

Built Environment Support Group  
Deepening Democracy Project

# Promoting public participation in the affairs of State

Presentation to the Office of the Premier, KZN  
12 October 2012

# A little background to BESG

- Established in 1983 within the then University of Natal -- Department of Architecture and Allied Disciplines.
- Pietermaritzburg office established in 1991.
- Focus in the 1980s was defence campaigns against evictions from informal settlements in urban areas.
- In the early 1990's, BESG was a key civil society player in shaping a new generation of planning and housing policies -- from local to national level.
- Since 1995, BESG has been a leader in enabling poor communities to access development, and advocating pro-poor developmental policy.

# BESG's vision and mission

## ■ Vision

BESG envisions a future in which all people in South Africa:

- will live in a participatory democracy
- with equal access to habitable and sustainable living environments and livelihood security.

## ■ Mission

BESG exists to support the poor and vulnerable:

- to access resources and increasingly gain control over their lives and destinies,
- through the promotion of sustainable livelihoods and habitable environments,
- achieving basic socio-economic rights
- and capacitating local government, with added emphasis on small rural towns.

# Our core programmes (1)

BESG is addressing the historically poor interface between communities and the developmental state (local and provincial), through its two core programmes:

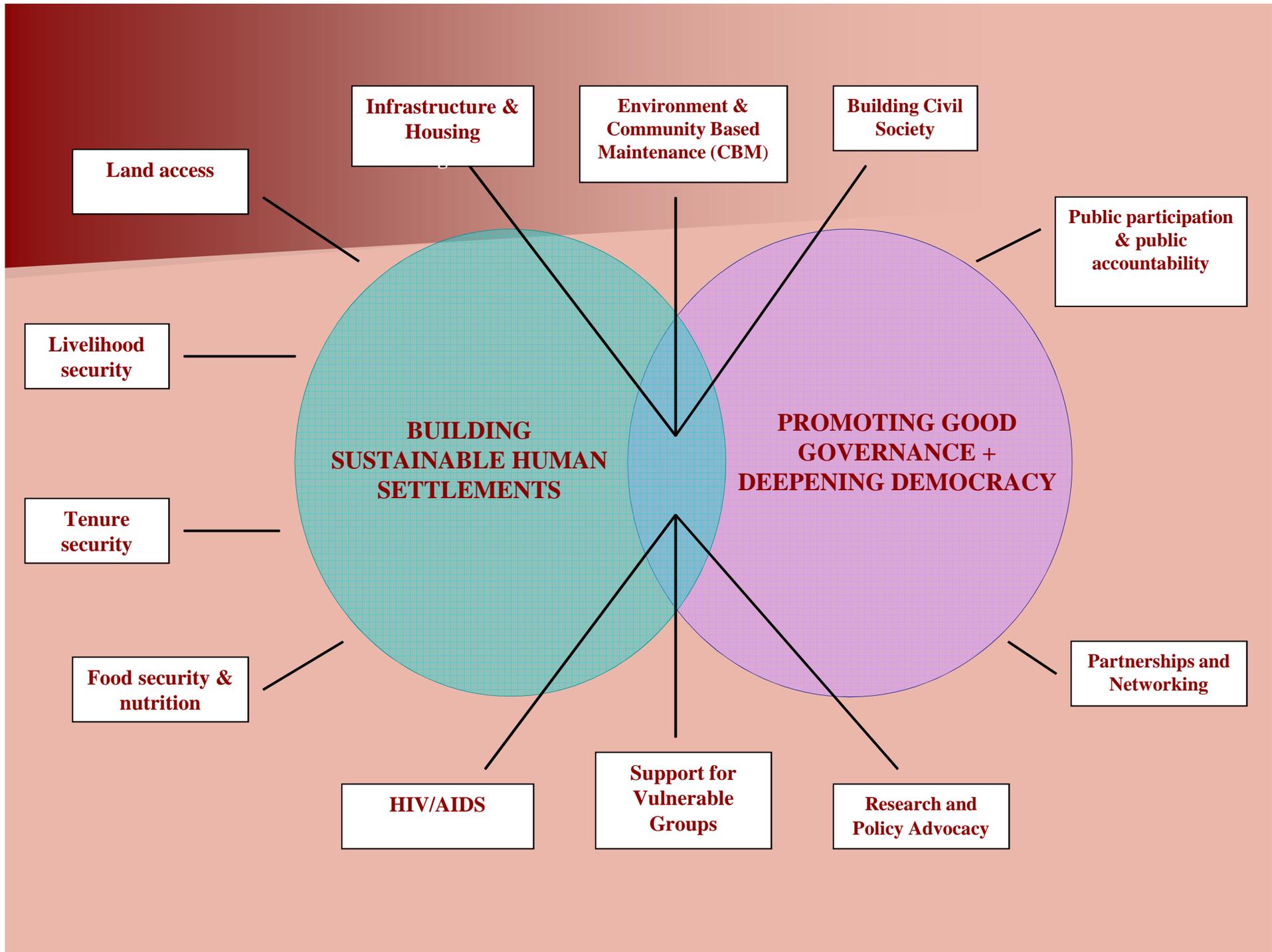
## **1: The Deepening Democracy Project.**

- Located in the KZN Midlands, it builds community leadership, provides training in local government legislation, structure, and functions, and supports participatory governance programmes at municipal level.
- The project assists communities to engage in IDP and budget processes that are the administrative and financial mechanisms for providing basic services and housing.
- Over the past two years, over 100 CBOs in 7 local municipalities have taken part.

# Our core programmes (2)

## 2. Supporting sustainable human settlements in KZN

- We run a training programme in Housing Consumer Education (HCE) for CBOs at all stages of the project planning and delivery cycle.
- We operate a technical support unit to assist communities who wish to engage in issues around the planning and implementation of projects, or who have suffered administrative injustice in the process of development.
- We have also implemented nearly R100m of infrastructure and housing projects with community and local municipal partners.
- We use a combination of research and documenting practical work to promote participatory, pro-poor development methodologies.



# The mandate for public participation – The Constitution (1)

## ■ Preamble

We, the people of South Africa....  
through our freely elected representatives, adopt this Constitution  
as the supreme law of the Republic so as to...

Lay the foundations for a democratic and open society in which  
government is based on the will of the people and every citizen  
is equally protected by law.

# The mandate for public participation – The Constitution (2)

- **Section 59 - Public access to and involvement in National Assembly**
- The National Assembly must
  - facilitate public involvement in the legislative and other processes of the Assembly and its committees; and
  - conduct its business in an open manner, and hold its sittings, and those of its committees, in public, but reasonable measures may be taken...to regulate public access
- The National Assembly may not exclude the public, including the media, from a sitting of a committee unless it is reasonable and justifiable to do so in an open and democratic society.

# The mandate for public participation – The Constitution (3)

- **Section 118 - Public access to and involvement in provincial legislatures**
- A provincial legislature must
  - facilitate public involvement in the legislative and other processes of the legislature and its committees; and
  - conduct its business in an open manner, and hold its sittings, and those of its committees, in public, but reasonable measures may be taken...to regulate public access
- A provincial legislature may not exclude the public, including the media, from a sitting of a committee unless it is reasonable and justifiable to do so in an open and democratic society.

# The mandate for public participation – The Constitution (4)

## ■ **Section 152: Objects of local government**

The objects of local government are -

- to provide democratic and accountable government for local communities;
- to ensure the provision of services to communities in a sustainable manner;
- to promote social and economic development;
- to promote a safe and healthy environment; and
- to encourage the involvement of communities and community organisations in the matters of local government.

# The developmental mandate (1)

## The Municipal Systems Act (32 of 2000)

16. (1) A municipality must develop a culture of municipal governance that complements formal representative government with a system of participatory governance, and must for this purpose—
- (a) encourage, and create conditions for, the local community to participate in the affairs of the municipality, including in—
    - (i) the preparation, implementation and review of its integrated development plan in terms of Chapter 5;
    - (ii) the establishment, implementation and review of its performance management system in terms of Chapter 6;
    - (iii) the monitoring and review of its performance, including the outcomes and impact of such performance;
    - (iv) the preparation of its budget; and
    - (v) strategic decisions relating to the provision of municipal services in terms of Chapter 8;
  - (b) contribute to building the capacity of—
    - (i) the local community to enable it to participate in the affairs of the municipality; and
    - (ii) councillors and staff to foster community participation; and
  - (c) use its resources, and annually allocate funds in its budget, as may be appropriate for the purpose of implementing paragraphs (a) and (b).

# The developmental mandate (2)

17 (2) A municipality must establish appropriate mechanisms, processes and procedures to enable the local community to participate in the affairs of the municipality.

18. (1) A municipality must communicate to its community information concerning—

- (a) the available mechanisms, processes and procedures to encourage and facilitate community participation;
- (b) the matters with regard to which community participation is encouraged;
- (c) the rights and duties of members of the local community; and
- (d) municipal governance, management and development.

# Paradigm or paradox?

- South Africa has the largest fiscal commitment to state subsidised housing in Sub-Saharan Africa.
- Over 2.3 million households have benefited from the national housing subsidy scheme since 1994 (Budget speech 6 May 2011).
- A rosy picture? Not for those who have....

....been banished to peripheral townships  
where there are no amenities or work opportunities



....waited a lifetime for their turn to be housed

## voice to the poor and powerless



Irene Grootboom took the state to the Constitutional Court in 2001 and won in a landmark judgment that secured low-cost housing for the homeless. Photo: Ambrose Peters/Sunday Times

M&G 22/1/10

...been unable to afford to maintain their houses  
or secure administrative justice.

# R1,3 bln to fix shoddy houses

*Witness  
17/11/09*

**TOKYO SEXWALE:** 'It's money  
down the drain'

...been unable to secure the most basic services

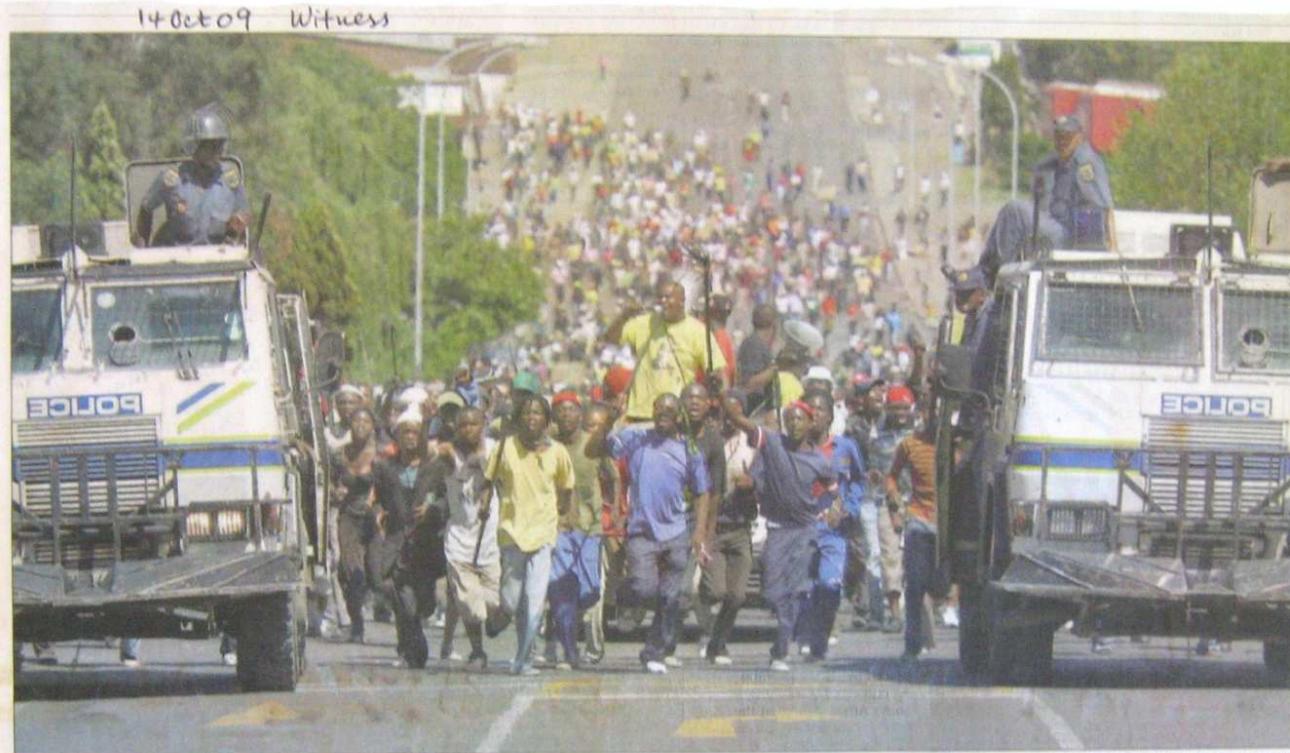


PHOTO: FELIX DLANGAMANDLA

Residents from the Sakhile Township near Standerton in Mpumalanga participate in a protest yesterday. Police say they fired rubber bullets to scatter violent residents protesting their poor living conditions in several eastern South African towns. Residents of Sakhile township in Standerton are up in arms against the council, demanding that councillors be axed for corruption.

## Sakhile township violence flares up again over service delivery

STANDERTON — The streets of Sakhile township near Standerton were last night littered with garbage and broken glass after another day of service delivery protests.

Concrete barriers have been moved on to the roads and informal toll booths are staffed by gangs of teenagers demanding money from cars that approach them.

"We need the money to buy petrol so that we can burn

things," said one of the teenagers.

The protests in Standerton entered a fourth day yesterday with residents frustrated by what they say is poor service delivery and a lack of responsiveness from councillors.

A resident said he was stopped

from going to work by angry protesters. He had to pretend to be one of them until they dispersed.

Yesterday, protesters were standing in the main street of the township as early as 4.30 am stopping people on their way to work.

Around 8 am they converged on the Sakhile stadium to get a response to their grievances from the municipality, said the resident.

But no one from the Lekwa Municipality came to speak to them.

— Sapa.

# The developmental mandate (3) – response to service delivery protests

CoGTA State of local government overview report November 2009:

- In instances where it was found that there was a lack of a genuine participatory process, due to political instability, corruption and undue interference in the administration, then it can be said that there is a failure to provide democratic and accountable government.
- Service failures by municipalities may be attributed to elements of uneven and unstable governance. There is evidence of a high incidence of irregular or inappropriate appointments, coupled with low capacities, poor skills development programmes and weak institutional management....They generally lack the financial and human resources to deliver on their constitutional and legal mandate and on citizen expectations.
- A culture of patronage and nepotism is now so widespread in many municipalities that the formal municipal accountability system is ineffective and inaccessible to many citizens.

# The developmental mandate (3 cont'd)

## The Local Government Turn-Around Strategy (CoGTA December 2009):

- Five strategic objectives are identified that will guide the LGTAS interventions and support framework. These are aimed at **restoring the confidence of the majority of our people** in our municipalities, as the primary expression of the developmental state at a local level. These are:
  - 1) Ensure that municipalities meet the **basic service needs** of communities
  - 2) Build clean, effective, efficient, **responsive and accountable** local government
  - 3) Improve performance and **professionalism** in municipalities
  - 4) Improve **national and provincial policy, oversight and support**
  - 5) Strengthen **partnerships** between local government, communities and civil society
- These objectives have been identified as the key drivers in order to **rebuild and improve the basic requirements for a functional, responsive, effective, efficient, and accountable developmental local government**. In achieving these objectives we will **mobilise government and society** to protect and enhance the Local Government system by addressing the forces undermining the system and addressing relevant areas for improvement.

# Where lies the future?

## **The Dinokeng Scenarios (Dr. Mamphela Ramphele +34 others) 2008** **Three futures for South Africa:**

### **WALK APART**

- There is a breakdown in trust and relationship between government and the public. Evidenced by action or threats of action – petitions, angry letters in the press, rates boycotts, marches, street protests.

### **WALK BEHIND**

- In this scenario where the state assumes the role of leader and manager -- find the problem and fix it. Citizens are passive vessels who pay for and (sometimes) receive services.

### **WALK TOGETHER**

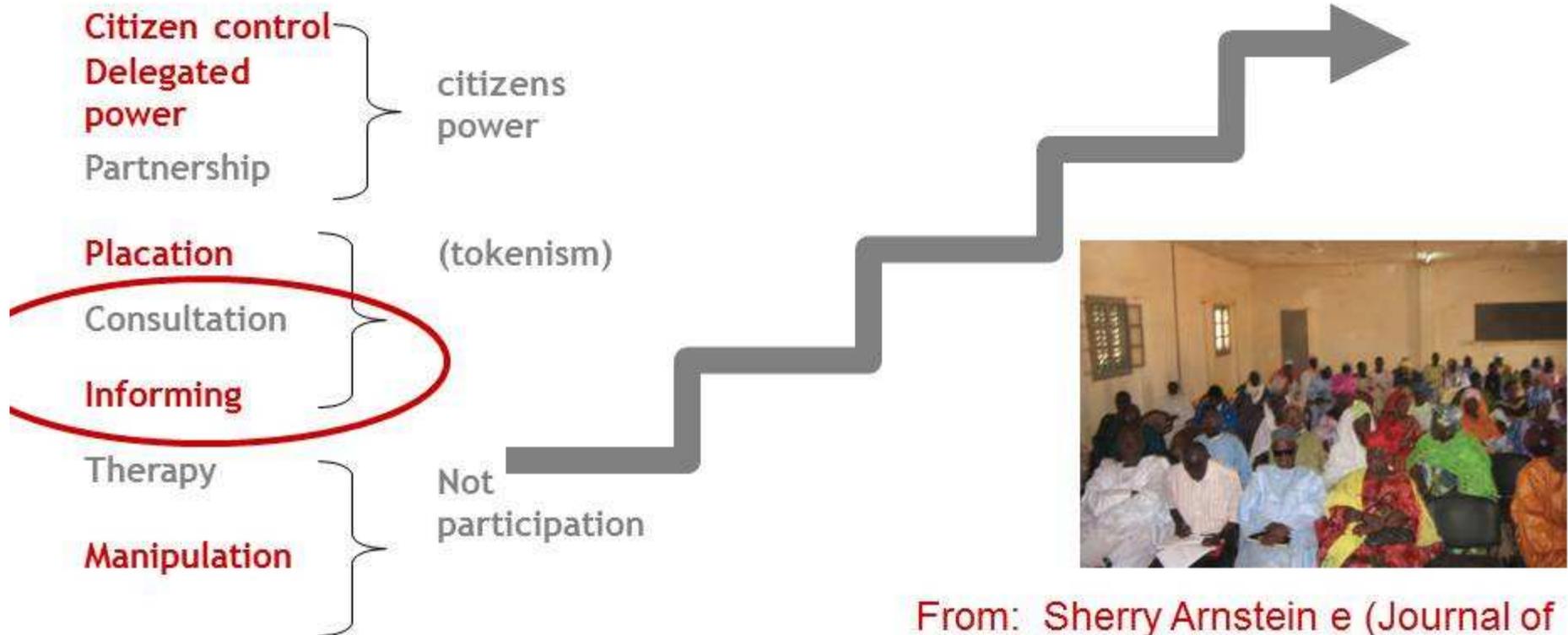
- This is a scenario of active citizen engagement with a government that is effective and that listens.

# Where are we still falling short (1)?

- Since the new dispensation, government has embraced the notion that it has legitimacy in its electoral mandate.
- A tension remains between policy intent -- participatory democracy – and practice – constitutional democracy.
- The two are not incompatible, rather participatory democracy operates in a deeper dimension (hence we branded our local government programme the “Deepening Democracy Project”).
- Practice and culture in the relationship between local government and civil society continues to be one of benevolent paternalism – “we know best.”

Sometimes experiments are limited to public inquiries, consultation or information, especially those (like budget hearings) which deal with “complex issues” like the budget

When consultations happen, is often through **SELECTIVE LISTENING**



From: Sherry Arnstein e (Journal of the American Planning Association, Vol. 35, No. 4, July 1969)

# Where are we still falling short (2)?

- Local government in particular continues to be hampered by lack of political will to be inclusive and transparent, and address the conflict between cadre deployment and professionalisation as promulgated in the Municipal Systems Amendment Act.
- Consequently local government continues to suffer from a lack of institutional and human resource capacity.
- Provincial and national government are also constrained in their oversight functions by a lack of institutional capacity and resource allocation. M&E is not seen as a priority in supporting effective and responsive service delivery.
- The result is “tick-box” compliance instead of quality performance assessment. For example, the commitment in Outcome 8 to provide tenure security and basic services to 400,000 households by April 2014 – the only benchmark is a number and a schedule of backlogs by municipality, there is no alignment to where need is greatest or protests are most volatile.

# Civil society and its relationship to the state (1)

Prof. Steven Friedman, former Director of IDASA and currently Head of the Centre for the Study of Democracy at Rhodes and the University of Johannesburg (Witness 30 December 2010)

- Experience has shown that, in African conditions, a more democratic government is also a more effective government....The key to this is greater accountability to citizens. Unless citizens are able to act collectively with people who share their interests and values to hold the government to account and to press it to respond to their concerns, there is little or no incentive for people in the government to make public service a priority.
- If democracy is to deepen and the government is to become more accountable to citizens, it is crucial that every effort be made to move beyond purely middle-class concerns and to highlight the impact of government actions on grass-root citizens.

# Civil society and its relationship to the state (2)

- **Richard Baloyi, Minister of Public Service & Administration, commenting on the African Peer Review Mechanism (APRM) review process of good governance within the African Union (Daily News 27 Jan 2011):**
  - “Civil society...is arguably the most important component of the APRM process...without active participation from our civil society sector this process would be devoid of any legitimacy.”

# Civil society and its relationship to the state (3)

- Service delivery in many municipalities is failing because communities and stakeholders are not sufficiently involved, Deputy President **Kgalema Motlanthe** told MPs on (22 March 2011).
- Addressing the National Council of Provinces, he said there were several reasons for integrated development plans (IDPs) – a government tool to foster service delivery – not working properly.
- These included insufficient economic, institutional and human capacity; and an inadequate knowledge of government and budgetary processes.
- "Our findings... have been that there is a lack of meaningful participation by communities and local stakeholders in the IDP process.
- "It is clear that there is a need for collective ownership of the development process and strengthened relations between ward committees and independent civil society formations in the promotion of meaningful engagements between local government and community members."

-- Polity.org.za

# Restoring confidence

- The public want transparency and accountability
- The public need confidence that there is a realisable plan for service delivery, not a quick fix of potholes before the elections, and not a wish list of projects with no budget or timeframe.
- Most members of the public and organised stakeholder groups within civil society do not know their rights as they relate to public participation.
- This leaves little space between government inviting “participation” in a form it chooses and protest action where communication has broken down or been non-existent.

# Finding the space for dialogue (1)

- Invited spaces <-----> Invented spaces  
The "imbizo" process <-----> Citizens are involved in shaping the agenda and process
- Officials (elected and administrative) operate in a "comfort zone" where there is little space to be challenged.
- Civil society is co-opted when it enhances government's agenda, but marginalised when it is perceived to be critical.
- Our space as civil society is one of "critical engagement" as we seek to create a constituency for those sections of society who are excluded from the developmental state, either by design or default.

# Finding the space for dialogue (2)

- Public “consultation” at local government level is confined to a presentation of the IDP priorities and budget, often followed by 6 questions (whose questions?).
- The deeper sections of the MSA that are critical to creating conditions for public confidence are kept under wraps, e.g., Section 16.1a(iii):

“A municipality must develop a culture of municipal governance that complements formal representative government with a system of participatory governance, and must for this purpose....encourage, and create conditions for, the local community to participate in the affairs of the municipality, including in the monitoring and review of its performance, including the outcomes and impact of such performance.”

# Invented space - local

**UN HABITAT**  
FOR A BETTER URBAN FUTURE



“CHANGING CITIES, BUILDING OPPORTUNITIES”

**Msunduzi Housing Summit**  
World Habitat Day  
1<sup>st</sup> October 2012



## Msunduzi housing shortage 'a timebomb'

Witness 2/10/2012

**NALINI NAIDOO** . . . . .  
LIVING in the city, or the lack of it, is a rising challenge.  
A delegate said this at what he believed to be the first housing summit held in the city in more than a decade.  
The summit, organised by the Built Environment Support Group (BESG), was held yesterday, the United Nations World Habitat Day. Delegates lamented the slow

pace of housing delivery in Msunduzi and the fact that there were no housing waiting lists.  
They said people who were waiting for houses were being displaced by people coming from other parts of the country. When houses were available, they were poorly constructed from inferior materials. There was also the situation of selling false copies, as well as building materials were sold and houses only built more than two years later, and

what was eventually built was rarely different from what was promised.  
Misleading informal settlements were the structure, which was going to be built, showed the municipality had lost control of the situation, delegates said. An indication of this was the breakdown in environmental health and sanitation where raw sewage leaked freely through the settlements.  
Chairperson of BESG Brian Beckett said the lack of communication on housing

matters was the major impediment to progress that arose out of yesterday's deliberations.  
He pointed to the number of councilors who were at the meeting seeking information.  
Head of the Msunduzi Housing Association, Berlin Gumbel, emphasised that housing differed when the municipality's resources went under and the city was put under administration. He said there was always a plan to hold a housing summit, but the municipality did not have the funds. He

thought that the government had a role to play.  
Councilor said the situation was changing and that Msunduzi had been perceived by national and provincial government for an appropriate support programme for informal settlements and financial housing.  
He said this meant that Msunduzi would have to assess each informal settlement, to find out who was responsible for the number of households. Officials will also be compiling a housing needs register.

### 'Wrong people getting houses'

**THE R2 billion Vaalwater housing project came in for a drubbing at the housing summit.**  
Community members questioned why the project was building houses for rich people in the community, while the poor were still waiting for houses.  
A representative from the KZN Department of Human Settlements, Petros Nkhize, said the problem lay with the people appointed to do the initial assessment to find out who needed houses. The team took short-cuts and did not visit all the households at the vast area. This resulted in the wrong people getting houses.  
Nkhize said his department was not paying for houses for people who were not supposed to get them.  
Delegates called for more communication involving the project team, the community, councillors, the municipality and the Department of Human Settlements

BESG director Gansone Brink said a delivery agreement signed between the Ministry of Human Settlements and the Presidency — known as "Outcome 5" — committed Human Settlements to provide secure tenure and basic services to 400 000 households in individual settlements by March 2014.  
"This represents a radical shift in mindset from the crucial language of their clearance," he said.  
Brink said that while the people were waiting for houses, they were still entitled to basic services such as water, electricity, 200 metres of a road and an on-site sanitation with no more than 20 families sharing a toilet.

# Invented space -- national

Sent: Wednesday, October 10, 2012 10:50 AM

Subject: **ALERT**: Social Development issues in Parliament Oct to Dec 2012

Dear Colleagues,

The schedule for Parliament for the next three months is out. There are a number of important issues listed under the DSD committees (Portfolio and Select committees). I attach a list of the dates, issues, venues and times. Issues include the following:

- Briefings on the department Annual Reports, audit findings and the deliberations on the Budget Review and Recommendations Report (BRRR)
- Examination of the SASSA Annual Report....
- ....Uniform Norms and Standards for funding **ECD**.

There have been no calls for civil society/stakeholder inputs on these issues however I think that it is relevant for us to decide if and what we'd like to provide input on. There is no reason for us not to provide written inputs to the committee on any of these issues. Further we may request opportunities to make presentations to the Committee on issues, they may not agree, but it is well worth making the request.

Regards - Samantha Waterhouse, Parliamentary Programme, Community Law Centre,  
University of the Western Cape

[www.peopletoparliament.org.za](http://www.peopletoparliament.org.za)

# Thank you

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