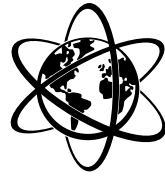


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## The role of civil society in promoting good governance in the Republic of South Africa

*Mutuwafhethu John Mafunisa*

### Abstract

Ineffective governance and lack of effective service delivery features prominently as crises of governance in Africa. Democratic political and governmental institutions could play a role in reducing such social factors as a high rate of illiteracy and poverty. This, however, is only possible if 'the rule of law' prevails and if civil society is allowed to participate in a political, social and economic sense. This article looks at the role of civil society in promoting good governance in South Africa. The article argues that good governance is a cornerstone of reconstruction and sustainable development. The provisions of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996) and the Reconstruction and Development Programme (RDP) form the foundation for the involvement of civil society in issues of governance. An assessment of the effectiveness of these policies and programmes is made.

### Introduction

Corruption, disease, a high rate of illiteracy and a lack of effective service delivery feature prominently as crises of governance in Africa. Governance includes the exercise of political power for directing and regulating socioeconomic affairs. Democratic political and governmental institutions could play a role in reducing such social factors as a high rate of illiteracy, crime, disease and poverty. This, however, is only possible if the 'rule of law' prevails and if civil society is allowed to participate in a political, economic, social and cultural sense.

With this information in mind, this article will look at the role of civil society in promoting good governance in Africa, with specific reference to the Republic of South Africa (hereinafter referred to as South Africa). The article argues that good

**Mutuwafhethu John Mafunisa** is in the Human Sciences Research Council, Pretoria, South Africa.

governance (especially trust, accountability and ethics) is the cornerstone of reconstruction and sustainable development. The provisions of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996) and the Reconstruction and Development Programme (RDP) (African National Congress, 1994) form the foundation for the involvement of civil society in issues of governance.

### **What is civil society?**

Civil society includes those organizations that are separate from the legislative, administrative and judicial power of the state and these include labour unions, religious groups, cultural and educational associations, sport clubs, student groups, political parties and ethnic groups adhering to their own rules of conduct and distinctive customs. The voluntary associations/institutions are also known as non-governmental organizations (NGOs).

The activities and interests of associations which constitute civil society will always be major factors in the running of any state. All public institutions will, in making decisions and implementing these decisions, have to take into account the attitude and activities of the institutions constituting civil society. Public institutions will, for the proper performance of their functions, often establish formal contacts with and obtain the cooperation of the relevant institutions in civil society. The public institutions exist to provide essential goods and services, which individuals and private institutions cannot provide on their own. There must, thus, be interaction between the private and public sectors to ensure realistic cooperation for the meeting of communal expectations (Cloete, 1996: 5).

### **Assessment of policy and programmes developed**

The foundations for civil society's role in promoting good governance are embodied in the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996) and the Reconstruction and Development Programme: A Policy Framework (African National Congress, 1994).

#### *Constitutional framework for civil society involvement*

There are several sections in the 1996 Constitution of the Republic of South Africa (Act 108 of 1996) that specifically address the issue of good governance through civil society. The preamble of the Constitution states: 'We, the people of South Africa, recognize the injustice of our past, . . . adopt this Constitution as a supreme law of the Republic of South Africa . . . to . . . heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights.' Sections 9, 16, 18, 19 and 32 of the 1996 Constitution provide for a Bill of Rights, which contains a number of essential values that specifically address fundamental issues of good governance and civil society. These include equality, freedom of expression/association and information and political rights.

Section 181 of the 1996 Constitution provides for state institutions supporting constitutional democracy. These institutions are the Public Protector; the Human

Rights Commission; the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities; the Commission for Gender Equality; the Auditor-General and the Electoral Commission. Members of civil society, as whistle-blowers, have the right to send their complaints or grievances to these institutions for investigation. The establishment of state institutions supporting democracy is a positive development in South Africa. These institutions not only keep members of the public and public functionaries aware of their responsibilities and accountabilities, they also promote a democratic culture. In the past, only the Ombudsman (now the Public Protector) and Auditor-General existed. The two were subjected to Parliament, which was provided for by political supremacy (Section 30 of the Republic of South Africa Constitution Act, 1983 (Act 110)). The offices of the Public Protector and the Auditor-General are traditional in nature.

The Constitution provides for the independence and impartiality of these institutions supporting democracy. They have to perform their functions without any fear, prejudice or any favour. These bodies are expected to be subject only to the 1996 Constitution and the law. The usually successful attempts to appoint cadres to these institutions run completely against the spirit of the 1996 Constitution. For African National Congress (ANC) members, the obligations imposed by democratic centralism (to defend and implement the decisions of the Party) run completely against obligations imposed by the Constitution (to exercise their functions without fear, favour and prejudice subject only to the Constitution and the law) (Mafunisa, 2003: 99). Furthermore, argues the Democratic Party (2000: 38), the ANC cadres 'in all structures' continue to operate under the 'direction' of the National Working Committee (NWC). Since loyalty to the Party generally prevails over loyalty to the Constitution, ANC cadres continue to operate under the direction of the NWC after appointment.

### *Reconstruction and Development Programme: a policy framework*

Mandela (in African National Congress, 1994) writes that the RDP is the result of many months of consultation within the ANC, its alliance partners and other mass organizations in the wider civil society. The ANC has now developed detailed policies and legislative programmes essential to implementing the RDP. In preparing the document and taking it forward, the ANC built on the tradition of the Freedom Charter. In 1955, the latter was drafted with the active involvement of people and their organizations in articulating their needs and aspirations. The RDP was drafted not by experts but by people who are part of its implementation, even though many experts have participated in the process.

Apart from the strategic role of government in the RDP, mass participation in its elaboration and implementation is essential. The Policy Framework: RDP (African National Congress, 1994) stipulates that within the first nine months of 1994, the RDP must be taken to people's forums, rallies and meetings in the various communities. In the course of 1994, trade unions, sectoral social movements and community-based organizations (CBOs), notably civics, were encouraged to develop RDP programmes of action and campaigns within their own sectors and communities. Many social movements and community-based organizations were faced with the challenge of

transforming their activities from a largely oppositional mode into a more developmental one. To play their full role, these formations required capacity-building assistance. This was developed with democratic government facilitation and funded through a variety of sources (African National Congress, 1994: 131).

The RDP: Policy Framework (African National Congress, 1994: 131–2) states that trade unions and other mass organizations must be actively involved in democratic public policy-making. This should include involvement in negotiations ranging from the composition of the Constitutional Court to international trade and loan agreements. Delivery or enforcement mechanisms for social and economic rights should focus not only on the Constitution, courts and judicial review but must also include agencies in which members and organizations of civil society are involved as a means of enforcing social justice. In this regard, a revamped Human Rights Commission, with wider popular involvement, should have its mandate extended to ensure that social and economic rights are being met (African National Congress, 1994: 131–2).

Civil society institutions should be encouraged to improve their accountability to their various constituencies and to the public at large. There should be no restriction on the right of the organizations to function effectively. Measures should be introduced to create an enabling environment for social movements, CBOs and NGOs in close consultation with those bodies and to promote donations to the non-profit sector. This should include the funding of Legal Advice Centres and paralegal bodies. The right of individuals should be protected and guaranteed in the process of government. Groups and communities should be encouraged to contribute to the reconstruction and development process. Parents should be empowered through school governance and residents through residents' associations, among others (African National Congress, 1994: 131–2).

### **Good governance: assessment of involvement and effects**

A robust civil society is a clear indicator of a strong democracy. Debates over the last decade have created polar, at times antagonistic, relations between the state and civil society. Emanating from the neo-Gramscian literature of the 1980s, the state was perceived as a 'hegemony protected by the armour of coercion', whereas civil society was perceived as the bearer of democratization and the agent for setting limits on state power. Hence, a robust civil society came to constitute an essential pillar of a mature liberal democracy. Moreover, civil society organizations have come to be viewed as the representatives of diverse and sectoral interest groups, widening access to and public participation in public institutions and process (Muthien et al., 2000: 3).

Current debates emphasize the importance of robust institutions of civil society in generating good governance and economic growth. The social constructionist view asks not only about the nature of the state but also about class, development and societal context, as well as the fabric of civic culture and state–civil relations. The election to power of South Africa's first democratic government in 1994 had significant implications not only for state–civil society relations but also for civil society itself. Informed by the social movement literature, the expectation was that civil society would enter a period of demobilization after the institution of democracy and that

the high levels of political mobilization that characterized much of the 1980s and early 1990s would dissipate.

The Democracy and Governance Research Programme on Social Movements of the Human Sciences Research Council (HSRC) has conducted a number of annual surveys since March 1994, in order to trace trends in organizational involvement. The five surveys to date were conducted at the same time of year among a countrywide sample of about 2200 respondents. Membership (i.e. active membership and/or holding an office-bearer position) of a range of organizations including political parties, civic organizations, trade unions, women's organizations and stokvels (saving clubs where members rotate access to the money among its members on, say, a monthly basis) was examined (Muthien et al., 2000: 4).

Membership of political parties has decreased significantly since the run-up to the 1994 founding election. At that time, about one-fifth of the respondents were active members of a political party. This proportion had decreased to one-tenth by March 1998. The most active political party membership was found among African respondents (24 percent), followed by whites (17 percent) and then coloureds and Indians (about 5 percent). This downward trend in active party membership since then clearly suggests overall disengagement from active political involvement. This was most evident among the whites where active membership decreased from 17 percent in 1994 to 4 percent in 1998, which can be explained by the loss of political power and the lack of viable opposition. Active membership among African respondents decreased from its high 24 percent in 1994 to 13 percent in 1998. The new government inevitably drew the leadership of civil society organizations into its ranks. Despite this depletion, though, there was an increase in participation in women's organizations, youth organizations and civic organizations. Stokvels/savings societies showed a significant increase in participation, which points to the emergence of an entrepreneurial spirit in black communities. Membership in those organizations which were most active during the struggle for democracy, i.e. trade unions and civic organizations, remained constant between 1994 and 1998. The results clearly suggest that there has not been a decline in civil society participation since 1994 but that the involvement became channelled differently.

The results of analyses of the extent to which supporters of political parties, trade unions and civic organizations were prepared to engage in protest activities to advance their concerns are revealing. First, the supporters of political parties and trade unions were less prepared to engage in protest activities than supporters of, for example, civic organizations. Second, active members of these three organizations were much more prepared to engage in protest than active members of other organizations (Roefs et al., 1998). Overall, organizational involvement seems to have become an important factor in mobilizing people to protest against pressing social problems. Another important indicator of democratic consolidation is the measure of trust in civil society institutions. The result of the HSRC surveys reveal that trust in civil society institutions, including churches, the media, business and civic associations, was generally high: trade unions and political parties fared worse, as did the courts and police; the defence force fared slightly well. Trust in the Independent Electoral Commission (IEC) to deliver free and fair elections was quite high in the run-up to the 1999 election (Muthien et al., 2000: 5).

### *A critical appraisal*

The first five years of democratic rule in South Africa (1994–99) witnessed an extraordinary effort to create institutions to consolidate and protect democracy. At the same time, the pace with which effective services were delivered was accelerated to give effect to new policies. Evidence indicates that there is support for the emerging culture of democratic governance and for the national institutions created after the 1994 election. However, this support is not without qualification as many South Africans are aware of their fundamental rights and non-compliance with these rights (Muthien et al., 2000: 274).

When the Government of the National Unity came into power in 1994 there were significant changes in the perception of national institutions. Trust among whites decreased dramatically, while trust among blacks increased sharply. However, South Africans are reluctant to put their trust unconditionally in political parties and labour unions. In addition, white trust in public sector institutions has declined. This could be result of 'lost privileges' associated with the apartheid state. Nevertheless, there is overwhelming support for the IEC, undoubtedly one of the most important institutions during the election period.

Analysis of the November 1999 survey by income brings important insights. First, low-income earners are more likely than high-income earners to trust political parties. Second, trust in government institutions declines with higher income. The only institutions that elicit great trust from all income groups are churches, business and the media. Perhaps one of the most significant findings is that trust among whites is high on only two variables: business and churches. Among blacks, trust in national, provincial and local spheres of government is high, as is the trust in the courts, the media, the IEC, labour unions, business, political parties, the media, churches, the defence force and the police. There is no variable where distrust is higher than trust among blacks. Among coloureds, trust is high in national, provincial and local spheres of government, the courts, the media, the IEC, the defence force and the police. The only variable, in respect of which distrust is high, is political parties. Among Asians, distrust levels are high in respect of courts, provincial government, local government and political parties. This finding points to the fact that various races perceive institutions that support democracy differently (Muthien et al., 2000: 275).

Evidence suggests that there has been a transformation in trust in key institutions that have supported governance and democracy in South Africa since 1994. The first five years after the historic democratic elections have witnessed the creation of a new political order, which is more credible than before. Whereas trust in and satisfaction with government institutions were relatively low among the poor and historically disenfranchised, the first five years after the historic democratic elections have seen the trust and satisfaction levels increasing among them. Conversely, those who benefited from the past political and economic order indicated a lower trust in and satisfaction with these institutions. The only common ground was in churches, the media, the business and the IEC.

By analysing a series of government and civil society institutions, this research has demonstrated maturation in South Africa. The successful second democratic election in June 1999 attested to this maturation. In addition, it fortifies the foundation of dem-

ocratic order and good governance in South Africa. The HSRC survey suggests that democracy is being consolidated and that a culture of effective governance is growing. However, large sections of the population in many a democracy suffer poverty and discrimination, which necessarily compromise capabilities and, therefore, inhibits effective participation. This is also the case in South Africa. The research also indicates that the robust civil society in South Africa is the cornerstone of good governance.

### **Reflection on key findings and conclusion on things to be learned: critical factors for success**

To promote good governance, African governments should strengthen citizens' involvement. According to Pope (2000: 247), an informed citizenry, aware of its rights and asserting them confidently, is a vital underpinning to a national integrity system. An apathetic public, ignorant of its rights and acquiescent in the face of administrative abuse, provides an ideal breeding ground for complacency and corruption. A primary task is an awareness campaign, both of the damage that ineffective governance is doing to the community and to families within it, and of the need for individual citizens to take appropriate action when they encounter it. Public opinion and attitudinal surveys are primary tools in giving the public both a voice and the realization that their opinions are valued and taken seriously by others.

Citizens and independent groups are also more active in the fight against ineffective governance. Examples of citizen groups are the South African civic associations, first established in the 1980s as 'anti-apartheid struggle organizations' and primarily concerned with local governance because the main anti-apartheid political organizations such as the African National Congress were banned. The main functions of the civic associations are to watch over the activities of the legislature, i.e. to exercise control to keep public functionaries aware of their responsibilities and bring about accountable government and public administration related to the needs and justified expectations of the people. In addition, civic associations also attempt to eliminate favouritism, tribalism and gender inequality and injustice in the provision of services.

Examples of independent groups include the Institute for Democracy in South Africa (IDASA). IDASA is an independent public interest organization committed to promoting a sustainable democracy in South Africa by building democratic institutions, educating citizens and advocating social justice. It is a registered Section 21 company in South Africa. IDASA was founded by Frederick van Zyl Slabbert and Alex Boraine to help find an alternative to the politics of repression and to explore new ways of addressing the polarization between white and black South Africans. Since the ban on political organizations was lifted in 1990 and the democratic elections in 1994, the focus of IDASA's work has shifted to the creation of a democratic culture in South Africa and strategic interventions to help the new democracy take root (IDASA Information Pamphlet, undated).

On 18–20 January 1990, IDASA organized a national conference in Cape Town on 'Responsible Democracy'. Its aim was to build a broad culture of democratic accountability and assist in fighting corruption and maladministration. The conference's sub-themes included the role of the government and the public sector, business, labour, the professions, the press and the judiciary in promoting good governance, especially

accountability. The government's role in promoting accountability focused on the role of the Advocate-General Act, 1979 (Act 118) (now constitutionally called the Public Protector), the Auditor-General Act, 1989 (Act 52) and the commissions of enquiry. Speakers were from different fields of government, politics, business, professions and the press. They cooperated in diagnosing the critical problems of democratic accountability. Du Toit (1991) edited the conference papers. The edited volume is entitled *Towards Democracy: Building a Culture of Accountability in South Africa*. This book argues that both members of the government of the day and members of the opposition parties need to learn how to be responsible and accountable for their actions. Currently, IDASA runs programmes and projects that promote the theory and practice of democratic culture at all levels of society (Information Pamphlet, undated).

### Summary and final remarks

To enhance the role of civil society in promoting good governance, it is concluded that African governments should formulate constitutions providing for, among others, a Bill of Rights, the rule of law and state institutions supporting constitutional democracy. The political, economic, social, cultural, physical and technological challenges facing the African continent can only be solved through effective governance. The strengthening of democratic institutions is essential to addressing these challenges. This, however, is only possible if civil society is allowed to participate in the process of governance, including policy-making. Governments should provide a democratic environment conducive to the functioning of civil society. For civil society organizations to be effective, they must be independent, capacitated, resourced and legitimate.

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