action lies in combining several mobilisation strategies. Moreover, conference participants rightly remarked that some important perspectives, such the role of traditional authorities in rural areas, did not feature prominently enough in the discussions. There was also a marked lack of gender analysis. This we acknowledge. However, the studies never intended to provide an exhaustive or conclusive analysis of mobilisation strategies. Rather, they offer an opportunity to appreciate the complexity of social processes and civic action.

## References

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