PUBLIC PARTICIPATION IN THE
LEGISLATURE OF GAUTENG PROVINCE,
SOUTH AFRICA

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CHAPTER 1. INTRODUCTION

PURPOSE

This discussion paper addresses the subject of citizen participation in a new and developing parliamentary democracy. The genesis of the work is the legislature of Gauteng Province, South Africa. In the first democratic elections in South Africa in 1994, citizens elected members of provincial legislatures as well as the national parliament. Subsequently, the leaders of the new legislature in Gauteng Province began to consider how best to promote democratic participation in the legislative process. They wished to educate the electorate about the role and function of the legislature, since this is a new institution in fact and consciousness. And they wished to engage more numerous and diverse public views -- especially of those previously excluded -- in the work of the legislature and the formulation of public policy.

A pilot project was conceived to explore these concerns. The intent is to support South Africa to put into effect the values of democratic participation, transparency, accountability and responsiveness which are embodied in the Interim Constitution of 1993. The specific objective that drives the research is to explore how the legislature can be equipped to relate to the community, in particular those parts which have previously been marginalized. This has two dimensions:

how the legislature can reach out and inform the community, in respect of both its general role and mandate, and in respect of particular legislative initiatives; and

how citizens and communities can be equipped with the knowledge and tools to permit them to engage in and represent their interests to the legislative process, and to ensure the responsiveness of the legislature to grievances and criticisms.

This paper has been written primarily to assist members of the Gauteng legislature in weighing the options and approaches to these objectives. It is also relevant to people working in the area of governance because it addresses a fundamental aspect of the relationship between civil society and the state: the role of citizen participation in a democratically elected legislature. People in the NGO community may also find the document useful in that it approaches this relationship with a view to enhancing citizen participation in ways that help make representative democracy work.

To explore possible ways to achieve the project’s objectives, background research has examined three principal areas of concern. The first was the context of thinking internationally about governance. This area of enquiry helped situate the Gauteng project in...
a larger context of thinking about the issues involved in achieving good government. It also served to place the project in the frame of different functional definitions of democracy, in order to clarify the nature of the choices being made.

The second area of enquiry was into the South African political context and the experiences of the anti-apartheid struggle. This history reveals important lessons about the experience of public engagement and participation, which in turn should assist in formulating approaches that are suitable to the developing parliamentary processes.

The third focus of enquiry was into the potential range of practises used in other parliamentary (or democratic but non-parliamentary) systems to engage the public’s participation in the legislative process. In other words, what have other legislatures or governments attempted in this regard, and what is the experience of their practises.

Two major cautions need to be raised about this research. The first is to recognize that the pursuit of information and insight relevant to the topic has tended to select that which is not only pertinent, but also supportive of the value premises of the project as a whole. That is, having accepted the validity of a transparent, accountable and responsive legislature, the research will tend to reinforce these values rather than question them. The terms themselves will need to be defined, but they are not being questioned. Because the project has a clear focus on participation in the legislative process this is also the focus of the research. It does not reflect lack of cognizance of other aspects of participation, but rather ignores them unless they are relevant to the legislative process.

An important caution is that the range of literature and experience examined to assist the project has been conceived and conducted in different countries and cultures, and with different value and analytical perspectives from the current authors. There may well be congruence of views, but that does not necessarily mean that the theory and analysis are entirely suited to the South African context. It is important to bear this caution in mind in reading the document, and in thinking about the project overall.

**THE BACKGROUND RESEARCH SUMMARIZED**

Chapter 2 of this paper is a review and analysis of recent discussions of "governance" in relation to economic development and to good government more generally. It includes a brief description of models of democracy which mediate the interaction of citizens and state.

Effective, or 'good' governance requires more than democratically elected parliaments and executive leadership. It requires an on-going relationship between civil society and the state. In the third chapter, there is a discussion of civil society and popular participation. An essential tension is revealed in this analysis, between the importance of recognizing and fostering civil associations and their interaction with the state, on the one hand, and the
excesses of interest group domination of political debate and the related weakening of the state-citizen relationship.

While there are several theoretical perspectives on democracy, our strong sense is that it is important to reinforce the institutions of representative democracy and to ensure they work effectively. Representation by elected members remains the basic means of giving voice to citizens’ needs and concerns. This linkage needs not only to ensure popular influence on government decisions. It must also reinforce reciprocity, that is tolerance between groups in society, political equality and inclusive membership in civil associations.

The models of democratic participation are not, however, mutually exclusive. Several may operate simultaneously in any society. The issue is whether they supplement and reinforce each other, or whether one approach weakens the effectiveness of another. A brief discussion of direct democracy -- or citizen instruction to the executive branch of government through referenda and initiative -- concludes that this model is not suitable because it reduces the effectiveness of representative democracy, and does not contribute to strengthening civil society. While popular input is crucial, the extremes of populism as reflected in by-passing parliament entirely would not achieve good governance. The use of negotiated rule making as a form of input to legislation is not considered suitable for similar reasons. While corporatist models may have their place in South African society, great care should be taken to establish processes that engage more people and thus support the efficacy of representation.

The experience of citizen participation in other countries can guide the Gauteng legislature in designing effective principles and practise. By examining the international experience, we can identify the potential of and the difficulties inherent in the interaction of citizen organizations with the state.

Organizations with strong community roots and substantial membership are able to voice the concerns of a segment of the community, to suggest solutions and to focus the impetus for change. Participation in citizen groups can help develop leadership skills and thus prepare people for participation in larger social affairs. Moreover, effective citizen participation can enhance the legitimacy of the political regime.

While recognizing the importance of citizen participation in a democratic system we raise several cautions. First, groups with a single focus will concentrate on that issue, and may not share perspectives on other public issues, or organizations may become more narrowly self-interested over time. Citizen leaders may purport to speak for segments of society and come to represent individuals whose interests they do not in fact express. When the views of citizens are incorrectly represented by proxy in interactions with the state, it will actually reduce the effective link between society and the state and contribute to the problem of finding social consensus. In addition, conflict may be an important means by which citizen groups achieve their ends or negotiate with the state. Groups may value their opposition to
state power, and thus hesitate to engage in on-going participation. Finally, strong citizen participation with the state through civil associations tends over time to weaken the role of political parties and their ability to reconcile competing interests.

These comparative observations are applied with caution to Gauteng Province. Emerging from a lengthy period of authoritarian rule which excluded the majority of the population from meaningful democratic participation within the confines of the state, the characteristics of civil society are evolving in South Africa.

The anti-apartheid struggle in South Africa and the developments during and since the transition to democracy form the substance of chapter 4. South African society is characterized by many organizations and associations that have defined their essence largely in relation to apartheid -- its maintenance or overthrow. In the transition to democracy, these organizations -- from trade unions to professional associations to civics -- have struggled to re-define their role in governance. In this context, it is not possible to draw conclusions about the strength of association, the ways in which civil organizations will develop, or the effectiveness of their relationship to the state. The South African governance regime continues in a transitional mode as a new constitution is adopted, government institutions are developed, public administration is reformed and local governments are implemented.

In chapter 5, we turn to the question of citizens' knowledge and awareness of the Gauteng legislature. Through a series of interviews with people in one township, we formed the following impressions of the people's view of the Gauteng legislature. First, people are aware of government or the legislature from discussions or television, but do not know how it works as an institution or how it relates to them. Just under half could name a member of the Gauteng legislature. Citizens are engaged in local structures, but feel the loss of experienced leadership. They perceive that government has changed, but their own conditions have not, in the sense that crime continues unchecked. The responses indicate a significant distance between local activists or participants in organizations, and the legislature.

Through a number of interviews with members of the legislature, we formed a similar impression of distance. First, public participation in standing committee hearings has generally been dominated by well-resourced groups rather than Gauteng's more marginalized citizens. Second, members of the legislature indicate that their main communication with the public is through the internal structures of the political parties. Some retain links with sectors of civil society with which they have been associated, from women's groups and professional contacts to the trade unions. These associations permit a wider contact with citizens, but remain unsatisfactorily limited.

One difficulty is that members who see themselves as representing the large, marginalized communities in Gauteng sense that participation in the legislative process through hearings
has provided useful alternative views. But in the end they have had to rely on their own understanding of the problem because their own constituencies are not represented at the hearings. On the other hand, members from minority parties express the view that when it comes to contentious issues, the hearings, while representative, have little impact on the final outcome. The majority party will maintain its position, regardless of public input.

Achieving a wider range of participation and thereby increasing the extent to which public hearings or policy discussions incorporate the full spectrum of views is necessary to increase the utility of and respect for the legislative process.

Citizens cannot participate in legislative processes when they do not understand the nature of the institution and how it is relevant to them. Through exercises in expanding participation, it will be important to increase public education about the institutions of government, their role and mandate, and their accountability to the public. Members of the legislature are well placed to assist in this public education, through interaction with civil society, schools, churches, and other organizations, as well as through their party structures.

Constituency service is an important form of interaction between citizens and elected representatives. The Gauteng legislature faces particular challenges in establishing constituency service because of the proportional representation system and because members’ actual constituents are geographically clustered. The petitions process is being designed to remedy this problem to a certain extent. Nonetheless, further thought needs to be given to how members of the legislature engage citizens outside their party structures or the processes of community meetings and legislative hearings.

The role and mechanisms of consultation are the substance of Chapter 6. What do we know about strengthening citizen participation with the state and making it more effective? A number of suggestions are made to construct effective, reciprocal relationships and enhance citizen participation. These involve the selection of participants, openness to engagement, and ensuring that support, time and resources, where necessary, are available to ensure participation. Effective public engagement depends on meaningful discussions of issues that concern citizens. This does not include every issue that comes before the legislature. It is important to determine whether real input and advice are being sought, or whether the initiative is to share information. It is equally important to decide how much decision-making authority is being shared.

Voicing conflict is an important part of public participation. The skills of public servants and politicians in managing conflict should be enhanced.

Multi-lateral or multi-party discussions are more effective in enabling compromise and reinforcing the attention of participants in the common good. Interaction with single groups or organizations can reinforce the presentation of narrow interests.
Effective participation, especially by segments of society that have been without voice in the public dialogue, requires that information be made available in accessible and reliable formats, that time be devoted to soliciting and hearing viewpoints, and that skilled staff support the interaction between citizen groups and individuals and their elected representatives.

Of the modes of interaction between citizen associations and the legislature, we argue that the most appropriate for the needs of the Gauteng legislature are a combination of informal town hall meetings and more formal conferences and hearings.

**THE PILOT PROJECT DESIGN**

Finally, Chapter 7 of the document is a description of the test phase of the project. It sets out the steps to be implemented, documented, and evaluated in the pilot project. The implementation stage of the pilot project is designed to test the hypothesis that achieving more comprehensive participation by citizens in the legislative process will:

- increase citizens' awareness of the legislature;
- increase the range of views available to inform the elected representatives; and
- increase public acceptance of the legislature's decisions.

The pilot will involve the elected members of the legislature in more proactive outreach and consultation with citizens. Public education campaigns will be designed to enhance general knowledge about the legislative process and about specific policies or bills under discussion. Information needs to be made available in many ways, especially face to face contact with legislators, through trusted community organizations and leaders, and via appropriate media. Consultation will include both informal "town hall meetings" in different parts of the province and more structured discussions among groups with divergent views. An effort will be made to test internet access to policy documents and feedback to policy discussions, in particular from non-governmental organizations. The executive and legislative branches of government will need to cooperate in the pilot project. Agreements about responsibilities and accountability will be necessary.
CHAPTER 2. GOVERNANCE AND DEMOCRACY: THEORETICAL PERSPECTIVES AND CASE STUDIES

RECENT DISCUSSIONS OF GOVERNANCE IN RELATION TO ECONOMIC DEVELOPMENT AND GOOD GOVERNMENT

Over a decade of rapid change in governments and profound economic adjustments -- especially in Africa -- the concept of governance has become a means of analysing political events and prescribing intervention in aid of economic development. The literature on governance helps situate the particular issues raised by the Gauteng legislature in this wider context.

The crucial question posed by the Gauteng legislature -- how to engage citizens in the legislative process -- is fundamental to understanding and achieving good governance. The democratically elected legislature is an essential component of the new South African governance regime and citizen engagement with the legislature is essential to effective governance.

Considering public participation in government processes is not a question unique to developing democracies or ex-colonies. It has arisen in long-established democracies through challenges to state institutions and governance regimes. The literature on the rise of citizen participation over the past thirty years in North America and Europe, and the challenges to governance regimes, is discussed in chapter 3.

Since the late 1980s there has been substantial -- in quantitative terms -- change in governments and the process of governance around the world. Public challenges to the legitimacy of certain forms of government, to the degree of social control exercised by the state apparatus, and to the persistence of authoritarian rule have yielded profound changes in Latin America, Eastern Europe, and Africa.

During this period, the world’s major lending institution to developing countries, the World Bank, began to discuss governance as an aspect of economic development. This notable change in the World Bank’s diagnosis acknowledged the weakness or failure of structural adjustment programs, in Africa in particular. It also contributed to the unresolved debate about the link between regime type and successful economic development. The question is whether there is a relationship between the type of political regime in a country and economic growth and development (in other terms, a relationship between governance and development) and how that relationship works. Despite the increase in elected regimes in the world, and the problems associated with authoritarian governments, the notion that authoritarian government is necessary to achieving economic development has not been put to rest.
The purpose of examining the literature on governance is not to develop a comprehensive definition or critique. It is to understand what people are saying from this perspective about public participation, in particular in the legislative process. How do they address the question of social stability in relation to governance? What insights are offered into the values of openness, transparency and responsiveness in governance processes?

The concept of governance has become a new way of framing the analysis of political change and economic development. Analysing recent political changes in Africa, Latin America and Asia, authors are linking the characteristics of governance with economic development in their conceptual thinking. (Hyden and Bratton 1992; McCarney et al 1995; Healey and Robinson 1992) In some instances, this also leads to thinking about how to enhance the quality of governance as a means of facilitating economic development. (World Bank 1992 and 1994; McCarney et al 1995)

**Democratic Governance and Economic Development**

Until recently, the conventional wisdom among some Western development specialists has held that a relatively more authoritarian regime is necessary to reduce conflict and minimize expectations on the way to economic modernization and growth. Single party (or even military) rule was seen as instrumental in ensuring social stability, an essential pre-requisite for development.

However, analysis of the African experience would lead one to question whether in practise authoritarian rule is compatible with social stability. The accumulated evidence suggests that centralised or single-party rule may also be associated with frequent changes of government in the form of coups, and with exclusion of the full range of social (or regional or ethnic) interests. This instability, and the associated human and economic costs, have hindered economic development. Moreover, there is little evidence to suggest that political participation and electoral politics are necessarily associated with instability. (Healey and Robinson 1992)

Is there a relationship between the type of governing regime and its capacity for making decisions in times of economic crisis? Again, the evidence suggests that in the 1980s, democratic regimes were no less able to deal with stabilisation issues, nor were newer democracies more fragile than established ones. A study from Latin America found "no statistically significant difference between the performance of authoritarian and democratic regimes in the achievement of policy targets on public expenditure, budget deficit or credit reductions, nor in their willingness to cut real wages and cause unemployment". (Healey and Robinson 1992: 118). In other words, democratic regimes are as capable as authoritarian ones of exercising "political will" in tough times and sustaining difficult choices. Reflecting further on the ambiguities of the question, Healey and Robinson suggest that "the fast-growing economies of Taiwan and Korea seem to owe their success to continuous
adjustment of their macroeconomic policies to changing conditions, adherence to a long-term strategy of export-led industrialisation and a purged and reformed bureaucracy. However, no one seems to have established convincingly that their poor civil and political rights record in the past was essential to this." (Healey and Robinson 1992: 123)

Rather, the critical factors required in achieving economic growth and managing adjustment appear to be political stability, the existence of effective markets, the skills of political leadership, the structure of decision making, the role of bureaucracy, and the relationships among government, business, labour, and external agencies such as donors and international lending institutions. The prominence of political and administrative factors in this list lead us back to the question of governance.

**Governance Defined**

The literature on governance approaches its definition in two ways. One is through analysis of political and economic development, principally in Africa, though with brief reference to other continents. This literature analyses examines and documents recent political developments in which the excesses of state control, authoritarianism, and corruption give way, to some extent, to demands for increased democratization and popular involvement. Examples are drawn from Senegal, Ghana, Botswana, Kenya, Tanzania and other states. It should be noted that none of the literature reviewed refers to South Africa. In the second approach, the World Bank and other development organizations have identified governance as a crucial aspect of economic development. Several major studies define governance in World Bank terms and indicate modes of intervention the Bank is adopting. This discussion is couched in instrumental terms -- governance is a means to achieving greater private sector investment and activity.

A fairly consistent definition or conceptualization of governance emerges from this literature. Governance refers to the establishment of participatory regimes, with public accountability and effective exercise of leadership. Achieving good governance requires strengthening civil society, enhancing the competence of the public sector, achieving sound financial management, ensuring the rule of law and an independent judiciary, and reducing corruption and military expenditure.

A useful conceptual framework (Hyden and Bratton 1992) identifies four properties of governance. They are: reciprocity, which means the quality of social interaction in a political community; trust, which conveys an accepted or normative consensus on the limits of action; accountability, or the ability of those who are governed to influence their governors; and authority, which is the exercise of effective political leadership.

Further, three dimensions of good governance are:
1. Citizen influence and oversight, including citizen participation, public accountability and the means of determining public preference;

2. Responsive and responsible leadership, which includes respect for the civic public realm, open public policy making, and the rule of law, and

3. Social reciprocities, which refers to the extent of political equality, tolerance between groups, and "inclusiveness in associational membership". (Hyden and Bratton 1992:15-16)

While Hyden specifically labels these concepts within governance, rather than democracy, the characteristics of governance in his scheme are closely associated with the norms of democratic society. The circularity of these arguments may be observed in other literature on this topic. (Ventris 1985) In the end, the governance framework becomes a means of assessing good government in various dimensions.

Accountability and citizen participation are highlighted in another review of the governance literature. Accountability is achieved through established electoral processes, the existence of an independent judiciary and law enforcement, and transparent bureaucratic operations including financial audit. Citizen participation means the "ability of civic groups and individuals to participate fully in economic and political decision making by the state". This implies the need for information, access, education, empowerment, and financial and technical help. (McCarney et al 1995:6)

More critically, a third review observes that the interest in governance has arisen because the state is no longer seen as the instrumental force for economic development, but a constraint to the process, and because of the reality of state decay. Among the characteristics of state decay are "the growing disjuncture between the state and civil society, in which growing disillusionment with state performance has resulted in a process of disengagement, manifest in the growth of a parallel economy, withdrawal from the official markets, smuggling, capital flight, and migration". (Healey and Robinson 1992:27) (For a retrospective reflection, it is interesting to return to Gunnar Myrdal’s discussion of the soft state and related issues of corruption and economic dysfunction in ref. 1970.)

**Governance: the World Bank’s Perspective**

Among the international donor agencies, the World Bank dominates the approach to economic development and the structure of thinking on this subject. Because its thinking is so influential and significant to recipient countries and to research, the Bank’s position on governance is relevant to the current discussion. The World Bank defines governance in economic development terms. This is congruent with its perspective and mandate which limits the Bank’s overt activity in political arenas (Shihata 1991), though whether this reflects either actual practise or the effects of practise, is a matter
of some debate. In 1992, the Bank defined governance as "the manner in which power is exercised in the management of a country's economic and social resources for development". (World Bank 1992)

This formulation of the World Bank's concern with governance stems in large measure from an influential study to which all the authors refer. This study, Sub-Saharan Africa: From Crisis to Sustainable Growth (World Bank 1989) sets out in unambiguous terms the substantial failure of development initiatives in Africa and the worsening conditions throughout the continent. It acknowledges that responsibility for the African economic crisis rests with donor agencies and foreign advisers, as well as with African governments. And it calls for a fundamentally different strategy to achieve a level of economic growth that can support the growing population.

The Bank's analysis of poor governance (World Bank 1992) mirrors that above (Healey and Robinson 1992). It notes such characteristics as: failure to make a clear separation between public and private domains, and therefore a "tendency to divert public resources for private gain"; lack of a body of law and practice which is conducive to development"; instead the existence of arbitrary application of rules; "excessive" rules and requirements that stifle the market and encourage corruption; priorities that are not consistent with the development objective; and decision making that is too narrow in scope or too closed and not transparent. (World Bank 1992:9)

The acceptance of responsibility on the part of donor agencies and foreign advisers, as well as governments themselves, conveys a tacit recognition by the Bank of the failure of many development activities. The debt crisis and subsequent structural adjustment programs of the 1980s have ensured high levels of public debt and reduced social and economic infrastructure in the third world. The World Bank's role in achieving these conditions is well-documented. The failure to recognize governance issues and the ambiguities of political responsibility in the imposition of policy are fundamental flaws. (See for example Danaher 1994; Harbeson 1994; and Healey and Robinson 1992.)

In practise, World Bank governance initiatives are being implemented in four major categories:

1. Public sector management which includes civil service reform, public financial management and reform of public enterprises;

2. Accountability, particularly accounting and auditing practises which denotes a focus on financial accountability;

3. Transparency and information, linked to accountability with a focus on financial management and reform of public procurement processes;
4. Legal framework, specifically laws respecting economic activity, such as property rights, bankruptcy law, regulatory bodies, and so on. (World Bank 1994)

In recent publications, the Bank recognizes participation as an essential element of "good governance". Participation, in this context, is recognized as transparency, accountability, due process and an effective voice for local people, especially poor people, through nongovernmental organizations. Encouraging participation requires modifications to Bank processes, staff awareness, and a willingness on the part of governments to promote public involvement and understand the associated risks. These general comments bring the Bank's conception somewhat closer to the framework which sees good governance as an interaction of citizen influence, responsive and responsible government, and social reciprocity.

Other Perspectives

Other participants and donors share these perspectives on governance. The Commonwealth Parliamentary Association has identified the need for parliamentary reform in three areas including "measures to open up the political process to greater public involvement", plus changes to modernize parliamentary practise and to educate and inform the public about the role of parliament and political issues. (Anyaoku 1994; Commonwealth Parliamentary Association 1995).

The Commission on Global Governance reinforces the conceptualization of governance. Both at a national and a global level, there is now a recognition that governance includes reciprocity, the rule of law, the participation of society, and accountability.

The Canadian International Development Agency has adopted a policy on governance aimed at strengthening the role and capacity of civil society to increase popular participation in decision making, and to enhance democratic institutions, public sector competence, the capacity of organizations to protect human rights, and the will of leaders to rule democratically. CIDA's definition of governance includes: sound economic and social policy, professional and effective public service, a legal framework and independent judiciary, low levels of corruption and means of combating corruption, sound financial management and accountability, and appropriate levels of military expenditure and roles for the military. All these aspects of the definition reinforce the conception of governance as a framework of reciprocity, trust, accountability and authority.

Similar definitions have emerged from the OECD's Donor Assistance Committee. Their 1993 definition distinguishes the form of political regime, the processes by which authority is exercised, and the capacity to formulate policies and implement government functions, as the three aspects of governance. This definition reinforces participatory development as a means of strengthening civil society, and thus both influencing government and constituting a check on the power of government, and of enhancing the effectiveness of development programs. (OECD 1993)
Summary

A fairly consistent definition of governance emerges from the recent literature. It refers to the establishment of participatory regimes, with public accountability and effective exercise of leadership. Achieving good governance requires strengthening civil society, enhancing the competence of the public sector, achieving sound financial management, ensuring the rule of law and an independent judiciary, and reducing corruption and military expenditure.

Two points are relevant to the issues of citizen engagement in developing democracies and to the Gauteng project in particular. First, the discussion identifies consistently the importance of civil society, and the nature of the interaction between citizen and state as critical components of good government. This is the aspect of governance addressed by the pilot project.

Second, how the "state creates the conditions and the space for the growth of civil society", the growth of civil society and its capacity to engage the state, and the interface mechanisms linking civil society and the state are practical questions that go beyond a general concept of governance and begin to look at the issue in instrumental terms (McCarney, et al 1995: 45-46). These three issues, especially the question of how the state facilitates the growth of civil society, and the ways in which citizens and state are linked -- are the substantive questions posed by the Gauteng project.

The Gauteng legislature is addressing the practical questions of public participation: how an effective linkage can be established between government and civil society which meets the tests of good governance. This suggests the linkages need to ensure not only popular influence and responsive leadership, but also reciprocity (that is tolerance between groups, political equality, and civil associations with inclusive memberships) and the effective use of authority.

MODELS OF DEMOCRATIC PARTICIPATION

While there are many ways of analysing and understanding public participation in a democracy, these all revolve around the basic dynamic relationship between citizens and the state. The nature of this relationship has been debated in theory and practise, and readers will be familiar with much of the theoretical literature. The purpose of reviewing briefly the concepts of democracy here is to situate our focus on representative democracy in the larger context, and to observe that different forms of citizen engagement with the state are not mutually exclusive.
Theories of Democracy and Forms of Participation

The Commission on Global Governance reports that many people expect more from democracy than two minutes in a voting booth every few years and that "widening signs of alienation from the political process call for the reform of governance within societies, for decentralization, for new forms of participation, and for the wider involvement of people than traditional democratic systems have allowed" (Commission on Global Governance 1995). This observation draws our attention to the need to be open to and to facilitate innovative forms of democratic participation in governance in both established and newer democracies.

It is important to note that public participation in governance occurs in both direct and indirect ways. Indirectly, citizens participate through voting and through membership in political parties. Directly, they interact with branches of government -- legislative, executive and judicial. Interaction is also frequently mediated by associations and organizations which represent the views of their members directly to government.

We must also be aware of the particular South African context. Very basic forms of representative democracy are only being established in South Africa for the first time. Thus, the discussion of democratic participation must simultaneously seek innovative means to encourage public engagement and to ensure that the basic processes and structures of representative democracy become embedded in South African society.

In addition to representative democracy, which is the most common basis for the design of democratic electoral systems, alternative concepts of democracy are identified in theory: associationalism, corporatism, populism, direct democracy or even radical democracy. These different theories offer distinct institutional arrangements and place different emphasis on the scope, arena and practice of citizen-state interaction. Each form achieves, to a degree, the general definitional requirements of democratic practices. They (1) ensure "contestation open to participation" (Dahl 1971); (2) enable all forces to "struggle repeatedly for the realization of their interests," protecting none on the basis of political position; (3) preclude the ex-post modification of outcomes, and; (4) require everyone to subject their "interests to competition and uncertainty," (Przeworski 1991). However, they also vary greatly in their notions about what issues should be open to public debate and about who exactly ought to be party to particular decision-making processes.

Although the academic debate is often framed as a discussion between these theories, in which they are presented as distinct and at times mutually exclusive alternatives, it may be more useful to consider them as offering important supplements to representative democracy. Different practices may, in this approach, be more applicable to particular decision-making processes, depending on the nature of the issues at stake and the possibility of identifying particular stakeholders who may represent the full range of interests in the issues. In this way
different alternatives may be viewed as helping to narrow the gap between governments and citizens, fulfilling the requirement posited by the Commission on Global Governance which argued that "truly democratic institutions continuously engage people directly in a multiplicity of ways" (1995).

If we adopt this pluralistic and essentially pragmatic view of democratic participation, rather than trying to compare theoretically different concepts of democracy, we may describe the alternative forms in relation to the decision-making processes in which they are most likely to apply.

Direct Democracy

Most idealized notions of democracy begin with a description of the ancient Greek city state as the model of democracy in which all citizens participate directly in the decisions of the community. While this ideal is challenged by the known realities of those states, in which slaves and women were denied the status of citizens and in which a relatively few orators were able seriously to debate issues in the mass assemblies of the people, the mythical ideal continues to inform most claims to majoritarian practices. It supports the contention that the majority has a right to decide, without questioning the types of bias that are embedded in this notion of direct democracy. Under closer scrutiny, the ideal gives way to serious concerns about the consequences of its uncritical application.

Studies of democratic participation in small communities and associations have raised important questions about the impact of gender, class, and educational opportunity on the degree of individual participation and influence (Mansbridge 1983). However, the transformation of the ideal of direct democracy into citizen initiated referenda on single questions -- such as the initiative and referenda system in California -- has raised even greater questions about the applicability of unmediated forms of direct democracy in large, complex and media saturated societies.

Representative Democracy

The emergence of representative democracy after the seventeenth century was a revolutionary transformation of theory and practice which made the idea of democracy "relevant to the modern world of nation-states" (Dahl 1989). As a consequence of this transformation, new and complex political institutions emerged and superseded the notion of a single sovereign assembly. Central to this transformation was the recognition that autonomous political associations, factionalism and conflict were not destructive to democracy but rather an essential part of a democratic order (Dahl 1989).

While the emergence of representative democracy resolved the problem of scale, a central problem concerning the nature of representation continues to be debated. On the one hand there is the notion that representatives must directly represent the views of their constituents,
the electorate. This defines representation as a direct or limited mandate in which the representative is empowered to speak or vote in particular ways that reflect the constituency, and offers limited scope to negotiate or change position. In contrast, the classic Burkanian notion of representation posits that a representative has a right, even a duty, to exercise an independent judgement as part of a general deliberative process that aims to determine the common good (Arblaster 1994).

This distinction between delegate and representative continues to shape the role of participants in different democratic decision-making processes -- from trade unions to the upper chamber (Senate) of some parliaments whose members are selected by a particular region or functional constituency. It is further complicated in the context of political parties. Instead of individual representatives bearing the mandates of their constituencies, the party is considered to have the people's mandate to represent or mediate the public view. This characteristic becomes even more important in a system of proportional representation. In this case, a party-list determines who the individual representatives are and these representatives have little connection or accountability to a geographic constituency or community. While different electoral mechanisms or means of selecting representatives may be employed to alleviate this tension, and to ensure that representatives have a close relation to the community they represent, questions of participation may persist.

**Corporatism**

In his *Lectures on Civic Morals* Emile Durkheim argued for corporatist representation as a new form of democratic communication between the state and key professional groups within the economy. Corporatism argues that representative democracy is a fundamentally inadequate system which fails to give effective representation to either the actual wills of individuals or to social interests (Hirst, 1994). A system of functional democracy is offered as an alternative. Instead of regular representative institutions, it is proposed that major social interests be represented through a system of corporatist structures. While most corporatist ideas were authoritarian (Hirst, 1994) the notion of functional democracy remains embedded in the establishment of bilateral and trilateral arrangements between the state, labour and capital. The latter form of corporatism has been central to the functioning of the post-1945 European welfare state.

**Associational Democracy**

One answer to some of the dilemmas created by corporatism can be found in the theory of associational democracy which developed initially in the "nineteenth century as an alternative to both liberal individualism and socialist collectivism, and as a criticism of state centralization and the growth of bureaucracy" (Hirst 1994). The main political objective of the advocates of associational democracy is to supplement representative democracy by decentralizing and devolving "as much of the affairs of society as possible to publicly funded but voluntary and self-governing associations" (Hirst 1993). In its grandest sense
associational democracy envisages the state becoming a secondary public power ensuring peace between associations, protecting the rights of individuals and providing the mechanisms of public finance through which a major part of the activities of the associations are to be funded (Hirst 1993).

The associationalist analysis points to the proliferation of identities in society and notes how "old and new foci of identity compete to bind individuals' choice of communities of association -- religion, language, gender and ethnicity" (Hirst 1993). Hirst argues that while this pluralization of society gives rise to groups with different and often conflicting mores and ideals of the good life, most of these groups make "similar claims to freedom of action, seek to have their own chosen objectives made into 'rights' and also seek to criminalize or deny public funding for behaviour of which they disapprove" (Hirst 1993). The answer to these tensions for associationalist theory is the establishment of framework legislation to "set the goals of self-governance and the standards by which to measure it," (Hirst 1993) and then to allow a large degree of localized regulation on the premise that "voluntary self-governing associations are the best way of organizing human affairs that combines liberty with social obligation" (Hirst 1993).

While these notions of associational democracy rely to a large extent on the capacity of civil society, they also leave open questions of transition and the exact relationship between local associational forms of participation and elected representative institutions. For example, there is a vast gap between the negotiating-type forums established during the transition away from apartheid -- as a means of creating an arena of engagement between an illegitimate government and excluded communities -- and the establishment of associational governance in which local associations have the capacity both to represent particular local interests and to deliver services in their area of engagement.

What is important to recognize however is the link between associational activity and democracy in general. Robert Putnam and his fellow researchers have demonstrated that there is a deep connection between the density of associational life and effective democratic governance (Putnam, Leonardi and Nanetti 1993). Putnam notes that it was the existence of a "dense network of civic associations and an active culture of civic engagement" that best predicted good governance in their Italian study (Putnam 1993). It is in this connection that the opportunities of associational democracy may be evaluated. The active and conscious building of linkages between democratic associations and the legislative process may provide important opportunities in the promotion of citizen participation.

**Radical Democracy**

There is a variety of notions of radical democracy. These range from those that wish to extend the scope of democratic governance into all arenas of social engagement to those that are intent on reconfiguring democratic participation through the creation of a new conception
of citizenship. On the one hand, Mouffe argues that there is a need to confront the present public/private distinction, thereby extending democratic forms of governance into all spheres of life including, most importantly, 'private' economic relations. On the other, Mouffe argues that it is necessary to attempt to reformulate the public/private distinction so as to provide a new 'grammar' for a citizen's conduct (Mouffe 1992). This is to be achieved in the radical democratic vision by "trying to extend the principles of equality and liberty to an increasing number of social relations" (Mouffe 1992). Notions of radical democracy may have an important role to play in the continuing discussion over democratic practices. However, there does not appear to be any way to apply these theories directly to the particular question of public participation in a provincial legislative process or institution.

Models of Democracy and the South African Constitutional Order

While a general discussion of models of democracy is useful to understanding the range of forms of democratic engagement, it is important to situate the Gauteng project in the context of South Africa's democratic transition and changing constitutional order. It is necessary to outline briefly the constitutional framework for South Africa's new democratic order.

The 1993 South African Constitution makes repeated reference to our future society being based on the values which underlie an "open and democratic society based on Freedom and Equality." Discussions of the phrase make reference to "legal values of representative democratic government, freedom, equality and dignity which underlie the ideal of a Rechtstaat (constitutional state) or Rule of Law" (Basson 1995). These values are also carried through into Schedule 4 of the 1993 Constitution. It defines the constitutional principles which bind the Constitutional Assembly now debating South Africa's final constitution. The values outlined in the constitutional principles include: (1) a supreme constitution; (2) equality before the law; (3) the separation of powers; (4) an impartial judiciary; and (5) representative government.

While the 1993 Constitution's formulation of an "open and democratic" society is fairly unique, there are other jurisdictions in which the term "free and democratic society" performs a similar defining function. In Canada, for example, this formulation has been elucidated by the courts in Oakes (1986) which described the values and principles essential to a free and democratic society as: (1) respect for the inherent dignity of the human person; (2) commitment to social justice and equality; (3) accommodation of a wide variety of beliefs; (4) respect for cultural and group identity; (5) faith in social and political institutions which enhance the participation of individuals and groups in society (Oakes 1986 at 225). While the South African Constitutional Court has already declined to slavishly follow foreign precedent, it is clear that these elucidations of the principle of a free and democratic society will be used in the development of a South African understanding of the Constitution's commitment to an "open and democratic society based on freedom and equality."
It is within this constitutional framework that the discussion of different models of democracy must be grounded. While not excluding any of the models described, the Constitution enshrines representative democracy as the core element of governance. The next two sections of this chapter deal with very different aspects of the democratic experience. They illustrate how different models of democratic participation and the context in which they are implemented are likely to impact on representative institutions as the core of South Africa's new democracy. The first illustration is a review of the use of referenda and initiative and the implications of this form of direct democracy for a newly developing democratic state. The second is an analysis of the evolution of democracy and democratic institutions in India, as an example of a large, post-colonial democracy.

**DIRECT DEMOCRACY IN PRACTISE: THE EXPERIENCE OF REFERENDA AND INITIATIVE**

In contemporary terms, "direct democracy" refers to measures that allow citizens to participate directly in government decision-making. We considered the utility of this form of democratic participation for the Gauteng project, and by reference for other newly democratizing states.

The use of referenda to express citizen preference is the populist method of achieving direct democracy on a large scale. Note that while referenda are addressed to the legislature, they in essence by-pass the deliberative function of representatives in the legislature, and come closer to directing the executive function of government.

There are three different types of referendum, classified according to the sort of issue they are intended to resolve.

1. Governing referenda play an integral role in day to day governance. They are used to express citizen direction on wide range of issues, such as traffic control and taxation policy. In jurisdictions where they are used, notably California and Switzerland, they occur relatively frequently.

2. State-defining referenda are less frequent exercises, and are designed to establish the legitimacy of territorial boundaries or constitutional arrangements, or to inaugurate new regimes of governance. Two recent examples are the referenda in Canada and Quebec: the first about constitutional arrangements and the second about national boundaries (Quebec separation).

3. Deadlock breaking referenda can be a politically useful way for governments that are divided over controversial questions to put the issue to the larger public. Examples are Britain's referendum on membership in the European Community in 1975.
(Kobach 1993:2) and of course the proposed constitutional deadlock breaking referendum included in the 1993 South African constitution.

The most relevant type of referendum, potentially, is the governing referendum which may be used on non-exceptional issues, with greater or lesser frequency. The practise of initiatives usually involves collecting a petition with a required number of signatures, relative to the total population, or voting age population. Most governing referenda are binding votes initiated by citizens.

In Switzerland, where referenda are an integral part of the political process, government is expressly prohibited from calling a referendum. Rather, citizens must collect a certain number of signatures on a petition for a referendum to be held on any issue. The issue is first referred to the government which has the option of bringing in its own legislation. After a period of time, it is required to put the issue to a vote through a public referendum.

The Merits of Referenda and Initiative

Proponents of the use of referenda identify four main benefits to the approach. The first is to increase government responsiveness to the electorate. If the legislature fails to act in ways that reflect the will of a majority of the electorate on a highly salient issue, the legislature can be circumvented through the use of a citizen-initiated, binding referendum. Moreover, in jurisdictions where referenda are used routinely, the threat of a referendum can cause government to change its policy to meet the demands of citizens on an issue. Writing about the Swiss case, Kobach (1993:259) notes that "the threat of referendum has moulded the shape of countless laws during the process of legislative bargaining".

A second advantage to the use of referenda is potentially greater public participation. Schmidt (1989:25) argues that the use of referenda increases public participation because it gives citizens the opportunity to participate in the issue-based groups on either side of the referendum question. Whether this potential advantage is born out in practice is discussed below.

Two additional advantages are mentioned. First, the use of referenda may contribute to a better-informed electorate. Schmidt (1989:28) argues that the public debate on issues subject to a vote contributes to the education of citizens on political issues. Finally, because the results of referenda are immediately evident, the use of referenda is sometimes said to contribute to a sense of political efficacy among citizens.

Do Referenda Contribute to Political Participation?

In terms of simple numbers, it is clear that referenda do encourage citizen participation between elections. Even if only 30 or 40 percent of the electorate were to vote on an issue in a referendum, this would greatly outweigh the number of citizens who would participate
personally in the decision-making process on an issue. A distinction must be made, however, between quantity of participation and quality of participation. The majority of voters in most referenda are disinterested bystanders on the issue in question, rather than interested parties or "attentive publics".

The form of participation that the referendum offers is extremely limited. Citizens are asked (or in some cases required) to cast a ballot that either accepts or rejects a proposition that they have framed. They are not given the opportunity to negotiate their position, to explain their preference to other parties, or to convey a nuanced interpretation of their position. In the face of the constrained choices, voters find themselves in the difficult situation of casting a simple yes or no ballot, when their position is really "yes, if..." or "no, but...". Certainly, as Schmidt (1989) argues, the use of referenda gives citizens the opportunity to participate in the political process by joining the committees advocating or contesting a measure that is to be subject to a referendum. But the same citizens would also be able to participate in associations or organizations representing similar interests and to lobby or pressure for their perspective without resort to a referendum. As well, the frequent use of referenda may contribute to diverting citizen participation from engagement in political parties and toward participation in the interest-based groups that are active in referendum politics. This process may foster or exacerbate the development of a fractious, interest-based politics. The objective of good governance is not enhanced by single-issue campaigns, but rather by the processes of negotiation and compromise.

Note also that referendum campaigns and voting on referenda are not necessarily citizen-based or citizen driven. Organized interests, especially those with access to substantial financial resources, can easily play significant or even defining roles in referenda. In the American states where citizen initiatives can place issues on the ballot, an industry has grown up that specializes in collecting signatures on the petitions that are required to place a question on the ballot. Campaigners are employed to collect these signatures, and are paid a certain amount per signature collected. Once an issue is on the ballot, wealthy organized interests have greater access to advertising and are more able to mount "get out the vote" efforts. These voter mobilization activities have the potential to decide the outcome of the referendum when the voter turnout is otherwise low. (It should be remembered that low voter participation is very characteristic of American politics.)

Using referenda on a routine basis to resolve policy questions assumes a highly interested, informed public, with access to adequate information. It is not clear that these conditions are fulfilled even in the jurisdictions such as Switzerland and California where referenda are held frequently. The argument is made, as noted earlier, that the use of referenda contributes to public eduction because citizens must inform themselves before voting. This assumes citizenry that (1) is sufficiently interested in politics generally, or the specific topic on the ballot, to seek out information before voting; (2) has access to adequate sources of information; and (3) has the skills, such as literacy, or experience in evaluating competing sources of information, to make informed decisions on complex issues.
The point may be made that the same pre-requisites pertain to electing members of the legislature to represent their fellow citizens. However, the value of representative democracy is at the very least the opportunity to debate within and among issues, and to achieve compromise, prior to deciding on the particular issue.

Interestingly, the use of referenda in the US does not necessarily mean that the citizens' will is implemented. Initiatives are also subject to court challenges and what is implemented following judicial review is seldom exactly what was voted by the electorate.

Finally, there is a serious question about the relationship between initiative and referenda and the development of civil society. The experience in America suggests that the use of referenda contributes to the rise of interest-group politics and to the "beggar thy neighbour" attitude in the polity. The results of referenda have been increasingly rigid public policy and more ineffective institutions of governance. The most recent example comes from Orange County in California, where local government is caught between a rigid tax regime mandated by citizen initiative and the demand for public services. This led county officials to engage in risky (or perhaps fraudulent) financial practises, illustrating the potential repercussions of the politics of referenda. In Switzerland, public interest groups appear to have used the referendum or the threat of its use, to influence a highly structured and entrenched government to consider issues or adopt solutions of interest to the wider public.

Effect on Other Political Institutions and Practical Barriers

The regularized use of referenda as a way to decide policy issues will inevitably contribute to the weakening of the function of representation in the legislature, and the decline of the legislature as a decision-making body. When a direct appeal to the citizenry can circumvent the legislative process, the power of the legislature is diminished, as is the profile of the institution. While this might be defensible in the context of a highly unresponsive legislature (such as the Swiss parliament, which has been dominated by the same governing coalition for decades), it does not appear to be an appropriate addition in a country where political institutions are new and developing. This is not to suggest that referenda do not have an important place in democratic systems, for example in establishing basic parameters of governance regimes.

Whatever the merits of referenda as a means of direct citizen participation in the political process, there are practical issues that make them of questionable merit in the South African context. The frequent use of referenda to decide policy questions requires the development of a complex and expensive electoral infrastructure. The electoral administration would have to be expanded to administer referenda and to organize the referendum votes. It is important to remember that in most of the jurisdictions that employ frequent governing referenda -- America states in the west and mid-west -- initiatives are simply added to the ballot in biennial elections. In systems which do not have such frequent elections, or where elections
are not held on fixed dates as they are in the United States, the logistics of referenda are more daunting and more expensive.

DEMOCRATIC PARTICIPATION IN SOCIAL CONTEXT: CONTINUITIES AND DISCONTINUITIES IN INDIAN DEMOCRACY

Theoretical discussions of democratic practice are useful in sketching out the parameters of different approaches to participation. However, only through a contextualized understanding of democratic commitments in societies plagued with similar degrees of social inequality and developmental needs, is it possible to develop an understanding of the possible trajectory of these commitments in the South African context. While India is a society vastly different from South Africa, it also shares social and economic difficulties which bear a closer resemblance to South African realities than most other potential comparisons. The relevance of this affinity to our survey of democratic forms is highlighted in a recent study of political change in India which suggests that the fragility of democratic practices in India "may reflect a persistent tension between the state’s representative and developmental functions in the Third World." (Kohli 1990)

Discussions of Indian democracy since independence have emphasized what may be termed its hybridity -- the manner in which post-colonial culture is strengthened by the survival of distinct aspects of the culture of the colonially oppressed which in turn "becomes an integral part of the new formations which arise from the clash of cultures characteristic of imperialism" (Ashcroft et. al. 1995). While India at independence formally adopted the political conventions, ideas and practices of a western democracy, there has been a persistent disjunction between public political party discourse and actual political practice (Brass 1990).

Described by Brass as generating an all-pervasive instrumentalism, this disjuncture is attributed to three distinct aspects of Indian society -- control and struggles over agrarian resources, social fragmentation, and centre-locality relationships. The essentially local character of land related issues results, in this analysis, in political practice retaining a distinctly local and personal character (Brass 1990). These local and personal features of Indian politics are further enhanced by the social fragmentation associated with caste.

Electoral success in rural constituencies in India depends less on the national political party or ideology associated with the candidate, and more on the candidate’s ability to establish a base in one of the locally-dominant, land controlling castes and to then combine that support with an effective approach to one or more other sectors in the community -- important local caste groups, low caste groups or the local Muslim minority (Brass 1990). These two features of Indian politics interact with the third characteristic, centre-locality relationships, in that they create the conditions which cement the bond between the locality and the centre of the political system. Those who wish to build power at the regional or national level are
required under these circumstances to "maintain direct or indirect links with those who can control local structures of power" (Brass 1990).

This political dependency on the local level is matched by its mirror image -- a local dependency on the regional and national levels. In a situation where the state provides or controls the greatest share of external resources and has the ability through legislation and executive action to threaten local elites -- through the passage of land laws or bureaucratic harassment -- it becomes vitally important for locally powerful individuals and groups to build close links with those who wield power at the regional and national levels (Brass 1990). This connection between control over resources and political power is exacerbated in third world situations where the state is actively engaged in steering and promoting economic development. Furthermore, as Kohli argues, the "more the state internalizes the socioeconomic conflicts of the civil society, the more difficult it becomes to establish a coherent political center" (Kohli 1990). While it becomes difficult for populist leaders to make difficult economic decisions, there emerges a "recurring tendency to use the state's resources not to promote economic development but to buy political support" (Kohli 1990).

The consequences for democratic institutions when state-controlled resources become objects of intense conflict are dire. Because institutions have the effect of constraining personal power, those who obtain positions of authority in this system have little interest in institution-building and may in fact actively seek to weaken regulatory institutions (Kohli 1990). In this atmosphere old group identities based on caste, language or religion and new identities based on occupation or class become foundations for mobilization by competing elites seeking a greater share of economic resources. Kohli concludes that there are no short cuts to the creation of a noncoercive political order. Conflicts over power must be negotiated and worked out through the encouragement of "integrative institutions at the interstices of the state and society" (Kohli 1990).

In the Indian context this integrative function has been played particularly well by the Indian National Congress whose operation begins to explain the survival and growth of Indian democracy. The Indian National Congress' mode of operation has embedded democratic politics firmly into Indian public life both by providing a venue for controlled conflict and by using its financial resources and historical image to mobilize and educate voters (Brown 1985). Most significant was the party's "deliberate strategies of tailoring itself to each locality, of attracting local "notables" -- from prosperous peasants to ex-landlords and even princes -- [which] helped to integrate the politics and power structures of localities into a national democratic system, and to channel old loyalties and patronage ties into new patterns of political behaviour" (Brown 1985).

Kohli too identifies well organized political parties as a way out of this tension in third world democracies between the state's representative and developmental functions. Strong political parties have the capacity to build stable coalitions around coherent programs. Once these have been tested in electoral competition they may help to reduce the tension between the
"state's need to represent diverse interests and simultaneously to promote socioeconomic change from above" (Kohli 1990).

This brief analysis of the Indian context demonstrates the importance of strong political parties in channelling political conflict, from the local to the national level, into new democratic institutions. Representative democracy in this context has had an integrative function -- bringing together diverse and conflicting interests, and political practises, into a common framework for the negotiation and mediation of socio-economic tensions. Like the Indian National Congress, the ANC in South Africa spans the gap between liberation movement and political party, and thus incorporates a vast ideological diversity and range of political practise.

The encouragement of participation -- through political parties and directly with representative institutions such as the Gauteng legislature -- has the potential, in this analysis, of integrating these practices and protagonists into the democratic process. While undemocratic practises may continue in the guise of "tradition" or "culture", the linkage of citizens (e.g. hostel dwellers under the control of "headmen" or indunas) with democratic institutions is possibly most likely through their incorporation into party politics.

These two cases illustrate the interaction between political culture, social context and the development of approaches to democratic participation. There are many variations on the theme of citizen-state interaction and on the use of democratic approaches to decision making. The next chapter helps to situate these themes in a discussion of civil society and its relationship to the state.
CHAPTER 3. CIVIL SOCIETY AND THE STATE

This chapter addresses the relationship between civil society and the state. The discussion on governance in the previous chapter noted that public participation, the rule of law, and management of resources for economic and social development are all part of that relationship. It described the models of democracy that explain the relationship between citizen and state. But as much of this relationship occurs between organizations of society and institutions of government, the characteristics of both influence the forms that democratic engagement takes. We have noted that the strength of civil society and an open and honest relationship between civil society and the state are elements key to achieving good governance.

It should also be recognized that this is a dynamic and changing relationship. The first part of this chapter reflects on the importance of civil society, drawing especially on illustrations from the African experience. The second section presents some lessons and cautions from the North American experience. Together, they reflect on the challenge to analysis and practise of reconciling the desire for popular citizen engagement with a desire for government decisions that represent the views of and enhance the well-being of society as a whole.

THE IMPORTANCE OF CIVIL SOCIETY

Every society experiences an essential tension in the relationship between citizens and state, between civil society and government. This is not a uniquely African discussion. There are, however, rich variations in the way this tension is resolved, and how the nature of the relationship evolves over time, from place to place. And there are substantial differences between those states which have emerged only recently from colonial status, and those whose political evolution from, say, feudalism, started much longer ago. Moreover, the strength of civil society is of particular importance in countries making the transition from authoritarian to democratic governing regimes.

The post-colonial state in Africa was in many ways modelled on the autocratic administrative traditions of the colonial state. Its size and influence grew markedly after independence, reflected in the number of people employed and the growth of a coercive apparatus. Over time the state has become associated with extensive intervention in the economy, restrictive controls over private sector activity, and a tendency to resort to the use of force to preserve national unity and territorial integrity. Contemporary African states are frequently unresponsive to the pressure of interest groups, unrepresentative of the wider society, and ineffective in the formulation and implementation of policy. (Healey and Robinson 1992:42)

The analysis of civil society in Sub-Saharan Africa must take into account this complex history: the heritage and institutions of the colonial era, the experiences of the post-colonial
period, and the emerging trend to democratization. Authors describing this history attribute part (and clearly only part) of Sub-Saharan Africa's current enormous problems to the weakening of civil society during this long period. (Harbeson 1994; Mandaza 1994)

The Africa Leadership Forum has discussed the need to strengthen civil society as a way of achieving unity, of building support for the institutions of democracy, and of preparing people to participate in governance. "What is involved is the deliberate task of enabling people to form and operate associations of various kinds such as cooperative societies, farmer's associations, guilds of artists, professional associations and even political parties. Membership in organizations will change the worker and other members of society, their way of life, their consciousness of themselves and of their society". (Africa Leadership Forum 1991: 67)

This conclusion is reinforced by a recent influential study of the relationship between civil society and governance in modern Italy. (Putnam 1993). The study examines Italian regional governments, which were established about 25 years ago, and which share common formal structures. But their performance in terms of the quality of government has varied tremendously. The authors considered many possible variables -- including wealth, education and social stability -- to explain the marked differences in the quality of government performance. They concluded that: "What best predicted good government in the Italian regions was the density of choral societies, soccer clubs and cooperatives. In other words, some regions were characterized by a network of civic associations and an active culture of civil engagement, whereas others were characterized by vertical patron-client relations of exploitation and dependence, not horizontal collaboration among equals". And these differences dated from medieval times. (Putnam 1993: 102-103) This insight reinforces the perceptions of African leaders that the health of civil society must be enhanced if good government is to be achieved.

How does a strong civil society contribute to good governance? It seems that where many associations and organizations exist (and note that they are not necessarily related to public policy or services), they are able to perform at least four relevant functions.

First, associations help to counteract the isolation of the individual (or family or social unit) and thus help to integrate society. Putnam tells an illustrative story from San Jose, Costa Rica. In his story, immigrants from the countryside to San Jose experienced the common fate of living in crime-ridden and disorganized neighbourhoods. One neighbourhood, however, achieved a sense of solidarity among the residents. "For example, nearly every resident has bought a football referee's whistle, and if a thief is spotted, everyone blows his whistle to alert his neighbours. The neighbourhood has also taken up a collection to buy a local siren and set up a telephone network....This neighbourhood-alert system has cut robberies dramatically -- from roughly two a week to roughly one a year." The difference in this neighbourhood is simple: "The Law of the Greeting". When the local association was formed, the participants agreed to leave for work five minutes early each morning, to have
time to say hello to their neighbours. This informal practise built ties of friendship and solidarity among the residents. The key to collective action is not physical capital, but social capital. "The Law of the Greeting" represents investment in social capital at its very simplest". (Putnam 1993: 107)

Second, the processes of organization, debate, decision-making, and so on, in which associations engage, also help to develop skills and norms needed to participate in the larger political society. These skills are needed for leadership, and to enable debate and compromise on wider social issues. Third, civic organizations may take on functions relevant to people's well-being. The Costa Rica example is a good one, as are choirs, housing co-ops, and agricultural societies. Fourth, as the South African experience illustrates most effectively, the associations of civil society help to provide an intermediary or buffer between the citizen and the state, as a means of voicing public views and of maintaining oversight on the institutions of government.

**CIVIL SOCIETY IN THE SOUTH AFRICAN CONTEXT**

The South African debate on the nature of civil society reflects a conflict between two sources of the concept: "conceptual history and the self-understanding of social movements" (Cohen & Arato 1992a; see also Cohen & Arato 1992b). This debate -- as reflected in Work in Progress, Theoria and Transformation (Nina 1992) -- reveals a degree of confusion over the nature of civil society and the resultant conceptions of democratic participation. Although it is recognized that civil society tends to be dominated by private capital, one writer argues, it is nonetheless possible to define 'civil society' so as to exclude private economic power. Thus "a true 'civil society' is one where ordinary everyday citizens, who do not control the levers of political and economic power, have access to locally-constituted voluntary associations that have the capacity, know-how and resources to influence and even determine the structure of power and the allocation of material resources" (Swilling 1991). The concept of associationalism is conceived, in this view, as an essentially local-level system of voluntary associations which have greater political access to local government than does the central state (Swilling 1991).

Criticizing this approach as a definition which allows civil society to become "all things to all people," Narsoo has adopted a broad definition of civil society as a contested terrain which is "located between the public sphere of the state and the private sphere of the individual" (Narsoo 1991). The critique is significant in insisting that it is not possible merely to declare certain organized interests to be in or out of civil society, and in recognizing that unequal power relations will continue to dominate this arena. It argues that the vitality of civil society cannot be determined by merely counting the number of voluntary associations. Rather, the strength of associations should be assessed in terms of a number of factors, including "the extent to which they are politically dominated, whether they can balance their own interests
against broader political imperatives, whether they have organized democratic expression, and whether interest groups can be sufficiently non-sectarian". (Narsoo 1991)

The implication of this analysis for South Africa, particularly with respect to notions of democratic participation, is that, given the large economic monopolies that dominate South African society and the resources at their disposal to "influence, coerce and shape institutions and individuals" (Narsoo 1991), other organizations, including voluntary associations, will remain marginalized. In this context, the state is not only a means to "mediate between the interests of capital and others," (Narsoo 1991) but the fundamental arena within which struggles over the "structure of power and the allocation of material resources" (Swilling 1991) will continue to be determined. This perspective recognizes the reality of the growth of the modern state, and it breaks with the notion that, despite the growing complexity of delivering such services as health care and education in the late twentieth century, the state should simply wither away.

One line of enquiry would be to concentrate on developing a notion of participatory democracy which is premised on the need to democratize the state (Hirst 1986 and 1994). This change in emphasis would enhance the possibility of constructing democratic processes that would privilege certain institutions or voluntary associations in their efforts to influence government decisions to allocate resources, whether at the national, regional or local level. Not only may secondary organizations be allocated local state functions and resources for distribution, but a matrix of organizational supports and mechanisms could both encourage the development of secondary organizations in the society and inhibit the ability of any particular interest to gain permanent control over such bodies.

This, however, raises the problem of recognition. Who is to determine whether a particular organization or institution should qualify for privileged access or be entrusted with state functions and resources? It has been suggested that the determining factor would be the democratic character of the organization or association; this would be based on regular elections to determine participation in its decision making bodies and an open membership, or at least a membership defined in a manner reasonably related to its function or purported representativeness. Although this may be a reasonable determinant of whether a local government structure is democratic, how are we to decide between any two voluntary associations who lay claim to the same functions? This may be a common scenario in circumstances where different political factions are active in the community and feel uncomfortable working in a situation where their policy options are unacceptable to a slight majority of the organization who may be aligned to an opposing political formation. One solution is to grant a right of access to all voluntary groups that are able to demonstrate their adherence to democratic processes. However, this is only possible when it comes to access to information or to policy discussions or hearings; it would be more difficult with respect to the distribution of government functions or resources.
In any case, this approach fails to confront the problem of the continuing power of private economic interests in the society as a whole. Even if they are denied privileged access to the state, private corporations are able to assert their economic power in their interactions with individuals and communities through their general legal status. This is particularly evident in situations where social and production costs in the form of unemployment or air pollution are borne by the community, to retain the competitiveness of the local economy, while corporations are able to assert rights of autonomy in the distribution of their resources. But this balance of forces may be dramatically altered if we begin to question the privileged legal status of private business corporations, as being equal to natural persons. This suggests a distinction may be made between autonomy rights -- which are inherent to individual human beings, singularly or collectively -- and utilitarian considerations, which are the basis of an organization's assertions of right (Dan-Cohen 1986). Once such a distinction is made, it is possible to conceive of the corporation-person interaction as a "clash between utility and autonomy, in which the individual will insist on the supremacy of autonomy rights, whereas the organization will point out the magnitude of the social interest that its claims represent" (Dan-Cohen 1986). In such a clash, the constitutionally protected autonomy rights of the human being deserve the greatest consideration, while the private corporation will by virtue of its utilitarian basis be given a separate and weaker constitutional and legal status. Thus although still active in the contestation of civil society, private centres of interest, particularly those whose purpose is profit and not the specific assertion of the rights of human collectivities, will receive weaker constitutional protection and be able to assert fewer social and legal rights.

This approach to the problem suggests that government would also necessarily view participation in public debate by individuals and corporations as reflecting their different legal status. This difference provides justification for making special efforts and providing extra resources to increase the participation of individuals, non-profit and non-governmental interests in the legislative process. These efforts are doubly important in the case of marginalized communities such as Vosloorus. (See Chapter 5.)

CITIZEN PARTICIPATION: SOME LESSONS FROM THE NORTH AMERICAN EXPERIENCE

A large body of literature on the western experience with community development and participation in the processes of government dates largely from the 1960s. A brief summary of political changes over the decades since then may help to illustrate the dynamic of citizen-state interaction. During the 1960s and into the 1970s, citizens came to expect a greater voice in public affairs and the affairs of the state. The roots of this sea change in the political landscape are complex. The new developments reflected, among other things, the lack of responsiveness of political institutions and parliaments to social concerns and social groups. Those who were excluded from government began to question it. The consequent
massive increase in community organizations, community development initiatives, and protest movements represented a major shift in western political culture.

As a broad generalization, the political experiences of the 1960s and 1970s changed the political context and culture in the United States and Canada by bringing into the equation citizens who were previously marginalized and ignored. In Canada, these were in particular women, Aboriginal people, and ethnic minorities (Simeon 1994). In the United States the most obvious example is the inclusion of women and people of colour (to the extent that can be said to have happened). The struggle to gain recognition in the political arena engendered strongly organized citizens' groups which focused on the issues most relevant to their goals and in the process rejected the notion that social and political elites were in the right. After many years of struggle, political discourse now focuses increasingly on the issues raised by specific groups in society, "the politics of identity" and the rejection of what are classed as traditional "elite" politics.

Identity politics has, however, given rise to a whole new set of dilemmas captured by Kaufman (1992).

Identity politics expresses the notion that individual and collective identities -- race, gender, sexual preference, class background, and so forth -- thoroughly infuse all political preferences and visions. At one level, they are based on a belief in what might be called standpoint politics, in which subject positions take precedence over, say, ethics in giving form to political beliefs... Identity politics also expresses the principle the socially defined personal and interpersonal realms are perhaps the most crucial focus of power relations -- as well as the notion that power relations and politics are functionally equivalent.

This...proliferation of multiple publics, the breaking down of rigid barriers between political and private life -- has dramatically weakened the hegemony of those domains of political life that once were central to both mainstream and oppositional politics in the United States. The result has been ... a legitimation crisis of the state. (Kaufman 1992: 28)

This "politics of identity" is rooted in the history of exclusion from political institutions that these groups experienced. There is no question that their calls for inclusion are just. The difficulty that has emerged, however, has several dimensions. First, the history of exclusion has engendered a distrust of traditional political processes: political parties, legislatures and bureaucracies are perceived to be inherently opposed to inclusionary efforts, so groups have sought to circumvent traditional institutions in favour of interest-group politics, grassroots lobbying and legal challenges. Second, the perception of state unresponsiveness and the preference for non-traditional forms of political participation have fostered a politics that does not accept compromise. Groups sometimes prefer absolute victories through the courts
to compromises negotiated within parties or between parties in a legislature. Even these victories are believed to be compromised in their implementation.

A related aspect of the political change, in Canada at least, has been the increased "judicialization" of policy. This has long been a factor in American politics but its introduction into Canadian policy development and political discussions dates more recently from the addition of a Charter of Rights in the Canadian constitution in 1982. This development in national governance introduced greater protection of individual rights and greater recognition of groups and issues of discrimination. The new avenue of court-ordered policy is open to groups who wish to correct social injustices in a binding and affirmative way.

While this may enhance the protection of society's more vulnerable members, it also introduces a new difficulty: a lack of dialogue about the fundamental issues in society. This inhibits the process of gradual public education about current issues and the gradual incorporation of changing norms into the social fabric. In other words, the law may change, but it does not necessarily reflect social consensus, so conflicts are not really resolved. In the current political vocabulary, this means that 'rights talk' has come to replace the essence of citizenship and mutual responsibility.

Another aspect of the political change is the declining importance of political parties. This can be attributed to several factors. The first is the growing prominence of single-issue interest groups, which bypass parties and take citizen demands directly to the state. The second, and related, factor is the increasing complexity of the modern state. As the state has expanded its intervention in economic and social affairs, politics have grown too complex for parties to be the sole, or even the primary, links between society and state. The third factor is technology. The proliferation of electronic media has made the majority of citizens spectators rather than participants in a political process played out before television cameras. Finally, the professionalization of politics has displaced the partisan activist. The development of an extensive and sophisticated opinion polling industry has made politicians reliant on these "scientific" portraits of public opinion rather than grassroots partisan activists' reports of the public mood. Campaign strategists are now party employees or freelance political consultants rather than volunteer party stalwarts. All of these factors, combined in many cases with parties' unwillingness to incorporate newly mobilized groups (women, Blacks, immigrants), have contributed to a failure in the parties' ability to perform their most essential function: to link society and the state.

In the experience of Canada and the United States, the changing political process, stemming at least in part from a desire for a more participatory and inclusive democracy, has engendered difficulties in finding new ways to accommodate this changed society. For example, right-of centre populism has emerged. In Canada, this new populism has taken the form of critiques of the institutions of representative democracy and a call for greater direct participation in political decision-making. The increased demand for direct citizen
participation in governmental decision-making has created extraordinarily high expectations for state responsiveness. The relative inability of government to respond to these heightened expectations has contributed to a growing dissatisfaction with government and public officials. This dissatisfaction, in turn, prompts renewed calls for direct citizen involvement.

In this context it is increasingly complex to achieve consensus and take public policy decisions. Policy is more subject to judicial review, and public discourse has come to be cast in terms of "rights" and "entitlements". (Simeon 1994) People now are struggling with the design of new forms of citizen-state interaction which may help to overcome the barriers of identity and specific interests.

In Western Europe, where there was a similar rise in participatory activity, protest, and expectations, the approach has evolved somewhat differently. The corporatist approach to policy-making has generally involved labour, business and agriculture with government. Relatively structured negotiations are joined to reach tradeoffs on crucial issues such as income policy and worker control. From one perspective, civil associations in these societies appear to be more inclusionary; an example is the scale of membership in trade unions. From this perspective, "the prerequisites for effective corporatism [are] a socially homogenous society, a social democratic government, strong and highly inclusive business and labour organizations, and a strong state tradition." (Simeon 1994: 12) But social protest in these societies has involved groups and perspectives not included in corporatist structures. For example, corporatist models have had difficulty including groups such as the Green Party in their framework. More recently, in conditions of economic austerity and reducing state programs, corporatist models have come under increasing strain.

In Europe and North America, citizen participation has been manifested over time in three main ways. Citizens have become more active in providing advice to governments in relation to public issues at every level. For example, there are citizen advisory groups in different cities or provinces or states on transportation, environmental issues, health and social questions, and so on. Second, citizens are much more engaged in delivering many public sector functions. They serve on the boards of directors of neighbourhood services, schools, and hospitals. They make suggestions or decisions regarding allocation and re-allocation of public funds. In some instances, citizens are directly involved in decision-making about public issues; joint labour force development boards involving labour and business with government are an example.

The evolution of citizen participation into both extensive practical involvement in governance and at the same time into interest groups and identity politics, may illustrate the strengths and weaknesses of pluralist societies. The strength of pluralism is evident where there is consensus on basic values and beliefs and the space or resources for competing modes of representation and involvement. The weakness lies in the difficulty of setting priorities among problems, and in the erosion of confidence in the system's efficacy. (Berger 1981: 21) In the face of multiple challenges of legitimacy and effectiveness, how is representative
democracy to function, and how is the relationship between citizen and state to be re-established?

The example of the tension in society among the voices of civil organizations, the concerns of citizens who remain unrepresented by associations, and the practical dilemmas of governing may help to inform South African efforts to strengthen civil society and to develop effective relationships between society and state. The efforts of South Africa to meet this challenge will also assist other societies to balance the tension of a strong civil society with multiple interests and a cohesive civil society with effective government.
CHAPTER 4. CITIZEN PARTICIPATION:
THE SOUTH AFRICAN EXPERIENCE

PARTICIPATION UNDER APARTHEID

This chapter considers the experience of and approach to citizen participation in the unique South African context. Many decades of apartheid shaped the definition of citizenship in undemocratic terms. Resistance to apartheid and the transition to democracy engaged South Africans in struggle and in new forms of participation and engagement. While the apartheid government and conservatives in the United States and other western countries often presented South Africa as one of the few democratic countries in Africa, the vast majority of South Africans have experienced life as subjects of an often brutal, racial dictatorship.

Beginning in the 1970s, however, the regime attempted to establish separate political institutions for the African majority and staged elections for that purpose. Subsequently, participation was formally expanded through the creation of black local authorities. These were then given representation on Regional Service Councils, created to coordinate the supply of utilities on a regional basis, particularly in the metropolitan areas (Humphries 1991 and 1992). Despite these attempts by the apartheid government to extend political participation to the black majority, the failure to concede the right of self-determination deprived these initiatives of any legitimacy.

The legacy of these staged elections, and the experience of governing authorities being elected by a mere handful of people and then being immediately alienated from their communities, highlight the dangers of attempts to manufacture participation. These experiences demonstrate that, unless there is a sense of belonging and ownership of the institutions of governance, promises of participation will turn into alienation. This experience also points to the importance of public awareness of the role and functions of specific institutions and how they relate to other aspects of governance.

In the context of apartheid, government denied African citizenship and lacked, therefore, attention to or concern for the rights and obligations of citizenship. The education system failed to provide any civics instruction to school pupils. The result is a lack of basic civics knowledge among all elements of South African society, itself a serious hindrance to public participation in governance, particularly when coupled with the legacy of the apartheid regime.
PARTICIPATION IN THE STRUGGLE AGAINST APARTHEID AND IN THE DEMOCRATIC TRANSITION

The experience of democratic participation during the struggle against apartheid provides the foundation for the extension of democracy. For most activists and communities, exposure to active political participation came in the trade unions, United Democratic Front affiliates, local community structures (street committees and people's courts), and civic associations. These voluntary associations took up community issues such as the high cost, or lack of, municipal services including rents, electricity, water and transport costs) and facilitated the creation of local community structures -- street committees and people's courts. These organizational networks carried forward popular resistance to apartheid from the late 1970s until the states of emergency which dominated the late 1980s.

The relative capacities of different sections of the democratic movement may be understood by briefly examining the development of mass organizations and participation during the last two decades of the struggle against apartheid.

During those decades, Africans continued to be excluded at the national level. The regime's 1983 reforms did, however, include participation for urban African communities in powerless local government structures or community councils. The attempt by these councils to raise rents and other municipal service charges in late 1984 was one spark that set off the urban revolt that shook South Africa from 1984 to 1987. The other was the coming into force of the 1983 constitution which attempted to divide the black community by extending political rights to members of the Indian and Coloured communities while continuing to exclude the African majority from political participation.

Grounded in the trade union movement which re-emerged in the 1970s and the community based organizations which developed in the late 1970s and early 1980s, the United Democratic Front (UDF) was launched in 1983. Unifying over 600 organizations, the UDF was established to oppose the new undemocratic constitution. While the UDF included women's, youth, sporting and other community based organizations, its backbone was the civic associations.

While the organizations that formed the UDF differed in strength and character, many black townships experienced forms of mass participation during the uprising. The ANC called on activists to make the country ungovernable. Street committees and people's courts functioned with varying degrees of success; at times they provided models of direct mass participation, while in some instances they degenerated into individual fiefdoms and coercive ad hoc kangaroo courts.

By the time the ANC and other political organizations were unbanned in February 1990, and the state of emergency was lifted, the trade union movement and various non-governmental service organizations -- including public interest legal institutions -- were the only parts of
the mass democratic movement that had not been almost totally disrupted by state repression. But from mid-1990 the ANC began to establish legal organizational structures and a mass-based membership and the civic and other organizations which made up the mass democratic movement began to reemerge in the townships.

Having failed to break township rent boycotts and other forms of local resistance, the state now attempted to begin local negotiations with the civic organizations. It attempted to strike separate deals and to exclude local socio-economic struggles -- housing, services, education -- from the national negotiations agenda. Recognizing the uneven degrees of organization and capacity among local communities, the state in this period (1990-1993) tried to insulate local struggles over access to resources from the more unified and coherent demands for national liberation and democratization.

The mass struggles of the 1980s seem to have prepared the ground for the extension of democratic participation in South Africa and even for the possibility of maintaining democratic associations of civil society. As noted, the trade union movement and, in particular, the Congress of South African Trade Unions (COSATU) were central to the UDF and the anti-apartheid struggle. Based on this legacy, the trade union movement continued to call for the participation of organized representatives of the working class in the political process, and for the incorporation of trade unions and management in the formulation and development of national economic policies. As the most structurally organized element of the democratic movement, COSATU’s policy of pushing for greater participation was enhanced by its position as one member of a tripartite alliance with the ANC and South African Communist Party.

During the democratic transition, the significant influence of the trade union movement was reflected in the ANC’s proposed Bill of Rights. This document continues to inform members of the Constitutional Assembly charged with producing South Africa’s post-apartheid constitution. In the ANC’s Bill of Rights, worker’s and union rights are enumerated in fine detail, while the rights of other organized elements of the democratic movement -- such as civic associations, youth and student movements -- are not explicitly articulated. This disparity is partly the result of the trade union movement’s organizational resources. It is also a result of the direct repression suffered by the democratic movement under the state of emergency, when organized labour was able to protect its organizational capacity by exploiting differences between the state and business interests.

A number of developments during the early 1990s also militated against the emergence of democratic alternatives. Most dramatic was the violence -- both communal and state sponsored -- which aimed to disrupt political organization and to destabilize the black townships. This created a climate of fear which in turn fuelled a tendency to political intolerance, and was itself exacerbated by the consequences of political intolerance. The most direct effect of the violence -- which included random attacks on civilians and public slaughtering of persons associated with certain political parties or even wearing politically
partisan colours -- was to reduce public political participation. Although ANC membership continued to grow, the early blossoming of ANC colours, sweat shirts and other garments gave way to ordinary members hiding their membership cards and avoiding being publicly identified as ANC members.

In an effort to reduce the violence, the major parties -- including the ANC, Inkatha and the government -- backed a business-church initiative which led to the adoption of a National Peace Accord on September 14, 1991. The Accord included detailed codes of conduct for political organizations and the security forces, as well as mechanisms for dispute resolution in areas where violent conflict had become endemic (Shaw 1993). A significant aspect of the Accord was its inclusion of parties other than government in managing the transition process (Marais and Rauch 1991).

This set an important precedent for the involvement of non-government organizations and political parties in monitoring state institutions. It included multi-party monitoring of the South African Police and multiparty participation in commissions of inquiry into violations of the accord. Note, however, that the police board established under the peace accord was merely an advisory structure which fit with the police force's own strategy of "depoliticization." Similarly the establishment of police-community liaison structures and special police investigation units to investigate police misconduct was consistent with the South African Police's own agenda to build police credibility (Marais and Rauch 1991 and Shearing 1991).

Nonetheless, the implementation of the peace accord at the local level took on wide significance. Even short-term failure of the peace process affected community attitudes towards participatory structures such as the police-community liaison committees, police reporting officers and civilian police management boards. The result of failure in the longer term would potentially be to delegitimate community control of policing both within the community and within the police force itself (Marais and Rauch 1991). The consequences of such failure are evident in KwaZulu/Natal where communities are still alienated from the police services while the police are constantly subject to public attack and suspicion. The success of these first experiences in officially sanctioned public participation in other parts of the country may be seen in the emergence of local policing forums in communities throughout the country and the increasing credibility of the new government's community policing policy in these areas.

A final comment about participation in the struggle against apartheid is to note the issue of intolerance. Political intolerance is the product of both apartheid's historical repression of free political activity and, to a lesser extent, the polarization of communities during the struggle against apartheid. On the one hand communities often rejected and expelled those who collaborated with the apartheid state. At the same time, activists -- in their attempts to mobilize communities -- often advocated a simplistic division of all members of the
community into those who were for or against "the system." All too often, this led activists
to characterize those with whom they had political differences as the enemy.

The consequences of this political intolerance was felt within civic associations. Even when
an attempt was made to define the civic association as representative of the community and
not part of a particular political formation, there were conflicts over which political
formation was ultimately in control of a particular civic. There was, at times, confusion
within the civic over their future political role. On the one hand some ANC members
accused others who were active in the civics of prematurely distancing the civics from the
ANC. On the other, members of the Pan-African Congress and the Azanian People's
Organization charged that because the very same civics refused to distance themselves from
the ANC they were therefore ANC-aligned and not independent community organizations
(Daniels 1991a).

**PARTICIPATION IN BUILDING A DEMOCRATIC SOUTH AFRICA**

The debate on participation has continued in the building of a democratic South Africa.
Discussions range from alternative ways to promote democratic participation, to ways to
build civil society and increase the role of existing popular organizations such as the trade
unions and civic organizations in public policy formulation and implementation (Shubane and
Madi 1992; Narsoo 1993; Friedman 1993). Since the 1994 elections, the call to expand
democratic participation has also been taken up by newly elected members of Parliament and
members of provincial legislatures.

The trade union role continues to be very significant. The trade unions’ demand for a
macro-economic negotiating forum, asserted in the 1991 anti-VAT campaign, is relevant to
these discussions of democratic participation. The anti-VAT campaign had two central
focuses. First, it articulated a general political challenge to the apartheid government’s
legitimacy, demanding there be no taxation without representation; secondly, it demanded a

The general strike on November 5 and 6, 1991, -- in which about 3.5 million people, or 90
percent of the black workforce, participated -- was a dramatic assertion by the trade union
movement that it could not be excluded from the process of economic policy formulation.
Although it was organized to protest the de Klerk government’s imposition of value-added
tax, the strike raised issues far beyond VAT. Then COSATU general secretary, Jay
Naidoo, described it as "a referendum which demonstrated a vote of no confidence in the
government" (Daniels 1991b).

In addition, the experience of the trade unions in negotiating the COSATU-SACCOLA-
NACTU accord on the Labour Relations Act in 1990 -- a bilateral agreement between the
trade unions and business which forced the state to withdraw unacceptable labour legislation,
stimulated the debate on the role of the trade unions in a post-apartheid South Africa. The suggestions ranged from the notion of a multilateral "reconstruction accord" to arguments for a new social contract founded on bilateralism or even the more established European model of trilateralism (SALB 1991). At first the debate focused on the distinction between two proposals. The National Union of Metalworkers proposed a union-led national development strategy to be based on a "reconstruction accord" negotiated between the unions and other mass based organizations including progressive political parties, (van Holdt 1991). The other side of the debate was a bipartite approach which envisioned unions exerting their influence on society through collective bargaining with employers, an approach represented by the COSATU-SACCOLA-NACTU accord (Copelyn 1991).

Trade union practice seemed, however, to pursue a complex array of strategies, including exchanges of views between COSATU and ANC economists, continued bilateral negotiations with organized business, and assertions of the need for trade union independence from a future government. Central to the discussion of trade union independence was the process of preparing a Worker's Charter to supplement the proposed Bill of Rights in a post-apartheid constitution. As a result, discussion increasingly turned to the question of whether the trade unions were moving toward support for the idea of a social contract or partnership (von Holdt, 1991b). The result was a multiplicity of forms of participation which at times supplemented and at times undermined the demands of organized labour. In this sense issues of participation will always remain deeply embedded in the particularities of historically defined struggles, and are never definable as either/or choices.

Any analysis of this debate within the unions is further complicated by the shift in strategies as the democratic transition unfolded. Naidoo (later Minister of Reconstruction and Development) emphasized both the centrality of the "organizations of civil society" to the strength of the democratic movement and the need to ensure that, although only political parties were entitled to take part in political negotiations -- through the "All-Party Conference, the interim government and the constituent assembly" -- this did not preclude negotiations over economic issues (Naidoo 1991).

COSATU's call for a macro-economic negotiating forum and for working forums on housing, education, health, technology, investment policy and industrial restructuring to include "broad constituencies that represent the people," (Naidoo 1991) seemed to reflect the earlier call for a "reconstruction accord". However, this proposal went beyond the call for negotiations within the democratic movement and towards the notion of a wider social contract upon which to base the democratic transition. This principle of direct participation by civil society-based associations in policy formulation and decision-making highlighted the associational aspects of these developments (Nkosi 1993).

In October 1992, labour, business, and government launched the National Economic Forum to address issues of economic growth, social equity and democratic participation in decision-making. The parties "noted the severe inequality in incomes, skills, economic power and
ownership in South Africa and agreed to establish a 'consensus geared co-operative body to deal with economic and related socio-economic issues and the economic challenges facing the country'" (Patel 1993). This trilateral approach to a major initiative was a significant development. While it did not exclude the possibility of pursuing different strategies in the future, it posed important challenges to democratic participation. Implicit in the formation of a macro-economic negotiating forum is a form of corporatism which suggests a possible danger in that the trade unions and other organizations may become tied into a trilateral negotiating system at the national level. They may become bureaucratized over time and thus weaken or exclude local participation (Ryan 1993).

Although community organizations played a major role in the democratic movement during the 1980s, they were severely weakened by state repression. After the State of Emergency was lifted, civic associations re-emerged and began to unite in regional bodies, such as the Civic Association of the Southern Transvaal (CAST). In 1991 the UDF was formally disbanded and its resources redirected to the establishment of a national civic coordination body (later transformed into the South African National Civic Organization --SANCO). But there was no consensus as to the long term role of the civics. Some activists argued for an independent "watch dog" role over a new government, while others argued that they should take a more proactive stance and become directly engaged in the development process. An example of such engagement in development was an agreement between SANCO, COSATU and the civil engineering industry which provided a framework for labour intensive public works projects while averting conflict between the labour movement and unemployed communities (Cullinan 1993).

Community activists were also concerned to "prevent the consolidation of democracy destroying the popular organizations that were the protagonists of the struggle" and which have the greatest potential of contributing "to establishing the consensual basis and values upon which democracy could be built" (Parraguez 1992). They focused on alternative ways of promoting democratic participation, of building civil society or increasing the roles of existing popular organizations in public policy. On the one hand there has been increasing debate on the nature of civil society and its role in what one commentator termed "building 'voice' at grassroots level" (Swilling 1991). On the other hand, existing social formations such as the trade unions and civic associations have begun articulating new roles for themselves as participants in the democratic process. What is clear is that the promotion of democratic participation and a democratic culture in general must learn from and remain rooted in these experiences of voluntary association which have been so central to South Africa’s democratic transition (but cf. White 1995).

**THE EMERGENCE OF NEW "SITES" OF PARTICIPATION**

As the various political and social formations which participated in the struggle against apartheid began to orient themselves to the new conditions created by the democratic
transition, a series of new opportunities or "sites" of participation emerged. Among these were negotiating forums, organized at every level from the national to the local, as well as the wider constitution-making process which called for participation within political formations and by the general public. Finally, with the emergence of a government of national unity committed to a program of Reconstruction and Development, there emerged an institutionalized policy for the creation of new policy forums and sites of participation in the implementation of government policies. These post-apartheid initiatives are the basis for encouraging more direct citizen participation in the legislative process.

The first of these new post-apartheid initiatives was the establishment of a National Development Forum. It was initiated by the ANC and aimed to pull together regional and local development actors to discuss a national development policy for adoption by the ANC. The development forums were also conceived as a means of promoting participation and directing resources to locally determined needs and projects. Although the ANC adopted a national Reconstruction and Development Programme, which has become the formal policy of the new government, it was shaped more by internal ANC policy procedures -- including a series of conferences culminating in a national policy conference in December 1993 -- than by the National Development Forum.

In the evolution of citizen participation through new and emerging processes, there is constant interaction among forums, civic associations and local government. The evolving and experimental nature of much of the participation reinforce a lack of clarity about how these different modes of participation work together.

For example, civic associations became deeply involved in negotiations at local and metropolitan levels to establish transitional local government forums. These were intended to begin integrating the administrative and resource-bases of former apartheid cities and towns (Shubane and Shaw 1993; Atkinson 1992). Once local government structures were democratized and local government elections held, the role of civics became less clear. Some activists argued that they should remain autonomous of local government and should retain an independent role as "secondary" associations raising community issues. Whether civics will continue to play an active role in local development forums or what their relationship will be to elected governments remains unclear.

The future of the civic movement also seems to be closely linked to the experience and continuation of forums. While civic associations emerged in a context where there was no other legitimate form of governance, the forums developed as a site of interaction between the recognized authorities and oppressed communities. They have developed on both a sectoral basis (housing, transport, health, etc.) and geographically (Shaw and Shubane 1994). But many of the forums began to take on the form of a "weak or thin corporatism" by comprising a set of interest groups -- stakeholders -- concerned with a particular set of issues. The form of participation represented in the forums is akin to understandings of functional democracy which underlie more formal systems of corporatism.
Discussion of the role forums could play in a democratic South Africa has moved from their initial role in transition to a sense that they should be a "democratic form of corporatism in which autonomous, independent bodies are drawn into decision-making" (Maree 1994). While this analysis is consistent with the distinction between societal and state corporatism, it is also important to distinguish between those forums in which participation is fairly exclusive and those which are more inclusive but have far less impact on policy-making (Richer 1994). This distinction spans a series of issues that arise in connection with the forums and the nature of the participation that they generate.

First, the closer a particular forum is to exercising decision-making powers, the more concern there is going to be about the specification of the interests which are or need to be represented. However, if a forum is restricted to the exercise of 'strong advisory powers' (Schreiner 1994) there will be less pressure to establish a classic corporatist structure with a closed membership. These questions of inclusion and exclusion -- including who has the power to invite participants to a particular forum -- shape the nature of the participation which can be achieved through these structures. The greater the decision-making power or influence of a particular forum, the more difficult it will be the legitimize the process of inclusion and exclusion, without resource to formal democratic processes, i.e. elections.

Second, the nature of the issues around which a forum is established will help shape the participation it generates. Labour issues have traditionally been at the forefront of the corporatist model with tripartite participation of labour, capital and the state. Decisions taken in this context may be formally binding on the parties or may merely carry great weight due to the relative power of the participants. For example, a high degree of conformity was generated once consensus had been reached in the NEDLAC process.

In contrast, community-based forums dealing with education, housing and utilities are subject to much greater debate as to the nature of participation. Should participants be community-based, non-government organizations, political parties, or even locally elected representatives? Is the forum advisory or will it reach binding decisions? Who should be bound by the forum's decisions: the local, provincial or national legislature? And where should the resources come from to carry out the forum's mandate? These questions illustrate the lack of compatibility of strict corporatist models with the emerging institutions of representative democracy.

Third, what should be the relationship between forums in which there is a high degree of public participation and elected government? If the forum is merely advisory, what will be the impact if the relevant government structure acknowledges the forum's input but consistently ignores the forum's decisions or advice? If the forums are not to become mere adjuncts of government, which is the concern if they are transformed into statutory bodies (Heymans 1994), and are to retain their character as organs of civil society (Mkhabela 1994), they must "not merely consult people but secure their active participation" (Rasethaba...
1994). If they are decision-making groups, how do they avoid the responsibilities of power and how are they accountable to citizens?

Finally, there is the problem of resources. If forums are to play a role in public policy formulation and the development process they will need to develop administrative capacity and have secure access to financing. This creates a serious problem of potential dependence, particularly if government is the source of financing.

**Participation in the Constitution-Making Process**

The nature and focus of public participation changed again with the development of the new South Africa constitution. In particular, CODESA and, later, the multi-party negotiating forum, dramatically altered the nature and focus of participation.

On the one hand, negotiations and decision-making began to be centralized in political parties rather than in local forums which incorporated community-based organizations and a range of stakeholders. On the other hand, the new focus on constitution-making reoriented the issues so that a new set of identities and concerns became the focus of participation and mobilization. Replacing the fairly clear division between the old order, on one side of the table, and those demanding change on the other, issues emerged that brought participants together across party lines and even across the traditional divide between the supporters and opponents of apartheid. For example, women came together from all political groupings to demand more participation for women in their own parties and in the forum itself. Another example was the emergence of ethnic mobilization as a focus of demands combined with claims for the distribution of powers to regional governments. The most dramatic assertion of new alliances was the invasion of the world trade centre in Kempton Park where the negotiations were taking place.

During this period the anti-apartheid forces also maintained a high degree of popular mobilization with a number of campaigns of mass action called to put pressure on the negotiating process. These bouts of mass action were mainly associated with moments of crisis in the negotiations. But at times they involved the mobilization of a particular sector -- workers or rural communities -- who were demanding that a particular issue be incorporated or settled in a particular way in the constitution.

Within the political parties, too, the first round of constitution-making generated participation ranging from conferences and meetings to formulate constitutional proposals to educational activities within branches to explain the parties' positions and generate support for particular constitutional options. Within the ANC this involved a series of conferences held by the ANC's Constitutional Committee to help formulate constitutional positions. The ANC also established negotiating forums within the party to keep the membership informed and involved as the process unfolded. The change following the elections from an unselected negotiating forum in which all parties were in theory equal -- although the notion of
sufficient consensus used to force decisions when a consensus could not be reached recognized the greater power of the main players -- to an elected Constitutional Assembly (CA) has dramatically transformed these forms of participation.

Although there will continue to be protests supporting or opposing aspects of the constitutional proposals now being discussed, the role of the political parties and even constitutional advisors is now formally established by the interim constitution. The Constitutional Assembly itself is encouraging participation. With a large budget and a strong commitment to reaching the population, the assembly has been holding meetings throughout the country to hear the views of ordinary South Africans. It has been conducting a massive public education program on the procedures and substantive issues being addressed in writing the new constitution.

In adverts painted on the sides of buses and full-page newspaper adverts, the public is called upon to submit their views for the creation of a new constitution. With approximately two million written submissions, which are reportedly used to produce reports to the Constitutional Assembly, the response to the call to participate has been overwhelming. Unperturbed by the difficulty of seriously processing so many individual submissions, the Constitutional Assembly’s education program has included provincial telephone help-lines to answer specific queries and an audio-text Constitutional Talk-Line which provides pre-recorded information in a selection of languages. The talk-line has interactive capacities and allows callers to record verbal opinions which are included as part of the submissions to the Constitutional Assembly.

These activities of the Constitutional Assembly are being supplemented by a national TV program which focuses on the issues before the constitution-making body. People with access to the Internet can, through an especially created world-wide web site, directly access provisional draft texts of the different provisions of the new constitution as they are being developed and debated by the Assembly.

While these outreach efforts have indeed led to a dramatic number of submissions indicating massive individual participation in the process, there are concerns about the efficacy of this participation. Clearly the process may be extremely effective at allowing millions of South Africans to feel closer to constitution-making -- a good in its own right and a very important source of legitimacy for the future constitution. But the political parties and their advisors, who are included in the workshops of the theme committees addressing particular issues, have much greater influence on the process. When a theme committee brings in stakeholders -- members of interest groups who are mobilized around a particular subject -- to address a particular constitutional problem or issue, the views of these stakeholders will have the greatest impact on the constitution-making process.
Participation and the Reconstruction and Development Programme

Describing the ANC's Reconstruction and Development Programme (RDP) as a site of struggle, ANC member of parliament and former general secretary of the National Education, Health and Allied Workers Union, Phillip Dexter, argued that the RDP "presents an opportunity to set our struggle for socialism back on its feet again" (Dexter 1994). His claim that the RDP offers an "opportunity to establish a new, progressive hegemony that embraces the values and principles to which the mass democratic forces have committed themselves," is based on the RDP's explicit commitment to democratizing the state and society. Stating that "democracy for ordinary citizens must not end with formal rights and periodic one-person, one-vote elections," the RDP envisions a democratic order which fosters a "wide range of institutions of participatory democracy in partnership with civil society" (ANC 1994).

The RDP, which is now government policy and subject to constant reinterpretation by political processes and the implementing bureaucracy, envisages two distinct forms of associational participation in governance. First, it foresees a role for democratic associations in the policy-making process (Hlangeni 1994). To this end the RDP calls for a continued role for sectoral forums such as the National Economic Forum. And it proposes establishing more multipartite policy forums at the national, regional and local level "to promote efficient and effective participation of civil society in decision-making" (ANC 1994). Second, the RDP argues that organizations within civil society "will be encouraged by an ANC government to be active in and responsible for the effective implementation of the RDP" (ANC 1994). In this context the RDP calls upon the trade unions, sectoral social movements and community-based organizations -- particularly the civic associations -- to "develop RDP programmes of action and campaigns within their own sectors and communities", and to participate actively in "democratic public policy-making" (ANC 1994).

Implementation of the RDP -- although guided by a national framework -- will depend on the functioning of local and provincial governments through which communities and community based organizations are to access the program. The business of establishing nine new provincial governments and resolving the division of powers between the national and provincial levels, is one set of difficulties. In addition, the transitional arrangements for local government impose potentially serious limits on democratic participation.

Local Government as a "Site" of Political Participation

The RDP calls upon democratic associations to establish their own RDP programs in their communities. But the transitional arrangements for local government lock community-based associations into a continuing negotiation with old governing structures. The 1993 Constitution provides for the phasing in of local government through interim procedures detailed in the Local Government Transition Act (Act 209 of 1993). Once the restructuring of local government was completed, "democratic" local governments were to be established.
based on a mixture of proportional and ward representation (s 179). This scheme was designed to ensure a disproportionate representation of the formally non-African sections of town and city. This first phase of local government restructuring was achieved through a Provincial Committee for Local Government in each province. These committees were empowered to recognize forums which in turn were responsible to negotiate the terms for transitional local or metropolitan councils. (s 3). Section 11 of the Local Government Transition Act also established provincial Local Government Demarcation Boards whose function was to delimit local government areas and electoral wards within such areas. This prepared the way for the first democratic local government elections which were successfully held in most parts of the country on November 1, 1995.

Autonomous local government is guaranteed in terms of s 174 of the 1993 Constitution. This guarantee also obliges a local government to "make provision for access by all persons residing within its area of jurisdiction to water, sanitation, transportation facilities, electricity, primary health services, education, housing and security within a safe and healthy environment" (1993 Constitution, s 175(3)). Although this provision recognizes the socio-economic rights demanded by the ANC's constituency, it is immediately constrained by the proviso that "such services and amenities can be rendered in a sustainable manner and are financially and physically practicable" (1993 Constitution, s 175(3)). The dilemma in this arrangement is the real or potential conflict between the responsibilities of local government to deliver services and the RDP commitment to empowering community-based associations which have more authority but neither resources nor accountability.

While s179(1) of the 1993 Constitution requires local governments to be democratically elected, the electoral system thus established in effect sets up a consociational system of local government. With votes based on a combination of proportional and ward representation, and with wards distributed according to old apartheid boundaries rather than in proportion to the number of voters in any particular area, the electoral system ensures that apartheid geography will provide a veto over budget allocations at local government level. The electoral system will perpetuate a degree of racial representation in local government until either the form of representation is changed or communities become effectively integrated. Whether these provisions granting unequal weight to individual votes will survive or whether they will be swept aside by the constitutional assembly is not yet clear. However, they may become the focus of political conflict as local activists attempt to engage the RDP only to find themselves faced with the local embodiment of the government of national unity and the commitment to national reconciliation which made the transition possible.
CHAPTER 5. THE GAUTENG LEGISLATURE: REPRESENTATION AND PUBLIC PARTICIPATION

The provincial legislature in Gauteng province is a very new institution. When the project was initiated, it had been in existence for only one year. Members had devoted considerable time to developing procedures for the body, to establishing standing committees, and to exploring ways to ensure a responsive legislature.

This chapter analyses the state of public awareness about the legislature based on a brief survey in one township. It also presents the views of members of the legislature on the current state of their work. Both these viewpoints stress the need to increase contact between members of the legislature and their constituents. The question is how such contact can be facilitated.

The chapter discusses approaches to public education about government, and the role of constituency service in linking members and their communities. The practical examples illustrate ways of heightening awareness and understanding of the role and function of the provincial legislature.

PARTICIPATING IN THE GAUTENG LEGISLATURE

Since its inception the Gauteng legislature has directed a significant amount of its energies and resources towards facilitating public participation in its work. Initially the work focused on the formulation of the legislature's standing rules. Then the Petitions and Public Participation Committee (PPPC) adopted as its primary focus the question of public engagement and responsiveness. To this end, the PPC held a series of meetings in which it heard presentations and sought input on the issues facing the committee. The Report on Proposed Petitions Rules and Procedures has formed the basis of the petitions process now being established by the committee.

In the process of formulating the standing rules of the legislature, the Rules Committee hosted a conference in August 1994. This conference helped to integrate the work of the PPC into the discussion of the rules. The conference focused in particular on the role and structure of the standing committees, the rules governing the actual passage of legislation, and the issue of public participation. From this process the standing rules emerged in September 1994.

The standing rules provide a structure for public participation in the legislative process through the creation of standing committees and specific procedures for participation. Among the procedures established in the Standing Rules are:
the guarantee of public access, which is to be regulated by the Speaker within
the framework of s 142 of the interim Constitution which provides, in part,
that "sittings of a provincial legislature shall be held in public";
(2) the provision that sitting of a committee shall be held in public and that the
proceedings of the committees may be published on the authorization of the
Speaker;
(3) the requirement that bills, other than money bills, be published for written
comment, that notice of the bill be published in at least two newspapers and
that a bill be accompanied by a memorandum on the proposed law. This
memorandum must be drafted in simple and clear language, outlining the
purpose and expected effects of the bill -- including a social impact statement
and consideration where applicable or necessary of consequences to the
fundamental rights guaranteed in the interim Constitution or to the
environment;
(4) specific provisions on public participation including the publishing of a
parliamentary diary;
(5) provisions for the submission of petitions based on the constitutional right of
petition contained in s 16 of the interim Constitution;
(6) a provision empowering a legislative committee to recommend that the
legislature provide financial and other assistance to enable a person to petition
the legislature or to appear before a committee or even to obtain counsel for
that purpose; and,
(7) finally, the rules provide for the Secretary of the legislature to allow members
of the public access to the records of the legislature unless ordered otherwise
by the legislature.

In this context, the Petitions and Public Participation Committee, together with the Speaker's
office, embarked upon this research project. While the Gauteng legislature has been in
existence for little over one year, there are fairly clear indications as to how public
participation in the legislature and interaction between members of the legislature and citizens
of Gauteng have begun to evolve.

Our analysis of the evolution of public participation in relation to the Gauteng legislature is
based on three sources. First, we have incorporated the findings of a preliminary analysis of
the functioning of the legislature's standing committees conducted by the staff of the
legislature. Second, we have conducted interviews with a randomly selected members to
evaluate their experience of the committee proceedings and interaction with the public.
Third, we have designed and conducted a series of interviews in Vosloorus, a community in
Gauteng which is fairly representative of urban African communities historically
marginalized by apartheid. The focus of these interviews was to obtain an impressionistic
sense of the community's relationship towards and understanding of the Gauteng legislature
and its members.
The View from Inside

Two distinct elements characterize the present state of participation within the legislature. First, the staff research indicates that public participation in the standing committees and the formal legislative process has generally been dominated by well-resourced groups within Gauteng society. Second, interviews with members of the legislature indicate that their main axis of communication with the public is through the internal structures of the political parties. Some members do, however, indicate that they retain links with sectors of civil society that they as individuals have historically participated in, from women’s groups and professional contacts to the trade unions.

Both of these characteristics has its own set of causes and consequences. While the fact that the better resourced groups dominate the public hearings in the standing committees comes as no surprise, the consequences of this are a matter of concern among members of the legislature.

On the one side, members who see themselves as representing the mass of historically excluded and marginalized communities within Gauteng, argue that, although the hearings provide useful alternative views of a problem, in the end they have to rely on their own understanding of the problem because their constituencies are not adequately represented in the public hearings.

This difficulty is exacerbated by the perception and practice that minority parties actively work to ensure that organizations and individuals who hold similar views to themselves participate in the hearings. The purpose of this activity is so that the party can later point to the evidence presented in the hearings as the basis for their originally formulated views.

On the other hand, members from minority parties express the view that, when it comes to contentious or ideologically divisive issues, the hearings are a waste of time. Although views they feel are representative or important may be articulated in the hearings, these views have little impact on the final outcome. The majority party, they argue, will stand by its own internally formulated position regardless of the inputs presented in the hearings.

The dominant role of political parties in the legislature is evident too in reports by members of the legislature that their primary connection with citizens of Gauteng is through political party structures. Significantly, this connection varies dramatically between members of the legislature depending upon the particular political party’s history of engagement with the community and the form of its internal structure.

While some of the parties -- particularly those whose electoral support is concentrated in specific areas -- continue to orientate their activities and communication with the electorate around these same, particular, geographic constituencies, other parties -- particularly the very small minority parties -- are linked to the electorate through party branches and community-
based organizations such as churches or civic associations that are either loyal to the party or have a common interface with the party.

While those parties which have localised support find it difficult to move beyond these geographic areas, the majority party is experiencing difficulties in creating a geographic distribution of its legislative members that will enable it to service even the communities where its support lies.

Minority party members also express concern that the impact of a party oriented system is that members of the legislature only get access to members of their own parties. Party members will travel from one end of Gauteng to another to consult with their party's sole or few representatives but the members of the legislature cannot get access to the wider community outside of their party structures. This is exacerbated by the degree of political intolerance in communities and the fact that the media no longer seems to be taking much interest in the workings of the Gauteng legislature. The result is an increasing sense of isolation coupled with a retreat towards the representation of very particular interests. In this regard one member emphasized the need for members of the legislature jointly to address community meetings in their role as members of the legislature so as to introduce the work of members as public representatives outside of a purely political party environment.

Even members of the majority party -- who are often assigned to geographic areas far away from the communities in which they have built their political lives -- have fallen back on their past links with community based organizations and the trade unions as the only basis for communication with the electorate outside of strict party structures.

The View from Outside

To understand better the relationship between citizens and the Gauteng legislature we decided to conduct an impressionistic survey of a Gauteng community that meets all the criteria of a generally marginalised community. Initially we understood the mandate of the project as a focus on marginalised sectors of society including women, youth, unemployed and homeless people. But it soon became apparent that in terms of the legislative process and government in the province, the vast African working-class communities, which apartheid planners isolated from the city centres with little infrastructure and high degrees of deprivation, remain largely marginalized from the process of governance. While this situation may change with the election of democratic local government structures, from the perspective of the provincial legislature the consolidation of representative democracy requires that these communities -- which lie far from the centre of Johannesburg -- be brought into the mainstream of the legislative process.

For this purpose we focused on Vosloorus, a township which falls under the jurisdiction of Greater Boksburg on the East Rand. Essentially a working-class community, Vosloorus is
notorious for having one of the highest crime rates in the country as a consequence of the extremely high levels of unemployment and poverty in the community.

Most of the residents who are employed work in manufacturing industries in Wadeville (Greater Germiston), Alrode (Greater Alberton), Dunsward and Boksburg South (Greater Boksburg), and in the industrial areas of Johannesburg -- Cleveland, George Goch and Ben Rose. Most of this work is unskilled or semi-skilled. Most residents live in "four-roomed" low-cost, state-constructed houses. Although three small middle-income areas were added in the 1980s, these still form a very small section of Vosloorus.

Established in 1964 when most of the original residents were forcibly moved from an area known as 'Stintinville' -- which is today the former "coloured" area of Reiger Park -- in Johannesburg, the community has remained politically active and was an active area of resistance during the anti-apartheid struggle. The community has a strong religious presence and a wide range of community-based organizations are active in the community. There was a large turnout in the recent local government elections (November 1995) and ninety percent of the electorate voted for the ANC in the proportional representation vote. All the wards in Vosloorus were won by ANC candidates, although there was some controversy about the selection of candidates within the ANC branches in the community. In at least one incident the candidate proposed by the local ANC executive was rejected by the branch in favour of one whom branch members felt was closer to them.

Given the density of community organizations in Vosloorus, we decided that the best method of conducting this very limited set of interviews would be to identify individuals on the basis of a social-map of the community. We produced a social-map of the community by identifying the different forms of community-based organizations active in the community including: local trade union branches, political party structures, civic associations, parent-teacher associations, night schools, burial societies, churches -- mainstream and traditional African independent churches -- women's groups, Vosloorus Women's Organization, Tshwaranang Women's Club, old age pensioners, library users committee, a Rastafarian organization, tavern keepers, spaza shop (street stand) owners, traditional healers and local forums including the community policing forum, the sports forum, and the Reconstruction and Development Programme's local development forum. Interviews were then conducted with individuals who were identified as participants or members of these various community organizations. Individuals were however approached and interviewed as individuals and were not made aware that they had been chosen because of their activities or membership in any particular organization.

A total of 29 interviews were conducted in which individuals were asked the following set of questions:

1) What have you heard about the Gauteng legislature?
2) How is the Gauteng legislature relevant to you and your community?
3) Have you ever met any members of the Gauteng legislature who were elected last year? Or heard of any coming to your community? (If yes, have you heard of any members of the legislature holding meetings in your community?
4) How do you find out about issues of concern to you? Where do you go in your community for information?
5) If there were to be a meeting about some issue (such as housing) how would you find out about it?
6) In your community, who do you believe if they tell you something?
7) If you have any complaints about existing laws, or think something should be changed, who would you go to about it? How would you go about it? (Prompt: would you demonstrate with your neighbours? Ignore the law? Go to the local branch of a political party? Contact someone in government or a member of the legislature?)
8) How would you compare the way issues are dealt with in your community now, compared with a few years ago?
9) What language do you think you need to use if you deal with the legislature? (Or with government?)
10) a) How old is the respondent?
   b) What is their employment or economic activity?
   c) How long have they lived in this community?
   d) What sex is the respondent?
   e) Does the respondent have children? How many?
   f) What is your first language?
   g) What other languages do you speak and understand?
   h) How many years of school did you attend?
   i) Do you live with your partner and children?
   j) How much do you earn per month?
      R 500 -- R2,500
      R2,500 -- R5,000
      R5,000 and over

Of the 29 people interviewed, 27 demonstrated some awareness of government, the legislature or politicians. However their responses in most cases were vague and frequently reflected that they had heard about the legislature or had seen people discussing it on television, but they did not know how it works or how it relates to them. Two responses illustrate this:

"The only time I hear about this structure is by accident. Fortunately, I work for the Greater Boksburg City Council, therefore I am in a strategic position to hear about this institution. The constituency I come from is not in a similar fortunate position. This structure is far away from them. It is miles away psychologically and physically."
"I heard that sometimes they discuss arts and culture. That they have a committee which deals specifically with these issues. Although we made submissions which up until today have not been responded to. As a result I am beginning to doubt the essence of the committee and its relevance to me."

Asked whether they had contact with members of the legislature who had been elected last year or had heard of any members coming to the community, 13 of the interviewees named politicians they had heard of. The most frequently named were Premier Tokyo Sexwale and Mr Elliot Sogoni who lives in Vosloorus. Mary Metcalfe and Jessie Duarte were named by two to three respondents as having addressed the community regarding the education crisis and crime issues respectively. Most of the respondents (17) said that they received their information from the media -- newspapers, TV and radio -- while 11 interviewees stated that they received information at area and community meetings as well as through letters distributed by community-based organizations including women's organizations, the creche association, etc.

Asked to compare how issues were dealt with in the community in the past as compared to now, most responded that there had been no change. An even number were divided over whether matters were handled better or worse than before. A number of interesting statements included:

"Resistance was the central method in the 1980s. The same still applies today, but in a very confused way, because the people who led resistance are now in government offices"

"My advantage is that I have always belonged to local structures. Be they street committees, area committees, even Cosatu local. So that I have seen consistency in the way issues have always been resolved. By other words, the meetings and disciplinary hearings which were existent in these structures a few years ago, are still there. Although, as I said earlier, there has been a disappearance of the best leadership of the past."

"For us it is a continuation from where we left off. As a result of material deprivation, there is no way in which we can say things have changed. If one says things have substantially changed one is clinging to an illusion. That will mean one has not been to Vosloorus to see the high level of crime especially murder, rape, assaults, many which go unpunished as a result there is lack of confidence in the authorities."

"Males are the ones who make laws; the legislature make laws which favour male patriarchy. Issues like rape, prostitution and child dumping are not taken seriously. This seriously impedes that way in which women legislative progress can be said to succeed . . Presently the battle lines are been clearly drawn. There is no way that
even our comrades can hide behind apartheid. Women’s issues are attended to by women. And they have to be resolved . . . need women to devise their own strategies to deal with them effectively."

As can be seen from this brief presentation, the choice to target individuals active in community-based organizations led us to people who possibly have a greater degree of political awareness and experience than the average member of the community. This makes it more significant that so many of these respondents had such vague, if any, understanding of the activities of the Gauteng legislature. The responses also indicate a significant distance between local level activists or participants in community-based organizations and the legislature. Although members of the Gauteng government are more easily recognized, given their interactions with the community on such pressing issues as crime and education, and Mr Elliot Sogoni is recognized as a member of the community (he is also a member of the local ANC branch executive) there is little awareness of the legislature as an institution.

While these impressions are hardly surprising given the short time the legislature has been in operation, the lack of a constituency-based electoral system, and the lack of civic education in the school system, they do indicate that there is much scope for the legislature to reach out to communities such as Vosloorus where large numbers of citizens live. As far as public participation in the legislative process is concerned, the impression from the survey reinforces the indications from interviews with members of the legislature and research done by the legislative staff. What participation there has been has thus far been the preserve of more resourced organizations and sections of the Gauteng community.

Some of the interviewees specifically detailed people’s personal alienation from the legislature in terms of the "building, the language and the distance," indicating a need for the legislature to seek ways of making its presence felt in communities, particularly in marginalized communities where the majority of the electorate live. While one member of the legislature did not feel that "ordinary people have a framework within which to discuss issues", and that the average person in these communities "just wants basic needs", the responses of the interviewees and the degree of organization and participation in the community indicate a much greater potential for engagement in the democratic process -- a potential that the legislature can choose to realize.

PUBLIC EDUCATION AND AWARENESS OF THE LEGISLATIVE PROCESS

This section of the paper addresses the question of how the Gauteng legislature might reach out and inform the community of its general role and mandate. There is an essential relationship between people’s knowledge about the legislature, and their ability to approach it or participate in the legislative process in any way. The objective of educating the public about the role and mandate of the legislature needs to be approached strategically. Greater
awareness will help foster participation, and specific initiatives can increase awareness and knowledge.

Public education is not an advertising campaign. It is a slow, laborious process of setting the context for citizens to understand and use their legislature. The elements of a strategy can be built over time, using whatever resources are available and maximizing outreach through partnerships.

There are many communications methods available to the legislature. The issue is to understand as clearly as possible the environment in which one is trying to communicate, and the way the important messages will be heard. It is also important to be clear about the essence of the message. Then it is useful to consider a range of possible strategies which will convey the legislature’s messages in this environment.

Given the level of knowledge about the legislature at this stage, it will be important to think of the public education approaches as being multi-phased and rolling out over several years. While it is not possible for the purposes of a pilot project to mount a multi-year effort, it is useful to consider how any pilot exercise would fit into a larger strategy.

It is also important to be very clear about the objectives of communication. While they add up to the importance of informing people about the legislature and its role, the objectives of public education can include for example, helping to channel people to the legislature for redress of grievances, helping to foster the use of parliamentary processes rather than extra-parliamentary ones, and helping to introduce the members of the legislature to their constituency on a wider basis.

A number of key challenges exist which an education strategy would need to address. These include the level of public awareness, the level of literacy, the access to media among different parts of the population, the complexity of the environment itself, the number of competing messages, the resources needed to reach people, and so on. There are issues of language and geography. There are many different publics in the province, and the legislature is particularly interested in reaching the most marginalized. How they may be reached is the key question.

As well, opportunities for communication will present themselves or can be developed. Given the complexity of the problem of public education, it is important to seek out potential partnerships with different sectors of society, and use a range of available ways of reaching people.

Several key strategies may be considered as part of a total plan. For example, making the work of the legislature more visible to people in communities; creating partnerships for public communication; making use of the education system itself; building on functions of the legislature, such as the petitions process; working through the political parties; and using the
parliamentarians themselves in public education. These possible strategies are discussed below.

**Increase the Visibility of the Legislature's Work**

Many countries with established legislatures have the practise of providing the media with information about the legislature and its members. Usually following an election, there is coverage in both print media and on television and radio about the new members of parliament and the issues the legislature will address. In Gauteng, where there is already coverage of the legislature, it may be possible to expand this to include basic information about the legislators and the functioning of the legislature itself. This approach requires preparation of basic material and establishing relationships that enable existing media to use it. When the objective is to make available general information about the legislature and its members, this approach can be developed gradually and implemented over time. Repetition is key. When the objective is to express some of the goals of the legislature -- such as openness and responsiveness -- this requires different tactics, for example greater use of the members themselves.

It does help to consider strategically which existing media are being approached. It is more practical to use the media that reach the bulk of the population, rather than small groups or elite populations. When most of the population is illiterate, radio and television become increasingly important; of these radio is generally far cheaper. Given the importance of establishing trust and more tangible relationships with members of the public, the approach of personal interaction such as meetings with members of the legislature, could be even more useful.

The activities of the legislature can be used to generate greater awareness. Canadian provincial legislatures hold hearings about draft legislation and meetings of standing committees in towns outside the provincial capital. One territory has held meetings of the entire legislature in distant towns. Other legislatures tend also to hold hearings and committee meetings in locations around their jurisdiction. This practise helps to generate local awareness of the parliament and its business. Cabinets also meet from time to time in different locations, but this is generally for party political reasons -- to create a local political event. The experience of the Northwest Territories again is that holding meetings of the legislature in towns outside the capital is costly and garners attention for the first day. This is an area of vast distances and costly travel.

The Gauteng situation would call for an approach that suits the numbers (a larger population) and the geography (a smaller area). It might be possible to consider holding periodic meetings of the legislature as a whole outside Johannesburg in some of the smaller communities. Alternatively, committee meetings (either special or standing committees) or other functions could be decentralized periodically.
The advantage of this approach is the awareness that the legislature can generate when it meets, for example in the local community centre. It attracts local media attention and the public is able to observe. Members of the legislature can more easily meet informally with local citizens. The drawbacks are the amount of organizational effort required and, depending on numbers and distances, the costs.

One technique which has been used in the Northwest Territories (Canada), is to broadcast the televised proceedings of the legislature in different languages on different days. The fact that simultaneous translation of proceedings is part of normal business, means that no additional cost is incurred. The method enables people to watch and hear, for example, question period in their own language. While television coverage has many drawbacks, similar practises can be established through the radio.

Create Partnerships

To develop as many avenues of public education as possible, it will be important to find ways to link the legislature with other organizations or other government initiatives. Various partnerships could help to manage the costs of public education and achieve the objective of reaching different parts of the population.

One example, in Johannesburg is the establishment of SANGOnet, a network of non-governmental organizations (ranging from larger, more established groups to small civics). The network’s purpose is to facilitate cooperation and communication among the smaller organizations of civil society, and between them and similar organizations in other countries. This network has already tested making a national government white paper available to its members, as a way of fostering greater awareness and participation. A partnership with such an organization could help achieve the legislature’s objective, and could facilitate interaction with parts of the public on policy issues. For example, it would be possible to put the legislature’s agenda directly into offices and centres around the province.

There is an important component of reliability to such an exercise. If an existing system is able to support the legislature’s public education or communication objectives, then the relevant information must be available in fairly consistent fashion across initiatives and needs to be in a form suitable to the technology chosen.

Use the Education System

Another venue for public education that could be very important in Gauteng is the existing school system. The approaches will develop over time, as, for example, the political institutions and norms and experience of the new South Africa are incorporated into school curricula and become part of the basic teaching. However, at this early stage it might be feasible to develop (or partner with an appropriate organization to develop) material that
could be used for school curricula and could be made available to the general population as well. Information provided through the schools can reach adults as well as children, both directly and indirectly.

Again, the medium to be used should be appropriate to the population. In the case of school curriculum it might be possible to make basic videos appropriate for different age groups (or to concentrate on certain age groups), to convey information about the legislature. The problem with using video is not only the development costs (which can be minimized) but the fact that equipment is needed to show them and this equipment will not be readily available. However, if the concern is with a population that generally cannot read, visual media will reach more people.

Face to face interaction may be more effective. It would be possible to engage students in projects which help inform their communities about the legislature. If groups of students were involved in projects to help educate their communities, this would increase the students’ own knowledge, and would enhance the reach of public education efforts into the larger population.

Another approach through which the school system can foster greater awareness among students and their families through the implementation of "mock parliaments". These practise parliaments for students have been a feature in many western countries for years. The general point is for students (usually older, secondary students) to organize and stage their own parliamentary process. This may include holding an election in the school for "members of parliament", selecting leaders of a new parliament such as the speaker, and holding a debate on some current issue.

Participation helps students understand some of the basics of the democratic process and cultivates a wider awareness of the existence and functions of the legislature. The Australian parliament maintains a staff of about a dozen people to develop programs including scripted "mini-parliaments", curriculum development, professional development, and programs for visiting school students. (The Table: vol 62, 1994)

Build on Legislative Initiatives

The advantage of an integrated public education strategy is that it can help to link various specific initiatives with the objective of increasing the public’s knowledge about the legislature’s role. For example, from time to time there will be specific campaigns to inform the public at large about a particular new policy or matter of public debate. It is possible to develop these campaigns in a way that links the core message of the role of the legislature with the specific legislation. This kind of linkage can be built when there is agreement about symbols, key messages, and so on.
For example, when the legislature begins to implement the petitions process that is being planned, it will need a comprehensive campaign to inform the public. This campaign will include the specifics of the petitions process itself -- how it works, what it can be used for -- but can also reinforce the general messages. Such a campaign could reinforce the role of the legislature, the use of parliamentary processes, and the openness and accountability of government.

One consideration must be the number of legislative initiatives underway at any one time. If one attempts to educate the public at large about all of them, it would lead to confusion. Gauteng legislature has already adopted the rule of requiring the order list of pending legislation to be published in the leading newspapers. This is more accessible than most western parliaments practise. However, the question is how much information such a list really conveys, and the population that the main newspapers reach. If the purpose is to ensure that the public may find further information or have some input, the general information needs to include both how to get more information and how to participate.

**Use the Political Parties**

One strategy to reach many of the people who are members of political parties is to undertake public education through the parties themselves. This approach relies on the existing party infrastructure to plan and organize educational sessions for members and outreach to other public in their communities. The legislature could supply or support the preparation of material for these education sessions about the general role and mandate of the legislature.

**Use the Members Themselves**

One of the more powerful means of educating the public about the legislature is through the members of parliament themselves. Their visibility and activity in the community can be part of an education strategy and part of facilitating participation. The Gauteng legislature has the specific challenge posed by the lack of individual member constituencies. This means that there is not a natural constituency in which members interact with the public.

However, it is feasible for the members to host or attend local meetings and discussions, to discuss the role of the legislature generally, or specific initiatives. Members of parliament could deliver a public education package and presentation in schools, markets, wherever people would naturally come together to discuss issues. Local meetings, sometimes called "town hall" meetings (though this is not the original meaning of that term), and relatively informal gatherings of citizens are an opportunity to establish presence, visibility, and trust with citizens. Such meetings have the advantage of generating interest and attention. In addition, while discussing the general role of the legislature, or specific legislative initiatives, members of the legislature will also hear the concerns of citizens on topics other than those under formal discussion.
Other Considerations

One of the many challenges of public education, as mentioned earlier, is that of popular access to the established media (press, TV, radio). What are the best ways in reality, to reach people who are marginalized by poverty, illiteracy, homelessness, and so on. In many instances the established media are still relatively inaccessible to people. It would be necessary to find out how people receive information, what information they pay attention to, and then build strategies around these factors. Churches could play a very valuable role here.

Second, what are the issues about which people will want information? It may be that the more general information about the legislature itself, or its processes, is not that relevant to people, and that their primary concerns are with issues that affect their lives more directly. This line of reasoning suggests that information about specific initiatives, such as housing, education, health care, and transportation, will find a more receptive audience. These topics may be a more effective way of communicating a general message.

The development of an overall public education strategy could distinguish where and how to target information. It will be important to establish useful approaches for conveying information to the public and to use these repeatedly, because it will take time for people to become familiar with the information and the source of it. Repetition will help to expand the number of people who know where to get information about the legislature or legislative initiatives, and will cement the expectation that the information will be available. Cost and staff resources are key considerations. The cost of providing information will increase as it becomes more tailored to specific populations. However, practises that get established early will also tend to become part of "normal business" and the skill set of the staff, so that the on-going costs may not be that great. For example, if the expectation is established that all releases or information going out from the legislature reach not only the big Johannesburg media, but also the smaller local outlets, and (if these are relevant) local radio stations, there is little additional cost to spreading the coverage this way. Similarly, if translation services are part of the normal business of the legislature's operations, making material available in different languages is facilitated. It is particularly easy to prepare multi-language voice-overs for videos.

In all the strategies discussed above, there is a need for staff skilled in communications, facilitation, and organizing. People must be able to create the partnerships aimed at public education through the school system, for example. They must be able to organize meetings with legislators in different locations and arrange publicity around these meetings.
CONSTITUENCY SERVICE: THE REDRESS OF GRIEVANCES

One of the functions of parliament noted in an earlier section was to hear and address the grievances of citizens. This function generally, but not always, falls to the individual legislator, and is referred to as constituency service. The significance of constituency service is threefold. First, it provides a mechanism for citizens to remedy government inaction. Second, it puts individual legislators directly in touch with citizens and thereby enhances their ability to represent the concerns of citizens in the legislative process. Third, legislators engaged in this work make the legislature more visible in the community, usually in a very positive light.

This section describes four different models of constituency service. These are: the Canadian model, where the constituency service function is performed exclusively by individual members of parliament and their staff; the British model, where most constituency work is performed by individual M.P.s with the option of referral to the office of the Parliamentary Commissioner; and the German model, with a centralized petitions committee; and the practises in New Zealand and the Isle of Man.

Canada: Members of Parliament as Ombudsmen

Canadian members of parliament and their staff act as ombudsmen for their constituents in their dealings with the national government. At the provincial level, members of the legislature also carry out this function. This form of constituency service is considered to be an important function for elected representatives. M.P.s who fail to perform this function adequately may develop a reputation for poor constituency service, which may hamper their chances of re-election. In addition, many members of parliament, particularly those on the government’s backbench, report a sense of satisfaction from performing this function on their constituents’ behalf.

Most Canadian M.P.s spend some portion of their time supervising their staff who handle the bulk of the constituency work. Each M.P. has at least two staff members who spend much of their time responding to inquiries and complaints from constituents. This translates into approximately 600 staff (or annual staff years) dedicated to constituency service at the national level, in a country of under 30 million people (i.e. smaller than South Africa).

The House of Commons provides members with budgets that allow them to rent office space in their constituency. These offices are usually "storefront" locations, making them easily accessible to constituents. When the member of parliament is not in Ottawa, he/she uses the constituency office as a base of operations, and is often available on an informal basis for conversation with constituents. At a provincial level too, members are very cognizant of the importance of constituency service, and return to their constituencies or "ridings" frequently to perform this function.
In performing the constituency service function, the members and their staff assist citizens in negotiating the complex bureaucratic structure of the Canadian state. Many calls from constituents relate to matters that are not national (or provincial) jurisdiction, so constituency assistants either direct people to the correct level of government (usually by providing the telephone number of the relevant agency), or make a telephone call on the constituent's behalf.

Most routine constituency casework relates to immigration (constituents trying to sponsor family members), taxation or government benefits (pensions, unemployment insurance). In many cases, these matters can be resolved by M.P.s' staff members with a telephone call. Many of the government departments that deal extensively with the public will have staff persons assigned to take calls from M.P.s' offices. Effective working relationships develop between constituency workers at the national and provincial levels, as well, as they exchange information and "cases". The responses that government departments provide to members' offices are usually more timely and often more cooperative than those provided directly to the public.

In addition to the preferential treatment offered for inquiries from constituency offices, there is also a benefit for citizens with limited literacy skills or little education in having an intermediary familiar with government processes to act on their behalf. Moreover, many M.P.s and their staff develop personal contacts and expertise that help them deal with issues that are frequently raised by their constituents. This further expedites the process.

While many cases can be resolved with a telephone call on the constituent's behalf, other matters may require more extensive intervention. For example, immigration cases in Canada take months to resolve. In these more complex cases, members will write directly to the relevant minister and in many instances speak to the minister about the case. As with routine constituency work, these letters and requests directly from M.P.s are generally given higher priority in ministers' offices and departments, than letters from the public (depending on how well the particular office or department is organized to manage this function).

This system of constituent representation is well-suited to a legislative system where individual members represent discrete geographic constituencies. The pitfall of the system is that it lacks any accountability mechanism other than the threat of electoral defeat for the member of parliament. The quality of constituency service is determined by the priority the member places on such service and the capabilities of his/her staff. Neither members nor their staff are formally trained in dealing with complaints, and they have access only to informal advice from more experienced counterparts.

Most significantly, this method of resolving citizen grievances relies on cooperation from ministers and their departments. Individual members of parliament have no formal powers at their disposal to require a department to produce documents or comply with requests for information (other than access to information legislation, which would prohibit release of
individual information without permission). If a minister refuses to comply with a request for assistance, the only option for a member of the legislature is to expose this decision by raising it in the legislature or going to the press. For government backbenchers, this sort of political criticism of a member of the government would be political suicide.

In the countries with established constituency service, patronage and corruption are not a serious issue. This is not to suggest they do not occur, but public scrutiny and expectations clearly reinforce the integrity with which individual members handle the constituency service function.

In cases where a constituent brings to the attention of the member a law or administrative regulation that is in some way unfair, the individual member has little legislative recourse. Private member’s legislation is given very little time in the typical legislative agenda and may require all-party agreement for quick passage. So the individual member must either pursue that route, or lobby the government to introduce legislation.

Note that most Canadian provinces also have an ombudsman who reports to the legislature, and who receives requests from citizens on a wide range of issues. Both avenues are open to citizens, and they may follow all channels of redress to their grievances. Depending on the province, the ombudsman may also have the power to order departments to rectify a situation and even to pay compensation to the citizen. The threat to a minister of a critical ombudsman’s report to the legislature is more serious than the concern of a single back-bencher.

Britain: Individual Members and a Parliamentary Ombudsman

The British system of constituency service combines elements of the Canadian system with a more formalized parliamentary ombudsman to resolve more complex cases. The vast majority of citizen complaints are dealt with directly by M.P.s, who do not have the same staff support that is available to their Canadian counterparts. For cases that cannot be resolved easily by members, there is the option of referring the issue to the Parliamentary Commissioner. (Gregory and Pearson, 1992) The Parliamentary Commissioner's post was established in 1967 as a means of increasing the power of backbench members to remedy citizen complaints.

Members of parliament are involved with the Parliamentary Commissioner only through an oversight function. A select committee of the House of Commons is charged with the task of over-seeing the office. Unlike the Canadian provincial ombudsmen, citizens cannot bring cases directly to the Parliamentary Commissioner. Rather, the cases must be referred by a member of parliament. In theory, the M.P. was to act both as "gatekeeper" (sifting through complaints from people who are aware of the office and want to use it) and "magnets" (attracting complaints from constituents unaware of the office's existence and passing on some of these cases). In practise, however, members have proved reticent to pass on
complaints to the office of the Parliamentary Commissioner. In 1986, for example, the 463 members of the British House of Commons referred only 200 complaints to the Commissioner.

This may reflect a lack of knowledge among members of the role and powers of the Commissioner. The primary reason, however, is the length of time that the Commissioner takes to complete investigations and produce reports -- usually between 12 and 15 months. A survey of members of parliament in 1990 found that only 19 percent of members surveyed regarded the Commissioner's office as "very useful". Other means of redress -- talking or writing to a minister or senior official -- were perceived as more effective and efficient means of redress.

This slow rate of progress can be attributed at least in part to the three-stage formal process that the commissioner's office uses to deal with complaints. The Parliamentary Commissioner Act requires that the Commissioner begin an investigation by allowing the principal officer of the department concerned to comment on the allegations contained in the complaint. This involves preparation of a full statement of the facts known to the department and its view of the case -- often with supporting evidence. This first stage takes up to six weeks. The second stage of the process is not mandatory, but over 90 percent of cases proceed to it. In this stage, the Commissioner's staff investigate the matter, usually interviewing the complainant and relevant public servants. The final stage is the preparation of a report which is then forwarded to the member of parliament who referred the case to the Commissioner's office.

In addition to resolving specific complaints, the Commissioner performs an audit function. In certain cases, the Commissioner can suggest a change of procedures for the relevant government organization. If adopted, these changes can reduce the chance of a similar complaint in the future.

A somewhat more effective version of this arrangement is found in the office of the Northern Ireland Parliamentary Commissioner. In this office, a screening section attempts to resolve grievances falling within the Commissioner's jurisdiction on an informal basis if it is clear that there is no evidence of serious mal-administration and the matter is likely to be resolved quickly without formal investigation. In such cases, if the administrative problem reflects a systemic failure in the department, the Commissioner will write to the relevant senior public servant to suggest a review of the procedures.

Note that the South African constitution provides for an Ombudsman's office, a Human Rights Commission and a Gender Equality Commission, all of which are empowered to work at the provincial level as well as the national level.
Germany: Petitions Committee

The German constitution establishes the right of all citizens to petition parliament. The federal parliament (the Bundestag) is required to appoint a Petitions Committee to review citizens' petitions; the powers of this committee are regulated by a national law.

The law regulating the powers of the petitions committee requires that the federal government and federal agencies, upon request, submit files to the Petitions Committee, provide it with information, and grant it access to their premises unless there are compelling reasons for secrecy. The Petitions Committee has the right to hear petitioners, witnesses and experts.

Petitions can be referred to the committee either by the President of the Bundestag (equivalent to the Speaker), or by members of the Bundestag. The process of referral by the President is automatic, which means that all citizens can petition directly, as opposed to the British example where the individual member is intermediary.

The Petitions Committee of the Bundestag is empowered to deal with petitions falling within the competence of the federal government, federal authorities, and other institutions discharging public functions. When the subject of the petitions falls within the jurisdiction of a state, the petitions is generally forwarded to the legislature of that state.

Petitions can be presented by individuals and by legal individuals (i.e. corporations). In the case of multiple petitions, one petition is treated as the principal petition. There are certain requirements for the presentation of petitions. They must be submitted in writing. Citizens do not have the right to present a petition orally, or to submit it to the committee in person.

A secretariat for the Petitions Committee consists of some 60 staff and fulfils the "gatekeeper" function. It screens petitions and eliminates those that do not qualify to be heard. The secretariat may refuse to prepare petitions for the committee's consideration if the contents are confused or illegible, if they demand something which is impossible, a criminal offence, or a contravention of the constitutional order or moral law, if their contents are insulting or if their purpose is blackmail or coercion. A petition may be rejected if the address or signature is incorrect, missing, or forged. A petitioner is not entitled to have a petition heard for the second time unless there are new facts or evidence relevant to the decision.

If the committee secretariat considers that a petition will evidently be unsuccessful, it may advise the petitioner of the reasons and inform him/her that the petition proceedings will be concluded unless she/he lodges an objection within six weeks. For petitions that the committee is to consider, the secretariat proposes two committee members from different parliamentary parties as rapporteurs. When the Bundestag itself is able to take remedial
action, each parliamentary group represented on the committee is notified and is allowed to have a rapporteur of its own.

The secretariat also plays a significant role in the disposition of petitions, although the committee has the final word. The secretariat prepares and gives the rapporteurs proposals for further clarification, for provisional settlement, or for dealing with a petition conclusively.

Proposals for further clarification can include requests for additional comments from the relevant agency or department, requests that a representative of the federal government attend a meeting, or suggestions that the committee use its legal powers to request the submission of files, to hear witnesses, or to inspect premises.

Proposals for provisional settlement ask that the relevant agency or department defer carrying out the measure until the Petitions Committee has made a decision on the matter. In practise, this acts as an automatic injunction (Vitzhum: 125). Proposals for dealing with a petition conclusively include:

- a referral to the federal government, with a request that it take remedial action because the petitioner's concern is justified and remedy is warranted;

- a referral to the federal government for re-examination, advocating that the government review the matter and seek ways of remedying the situation;

- a referral to the federal government as background material, to ensure that it is included in the preparation of bills or other initiatives;

- simple referral to the federal government pointing out the reasons for the Bundestag's resolution or drawing the government's attention to the matter;

- forwarding the petition to the parliamentary groups to draw their attention to the issue, possibly as a suitable matter for a parliamentary initiative.

The rapporteurs examine the secretariat's proposals and table in the committee motions concerning the further treatment of petitions. The committee examines the petitions within three weeks.

In many cases, the committee does not deal individually with the petition, deferring to the recommendation of the secretariat and the rapporteurs. The committee will consider individual petitions in cases when:
- the rapporteurs have proposed referral to the federal government with a request for re-examination or remedial action, or if they have proposed referral to the parliamentary groups or the European Parliament;

- the motions tabled by the rapporteurs and the proposal from the secretariat diverge;

- if a committee member makes a motion for individual consideration;

- if it is moved that a representative of the federal government be summoned to a meeting of the committee or that other powers of the committee be used.

The committee submits a monthly report to the Bundestag, listing the petitions it has dealt with as well as the recommendations. In addition, the committee submits an annual report. A parliamentary debate can be held regarding these reports at the request of a parliamentary group or 5 percent of the members of the Bundestag.

Petitioners must be informed of the disposition of their petition. If it is resolved in the petitioner's favour, he or she is simply informed. If it not resolved in the petitioner's favour, reasons for the decision are given.

Although the Petitions Committee does not have the power to require that the federal agency or department comply with its recommendations, the Bundestag can also reallocate budgets and amend legislation.

One observer has described the Petitions Committee as "an early warning system in the relationship between society and the state" (Vitzhum: 122). It not only recommends remedies in cases of administrative injustice or failure to follow regulations, but also gives members of the Bundestag a sense of the direction and content of public grievances and the opportunity to address those grievances.

Having noted these strengths, it is important to note that the effectiveness of the petitions process is also due to the efficiency and judgement of the secretariat. The secretariat screens out inappropriate petitions and then makes recommendations for the disposal of remaining petitions. This allows the committee to delegate the disposal of routine petitions to the secretariat, while addressing less routine and more controversial issues itself. Without this staff support, the committee would likely be unable to address citizens' complaints in a timely and effective way.

New Zealand and the Isle of Man

New Zealand offers an example where several possible routes are open to citizens with grievances. They can bring them directly to their member of parliament (though this will no longer apply when they change to a proportional representation electoral system in 1998), to
the Ombudsman, or to the parliamentary petitions committee. When the Ombudsman's post was created, the number of individual grievances heard by the petitions committee decreased. Under the new process, the petitions committee deals only with exceptional grievances (essentially an appeal function) and group petitions dealing with an aspect of government policy or legislation.

Petitioners appear personally before the committee, as do representatives of the government department involved. The atmosphere is formal, and in most cases the partisanship of committee members is relatively muted. After deliberating on the petition, the committee reports to the House. It can report either that it has no recommendation, or that the petition deserves "favourable" or "most favourable" consideration. After committee reports are tabled in the House, they are commented on by the relevant government department which then submits the case to a cabinet subcommittee on petitions. In a limited number of cases, the subcommittee may accept the arguments in the petition and grant some form of redress.

Although this seems a cumbersome process, the model offers a workable relationship between the Ombudsman and the petitions committee. Essentially, it frees the petitions committee from the majority of grievances and creates an appeal mechanism for cases which the ombudsman is unable to resolve. Thus, the majority of the committee’s work deals with political issues, and enables it to keep pace with public concerns.

An example of interest is the Isle of Man. Petitions to the parliament of the Isle of Man are presented each year in July to an open-air session of the two chambers of the parliament. Petitions are presented in person to the Lord of Man and his or her representative, the Lieutenant-Governor. Petitions are then referred by standing order to a committee for consideration and report. Although the formal rules do not guarantee government action in response to petitions, the dramatic setting in which they are presented gives them considerable political force (White 1979).

Analysis

A number of reflections may be made about the examples described above.

The Canadian and British examples point to the effectiveness of individual legislators acting on behalf of citizens to remedy relatively simple grievances. Members of parliament and their assistants can often resolve routine problems either by directing the citizen to the appropriate authority or by intervening on the citizen’s behalf with the appropriate department. This can be of particular assistance to citizens who are marginalized socially or politically and who find themselves at a disadvantage in dealing with complex bureaucracies.

The Canadian example points to the utility of having local store-front offices where citizens can bring queries or grievances. Similarly, British members of parliament have times set...
aside when they are available to meet citizens in their constituency and to hear grievances. These measures add to the visibility and effectiveness of members.

One avenue for the Gauteng legislature to consider would be to facilitate the petitions process by establishing a local presence such as regularly scheduled local appearances by members of the legislature who would be able to receive petitions or grievances. Whether or not store-front offices are possible, a suitable local venue for meeting the public and being available to hear grievances, accept petitions, or otherwise direct citizen complaints, could be more accessible to people, and could increase the profile of the legislature. Alternatively, or in combination, staff of the Petitions Committee could routinely hold local sessions to provide greater access.

The German Petitions Committee offers an example of a systematized, accountable mechanism by which legislators address citizen grievances. It gives the legislature greater power than do the other systems, and by centralizing the function it minimizes the variation in the quality of service. In this sense, the advantages of the system may also be its disadvantages. Because it is more highly formalized, it is more accessible to citizens who are aware of its existence and who are able to prepare a written petition in the appropriate format.

Compounding this is the need for an effective gatekeeping and issue resolution process. If the committee is flooded by minor complaints, and there is no mechanism for screening petitions or setting priorities, the committee risks creating a backlog that leaves serious matters un-addressed. The British example illustrates the negative impact this could have on the petitions process.

This difficulty could be partly overcome by having staff (or even members of the legislature) who are able to assist citizens in preparing their petitions regardless of the content, and other staff who screen petitions, set priorities, and recommend remedies to committee members.

The examples above illustrate ways to achieve one of the principal objectives of the Gauteng project. They address the need to increase knowledge about the legislature and a better sense of its role and mandate. The next chapter considers the objective of increasing citizen participation in the legislature.
CHAPTER 6. ENHANCING CITIZEN PARTICIPATION

This chapter examines the ways a legislature can foster greater public participation in the function of deliberating on public policy and legislation. It looks at the means other legislatures have used to engage citizens, and assesses the relevance of these approaches for South Africa. The issue of lobbying is discussed briefly. There is an analysis of the characteristics of citizen participation and ways to strengthen it.

In thinking about means to facilitate citizen participation in the legislative process, it is important to keep in mind that the public interacts with many different aspects of the state. The information that comes to the legislature from the executive branch may contain or incorporate the views of citizens or organized groups in society. Also, the legislature has the means to enhance citizen participation in governance by mandating citizen involvement in the operation of services, planning and other functions.

The issue of citizen participation has not been central to literature on the functioning of parliaments. As part of the background research, we addressed the experience of other parliaments in engaging citizens directly, and the means they have adopted or reforms they have implemented. A substantial body of literature has analysed the evolution or development of legislatures in developing countries or ex-colonial states. But the issue of citizen access has not been a central concern in this literature. Rather, most of the recent work on parliamentary reform occurs in the context of parliaments which are well-established and whose rules and procedures are relatively fixed.

There may be significant public dissatisfaction in western democracies with the quality of governance, but this has not for the most part translated into political or institutional reform. Marginal changes are made to the functioning of parliaments, usually enhancing the influence of backbenchers (those not in Cabinet) by expanding the role of committees in holding hearings and making policy recommendations. But while these seem significant at the time, they have had little overall impact on the role of the legislature. The introduction of television into parliaments in Canada was an innovation that appeared to promise greater accountability as well as a more educated public. But it has only revealed some of the more technical and confusing conventions of parliament and the behaviour of parliamentarians, neither of which have increased public respect for the legislature itself.

The impetus to reform can differ from country to country, and be associated with national crises such as the unification of Germany (Schuttermeyer 1994), economic downturns (Judge 1984), and the perennial question of what to do with the backbenchers. Nonetheless, the total of all this activity may be aptly, if cynically, summarised by the phrase, 'the more things change, the more they remain the same (Giddings 1995).
Meaningful parliamentary reform is constrained by several obstacles. First is the strength of Cabinet government in which power has moved conclusively to the executive branch. Further, the parliamentarians whose support is needed for reform depend for their career advancement on being accepted as members of Cabinet (this applies to those in opposition too); thus they are little inclined to oppose the wishes of the members who form the government. As well, the functions of political parties and party discipline serve to maintain the supremacy of Cabinet, and the status quo. The attraction of political stability is also a factor, as is the sheer difficulty of negotiating rule changes in parliaments, when the functions of the institution compete with the objectives of a government's agenda. Finally, there is the acknowledged complexity of policy making and policy decisions in contemporary society which require the resources and expertise available to the executive. All these factors work as brakes on efforts to reform established parliaments.

What this means is that the literature on parliamentary reform has little of practical value to offer the Gauteng project. The situations are quite dissimilar in terms of the stage of development of the parliamentary process, the system of proportional representation, the particular political context of a government of national unity and the need to pursue objectives of political legitimation, social stability and economic development simultaneously.

Looking more broadly at the range of consultative mechanisms available to solicit public participation, we conclude that the most useful way for the Gauteng legislature to involve citizens in the legislative process is through hearings, conferences, and informal local meetings.

CONSULTATIVE MECHANISMS: HEARINGS, CONFERENCES AND TOWN HALL MEETINGS

A range of formal and informal options exist for legislatures, or more specifically their committees, to seek public input on policy or legislation. The most traditional of these is to hold hearings. Other options may, however, be more appropriate for the circumstances in Gauteng province, or for certain legislation. Examples of alternatives are conferences and town hall meetings sponsored by a legislative committee. These mechanisms are not mutually exclusive; they can be run as parallel processes.

Different mechanisms may be appropriate depending on the nature of the subject being discussed. Certain topics, such as housing, will be of considerable interest to a large portion of the population, and may require mechanisms such as town hall meetings that allow many citizens to participate at the same time. Other subjects, such as more technical matters, may concern a narrower range of the population. In these instances, the affected interests would be represented by associations, trade unions, or other organizations, and a hearing or conference format might be more appropriate.
The stage of the legislative process when consultation occurs will also help determine what is the most useful form of consultation. If the public is being consulted early in the legislative process, when crucial policy directions are still being determined, then broader mechanisms are more appropriate. If the consultation is on the specifics of legislation or regulation, a narrower discussion among affected interests and incorporating subject-matter expertise may be more appropriate. Earlier in the paper there was a discussion of ways to make the link between citizens and legislature most effective. One way to develop more effective communication is by discussing issues early in the policy-development process, rather than waiting till legislation is drafted and fixed government positions have been adopted. There may still be room for consultation on implementation and enforcement near the end of an exercise.

One way consultations conducted by legislative committees can be useful is to encourage accommodation among the positions of different interest groups. When committees are dealing with policy or the early drafting of legislation, there may be a capacity to encourage groups to hear other viewpoints and modify their positions. If discussions are based on an emerging policy or a proposal that has been sketched out but is not cast in stone, this allows debate to focus on the real aspects of the policy. Participants in the discussion can hear the positions advocated by others, and can be encouraged to see the need for compromise and accommodation. Members of the legislature will have the room to negotiate changes among themselves and modify details of policy or legislation to reflect more accurately their sense of the public good.

**Hearings**

Of the three mechanisms to be discussed, hearings have the most potential for flexibility in the sense that they can be used to gather either a broad range of public views on an issue or can solicit a narrower, specialist opinion. The critical decision is to determine the most appropriate approach to the specific subject under discussion.

When hearings are held to gather public opinion or viewpoints, individuals and representatives of groups appear as witnesses before the committee. Generally, the appearance of each witness begins with a brief introduction of the witness(es), continues with a statement (or brief) from the witness, and then finishes with committee members asking the witness questions. Written submissions are added to the transcribed record of proceedings and are thus on the public record even if they have not been read in full. Usually, a time limit is established for the appearance of each witness or group of witnesses.

If hearings are to be used to solicit input from a large number or range of groups and individuals on an issue, it is essential that the hearings process be well managed. This includes inviting a broad range of witnesses and facilitating their appearance before the committee. In some instances, committees will need to provide resources to cover travel and other associated costs. (Whether it is appropriate to provide other financial support to groups
to prepare their submissions is discussed in the section on enhancing citizen participation.) It is important to ensure that the presentations by witnesses address the topic under discussion, to prepare committee members for the hearings, and to make the results of hearings accessible to members in an organized fashion.

Achieving a broad range of participation requires considerable advanced planning and preparation. People need to know when the hearings will occur, where and how the meetings will be held, how to become a witness, the name of a contact person, and so on. People who are interested in participating should have advance access to documents that describe the policy being debated or the draft legislation. Relevant organizations and associations need to be contacted and invited to appear. When groups are not accustomed to the format of hearings, it would be useful to hold advance briefings of potential witnesses, to familiarize them with the process and expectations.

Several other measures can encourage greater access. The committee can hold its hearings in different locations on different dates, travelling to the public rather than requiring the public to come to the committee. The committee can offer to pay the expenses that witnesses incur in participating, including travel costs, child care, or photo-copies. A broader range of input is likely if written submissions are not required. Some flexible time may be held on the agenda for witnesses who were unable to schedule an appearance. It is also important to focus the discussions in the hearing. For example, the committee should prepare in advance a straight-forward set of questions or issues to be discussed. These should be included in notices of the hearings and be made available to interested groups or witnesses. If staff resources permit, it is useful to prepare summaries in advance of the submissions to be presented. This enables members of the committee to be more prepared for the various views and to pursue specific issues and questions. When written briefs are not required, it would be useful if staff could contact witnesses in advance to ask for a brief sketch of what the witness will say. In addition to preparing the committee members, this increases the chances that scheduled witnesses will attend.

If they are not well-managed, hearings can be an unsatisfying and unproductive exercise for a legislative committee. Franks (1987:168) describes the hearings process for Canadian parliamentary committees:

The chairman of the committee does little if any questioning himself, and usually also does little to guide proceedings. To ensure fairness, he normally allows all members an equal amount of the time available for questioning. Members ask questions for their allotted five or ten minutes, to be followed by the next questioner. Each member has his own interests and will often have prepared his questions before a meeting without regard to what other members have asked.

The interests of members are often unrelated and members are often halted in questioning before they have concluded or reached the point they wish to make. This
creates sessions which are disjointed and without direction. . . Not the least of the recurring complaints about Commons committees has been that members are inadequately prepared and briefed. They do not have enough background knowledge, nor do they have a sense of direction in their questions.

These difficulties can be alleviated at least in part by:

- increasing the power of the committee chair to run meetings;

- ensuring that the membership of the committee is constant (as opposed to frequent substitutions, which reduce the knowledge base and preparation of members);

- ensuring that the committee is adequately staffed so that members have briefing materials available to them.

The advantage of using hearings as a means of gathering a broad range of public input is that committee members are able to engage with witnesses one-on-one in a controlled situation. All the members are able to hear the same advice from witnesses, and to hear the questions and answers.

The disadvantage is that it is a time-consuming and potentially costly means of gaining a sense of the public’s views. For example, when the finance committee of the Canadian House of Commons set out to examine tax reform in 1970, it was faced with over 1000 submissions from which it could hear only a small fraction (Franks 1987:168). As an alternative, a series of town hall meetings would, while being potentially more chaotic, have the advantage of bringing many potential witnesses together at the same time. Another disadvantage of the hearings format is that such a procedure may be extremely intimidating for citizens and for the leaders of civic organizations.

Conferences

Conferences that bring together groups and individuals on a particular issue can also be used to gather extensive participation, and to encourage debate among various perspectives. Although this mechanism tends to be most suited to participation by members of groups or organizations, individual members of the public can also be invited to participate. This helps to broaden the scope of a participatory exercise.

In Canada, a series of regional conferences were used to solicit public input on a proposed package of constitutional reforms in 1992. To ensure that the conferences appear legitimate and neutral in the political context, the national government arranged that independent research institutes would organize the conferences. Each conference drew together people from three distinct groups: (1) House-Senate joint committee on the constitution and other
government representatives; (2) representatives of organizations, interest groups and constitutional experts (mostly from universities); and (3) members of the public. This last group made up between 8 and 23 percent of those attending each conference (Pal and Seidle 1993).

To engage public participation, conference organizers placed newspaper advertisements inviting prospective participants to apply. These conferences were highly visible, and their composition gave them a good deal of credibility, even in the eyes of the jaded Canadian public. According to Pal and Seidle (1993: 154), "as a consultation exercise, the conferences drew out and crystallized public response that was nascent or unformed (at least on certain issues) and helped improve the public climate".

On more day to day policy matters, conferences are organized to debate policy choices ranging from reform of social welfare to the most effective approaches to planning local health services. They tend to engage interested publics, or citizens who serve on boards of directors of public services.

More recently, this format has been used for budget consultations in Canada. Lindquist (1994:101) enumerates advantages and disadvantages of the approach. Traditionally, Ministers of Finance have held pre-budget meetings with a small but influential number of key representatives of business, labour, and the financial community. With an expanded, conference format, the minister no longer simply receives a proposal from a single group, but can encourage others to respond. However, some representatives have had little experience in thinking about broad economic issues, and are not comfortable in a meeting with a minister, senior officials, and representatives of business associations. It remains difficult in this format, given the nature of the subject, to seek compromise or consensus.

The great advantage of a conference as a consultative mechanism is that it brings together a variety of perspectives, allows for an exchange of information, and then encourages participants to engage with one another productively, both formally and informally.

The primary disadvantage is the cost and administrative effort involved. In addition, it is often difficult for participants to "take home" the constructive relationships they have developed and communicate these to members of the groups they represent. What looked like constructive compromise at the conference may look like betrayal to group members.

**Town Hall Meetings**

The town hall meeting has its origins in small communities where the entire electorate or the community as a whole was able to meet and debate issues of concern. Even when the meeting also elected representatives to govern the particular jurisdiction, the tradition of annual or more frequent meetings of the whole community persisted as a means of gathering
public opinion and airing issues. The format was suited to the scale of communities, and for many analysts represents democracy in its purest form.

In contemporary, highly populated societies, the town meeting format is still used to gather public opinion on policy issues. Meetings must be well-publicized to the public at large, as well as to the various groups and associations which have an interest in the topic. They are particularly useful when the topic is one which engages a large portion of the citizenry, and therefore achieve a high level of participation. Examples include housing policy and transport and traffic issues.

A critical factor in holding successful town hall meetings is to chair them effectively. This requires a greater level of skill than smaller, more controlled meetings or hearings. It is important to recognize and hear from a range of views, not to allow the proceedings to be dominated by a bloc of voices or a single interest. It is sometimes necessary to deal with individuals who will try to disrupt the proceedings, or monopolize the meeting.

To achieve a focus to the discussion, it is generally useful to start such a meeting with a presentation about the issue and the types of policies being contemplated or under discussion. Frequently, these presentations are made by government officials or committee staff who do not participate in the public discussion itself. Whenever possible, it is preferable to make available a document that members of the public can obtain easily -- for example when they find out about the town hall meeting, they also find out where and how to get a copy of the draft policy. This means that people participating in the meeting will have available some description of the issues under discussion, and a framework for the discussion.

The presence of a minister or members of a legislative committee helps to ensure the attention of the public and usually the local media. It also demonstrates the importance of the issue to government. The representatives present have the opportunity to ask questions, encourage discussion and a variety of views, and present alternative views if they so wish. It is important to establish expectations of the meeting -- to be clear that it is a forum for advice and discussion, not a decision-making meeting, and to be clear that members of the legislature are present to hear the public's views rather than necessarily articulate their own.

The advantages of the town hall meeting format are the relative informality of the setting and the ease with which individual citizens can voice their opinions to their elected representatives. The settings tend to be less intimidating than more formal hearings. And less advance preparation is required than in the case of conferences or hearings.

However, the disadvantages are that the discussions will be less focused, and the results may be difficult to translate into policy decisions. It requires skill to record and draft a report from a town hall meeting, so as to provide members of the legislature with the substance of the public's views and to have record for the legislature. Town hall meetings may be more effective when a policy discussion is in its early stages, and a wide range of views may be
incorporated. They will be less useful when a more focused debate is needed on a technical issue.

The Consultative Role of the Executive

The discussion of mechanisms of consultation has focused on the role of the legislature, and legislative committees in particular. However, the executive branch of government will, in the course of its business, also consult with the public in formulating policy, drafting legislation, and crafting regulations. There is an expectation in Gauteng that the administrative part of government will become more open to the public, as well, and that submissions to the legislature will include an assessment of the effect on the public of policy options.

One concern then is the strong possibility that both the legislature and the executive will in the course of creating legislation discuss the same issue with the same individuals and groups, over a period of time. This can be time consuming for both members of the government and for citizens who are engaged in a consultation or participatory process. At times, the same views are repeated on several occasions. Alternatively, groups may modify their position over time as the public debate continues; their input to the legislature on draft legislation may differ from their earlier comments to a government ministry about the policy.

Nonetheless, it is a general practice that the submissions, discussions, and meetings which form the consultation leading to policy advice to government are given to the particular minister, or are analysed and summarized for the minister and the Cabinet. The information coming to government through consultation is not generally provided to the legislature. What the legislature receives is the end-product of the executive's analysis of public opinion and recommended policy solution or legislative proposal.

At one point, Sweden had a policy of conducting very formal consultations on new policies or policy changes. The government's analysis and perhaps tentative policy direction were set out in a public document, which was circulated to all the interested organizations and associations. Because Sweden is such a highly structured and organized society, the appropriate groups who would engage in debate on a particular topic is generally well known. Following a period for discussion, the formal responses of all the organizations which had been consulted and which had replied, would be assembled by government officials.

What was provided eventually to the parliament was the result of government's own thinking, in terms of a legislative proposal. But accompanying the government's draft legislation to parliament were also the briefs and formal results of consultation with the public organizations and associations. Thus, members of parliament could review and debate the legislative proposals based not only on what the executive had proposed, but also on the views and suggestions of the concerned groups. If members of parliament wished to pursue
an issue further, they could initiate further consultation with the same organizations, or indeed with different ones.

The advantage of this approach is the additional information which comes to the legislature from the executive, and which helps to establish the context for a legislative proposal. Members of parliament have the opportunity to become better informed on the issue. And the input of the public organizations which were consulted is openly available and transparent.

**LOBBYING**

One issue that arises in considering how to achieve an open legislature with access to citizen participation is the question of lobbying. This term refers to any attempt to influence government actions through representations made to policy-makers. As such it involves a fundamental democratic right (Brooks 1995: 464). In the modern parlance, however, the term has come to be associated with paid lobbying, in which an individual or firm is paid to represent, temporarily, the views, attitudes or interests to a separate group to government. Lobbyists seek to influence government decisions respecting both public policy and the allocation of government contracts on behalf of their clients.

Paid lobbyists sell some combination of expertise in policy development and influence or personal contacts with government decision makers. It is common for paid lobbyists to have some strong personal connection to policy makers, often through partisan ties or experience as a former politician or senior public servant.

The targets of lobbying are decision makers in the Cabinet, the legislature and the bureaucracy. Lobbyists, who are generally astute students of the power structure, focus their attention where decisions are made. In the United States, where Congress plays a predominant role in policy making, a huge industry of paid lobbyists exists to try to influence the decisions of representatives and senators. In Canada, where members of parliament play only a limited role in policy development, lobbyists focus their attention almost exclusively on the Cabinet and the bureaucracy. Lobbyists frequently represent business interests, may represent local government interests or professional interests, and infrequently represent community organizations or citizen associations.

In countries where significant lobbying industries have emerged, there have been efforts to regulate their activities. The first basic element of a regulatory regime is transparency. Lobbyists disclose the names of their clients, the purpose of the contract, in some cases the fee they are to be paid. To be effective, the disclosure must be timely and the records readily available to the press and the public.
An example is the Canadian Lobbyist Registration Act. It requires those individuals or firms (including lawyers) who lobby public officials on behalf of a client or their employer to register annually. Tier I lobbyists, or professional lobbyists, must register each of their lobbying undertakings, indicating their client and the general subject on which they are lobbying. If the client is a corporation, its parent and subsidiaries (where these exist) must also be disclosed. Tier II lobbyists work for a single association or company, and lobby only on behalf of their employer. All the act requires of these individuals is that they annually provide their name and that of their employer (Brooks 1995:472).

Some regulatory regimes place limits on who can legally work as a lobbyist. For example, laws or codes of conduct can require a waiting period before former public servants or elected officials can work as paid lobbyists.

Legislation can also forbid certain unethical practices paid lobbyists might try to adopt. For example, public servants and elected officials may be forbidden from accepting significant gifts, either in cash or in kind, from paid lobbyists (or anyone else). While it is possible to forbid elected officials and public servants from receiving gifts or bribes from lobbyists, it is more difficult to forbid political parties from accepting political contributions from lobbyists or the interests they represent. To limit the potential for the exercise of undue influence in this regard, it is important to develop effective political finance legislation.

**CITIZEN PARTICIPATION: ENSURING EFFECTIVENESS**

Citizen Participation: Characteristics

In Chapter 3 we discussed the tension between fostering a strong civil society engaged with government and maintaining an effective governance regime. The crucial question for this project is: how can one encourage and foster participation in governance that does not weaken the concept of representation and the institutions of representative democracy? One example of a dilemma to be managed is that of lobbying discussed above. It is also important to understand the characteristics of citizen participation and community organizations, and to think about these characteristics in relation to the legislative process.

It is possible to identify the characteristics that are relevant to the link between government, in particular the legislature, and citizens. To what extent can and will community organizations help to inform the elected representatives of their perspectives on legislation and policy decisions? To what extent can the role of social action groups support parliamentary processes? What are the limitations of participation?
A number of characteristics of civil organizations affect their ability to influence specific state decisions or to sustain on-going participation in governance processes. These are described below:

1. Organizations with strong community roots and substantial membership are able to express the concerns of at least a segment of the community and to suggest policies, effective means of implementation, and so on. In particular when the organization comprises the more marginalized individuals in society, it provides a way of achieving dialogue on public issues and of mobilizing the voices and impetus for change of those who have less access to power.

2. Is the group uni-dimensional? Many associations exist for a single purpose (lawn bowling) or a single cause (improving traffic in my neighbourhood). Depending on the issue, the group’s pressure may concentrate the government’s attention on their specific issue, but its members may not be interested in, or share perspectives on, other public issues.

3. Participation in citizen organizations can, as noted earlier, help to develop the skills and perspectives that are part of active participation in larger social affairs. Thus, these organizations can be an excellent training ground for new leaders. At the same time, it is possible for leaders to emerge in an organization who no longer represent the views of the members. Over time organizations may become more narrowly self-interested; they may not distinguish between the interests of their leaders and the association, and the relevance of the group’s concerns in a wider social context. Of course, this danger also besets governments, except that they are accountable through public elections.

4. There is an issue of scale. Most authors conclude that direct citizen involvement is more achievable at a local level. Issues of national or provincial importance may be too far removed from the everyday concerns of citizens. The experience of participation suggests that it is most effective at the neighbourhood and community level. At times, alliances of similar organizations, or different organizations in pursuit of a common goal, may develop which help to bridge the gap and raise concerns to a national level. These can be effective for addressing larger issues or developing greater pressure on government. The difficulty is that when the organization grows, the leadership tends to revert to the staff, and there is a greater distance between it and the members. The strength of grass-roots organizations remains in their members.

5. Is the group prepared to sustain conflict to achieve its goals? Many organizations regard conflict (or more subdued protest and demonstration) as one of the important means available to achieve particular ends, and will also use the threat of conflict as a tool of negotiation. In a democratic society, the right of citizens to engage in protest...
is essential: in relation to a specific issue it may mean the relationship between the legislature, say, and the particular organization, is strained.

6. Groups may fear co-optation and/or responsibility. Some organizations may resist compromise and on-going participation (power sharing) from a fear of being "co-opted" or of assuming responsibility. These groups may assess that compromise and participation will undermine their strength, or their reason to exist, which is largely to serve as an opponent of state power. With participation comes responsibility, which some groups feel will weaken the intensity or purity of their goals. A Canadian example is legal activists who support and defend the right of citizens to appeal government decisions about welfare through an independent tribunal and the courts. They denounce administrative efforts to improve the quality of decisions before the case starts through the appeal process, on the grounds that these changes inhibit the citizen's appeal right. This approach rejects efforts to make the basic service more accountable to the public.

7. In the realm of service delivery or decision-making, citizen participation can help to counteract the lack of responsiveness of a rigid bureaucracy. It can bring decisions about services closer to people, and thus ensure that decisions are more relevant to people's needs. There is also a risk of establishing a parallel bureaucracy to accomplish and oversee tasks. In the area of service provision, community organizations which are not publicly accountable may become rigid and resistant to changes that would improve clients' quality of life. This may also occur with government departments, but there is a political process available to address the problem.

8. Citizen groups may become powerful and serve as spokesperson for whole segments of society. Individuals may involuntarily come to be represented by the leaders of organizations or interests in which they do not participate or whose views they do not share. When the views of citizens are incorrectly represented by proxy in group interactions with the state, it will actually reduce the effective link between society and state, and contribute to the problems of finding social consensus.

9. A final consideration is the tendency of the development of strong social action groups and citizen participation to weaken the role of political parties. Citizens who are concerned about specific issues, or identity issues, use their efforts to influence all the parties toward their particular views. They must be able to "work with" any party that forms the government, and their approach to political action is thus non-partisan. What this means is that the focus of debate about competing problems and agendas is not inside the political parties but external to them. The development of party positions or policies is no longer a way to reconcile competing interests or achieve a larger, common good.
In any event, it is never a question of "either/or". Kubiski summarizes the complex of issues about citizen participation this way.

"The reality of groups is that they are an essential, but problematic vehicle for citizen participation. Anyone who sees the current flowering of interest groups as an indicator that all is well in our democracy is unaware or unconcerned that this winners/losers game is a short-term success strategy.....with longer term consequences of public apathy and lack of confidence. We need to protect the right of all citizens to participate on an equal footing, while allowing people of like minds to get together to solve problems in a more meaningful way. To do so, we need to help groups work toward a common interest, as well as toward their own interests" (Kubiski 1992).

Enhancing the Effectiveness of Citizen Participation

The challenge of improving the effectiveness of citizen participation is raised in discussions of economic development, local planning, grass-roots organizations, and budget making, for example. From such different perspectives, the suggestions are actually reinforcing. Citizen groups can contribute to public discussion and decision making, and can bring valuable insights to public policies and programs. The suggestions below aim at achieving the best possible public contribution.

Defining and Selecting the Participants

The starting place for effective public consultation is careful definition of participants. This is not a haphazard exercise. Nor does it imply that government itself controls exclusively the involvement of individuals or citizen organizations. Knowing whom to involve and ensuring that appropriate voices are heard -- whether or not they volunteer -- is a task for competent public administration and political institutions.

In defining participants, it is important to keep in mind that the organizations or associations being denoted as stakeholders are only able to represent their members and community interests in so far as they really include and understand those perspectives. This statement has several implications. First, if government engages in dialogue with NGOs or associations as representative of certain perspectives, then it should have quite high standards about those organizations. It should be cognizant of the scale of the organization and the validity with which the leadership represents the members. When an organization does not legitimately represent its members’ views, and when it also influences public policy decisions, this means that a group of citizens are essentially wrongly represented, that the decisions taken on the basis of consultation may be flawed, and the credibility of government is weakened.
Further, only organizations that really include and understand the perspectives of the membership are able to negotiate and suggest compromises that are true to their community's interests and supportive of a larger social consensus and decision making.

As noted earlier, accepting responsibility and compromising are difficult challenges for participatory organizations to face, because they may destroy the organization's reason for existence or the credibility of leaders with the members. Participating in a compromise also conveys a willingness to support that compromise publicly, and citizen organizations frequently balk at this next step.

What these points suggest is that the business of determining which "stakeholders" should participate with the legislature in a given exercise is more complex than simply noting the most obvious groups and choosing from the same roster each time. When it comes to inviting or selecting groups for intensive consultation, people need to be more aware of the quality of the organizations of civil society, and select those which can contribute most forthrightly and effectively to a given discussion. Self-selection is an important consideration too. Information should be widely available on policy issues, and wider input can be sought and certainly not discouraged. However, in levelling the playing field, the caution about the legitimacy of groups remains.

Another important consideration is to engage not only the perspectives of those affected by problems, or solutions, but those who may be part of the cause of the problem because of a vested interest or intransigence. This advice is offered to try to widen the debate and understanding about a given issue, and to engage people in the resolution of problems, rather than in simply making competing demands on government. It is also important to remember that, however active the number of participants in a given discussion may be, the large bulk of the population is probably not represented except through their elected representatives. In other words, there are always empty chairs at the table for the citizens whose voices are not being heard. Resolutions to problems and compromises that ignore the bulk of the population may not be politically feasible in the long run. This reinforces the relevance of elected representatives being aware of citizen concerns and public thinking.

One caution in this regard is about the use of what are called "Blue Ribbon Committees". In the North American parlance, this refers to a group of influential individuals whose experience and credibility can assist in defining, understanding and resolving a complex public issue. The use of such groups can be very valuable in certain issues, for example where there is little grass-roots interest or concern, or where an issue is so contentious that government needs to establish some distance from itself regarding the solution. In other instances, such as issues that deeply affect the population and about which they have strong views or needs, it could be a mistake to entrust the debate to a small group. The individuals may be viewed as elite and removed from the ordinary person's experience and understanding. Any resolutions that such a group proposes would not enjoy public credibility. Nor would the need for citizen participation be satisfied.
As debate on an issue progresses, it is useful to draw new people into the participatory process continually. This keeps the views and perspectives fresh, relative to the concerns of the general population. It also continues to reinforce the skill-development advantages of participation in civil organizations.

While much of the thinking about how to enhance the effectiveness of citizen participation deals with the interaction with civic organizations and associations, it is important to maintain access for individuals, not just groups. Open meetings, open invitations to the public to attend hearings, conferences and town hall meetings, can reinforce the access to policy discussions by individual citizens. In these situations, it is important to allow individuals to speak, to arrange the session so that they are comfortable with voicing their views, and to chair the meetings so that individual statements are welcomed. One must be cautious not to overwhelm individual citizens with the somewhat intimidating trappings of expertise and prepared witnesses.

*Tangible Substance and Significant Input*

Effective public engagement depends on meaningful discussions of real issues that concern people. Citizens and the groups to which they belong are quick to recognize when their advice is not really desired or when their positions are being manipulated.

It is important to decide at the outset of an exercise whether real input and advice are being sought, or whether this is an information-sharing initiative. It is fair simply to share information, but essential to let people know that is what is happening.

Equally, it is important to decide how much decision-making authority is being shared. The exercise may be one of hearing advice and input, after which elected representatives will decide in the context of not only this issue but other agenda items and compromises. It is important to help the population understand this reality.

Or, if a compromise or consensus is being brokered among groups, then the parameters of shared decision making must be clearly laid out. For example, government can accept a brokered conclusion so long as it meets certain criteria (whatever is suitable) or is true to certain essential political principles.

Voicing conflict and disagreement is an important part of public participation on the substance of any issue. It is useful to bring such disagreements into the open and acknowledge not only their existence but also their basis and legitimacy. This is a difficult achievement or skill set for public sector managers and politicians: people tend to want to submerge conflicts and avoid disruption. In the long run, effective policy choices depend on understanding conflicting positions and finding acceptable or practical solutions. This also means that the skills of public servants and politicians in addressing and managing conflict should be addressed -- rather than the tendency to reward behaviour that ignores conflict.
Along with ensuring discussions are about issues of real substance and that participants’ contributions are valued, a relationship of trust and respect needs to be established with community leaders (and by extension with citizens generally). This type of relationship is fostered by sharing information, by being clear about the parameters of participation, by providing feedback to participants, and by conveying the final decision. For example, established contacts allow citizens and organizations to know when issues are being discussed. Feedback reports to participants in a discussion are a tangible confirmation that their advice was heard -- not necessarily that it was all accepted.

Participation early in a policy discussion will be more useful than when participation is relegated to a short time period near the conclusion. When most of the decisions have been taken, what is the point of wide scale input. This may, however, be the time for an essential brokered compromise among factions. There is also a role for consultation on details at the end of a process. For example, suggestions for implementation or enforcement may help avoid future difficulties and improve the legislative package.

Participation on substantive issues does mean power-sharing. This needs to be accepted not only by members of the legislature but by the public sector managers in line departments. The relationship between executive and legislature is crucial on this point because efforts to broaden participation can be strengthened by congruent strategies or weakened by substantially different approaches.

Encourage Collective Responsibility

A continuing dilemma is that of enabling compromise and reinforcing the attention of participating organizations to the common or public good. We have already mentioned the factors that make it difficult for citizen organizations to accept responsibility or compromise openly around positions. This tendency may be reinforced by processes that develop bilateral discussions between government representatives and particular community organizations. Such bilateral discussions encounter three sorts of problem. First, they will tend to define problems from a single perspective rather than acknowledge several views and associated conflicts. Second, they will prevent achieving greater understanding of multiple perspectives; participants do not hear all the views. Third, they will tend to propose solutions that favour particular interests rather than a compromise or trade-off. The elected representatives are then left trying to define and broker a compromise solution. Alternatively, multi-party processes bring opposing views and concerns to light, and may help to develop a more thorough understanding of the issues and problems under discussion. Where compromise is possible, multi-party engagement can try to achieve a solution, because the views are present and accessible.

In other words, both legislators and public servants can reinforce the presentation of narrow interests by continuing to interact with single groups or organizations. They can demand a more collective dialogue and responsibility by insisting on discussions among the various
interests. Depending on the political culture and the expectations that have developed, this transition will require time and commitment.

As noted earlier, there is always a dilemma as to whether the participatory discussions are intended to advise elected representatives or are in fact decision-making exercises. It is important to be clear about these expectations from the beginning. When the process is one of hearing advice and suggestions in a debate which will receive further discussion in the legislature, it is essential to make the participants aware that this will occur. The legislative process itself will bring further nuances and compromises to the issue: the advice of these particular citizens may be heeded or in the end ignored.

One difficulty here is that when people are giving advice, they will tend to push harder for their particular view from the beginning. What need is there for this group to compromise if the essential decisions are being made elsewhere? They are not accountable to the larger electorate. When people are part of the decision making (for example in the context of debating and deciding the positions of political parties on a range of issues), there is a greater need to compromise. Some progress may be made by insisting that groups with conflicting views work together on a common set of recommendations, so that there is an effort to compromise. Minority reports throw the whole problem back to the legislature.

The Necessary Resources: Information, Time and Support

The ability of citizen's groups to present their own perspectives and achieve a useful dialogue with other groups on any particular subject will be enhanced by access to information. Whether the information explains the problem as it is understood to date, or whether it includes tentative proposals for resolution, the effectiveness of participation is enhanced by proceeding from a common understanding. People need access to data, analysis, and alternative perspectives.

The challenge of providing this information to many different sectors of society on many issues is substantial. It takes time and skill to prepare information in useful formats. It takes time for people to digest and understand the information they receive. In many instances citizen groups will want to collect other information relevant to their members or concerns, because they will feel that the "official" documents do not adequately reflect some aspects of reality.

This will be an area of on-going tension. There is never enough information! But in thinking about how to engage civic organizations in an evolving political context, it is useful to establish principles early on about open access to information. For example, in Canada the budgets of government departments are presented to the legislature in Estimates that only the initiated can decipher. The interested public (if they know the documents exist), will find them obtuse and uninformative. The pressure of public sector constraint, and the need for a
more open dialogue about expenditure cuts, has forced ministries to prepare more
informative budget documents and to share them with the citizen groups concerned with their
particular programs. Public officials who know the budget well present and explain it to
participants. This exercise is educational about the general content of the budgets, and it
helps set the context for more serious discussions about expenditures (or lack thereof).

Another important resource is time. Citizen participation and public dialogue require a
considerable amount of time to proceed effectively. Kubiski (1993) describes four stages that
public opinion needs to go through before citizens can actually form a considered judgement
on an issue. The first is "consciousness raising" -- the process of learning about an issue
and becoming aware of its meaning. The second is "working through" -- the exercise of
sorting out conflicting values, attitudes and choices. The third stage is "resolution" when the
public resolves its positions in emotional, cognitive and moral terms. The fourth step is
action: what steps will the citizens take to address this issue in society and with elected
representatives. In his judgement, all four stages are essential. However, frequently
organizations and individuals are "stuck" in the first phase. They have the information and a
diagnosis of the problem, and therefore a solution should be readily apparent. They ignore
the necessary conflict of attitudes and beliefs among groups and individuals, and they fail to
achieve the synthesis needed to resolve the dilemma. This tendency is often reinforced by
media coverage of any public issue, which tends to remain at the problem-definition stage
and which has difficulty presenting various perspectives on a given issue at the same time.

Finally, the resource of support is needed. First, this means that the interaction between
citizen groups and individuals and their elected representatives needs to be supported through
staff who are skilled in engaging various perspectives, who can prepare and disseminate
information, who can design and arrange the processes of interaction, and who can reflect
objectively to the community and the politicians the content of what people are saying.

In North America, citizen organizations frequently receive public funds to enable their
participation in public debates. This practise has roots in the efforts to widen participation
during the 1960s and 1970s when it was recognized that community associations needed to
develop the infrastructure and expertise to contribute to the political dialogue. If the
viewpoints of marginalized segments of society are to be heard, they must be developed and
presented with force.

However, the practise of funding groups to participate also gives rise to the evolution of
interest organizations which are dependent upon public funding for their infrastructure. It
becomes difficult for groups to prioritize their positions on various policy issues versus their
funding relationship with government. A group's dependence on government funds can leave
it open to manipulation. Government funding can also reinforce the continued existence of
groups whose leaders purport to represent their members, even while they may have lost
touch with that membership.
It is also possible to provide public funding by way of support for travel costs, preparation of briefs, and one-time expenses. This type of funding would enable citizen groups to participate in specific debates without embarking on the provision of on-going funding or infrastructure support. This may be a more appropriate avenue for a legislature to pursue.

**Enhancing the Capacity of Citizens to Participate**

Enhancing the capacity of civil society is important to ensure that citizens are active participants in a political dialogue. Increasing the representative capacity of community groups and NGOs can help foster a public dialogue and can assume service functions that assist communities and deepen the level of political engagement.

Nonetheless, political parties are the primary organizations that structure electoral choice, and thus make the vote meaningful. They are also crucial mechanisms for political participation, and thereby enhance democratic government. Political parties frame elected representation within the legislature, and thereby contribute to the policy decision making and effective governance. (RCERPF, 1991:209) Strengthening the capacity of parties to perform these essential functions can enhance the quality of democratic participation.

To strengthen political parties as primary agents of political representation, and to avoid the emergence of a separate or parallel politics of special interests, it is important that parties promote internal democracy and ethical behaviour, that they maintain their legitimacy in the public eye, and that their policy development role be enhanced. This is the venue for essential compromise of multiple interests in the context of constraints that are both fiscal and political.

The next chapter draws on the analysis of the most useful approaches to consultation, our awareness of the particular situation facing the Gauteng legislature, and applies it to the objectives of increasing citizen knowledge of and participation in the provincial legislature. The implementation of specific outreach and consultation exercises will test the ideas in the chapter above.
CHAPTER 7. PILOT DESIGN AND IMPLEMENTATION

Hypothesis:

Achieving more comprehensive participation by citizens in the legislative process will:

1. increase citizen’s awareness of the legislature;

2. increase the range of views available to inform the elected representatives; and

3. increase public acceptance of the legislature’s decisions.

The pilot project will build on policy or legislative initiatives that have started or will begin in the Gauteng legislature. It will take advantage of several types of opportunity. One example is interest expressed by an MEC (Minister) in obtaining greater public input on a policy before taking it to Cabinet. Another may be an initiative by a Standing Committee on a particular policy: the results of the work could be provided to an MEC as advice. A third example is to plan the project around introduction of a new bill. In looking for the ways to test the hypothesis it is important to recognize the current legislative agenda.

It is also important to note that the pilot is being discussed at a time when there is intense debate about the South African Constitution. South Africa’s new Constitution is being negotiated and there is substantial debate about the allocation of powers to the different levels of government. The outcome of these discussions may affect the areas and degree of competence of the provincial legislature.

Given that context, the pilot project will recognize the legislature’s interest in a more proactive role in initiating legislation. It will be initiated through joint effort of the executive and the legislature, and the two arms of government will negotiate, plan and conduct the process of policy development, public input, changes to policy and the introduction of legislation, together while maintaining separate processes and procedures.

This option requires an initial negotiated agreement between an MEC (and perhaps the provincial executive as a whole) and the legislature (leadership, Standing Committee chair). The agreement will need to identify the topic of policy development and legislation -- i.e., what piece of legislation would be developed through cooperative work with policy development being the responsibility of the executive, and public input and advice being the responsibility of the legislature.

The agreement would also need to delineate those functions where the executive branch would take the lead, versus those where a legislative committee would take the lead. This is
critical to ensure a manageable process, and also to reduce the blur of functions between executive and legislature. For example, the executive function is more appropriately policy development, while the legislative function could focus on public participation.

In other words, a fairly detailed project plan and accountabilities would need to be drafted and agreed among the parties. This should be contained in a terms of reference spelling out the agreement.

The consultation phase of the exercise, when the legislature would have a more active role, would proceed through outreach and meetings in a number of locations throughout the province. The legislative committee would be responsible to hold more or less formal hearings in different locations throughout the province, and to solicit actively the views of individuals and groups. These consultations should be based on the presentation of information about the policy issue, and tentative proposals for addressing it, which would emerge from the work of the executive.

The legislative committee would be responsible to hear the views of citizens, and to use these views (and their analysis) to inform not only other members of the legislature, but also the executive, since the consultation phase would also inform the policy development.

The two phases of the project could be thought of as first identification of issues and ways of understanding them from the communities’ perspectives, and second, discussion and feedback regarding possible solutions or policies. Thus, it would likely be useful to hold public consultations in two stages: one early in the development of policy and positions (these could feed into a white paper or the draft legislation) and one later in the process when a draft bill is ready for discussion.

A communications strategy would be needed to inform people about the issue and the means of participating in meetings or hearings. With this objective it would be possible to add information about the role of the legislature in general, to increase understanding of the functions of government.

It would also be possible to experiment with putting information about the issue into the NGO network through an umbrella organization, and through this means to solicit additional views. Part of the detailed project planning will need to include discussions with potential partners in this type of effort.

The evaluation of this pilot will include the following elements:

1. To measure increase in range of views available to legislators, and acceptance of decisions among members of legislature:
Compare the process of two bills, to determine the different nature (if any) of input and range of participation, the outcome in terms of time elapsed and contention over the policy.

2. To measure increase in citizen awareness:

   Compare the level of community awareness about the legislature (and/or? the particular issue) in a representative community. This will require follow up interviews in Vosloorus township.

3. To measure increase in public acceptance:

   Possibly compare the degree of public acceptance of the legislative decision through media coverage.

4. To determine what worked or did not from point of view of legislators, compare sense of efficacy of members of the legislature before and after the pilot.

5. To measure effectiveness of achieving participation, assess the results of outreach versus network, in terms of quantity, source, depth, etc.

6. To measure (assess) issue of overlap in executive and legislative functions, (alternatively, to measure risks associated with legislature assuming proactive role), compare the process of two bills.

PROJECT PHASES

Stage 1. Preparation (approximately 3 months)  Risks to Manage

<p>| 1. Negotiate with executive the parameters of this pilot. The discussions would include the area of policy to be developed jointly, the respective roles of the executive and legislature, the accountable individuals in both locations responsible for managing the project and resolving issues that arise, the contracted agreement about resources, to develop a firm base for launching the pilot. | 1. What are the concerns/profile/accountability for MEC &amp; Exec. Council when Legislature becomes directly involved in policy formulation. Can the blurred lines be managed when the Legislature is new at task? What role does MEC play. |</p>
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<td>2.</td>
<td>Hire staff for the project (job descriptions needed).</td>
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<td>2.</td>
<td>Require skills in working with members of legislature, also community; needs to understand project thoroughly. Good manager/proactive.</td>
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<td>3.</td>
<td>Establish office.</td>
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<td>4.</td>
<td>Orient/initiate new staff.</td>
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<td>5.</td>
<td>Organize and conduct workshop with selected civics and NGOs to describe approach and get advice (How to reach grass roots; are there any routes). A conference of members of the legislature, NGOs, local govt is being planned.</td>
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<td>5.</td>
<td>Will not really tell you how to reach the unorganized, the most marginalized. This will require more intense work in any given area/community. Access through: churches, neighbourhood associations, schools, creches.</td>
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<td>6.</td>
<td>Orient/brief/discuss with members of the legislature - Petitions Committee and others (presentation needed). Need to clarify role.</td>
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<td>6.</td>
<td>What is the role for Petitions Comm; other members.</td>
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<td>7.</td>
<td>Determine appropriate standing committee. Brief standing committee on purpose and process of project; what it will require them to do.</td>
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<td>7.</td>
<td>Need to manage two issues: a) too partisan an interaction - members are responsible to listen and learn; their partisan role enters later in the exercise when it is time to debate in committee and vote. Also b) distinguish role in hearing the people, from role in their own party. Why this project is different, and what you are trying to achieve.</td>
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8. Conduct planning meetings with members of the executive and members of the standing committee to plan and agree on process, time frames and activities. Presumably, the executive role will be to lead policy formulation. Members of the committee need to be oriented on the policy questions.

Stage 2. Policy Formulation (4 months approximately)

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<td>1.</td>
<td>Executive to draft initial analysis and policy formulation.</td>
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<td>1.</td>
<td>Issue of lapsed times; this project will be difficult to manage to a schedule, because the stages are complex.</td>
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<td>2.</td>
<td>Brief standing committee on content of analysis and policy to date.</td>
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<td>2.</td>
<td>Members need to understand policy. Are they obliged to defend it? what is their position at this stage. Should be quite neutral; to present for public discussion.</td>
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3. Develop communications strategy:
   Actual messages will depend on bill itself: content of the policy;
   Include legislature's role and how to engage;
   How to notify communities about the participation process;
   How to explain the content of the policy;
   How to include general information about the legislature;
   Reach all parts of society, especially townships, NGOs and other organizations;
   Use the NGO network as a special component, to distribute information about the policy and request "internet" feedback or other participation;
   Prepare material to present the policy and draft bill;
   Determine: who is the scheduling contact? who is the media contact?

Document all this
<table>
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<tr>
<th>4. Plan the policy consultation itself:</th>
<th>4. How to reach more marginalized people in at least some areas? Does someone do advance groundwork? Is someone available locally? How many sessions? (time/costs) If all the committee members attend, it could be less partisan, but will take more time. This is the wrong time for overtly partisan behaviour. How does the MEC engage - because this is still part of an executive function.</th>
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<tr>
<td>Schedule town hall meetings in number of locations; detailed planning needed re number, where.</td>
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<td>ensure that local organizations (NGOs, civics) know about the meetings; public notices too. (should there be a personal contact in some communities, and not in others as other points of comparison to reach marginalized community. Use grass roots groups - not just civics. who will chair town hall meetings? the committee chair? someone else? several different members? who from legislature will attend? Could hold more discussions by dividing the work, but raises problems. The executive staff must also be in attendance who will present/explain the policy - executive staff who will take notes of the comments and write reports (executive staff? project staff?)</td>
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<td>5.</td>
<td>Analyze the results of comments on the first round of consultation, what points were made, who engaged, etc. Develop a report from the legislative committee to the executive with suggestions for the draft policy and the bill to be drafted.</td>
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<td>6.</td>
<td>Meet with the responsible deputy department head, DG and MEC to discuss suggestions to the policy.</td>
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<td>6.</td>
<td>What are the political complications of advice coming to the executive from the legislature before policy has been through executive council?</td>
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<td>7.</td>
<td>Wait for the executive to draft legislation, approve it through to provincial executive council, and then introduce in legislature.</td>
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Stage 3. Legislature consultations (approximately 5 months)

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<td>1.</td>
<td>Plan the consultation process on the draft bill. This work can start while the executive is still working on the legislation. The consultation should include executive staff as well as members of the legislature.</td>
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<tr>
<td>2.</td>
<td>Develop communications strategy for stage 3 re: content of the draft legislation, how to participate.</td>
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<td><strong>3.</strong></td>
<td>Circulate draft legislation to a comprehensive list of NGOs and civics, and request submissions.</td>
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<td>What about grass-roots groups and individual citizen? Engage other members of the legislature to gather and assess opinions of citizens.</td>
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<td>Don’t start paying NGO’s and civics to write submissions.</td>
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<td><strong>4.</strong></td>
<td>Ask individual members to gather views of citizens and assess these on some very specific questions.</td>
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<td><strong>4.</strong></td>
<td>This will help reinforce the representative function of all the members, not just the committee members.</td>
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<td><strong>5.</strong></td>
<td>Allow time for groups and individuals to prepare submissions.</td>
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<td><strong>6.</strong></td>
<td>Schedule hearings in the legislature and at selected points throughout the province.</td>
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<td><strong>7.</strong></td>
<td>Issue a general invitation to the hearings, plus solicit presentations by groups which hold or represent particularly divergent points of view.</td>
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<td><strong>8.</strong></td>
<td>Receive submissions and analyze the contents. Brief the committee members on the contents, the points of divergence and agreement with the draft legislation.</td>
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<td><strong>9.</strong></td>
<td>Carefully prepare committee chair to chair the hearings; brief all the members.</td>
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<td>10.</td>
<td>Conduct hearings.</td>
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<td>11.</td>
<td>Prepare report based on the submissions and presentations at the hearings.</td>
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<td>12.</td>
<td>Submit report to the Legislature, with the committees recommendations for any changes or deletions to the draft bill.</td>
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Stage 4. Evaluation (2-3 months)

1. Compare and contrast submissions (sources, numbers) on education and language bills with submission on new bills time elapsed on education and language bills, and on new bill if possible, media coverage, on education bill with new bill, amount, where, quality.

2. Compare social impact statement prepared by the executive with the assessment of the perspectives and impact learned through consultations.

3. Interview residents in Vosloorus re awareness.

4. Interview members/leaders in civics and NGOs re impressions and effect of participation from their view.

5. Interview members of the legislature in this committee and others (random) re impressions and efficacy.

6. Compare viewpoints (quantity, representation, etc.) through outreach and network.

**EVALUATION OF PETITIONS PROCESS**

To address the legislative function of redress of citizen grievances and to be more aware of citizens' concerns, the Gauteng Legislature is establishing a "petitions process". This function will supplement (complement) the role of the Public Protector by bringing to the legislature’s attention issues of concern to individual citizens. The intention is to provide assistance to people in finding the source of information or assistance and connecting with it, to establish more effective link between members of the legislature and their constituents.
It would be possible (depending on resources) to evaluate the implementation of the petitions process over the first year of implementation. The primary questions to address would be:

- number of petitions and analysis of which citizens use this approach
- nature of issues raised and their resolution
- efficiency -- how much work does it take to deal with a petition, on average; what is the overlap with other functions such as the public protector
- awareness among legislators of the petitions process
- awareness among the public of the petitions process (use Vosloorus again?)
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