Citizen participation in South Africa: land struggles and HIV/AIDS activism

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Introduction

In recent years there has been a proliferation of new democratic spaces for citizen participation in South Africa. These range from 'invited' spaces created by the government to spaces created by poor people themselves. Whereas the former are often set up in response to legal guarantees for citizen participation, the latter are initiated in response to the failure of the government to deliver services or fulfill promises, and to include citizens in decision-making. These grassroots initiatives create new interfaces between marginalised people and the institutions that affect their lives, particularly those of the state, and it is on these initiatives that I focus. This chapter discusses two cases of grassroots citizenship engagement, in South Africa's health and land sectors: the AIDS/HIV organization, the Treatment Action Campaign (TAC), and citizen engagement around land politics.

In this chapter I argue that while there are some similarities between these two cases in the ways in which poor people are creating new spaces for engagement, there are also distinct differences. In both sectors, citizens and their organizations and allies are attempting to create a new set of intermediary institutions and/or practices of

engagement distinct from the state and public spheres. However, there are also important variations in the ways in which these citizen engagements are creating new democratic capacity for poor people. In the field of AIDS/HIV activism there have been significant successes in forging new spaces for citizen engagement across the citizen society/state boundary, and in creating a viable social movement capable of engaging the state both nationally and locally. There is evidence of new formal and informal intermediary spaces in which activist organizations and their marginalised constituency engage (collaboratively and critically) with the local state. In the land arena, by contrast, citizen participation is sporadic and situated in largely adversarial, short-term confrontations with the state. While the recent emergence of the Landless People's Movement (LPM) signals the potential of a rural social movement with the capacity to generate new spaces for citizen participation from below, the marked failure of the state to reach into rural areas and to facilitate new institutional spaces for citizen participation means that there is little or no citizen engagement with local state structures, few alliances between the state, NGOs and local social movements, and a marked absence of new spaces for citizen participation.

This chapter explores reasons for these differences in forms of citizen participation in the HIV/AIDS arena and in the land sector. I show how both provide contrasting examples of the ways in which the creation of new democratic spaces in post-apartheid South Africa are framed within old attitudes, practices and expectations. I also show how both these cases raise important questions around the problem of marginalised communities

and democratic inclusion. Both cases involve extremely marginalised groups, whose legal citizenship is not supported by experiences of actual inclusion in the political, economic and social life of post-apartheid society. The two cases raise questions around the construction of intermediary forms of citizen participation in a context where there is a historical absence of institutions and spaces mediating the relation between state and civil society, as a result of the state's authoritarianism during and before the apartheid regime.

Where historically marginalised groups have had little or no access to formal democratic spaces of the public sphere at the general and intermediary levels, there may be no political culture of engaging with the state to achieve one's goals. As a consequence of this, organizations and social movements representing marginalised communities often struggle to galvanise support for longer-term, effective engagement with the state, in the face of their members' uncertainties about their entitlements vis-à-vis the state. Where engagements do occur, there is often evidence of a culture of 'non-bindingness' in local decision-making spaces, i.e. an unwillingness to commit to and accept joint decisions and agreements with other stakeholders. This, in turn, has its roots in historical experiences of engaging with the state as deeply risky and conflictual processes, disconnected from legitimate outcomes, and involving the continual unsettling of established agreements and procedures. In contexts where marginalised groups experience a high level of exclusion from mainstream political and economic processes,

engagements with the state often depend on the ways in which citizens expectations are shaped by pre-existing and contextual relations of power.

Citizen engagement in the land sector

In many analyses of post-apartheid South Africa, the challenge for citizen participation is not to initiate democracy, but instead to 'deepen' it. This view holds that while there is much evidence in South Africa of discourses of participation and active citizenship that build on traditions of liberal democracy, there is also growing evidence of a widening gap between legal assurances for participation and the actual inclusion of poor citizens in democratic participation.

Amongst the key obstacles to greater citizen participation in the land sector are structural poverty and inequality. More than 70 percent of the country's poorest people reside in rural areas, and more than 70 percent of all rural people are poor (Aliber 2003). Rural poverty is due to the land dispossession and migrant labour systems initiated in the colonial era, and refined under apartheid rule. Between 1960 and 1983 more than 3.5 million people lost land and homes through forced removals of one kind or another (Cousins 2004).

In line with the Constitution, post-Apartheid South Africa's current land policy has three distinct components: a land redistribution programme, aimed at broadening access to land among the country's black majority; a land restitution programme to restore land or provide alternative compensation to those dispossessed as a result of racially

discriminatory laws and practices since 1913; and a tenure reform programme to secure the rights of people living under insecure arrangements on land owned by others, including the state (in communal areas) and private landowners (Cousins 2004). On the whole land reform has been limited, with less than 2.3 percent of agricultural land transferred at the end of 2002 under the combined redistribution and restitution programmes since 1994 (Greenberg 2004: 9). The land tenure programme is mired in controversy over the role of traditional authorities and its role in communal tenure regimes (Cousins and Claasens 2005: 16).

In post-apartheid South Africa rural citizens are bearers of rights which involve few, if any, meaningful inclusions in local decision-making processes. The majority of rural citizens are either poorly paid and insecure farm workers, labour tenants or unemployed 'farm dwellers'. While there was certainly no attempt by the apartheid state to develop citizen capacity for engagement (rural government was in the hands of appointed chiefs and completely excluded rural communities), the situation now is not dramatically different. The introduction of democracy in 1994 released many expectations for new forms of citizen participation in rural areas. However, for labour tenants and farm workers post-apartheid democracy has meant little more than 'the formal extension of minimum labour standards and formal protection against arbitrary eviction' (Greenberg 2004: 10). Weak rural state structures have offered little protection against abuses of power by farm owners against tenants and farm workers, and rural citizens have been offered few new opportunities for meaningful political participation.

The state's inability to reach into rural areas is, at least in part, due to the way in which traditional leaders and authorities are re-defining local government in these areas. Koelble points out that 'there is a certain irony in the fact that the professed instrument for weakening the tribal authorities – the Municipal Structures Act of 1998 and the Municipal Systems Act of 1999 – have become instruments for the re-assertion of chiefly power' (Koelble 2005: 7). Since 1999 the number of municipalities went down from 850 to 284, at the same time as the actual area covered by local government structures increased dramatically with the inclusion of former Bantustan territories. Traditional leaders occupy twenty percent of the seats in the municipal government as they are, according to the new local government legislation, to be consulted by the elected officials on matters pertaining to development. As Koelble observes, 'this form of representation goes far beyond the restricted and vague role given to tribal authorities in the constitution' (Koelble 2005: 8). In addition, the Communal Land Rights Act of 2004 gives traditional leaders the right to distribute communal lands and control its usage (Ntsebeza 2004). Against this background, and in the context of an absent local state, traditional leaders are re-asserting their power in rural areas. Citizen participation can be severely circumscribed by the cultural and political power traditional leaders wield in their communities.

In addition to the state's inability to set up effective local government in rural areas, state planning for greater inclusion has been limited to technocratic exercises where participation amounts to little more than consultation or information sessions by the

state. One of the few institutional innovations for ordinary rural citizens, the Communal Property Associations (CPAs), was established in 1996 and aimed at facilitating active engagement of the very modest number of beneficiaries of land restitution and redistribution programmes in decisions around tenure and management of communal assets. They were designed as an alternative to trusts, which had given too much power to appointed trustees, but even this one innovative form is now generally considered to have failed to achieve both its democratic and its productive goals. The reasons for the collapse of the CPAs are numerous. Cousins writes that 'constitutions have been poorly drafted and often misunderstood by members, and the rights of members (especially in relation to land and resource use) are often ill-defined. In some cases traditional leaders have contested the authority of elected trustees, and in others elites have captured the benefits of ownership' (Cousins 2005: 14). Conflicts over different interpretations of entitlements and the bindingness of decisions too have led to the collapse of some of the CPAs.

Since 1999 there have been few opportunities for civil society groups to engage directly with policy makers. After 1999, in particular, 'the new emphasis in redistribution policy on de-racialising commercial agriculture and creating opportunities for emergent farmers, rather than on reducing poverty and enhancing the livelihood opportunities of the poor and marginalised, provoked a great deal of negative comment, but little sustained mobilisation, from civil society' (Cousins 1994). Today most opportunities for

citizen engagement take place in short-term 'project' spaces, with few opportunities for engagement in democratic, multi-stakeholder spaces.

Despite failures to implement new forms of citizen participation, there are multiple discourses and practices of citizenship in South Africa's land sector. NGOs, the state, donor agencies and emerging rural organizations engage in dialogue around issues of law and policy making, and participation. Cousins (2004) points out that:

> … discourses of popular participation, accountability and socio-economic rights have contended with *realpolitik* considerations of stakeholder negotiation and bargaining; notions of 'continuing struggle' and popular mobilisation have been cut across by emerging discourses of 'lobbying and advocacy' to influence policy. Concerns to build the capacity of rural people to claim their rights and decide on their own futures have battled with approaches to project planning that involve consultation with 'beneficiaries'.

Where discourses and practices of participation are promoted by the state, they are often limited to formal 'consultations' and information sessions by the government.

Since 1998, one of the key stumbling blocks in the development of new forms of citizen engagement has been disagreements around the identity and definitions of 'citizens' in the land sector. An example of this is to be found in the area of tenure reform policy and activism. The major focus of attention in the state's land tenure reform policy has been a series of negotiations between various state and non-state stakeholders around a new law to provide improved security of tenure in communal systems. Land tenure policies have been largely framed within a 'market-assisted' approach to land acquisition and redistribution, and a shift from seeing rural community members as 'active agents within local struggles', whose efforts to 'mobilise and organize' should be supported, to

portraying them as 'beneficiaries' or 'clients' with varying needs or demands for land that the government should play a part in 'facilitating'.

As a result, the state has become the locus of key decision-making on land, even when it consults stakeholders, or outsources functions to providers (Cousins 2004). Lack of consultation between citizen organizations and the state has led to the development of highly adversarial relationships between both parties. Cousins points out that one partial exception is the working relationship between a National Land Committee (NLC) affiliate, the Border Rural Committee, and the Commission on the Restitution of Land Rights, with the acceptance of restitution claims for land lost through 'betterment' (land use) planning in the former 'homelands' during the apartheid era (Cousins 2004).

Recent developments may point to the emergence of more active forms of citizen engagement, capable of engaging with the state. In 2001 the Landless People's Movement (LPM), supported by the NLC, a broad social movement representing rural and urban residents, was formed to challenge the government on the inadequacies of its land reform programme. Since its formation the LPM has begun to construct an identity around multiple demands (access to basic services, freedom of movement and freedom to stay in one place, participation by people in decisions affecting their own lives) and the issue of landlessness. The LPM grew out of a series of efforts by rural NGOs like the NLC to construct a rural social movement. Amongst the LPM's precursors were the Rural Development Initiative (RDI), a coalition of rural NGOs and CBOs with a broad based rural character created in 1998, and a joint initiative between the Rural

Development Services Network (RDSN) and the South African Municipal Services Workers' Union (SAMWU) to form a national grassroots movement around rural water provision based on the demand of 50 litres free per person per day (Greenberg 2004: 16).

The LPM mobilises rural and urban marginalised people. It has engaged in a series of high profile mobilisations and land occupations involving large numbers of its members. While there are a number of internal tensions in the movement around the issue of how to engage with the state (with some NGOs seeking a continuation of critical engagement with the state, and others advocating a more antagonistic relationship), the movement can be seen as already having had a significant impact on state/citizen relations since its inception. The state has responded to the LPM with a 'mixture of reform and repression', while other national stakeholders have become 'more vocal about their opinions on land distribution' (Greenberg 2004: 31). The trade union federation, the Congress of South African Trade Unions (COSATU), and the South African Communist Party (SACP) have supported the LPM's call for a land summit. In addition, business leaders have also begun to call for the implementation of the government's land programme.

On the whole, citizen participation in the land sector decision-making highlights that the state has shown little interest in or capacity for investing resources, energy or time in building new spaces for effective citizen representation and participation in the conception and design of public programmes or of new policies, rules and regulations. The opening up of legal democratic frameworks has not automatically guaranteed

effective democratic self-representation by marginalised rural groups. Most engagements by citizens have been mediated by pre-existing practices of political engagement of NGOs or by traditional authorities. As yet, there is little evidence of 'middle space' engagement, i.e. situations in which rural citizens are engaging on their own terms with the local state in an attempt to achieve their goals, forge new relationships with state actors and traditional authorities, influence new policies or demand new ways of delivering services.

New democratic spaces and political context in South Africa: the case of the Treatment Action Campaign (TAC)

Recent developments in the health sector and AIDS activism also highlight complex dynamics of inclusion that result from attempts to foster greater democratic participation amongst the urban poor in new democratic spaces. As in the land sector, these dynamics result from the state's failure adequately to provide space for greater citizen engagement. However, in contrast with the latter, a strong social movement has forged new spaces for sustained citizen engagement at the intersection between civil society and the state.

The TAC is attempting to build a middle level citizenship through its own involvement in intermediary state-run institutions, as well as a variety of more informal spaces. In its attempt to mobilise support, it is increasingly struggling for the opening up and democratisation of intermediary local state institutions such as schools and clinics. For

instance, the TAC-supported Médecins Sans Frontiers (MSF) AIDS treatment units in Khayelitsha and Lusikisiki are located within state clinics. In this sense, TAC and MSF are engaged in attempts to disseminate the politics of rights and health citizenship into the middle-level institutional fabric of society. The aim of these initiatives has been to transform practices in these institutions, to bring them closer to the people, and to transform them into spaces that mediate state/citizen relations. TAC's regional offices and local branches also work closely with CBOs in their area so that they are able to create links with state-run local clinics. The organization trains AIDS councillors and treatment literacy practitioners (TLPs), as well as carrying out audits of clinics and hospitals that are running Prevention of Mother-to-Child Transmission (PMTCT) and Anti-Retroviral (ARV) programmes. [i] As well as engaging in the middle ground between state and the public sphere, TAC's local branches also engage in grassroots social mobilisation efforts in highly localised spaces. In August 2002, TAC launched a campaign to have the local clinic in Nyanga, one of the more impoverished sections of Cape Town's townships, opened for five, instead of two, days a week. TAC activists recognise that these local spaces are not transient, and that they provide important sites for engagement with the local state.

The organization is an example of a new social movement that has constructed its own arena of action in multiple spaces. Its strength as a social movement lies in its capacity to mobilise the poor in a variety of spaces, ranging from regularised institutions that serve as an interface between people and governmental authorities of various kinds, to more

transient methods such as one-off campaigns aimed at opening up deliberation over policies. Future challenges for the organization lie in consolidating past gains among its members and the broader South African society. These challenges are becoming particularly evident as ARV programmes are launched in rural areas characterised by chronic poverty and marginalisation, and where there has been little AIDS activism and social mobilisation. It is in these large, remote, and under-serviced areas, many of them in the former Bantustans, that the sociocultural and political obstacles to AIDS treatment are most pronounced.

It is here that TAC's brand of AIDS activism and social mobilisation could make the difference between life and death, but may be most difficult to mount and sustain. It is in these rural areas that TAC's tried and tested methods of political mobilisation and engagement could face their biggest challenges. Like in the land sector, it is here that the absence of intermediary and 'middle space' institutions and practices provides ongoing space for dynamics of power and exclusion. In urban areas, however, diverse TAC activities and interventions have contributed to creating new political spaces for engagement at local and national levels. TAC's campaigns cut across institutional and non-institutional spaces at the intermediary level between the state and other more structured public spaces. They are capable of generating multiple kinds of relations to the state. As a result of TAC's contestation within multiple sites and across the state/civil society boundary, ordinary citizens have been able to build their political capabilities for democratic engagement. Alongside TAC's effective use of the courts, the Internet,

media, e-mail, and transnational advocacy networks, a crucial aspect of TAC's work has been its recruitment of large numbers of mostly young and unemployed black women into its ranks. TAC's interventions in these multiple spaces have allowed its membership to move from the margins into effective citizen engagement. The challenge for the future lies in translating these forms of engagement into longer-term 'middle space' institutions capable of mediating the relation between the state and its people.

Marginalised citizens and the problem of participation

Both these cases raise important challenges for the problem of citizen engagement amongst marginalised groups. They illuminate how specific political and power dynamics affect processes of democratisation, and the multiple ways in which power is negotiated across the state / civil society divide and across the boundaries of the public sphere.

In the land sector social movements find it hard to mobilise beyond a small core of activists. Higher structural poverty is clearly a key barrier to citizen participation in the land sector. However, there are other obstacles to democracy too. Some of these have to do with the way in which the state is holding on to state-centred definitions of citizenship, the complex dynamics of mobilisation, the organization of rural peoples themselves, and the difficulties of engaging citizens in a sector that is more varied and fragmented than its urban complement. Where engagement does take place, traditional power dynamics, inadequate local capacity to run these engagements, and the lack of organized political constituencies in rural areas often limit its democratic potential.

Post-apartheid citizenship politics in the land sector has produced many struggles over definitions around rights and obligations amongst those in charge of state departments, NGOs and donor agencies, but few new democratic institutions for citizens on the ground. The lack of organized local rural social movements, and the absence of a layer of intermediary institutions has meant that citizen engagement remains restricted to involvements in 'projects'. These are often short-term, expert-driven, and linked intermittently to wider social mobilisations. Rural citizens have few opportunities to practice democratic citizenship, and to represent themselves. It is often only after crossing the threshold of self-representation and identification that that the marginalised can make effective claims for greater inclusion. However, the condition of marginalisation itself hinders easy access to the institutions and practices of participation and representation, especially in political arenas where there are few institutions mediating the relation between state and civil society. In the land sector these barriers to inclusive citizenship are further entrenched by the role that traditional authorities potentially play in promoting anti-democratic local practices.

This raises a series of questions about forms of participation amongst marginalised groups in contexts where there is a marked absence of institutions for citizen participation. Any approach to citizen participation amongst marginalised peoples must confront the deeper problems of how people who are excluded come to develop a sense of their own participation as worthwhile and as effective in a context where there are complex dynamics of power and participation. New democratic arenas are often

transplanted onto institutional landscapes in which historical patterns of political engagement can potentially weaken new forms of participation.

Disparities between the official democratic discourses on political rights and citizenship, and political realities on the ground, often have the effect of alienating marginalised groups from the public sphere as they are forced into informal and hidden social and economic practices by the state's unwillingness to recognise these very real conditions, and as a result its inability to govern them. This can result in a wider politics of disengagement from the state and a situation whereby the ordinary person becomes more and more alienated from public institutions because these institutions seem increasingly remote and unresponsive to their needs. This, in turn, speaks to the importance of illuminating how specific political and power dynamics affect the process of democratisation, and to consider the multiple ways in which power is negotiated across the state / civil society divide and across the boundaries of the public sphere.

It is in these contexts, where marginalised groups eschew participation in state-created spaces and initiatives, that a different kind of potential for engagement lies, one that is rooted in episodic engagements in a variety of non-institutional and state-run spaces, and across state / civil society / public spheres boundaries. TAC, for example, has used multiple ways to mobilise its constituency (Robins and von Lieres 2004). The case of the TAC highlights the fact that in many southern contexts citizens' political lives and identities are not necessarily framed by the bifurcated model of civil society and state. In the health sector, this organization provides an example of organizational practices that

cut across institutional and non-institutional spaces, and that are capable of generating multiple relations to the state. As a result of its contestation within multiple sites, TAC can be seen to be enabling ordinary citizens to build their political capabilities for democratic engagement. TAC's interventions in these multiple spaces have allowed its membership to emerge from the margins of the political system.

The case of TAC challenges those perspectives that posit the concepts of 'civil society' and the 'public sphere' as cornerstones of participation and citizenship theories. In a recent article, Acharya et al. (2004: 40-41) rightly argue that the civil society perspective, shared by the literatures on civil society, deliberative democracy and empowered participation

> …holds the assumption that it is relatively unproblematic for individual or collective actors to reach and use institutional arrangements for citizen participation. The core of the perspective is a dichotomous reading of the relations between state (authoritarian), which for some includes political parties, and society (democratic). The conviction [is] that authentic civil society actors are a democratising and rationalising force of public action because of their deliberative logic (versus interest-based), decentralised nature and rootedness in the social life of local communities and autonomy (for most people, from the spheres of the state, political parties and interest groups politics). These features, it is believed give civil society a particular democratising logic that contrasts favourably to that of the interest-based logic of representative bodies, the techno-bureaucratic logic of state agencies and the exclusionary logic of the market. It is an article of faith in the civil society perspective that citizen participation increases the opportunity to influence policies for lower income and other excluded populations, whose interests are marginalised in the classic representative institutions.

The authors argue for a 'polity' perspective in which 'participation is a contingent outcome, produced as collective actors (civil society, state and other) negotiate relations

in a pre-existing institutional terrain that constrains and facilitates particular kinds of action.' (Acharya et al. 2004: 42).

Acharya et al.'s arguments are extremely useful in understanding some of the specific challenges of democratisation in South Africa where new democratic spaces are being created in the context of older patterns of local and traditional institutions over which new democratic institutions are being laid. In post-apartheid South Africa there is growing evidence of a widening gap between legal assurances for participation and the actual inclusion of marginalised people in democratic participation. The state shows little interest in investing resources, energy or time in supporting effective citizen representation in the conception and design of public programmes or of new policies, rules and regulations. Marginalised peoples themselves are often unable to organize themselves to participate in public policy debates and other wider forms of democratic engagement. The opening up of new democratic institutions and spaces does not automatically guarantee democratic self-representation by marginalised groups.

Conclusion

New sites of participation amongst marginalised peoples in post-apartheid South Africa may be longer-term, stable spaces that poor people fashion for themselves and through which they engage with the state (in the case of the TAC) or they may be once-off adversarial spaces in which they gain a sense of the legitimacy of their concerns (in the case of the land sector). Although these latter forms of participation may be short-lived, and seem to have little long-term effect, they nonetheless potentially provide their

members with opportunities to engage simultaneously in a variety of participatory spaces that cut across institutional and non-institutional spaces, and allow for the articulation of new forms of citizenship from below. They also, however, re-affirm the important role of democratic local state structures in facilitating new spaces for citizen participation from below. The real challenge for democracy in South Africa lies in building a strong 'middle space' politics, one in which urban and rural citizens engage actively with the state in defining the new democratic landscape. It is here that the real potential for deeper forms of democratic inclusion amongst South Africa's marginalised lie.

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