Civil Society as Advocate of Social Change in Pre- and Post-transition Societies: Building Sound Governance in South Africa[1]

by

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1. Introduction

It is well-known that South African civil society played a crucial role in the struggle against apartheid in the period leading up to the democratic transition of the early 1990s. This process culminated in the April 1994 election which brought to power a democratic government, led by the African National Congress.

Civil society organizations (CSOs) – both those allied to the democratic forces and those which had supported or acquiesced to apartheid – were faced in 1994 with a dramatically changed operating environment, with different socio-economic and political priorities at the fore. In the new democracy, virtually all existing CSOs had to revisit their missions and activities to assess whether these needed to be adjusted to changed circumstances. They had to assess how they would interact with the democratically elected government and to adapt to new political institutions, rules and cultures. CSOs involved in anti-apartheid advocacy activities have had to rethink their target audiences, the content of their messages, and their strategies. Their levels of success in making these adjustments have varied considerably.

For its part, the new government had to build new democratic institutions, set new rules in consultation with the people and civil society organizations, develop a democratic political culture, and implement its political programme aimed equality and socio-economic development. The demands of democracy on government are

huge, especially in such a divided society, characterized by racism, intolerance, and mistrust. As it worked towards building the new democratic system, a key question was how government would relate to the diversity and capabilities present within civil society.

This paper explores the hypothesis that South African civil society has been an effective advocate of social change and has led to improved governance in the periods before, during and after the democratic transition. This is qualified by two major caveats: first, that civil society itself is contested terrain with organizations and networks representing varying interests, and second, that organizations take positions vis-à-vis government which vary with their own shifting constituencies, with the issues at hand, and with the prevailing political context. The rationale underlying these caveats will be clarified in the course of the paper.

We begin in Section 2 with an explanation of key concepts and their relevance to the South African context. Then, using the examples of three types of CSOs – trade unions, land and rural development CSOs, and community-based / ratepayers' associations, Section 3 shows how they have responded to the ever-changing context in their attempts to either promote their own interests and/or advocate for broader social change. Section 4 compares these different experiences with a view to understanding how CSOs interact with and challenge the state, how they form alliances and networks to unify and strengthen their voice (either in the short or long term), and how they utilize strategies of social mobilization in support of their causes. The conclusions in Section 5 are divided into two parts. The first reflects on practical lessons for future civil society action, particularly that which aims to promote sound governance within the democratic state. The second relates the findings based on the South African experience to the broader literature on civil society and governance.

2. Concepts and their relevance to the South African context

Even the definition of civil society is much debated. It is therefore essential to put forward the definition which, after much consideration, we have adopted for this study:

> *Civil society is defined as those not-for-profit organizations and groups or formations of people operating in the space between the family and the*

government, which are independent, voluntary and established to protect or enhance the interests and values of their members.

Significantly, we do not accept the narrow view taken by many researchers and practitioners that "civil society" refers only to those organizations which are characterized by so-called "progressive" values and norms, i.e. those which are committed to political, social and economic equality for all, to the eradication of poverty, and so on. We posit that civil society can either promote or undermine the public good.

In the South African context, it is important to understand civil society as encompassing progressive, reactionary, and apolitical organizations which interact with each other, with government and the public in a terrain that must be seen as contested. During the anti-apartheid struggle in South Africa in the period before 1990, civil society was divided primarily between those organizations which supported the apartheid regime and those which were opposed to it. However, there were also CSOs which focused on basic aspects of community, family or individual survival in the face of discrimination and poverty. During the political transition between 1990 and 1994, most CSOs were jockeying for position in the future democratic dispensation and were focused on adjusting or renewing their missions and activities so as to remain relevant in the new era. Following the first democratic election in April 1994, CSOs have continued to compete for space and to advance their particular agendas. The progressive-reactionary divide is far less apparent. As the nation moves to establish a truly non-racial and egalitarian society, CSOs structured on a racial basis have had to transform themselves along non-racial lines, or be faced with deregistration or closure. Nonetheless, CSOs aimed at preserving the pre-1994 status quo, or at least at maintaining certain areas of privilege, continue to exist.

Various authors have given different meanings to the term *governance*. For the purpose of this study, we use the following definition:

Governance by the state / government is defined as the manner, method or system of governing in a society. It refers to the structure and assignment of offices and their respective areas of responsibility and authority, and how they relate to each other and to the governed. It also relates to the accountability that needs to be exercised – especially of the state to the governed.

Hyden[2] confirms that <u>good</u> governance requires citizen[3] influence and oversight, responsive and responsible leadership, and social reciprocities. He defines these concepts as follows:

- *Citizen influence and oversight:* "the means by which individual citizens can participate in the political process and therefore express their preferences regarding public policy; how well these preferences are aggregated for effective policy-making; what means exist for holding governors accountable for decisions and actions".

- *Responsive and responsible leadership:* "the degree of respect for civic public realm (role as public trustees); the degree of openness of public policy-making (readiness to share information with citizens); the degree of adherence to the rule of law".

- *Social reciprocities*: "the degree of political equality (extent to which citizens or groups of citizens treat each other in an equal fashion), the degree of inter-group tolerance in the pursuit of politics, the degree of inclusiveness in associational membership (how far voluntary associations are capable of transcending the boundaries of such primary social organs as kinship, ethnicity or race)".

In a similar vein, Okoth-Ogendo[4] argues that such governance implies "creative interaction designed to promote full and effective participation by the citizenry in public affairs, accountability by the state to civic activism, continuous state-society and intra-society nexus, and ultimately, the existence of institutional arrangements founded on and designed to sustain those values".

Soremekun[5] has identified three dimensions of governance which usefully elaborate on the single concept:

1. "Functionally, governance deals with how rules are made, legitimized and enforced.

2. Structurally, it comprises three distinct institutions: the ruler or the state, the ruled or the society, and the rules of law. In essence, governance

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[2] Hyden, 1992, pp. 15-16.
[3] The use of the term "citizen" in this paper does not necessarily imply someone who holds a particular nationality. Rather it refers to individuals who live within a particular polity and are governed by the constitution and laws of that polity, and therefore have certain rights and obligations.
[4] Okoth-Ogendo, in Hyden et al., 2000, p. 38.
[5] Soremekun, in Hyden et al., 2000, p. 269.

embodies the quality of the relationship between the state and social institutions.

3. The normative dimension highlights the values associated with (good) governance. These include: transparency, organisation, effectiveness, accountability, predictability, legitimacy, popular participation, and plurality of choices".

Unfortunately, the concept often referred to as "good governance" has become ideologically loaded because of its identification with and frequent misuse by international institutions such as the World Bank and the International Monetary Fund. In order to avoid that political baggage, we prefer the terms "sound governance" or "democratic governance".

March and Olsen[6] define "democratic governance" from an institutional perspective, supplementing the exchange theories of political action and going beyond negotiating coalitions within given constraints of rights, rules, preferences and resources. They argue that the craft of governance involves:

- Developing identities of citizens and groups in the political environment;
- Developing capabilities for appropriate political action among citizens, groups and institutions – in ways that are consistent with and sustain the democratic system;
- Developing accounts of political events which define the options available and the possibilities for action – accounts of what has happened provide a key link between citizens and government and underlie efforts to secure control and accountability;
- Developing an adaptive political system that copes with changing demands and changing environments.

Gyimah-Boadi[7] further argues that "governance, and particularly democratic governance, depends on the development of appropriate forms of civil society rather than the actions of governments themselves", and therefore that it is most important to strengthen the self-governing capacity of segments of society. Pierre and Peters add that where democratic governance prevails, "government can govern only to the extent that the society is willing to let it govern".[8]

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[6] March and Olsen, 1995, pp. 6, 44-46.
[7] Gyimah-Boadi, 1996, cited in Pierre and Peters, 2000, p. 33.
[8] Pierre and Peters, 2000, p. 43.

How can civil society build sound and democratic governance in a divided society such as that in South Africa? On the positive side, SA civil society does have the benefit of a largely enabling political, legal and institutional environment.[9] The political space in SA democracy permits almost all civil society perspectives, except those that violate the rights of others and those that promote hate speech or intolerance.

However, there are many challenges facing the democratic South Africa, some of which we attempt to explore in this paper. First is the social conflict that results in situations where resources are scarce and government cannot address all socio-economic priorities at once. Thus, whilst democracy is valued by the poor "because it opens up the political space for demanding social and economic rights", it is also true that "democratization frequently entails the victory of one section of society over others".[10] To the extent that "the rules of politics make policy support an exchangeable commodity", "disparities in wealth, power and competence" tend to "put distributional questions off the political agenda and sustain inequities".[11] Second, in a society divided by extremes of wealth and poverty, exclusion from social networks is a defining feature of being poor and marginalized,[12] and this hinders social development. Third, SA society is also divided by the traditional and modern. To the extent that the traditional is linked to powerful vested interests which constrain equitable distribution and development, these must be addressed. Conversely, in many instances where South Africa has absorbed the modern without thinking through its disadvantages or appropriateness, a rethink may be necessary. Overall, the distribution of power and how it is used to promote or hinder social change needs to be taken into account in South Africa's efforts – both by government and civil society -- to entrench sound governance.

March and Olsen[13] assert that "democratic governance involves contributing to the development of accounts and procedures for interpretation that improve the transmission, retention and retrieval of the lessons of history and the use of such accounts to improve democracy". This is the aim of this paper.

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[9] This environment is explained in detail in Camay and Gordon, 2002 (book forthcoming).
[10] Abrahamsen, 2000, p. 84.
[11] March and Olsen, 1994, pp. 22, 25.
[12] Abrahamsen, 2000, p. 226.
[13] March and Olsen, 1995, p. 46.

3. Promoting their interests and/or advocating for social change: Three examples contrasting pre- and post-transition South Africa

To illustrate how different sectors of civil society have acted to promote or advocate for social change, and how they interacted with government on issues with significant implications for governance, we draw on three extensive case studies prepared in the course of this research.[14] The first deals with trade unions and how they have protected workers' interests in the context of two government-led processes to pass labour relations legislation, one in the 1980s at the height of the anti-apartheid struggle and one in the 1990s during and after the democratic transition. The second examines the role of land and rural development CSOs in advocating on behalf of rural people who were dispossessed of their land and/or forcibly moved under apartheid. The strategies utilized in the pre- and post-1994 periods and their relative effectiveness are compared. The third assesses the role of community-based associations and ratepayers' associations, also before and after the political transition, and how organizations representing constituencies with quite different interests have resorted to the same or similar tactics to promote their agendas with differing results.

In this section, we merely provide a factual summary of what happened in each case. Interpretation and comparison is dealt with in Section 4.

3.1.   Trade unions

Under apartheid, black workers were severely disadvantaged, banned from holding certain types of jobs, restricted in terms of the areas in which they could live and work, and denied many of the rights accorded to white workers. Black trade unions only achieved rights comparable to those of white unions in 1979. Subsequent gains made through collective bargaining, the Labour Court, and the right to strike were however being eroded by proposed changes to the labour legislation instigated by government and white employers.

The Labour Relations Act (LRA) of 1988 was drafted and passed by the Nationalist Party apartheid government without any consultation with labour, despite the existence of the National Manpower Commission (a tripartite consultative forum but

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[14] See list of case studies in the References. Camay and Gordon, 2002.

in which black trade unions did not participate as it was an apartheid institution). The Act was regarded as highly anti-labour, undermining established labour rights.

At the time, there were two major rival black trade union federations -- the Congress of SA Trade Unions (COSATU) and the National Council of Trade Unions (NACTU) – and several smaller unaffiliated independent black trade unions. Under threat from the new law, these rival federations and independent unions agreed to campaign together and to appoint joint legal representatives to represent their interests. They took their campaign against the LRA to employers and to communities. A large rally was planned and announced, but it was restricted by government to a venue and time, and constrained by a strong police presence. The federations sought urgent court action whilst workers met clandestinely to agree resolutions. Later, the federations laid a complaint at the International Labour Organisation (ILO, from which South Africa had withdrawn in 1964) via the United Nations Economic and Social Committee. ECOSOC accepted the complaint, and the ILO set up an investigation almost two years later. A new labour law was passed in 1991, with some changes made as a result of the protests and trade union involvement.

However, in the context of the political transition process, new negotiations began between government, employers and the unions. In 1991/92, employers and union federations agreed on a Labour Law Minute. This Minute was signed by government as well in October 1992. South Africa re-entered the ILO in 1994. The ILO agreed that the federations' complaint was legitimate and ILO experts were appointed to assist in drafting new legislation. The National Economic Development and Labour Council (NEDLAC) was established by legislation in 1994. NEDLAC was based on traditional tripartite stakeholder forums but, as an acknowledgement of the importance of broader civil society, added provision for a fourth stakeholder – "community" represented by selected constituency-based CSOs, e.g. women, youth, the disabled. A NEDLAC Task Group was appointed in 1995 to debate the draft legislation. A new Labour Relations Act, more favourable to labour, was passed in 1995. Since then, all new labour legislation and amendments have been initially debated within NEDLAC before being presented to the relevant parliamentary committees.

3.2.   Land and rural development CSOs

The apartheid government's forced removals of black communities from their land met with protests both from communities themselves as well as from CSOs formed for that purpose. Between 1960 and 1962, 3.5 million people were forcibly removed from their land and property. Whilst localized uprisings and revolts did occur, no mass rural movement emerged. Many traditional leaders were co-opted by the apartheid government through establishment of "homelands", payment of stipends and provision of other resources. This made it difficult for communities under traditional authority to protest.   Protest was also hindered by the fact that black farmers were not formally organized. Whereas white farmers had first formed a union to represent their interests in 1904, the first black farmers' union was established only in 1991.

Other civil society organizations, depending on their constituencies, either tacitly accepted these oppressive policies or fought against them. Churches in South Africa owned (and still own) thousands of hectares of land. They often had a feudal relationship with tenant communities on their land and consequently, had a vested interest in the status quo. In contrast, other CSOs emerged to contest apartheid policies affecting rural communities. In 1984, the National Committee Against Removals (NCAR) was formed to protect and assist communities threatened with removal from their land. Its members tried to stop removals by taking the government to court as well as through other forms of protest. Their success was limited.

A new approach to land reform was formulated during the political transition of 1990-94 to take into account the changes expected under democratic rule. Predictably, land became a political football during this period. White commercial farmers supported Nationalist Party (NP) policy, but numerous CSOs representing black interests opposed it. These CSOs complained about the NP government's lack of consultation on their 1991 White Paper on Land Reform and subsequent legislation. CSOs had many objections to the proposed legislation, arguing that government had set the parameters and had left little room for CSO or community inputs. Although CSO pressure led to the formation of an Advisory Commission on Land Allocation by the NP government, the Commission lacked decision-making power and no CSO nominees were appointed.

During 1991-93, the National Land Committee (NLC, formerly the NCAR) and other CSOs launched the broad-based "Back to the Land Campaign", supporting land

restitution and redistribution. The NLC constituted a network of nine CSOs working in rural areas, spread across the country. In 1993 the government tried to co-opt the NLC's director onto the Land Reform Committee, but the director refused on principle, rightly fearing that his participation would lend legitimacy to deliberations which were unlikely to yield the results the NLC was seeking.

There were also divisions amongst CSOs, in particular with regard to the clause on protection of private property proposed in the Interim Constitution. CSOs representing black rural communities felt that the clause would prevent the return of land to their constituents. The ANC and some allied CSOs were motivated to accept the clause due to their need for political compromise with the NP. CSOs representing white farmers obviously were in favour of the clause as it would protect their land ownership, regardless of how that land was acquired, from whom, or under what unjust laws.

During the CODESA negotiations to establish an interim constitution, representatives of rural organizations protested by marching into the premises where the talks were being held. This action provided a powerful new stimulus to the negotiators to address the land issues in their deliberations.

The period after 1994 saw the formulation and passage of several major pieces of legislation aimed at various aspects of land reform, often funded by foreign donors and drafted by foreign consultants. Many former CSO leaders were brought into the Department of Land Affairs to manage implementation of the new laws. In the early, euphoric days of the democratic government, these leaders maintained fairly close relationships with their former CSOs, continuing to consult them regularly, and co-operating with them in implementation of the new policies. The NLC and other allied CSOs continued to make their own proposals on land issues, generally supportive of government's approach but pushing harder on some issues where necessary to meet the needs of the landless.

For a variety of reasons, both administrative and political, implementation of land restitution and redistribution has been very slow. It took a long time for the new department to put in place procedures and personnel to handle land claims, and the "willing seller—willing buyer" approaches adopted did not work. Agricultural unions representing white farmers tried to slow the process. By 2000, only about 6% of land claims had been settled. As a result, the relationship between the NLC and

likeminded CSOs on the one hand and government on the other grew increasingly testy and antagonistic. The NLC argued for "justice to be seen to be done". Large numbers of landless people became increasingly impatient, their expectations having been raised but not fulfilled. Recently, out of frustration with the slow progress and government's unwillingness to consult with them prior to revising policy, the NLC backed some communities' illegal occupation of land. Partly as a result of such actions, the Department of Land Affairs and related agencies are speeding up restitution and redistribution.

3.3.   Community-based organizations and ratepayers' associations

In order to restrict and control black communities, the apartheid government evolved a system of black local authorities (BLAs) in black townships, using co-opted black leaders and police to maintain the status quo and repress political opposition. Local government was fragmented and managed entirely based on race, with vastly larger resources being channeled by the apartheid government to white elected local authorities in white areas. As is well-known, the result was huge discrepancies in the respective quality of service provision to white and black communities.

In their attempts to undermine what were illegitimate BLAs, community-based CSOs allied to the anti-apartheid movement -- such as the Committee of 10 and the Soweto Crisis Committee -- mounted rent and rates boycotts. Many BLAs were on the verge of financial collapse by the time of the political transition. Another consequence, with unforeseen implications for democratic local government, was the development of a culture of non-payment for services within these communities.

In 1995-96, reforms were introduced aimed at restructuring local government along non-racial lines, including the merger of formerly white and black areas under new, democratically elected councils. Part of the plan involved cross-subsidisation of the poorer black areas with resources from the more affluent white areas, so as to provide essential improvements to infrastructure and access to services in previously disadvantaged communities, eventually equalizing the quantity and quality of service provision to all areas.

In 1996, as a step towards this goal, the ANC-led Greater Johannesburg Transitional Metropolitan Council (GJTMC) adopted a policy of "one city, one tax base". They imposed a huge increase (up to 385%) in property taxes throughout the metro area,

combined with an additional levy on one of its four substructures – the wealthy and primarily white Sandton area.

In response, affluent white residents through their ratepayers' associations protested against the increases so as to protect the interests of property owners. Ironically, they adopted the "boycott" tactic previously used in the black townships as a strategy. Many members of these ratepayers' associations began to pay only what they regarded as a reasonable increase – 20% more than their previous tax levels. Large white-owned and run businesses, as major property owners in Sandton, were also hugely affected by the new taxes and joined the boycott. They simultaneously mounted a court challenge to have the rates' increases revoked.

Negotiations between the ratepayers' associations, the GJTMC, and the provincial government made little progress due to intransigence, poor negotiation skills and lack of capacity on all sides. The dispute escalated further when political parties became directly involved in taking sides. Business took its case all the way to the Constitutional Court, but the Court decided in favour of the GJTMC, confirming the need for local government to raise revenue to undertake its essential functions. Following this outcome, the businesses and ratepayers ended their boycott and made arrangements to pay their arrears.

There were several notable direct and indirect consequences of these pre - and post-1994 disputes, some positive and some negative in terms of the strengthening of local governance. Despite government and CSO campaigns to overcome the culture of non-payment, rates of payment for services in the townships are only improving slowly and this remains a major problem for local government resource generation and service provision. The civic associations which first used the boycott tactic with considerable success have lost much of their support. The post-1994 election of directly accountable local government officials to some extent obviated the need for alternative community structures. In addition, the civics' own internal conflict, mismanagement and corruption has alienated former supporters. The ratepayers' associations involved in the Sandton dispute also suffered a considerable loss of support due to the failure of their protest. There appears to be a recent resurgence of support rooted in residents' concerns about basic issues of infrastructure and service provision. Some of them are still tainted with a negative and racist image but more effort is being made to involve all races in debates and campaigns.

Financial management in the Johannesburg Metropolitan Council is now closely scrutinized by CSOs and political parties, leading to significantly greater transparency and accountability. Mechanisms have been put in place for consultation between the Council, citizens and CSOs on major policy decisions. For example, in 2001 and 2002, the Council embarked on a process of public consultations and hearings on budget-making and priority-setting. Whilst these were well-attended by political parties and CSOs, the absence of business is cause for concern. CSOs, business and the Council are working quite effectively together on other key issues, including crime prevention, service provision, improvement of the urban environment, arts and culture events, small enterprise issues, and general promotion of the city within and outside South Africa.

4. Civil society advocacy strategies and their impact

Reflected in these case studies are significant civil society strategies for achieving what they respectively regard as important aspects of sound governance. These aspects, of course, vary depending on the stakeholder and their interests. The impact of these strategies has also differed depending on the time and context, the relative strength and power of the contesting groups, the extent to which their values and goals are shared, their ability to create and sustain broad-based mutual support networks, and the manner in which their strategies were implemented. We address below three broad types of strategies with a view to drawing lessons for future civil society action and interactions in promoting sound governance.

4.1. Interacting with the state

In apartheid South Africa, those CSOs which were opposed to the apartheid system regarded the state as illegitimate. Therefore, much of their advocacy involved direct challenges to the legitimacy and power of the state, and their ultimate goal was to topple it. In the transitional period, 1990-94, the goal of much of political and civil society was to minimise violence and negotiate political compromises which would facilitate a smooth and peaceful transition to democracy. Thus, whilst continuing to voice their discontent with their level of involvement in the negotiation processes and putting forward the positions of their constituents on key policy and process issues, most CSOs reverted to less confrontational and more constructive types of inputs. They participated in sectoral forums, helped to identify policy priorities, and provided

democracy education to the people. Some CSOs representing those who supported the apartheid regime continued to act to protect their own interests and the status quo. Thus, contestation continued within civil society.

In the initial post-1994 period, many CSOs permitted the new democratic government to take the lead on key issues related to national development – on the assumption that their goals were the same. However, it soon became apparent to CSOs in certain sectors that it was essential to continue to monitor and challenge the state to ensure that new policies were adhered to and the promised service delivery reached those most in need. With the enactment of the 1996 Constitution and Bill of Rights, CSOs also saw new opportunities for working on democratic development and human and political rights issues. Much effort is still required to build a democratic political culture, protect citizen rights and encourage citizens to fulfill their obligations,[15] and to hold government accountable.

Contradictions continued to play themselves out within civil society.[16] The experience of the churches is illustrative. Some churches and their leaders actively participated in the anti-apartheid movement and provided important ethical arguments in support of the concept of a "just struggle". Others, especially but not limited to those serving primarily the Afrikaner community, supported apartheid or at least acquiesced to its injustices. Some of the latter have since publicly apologized. As the political transition has progressed, there are churches – from the ranks of both opponents and supporters of apartheid – which have tried to sit on both sides of the fence with regard to the land issue. Whilst voicing their support for democracy and for addressing the needs of the disadvantaged, these churches have nonetheless continued to benefit from their ownership of huge tracts of land and ongoing feudal relationships with tenant labour communities. Thus, their relationship with the state on land issues is equivocal at best. Smaller churches have the best record on land redistribution.

The case of agricultural associations is also contradictory. Though they benefit from some aspects of current government agriculture policy, individual white farmers continue to resist certain aspects of land reform, tenant rights and redistribution.

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[15] "The hope of governance is to encourage ordinary people, with their usual mix of identities and interests, to attend to the obligations of citizenship". March and Olsen, 1995, p. 38.
[16] "Many of the greatest dangers to the democratic polity come not from individual self-seeking but from deep, group based identities that are inconsistent with democracy, for example strong feelings of ethnic, national, religious, and class identities". Ibid.

Many CSOs have also become more aware of the dangers of allowing themselves to be co-opted through government-led consultative processes – even under a democratically elected government. They have recognised the need to increase their own knowledge and capacity so that they can participate on a level playing-field in important policy debates. CSOs should not be intimidated by government claims to have access to the most up-to-date and valid scientific knowledge or by government attempts to close the debate, but should ra ther continue to seek out their own sources and insist on keeping the lines of communication and debate with relevant government officials open.[17]   There is a further risk that government, by delineating the "procedural and linguistic constraints" on political discourse in order to "civilize conflict",[18] can control the content and outcomes as well.

Funding from the government has added a new dimension of interaction for service - delivery, research and other CSOs. Close ties resulting from government funding of CSO programmes may have a negative effect on the CSOs' autonomy and independence. Tendering for government service contracts may lead CSOs to shift away from their organizational objectives towards those of government in order to access needed funding. They may also shift away from certain beneficiaries for the same reason, further disadvantaging those groups. It has also sometimes been the experience in South Africa that close co-operation results in over-bureaucratization and institutionalization of initiatives which become excessively expensive and time-wasting, with reduced flexibility and responsiveness. CSOs' ability to be flexible, responsive and innovative is thereby compromised. Receipt of government funding always carries the risk that CSOs will not feel able to criticize government policy or practice – they will not "bite the hand that feeds them". Thus, CSOs' role in holding government accountable may be diminished.

4.2.   Forming alliances and networks to unify and strengthen their voice

It is clear from the examples provided that networks and federations formed under apartheid amongst CSOs in particular sectors of civil society (trade unions: COSATU and NACTU; land: NLC, etc.) increased the influence those groups had vis-à-vis the

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[17] See Dikeni, 2002, p. 4, who writes "To close off debate in the name of science is not only to obstruct the search for solutions, but also to use knowledge as a source of illegitimate power over society, not as an instrument in its service".
[18] March and Olsen, 1995, p. 85.

sources of political and economic power (e.g. white-owned business, black local authorities, government departments and homeland authorities, etc.). Many CSOs actively opposed to the apartheid regime joined together to establish the National Forum as an informal, non-politically aligned CSO base to discuss and strategize on the opposition to apartheid. The United Democratic Front (UDF), created later, was a similar movement inside South Africa allied to the ANC in exile. This broad alliance which joined trade unions, civics, human rights organizations, and others, provided a stronger mutual support system in the struggle against a repressive state and a louder voice that was heard outside as well as inside the country.

After 1994, in the context of the democratic dispensation, some of the networks whose main purpose had been resistance to apartheid power had difficulty adapting their organizations to the new context. Consequently, they suffered considerable loss in support. However, others (e.g. the trade unions) used their federations and negotiating experience to good effect in pushing for new legislation to protect their members and interests.

Other types of networks, e.g. of ratepayers' associations representing previously advantaged groups, got a new lease on life to protect their interests in the face of policies aimed at reducing their privileged position. However, the fact that their alliance failed to accommodate the new non-racial South Africa limited their ability to mobilize wider support and elicited determined opposition from newly elected black politicians. Had they sought to include black property owners, for instance, they could have eliminated what became a fatal flaw in their campaign. Though their alliance with business interests gave them added resources (to defray the cost of the court case) and political influence in some quarters, it also positioned them squarely with the "haves" and alienated the "have-nots". Despite the fact that their immediate objectives were regarded as contrary to the aims of the new democracy and eventually failed, their vocal criticisms did contribute in some ways to developing a culture of accountability in new local government structures.

The National Land Committee (NLC), an independent CSO and co-ordinating structure for nine regional land service organizations, has fairly successfully survived the transition to democracy. As there are more than 50 CSOs in South Africa operating in the land sector, the NLC cannot claim to be representative of the sector. Nonetheless, as a CSO with national coverage and with members that include many of the most experienced and effective rural-based CSOs, it often takes the lead on

key issues. The NLC is clearly more effective as the sum of its members than each member can be on its own. It also works closely with other rural networks and women's organizations. As government's rural development policy has evolved since 1994, the NLC has found itself increasingly opposing aspects of that policy but has maintained its loud voice in trying to hold government accountable to rural people.

On some issues, broader alliances between different types of CSOs are emerging. One such example was the 1997-98 campaign with regard to reform of the Child Support Grant (CSG). In this campaign, CSOs involved in welfare and poverty-alleviation issues such as the Black Sash, the SA Council of Churches, the National Welfare and Social Services Development Forum, and the SA NGO Coalition were joined by COSATU in calling for increases in the size and outreach of the grant. It is important to note that these CSOs would not necessarily agree on other policy issues. This CSG campaign had some success, after winning support from the Parliamentary Portfolio Committee on Welfare, and a compromise solution was reached. This was the first time that an ANC-led committee had publicly opposed recommendations supported by the ANC-led Cabinet.

This temporary alliance has been reactivated currently in a campaign for a Basic Income Grant (BIG) to provide a more efficient and effective social safety net in light of the constraints faced in government's delivery of the existing child and disability grants as well as old-age pensions. The BIG campaign has raised public and political awareness of the issues and put social security more urgently on the policy agenda. At the recent (September 2002) ANC policy conference, the party leadership appeared to be moving towards extending the age limit of child support grants from seven to 18 years so as to assist children and families in need. However, the ANC remained opposed to the BIG saying it would be difficult and costly to implement and might encourage a culture of dependency on government.

The use of CSO networks and alliances amongst CSOs will continue to be an important strategy in a democratic environment. However, many questions have been raised recently[19] about the appropriateness of an ongoing alliance between the ruling political party – the ANC, and its civil society partners – COSATU and SANCO. This alliance has experienced strains in recent years when these CSO federations have taken issue with significant ANC policy positions, including notably macro-

economic and HIV/AIDS policies. Whilst COSATU continues to be a strong player in policy advocacy, SANCO no longer has structures in place or credibility due to internal corruption and conflict. To a large extent, at the local level, the political space once occupied by the civics is not occupied by the liberation movement turned political party. The jury is still out on whether this alliance will survive these increasing tensions, demonstrated by the October 2002 COSATU national strike against privatization and in favour of job creation. There is a clear conflict of identities and loyalties for those who are members of both COSATU and the ANC, making it difficult for COSATU members to hold the ANC to account. Such formal, long-term alliances are not a positive factor for democratic governance or for CSO autonomy.

Networks and alliances also serve as "mechanisms for inclusion and exclusion"[20]. They may be a polarizing or fragmenting force in civil society, i.e. through the distrust created amongst those outside the network or alliance. In addition, they may have differential access to government, depending on whether or not their activities are perceived to be consistent with government policy. The Treatment Action Campaign (TAC) and its allies who have successfully opposed the government on its approach to HIV/AIDS treatment are being excluded from some policy debates such as a recent government-sponsored Indaba (meeting) and have to fight for donor support. In contrast, LoveLife and its civil society partners involved in HIV/AIDS education and prevention, which have not participated in such public debates, are receiving huge amounts of government and donor funding. Thus, some groups are organized "in" and others "out", with the potential effect of reinforcing social and economic inequalities[21].

4.3.   Utilizing strategies of social mobilization in support of their cause

In the struggle against apartheid, different types of CSOs used various forms of social mobilization to protest against repressive apartheid laws and policies. Trade unions used petitions, demonstrations, rallies, strikes, as well as member education programmes to mobilize their members and broader public support. Community-based organizations such as civics used rent and rates boycotts to protest against imposed local councils. Rural communities protested against removals through

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[19] See, for example, Gumede (2002); Harvey (2001); Manga (2002); and many other press articles.
[20] Baron et al., 2002, p. 218.
[21] Ibid.

isolated uprisings but did not succeed in mobilizing the rural masses. The "Back to the Land" campaign in 1991-93 did, however, mobilize a large number of fellow CSOs and assisted the constitution-making process to address the land issue.

In the post-1994 period, trade unions have continued to use similar strategies, including strikes, to mobilize their members and supporters against employer actions or government policies which threaten jobs and labour rights. White suburban CSOs adopted the same types of mobilization tactics, e.g. rates boycotts, used in township struggles. A wide range of CSOs continue to use the methods which proved so successful during the anti-apartheid struggle, as well as a host of new ones only recently available, such as advocacy campaigns via the Internet.

Though many past strategies continue to be relevant and effective today, the majority of CSO advocacy takes place through more established channels, many of which are established by law or government regulation (e.g. the Commission for Conciliation, Mediation and Arbitration (CCMA), NEDLAC, the Human Rights Commission, the Gender Commission, the Public Protector, parliamentary committee hearings, provincial and local government sponsored public forums, etc.). Some of the dangers inherent in this approach have been noted earlier such as decreased CSO independence and co-optation of CSOs by the government. CSOs currently show less vibrancy and activism in support of their cause. Popular education – a strength in the anti-apartheid campaigns -- is presently also gravely lacking.

There is a tendency in new democracies for civil society to be demobilized, becoming too passive vis-à-vis a government regarded as representative. In becoming closer to government and following the government's lead -- primarily due to identifying with the just struggle waged by the ruling party -- CSOs may distance themselves (intentionally or not) from their constituencies or beneficiaries. This may cause CSOs to lose their own legitimacy as spokespersons and advocates for disadvantaged communities.

A rather different concern is that government and civil society have so far failed in their efforts to develop a citizenry equally committed to its democratic rights on the one hand and responsibilities on the other.[22] Instead, the early post-1994 enthusiasm

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[22] For example, the failure of the Masakhane campaign aimed at persuading citizens to pay for public services rendered (water, electricity, etc.). It is however not only the citizens who need to develop this accountability, but also the officials who are tasked with service delivery

stimulated by the advent of democracy has given way to an entitlement mentality in poor communities. This is partly a function of what some call the "failure trap" or the "disappointment effect"[23] -- the inability of government to meet unrealistic expectations. The view that "government should and will provide" is a serious threat to the evolution of sustainable development strategies at grassroots level.

This is demonstrated by the emergence of informal CSOs in communities to protest against perceived local council injustices (such as the Soweto Electricity Crisis Committee which has emerged to advocate on behalf of citizens whose electricity has been cut off due to non -payment of bills). Where such protests do not distinguish between legitimate cut-offs and those resulting from inaccurate billing, undelivered statements or inaccurate readings, they undermine the development of citizen responsibility and a culture of payment for services rendered. More seriously, they also potentially threaten the sustainability of local government service provision by hindering resource flows. This type of social mobilization, when not combined with attempts to build understanding of both the rights and obligations of citizenship in a democracy, risks creating further expectations which cannot be fulfilled.

Due to rising perceptions that current CSO advocacy strategies on some issues (e.g. social security, job creation, anti-privatization, land redistribution) are having insufficient impact on government policy, and that government is not delivering on many of its promises and continues to pursue policies which diminish its ability to meet the needs of the people, there is increasing talk of renewing social mobilization efforts.[24] Government's recent attacks on these CSOs as representing a "far left" in SA politics which has no place within the ANC indicates that government has little interest in listening to these positions. To the extent that civil society criticizes government without putting forward concrete, realistic alternative policy proposals, government may have a point. However, in numerous cases, viable alternatives are being proposed with little effect. There are increasing civil society concerns about the lack of government accountability with regard, for example, to prioritizing huge expenditures on arms deals instead of poverty alleviation and job -creation

(viz. the simultaneous failure of the Batho Pele campaign). "The development agenda seeks to affect the operation of the polity by affecting the values, beliefs, and identities of citizens. The role of governance is to mold identities and accounts to create virtuous citizens and officials" [emphasis added]. March and Olsen, 1995, p. 244.

[23] Ibid., p. 216.

[24] For example, the demonstrations by the Landless Peoples' Movement during the World Summit on Sustainable Development in August/September 2002, and the October 2002 strike by COSATU.

programmes, as well as the failure in some provinces and localities to deliver services effectively. A major challenge is to maintain public interest in policy agendas in between elections which take place only every five years.

5. Conclusions

5.1. Lessons for future civil society action to promote good governance within the democratic state

South Africa's political transition from a repressive, apartheid government to a democratic one elected by all the people has held major implications for the relationships between civil society and government. Whilst the South African context is unique as a result of its particular historical context, we believe that many of the lessons learnt from this experience are equally valid for other countries undergoing political transitions and / or democratization processes. Further comparative research in this regard would help develop an understanding of and lessons learnt from varied experiences.

Since the political transition in the early 1990s, and with the establishment of a democratic government, South Africa has aspired to a political culture of inclusive dialogue and peaceful conflict resolution. However, the cases presented indicate that this "dialogue" has permitted government to co-opt civil society on too many issues. This suggests that whilst CSOs can continue to participate in mandated negotiation processes with government, they should remain vigilant with regard to maintaining their autonomy and independence from government. A return to a more critical, activist and challenging civil society would better serve the ongoing entrenchment of democracy and assure the accountability of the government to the people.

Also, less well-organized civil society finds it difficult to participate in these formal consultative or negotiation forums established by government. A good example, cited by Mathoho[25] is that of South Africa's approximately 7.7 million unemployed people who do not have a voice in NEDLAC or in other policy dialogue forums. They do not have strong, representative CSOs of their own and are inadequately represented by

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[25] Mathoho (2002).

others in policy- and law-making processes.[26] It would, therefore, be more beneficial for governance if South Africa's representative institutions (parliament, local councils, etc.) were strengthened and their accountability to the grassroots reinforced, providing for more effective voices for informal, but significant, social movements such as the unemployed. Friedman and Reitzes[27] concluded that "the route to a stronger civil society may be in opening the state to the widest possible public influence through reforms which maximize its accessibility to all, rather than to those able to gain admittance to state-sanctioned vehicles for civil society participation".

March and Olsen[28] argue that "A major feature of democracy is that it tolerates and encourages differences among individuals in values and interests while sustaining a diffuse confidence in democratic procedures and outcomes". Later, the same authors posit that "the difficulty lies in designing political institutions that promote such identities and preferences but at the same time sustain the individuality and heterogeneity desired on other grounds"[29] and that "the challenge is to design institutions that survive and flourish in the face of changing environmental pressures while maintaining commitment to the primacy of democratic values".[30]

Moreover, the evidence presented suggests that civil society should take the initiative in identifying and occupying unassailable higher moral ground for itself, rather than simply reacting to the government's lead. CSOs should provide moral authority and lead by example. CSOs should continue to promote the entrenchment of a democratic culture by providing civic education and developing mechanisms for citizen participation. They should encourage citizens and civil society to monitor each new government's adherence to its constitutional obligations. South Africa's constitution is a model throughout the world as a result of its far-reaching provision of civil, political and socio-economic rights. However, for as long as these rights do not apply to all South Africans, democracy will mean little to those who feel forgotten.

Close co-operation between CSOs and government should not absolve government of its own responsibility as the elected representatives of the people and as officials appointed to fulfill a particular mandate. It is essential to recognize the limitations of

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[26] Trade unions and federations find it understandably difficult to simultaneously represent the needs and interests of their members <u>and</u> of the unemployed, as the two sometimes conflict.
[27] Friedman and Reitzes, 1996, p. 63.
[28] March and Olsen, 1995, p. 3.
[29] Ibid., p. 105.
[30] Ibid., p. 192.

both government and CSOs, and to decide their respective roles according to their actual comparative advantage. CSOs cannot and should not take the place of government. Civil society can fill certain gaps in service provision, but ultimate responsibility and accountability for governing lies with government. The current predilection for so-called "partnerships" between government and the private sector (whether for-profit companies or not-for-profit CSOs) must therefore be closely interrogated.

Where CSOs are perceived as being too close to government, they may lose their credibility as representatives of community voices, especially where those voices need to express dissatisfaction with government performance and delivery. CSOs may find it difficult to provide simultaneous support roles to communities and government, with conflicting demands on their loyalties. This may lead to community frustration and "beneficiary dissonance" when expectations are not met. People may lose trust in both CSOs and government, leaving them no outlet for their frustrations. This may, in turn, lead to disillusionment with democracy, lower voter and civic participation.[31]   Part of sound governance, therefore, is to focus on what is achievable.

Two overarching lessons have emerged:

The first lesson is related to the heterogeneity of civil society. In South Africa, civil society itself is a contested terrain – a factor which we believe is vital to its continuing health and strength. The country gains the benefits of diversity in terms of sharing of ideas and experience, mutual learning and the emergence of enhanced solutions from vigorous debates. This diversity also demands a greater degree of accountability by government and attention to the needs of minorities as well as the majority. Whilst civil society remains deeply divided, and individual CSOs continue to represent the social, political and economic inequalities of the apartheid era, many of these organisations have transcended the race issue and also provided important vehicles for crucial reconciliation and transformation across all communities. The presence of CSOs which are not necessarily supportive of rights-based development also provides an indicator of the ongoing need for education, dialogue, tolerance and

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[31] The absence of such trust (loyalty) may induce citizens to assert their option to "exit" rather than to continue to use their "voice". See Hirschman, 1970. This may diminish the prospects for sound governance. However, others argue that citizens' skepticism regarding government may be a healthy sign as it shows political maturity and a greater tendency to scrutinize government actions. See Mahoney, Smith and Stoker in Baron et al., 2002, pp. 217-223.

change. As long as this terrain is contested within the limits of an accepted system of political institutions and rules, governance can prevail.

The second lesson is that the relationships between civil society and government are dynamic and complex, not static. They may vary from sector to sector, from issue to issue, from one level of government to another, from CSO to CSO, as well as over time. As civil society is heterogeneous, the relationships between individual CSOs or networks/coalitions of CSOs and government will be as different as the CSOs themselves – in terms of their missions, activities, approaches, constituencies, values and ideologies. The continuum of relationships between CSOs and government may range from control and co-optation of civil society by government to partnership (co-operation on an equal footing), to simple funding relationships (government provision of funding to CSOs for service delivery), to dialogue on policy and implementation issues, to competition for public and donor resources, to outright opposition (where civil society and government hold contrary perspectives on political or economic policy issues). Some of these relationships may be regarded as adversarial, e.g. control, competition and opposition, whereas others may be more constructive, e.g. funding, co-operation and dialogue. Even some adversarial types of relationship may, over time, lead to constructive outcomes.

5.2.   Contextualizing the South African experience

The international literature on civil society and governance is complex and far from consistent in its assertions. Certain perspectives, however, resonate particularly with the South African experience.

We focus on interpretations of the concept of trust as they relate to relations within civil society, between civil society and government, and therefore as a crucial foundation for sound governance.[32] Fukuyama defines trust as:

> "The expectation that arises within a community of regular, honest and co-operative behaviour, based on commonly shared norms, on the part of other members of the community… these communities do not require extensive

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[32] As opposed to the broader concept of "social capital" which is highly contested, and criticized for its circularity (i.e. the difficulty of distinguishing cause and effect) as well as on other grounds. Use of the often referred to elements of social capital -- "synergy", "complementarity" and "embeddedness" (see especially Evans, 1996; Woolcock and Narayan, 2000) -- to analyze civil society and governance in the SA context fails to reflect many of the pitfalls of co-optation and lack of autonomy of civil society as discussed in the body of this paper.

contractual and legal regulation of their relations because prior moral consensus gives members of the group a basis for mutual trust".[33]

This leads us to an understanding of civil society as "a sphere in which citizens can learn to trust and rely upon one another".[34] Miller further explains that "civil society provides an arena for cultivating civility and social responsibility, imposing on citizens the task of treating others according to the demands of liberal duties. In that way life in civil society can shore up the dispositions necessary for people to experience the broader goals of democracy, self-government, and equality in public culture".[35]

Referring back to our introduction of the concept of sound governance, trust addresses the key components of the craft of governance by facilitating the development of citizen and CSO identities in the political environment, and the building of their capabilities for democratic political action. Trust also allows the participants in political events to agree on accounts of those events, and to agree on adaptations to the political system which are required to cope with change.

The existence of such trust builds the confidence of individual citizens, CSOs and government so that the rules of engagement are mutually accepted and enforced – making relations amongst them more predictable. Trust encourages government institutions to become transparent, accountable and responsive, and citizens and CSOs to become inclined to advocate or take action as and when necessary. Trust permits our understanding of sound governance to occur through citizen influence and oversight, responsive and responsible leadership, and social reciprocities.[36] Trust also permits government to become more accepting of the concept of a "loyal opposition", providing for a free and open exchange of views.

We cannot, however, argue that South Africa has fully achieved sound or democratic governance. With reference to March and Olsen's criteria, we note the following:

- **Identities**: Citizen and group identities continue to evolve, largely in a positive direction, but with some of the negative aspects of racial, class and ethnic identities of the past still apparent. The political landscape is characterized by a plethora of CSOs representing disparate interests. Social alliances amongst these identities and interests are ever-changing.

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[33] Fukuyama, 1995, p. 26.
[34] Fred D. Miller, Jr., in Rosenblum and Post, 2002, p. 196.
[35] Ibid., p. 181.
[36] See Section 2 of this paper.

- **Capabilities**: Citizens are learning to use their rights and to undertake their obligations in a democratic environment. Much of civil society has adapted to the new dispensation, but some CSOs have not been able to cope. Government is still in the process of coming to terms with its responsibilities, creating feasible horizontal and vertical divisions of labour, including civil society to some degree but not as effectively as possible, and generally improving its ability to govern in a sound fashion.

- **Accounts of political events**: The issue of accountability is a critical one in South Africa today – for all stakeholders. Whilst some institutions and systems are in place and are used effectively, others are not. Many elected and appointed officials are still unaccountable, both in attitude and in fact.

- **Adaptive political system**: South Africa's political system is still very much in flux. A task team is currently studying options to make the electoral system more constituency-based, and thus more accountable. Local government has been adjusted several times since 1994 and is still working out its mandates, now confirmed in a White Paper and enabling legislation. Provincial government is caught betwixt and between and its future is uncertain. National government is addressing huge issues of economic growth and development, reviewing its strategies to take into account the changing international economic and political environment, as well as the implications for the nation's politics. Further changes are required in order to permit government to meet its constitutional obligations, especially in terms of political, civil and socio-economic rights.

On balance, what South Africa has accomplished since 1994 is astounding. Democratic practice is becoming entrenched, with regular free and fair elections being held. Increasingly, citizens and civil society are holding government accountable between elections. Government is learning from its mistakes, and has recognized to a large extent those aspects of governance which require urgent improvement. Overall, civil society has been an effective and positive advocate of social change and has led to improved governance.

Nonetheless, the challenges are still great and much remains to be done. South African civil society and government face major challenges, amongst which probably

the most impo rtant is how to promote sound governance in order to achieve the country's goals of entrenching democracy and eradicating poverty.

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