

Critical Perspectives on Sustainability of the South African Civil Society Sector

*Including an assessment of the
National Lotteries Board (NLB) and
the National Development Agency (NDA)*

Coalition on Civil Society Resource Mobilisation

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Charities Aid Foundation Southern Africa (CAF Southern Africa),
CIVICUS, Cooperative for Research and Education (CORE),
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Contents

Acronyms	3
1. Introduction	5
2. The research and advocacy process	7
3. The historical role of civil society in South Africa pre- and post-1994	9
The transition from apartheid	10
Changing relationship with the state	11
CSOs finding their voice in the new terrain	12
Legal and policy framework	13
The role of civil society today	15
Strategies and contributions by civil society	15
Civil society tested: the xenophobic attacks 2008	20
Impact of relying on government-aligned funding	21
Challenges facing civil society	21
4. Socio-economic conditions in South Africa	26
Income and asset poverty	27
The material dimensions of poverty	30
Capability poverty	33
Gambling and poverty	35
5. Civil society and the developmental state	36
What is a developmental state?	37
How effective has South Africa been in creating a developmental state?	39
The erosion of accountability and the growth of corruption	41
Ethical leadership approach to public service delivery	43
Civil society contributions to development	44
Are CSOs viewed as partners by the state?	45
Recommendations	48
6. The National Lotteries Board (NLB) and the National Lotteries Distribution Trust Fund (NLDTF)	49
Background	49
The Lotteries Act (Act No. 57 of 1997)	50
The role of the National Lotteries Board (NLB)	51
The role of the National Lotteries Distribution Trust Fund (NLDTF)	53
NLDTF resources available for civil society	54
Lottery distribution structure	54

Challenges and problems within the NLB and NLDTF56

Case study: Tshepang Victim Support Centre.....60

Grant-making process61

Case study: The Catholic Health Care Association of South Africa.....64

Has the lottery served the needs of CSOs in South Africa?.....65

Case study: The Trevor Huddleston Memorial Centre.....66

Recent developments.....69

Recommendations70

7. The National Development Agency.....75

Background.....75

The legislation76

The NDA vision and mission.....77

Structure and governance.....77

Resources79

Strategic direction of the NDA81

Funding categories82

Leadership and capacity.....83

Grant-making process84

Has the NDA served the needs of CSOs in South Africa?85

Case study: Siyakhula Trust.....88

Public accountability.....89

Recommendations89

8. Good practice by grant makers.....92

Relevance and intelligence93

Independence and integrity.....94

Good governance.....94

Strategic approach.....94

Capacity – the ‘dream team’.....96

Partnerships.....97

Grant-making processes97

9. Conclusion and final recommendations99

Appendix101

Provincial consultation schedule101

List of interviews.....101

Engagement with government.....101

References102

Acronyms

ANC	African National Congress	NDA	National Development Agency
APF	Anti-Privatisation Forum	NEDLAC	National Economic, Development and Labour Council
ARVs	Anti-retroviral drugs	NGO	Non-governmental organisation
ASGISA	Accelerated Shared Growth Initiative for South Africa	NLB	National Lotteries Board
BLF	Big Lottery Fund	NLDTF	National Lottery Distribution Trust Fund
CAO	Central Applications Office	NPC	National Planning Commission
CATHCA	Catholic Health Care Association of South Africa	NPO	Non-profit organisation
CBO	Community-based organisation	NRGP	National Responsible Gambling Programme
CCS	Centre for Civil Society	OVCs	Orphans and vulnerable children
CSO	Civil society organisation	PAIA	Promotion of Access to Information Act
DAs	Distribution agencies	PBO	Public benefit organisation
DBSA	Development Bank of Southern Africa	PEPFAR	President’s Emergency Plan for AIDS Relief
DGMT	DG Murray Trust	PF	Programme formulation
DSD	Department of Social Development	PFMA	Public Finance Management Act
DTI	Department of Trade and Industry	RDP	Reconstruction and Development Programme
ECD	Early childhood development	RFP	Request for proposals
EU	European Union	SAEP	South African Education and Environment Project
FHR	Foundation for Human Rights	SANGOCO	South African National NGO Coalition
FBO	Faith-based organisation	SECC	Soweto Electricity Crisis Committee
FPA	Funding Practice Alliance	TAC	Treatment Action Campaign
GCAAP	Global Call to Action Against Poverty	TNDT	Transitional National Development Trust
GEAR	Growth, Employment and Redistribution (plan)	THMC	Trevor Huddleston Memorial Centre
GMS	Grant Management System	TRC	Truth and Reconciliation Commission
IDC	Industrial Development Corporation of South Africa Ltd	UDF	United Democratic Front
IDT	Independent Development Trust		
JIPSA	Joint Initiative on Priority Skills Acquisition		
MDGs	Millennium Development Goals		
MTSF	Medium-Term Strategic Framework		

Introduction

South African civil society is currently facing a funding crisis. This has resulted in a multiplicity of sustainability and institutional development challenges. Reasons for these circumstances include declining international funding, leadership and identity changes and the apparent unwillingness of government to meet its responsibilities to the sector. Government has been particularly remiss about its obligations regarding legislated and budgeted resource flows to CSOs. As a result of the above, the sustainability of many important CSOs is seriously compromised, a situation that has been exacerbated by the prevailing economic recession.

To mitigate these challenges, a coalition of CSOs (subsequently referred to as the Coalition)¹ implemented a research and advocacy programme aimed at contributing to a more enabling funding environment for South African civil society. The intention of the programme was to mobilise and enhance resource flows, and to improve the practice of government grant-making and investment in the sector.

The project focused on the National Lotteries Board (NLB) and the National Development Agency (NDA), both conduits of funding to civil society. The NDA and the NLB were conceived as major funders for CSOs, especially those involved in welfare and other essential delivery areas. The ongoing governance and accountability problems of these institutions have impacted negatively on their ability to comply effectively with their legislated roles, and thus they have been widely criticised by CSOs.

This report presents the findings of a research and advocacy process that included consultative workshops with CSOs in all nine of South Africa's provinces, interviews with CSOs, politicians, government departments, the NLB, NDA and local funders. The report highlights the successes and ongoing problems associated with the NLB and the NDA. It locates them within a broader context of government unevenness, inefficiency and corruption.

The research found that the legislated 'enabling environment' for civil society was dysfunctional. The NPO Directorate within the Department of Social Development (DSD) has been unable to implement its responsibilities in accordance with the Non-Profit Organisations Act. The National Lotteries Distribution Trust Fund (NLDTF) and the National Development Agency (NDA) have not managed to disburse funding effectively to the sector in accordance with the relevant legislation.

The serious lack of current and reliable national data about the size, scope and activities of the sector negatively affects the ability of the sector and of government to support it. The sustainability and effectiveness of civil society to address poverty and inequality is compromised by these problems.

1 The Coalition is made up of CAF Southern Africa, CIVICUS, CORE, Legal Resources Centre, National Welfare Forum and SANGONeT.

The report has seven chapters. The first introduces the study. The second provides an outline of the research and advocacy process that informed the content of the report. The third provides a brief overview of the historical role of civil society in South Africa. Chapters 4 and 5 are windows into the socio-economic context and South Africa as a developmental state. This is followed by chapters 6 and 7 which look at the NLB and the NDA respectively and contain recommendations for improvement. By contrast, Chapter 8 presents brief good grant-making practices evident from lotteries internationally, and by a few independent local funders. The final chapter provides concluding comments and final recommendations.

CHAPTER TWO

The research and advocacy process

The Coalition of CSOs with a range of skills and collective experience implemented a research-based advocacy programme aimed at contributing towards a more enabling environment for South African civil society. The Coalition included CAF Southern Africa, CIVICUS, CORE, Legal Resources Centre, National Welfare Forum and SANGONeT.

The Coalition’s programme was informed by consultation and engagement with the relevant role-players, including CSOs, politicians, government departments and representatives from the NLB, the NLDTF and the NDA.

- The Coalition programme had the following aims:
- to enhance resource flows towards, and impact on, the sustainability of CSOs;
 - to improve the practice of grant-making and investment in the sector, particularly by government; and
 - to enrich the relevance and impact of civil society development action.

The Coalition sought various channels to engage with civil society to learn first-hand about their experiences of funding from the NLB and the NDA. Through the SANGONeT CEO circle, the Coalition met with CSO leaders and obtained feedback and information. The Coalition hosted provincial consultative meetings with CSOs in all provinces. Participants were assured that their opinions and comments would be shared anonymously as some were *‘frightened to bite the hand that feeds us’*. This report therefore reflects opinions that were shared by a majority of participants and does not attribute these insights to individuals or organisations participating in the process.

The research process included collecting case studies of organisations’ experiences with the NLDTF and the NDA. It was further informed by desk research, including a scan of relevant academic articles and numerous media reports, along with recent court cases.

The Coalition sought constructive engagement with government in an effort to seek solutions to the current funding crisis facing many CSOs. To this end it held meetings with:

- the Minister of Trade and Industry;
- representatives of the board and executive management of the NLDTF and the NDA;
- managers in the DSD;
- an executive in the Ministry of the Presidency;
- representatives of Statistics South Africa (Stats SA); and
- a representative of the National Economic, Development and Labour Council (NEDLAC).

In addition, the Coalition commissioned comprehensive legal research into the legislation and regulations currently governing the NLDTF and the NDA. Concrete recommendations were made through this process to assist and guide proposed legal changes that would facilitate and improve the effectiveness of resource flows to civil society.

The research process was not an academic exercise, but rather one of practical engagement, consultation and solution-seeking in partnership with relevant stakeholders.

This report reflects findings that emerged through the process of dialogue and practical engagement.

CHAPTER THREE

The historical role of civil society in South Africa pre- and post-1994

While definitions of civil society remain contested, the sector is broadly understood as occupying the space between the state, the market and the family. Often referred to as the ‘voluntary sector’, and in South Africa the ‘non-profit sector’, civil society encompasses the way in which communities organise, provide services and undertake policy and advocacy activities. Civil society includes non-governmental organisations (NGOs), social movements, community-based organisations (CBOs), civics, school-governing bodies, women’s groups, peace and justice organisations, academics, students, faith-based organisations (FBOs), special interest organisations (refugees, people with disabilities, etc.), professional associations, trade unions and many others. In South Africa this sector is usually termed the ‘non-profit’ sector, comprising non-profit organisations (NPOs) registered in terms of the South African Non-Profit Organisations Act 18487 of 1997.

The notion of civil society is one in which organisations make a positive contribution to the development of the nation. These organisations exist and operate independently of the state, although the boundaries between state, civil society, family and market are often complex, blurred and negotiated.²

In South Africa, CSOs have played varied roles historically. They were vocal and active players in the struggle against apartheid. During the period of transition, CSOs continued to engage and influence the drafting of the new constitution, and contributed to dismantling apartheid legislation and policies. With the focus moving to service delivery, CSOs have continued to play key roles in filling gaps and advocating on behalf of those living in poverty.

During apartheid, CSOs played a central role in both mitigating the effects of apartheid’s unequal development and mobilising opposition to the apartheid state. In 1966 the United Nations General Assembly declared apartheid a crime against humanity. With rising international condemnation of the apartheid state, European governments and other international donors looked for credible local South African agencies through which to channel their funds.

The largest conduits at the time were Kagiso Trust, Interfund, the South African Council of Churches and the South African Catholics Bishops Conference. This intermediary approach was unique to South Africa, as bilateral aid around the world usually flowed through government.

As international donors supported ‘struggle’ NPOs, they deliberately required little follow up to avoid exposing anti-apartheid activities to the apartheid state. According to Kuljian (2009:124):

² <http://www.areda.ch/P22E.html>

submerging financial information was not unusual among NPOs at the time, as it was not safe to reveal one's sources of funding, nor exactly where the funds were going, for fear of state reprisal.

Any information about activities of organisations opposing apartheid could lead to arrest, beatings, brutal torture and death. The opposition to apartheid united a range of civil society actors. The main political opposition movement, the United Democratic Front (UDF), provided an organisational framework for hundreds of CSOs, CBOs, youth, women, and student organisations, neighbourhood and township associations, religious organisations and unions. It is important to note that these were all CSOs.

Although the main goal of the movement was to bring down the apartheid regime, many other concerns were raised by affiliate organisations that fuelled political mass mobilisation. Civics stepped in to demand basic services at local government level. CSOs attempted to provide services in areas such as literacy, health care, human rights and welfare. Images of courageous, often young, South Africans rising up in protest against armed apartheid police and soldiers lit up the television screens and conscience of the world. Civil society groups across the globe voiced their support for the anti-apartheid struggle.

The transition from apartheid

With the ANC election victory in 1994, civil society, like the rest of the country, entered a phase of transition. Assumptions about the role and ability of the post-apartheid state led to many anti-apartheid formations being absorbed into the state or co-opted by the ANC. The UDF had disbanded in 1991 believing that it no longer had a role to play. Debates continued about whether this was a premature move. As Marais (2011:447) notes:

For some this seemed perfectly 'natural': after all, the custodian of liberation was ready to take up its duties. The trend was less sinister than it seemed. The demobilisation of popular organisations is a fairly common phenomenon in democratic transitions; as political systems become democratised, extra-institutional mobilising and organising trends tend to flag.

Despite these shifts, CSOs during President Mandela's time in office continued to view themselves as active players and partners in the transition, resulting in a cross pollination of ideas and inputs in the early policy formulation phase. CSOs contributed towards drafting the South African Constitution, which was approved in December 1996 and took effect in February 1997. The South African Constitution has been described as one of the most advanced and progressive human rights-based constitutions in the world. The contents were influenced by the input of civil society, and many of its provisions, including the socio-economic rights, were strongly lobbied for by CSOs. Since that time, CSOs have remained vigilant in maintaining and advancing the principles and rights enshrined in the constitution.

CSOs helped draft the legislation that established the Truth and Reconciliation Commission (TRC) along with setting up support groups, gathering evidence and raising awareness on the process. Some CSOs disagreed on the fairness of amnesties and of the TRC as a substitute for trials. They also disagreed on the extent and design of reparations for the victims of human rights abuses (Naidoo 2010:143).

During this transitional period, additional funding conduits emerged including the Urban Foundation, which was supported by the private sector, and the Independent Development Trust (IDT), which was set up by government to fund poverty relief, infrastructure development and services in the education, housing and welfare sectors. While many CSOs remained active, others, such as the civic movement, failed to sustain support into the transition. With foreign donor funding being redirected as bilateral aid towards government, previously well-funded CSOs found themselves in financial difficulty.

After 1994, thousands of key activists and leaders in progressive organisations moved out of the sector to participate in Parliament, the transformation of state structures and the private sector, taking a great deal of institutional memory and experience with them. Coinciding with leaders departing from the civil society sector, donors developed more sophisticated criteria for funding. According to Kuljian (2009:125):

International funding priorities began to focus more on developmental goals and to have greater programmatic coherence.

After the struggle years, where well-funded CSOs were often able to overlook reporting and accountability, this new phase required that NPOs become proficient in fundraising and meticulous in their financial management. Funders required programme plans and clear objectives along with more rigorous donor reporting requirements.

Many CSOs struggled to meet the new demands, in part because of the loss of leadership and management capacity, but also because of questions regarding their relevance and their role in this new context, particularly for activist organisations (Kuljian 2009:127). A new kind of activism was required within a constitutional democracy. Engaging within a constitutional framework meant that the 'enemy' was not clearly defined. However, the new terrain required active citizens to ensure that rights on paper became reality.

As international funding was channelled through government, CSOs increasingly relied on funding flows through government. The Non-Profit Study (2001)³ found that in the late 1990s the bulk of financial resources for the NPO sector came from domestic sources, mainly from government (42%), the South African corporate sector (21%) with 34% from self-generated income. Organisations from an oppositional history, however, shunned government funds in fear of becoming service delivery arms of the state.

Larger, more urban-based CSOs still relied on international sources. Considering fears that relying on government funding would detract from creating the active citizenry needed to utilise post-apartheid, democratic tools of social change, it is possible that diminishing funding has eroded the advocacy function of CSOs in post-apartheid South Africa.

Changing relationship with the state

Whereas CSOs were active partners in drafting the constitution and the Reconstruction and Development Programme (RDP), the release of the Growth, Employment and Redistribution (GEAR) plan in 1996 formally marked a shift in the social contract between government and civil society. According to Ranchod (2007:4):

³ Swilling, M and Russell, B, *The Size and Scope of the Non-profit Sector in South Africa*, Graduate School of Public & Development Management, University of the Witwatersrand, and the Centre for Civil Society, University of KwaZulu-Natal, Durban, 2001

In 1996 the ANC-led government's macro-economic strategy changed into Growth Employment and Redistribution (GEAR). There was little, if any, civil society participation.

GEAR prioritised the for-profit sector in economic growth and service delivery and the non-profit sector in poverty alleviation.

As the limitations of the state became evident, new social movements and pressure groups began emerging. These included, amongst others, the Western Cape Anti-Eviction Campaign, the Anti-Privatisation Forum (APF) and the Soweto Electricity Crisis Committee (SECC). These formations highlighted gaps in basic services, labour practices, landlessness and homelessness, environmental destruction, gender equity, sexual minorities and issues facing refugees and migrants.

Often engaging in violent protests and popular uprisings, these groupings exposed the living conditions of the poor and disadvantaged, particularly around access to basic services. They have not, however, led to constructive engagement with the state or the development of policy alternatives that can effect systemic change.

CSOs finding their voice in the new terrain

Into the new South Africa, infused with hope of ‘a better life for all’ came the scourge of HIV and AIDS, a bitter pill accompanying the long-fought-for freedom. While government vacillated and entertained various unscientific theories and responses to HIV at the expense of providing life-saving anti-retroviral drugs (ARVs), a new organisation emerged, the Treatment Action Campaign (TAC), demanding the provision of treatment and advocating for the rights of people living with HIV and AIDS. The TAC effectively utilised the tools of South Africa’s constitutional democracy and both challenged and cooperated with the government (Marais 2011:455).

The TAC used multiple strategies including court challenges, public awareness and education campaigns, petitions, a highly effective communications strategy, direct action and grassroots mobilisation. It also developed networks with local and international organisations to ensure maximum publicity and impact for its campaigns (Ranchod 2007:12). The action of the TAC led to significant changes in government policy, which was initially resistant to rolling out life-saving ARV treatment. The TAC’s strategy has now also shifted, and its current strategic plans are aligned to government’s national strategic plan on HIV and AIDS.

The tension between CSOs partnering with government and those wanting to retain distance to ensure their independence remains. Organisations likely to forge partnerships with government tend to work in the fields of health, social welfare and education. CSOs working towards democratic and political objectives are less likely to have close links with government. With the global recession and increased reliance by CSOs on government funding, it remains to be seen how the terrain will shift in the next few years.

Legal and policy framework

Despite these concerns, NPOs have continued to lobby for an enabling environment, including government support and funding to be made available to the sector. An extensive process was undertaken to negotiate new policies and mechanisms for funding, such as the creation of the NDA, the lottery and tax exemption for NPOs.

Apartheid-era legislation that governed the CSO sector included the National Welfare Act of 1978 and the Fundraising Act of 1978. These pieces of legislation provided a legal framework through which the apartheid state sought to control, monitor and suppress civil society.

The reform of legislation affecting South Africa’s non-profit sector was influenced by the 1992 *Independent Study into an Enabling Environment for NGOs* which was supported by the Development Resources Centre. This study found that CSOs:

- had an unsatisfactory relationship with government;
- were constrained by a hostile funding framework;
- lacked skilled management; and
- encountered difficulties in registering organisations.

The study identified an agenda for reform including new legislation to give content to the freedoms in the new constitution, repealing politically motivated legislation and dismantling oppressive and restrictive bureaucratic requirements.

New legislation thus sought to create an enabling environment for NPOs with minimal state regulation. The new regulatory framework aimed to establish a progressive public space in which state–civil society relations could be managed and the non-profit sector funded.

The Non-Profit Organisations Act of 1997

The Non-Profit Organisation’s Act of 1997 came into operation in September 1998. The Act repealed the old Fundraising Act that had been used by the apartheid state to constrain the activities of CSOs. The principle of voluntary registration of NPOs was asserted, and became the foundation of the NPO Bill, and subsequently the NPO Act of 1997 (Kuljian 2009:128).

The Non-Profit Organisations Act defines an NPO as:

A trust, company or other association of persons established for a public purpose and the income and property of which are not distributable to its members or office-bearers, except as reasonable compensation for services rendered.

The Act made the registration process simple and affordable.

Of relevance to this paper, the Act maintains that:

Every organ of state must determine and co-ordinate the implementation of its policies and measures in a manner designed to promote, support and enhance the capacity of non-profit organisations to perform their functions.⁴

⁴ A previous piece of legislation is still used to register Trusts or Foundations. This is the Trust Property Control Act of 1988. This Act makes it possible for organisations to register a Trust with the Master of the Supreme Court office in their district, governed by the Department of Justice. A Trust is not an independent legal entity; in other words, if there is litigation against or by the organisation, the trustees themselves can sue or be sued. A Trust’s founding document (not all Trusts are non-profit organisations) is a Trust Deed.

The Non-Profit Organisations Act of 1997 defines its scope to encompass trusts, companies and other associations that are ‘established for a public purpose’. It is important to note that the NLB and the NDA were also established for a public purpose, the purpose outlined in the NPO Act above.

Section 21 of the Companies Act of 1973

Section 21 of the Companies Act of 1973 made it possible for a company without share capital to register a legal entity with the Registrar of Companies within the Department of Trade and Industry.

A Section 21 company could fundraise and invest funds with recognised institutions, but it could not distribute funds or profits to its members beyond paying them a salary for services rendered. The reporting requirements for a Section 21 company are more rigorous than those of the NPO Act.

The Companies Act was amended in May 2011. There is a transition period in which Section 21 companies will transfer to non-profit companies. The amendment codified the duties of, and set standards for, non-profit directors. The standard of governance has increased and those serving on sub-committees also expose themselves to liability if they do not comply with requirements in the Act. The non-profit company legislation is more enabling from a legal perspective, but it remains to be seen whether it will be enabling in execution.⁵

The Taxation Laws Amendment Act of 2000

Another piece of legislation affecting funding for the NPO sector was the Taxation Laws Amendment Act of 2000. According to the Act, Public Benefit Organisations (PBOs) were created with and are exempt from paying taxes under certain conditions for non-profit activities.

A study conducted in 2003 found that NPOs that benefited the most from the legislation were organisations defined as CSOs, based in the urban areas, operating at the provincial and national levels, registered as Section 21 companies and members of networks or coalitions (Umhlaba Development Services 2005:47).

Impact of the legislation

The NPO Act was intended to improve the standard of governance and increase accountability and transparency within the sector. This was expected to enhance donor confidence. Although the Act made provision for the creation of a dedicated unit within the DSD to provide support to NPOs, the lack of coordination between the NPO directorate and other government departments and agencies such as the NDA and the NLB has resulted in the expected benefits not being forthcoming.

Despite this array of legislation, a systemic and overarching legislative framework ensuring cross-governmental cooperation to enable NPO agency is lacking. While the NPO Act was intended to create an enabling environment for CSOs, this has not happened in practice. The vision has been further hampered by implementation capacity constraints within the DSD.

The role of civil society today

Currently there is little reliable national information on South African civil society. This is due to the difficulty of obtaining funding for research, together with the unwillingness of government agencies, most notably Stats SA, to include the civil society sector within research frameworks and surveys.

The 2001 Non-Profit study revealed that:

- There were 98 920 NPOs in South Africa of which 53% were less formalised, community-based, often staffed by volunteers, and provided a range of essential support services within poor and marginalised communities.
- South African civil society is as large and as vibrant as in most advanced industrialised countries.

Of the different fields in which NPOs operated, the largest ones at the time were social services (22% of the total), culture and recreation (20%), and development and housing (20%), followed by health (7%), education (6%) and environment (3%). The data focused on organisations involved in service delivery rather than advocacy, capacity building and building participatory democracy.

Strategies and contributions by civil society

The plurality of civil society and the diverse sets of relations that it engenders with the state is... the best guarantee for the consolidation of democracy in South Africa.
(Professor Adam Habib)

Civil society is not homogenous and the roles played by, and strategies used by, CSOs vary significantly. South African civil society came from a history of advocacy for social and economic justice and has shifted to a more service delivery and developmental role with the demise of apartheid.

It is beyond the scope of this paper to offer a comprehensive account of the role and strategies of the contemporary civil society sector in South Africa. However, it is important to highlight some of the multiplicity of roles that CSOs play, in order to interrogate where state-channelled or aligned funding is likely to be appropriate. Participants in the research process agreed that civil society is about ‘doing good’ and ‘closing gaps’ including service delivery gaps, equality gaps, and gaps in the quality of life experienced by people in poor and marginalised communities.

Service delivery

In a society still confronted with massive service-delivery backlogs and limited state capacity, many CSOs are engaged in service delivery at various levels and in a range of sectors. As early as 1997, a survey of the voluntary sector identified CSOs and CBOs as having an important

⁵ Interview with Ricardo Wyngaard, non-profit lawyer, 12 January 2012

role to play in filling the gaps left by the government, especially in poor communities. This role was strengthened through:

the strategic location of NGOs, their access to communities and the credibility they enjoy from these communities. Further, their organisational flexibility and capacity to identify development alternatives make them the missing link in many of the state's development ventures.

(Boulle 1997)

CSOs, and CBOs in particular, usually arise organically in response to needs within a community and are able to reach areas where there is little formal organisation but where the need is often greatest.

There is ongoing debate in the available literature regarding the service delivery and implementing partners' role of many CSOs. Umhlaba Development Services (2005:56) argued that:

the grand policy formulation phase of the early transition years (mid- to late-1990s), which was characterised initially by passionate intensity and lofty visions, has passed... The focus today in most areas, however, is indeed on delivery, and that is what communities largely expect [emphasis added]. Nostalgically invoking the days of 'the struggle', and the transition days that seemed to offer unlimited prospects for re-shaping South African society, may be fun, but not very practical.

It is in the role as service delivery providers and partners that government most supports civil society financially.

Building active citizenry

In democracies, elections are one way in which citizens participate and where governments are held accountable. The gaps between elections mean that there is a need for ongoing influence in decision-making and it is civil society that usually speaks up for the needs of the poor, disenfranchised and disadvantaged.

The state is the main implementer of poverty eradication and development initiatives. The role of civil society is therefore to ensure that national and political systems are people-oriented. Habib (2003:41) wrote that civil society ensures that:

marginalised citizens have a voice and leverage so that political élites are conditioned to become responsive to their interests. It requires a political regime that prioritises the interests of the nation's most dispossessed and marginalised. Without such a moral centre underpinning South African society, poverty, inequality and underdevelopment, and their consequences, are likely to be with citizens for the foreseeable future.

(Habib et al 2003:41)

CSOs thus provide channels for those voices and issues that may not have been prioritised by political parties. The South African National NGO Coalition (SANGOCO) anti-poverty hearings held in 1998 were an example of civil society influencing debates and action related to poverty eradication and ensuring that community voices are heard.

Since the advent of democracy, there are various routes to participation in policy processes including formal corporatist structures such as NEDLAC, ward committees at local government level, commenting and testifying on proposed policy and legislation through the green and white paper process, and participating in government *imbizos*. Civil society can also place issues on the policy agenda through research, advocacy, lobbying Parliament, litigation and mobilising public opinion and action. Many of these strategies have been utilised by this Coalition.

Atlantic Philanthropies, a global funding organisation supporting South African CSOs, including this research Coalition, promotes advocacy as a non-violent strategy to bring about social justice and change. It sees the Constitution as providing a basis for the realisation of human rights and recognises that this will not happen without active citizens fighting to uphold their rights. In a case study on the power of advocacy it states, 'When apartheid went, the struggle was not over.'⁶ South African CSOs have advocated through movements and coalitions such as the People's Health Movement, the National Welfare Forum and the Global Call to Action Against Poverty (GCAAP).

Advocacy is strengthened when grounded in contextual research. This assists to raise awareness and mobilise communities. Effective advocacy requires organisational capacity and the ability to develop policy alternatives. Lobbying is required to ensure that policy alternatives are promoted.⁷ It is unfortunate that many CSOs, including some that participated in this process, have had to spend valuable time and resources employing advocacy strategies, including litigation, in attempts to extract funding from the NLB and the NDA.

Currently the space for lobbying and advocacy is largely held by the more organised and resourced CBOs and CSOs. It is these that have access to finance for costly research, organising and/or litigation. With declining international resources and the increased reliance by CSOs on government funding, there is evidence that advocacy CSOs have been negatively affected. Acknowledging that advocacy is essential to ensure social change, it is possible that with a weakened advocacy voice the pace of social change may slow down. The importance of active citizenry was noted by Sachs (2008:51–52) when he wrote:

Governments can be named and shamed into doing the right thing only if the global citizenry is paying attention, understands the stakes, cares about the outcomes and has the organisational heft to take on the shirkers.

He emphasised the need for mobilising the private and non-profit sectors in a global effort of international cooperation. In a presentation at a Coalition strategy workshop, a government representative spoke of how CSOs have retreated from policy debates. Policy is shaped in the political arena, and he stressed the importance of civil society involvement at the policy level.⁸

Those organisations and less formal groupings lacking the resources required for effective advocacy are increasingly opting for mass mobilisation and protest action.

⁶ <http://www.atlanticphilanthropies.org/learning/case-study-guns-and-roses-advocacy-emerging-democracy>

⁷ <http://www.atlanticphilanthropies.org/learning/atlantic-report/investing-change-why-supporting-advocacy-makes-sense-foundations>

⁸ Presentation at Coalition for Civil Society Resource Mobilisation, 5 June 2010, Nelson Mandela Foundation

Protest and mass mobilisation

Inequality in South Africa is reflected in deeply contrasting living conditions between poor and wealthier South African communities. Poor communities relying on poor quality state service delivery have been pushed to the limit. South Africa has seen a dramatic increase in social unrest with the declining economic situation and slow pace of change in the lives of people living in poverty. Research by the Centre for Civil Society (CCS 2010) noted:

*that there were 5 813 protests (as defined under the Regulation of Gatherings Act 205 of 1993) recorded by the SA Police Service in 2004-05 and, subsequently, an average of 8 000 per annum.*⁹

Until this figure was topped by a global wave of protests in 2011/12, the CCS estimated this to be the highest per capita rate of social protest in the world (Amisi et al, 2010).

In 2011/12 there has been an unprecedented global wave of social and political turmoil as protesters have taken to the streets in the Arab Spring, the riots in London, student riots in Chile and more recently the ‘Occupy Wall Street’ movement taking place across the United States and many other developed economies. While not always focusing on service delivery, the global protests in some ways mirror the underlying frustrations expressed by South African communities:

- high unemployment and underemployment;
- inadequate skills and education for young people and workers;
- the high cost of food;
- resentment against corruption; and
- a rise in income and wealth inequality.¹⁰

Protest and mass mobilisation in isolation are unlikely to lead to sustained social change. Beyond forcing government to put out temporary fires, influencing policy and resource allocation requires more nuanced engagement, policy development and ongoing advocacy. 2011/12 has, however, reasserted the collective power of masses of people unifying for a common cause.

Building strategic partnerships and coalitions

One of the central features in the anti-apartheid struggle was the banner under which civil society mobilised: the United Democratic Front (UDF). The UDF brought together groupings from diverse sectors including faith-based communities, women’s groups and issue-based groups focusing on land, education, housing, living conditions, etc.

Since then South African civil society has struggled to work through a cohesive coordinating structure. SANGOCO was formed in 1995:

to coordinate NGO input into government policy and ensure that the rich traditions of civil society, forged in the resistance to apartheid, continue to serve the people of South Africa.

⁹ Charles Ngakula (2007), ‘Reply to Question 1834, National Assembly, 36/1/4/1/200700232’ (Cape Town), 22 November in CCS Study (see Amisi et al), Amisi, B et al 2010. *Xenophobia and Civil Society: Durban’s Structured Social Division*, Centre for Civil Society

¹⁰ Nouriel Roubini <http://www.project-syndicate.org/commentary/roubini43/English>

Its impact has remained limited. In a meeting with the Coalition as part of this research process, Kumi Naidoo, current head of Greenpeace and the founder leader of SANGOCO, noted the current strength of sectoral groupings in areas such as education, health, disability, etc., which are now doing an excellent job in building strategic partnerships and coordination.¹¹

Naidoo elaborated that partnerships could further result in practical benefits to CSOs, such as bulk procurement, reduced travel rates, better medical aid and pension plans, etc. Providing better working conditions for staff in the CSO sector through such initiatives would assist in retaining good talent. He noted the potential benefits of collectivising the sector’s financial muscle and enhanced ability to leverage through cooperation.

While South African CSOs coordinate on issue-based concerns and in projects, the sector could significantly enhance its leverage through effective use of strategic partnerships. Naidoo (2010:119) laments:

Part of our problem in civil society is we fail to create spaces to talk about these contradictions and how we can manage them. The key message of this volume is that, if we are to deliver justice, then civic groups must become a lot better at focusing on the many things that unite us while deciding to respectfully disagree on the finer points of difference between us.

Naidoo advocates for alliance-building that allows partners to:

enter the minefields of negotiation with opposing interests in search of commonalities that foster the advancement of their own causes.

Civil society alliances advocating for better funding practice from the NDA and the NLB fall within this arena.

Thus, in this complex, global, multi-media terrain the strategies available to CSOs to effect social change are constantly changing. As mentioned above, the TAC has demonstrated how, utilising a combination of strategies and tactics, organisations can ‘punch above their weight’ and achieve significant leverage and sustainable change. (Marais 2011:455; Naidoo 2010:44)

Stepping up the pace: media, new technology and social networking

In the past decade the media, technology and the growth of social networking have dramatically increased and democratised information flows. CSOs now use the internet, social networking and mobile phones to collect and instantly disseminate messages across the world. While the majority of South Africans still do not have access to the internet through computers, most do have access to mobile phones, and increasingly have access to the internet through this medium. CSOs are using this new direct access to citizens in a range of ways, including HIV messaging, data collection for monitoring and evaluation purposes, reminders to clients of service delivery appointments, as a teaching tool and in a range of other innovative ways.

¹¹ Kumi Naidoo, discussion with the Coalition for Resource Mobilisation at a strategy meeting, 18 September 2010

New media has ensured that far more people are able to communicate and receive information on a mass and instant scale, which further increases the pace and scale of discontent. The speed at which information can travel to a vast number of people has enhanced the ability to mobilise communities for collective action. The use of these technologies in the Arab Spring uprisings in North Africa in 2011 has been widely documented.

New media is speeding up the pace of change, in contrast to governments which are notoriously sluggish and lethargic. This is also evident in organisations such as the NDA and the NLB, both having painfully slow and inefficient processes. This has been exacerbated by an apparent unwillingness to take urgent and immediate action to clear blockages and ensure the smooth flow of funds.

Civil society tested: the xenophobic attacks 2008

In May 2008 South Africa reeled in horror as 62 people were killed, 670 injured, many women raped and thousands driven from their homes and displaced. These were the results of a country-wide outbreak of xenophobic violence directed at foreign, mostly African, nationals. The attacks brought the harsh conditions of people living in South Africa's informal settlements into living rooms across the globe.

The image of South Africa as intolerant, divided and violent was at odds with the view of South Africa as having a 'miracle' transition resulting in the 'rainbow' nation.

(Nyar 2010)

Research supported by Atlantic Philanthropies found that the xenophobic attacks in 2008 presented the most significant challenge to the country since the advent of democracy. The attacks provided a litmus test of the ability of civil society to respond to a major crisis. The violent outbreak saw a remarkable response by civil society to the crisis. Humanitarian relief, advocacy, lobbying and a range of interventions were provided by faith-based organisations, trade unions, social movements, non-profit organisations, the general public and others. The response to the violence was the largest and most significant mobilisation of the public and of civil society since the ANC government came into power in 1994. Many of the CSOs working on the response had never worked together before. This demonstrated the latent power of civil society despite conventional wisdom expressing the opinion that civil society had withered in the post-apartheid period (in Parsley and Everatt 2010).

Jara and Peberdy (2010:4) found that areas where xenophobic attacks were avoided were those where community organisation was functional, with progressive leadership, and where citizens and migrants worked together in community activities. In a context where funders often prioritise humanitarian or service-delivery support, the Atlantic-funded research findings argued for the need for resources also to go towards community mobilisation, advocacy, strengthening networks / coalitions, peace building, conflict resolution and community-based organisations and social movements.

As these interventions have traditionally been funded by international funders, if the NLB and the NDA are to engage and reflect on their relevance and impact, and as CSOs increasingly

rely on local sources of funding, it may be necessary for the NLB and the NDA to support such initiatives.

Jara and Peberdy (2010) argue that in the early days of the crisis, '*civil society essentially replaced the absent, incapable and dysfunctional state*'. Civil society was found to be closer to the needs of the people and with the flexibility to respond in an emergency.

Impact of relying on government-aligned funding

Naidoo (2010:19) speaks of civil society as operating on three different levels: on governance changes (macro); on policy changes (meso); and on implementation and delivery of social services (micro). Government funding to CSOs through the DSD and other agencies, such as the NLB and the NDA, largely supports the delivery of social services and thus strengthens civil society contributions at the micro level.

Some CSOs align their programmes to government-developed plans such as the National Strategic Plan on HIV and AIDS.¹² When CSOs and government mobilise around a common purpose, it should be simple to release the resources needed and to forge cooperative working arrangements. This does not always happen in practice (Naidoo 2010:19).

As seen above, the role of civil society is more varied and wide-ranging than service delivery. Civil society's contribution to a vibrant democracy requires that it is active in other areas. Merely playing the role of a service-delivery vehicle will not challenge or hold the state accountable:

- it does not ensure that policy is the product of a cross-pollination of ideas, experiences and perspectives;
- it does not provide the watchful eye needed to ensure that politicians do not dip their hands into state coffers or hand out favours and tenders to their friends or relatives; but
- it does create possibilities of dependency on the state and the often resultant cooptation that comes with that.

As Naidoo (2010:20) commented:

There is a sad tendency for the fight against poverty to become fragmented, with organisations becoming absorbed in delivering services on a micro level, and failing to realise that they also need to address the issue on a meso and macro level. This goes further, with a failure to realise that the issue of poverty crosses over directly to the issue of human rights and justice.

Thus, while government-related support to civil society can have an impact on poverty alleviation and addressing the needs of vulnerable groups, it is less likely to invest in building the capacity required for active citizenship. While the NDA and the NLB appear to fall into this category, there are examples that demonstrate that alternatives are possible.

Challenges facing civil society

The truth is that we are not yet free, we have merely achieved the freedom to be free, the right not to be oppressed.
(Nelson Mandela)

¹² The TAC, for example, aligns its programmes to the National Strategic Plan on HIV and AIDS.

Financial sustainability

CSOs play a crucial and often under-valued role. One of the challenges currently faced by this sector is that of financial sustainability. Whereas under apartheid the sector was generously funded by the international donor community, with democracy much of the international funding has been channelled through an often ineffective state apparatus. While there are no current and reliable statistics on funding to the sector, most organisations rely on a combination of diminishing international funding, corporate social investment, donations from individuals and a degree of income-generation, often via government contracts.

This situation is exacerbated by the current economic recession. Traditional foreign donor agencies have scaled down their funding drastically or withdrawn completely, mainly due to global recession. According to Archbishop Emeritus Desmond Tutu:

*Charity organisations, which represent 30 per cent of the social services in the country, had R3 billion less to spend on the crucial causes because of the recession! 500 000 needy South Africans, many of them women and children, have been plunged into despair as the country's charities battle a funding crisis.*¹³

The US President's Emergency Plan for AIDS Relief (PEPFAR) and the Global Fund have provided essential funds for health and other HIV and AIDS related services. PEPFAR funds have decreased and Round 11 of the Global Fund collapsed due to a lack of funds.¹⁴ Some of the major foreign donor funding agencies (such as the Mott Foundation, Kellogg Foundation and DANIDA) have reduced their global funding, in some cases reportedly by as much as 30 per cent.¹⁵ In addition, as donor attention is drawn to post-conflict reconstruction in North Africa or countries with greater levels of poverty, major foreign donors are increasingly viewing South Africa as a middle-income country and not a deserving donor-recipient country.

For NPOs relying on international sources of funding, this 'has been nothing short of catastrophic. The current round of donor funding cut-backs has created a terminal situation the likes of which was only witnessed back in the early 1990s. Between 1992 and 1994, approximately 1 000 NPOs found themselves deep in financial crisis due to donor funding cuts, with 200 to 400 organisations eventually collapsing.'¹⁶ How these massive shortfalls in funding will be addressed remains to be seen.

This has prompted many NPOs to look increasingly at government and domestic sources of income. Local grant makers have seen applications double in the past year.¹⁷ The NLB and the NDA are also receiving an increasing volume of applications from CSOs.

Some critics see the current crisis as less about a lack of funds than about priorities and values. Commenting on cutbacks to the Global Fund, Stephen Lewis, the director of AIDS Free World, said:

*Spare me the economic crisis. Everyone knows that when it comes to financing wars, or bailing out the banks, or bailing out Greece, or reinstituting corporate bonuses, or even responding to natural disasters that threaten economies, there's always enough money. We're drowning in crocodile tears. It's not a matter of the financial crisis; it's a matter of human priorities.*¹⁸

Lewis highlighted the fact that the funds needed to support the Global Fund are equivalent to US military spending in just one day.

Service delivery, development and social justice

Participants in the Coalition's provincial workshops spoke of a disjuncture between welfare, human rights and government issues. There is a perception that there is a growing divide between 'middle class' organisations focusing on civil and political rights (such as recent judiciary appointments, the secrecy bill, corruption, environmental issues, etc.) and grassroots organisations focusing on socio-economic rights (service-delivery issues). Currently a more expansive agenda acknowledging the interconnectedness of civil, political and socio-economic rights is absent.

The Protection of State Information Bill is a case in point. While the champions against the Bill were largely the media, fearing the impact it would have on freedom of expression, Pierre de Vos (2011) highlights the potential impact it could have on grassroots activist organisations:

*This means, for example, that where activists of Abahlali baseMjondolo or the Landless People's Movement are illegally targeted by the security services because they are perceived to be a threat to the ANC government and their phones are bugged, their houses attacked or their leaders tortured and murdered, it would be almost impossible for the organisation to prove this when all the documents that could do so are classified. Ironically, only the media will have the resources to expose such abuse of power, but this would require the media (targeted at middle-class readers) to display far more concern for the wellbeing of these social movements whose interests do not always align with the interests of the middle classes served by the serious media.*¹⁹

Naidoo (2010:94) writes that the authority of CSOs grows when the government in power has a legitimacy deficit. Thus, during the apartheid era, the authority of civil society in South Africa was significantly higher than that of government. That many CSOs remain engaged with government reveals that the South African government still retains legitimacy, albeit dwindling. As government undermines its credibility with unpopular legislation, such as the Secrecy Bill, evidence of widespread corruption and the erosion of trust that accompanies poor service delivery, there is evidence of a growing public voice of dissent emanating from CSOs.

¹³ <http://www.thegivingorganisation.org>

¹⁴ <http://hosted.verticalresponse.com/594745/ee0f811cb8/1468555807/955b05c498/>

¹⁵ <http://www.ngopulse.org/article/funding-crisis-research-ngos-south-africa-looming-larger-ever;> Friday 23 July, 2010

¹⁶ Dr. Thabo Rapoo, Executive Director of the Centre for Policy Studies, <http://www.ngopulse.org/article/funding-crisis-research-ngos-south-africa-looming-larger-ever;> Friday 23 July, 2010

¹⁷ Applications to the DG Murray Trust, a local grant-maker, increased from 304 in 2010 to 794 in 2011, <http://www.dgmt.co.za/2011-grant-application-and-allocation-statistics>; Interviews with the DG Murray Trust (2 December 2011), the Foundation for Human Rights (10 December 2011) and Tshikululu Social Investments (7 December 2011) reveal a 'frenetic' increase in applications for funding.

¹⁸ <http://www.aidsfreeworld.org/Publications-Multimedia/Speeches/Stephen-Lewis-remarks-to-ICASA-2011.aspx#.Tt4xQ8gTInA.facebook>

¹⁹ <http://constitutionallyspeaking.co.za/who-can-we-trust>; 22 November, 2011 by Pierre De Vos

Effectiveness of the CSO sector

While an updated non-profit study is urgently required to map and assess the scope of civil society, it is worth considering debates about whether civil society is a worthy sector in which to invest. Poverty, inequality and underdevelopment are problems that have worsened in spite of government and civil society interventions. In the words of Martin Luther King:

Philanthropy may be commendable, but it must not overlook the circumstances of economic injustice that make philanthropy necessary.
(in Habib 2003:37)

Habib et al (2003:38) see civil society as weakened with the shift in funding from ‘a social justice orientation’ to ‘one that is largely ameliorative’. Stringent funding criteria and demands for rigorous standards of accountability, transparency and financial self-sufficiency imposed by donors on CSOs, ‘have the unintended effect of distancing these organisations from the very poor and marginalised constituencies they are meant to serve’.

NPOs frequently suffer from capacity lacks. It is difficult for them to guarantee continued and sustained interventions due to a lack of financial security. The lack of security leads to high staff turnover and prevents long-term planning. Low salaries often result in more skilled professionals seeking employment in other sectors. These factors impact on the ability of CSOs to raise funds, plan, implement quality services and meet the reporting and accountability requirements of donors. Many CSOs, partnerships and coalitions are plagued by internal tensions. The strategic importance of CBOs tends to be overlooked by government, larger CSOs and donors as they often lack the capacity required to manage donor requirements.

Accountability of CSOs to the communities they serve is not guaranteed. Government can claim a mandate that comes from electoral support and CBOs have legitimacy as they are often representative of their communities. Conversely CSOs have largely reproduced apartheid spacial relations by locating their offices in central business districts (Jara and Peberdy 2010). That many organisations dealing with rural people work from an urban base was flagged by participants in the Coalition’s provincial workshops.

Many donors do not have the capacity to monitor impact. It is therefore not clear what donor aid has achieved or failed to achieve over the past decade. Monitoring and evaluation tend to be quantitative, focused on project outputs and financial accounting, with less attention paid to qualitative outcomes and results. Donors do not coordinate with other funders, leading to duplication of services and waste of resources. As donors increasingly specify their funding criteria, NPOs are sometimes seen as implementing donor-driven agendas (Ewing and Guliwe 2006: 259–261).

The politics of funding is thus highly complex, which strengthens the argument by the Coalition for the importance of government support to civil society from institutions like the NLB and the NDA. From a government perspective, the value of supporting CSOs would be to ensure that programmes are supporting local agendas – this aspect will remain the double-edged sword of government funding, with CSOs fearing cooption to government’s agenda, while government ensures that these resources promote a national agenda. Where this becomes a win-win approach is when government institutions are oriented towards the public benefit and act in the public interest.

CSOs need to be aware that as much as they need donors, so too do donors need effective partners in civil society. Although power dynamics are skewed towards the institution holding the purse strings, it is an inter-dependent relationship.

As a middle-income country, South Africa has the resources to make strides in addressing poverty. Ewing and Guliwe (2006:276) noted that this is, ‘unlikely to happen given government’s existing political and ideological leanings’. A dramatic decline in foreign donor funding will thus impact negatively on the most marginalised in South Africa.

In light of the above, the Coalition has the following recommendations:

- Collective action by civil society to improve its visibility and ensure state recognition.
- A strong national, membership-based coalition to engage in a unified manner with government.
- Improved understanding by civil society of government systems and initiatives achieved.
- Fundraising for and implementation of an updated ‘Social Giving’ study and ‘Size and Scope’ civil society study.

From a government perspective, the value of supporting CSOs would be to ensure that programmes are supporting local agendas – this becomes a win-win approach when government institutions are oriented towards the public benefit and act in the public interest.

CHAPTER FOUR

Socio-economic conditions in South Africa

‘Poverty is the absence of all human rights. Every person living in poverty has no rights. You name it, they don’t have it.’

(Muhammad Yunus, Founder of Grameen Bank and Nobel Prize Laureate)

The South African constitution is a human rights-based constitution. The rights-based approach commits to empowerment, participation, non-discrimination and attention to vulnerable groups. The constitution was informed by the United Nations Declaration on Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. The South African constitution is one of the few constitutions in the world that includes socio-economic rights.

As South Africa enters its 18th year (adulthood) of democracy, significant strides have been made towards transforming the lives of ordinary South Africans: access to education has increased; ten million people have been accommodated in formal housing; primary healthcare has been expanded; and access to electricity and water has been significantly increased. The South African economy grew between 1995 and 2010 after two decades of stagnation (National Planning Commission 2011a:7).

Despite these gains, economic performance has remained mixed and redistribution of wealth has not significantly benefited the poor. Indeed, the human development index shows reversals in certain areas such as life expectancy, which went from 65 at the time of liberation to 52 a decade later.²⁰

The Coalition’s provincial workshops addressed socio-economic concerns, specifically looking at progress achieved with regard to the Millennium Development Goals (MDGs) as ‘hooks’ on which to hang its proposals for changes in the architecture or operation of development finance institutions.

The eight Millennium Development Goals are:

- To eradicate extreme poverty
- To achieve universal primary education
- To promote gender equality and empower women
- To reduce child mortality
- To improve maternal health

- To combat HIV/AIDS, malaria and other diseases
- To ensure environmental sustainability
- To develop a global partnership for development

Participants in the provincial workshops spoke of the limited achievements with regard to realising the MDGs in South Africa. They acknowledged that there was progress in some areas, such as the roll out of ARVs and expansion of access to early childhood development services. Achievements across provinces varied, with provinces such as the Northern Cape indicating little progress.

Three areas will be explored to provide a brief overview of the socio-economic conditions and the progress that has been made to address poverty and achieve the MDGs. These are: income and asset poverty related to the economic dimensions of poverty; the material dimensions of poverty, including access to basic services and safety nets; and capability poverty that looks at the political and social dimensions (Swilling and Van Breda 2006).

These three dimensions of poverty are not inclusive, for example issues related to climate change and the environment do not fit neatly into these three categories. They do, however, provide a useful analytical framework to assess where government and civil society have prioritised their interventions.

Income and asset poverty

As mentioned above, income and asset poverty relate to the economic dimensions of poverty. This relates to the first MDG and includes facilitating access to good quality employment and economic opportunities and increasing the physical asset-base of the poor, such as land, housing and equipment for economic enterprise.

Unemployment, poverty and inequality

Despite South Africa being considered a middle-income country, massive inequality qualifies it as a recipient of aid. The proportion of people living below the poverty line was about 53 per cent in 1995, fell to 48 per cent in 2008, and moved up to 54 per cent in 2011.²¹ The first and second economies described by former president, Thabo Mbeki, remain, with persistently high levels of poverty for a middle-income economy.

In a presentation to a Coalition strategic workshop in June 2010, Neva Makgetla, an economist from the Development Bank of Southern Africa (DBSA) said that while there had been improvements to services reaching black communities, deep inequalities persist as evident in South Africa’s Gini coefficient.²² The years of sustained economic growth have not had a transformative impact on the lives of South Africans living in poverty. The NPC *Diagnostic Overview* (2011) stated:

According to the Income and Expenditure Survey, the Gini coefficient was 0.67 in 2005, which is very high by international standards... The poorest 20 per cent of the

²¹ <http://www.npconline.co.za/pebble.asp?relid=130>

²² A Gini coefficient of ‘1’ is an indication of complete income inequality with one person having all the income, while a Gini coefficient of ‘0’ is indicative of complete equality with everybody earning an equal income.

²⁰ <http://www.mediationsjournal.org/articles/developmental-state-distraction>

population earns about 2.3 per cent of national income, while the richest 20 per cent earns about 70 per cent of the income.

Makgetla pointed out that although inequalities persist, they are less racially based than in the past. The rapid growth of the black middle class has meant that inequality has risen among black people with the Gini coefficient rising from 0.55 in 1994 to 0.59 in 2008. The majority of low-income households remain black.

Makgetla presented statistics showing that despite some decline since 2001, levels of unemployment remain high. Unemployment peaked in 2001 at 31 per cent. Positive and sustained growth between 1997 and 2008 did finally make inroads into unemployment, which fell to 23 per cent in 2008 (NPC 2001a:9).

If those who have given up looking for work are counted, unemployment is estimated at 40 per cent. 60 per cent of the unemployed have never worked and lack the skills needed to engage in the economy. This is not uniform geographically, with some informal settlements experiencing mass unemployment (Amisi et al 2010). Unemployment is mostly experienced by youth with about two thirds of all unemployed people below the age of 35. Black youth are more affected (NPC 2011a:11).

For those who do have employment, wages are comparable to other middle-income countries, but due to the high number of dependants as a result of unemployment, even working households often live near or below the poverty line.

Government has undertaken various initiatives to address the debilitating and chronically high level of unemployment. These gains, however, were eroded with the global economic crisis. As the NPC *Diagnostic Overview* (2011:8) lamented:

The recession has reduced hard won gains, with per capita income and employment falling by about 4 per cent and 1 million jobs between the last quarter of 2008 and 2009. While growth has resumed, the long-term impact of the global economic downturn is still uncertain, as is the path to employment recovery.

With high levels of unemployment, Makgetla's presentation revealed how social grants have replaced wage income and remittances. The NPC estimates that if cash transfers were removed, poverty would rise from 54 per cent to 60 per cent.²³ Government grants include the child-support grant, foster-care grant, pensions and disability grants. About 15 million South Africans receive social welfare grants, which contribute to poverty alleviation by narrowing the 'destitution gap'.²⁴

Although civil society contributes towards job creation, it is less active in addressing the economic aspects of poverty than it is in other areas. With the shift from the RDP to GEAR, the private sector was viewed as a key government partner in addressing unemployment and inequality. CSOs are, however, active in addressing the consequences of unemployment, poverty and inequality. CSOs advocate for pro-poor policies and mobilise people to take actions demanding a better quality of life.

Apartheid spatial legacy, access to land and housing

Historically, land-ownership patterns, settlement patterns and home-ownership policies made it difficult for black people, particularly Africans, to accumulate assets, amass wealth and become entrepreneurs. The small African middle class was largely comprised of professionals (nurses, teachers and police), not business people or farmers. (NPC 2011a:10)

To address this, government implemented various black economic empowerment programmes, which have fostered the development of a growing black middle class. Black home ownership has grown significantly with black property owners increasing by 60 per cent. While many of these transfers formalised township leases, home ownership does provide a degree of asset growth and security of tenure.²⁵

Despite a rise in home ownership for many, the legacy of apartheid spatial planning has had an enduring impact on poverty. New settlements are located far away from key commercial centres. This marginalises them in terms of access to jobs, urban amenities and social networks in addition to increasing travel costs. While government has provided 10 million houses and increased access to electricity from 63 per cent in 2000 to 81 per cent in 2011, it is estimated that 6 million people live in shacks (Amisi et al 2010). The number of people requiring housing increases with migration from rural to urban areas.

Some government-provided houses have been constructed with less durable building materials and lower-quality municipal services have been provided. While free water and electricity are provided, the rising costs make the top-up costs unaffordable to many. Makgetla (2010) indicated that, while access to municipal services such as piped water, flushed toilets and electricity for lighting has increased since 2006, there is still no equality of access between Africans and non-Africans.²⁶ The ripple effect of this is felt not only in the income drain of high transport costs but in other areas such as parents spending more time away from their children as they endure long daily commutes to and from work.

South Africa's ability to implement rapid and massive infrastructure projects was ably demonstrated with investment in the lead up to the FIFA World Cup in 2010. The National Planning Commission states that the government needs to do more to invest in infrastructure and maintenance that serves poorer communities.²⁷

It is estimated that 6 million people live in shacks – in spite of the fact that 10 million houses were provided by government.

²⁵ http://www.sagoodnews.co.za/benchmarking_progress/black_home_ownership_on_the_rise.html

²⁶ Neva Makgetla, presentation at Coalition on Civil Society Resource Mobilisation strategy workshop, 5 June 2010

²⁷ <http://www.youtube.com/watch?v=mXhPtMoaGa0&sns=fb>

²³ <http://www.npconline.co.za/pebble.asp?relid=130>

²⁴ State of the Nation Address 2011, http://www.parliament.gov.za/live/content.php?Item_ID=1426

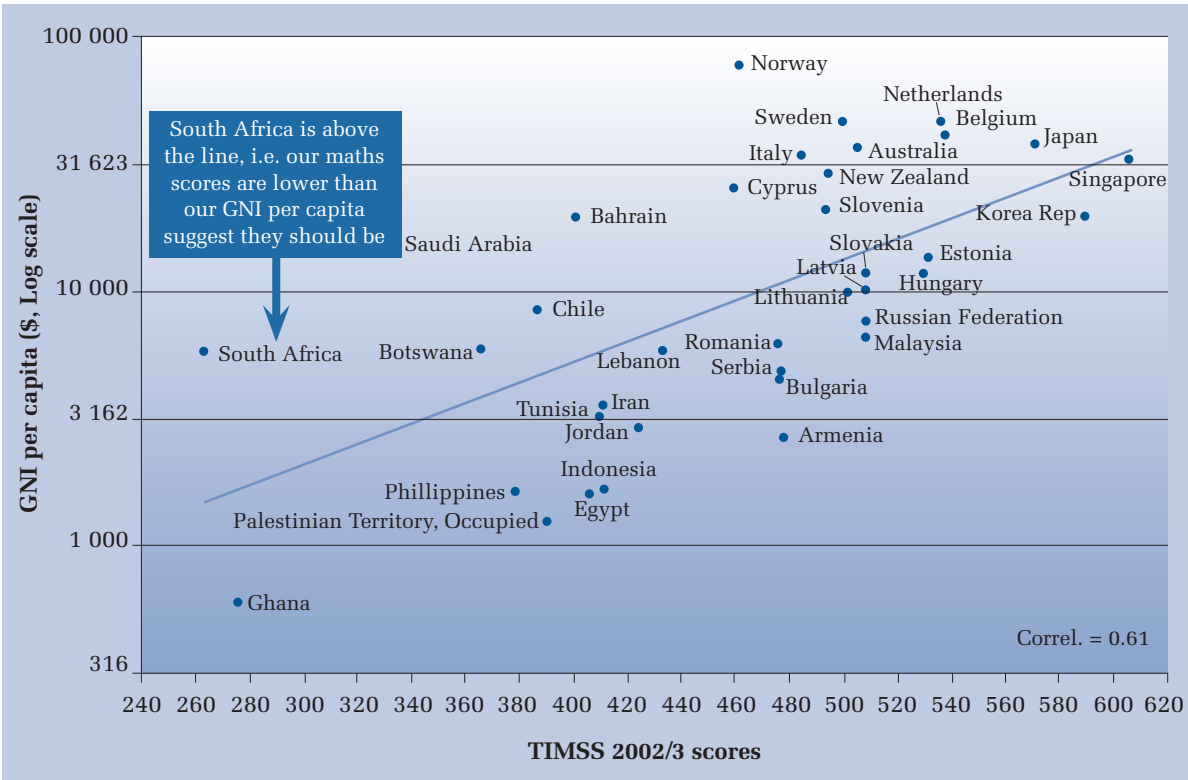
The material dimensions of poverty

The material dimensions of poverty include: facilitating access to basic services for the poor, such as water and sanitation, solid waste management, affordable and safe energy, transport, education, health and shelter; and ensuring access to safety nets to strengthen the ability to manage shocks and stresses (Swilling and Van Breda 2006).

Education

After 18 years of democracy, access to education has improved. Of the 14 million learners in the country, approximately 12 million are in publicly funded or government schools. Public schools cater for over 96 per cent of all learners. Equity in school funding has improved to address the legacy of inequality, with public spending higher for African than white children. South Africa’s teachers are among the highest paid in the world (NPC 2011a:13). South Africa has a high enrolment of girls in schools.

While progress has thus been made with regard to MDG 2, achieving universal primary education, government spending of about 6 per cent of GDP on education has not enhanced the quality of education, particularly for poor black South Africans. South Africa’s literacy and numeracy test scores are low by African and global standards. South Africa’s education system underperforms in international tests in which the country has participated. Of the 50 countries tested in Grade 8 maths and science in the *Trends in International Mathematics and Science Study* (TIMSS) in 2003, South Africa came last. Of the 40 countries tested in the *Progress in International Reading Literacy Study* (PIRLS) Grade 5 reading and literacy test in 2006, South Africa came last. South African students score consistently lower than learners from other resource-poor countries such as Lesotho, Uganda and Malawi. Physical assets and infrastructure at school level remains unequal (NPC 2011a:14).



Source: UN Common Database, Trends in Mathematics and Science Study (TIMSS)

Considering the massive financial investments in education, the problems do not lie in a scarcity of resources. Research has shown that the problems relate to: the quality of teacher performance; low expectations of learners; school management and leadership; accountability; and the availability of text books, particularly in the absence of libraries.²⁸

The NPC *Diagnostic Overview* (2011:14) highlighted the importance of the home environment affecting school performance. The report noted that:

associated factors include the presence of both parents in the household, whether parents can read and write, the prevalence of books in the house, adequate nutrition and micronutrient intake, and generally stimulating environments for children.

These factors that affect early childhood development (ECD) are influenced by socio-economic status.

The *Diagnostic Overview* quotes a shocking revelation emerging from a study by the Human Sciences Research Council which found that almost 20 per cent of teachers are absent on Mondays and Fridays. Absentee rates increase to one-third at month end. Teachers in African schools teach an average of 3.5 hours a day compared with about 6.5 hours a day in former white schools. The result is that children from disadvantaged home environments are further disadvantaged by the absence of teachers committed to their education. Even those most hardworking, dedicated children committed to their own empowerment stand little chance given this level of dysfunction and lack of commitment.

Of the around one million young people who exit the schooling system annually, 65 per cent exit without achieving a Grade 12 certificate (JET 2011; NPC 2011a:16). This has a knock-on effect with tertiary institutions struggling to address the increasing number of learners requiring academic support.

In an attempt to level the playing fields that these gaps in household background produce, the government introduced Grade R for five-year-olds and expanded early childhood education. Currently about 80 per cent of learners aged five are enrolled in Grade R. The NPC *Diagnostic Overview* notes that about half of children below this age receive some form of pre-school education. Civil society groupings estimate that 25 per cent of children below this age receive access to early childhood development.²⁹ Government acknowledges that early childhood development is underfunded and is largely provided by CSOs.

These failures in education are disastrous with regard to poverty alleviation. Education levels directly impact on income potential and hence education failure is a direct determinant of poverty.

Health

From poverty-related to affluence-related diseases, South Africa’s health system is under pressure. The United Nations Human Development Index identifies a quadruple disease burden consisting of HIV, accidents, infectious diseases and diseases of lifestyle, which ‘interact in vicious negative feedback loops with malnutrition and HIV’ (NPC 2011a:20).

28 www.ekon.sun.ac.za; <http://mg.co.za/article/2011-04-08-sa-education-the-poorest-choice>

29 Interview with David Harrison, DG Murray Trust, 7 December 2011

To get a sense of the scale of the problem, the NPC *Diagnostic Overview* (2011:21) provides some global comparisons:

South Africa has 0.6 per cent of the world's population, but 17 per cent of the world's HIV infections and 11 per cent of the world's tuberculosis cases.

- Trauma cases resulting from violence and road accidents are nearly twice the global average.
- Infant and maternal mortality rates (43 per 1 000 live births and 625 per 100 000 live births respectively) are extremely high and higher than other middle-income countries.
- Non-communicable diseases, such as diabetes and heart disease, are rising sharply (non-communicable diseases in 2004 relative to baseline value in 1997 showed a five-fold increase).
- South Africa has the highest rate of foetal alcohol syndrome in the world.

Three MDGs are related to health outcomes. These are reducing child mortality, improving maternal health and combating HIV/AIDS, malaria and other diseases. At a Coalition strategic workshop in 2010, it was pointed out that South Africa is one of only 12 countries where maternal mortality has risen since 1990.³⁰ The increase in the number of deaths is linked to the lack of access to safe abortions³¹ and an increase in non-pregnancy-related infections associated with AIDS. From 2005–2007, there was a 20.1 per cent increase in the number of deaths reported compared with the previous triennium 2002–2004.³² The Department of Health expects this figure to decrease in its next report due to the roll-out of anti-retroviral therapy during pregnancy.

Similar patterns are evident for infant mortality. South Africa is one of the few countries in the world that experienced an increase in infant mortality from 1992–2003. During this time the HIV-prevalence rate in pregnant women increased from 7.6% to 22.8%. Given the limited treatment available to HIV-positive women during pregnancy during the 1990s, most of the actual rise in infant mortality has been attributed to AIDS.³³ According to World Bank data this figure dropped from 82 per 1 000 births in 2003 to 56.6 by 2010.³⁴

The impact of HIV and AIDS and the harmful government response saw the number of deaths in South Africa doubling in the ten years up to 2008. Serious efforts to address the scale and impact of HIV and AIDS is relatively new after years of AIDS denialism under the Mbeki presidency that lead to the loss of countless lives.

While the subsequent dramatic roll-out of treatment is noteworthy, the years of neglect that preceded a medically sound approach to HIV have left a large number of orphans, single-parent families and households. These are significantly poorer as a result of the loss of a breadwinner, or funds depleted as families searched for medical care. CSOs have

made significant contributions in mitigating the impact of HIV and AIDS in South African communities.

Issues related to mental health are rarely mentioned in poverty-reduction strategies. Organisations working with people living in poverty have found high rates of depression and hopelessness. Depression is a debilitating condition, reducing the impact of other measures designed to lift people out of poverty. Depression and hopelessness can lead to, or exacerbate, alcohol abuse, substance abuse and family violence, and can lead to a cycle of adverse life circumstances and poor health.³⁵

The NPC *Diagnostic Overview* (2011:20) chillingly acknowledges that, '*the health system is collapsing*'.

Capability poverty

Capability poverty refers to the political and social dimensions of poverty. Participants in the research process identified the need to equip communities with the means to manage their own development. They saw this as a key component of the developmental state. Addressing capability poverty requires creating and supporting conditions in which communities act on their own behalf. In the words of Mamphela Ramphele:

*Human beings need to have control over any developmental process if it is to have the desired impact.*³⁶

Government's approach to community development should thus promote the concept of human 'capabilities', where society's standard of living must be assessed by its ability to harness the capabilities of its people to allow them to lead the lives that they themselves value.³⁷

Swilling and Van Breda (2006:32) include strengthening community management of their own initiatives and external programmes and the ability to self-organise in this category. With regard to the role of civil society, they note that '*the most important plank of antipoverty interventions for CSOs is to facilitate the autonomy and empowerment of poor households and organisations of the poor*'. Overcoming capability poverty requires democratic participation by the poor in public decision-making. This approach ensures effective monitoring and influence over public-resource allocations and service delivery.

Addressing the gendered dimensions of poverty is integral in all interventions designed to eradicate poverty. Gender oppression limits women's ability to act on their own behalf and realise their full potential. With regard to achievements towards MDG 3, promoting gender equality and empowering women, South Africa has made strides in women's participation in national decision-making processes. The representation of women in the South African Parliament increased from 27.8% in 1994 to 42.3% in 2011. Similarly, the representation of

³⁰ Coalition for Civil Society Resource Mobilisation workshop, 5 June 2010

³¹ Maternal mortality report of deaths from 2005–2007 indicated a 44% increase in deaths due to lack of access to safe abortions [http://www.doh.gov.za/list.php?type=Maternal and child health](http://www.doh.gov.za/list.php?type=Maternal+and+child+health); see also <http://mg.co.za/article/2012-03-09-conspiracy-of-silence-over-abortion>

³² http://www.doh.gov.za/docs/reports/2011/saving_b.pdf

³³ <http://childrencount.ci.org.za/indicator.php?id=5&indicator=23>

³⁴ http://www.google.co.za/publicdata/explore?ds=d5bncppjof8f9_&met_y=sh_dyn_mort&idim=country:ZAF&dl=en&hl=en&q=child+mortality+in+south+africa

³⁵ <http://uk.reuters.com/article/2009/01/07/health-us-depression-poverty-idUKTRE5064ZV20090107>

³⁶ <http://www.nelsonmandela.org/omalley/index.php/site/q/03lv01538/04lv01584/05lv01585.htm>

³⁷ This approach, which is based on the work of Nobel laureate Amartya Sen, underpins the authoritative UNDP Human Development Report on South Africa, where the theme chosen was '*Unlocking People's Creativity*', South Africa, Human Development Report, 2003, The Challenge of Sustainable Development: Unlocking People's Creativity.

women in provincial legislatures has increased from 25.4% to 42.4% respectively.³⁸ Despite these gains, government acknowledges that it faces:

*major implementation challenges in ensuring that constitutional, legislative and policy imperatives on gender equality and women's empowerment are translated into substantive improvements in the lives of women and girls, for especially those that live in disadvantaged environments.*³⁹

Particular concern relates to violence against women.

An additional factor affecting the socio-economic environment is high crime rates, including a high incidence of violent crime. Patrick Bond (2007) writes of the impact of high crime rates on working-class households. Lower earners and the unemployed are obviously unable to afford expensive private security and are therefore more vulnerable to robberies, house-breaking, car theft and petty crime.⁴⁰

Empowerment, capacity development and building the active citizenry of vulnerable groups and marginalised communities are areas where civil society plays a key role and needs to strengthen its interventions. Poverty is not reduced by simply spending money on providing services, but requires building intellectual, psychological, cultural, organisational and technical capacity. Addressing poverty is thus linked to the ability of people and communities to access and utilise resources.

Internationally, government shifts from a welfare-based approach to a developmental approach were largely the result of 'mainstream thinking catching up with developmental CSOs who had been arguing for the importance of empowerment for decades' (Swilling and Van Breda 2006:27). CSOs have thus played a pioneering role in influencing government policy and programmes towards a more developmental approach. Participants in the Coalition's research process saw effective civil society advocacy as about finding alternative practices and strengthening participatory democracy, so that community structures and processes can improve the quality of life for those living in poverty.

Addressing capability poverty links with MDG 8, developing global partnerships for development. Of particular reference to this review is the commitment (or lack thereof) of key stakeholders to the principles of collaboration and partnership. This is essential to build active citizenship and pursue sustainable development and poverty eradication. The lack of reference to civil society in the 2010 MDG summit was raised by international human rights authority Mary Robinson when she said:

*Civil society is absolutely crucial. But civil society is under threat in a lot of countries... they're the reality check. They're the accountability people, and their voice is absolutely essential if we're going to ensure that we can deliver on the Millennium Development Goals.*⁴¹

Gambling and poverty

Within the context of this report it is useful to consider the issue of gambling and its potentially damaging effects within poor communities: the prospect of making millions by winning the lottery is a dangerous temptation. Fantasies of winning the lottery provide a dream space to escape the social exclusion that comes with chronic poverty. A Department of Trade and Industry (DTI) review of the gambling industry found that the lottery is the most widely played game in poor communities and overall makes up the highest percentage of gamblers nationwide.⁴²

The DTI research showed that problem gambling is more prevalent in poorer communities. The behaviour is associated with high rates of unemployment and associated poverty, low levels of education and multiple associated community-social problems including disproportionately high rates of alcohol and substance dependencies. Black South Africans are more likely to be problem gamblers (4%), while whites are the least likely (1%). The majority of poor South Africans are exposed to the lottery and, '*it is here where the greatest potential to cause harm clearly lies*'.⁴³ Of particular concern were reports that some youth in impoverished areas claim that they gamble in order to buy basic necessities and to pay school fees.⁴⁴

State services directed at the treatment of addiction do not extend to gambling addiction, as it is not officially and legally recognised as a form of addiction. Thus, those that cannot afford private treatment for gambling addiction (most people with gambling addictions come from poorer communities) are reliant on the National Responsible Gambling Programme (NRGP). Treatment of compulsive gamblers is especially difficult and has low success rates. Compulsive gamblers invariably have multiple addictions (i.e. gambling, alcohol and substance abuse), which contribute to their poor prognosis.⁴⁵

Gidani, the National Lotteries operator, runs its own Responsible Play Programme, but did not provide information to the gambling review team. The gambling review noted:

*this does not compare well with the responsible gambling programme developed by the rest of the gambling industry, which is widely published and easily accessible. Neither does it suggest that harm minimisation is taken seriously by either the operator or the NLB.*⁴⁶

Various CSOs offer treatment and support to poor people suffering from gambling addiction and thus deal with the family and community fallout as a result of problem gambling. With only a small percentage of the funds raised through lotteries reaching social services, some argue that national lotteries are detrimental to the common good.⁴⁷

42 http://www.dti.gov.za/news2011/Gambling_review.pdf

43 Ibid., pg 58

44 Ibid., pg 89

45 Ibid., pg 12; see also Rule, S and Sibanyoni, C 2000, *The Social Impact of Gambling in South Africa*, Human Sciences Research Council

46 http://www.dti.gov.za/news2011/Gambling_review.pdf pg 103

47 <http://www.ayjw.org/articles.php?id=711895>

38 http://www.statssa.gov.za/news_archive/Docs/MDGR_2010.pdf

39 http://www.statssa.gov.za/news_archive/Docs/MDGR_2010.pdf

40 <http://www.mediationsjournal.org/articles/developmental-state-distraction>

41 http://www.realizingrights.org/index.php?option=com_content&view=article&id==490&Itemid=134

Civil society and the developmental state

At the start of non-racial democracy in South Africa, government policy was guided by the Reconstruction and Development Programme (RDP). The RDP was shaped through an inclusive participatory process and supported by a wide coalition of social forces. It sought to create a ‘*developmental state – a viable, globally-competitive economy coupled with social welfare*’ (Ranchod 2007:4).

In 1996 the RDP was replaced by the Growth, Employment and Redistribution (GEAR) plan which was seen by many on the left as indicative of government’s shift towards a neo-liberal economic direction. GEAR was drafted without consultation with civil society and prioritised the role of the private sector and black economic empowerment to grow the economy and facilitate redistribution.

In 2006 the Accelerated Shared Growth Initiative for South Africa (ASGISA) was launched as the engine for growth and development. ASGISA was described by government as a limited and specific set of initiatives to spur rapid ‘shared’ growth in South Africa.⁴⁸ The Joint Initiative on Priority Skills Acquisition (JIPSA) was established a month later to address the scarce and critical skills needed to meet ASGISA’s objectives.

When Jacob Zuma took over from Thabo Mbeki as president in 2009, ASGISA appeared to ‘have died a quiet death’⁴⁹ with the Medium-Term Strategic Framework (MTSF, 2009–2014) identifying the development challenges facing South Africa.

The language shifted back to that of a developmental state as affirmed in President Zuma’s 2011 State of the Nation Address:

Since we are building a developmental and not a welfare state, the social grants will be linked to economic activity and community development, to enable short-term beneficiaries to become self-supporting in the long run.

President Zuma introduced a new growth path with a focus on job creation. The 2011 State of the Nation Address emphasised the role of business and state-owned enterprises, with little mention of CSOs.

Since 1994, the democratic South African state has thus been described as neo-liberal, welfarist and developmental. The state has introduced a number of interventions that do not neatly fit into any clearly defined model.

⁴⁸ <http://www.sangoconorthwest.org.za/ASGISA.htm>

⁴⁹ <http://www.tshikululu.org.za/asgisa%E2%80%99s-quiet-death-where-to-next-for-south-africa%E2%80%99s-economic-policy/>

What is a developmental state?

To overcome the enduring challenges of poverty, inequality and unemployment, a developmental state has been viewed as the most effective vehicle to ensure that the state actively and purposefully intervenes in the economy (Turok 2010). A developmental state can intervene to enhance global competitiveness, increase investment and achieve economic growth.

Participants in the Coalition’s provincial workshops and strategy meetings saw the developmental state playing an active role in guiding economic development, using the resources of the country to meet the needs of the people. A developmental state balances economic growth and social development. It uses state resources and influence to address poverty and expand economic opportunities. Makgetla defined the developmental state as:

*A developmental state is one that has the ability to manage capital to bring about broad-based development.*⁵⁰

Developmentalism entails the promotion of human-centered development and not just economic growth. It includes economic freedom, social freedom, political freedom and environmental sustainability. Central to a South African developmental state is the ability to promote economic and social inclusion and dramatically reduce inequality. These objectives need to be underpinned by the principles of democratic governance and environmental sustainability.

The concept of the developmental state is associated with emerging industrial countries in Asia. Marais (2011:340) described the developmental state as follows:

Stripped to its basics, the developmental state refers to a model of economic growth and social redistribution in which the state acts, with varying degrees of autonomy, as a major variable promoting that growth, determining its patterns and ensuring social development.

A developmental state thus refers to state-led macro-economic planning. A key attribute of developmental states in Asia was a strong and skilled state bureaucracy staffed by the brightest and most-qualified civil servants. Developmental states thus need an organised, powerful, competent and independent bureaucracy that operates without undue political interference. Developmental states require strong planning capacity and analytical strength.

Three overarching approaches represent different understandings to addressing poverty and the role of the state:

- Poverty alleviation
- Poverty reduction
- Poverty eradication

⁵⁰ Presentation at Coalition on Civil Society Resource Mobilisation strategy workshop, 5 June 2010

Poverty alleviation

Poverty alleviation refers to interventions to address the plight of the most vulnerable and destitute including orphans, widows, people with disabilities, the elderly, etc. Projects address food security, access to clean water, safety from abuse and shelter. These interventions mitigate the worst effects of poverty and tend to be carried out with a ‘welfarist’ mentality (although not necessarily). Such measures are seen as necessary to prevent starvation, ill-health and exposure to the elements. Funders, such as the NLB, which support charity projects usually engage in poverty alleviation.

Poverty reduction

Poverty reduction refers to actions that reduce the depth of poverty that individuals and households experience. Interventions could include programmes to enhance income and physical asset accumulation, the provision of education, job creation and entrepreneurship opportunities. The results of these actions can lead to a reduction in the absolute number of people that are poor, but do not necessarily alter the structural conditions that reproduce poverty and inequality. The developmental approach to poverty is linked with poverty reduction. The NDA supports initiatives that contribute to both poverty alleviation and poverty reduction through, for example, its programmes on early-childhood development and supporting cooperatives.

Poverty eradication

Poverty eradication refers to restructuring society to increase the political power of the poor to shape the agenda and address the structural causes of poverty. Overcoming the structural forces that create and perpetuate extreme inequality is one of the most efficient routes for overcoming extreme poverty, enhancing the welfare of society and accelerating progress towards sustainable development.⁵¹ This is best done through building the developmental capacity of communities. The NLB does not appear to fund interventions working towards the political empowerment of poor citizens and addressing unequal power relations. The NDA rhetoric is aligned with this approach but not matched by the resources to make a meaningful impact.

The South African government combines poverty alleviation and poverty reduction strategies through social grants to address destitution, programmes to create jobs and efforts to grow the economy with the intention that the benefits of growth will be redistributed to the poor. To achieve these goals, a developmental state should ideally garner support from all sectors within society, including the corporate sector and civil society groupings. Turok (2010) elaborates that the success of a developmental state requires strong public support and active involvement of social partners and stakeholders. He emphasises the need for developmental states to prioritise national interests over narrow sectional interests.

Gumede⁵² remains sceptical and states that developmental states are still a pipedream for Africa. Africa continues to be at the backyard of economic development. Poverty and other socio-economic ills continue to reach unprecedented levels. There is a high level of illiteracy and child mortality, as well as low average life expectancy worldwide and poor infrastructural development.

⁵¹ Summary Human Development Report, UNDP 2005, pg 24

⁵² Gumede V, Developmental States are still a pipedream for Africa, *The Thinker* (Volume 19/2010)

Even though there are numerous challenges that relate to Africa, there is some renewed interest in the idea of a developmental state in Africa. Key milestones for Africa have been: hosting of the 2010 FIFA World Cup; upper hand in conflict resolutions, in countries such as Angola, Liberia, Sierra Leone and Burundi, peace processes are being put in place; and the humanitarian crisis in Somalia and Sudan is being attended to. There is political stability in many countries in the region with successful democratic elections held regularly.

While the challenges remain in Zimbabwe and elsewhere, Gumede nevertheless suggests that Africa should continue pursuing its own economic and social development paradigms. Ha-Joon Chang, a leading economist has warned that most of the strategies used by Europe and North America, for example to reach their current levels of development, are inappropriate for Africa.⁵³

The concept of the developmental state is clearly contested terrain in South Africa. Bond (2007) describes the developmental state as:

*an oft-abused phrase to mean (in the South African context) a combination of macro-economic neo-liberalism and unsustainable megaproject development, dressed up with rather tokenistic social welfare policy and rhetorical support for a more coherent industrial policy.*⁵⁴

Von Holdt (2010:3) questions whether the developmental state is a coherent concept at all. Participants in the provincial workshops suggested various understandings including a government promoting the welfare of its people in partnership with stakeholders to fulfil its socio-economic mandate. Where participants in this process concurred with academic authors was on the need for a state with strategic, organisational and technical capacity – a quality and high performing bureaucracy.

How effective has SA been in creating a developmental state?

Makgetla noted that interest in the notion of a developmental state re-emerged when transformation efforts were failing. The reasons for the failure were attributed to inadequate state capacity, fragmentation, lack of political will in confronting capital / entrenched élites and fiscal restraint.⁵⁵

A key strategy by the South African government to address poverty has been through the provision of social grants. Social grants directly reach the poor and stimulate the economy as the money is spent in South Africa on goods and services produced mostly in the country.⁵⁶

Counter arguments suggest that social grants do not contribute to poverty eradication and divert funds from productive investments in industry and infrastructure. Social grants have not lifted people out of poverty as multiple dependants attempt to survive on grants intended for individuals. Social grants provide much-needed temporary relief to those most in need, but do not lead to poverty eradication if not coupled with other effective strategies. Social grants, while alleviating poverty, cannot lead to equitable distribution of income and wealth.

⁵³ Ha-Joon Chang (2010), How to ‘do’ a Developmental State: Political, Organizational, Human Requirement for the Developmental State

⁵⁴ <http://www.mediationsjournal.org/articles/developmental-state-distraction>

⁵⁵ Presentation at Coalition on Civil Society Resource Mobilisation, June 2010

⁵⁶ <http://www.ngopulse.org/article/growth-and-emergence-south-african-nanny-state>; Andile Ncontsa

Some critics suggest that there is little distinction between the South African concept of a developmental state and that of a welfare state.⁵⁷

The effectiveness of South Africa as a developmental state is best assessed by analysis of the quality of state bureaucracy. If the central tenet of a developmental state is the capacity and quality of the bureaucracy, then here lies a key weakness in South Africa's ability to act as a developmental state. Participants in the provincial workshops spoke of the lack of capacity in government, with government employees lacking skills and being bogged down by 'red tape'. Government was viewed as slow and lacking 'drive' and 'will'. The competence of government to implement its developmental objectives was questioned.

While not all state institutions are dysfunctional, a number of authors and participants in the Coalition's process believe that many are. Despite massive allocations of funding towards government departments and development institutions, the levels of dysfunction result in poor outcomes irrespective of the budget allocated. Von Holdt (2010:4) argues that the South African state lacks '*well-organised and effective routines, as well as analytical, discretionary and innovative capacity*'. The National Planning Commission adds that high levels of political interference in the day-to-day operations of the public service undermine its stability (NPC 2011b:24). If these features define many state institutions, with the NLB and the NDA closely located to government, are they similarly affected?

Efforts to address the disconnection between social spending and actual outcomes have focused on policy recommendations, management structures and strategies to address perceived blockages in the system. Von Holdt (2010:7) argues for an analytical shift:

that attention be paid to organisational culture and processes of meaning-formation, the informal codes which shape officials' priorities, choices and interactions with others.

Von Holdt's (2010:8) illuminating study on the health sector posits that black class formation through affirmative action together with skills gaps create opportunities for rapid upward mobility within the bureaucracy. This leads to high staff turnover and the loss of institutional capacity and expertise. Von Holdt argues that class mobility has become a key motivation for many in the bureaucracy, a motivation that competes with that of public service and has resulted in incompetence. Combined with ambivalence to skill, an organisational culture of extreme deference towards authority and towards the administrative and political leadership has emerged. This culture '*inhibits open and frank dialogue between leadership, management and subordinates and contributes to the failure to understand and solve delivery breakdowns*'. While deference to authority is prevalent in all bureaucracies to varying degrees, it undermines the institutional effectiveness when it draws attention away from the purpose of the institution.

Participants in the Coalition's provincial workshops lamented the fact that personal enrichment rather than service delivery has become the goal of many government officials. This impacts on the quality of service delivery, as delivery becomes the institution's secondary purpose with elite formation as the primary purpose. This fuels hostility towards those requiring services and exacerbates a vicious cycle of deteriorating relationships. Von Holdt (2010:19) recognises the many civil servants who do still care about the people they serve and calls them the '*unsung miracles of the post-apartheid state*'. He argues for a set of reforms in South Africa that define meeting the needs of the people as the most profound way of uprooting the legacies of white domination.

⁵⁷ Ibid.

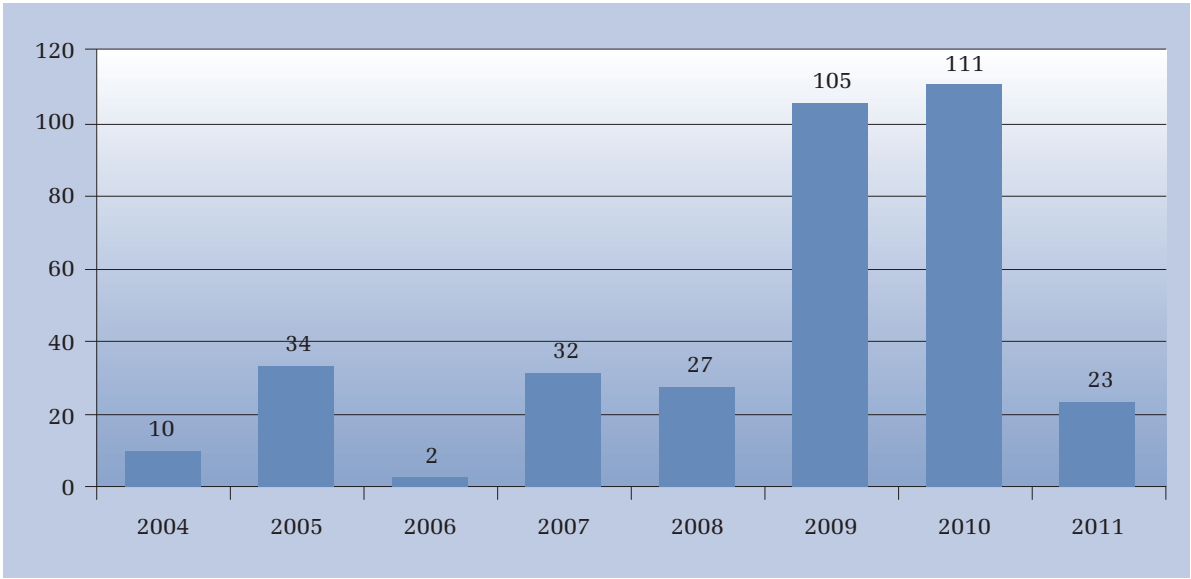
The NPC's *National Development Plan: Vision 2030* (2011b) asserts that state performance is uneven and suggests that the reasons for this are: firstly, the lack of capacity of the state and lack of coordination between government, the private sector and civil society; and secondly, external shocks and changing international conditions. The plan seeks to '*shift the paradigm from entitlement to capabilities, opportunity and participation*'. How it plans to address the contradictory rationales competing within the public service and the powerful interests served by them remains to be seen. In the current context, Von Holdt (2010) finds little grounds for optimism that South Africa will indeed reach the achievements of the successful developmental states.

The issues raised by Von Holdt and mentioned by the NPC may be applied to an analysis of the NLB and the NDA. Both institutions are closely aligned to government. Numerous media reports show evidence of fraud, corruption, mismanagement and unethical decisions. Participants in the Coalition's workshops and the case studies undertaken for this study attest to the fact that these two institutions are mirroring the ineffective cultures outlined above. If service delivery is indeed only their secondary purpose, then policy recommendations, management restructuring and strategies to address perceived blockages in the system will have little impact. The first point of intervention should be reorienting these organisations to meeting the public good as a primary objective.

More research into the internal workings and organisational dynamics of the NLB and the NDA is required. Over the past year, the NLB itself has started to consider the myriad complaints of civil society as voiced in the media and through the courts.

The erosion of accountability and growth of corruption

The high levels of social protest related to service delivery failures reflect the extent to which poor and marginalised South Africans feel that their needs and concerns are not being met. It also reveals that other mechanisms to hold government accountable and express discontent are not working.



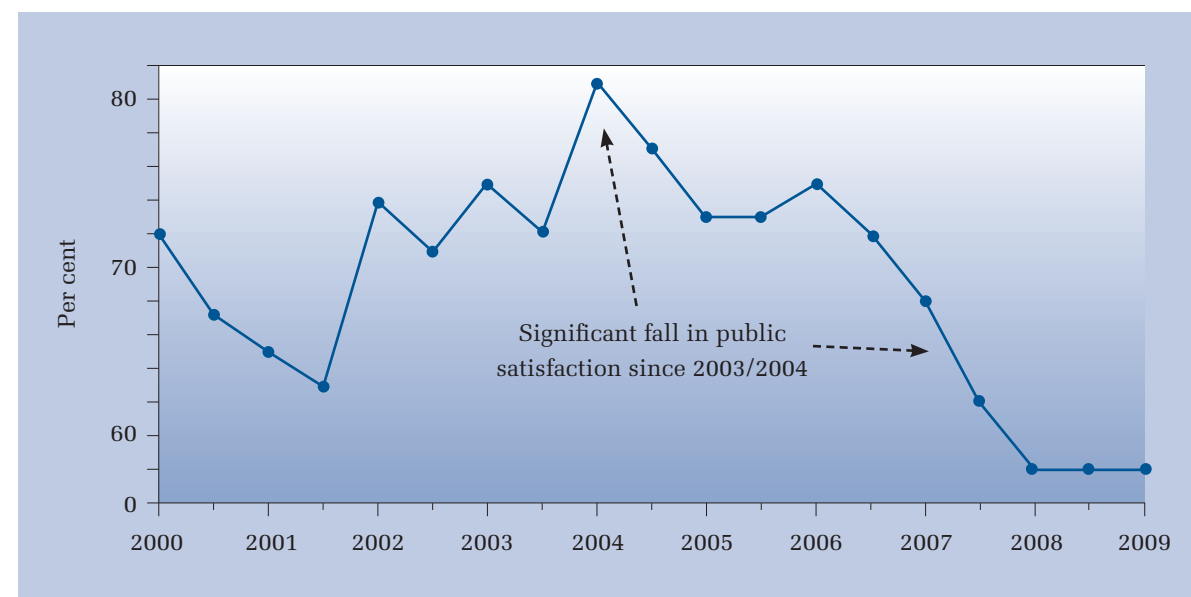
Major service delivery protests, by year (2004 to April 2011)⁵⁸

⁵⁸ <http://www.sabc.co.za/wps/portal/news/pages/details?id=9c68c30046d9be4d85698d0e4d35f062&page=Analysis.Group1>

The NPC *Diagnostic Overview* (2011a) acknowledges that improving the effectiveness and performance of public service requires ‘*mechanisms for ensuring accountability of public servants to the citizens they serve*’. It notes that accountability mechanisms are frequently not implemented as managers seek to avoid taking responsibility. Participants in Coalition processes questioned whether government is addressing basic questions such as ‘What does it mean to be a good civil servant?’

Public sector capability

Public opinion on delivery of basic services, 2000–2009



Source: GCIS based on Markinor survey data

Participants in the provincial workshops and strategy meetings raised the issue of corruption and the effect this has on eroding resources intended for the poor. The *Diagnostic Overview* (2011a) declares, ‘*One of the most striking breakdowns in accountability is corruption*’. According to the Special Investigating Unit, it is estimated that 20–25 per cent of state procurement expenditure, amounting to roughly R30 billion a year, is wasted through overpayment or corruption.⁵⁹

Once again the interconnectedness of middle-class and grassroots concerns is revealed in the issue of corruption. As poor South Africans are robbed of much-needed funds to address poverty, those paying the taxes are slowly waking up to the need for advocacy. Self-interest has illuminated their understanding of the squandering of public funds provided by the public fiscus. As noted in the NPC *Diagnostic Overview*:

The entire country is harmed by corruption, but the costs are not borne equally and fall most heavily on the poor through the impact on the quality and accessibility of public services.

This raises questions around values, principles and priorities. While the NPC report is frank in acknowledging the extent and impact of corruption, the report’s calls for active citizenry are vague and make little mention of the role of civil society in holding government accountable.

⁵⁹ See also <http://www.iol.co.za/news/politics/taxpayers-fleeced-of-r30bn-1.1156259>

If government is to be its own watchdog or use state-controlled corporatist arrangements to hold itself accountable, allegations of the fox watching the chicken coop will remain.

South Africa has legislation to counter corruption, but without rigorous and consistent application a culture of impunity has arisen.⁶⁰ The state procurement system has become overly bureaucratised, with an emphasis on compliance by box ticking, making the system costly, burdensome, ineffective and open to fraud. A recent court case against the NLB suggests similarly problematic systems are used within the NLB.⁶¹

Outspoken Public Protector Thuli Madonsela spoke of the ‘cancer of corruption’ and referred to it as a ‘crime against the poor’. She lamented that:

*We may have reached the tipping point, after which trying to end corruption will be like trying to bring water up from the bottom of a waterfall.*⁶²

Whether South Africa has reached this tipping point is a matter of debate. There is evidence, given the mounting number of cases of fraud, corruption, conflict of interest and unethical decisions prevalent in government and government-aligned institutions, to demonstrate widespread corruption. If the implicit rationale for participation in government and government-related organisations is indeed private gain, then behaviours including fraud, corruption, nepotism, etc., are consistent with this objective. South Africa’s revolution, according to Njabulo Ndebele:

*may itself have become corrupted by the attractions of instant wealth, reflecting a potentially catastrophic collapse in the once cohesive understanding of the post-apartheid project as embodied in our constitution.*⁶³

In its *National Development Plan: Vision 2030* (NPC 2011b:25), the NPC argues that corruption is a moral and political problem, the social dimensions of which can only be tackled by focusing on values. It states that:

Attitudes that justify breaking the law to help family members because they are poor, or because they suffered under apartheid, or just because they are family, must be tackled head on.

Ethical leadership approach to public service delivery

The ruling party is obviously deeply fractured, as demonstrated in daily accounts of internal power struggles told on the front pages of newspapers. Battles for access to the sources of patronage preoccupy much of the government.⁶⁴ The needs of the poor are drowned out in this jostle for power and privilege; the very condition of poverty viewed with scorn and disdain. Steven Friedman commented:

⁶⁰ <http://www.iol.co.za/news/politics/taxpayers-fleeced-of-r30bn-1.1156259>

⁶¹ *National Lotteries Board v South African Education and Environment Project* (788/2010) [2011] ZASCA 154, 28 September 2011, (Appeal judgement)

⁶² <http://www.polity.org.za/article/corruption-eating-resources-at-lightning-speed---protector-2011-08-26>

⁶³ http://www.nytimes.com/2011/10/15/world/africa/15iht-letter15.html?_r=2&scp=2&sq=south+Africa&st=cse

⁶⁴ http://writingrights.org/2011/11/30/op-ed-contributors-south-africas-restrictive-secrecy-bill2/?utm_source=twitterfeed&utm_medium=facebook

*Until we stop blaming the poor for their poverty, and address how we can do better at helping our society's victims to cope with their condition, we will lack the moral foundation we need to become a society for all our people.*⁶⁵

The crisis of moral leadership and endemic corruption is not isolated to South Africa. Globally, civil society is erupting in protests against inequality, financial greed and public sector acquiescence. This is evidenced in the global wave of 'occupy' protests during the past year. The lack of concern for the impact that decisions in public service organisations have on people's lives is evident, for example in the collapse of the Global Fund which supports life-saving HIV treatment and support programmes. On the decision by the United States to renege on its pledge to the Global Fund, Stephen Lewis, the co-founder of AIDS Free World said:

*It's terribly important to recognise the moral implications. It's not just the fact that people will die; it's the fact that those who have made the decision know that people will die.*⁶⁶

Since the advent of democracy, some politicians and leaders have promoted a return to African values, basing leadership practices on the South African philosophical and cultural notion of 'Ubuntu', which brings to the fore notions of supportiveness, cooperation, solidarity and communalism. Ubuntu places great importance on working for the common good. Ubuntu implies a social contract that stems from, but transcends, the narrow confines of the nuclear family, to the extended kinship network – in other words *the community*.

The NPC is working towards reorientation of South Africa's values compass. However, the means by which they plan to achieve these changes is not yet clear.⁶⁷ They state that:

What we want by 2030 is to have created a country in which we value one another, in which we value life and we value our communities. We value doing the right thing.

Civil society contributions to development

The civil society sector is a significant partner in South Africa's development equation. However, this is not widely acknowledged, and there is a growing realisation that government cannot achieve its avowed developmental policies without full participation by both the business and civil society sectors. A report commissioned by the NDA found that:

in South Africa, many CSOs are filling the gaps by providing socio-economic and basic services that the state is unable to provide and in some cases have taken over the functions of the state.
(Case et al, 2008)

CSOs are often more able to meet the needs of poor communities as they can be more flexible and are able to identify creative and innovative development alternatives. CSOs provide not only qualitative benefits for the state, through their roles and relationships in service delivery for development, but also financial benefits.

The benefits to the state of partnering with NPOs were outlined in an Umhlaba Development Services Report (2005:52–54) as follows:

- Recognition of the comparative advantage of NPOs in delivering at local level, particularly the role NPOs play in providing opportunities for poor communities to participate.
- NPOs do not represent a recurrent cost for the state and frequently manage to raise additional funds that would not necessarily be available to the state.
- NPOs often charge lower rates, draw on a pool of existing resources within the organisation, build on existing relationships and networks and thereby add value to a project.
- A perception of the limitations of the state as a vehicle for social change due to its inability or unwillingness to be accountable to society.
- The value of the input received from NPOs usually exceeded the costs to the state.
- The NPO sector has a capacity to generate employment.

Are CSOs viewed as partners by the state?

While the benefits of state–CSO partnerships are well demonstrated, there seems to be a perception among some within government that CSOs are only an irritant. One of the provincial workshop participants said government treats CSOs as '*spaar wiele*' (spare wheels). Certainly the lack of government action on the ongoing problems within the NDA and NLB seems to indicate disinterest and even neglect of the sector. This attitude seems in direct contrast to that which prevailed towards civil society when the new government took office in 1994. At that time CSOs were integrally involved in processes to draft the new constitution and rewrite policies. The NPO Act explicitly states:

'Within the limits prescribed by law, every organ of state must determine and coordinate the implementation of its policies and measures in a manner designed to promote, support and enhance the capacity of non-profit organisations to perform their functions.'

The initial policy objective of developing a functional relationship between government and CSOs, and promoting the objectives of the RDP, was captured in the preamble to the NDA Act which states that the NDA is aimed at '*promoting an appropriate and sustainable partnership between the government and CSOs to eradicate poverty and its causes*'.

Other legislation also contained provisions recognising CSOs as stakeholders in development. NEDLAC was established, consisting of representatives from business, labour, community- and development-interests and the state. The Council's goal is to promote economic growth, participate in economic decision-making and conclude agreements on issues relating to social and economic policy.

⁶⁵ <http://www.businessday.co.za/articles/Content.aspx?id=159943>

⁶⁶ <http://hosted.verticalresponse.com/594745/ee0f811cb8/1468555807/955b05c498/>

⁶⁷ <http://www.npconline.co.za/pebble.asp?relid=695>

An Advisory Committee was established by Cabinet in 1996 to look at the Structural Relationships between government and CSOs – with CSOs viewed as having the capacity to contribute to the RDP. The RDP mentioned the NDA's role to '*channel government funds to organisations for programmes aimed at meeting the development needs of the poor and to strengthen their institutional capacity.*' During this time CSOs and the NDA were viewed as playing a central role in the implementation of government's policy.

The policy and legislative objective of promoting a sustainable partnership was, however, not pursued in practice once the RDP was replaced. The Non-Profit Study (2002) stated that:

the image conveyed by the notion of 'public-private partnerships', which defines the state and the private sector as the only relevant actors in policy making and delivery, should be questioned. Although it is already present in a number of policy documents, more needs to be done to emphasise and strengthen the notion of the three-way relationship between the state, the private sector and the non-profit sector.

This shift was concretised with the publication of the draft standardised provisions of the Public-Private Partnerships policy by the National Treasury in 2003, which excluded NPOs from Public-Private Partnership agreements. Reflecting state focus on private sector partnerships, institutions such as the Industrial Development Corporation of South Africa Ltd (IDC) were prioritised. The billions of rands invested in the IDC dwarf the paltry amounts made available to the NDA.

In line with prioritising the role of the private sector, the state discourse changed to corporatist language. The DSD's policy on Financial Awards to Service Providers revealed the department's intention to enter into service contracts to ensure that '*expected service outcomes are achieved, that there is customer satisfaction and value for money.*'

An assessment of the NPO Act found that civil society is perceived by the ANC-led government as an extension of its delivery capacity. The sector's role as an independent mechanism to challenge, contradict and influence policy has been largely overlooked. Ranchod starkly notes that CSOs are becoming '*delivery intermediaries between the framers of social policy and those for whom it is intended*' (Ranchod 2007:5). There are growing voices in civil society raising concern that government sees CSOs as service delivery and technical support *contractors* rather than development *partners*. Ways in which civil society can engage meaningfully and constructively with government are currently limited.

Government rhetoric continues to call for partnerships across sectors. The National Planning Commission at the launch of the *Diagnostic Overview* said, '*An active citizenry, working in partnership with government, business and civil society is critical to this new development paradigm*'. At the launch Minister Trevor Manuel said:

*While the state can build schools, we need communities to ensure that the schools work properly and that children study hard. Our paradigm is one where communities are active in their own development.*⁶⁸

Once again, the plan does not define how communities are to engage – is it through local citizen action or government-dominated structures?

If the state and government are indeed populated by those with more interest in personal

enrichment than civil service, then civil society's focus on poverty eradication strategies that prioritise empowerment of the poor and marginalised communities may be seen as a potential threat. Democratic participation requires the skill and openness to have difficult conversations, come up with compromises or, through robust, honest and reflective engagement, to develop new and better alternatives to those previously suggested. Mangcu (2008) adds that a critical relationship between civil society and the state serves to extend the developmental agenda. The plural nature of society inevitably leads to criticism and disagreement, key ingredients to the healthy engagement required for a vibrant democracy.

The organisational culture emerging in government and described in Von Holdt's study (2010) does not show openness to these types of prickly, messy engagements that are more likely to generate innovative win-win solutions. An institutional culture that displays ambiguity towards skills, promotes deference to authority at the expense of organisational effectiveness, and one that avoids conflict in an effort to save 'face' for superiors, is one that is unable to hear independent and critical voices without feeling threatened. This is a significant obstacle to meaningful state-civil society partnerships.

The Umhlaba Development Services' (2005:34) research on the NPO Act found the following obstacles to partnerships between government and NPOs:

- A lack of clarity or consensus on the vision of the partnership: government partners prioritised rapid service delivery while civil society partners focused on capacity building and participation.
- Institutional capacity constraints: this was evident from both government and civil society partners and included lack of skilled staff and lack of financial, management and human resources systems.
- Raising funds from government is time consuming, which deflects time and staff from development work and service delivery.
- Legal obstacles to partnerships between government and civil society included the complex tender system, strict government financial regulations, cumbersome budget-approval procedures and a lack of tax incentives for donors.

Participants in the Coalition's provincial workshops spoke of challenges in working with government. Some described the difficulty of achieving practical outcomes during meetings with government. Some CSOs found it difficult to access relevant government officials. Training offered by government was described as 'poor, disjointed and uninformed'. CSOs requested to be active participants in the NPC without success.

The NPC concedes that relationships across sectors and between citizens and the government need to be repaired:

*This plan that we present to the President and the country today is principally about relationships: relationships that people have with their country; relationships that we have with one another; and the relationship that, as citizens of South Africa, we have with the state. At the moment these relationships are broken.*⁶⁹

68 <http://www.npconline.co.za/pebble.asp?relid=695>

69 <http://www.npconline.co.za/pebble.asp?relid=695>

It is part of the NDAs mandate to build relationships between government and civil society. That these relationships are ‘broken’ speaks to one of the NDA’s failures.

Within a context in which relationships have been eroded, the recent passing of the Protection of State Information Bill, or ‘Secrecy Bill’, after a sham consultation process, does little to repair them. The strong reaction of civil society to the Bill speaks as much to concern about the conduct of the ruling party and state institutions that continue to squander the trust and goodwill of its citizenry as it does to the provisions of the Bill.⁷⁰

Participants in the Coalition’s provincial workshops and strategy meetings argued for improvements in the systemic relations between the state and civil society. They made the following specific suggestions:

- There is need for better coordination between CSOs and government departments.
- There is similarly an urgent need for all government and government-related agencies with some responsibility for civil society to coordinate with one another, for example Treasury, SARS, DSD, the NLB and NDA.
- Civil society should consider all plans and programmes mooted by government, and engage with these in ways that optimise results and strengthen participatory democracy.
- Organisations of civil society should form cooperative relationships, strengthening the voice and agency of the sector.

A strong desire to move from critique to action was expressed by workshop participants. It was noted that many CSOs have demonstrated their ability to meet sophisticated developmental requirements, thus revealing their ability to operate as equal partners with government agencies. For example, the Community Work Programme, which is intended to involve 4.5 million people by 2014, was cited as an opportunity for effective government–civil society collaboration.

Recommendations

The Coalition processes revealed suggestions for a ‘doing framework’ – a new mission that all sectors of society can identify with and support. For example, the ‘Zero Hunger’ campaign in Brazil mobilised thousands of agencies in government and across civil society. The campaign captured the imagination of individuals, families, trade unions, churches, business, government departments and parastatal agencies. It brought benefits to millions of people, and also influenced changes in development policy and government interaction with civil society.

Suggestions were that CSOs in South Africa mobilise in a similar way and in so doing encourage the needed resource flows. The Coalition envisioned the possibility of government and communities constructing coherent goals that are shared, whose concrete implementation can be ‘co-produced’ by public agencies and communities.

The Coalition calls for a review by the NPC of the developmental aid architecture in South Africa as a matter of urgency. To ensure cooperation and avoid duplication, the Coalition calls for a cross-governmental task team to be appointed to review and make recommendations on all policies affecting the civil society sector.

⁷⁰ <http://constitutionallyspeaking.co.za/who-can-we-trust>, 22 November, 2011 by Pierre De Vos

CHAPTER SIX

The National Lotteries Board (NLB) and the National Lotteries Distribution Trust Fund (NLDTF)

It is impossible to suggest that a developmental state can be built in the absence of visionary legislation that defines the human development objectives of the country.⁷¹

The Coalition’s commitment to contribute towards more effective funding of the civil society sector informed its engagement with the NLB, and the NLDTF. The research and advocacy process included commissioned legal research by Ricardo Wyngaard, a non-profit lawyer. This chapter includes the contents of the legal research, in addition to findings from the provincial consultations, case studies and meetings held with the NLB, government representatives and the Minister of the DTI. The section includes reference to secondary sources, the many media reports that have been published and recent court findings.

While the lottery was commended for disbursing large amounts of funds to the sector, findings from the research process indicate significant problems at all levels. As a starting point, the Coalition laments the lack of an over-arching developmental vision to guide lottery funding. The Coalition argues that collection and regulation functions should be the NLB’s sole mandate, and that the disbursement function should be vested in a separate, autonomous structure with relevant development funding expertise. The lack of clarity around the roles and responsibilities of the NLB and the distribution agencies has led to a dysfunctional distribution system. Serious management weaknesses and process flaws make navigating the application and adjudication process for most CSOs cumbersome and, for CBOs, virtually impossible. Ultimately the needs of CSOs and the communities they serve suffer as a result of this.

Background

Gambling was restricted in South Africa as early as 1673. The Gambling Act of 1965 officially banned all forms of gambling except betting on horse racing. However, gambling was legal in the former ‘homelands’ of Transkei, Bophuthatswana, Venda and Ciskei (TBVC). The prohibition on gambling was ineffective, with an estimated 2 000 casinos operating illegally in South Africa by 1995.⁷²

The South African government promulgated the Lotteries and Gambling Act of 1993, which made provision for the establishment of the Lotteries and Gambling Board. Through the board,

⁷¹ <http://www.forum.org.za/The-Need-for-an-Over-Arching-Legislative-Framework-May-2010>

⁷² Sallaz, 2001 in Report of the Portfolio Committee on Trade and Industry on the Review of the National Gambling Legislation, 11 March 2010

‘the new government was charged with the task of managing the burgeoning underground gambling industry’ (Louw 2002:5).

The board consisted of government representatives, business representatives and people with experience in the fields of welfare, disability, community development, sport and socio-economic development.⁷³ The board published its *Interim Report on Lotteries and Gambling in the Republic of South Africa* in October 1994. The Interim Report observed that illegal gambling deprived the state of tax, and that regulated gambling would provide a source of income that could provide tax relief.⁷⁴ It was proposed by the board that the government acknowledge gambling as a ‘social reality’ and seek to regulate the industry and ensure that some of the profits from legal gambling be used to support the RDP, welfare and other good causes (Louw 2002:1). The *Interim Report* stated that funding would assist in the upliftment and development of disadvantaged and disabled people.

The Lotteries and Gambling Board Act of 1993 was repealed and replaced by the National Gambling Act of 1996. The National Lotteries Act of 1997 established the National Lottery. The Board was appointed in 1998. The first National Lottery was launched on 2 March 1999. A Consortium called Uthingo, chaired by Professor Barney Pityana, won the contract to operate the lottery, which was launched in March 2000. Former President Thabo Mbeki predicted that:

The National Lottery would raise R13 billion for good causes within five years.
(in Louw 2002)

The money raised through the sale of lottery tickets and scratch cards was to be distributed according to a formula: 50 per cent to prizes; 20 per cent as profits to the operating agency; and 30 per cent to good causes.

Using the lottery as a form of revenue collection was motivated by increased demands for state expenditure, taxpayer objections to higher taxes and the pressure to balance budgets. It is thus a ‘voluntary tax’ as a portion of the proceeds goes to good causes. The National Lottery was also seen as a measure to counter illegal gambling.

The Lotteries Act (Act No. 57 of 1997)

The Lotteries Act established the National Lotteries Board to regulate the National Lottery and other lotteries and to administer the National Lottery Distribution Trust Fund (NLDTF). The NLDTF was established to distribute the proceeds of the National Lottery.

Three chapters of the Lotteries Act deal with the main structures that are regulated by it, namely, the National Lotteries Board (NLB), the licenced operator, and the distribution agencies (DAs). These three structures are interdependent and all are important for the effective implementation of the Lotteries Act.

NPOs can also benefit from the Lotteries Act through the operation of other lotteries, such as fundraising society lotteries, bazaars, fêtes, dinners, sporting and other events, as long as the proceeds are used to benefit deserving sections of the public.

⁷³ Section 3 of the Lotteries and Gambling Act of 1993

⁷⁴ <http://www.pmg.org.za/docs/2010/comreports/100331pctradereport1.htm>

Regulations

The regulations, which fall under Section 60 of the Lotteries Act of 1997, seek to improve the efficiency and distribution of resources of the NLDTF. The regulations should be used to streamline the handling of applications, making the process more transparent and efficient. New regulations, which came into effect in July 2010, provide more guidance on the direction of funding decisions as follows. The 2010 regulations prescribe that 50% of monies in the National Lottery Distribution Trust Fund (NLDTF) be used for specific priority areas:

- For the Charities Sector this means expansion to include home-based care services and infrastructure development for the care for old people, sick people, orphaned and vulnerable children, and the rehabilitation of those with disabilities. Other additions include adult literacy programmes and early childhood development initiatives.
- 50% of Arts, Culture and National Heritage allocations to be disbursed to traditional knowledge and culture projects, as well as the development and preservation of heritage sites and the promotion of arts and craft produced by groups of disabled people and women.
- 50% of Sports allocations are to be disbursed for development of sport and recreation facilities in rural areas to assist with talent identification and greater accessibility to sporting facilities for the disabled.

The regulations’ aim was also to facilitate access for first-time applicants among smaller non-governmental and community-based organisations. While the regulations did away with the requirement for first-time applicants to produce *audited* financial statements, these applicants must still submit financial statements drawn up by an independent, registered accounting officer. Previous beneficiaries of lottery funding are required to submit their most recent set of *audited* financial statements.

According to a notice published on the NLB website, the intentions of the new Regulations were:

*...to get the proceeds of the National Lottery to reinforce government’s efforts to relieve poverty, to develop our least developed areas, and to build a more equal society.*⁷⁵

The role of the National Lotteries Board (NLB)

The National Lotteries Board’s purpose is outlined in the description of its mandate:

The National Lotteries Board (NLB) was established in terms of the Lotteries Act (No 57 of 1997) to regulate the National Lottery as well as other lotteries, including society lotteries, to raise funds and promotional competitions.

The NLB also advises the Minister of Trade and Industry on policy matters relating to the National Lottery and other lotteries.

Members of the NLB are appointed by the Minister of Trade and Industry and hold office for a period of five years, after which they may be reappointed. The NLB consists of seven board members.⁷⁶ Board members hold office for a maximum of five years, but are eligible for a second term. At least four members of the NLB must be from sectors beyond government.

⁷⁵ <http://www.nlb.org.za/2010.html>

⁷⁶ Section 3 of the Lotteries Act

NLB members are also trustees of the NLDTF, into which National Lottery proceeds that are intended for allocation to good causes are deposited.

The Lotteries Act does not, in contrast to the NDA Act, specifically require the Minister to appoint members representing civil society to the NLB. This is in all probability because of the difference in function between the two structures. The NLB’s function relates largely to the operation and oversight of the National Lottery and the NLB is supposed to play a less significant role in the distribution of funding for good causes.

The NLB does not adjudicate applications for funding or make allocations to organisations. This is done by committees known as distribution agencies (DAs) that are also appointed by the Minister of Trade and Industry, in conjunction with other relevant ministers, after a process of public nomination. The NLDTF provides administrative support to the DAs.⁷⁷

Governance functions of the NLB

The NLB has an important advisory and oversight function in relation to the National Lottery and the licenced operator. The NLB must submit annual activity reports and financial statements to Parliament. The report must include the percentages of funding prescribed for good causes and any proposals for amendments to the Lotteries Act or regulations proposed by the NLB. The NLB is also subject to the stringent regulatory provisions of the Public Finance Management Act (PFMA). This Act sets high standards of accountability and should, in theory, ensure a high level of accountability of members.

The NLB is responsible for the collection and regulation functions, as well as the distribution function of the Lottery. However, it has dealt more successfully with the commercial functions of gaming revenue collection, and the regulation of gaming practice. While it is beyond the scope of this research to look into the profit-making side of the lottery, Kuljian (2009:128) noted that the attention given to the profit-making side of the gaming industry has not been matched by an equal commitment to maximise the enormous benefits that this industry potentially offers to the funding of civil society. If the profit-making aspect of the lottery is functioning effectively with the logistics and coordination required for that to happen, weaknesses on the distribution side point *less* to deficiencies in resources and capacity than to priorities and commitment.

The current service provider Gidani’s contract expires in 2015. When the change-over between the first operator Uthingo and Gidani took place in 2007, there was a delay of more than six months. During that time, all grantmaking activities were suspended – to the detriment of the plans of CSOs. To avoid such delays, applications for the next new operator will be considered from 2013. The contender will be announced in 2014 to allow time for legal or other challenges. SANGOCO is a four per cent (4%) shareholder in Gidani. This is not viewed as a conflict of interest as Gidani has no influence on the distribution of funds.

77 <http://www.nlb.org.za/general-public/our-mandate.html>

The role of the National Lotteries Distribution Trust Fund (NLDTF)

The NLDTF is established by the NLB to hold and manage disbursement of funds allocated by the NLB towards the funding of CSOs.

Regulations promulgated in 2002, 2004 and 2010 determined that lottery funds be distributed as follows:

Category	2002	2004	2010
Charitable causes	36%	45%	45%
Arts, culture and national heritage	22%	28%	28%
Sports and recreation	22%	22%	22%
RDP	15%	-	-
Miscellaneous	5%	5%	5%

The inclusion of the RDP category in 2002 was indicative of government policy at that time. Lottery funding was envisaged as contributing not only towards welfare and poverty alleviation projects, but also to interventions addressing development and poverty eradication. However no distribution agency was set up to manage the RDP fund, thus the funds allocated to this category were not distributed.

Charities

The charities sector receives the bulk of lottery funding. This sector covers applications from organisations serving the needs of children, the youth, socially vulnerable groups (e.g. the elderly, women and the disabled) and people living with HIV/AIDS. Also included are community and residential programmes, capacity building and poverty alleviation in areas that are under-resourced and under-served. The 2010 regulations include: home-based care services; facilities for people living with disabilities; substance rehabilitation and treatment services; early childhood development; and adult literacy and vocational training.

Arts, culture and national heritage

The focus for arts and culture has been on organisations whose activities addressed the following: the production and promotion of cultural products and/or performance; education, training and skills transfer; and the building of new audiences and increasing public access to the arts. This includes festivals, film production and public art.

Heritage projects include architectural, archaeological and heritage preservation and conservation projects, as well as developing indigenous knowledge systems. This category also includes environment projects such as conservation, waste management, planting indigenous trees and youth environment education.

Sport and recreation

This focus area aims to support promotion of sport development through focusing on the following:

- existing sports facilities / clubs that lack sports equipment;
- upgrading and/or renovation of existing sports facilities; and
- training institutions / organisations doing capacity building for sport, i.e. managers, coaches, administrators and technical officials.

Special consideration is given where the activities of organisations applying for funding will benefit people in rural areas and vulnerable groups such as women, the youth, people with disabilities and the elderly (Swilling and Van Breda 2006).

NLDTF resources available for civil society

The DTI’s Gambling Review (2011) found that sales for the National Lottery products have fluctuated considerably in the past few years due to a number of factors including declining interest in the lottery, the negative impact of the world economic recession, and the effects of the controversy over the appointment of a second licensed operator and the suspension of the National Lottery for several months in 2007.⁷⁸ Despite this, the lottery funding distributed since inception is significantly higher than that distributed by the NDA.

In 2011 the NLB reported the following with regard to resources raised and disbursed since inception:

- R12.3 billion was transferred by the lottery operators to the NLDTF.
- R3.6 billion was earned in interest.
- R15.9 billion has been made available in the NLDTF for CSOs – of which R14.4 billion (91%) has already been allocated.
- R11.0 billion (76% of allocated funds) has been paid out.
- R1.5 billion (that remains unallocated in the NLDTF) is available for allocation in the 2011/12 financial year.⁷⁹

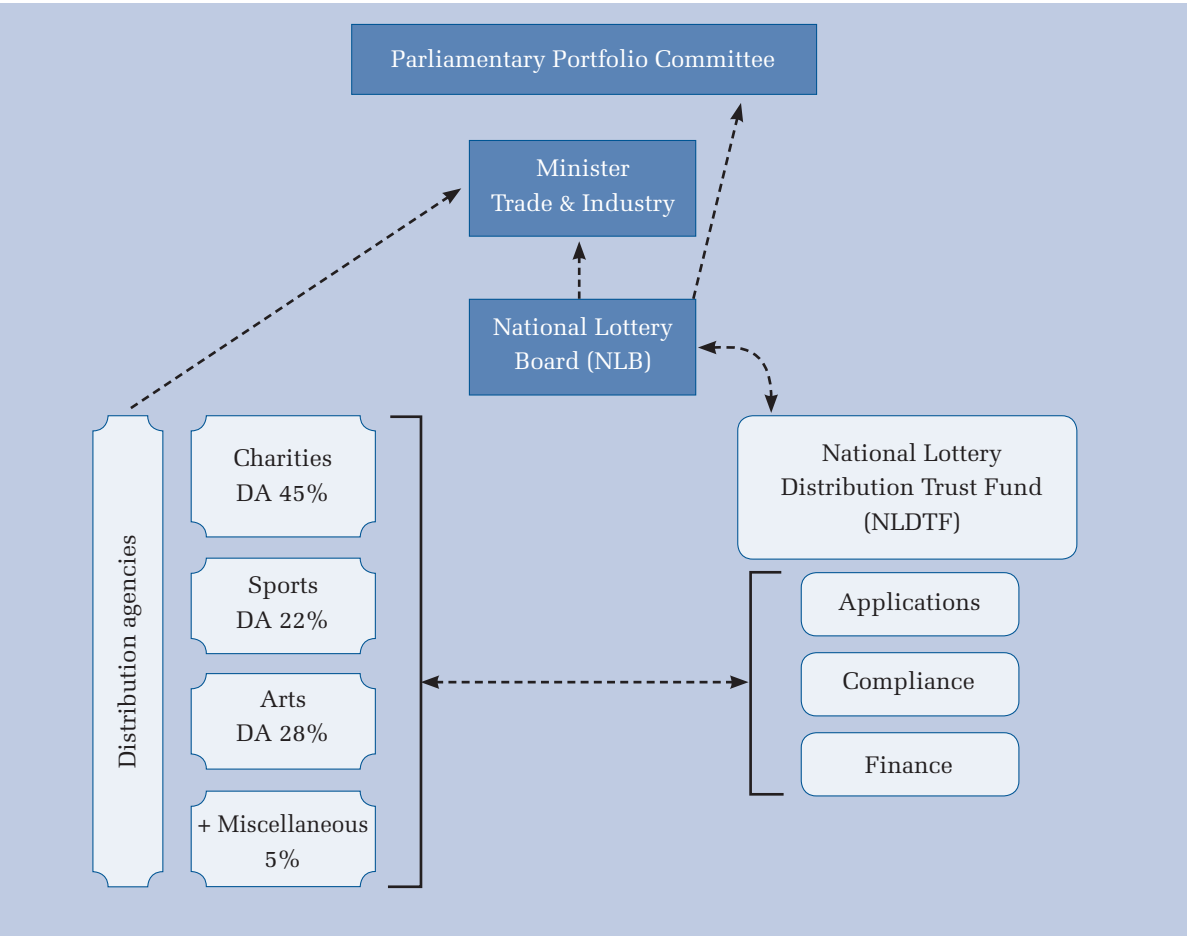
The Lotteries Act provides that funds not spent at the end of any financial year be carried forward as a credit to the next financial year.

Lottery distribution structure

The legislation requires disbursement to be done by a distribution agency (DA) which is defined as ‘a person appointed by the Minister to distribute money but not any department in the national or provincial sphere of government’.

78 http://www.dti.gov.za/news2011/Gambling_review.pdf pg 39
79 <http://www.nlb.org.za/general-public/mediareleases.html?id=182&tmpl=component>

Current structure of NLB grant-making



Refer to page 51 for further information on the regulations.

The distribution structure is aligned to the three categories to be funded: the charities distribution agency; the arts, culture and national heritage distribution agency; and the sports and recreation distribution agency. The Minister appoints members to the distribution agencies that consider applications for grants.

Distribution agency (DA) members work part time and are employed in the sectors that they represent. This provides for knowledge of, and expertise in, the sectors for which they make decisions. The DAs have no regulatory or statutory powers. Role clarification between the NLB and the DAs has been lacking until a recent court judgment that clarified the function of the DAs as:

Limited to receiving and considering applications, and suggesting conditions to be imposed when money is granted. They do not have the power to call for applications, decide how much money should be made available for different causes or to distribute money.⁸⁰

While there are obvious advantages to DA members representing the sectors in which they work, it has also created opportunities for decisions to be made around conflicts of interest. Recent media reports revealed that the SA Jazz Foundation received R32 million. The CEO of the foundation, Oupa Salemane, was until recently a member of the NLB’s Arts and Culture

80 SAEP and Others vs the National Lotteries Board and Others in FPA 2011:38

DA.⁸¹ Similarly, media reports exposed that Gideon Sam, the chair of the NLB's sports distribution agency, stands to benefit from lottery funding granted to Cycling SA. Gideon Sam is a director of the sports marketing company, Accelerate Sport SA, which stands to receive a commission of R1 million from Cycling SA.⁸² Funding decisions like these, although they may pass the test of legality, undermine the integrity and ethical standing of the institution.

As mentioned above, the Reconstruction and Development Programme (RDP) category has been dormant since the Lotteries Act was passed and funds are no longer allocated to that category. The R63.92 million that was allocated to the RDP category has not been spent.

An additional category is the miscellaneous fund that is allocated at the discretion of the Minister of Trade and Industry. Concern has been raised that the miscellaneous fund has been used to fund state bodies such as the National Youth Development Agency and the Commission on Gender Equality. This results in less funds being available for CSOs. In 2008, the year that South Africa faced a significant emergency with the xenophobic attacks and displacement of foreign nationals in South Africa, the NLB allocated just one per cent of its emergency fund, which was allocated to one beneficiary.⁸³ It appears not to have considered emergency funding to support CSOs that were the first and most accessible port of call for the hundreds of injured and displaced people.

Challenges and problems within the NLB and NLDTF

CSOs, including this research Coalition, have spoken out against the way that the NLB governs the lottery, the management of grants and the often poor functioning of the NLDTF. In summary, problems identified over the years have been the following.

Lack of developmental vision

There appears to be no overarching development funding vision or mission statement to guide the distribution of lottery funding. Section 35 of the Lotteries Act provides that every institution, which in any way acts under or in terms of this Act, must comply strictly with Section 195 of the Constitution. This section requires public administration to be governed by democratic values and principles. This means that the NLB and distribution agencies should promote and maintain a high standard of professional ethics, be development-orientated, respond to the needs of people, encourage public participation in policy-making, be accountable and transparent and provide the public with timely, accessible and accurate information.

The Coalition found the lack of a guiding developmental perspective to be a serious impediment to effective fulfilment of the intentions of the Act. Consideration of each separate application in the absence of an over-arching strategy and accompanying development principles means firstly that links are not made with local or national development priorities. This leads to inconsistency and lack of even-handedness in grant-making decisions, and ultimately damage to the effectiveness of CSOs.

If civil society would like to see a better-functioning National Lottery, the starting point to an advocacy strategy would be to target the Lottery's vision. If the National Lottery were geared

to achieving an inspired developmental vision, orienting and guiding it to serve the public good, the political will and commitment to implementing supportive systems and processes would be more likely to follow. As mentioned by the Minister of Trade and Industry at a two-day consultative meeting hosted by the NLB in June 2011:

*We have an obligation to our people to make sure that the lottery meets the public interest obligations held out when we launched it.*⁸⁴

Legislative and regulatory concerns

Contradictions between the Act and the regulations

The regulations dealing with grant payments are inconsistent with the provisions of the Lotteries Act. In terms of Section 32 of the Lotteries Act, it is envisaged that the allocations be paid over to the distribution agency and that the distribution agency pay the recipient.

However, the regulations, contrary to the Lotteries Act, make provision for the payment of grant monies directly from the NLB to grant recipients. Legal experts challenge the Minister's interpretation of appointing a 'person' as distribution agencies rather than working through 'pre-existing persons' (in other words potentially working through an existing specialist organisation).

Grant-making process via the distribution agencies

The regulations introduced a number of requirements for the allocation of funds for the funding categories. The regulations require that those applying for funding are NPOs undertaking projects for the public good. Organisations have to establish that projects are financially viable and that they have the capacity to implement them. Organisations are required to keep proper accounting records and financial reports.

The focus on funding projects has been interpreted by the DAs as a directive not to fund any operational or capacity-building costs that are unrelated to funded project costs. This is a source of concern to CSOs that see strengthening the institutional capacity of the sector as integral to strengthening the ability to implement projects.

One of the options devised by the NLB to assist recently established organisations that could not comply with prescribed requirements is through a provision for partnership arrangements to be made. It is now possible for a well-established organisation to assist another to access funding. In line with the requirements of the Act, the funding would be transferred to an organisation that meets the prescribed requirements.

Structural and governance problems

Structural issues

The Minister of Trade and Industry is required to appoint the DAs referred to in the Act – the initial DAs were appointed for a period of five years. Although this period was extended to minimise the impact in the event of no distribution agencies operating, there was still a transition period where no appointments were in effect. Delays in the appointment of DAs delayed the distribution of funding during 2006.

⁸¹ <http://www.timeslive.co.za/local/2011/09/11/yet-more-funny-business-over-lottery-funding>

⁸² <http://www.timeslive.co.za/local/2011/12/04/sascoc-chief-in-lotto-trouble>

⁸³ NLB Annual Report 2009, pg 14; http://www.nlb.org.za/images/annual_reports/annual_report_2009.pdf

⁸⁴ <http://www.dti.gov.za/editspeeches.jsp?id=2235->

The Coalition research identified systemic problems in the relationship between the DAs and the NLB. Adjudication procedures are rushed and informed only by (often poor-quality) documentation hastily prepared by NLDTF staff. The NLDTF and the NLB do not have a co-operative relationship with the DAs as they are not appointed by the NLB. To ensure some oversight of DA decisions, an Oversight Committee was set up to oversee all DA adjudication decisions. This was challenged by the DAs and was subsequently disbanded.

Although the DAs are required to submit written reports to the NLB, the NLB itself has indicated that the DAs are not held sufficiently accountable in terms of monies distributed. For example, the 2009 *Annual Report* of the NLB indicates that:

- There is no oversight of the activities of the DAs – if there are delays in adjudication, they are not held accountable.
- The DAs are not audited and the provisions of the PFMA are not applied to the DAs.
- DA members are appointed in their personal capacity and without performance indicators or service level agreements to track and monitor their performance.
- DAs do not conform strictly to the regulations in making grant decisions.

The capacity of the DA committees is limited as they work part-time, have only seven members each, and hold an insufficient number of committee meetings relative to the huge volume of applications to be considered. The qualifications and skills of DA members have been questioned. The recruitment process does not include an interview and there are no performance outcomes in their letters of appointment. The DA members typically attend between two and eight full-day committee meetings per month for the adjudication of funding applications.

DA members only receive copies of the applications and funding recommendations at committee meetings. This means there is no time to read in advance and reflect to ensure high-quality decisions. Decisions are based on the quality of the documentation presented to them prepared by NLDTF often under-skilled and demotivated project teams. Poor-quality documentation can damage the chances of grant applicants.

The DAs are required to report to the Minister directly, but these meetings seldom happen in practice. A DTI presentation to Parliament in February 2010 proposed that the Minister meet with the NLB and DAs twice a year.

Accountability of NLB board members

The Lotteries Act clearly sets out the grounds for compulsory termination of membership of the NLB board members with regard to the following:

Board members, their spouses, life partners, immediate family members, business partners or associates may not, while serving, or for a period of 12 months after termination of membership, be employed by or receive any benefit from the licence operator of the National Lottery, or national sports pool or anyone obtaining any benefit or advantage from the Lotteries Act.

Section 7(5) contains a similar clause that applies to the staff of the NLB. This prohibition can be extended in length.

In spite of these stringent requirements in the Act with regard to the appointment and ethics of board members, the limitation does not appear to be applied. For example, media reports revealed that Makhaya Arts and Culture was the largest recipient of lottery funds from the arts and culture category in 2011, with R41 million disbursed to Makhaya to stage

arts programmes internationally. Makhaya Arts and Culture employs the NLB Chairperson Professor Nevhutanda's daughter.⁸⁵

Management, communication and administrative problems

Management

The NLB does not have a clear developmentally oriented vision that finds expression through an agreed code of good grant-making practice. This means that even though large amounts of funding are disbursed, the experiences of the CSOs that it serves are often negative, with the systemic problems negatively affecting their ability to function. Allied to this, there are numerous areas where the NLB appears to lack the required skills to run efficiently.

The relationship between the DAs and the office of the CEO and the chief operating officer (COO) is not smooth. DAs have expressed the opinion that the CEO and COO do not view them as part of the overall distribution team, despite their central legal and adjudication role. DAs have complained that they are treated as 'outsiders' who 'create additional work' for the NLB and NLDTF. While the NLB management views the DAs as managing grants at their own discretion, the DAs view the NLB CEO and chairperson as treating the funds as their own to manage as they choose.

The relationship between the NLDTF and the DAs is problematic: because the Minister appointed individuals as members of DAs rather than existing organisations, the DAs have no administrative staff and are thus reliant on the NLDTF to provide administrative support to perform their functions. However, the NLDTF staff are appointed and managed by the NLB and are not managed by, or accountable to, the DAs. This means that requests for information or assistance by the DAs are often unheeded, and the DAs have very little recourse.

Legal experts see the Minister requiring the NLDTF staff to support the DAs as contrary to the Lotteries Act. It is inconsistent with the structure of the Act for the staff of the regulator also to be the staff of the distributor.

Considering the large sums of money disbursed by the lottery, the team of people employed is comparatively small. The lottery disburses up to R3 billion per year and employs about 120 people across all departments, compared to the UK lottery which employs over 400 staff to distribute £650 million (R6,5 billion). The NLB spends approximately two per cent (2%) per annum on administration, as published in its annual reports.⁸⁶

Professor Vevek Ram was appointed as CEO of the NLB in 1999 and retained the position until his resignation in April 2012. The CEO is accountable to the board for the performance of all financial, clerical and administrative functions of the board. However, the Lotteries Act does not specify (in the same way as the NDA Act) that the NLB must enter into a written performance agreement with its CEO. While the NDA's CEO is appointed for a maximum period of five years, there is no similar restriction in the Lotteries Act.

Findings from this research process indicate ongoing and serious management problems at all levels of the NLDTF. While it is difficult to fully comprehend the internal workings of the organisation and further research is required, available evidence suggests that the NLDTF's internal dynamics are not healthy and should be re-focused on achieving a developmental vision.

⁸⁵ <http://www.news24.com/printArticle.aspx?iframe&aid=ec07>

⁸⁶ <http://www.nlb.org.za/general-public/mediareleases.html?id=182&tmpl=component>

Under a barrage of criticism in early 2012, and in the wake of the resignation of the CEO, the Chairman Professor Nevhutanda announced the creation of five new executive positions: corporate affairs, legal compliance, finance, chief IT officer and chief risk officer.

Communication

CSOs find the NLDTF staff difficult to reach. CSO representatives are not always clear who they should speak to for their various concerns.

The institution could go a long way in enhancing its reputation by employing skilled spokespersons and implementing a communications strategy that supports its key activities.

CASE STUDY: Tshepang Victim Support Centre

Tshepang Victim Support Centre is a small NGO working in Winterveld. The Catholic Health Care Association of SA (CATHCA) submitted an application to the NLDTF on Tshepang’s behalf on 30 March 2007. In November 2007 CATHCA requested an urgent meeting with the NLDTF as Tshepang was in a dire financial situation. In September 2008, after repeated letters and follow up to the NLDTF, CATHCA was notified that funds for Tshepang had finally been approved.

In March 2009 the funds for Tshepang were deposited into CATHCA’s account with the understanding that CATHCA would mentor the smaller organisation and build its capacity to manage the funds through staggered disbursal of the funds.

Tshepang staff contacted the NLDTF directly, which in turn contacted CATHCA, insisting on the full payment of the first tranche to Tshepang despite their lack of experience in financial management. The CATHCA Director submitted a formal complaint to the NLDTF about this ‘unprofessional behaviour’, reminding the NLDTF that they had appointed CATHCA to mentor Tshepang and assist them to set up adequate financial systems so that Tshepang would be able to grow their capacity at a measured pace and lottery funds would not be misappropriated.

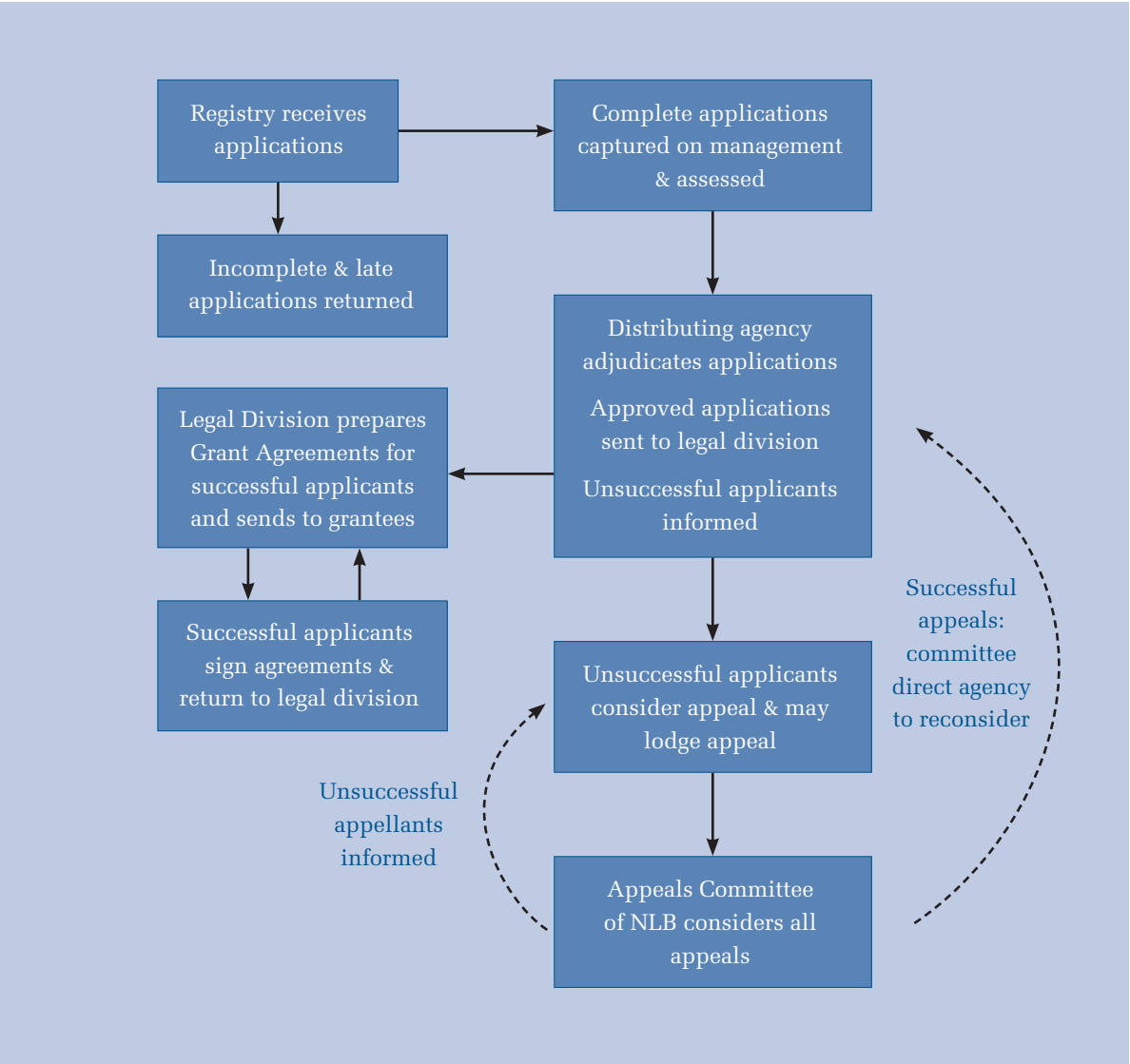
Administration

Administrative inefficiencies within the NLDTF system may be summarised as follows:

- An insufficient number of appropriately skilled staff in the NLDTF, exacerbated by high staff turnover.
- The staff are demotivated and demonstrate very little interest in the developmental purpose of the institution.
- Vast time lapses – sometimes over a year – between funding applications and grant decisions.
- Lack of communication between the NLDTF and potential grantees.
- Generally poor administration, including loss of funding applications and incorrect processing of applicant details.
- Apparently contradictory criteria used in assessment processes.

The results of the above administrative problems are demonstrated in the following section.

Grant-making process



<http://www.nlb.org.za/applicants-and-beneficiaries/how-funds-are-allocated.html>

The grant-making process starts with an annual call for proposals. The NLDTF aims to make a call for proposals every year, but this is not guaranteed as ‘a new call for applications is usually made in each sector after most of the applications from the previous call for the sector have been processed and adjudicated’.⁸⁷

Organisations responding to the call complete an application form that is submitted to the central applications office. The application is then screened for administrative compliance, scanned and the data then captured into the Grant Management System (GMS). The next phase includes more thorough assessment including site visits. The proposal is then forwarded to the DAs, which make the final decision on funding. For applications that are successful, the next phase includes the legal agreements and sign off by the NLB. The CSO is notified of the outcome and, if rejected, can appeal the decision. Payments follow for successful applications. Organisations are expected to submit progress and financial reports.

⁸⁷ <http://www.nlb.org.za/applicants-and-beneficiaries/faqs.html>

Grant-making details

Application form

In practice, the process, which should be fairly straightforward, is a minefield for many organisations. CSOs consulted in this research process reported that the NLB website has conflicting guideline information and criteria, and that the requirements are not clear. The application form is complex to complete for less sophisticated organisations. It is difficult to access off the website as it cannot be saved as a PDF document. It needs to be completed on-line and then printed. This requires a strong and sustained internet connection. The application requires many supporting documents. The full application has to be submitted as a hard copy, which is expensive and has frequently led to the loss of documents and attachments.

A more simplified approach would be to allow applications to be submitted by email, where all supporting documents could be consolidated and scanned and which would provide evidence of submission. Participants in the research process raised concern over the exclusive use of English in the application process.

Processing of applications

The Central Applications Office (CAO) receives the funding applications that are submitted in response to the call for proposals. The CAO is headed by COO Jeffrey du Preez and comprises 80 to 90 of the approximately 120 employees at the NLB.

CAO staff screen applications to ensure that they are accompanied by the necessary supporting documents and meet all the requirements. The documents are then scanned and the data captured onto the GMS. A challenge in the processing of applications and data is the lack of capacity. Delays in capturing data lead to backlogs. Additional staff are needed to capture data and scan documents (although this function could be substantially reduced if most of the documents were submitted by email).

The Project Teams are required to read all application documentation and distil out a summary, a multi-year budget spreadsheet and funding recommendations for the consideration of the DAs. Adjudication decisions are largely dependent on the quality of these documents.

Site visits by compliance team

The NLDTF Compliance Team is required to make site visits for all applications over R1 million. Understaffing causes backlogs in site visits being conducted and delays the final processing of applications. The conduct of staff making site visits has not always been acceptable, such as in a recent case where the NLB fired a staff member for ‘dishonesty’ after he tried to make money out of an organisation applying for money.⁸⁸

A criticism against the NLB approach to site visits is that use of the ‘checklist’ is seen as a bureaucratic ‘compliance’ mechanism rather than a developmental experience. This can result in site visits being about ‘catching people out’ rather than assessing developmental potential and opportunities. Some DAs noted that compliance team reports often lack information on the spirit, vision, contribution or other positive aspects of the projects. This limits decision-making as DAs lack a textured qualitative understanding of the organisations applying for funds. It is possible that the compliance objective dominates visits as site visits are often conducted when supporting documents appear suspect.

Processing of grant agreements by legal team

All DA committee meetings are recorded and these audio tapes are provided to the legal team as a basis for drawing up the grant agreements. The legal team then have to listen to the taped proceedings of these all-day meetings as a basis for capturing funding decisions. They draw up the grant agreements accordingly. This is a time-consuming process and causes further delays.

A more efficient system of recording DA adjudication decisions needs to be devised. This could include members of the legal team attending DA committee meetings.

Approval of payments by management

The finance division is responsible for processing grant payments once the agreements have been approved. Finance is also responsible for making tranche payments after interim progress reports have been approved by the compliance team. The finance and compliance teams are separate from the CAO.

Delays in payments occur at the COO's and CEO's offices, as all grant agreements and payments over R1 million are signed off by the COO, and all grant agreements and payments over R3 million are signed off by the CEO. Larger multi-year grants have taken up to a year for final sign-off.

Processing of appeals by project and legal teams

The NLB receives numerous appeals about rejection decisions. This deflects the legal team from the grant agreement process. With the global cutback in donor funding, it is likely that more organisations, desperate for funding, will appeal rejected applications. A DA member interviewed anonymously for this research suggested that there be a separate appeals team dedicated to handling these matters.

The Appeals Committee sees about 25 applications per month. Most of the appeals are related to rejections based on documents missing from the application. This could be easily remedied by requesting that organisations submit missing documents.

Processing of progress reports and tranche payments by project teams

Organisations participating in consultative meetings for this research found that there were times when progress reports submitted by funded organisations were not well understood. Reports were routinely lost and had to be re-submitted. This makes for a time-consuming and costly duplication of effort.

Another weakness affecting informed decision-making is that DAs do not receive progress reports. DAs have requested that they be included in the full spectrum of the grant management process to allow them to get a better sense of the impact of their funding decisions.

Delays and blockages in the process

The lottery is notorious among CSOs for excessive waiting times at every step of the process. Many organisations have had to wait up to two years between applying for and receiving funds. Organisations that had been rewarded grants often waited a further 2–12 months for the money to be disbursed.

The tedious lottery process drains organisations' capacity. Big Fish, an organisation working in the film and television industry, calculated that preparing, submitting and tracking its application to the NLDTF took up the time equivalent of two staff members working full time for a month.

⁸⁸ <http://www.timeslive.co.za/local/2011/09/11/yet-more-funny-business-over-lottery-funding>

The impact of these blockages has had a profound effect on the functioning of CSOs relying on lottery funding. Staff have been retrenched, programmes have been cancelled, disrupted or discontinued, and resources have been diverted from service delivery and management to chasing up grant applications. Ultimately it is the beneficiaries of the organisations, mostly those living in poverty, who suffer the consequences.

CASE STUDY: The Catholic Health Care Association of South Africa

The Catholic Health Care Association of South Africa (CATHCA)⁸⁹ provides high-quality affordable health care services to marginalised people in southern Africa focusing on health care training, home-based care, HIV and AIDS prevention and a parish nurse programme. The organisation was founded in 1988 and works in South Africa, Botswana and Swaziland.

In July 2005 CATHCA applied for R3 million for a year-long accredited training programme for 600 home-based caregivers. All necessary supporting documentation (including signed reference letters and audited financial statements) was provided. CATHCA received a reference number in April 2006. In December 2006 CATHCA received a letter from NLDTF requesting audited financial statements and a signed letter from one of the referees as these had ‘gone missing’. CATHCA resubmitted the documentation in January 2007.

On 17 July 2007 (two years after the application was submitted) CATHCA received a letter from NLDTF advising that the application for R 3 281 000 had been successful. The agreement was signed and hand-delivered the following day, 18 July 2007, to the NLDTF’s Pretoria office. After repeated meetings and phone calls where CATHCA representatives were referred from one staff member to another, the first tranche (R1 640 700) of the 2005 application was finally deposited on 22 May 2008 – three years after the application was submitted, and one year after the grant agreement was signed.

From August 2008 to April 2009, the CATHCA Director phoned and emailed the NLDTF regularly to find out when the second tranche would be received, as the one-year training programme had commenced. In March 2009 the NLDTF Audit Department phoned saying they had to audit CATHCA before the second tranche (of the 2005 grant) could be paid. An NLDTF Project Officer called to say that they had not received a progress report from CATHCA on a previous grant. This had in fact been submitted to NLDTF and had to be scanned and re-faxed twice. On 31 March 2009 the second tranche (R1 640 700) was paid to CATHCA and on 1 April 2009 the NLDTF Audit Team arrived to conduct a successful audit of the first tranche (of the 2005 grant).

CATHCA submitted a R4 million application for a Parish Nurse Programme in Mpumalanga and KwaZulu-Natal in November 2008, in response to a call for proposals. CATHCA received a letter acknowledging receipt of the application, but had no further communication from the NLDTF until March 2010.

After repeated calls and emails to the NLDTF throughout 2009, funding was finally received almost two years later, in April 2010, but the monitoring and evaluation (M&E) costs (a mere R25 000) were excluded from the approved budget. CATHCA has a standard policy of doing M&E for all programmes in line with best development practice. CATHCA was concerned that the NLDTF appeared not to value a critical aspect such as M&E.

Because of the delays in funding, CATHCA had to cancel the Parish Nurse Programme in 2009 and retrench all 20 of the parish nurses. When the funds arrived, they needed to re-recruit nurses who were still available and recruit others to replace staff who had moved on, resulting in a loss of institutional memory. CATHCA found that the impact of such a dysfunctional funding system on CSOs extends beyond major interruptions to projects, but also burdens staff members with unnecessary stress related to funding insecurity as well as wasting precious human resources in the ongoing follow ups and duplication of work through resubmitting documents.

Has the lottery served the needs of CSOs in South Africa?

Status quo on disbursement of funds

Since inception, the National Lottery has made R12.3 billion available for disbursement via the NLDTF. With interest, the amount available for distribution to good causes increased to R16 billion, of which R11 billion has been paid out in the following proportions: R2.3 billion to 938 organisations in the Arts, Culture and National Heritage Sector; R2.7 billion to 3 564 organisations in the Sports and Recreation Sector; and R5.8 billion to 4 051 organisations in the Charities Sector. Many of the beneficiary organisations have been funded for more than one project, bringing the total number of grants made to over 15 000.⁹⁰

This is a significant financial injection into the CSO sector. In spite of the many problems outlined above, the Lottery (unlike the NDA), has managed to become a long-term distributor of funds to a wide range of organisations.

Government policy as reflected in NLB functioning

Government sees the NLB as supporting organisations to achieve government-aligned objectives. According to the DTI Minister:

The NLDTF, as a partner, is already contributing to several of these objectives, such as improved quality of pre-school education which is Outcome 1, Poverty alleviation and a healthy life for all which is Outcome 2, Vibrant, equitable and sustainable rural communities which is Outcome 7, Sustainable human settlements which is Outcome 8 and Protection of environmental and natural resources which is Outcome 10.⁹¹

Thus, while the lottery has contributed to the CSO sector financially, government also sees it as supporting its objectives. The speech mentioned above suggests that government may desire greater input into how NLB funds are used. While it is not necessarily problematic for

⁸⁹ Interview conducted with Yvonne Morgan, Director (from case studies document)

⁹⁰ <http://www.dti.gov.za/editspeeches.jsp?id=2235->

⁹¹ Ibid.

the NLB to support projects that align with government objectives, the Minister’s speech does raise questions about the independence of the NLB.

Developmental critique of NLB’s contribution to civil society

As ‘charities’ receive the bulk of NLB funds, the NLB is clearly more ‘welfarist’ than developmental in orientation (Swilling and Van Breda 2006:100). Its interpretation of its role does not address the underlying power inequalities that cause poverty. The NLB supports poverty alleviation projects rather than a more politicised poverty eradication agenda. It is important for CSOs to bear this in mind as attention is increasingly turned towards government funding of the CSO sector.

CASE STUDY: The Trevor Huddleston Memorial Centre

The Trevor Huddleston Memorial Centre (THMC)⁹² started in 2000. Based in Sophiatown in Johannesburg, the organisation delivers youth development and heritage programmes that connect people from diverse communities.

The THMC applied for a R1 million multi-annual (three year) grant at the end of 2003. The grant agreement was signed in October 2004 in a multi-year agreement providing funding for 2005, 2006 and 2007 activities. The first tranche (Year 1) was received in January 2005. THMC submitted a progress report for Year 1 activities at the end of 2005.

THMC then proceeded to deliver Year 2 activities during 2006, expecting that the second tranche (for Year 2) would be paid in early 2006, but it was not paid. This resulted in a serious cash flow problem for the centre. Attempts to negotiate with the NLDTF around the payment of the second tranche were unsuccessful.

The THMC was informed by NLDTF at the end of 2006 that they had ‘overspent’ on the first tranche budget. This was an inaccurate reading of the report submitted as the expenses noted were as a result of continuing with the project prior to receiving the second tranche payment. THMC also received numerous faxes from NLDTF intended for other CSOs, advising that ‘all funds had been paid’. These had been sent to THMC in error.

In October 2006, the Centre was forced to retrench two full-time staff members, namely the Programmes Manager and the Senior Librarian, as the organisation no longer had the financial reserves to retain these staff members.

The NLDTF subsequently lost the second tranche progress report twice. After intense engagement with the NLDTF, the second tranche was finally paid to THMC in early 2007. This was then used to fund Year 3 activities in 2007 – given that THMC had depleted all their reserves. The Year 3 instalment was paid to THMC in January 2010, almost three years later.

92 Interview conducted with Tricia Sibbons, Acting Director, 2011

The ongoing financial uncertainty severely affected the THMC’s ability to plan and deliver adequately on their programmes. The funding delays also meant they were forced to retrench core programme staff, as well as deplete their reserves in 2007 to keep the three-year programme on track. The loss of staff and their reserves severely undermined the Centre’s long-term sustainability and they have not yet been able to replenish their reserves.

While the NLB has contributed financially to CSO projects, mostly in the welfare sector, it has not made a significant contribution to building the capacity of CSOs. A key reason for this is the fact that the regulations stipulate that the NLDTF only funds projects and not operational expenses. Organisations cannot access lottery funding solely for capacity building – the capacity building component must be attached to a project grant. Furthermore, the NLDTF has not invested in the development of strong governing boards for CSOs.

Findings from a study conducted on the UK Lottery highlight the limitations of this approach (McKinney, Jones and Khan 2004):

The policy of funding projects rather than organisations is now common among many grant-making bodies, including the Lottery distributors. While this model aims to encourage innovation and discourage organisations’ dependency upon single sources for core funding, it does little to facilitate organisational development, maximise effectiveness or efficiency, or ensure the continuity of services. In many cases, project funding can over-stretch core resources rather than strengthen them, or can weaken organisational vision and mission. While it is unreasonable to expect funding bodies to offer long-term core funding, grant makers must make reasonable contributions for overheads and core costs attached to project and/or service provision. These include: staff and board training and development, fundraising, administrative support, and material resources such as ICT equipment.

The South African Education and Environment Project (SAEP) court ruling

SAEP and the Claremont Methodist Church Social Impact Ministry, Sikhula Sonke, took the NLDTF to court after repeated unsuccessful applications. Between 2003 and 2009, SAEP submitted seven applications to the NLDTF. Sikhula Sonke submitted two applications, one in 2007 and another in 2008. The applicants complained of administrative bungling and sought redress under the Promotion of Administrative Justice Act of 2000.

The NLDTF argued that it had the right to fix guidelines applicable to funding applications and that an application will not be considered if the applicants do not comply.

In his court order, Judge Gamble set aside the NLDTF’s refusal to fund three of the applications made to it and ordered it to reconsider the applications and make decisions within 60 days of the order. The judge ordered that if the NLDTF declined to grant any of the applications, it should provide the unsuccessful applicants with reasons for the refusal in the communication of its decision. The judgment ordered that the NLDTF bear the cost of the lawsuit.

The NLB appealed the court decision. Judge Cachalia upheld Judge Gamble’s ruling. Judge Cachalia ruled that, despite its protests and ‘disingenuous’ insistence that it applies its criteria for funding fairly and rigidly, the NLDTF had not done so in this case. The Judge further berated the Chair of the Board for treating the mandate of the Lottery as his personal purse for ‘voluntary gratuities’, insisting that the Board is mandated to do this job which is not discretionary.⁹³

The court ruling found that the DAs had applied guidelines with ‘undue rigidity’ as there was ‘*no legitimate concern as to the honesty of an application and the functionality of the applicant*’. Judge Cachalia called on ‘a common sense approach’ and found that the ‘*NLB clearly failed to apply its mind*’. While Judge Cachalia stopped short of a formal finding of ‘institutional disarray’ at the NLDTF as this case did not bring a class action suit against the NLB, he did express his ‘*reservations about the functioning of the NLB*’. His judgement noted that socially worthy projects are ‘*being deprived of the opportunity to deliver much needed social services*’. His ruling stated:

‘There is no reason why applicants for funding have to partake in a game of administrative snakes and ladders, where the slightest non-compliance with self-imposed peremptory criteria means that one has to return to the start.’

The judgment acknowledged the inherent tension between administrative requirements to ensure consistency versus flexibility to allow for discretion. He argued against an automated approach when he stated:

‘This problem is inherent with multiple decisions, and does not relieve an administrator of the duty to consider each application individually and justify every decision. The law requires nothing less. And it is no defence for the board to attempt to relieve itself of this duty by complaining that it has insufficient or inadequately trained staff to do this.’⁹⁴

In a forthright critique Judge Cachalia wrote:

‘The rigid and inconsistent application of the guidelines, at least partly, explains why this has happened. Equally distressing is that the board does not appear to understand its mandate properly [emphasis added]. Mr Nevhutanda, the chairperson of the board and the deponent to its answering affidavit, seems to hold the view that grants given by the board are “gratuities”, which are allocated at the board’s discretion. He is wrong. The board holds public funds in trust for the purpose of allocating them to deserving projects. And it must ensure that these funds are allocated to those projects, provided of course that they meet the necessary requirements. The funds do not belong to the board to be disbursed as its largesse.’⁹⁵

The NLB was disappointed at the outcome of the case and said in a media release:

‘If half of these applications do not adhere to the guidelines and the Board is required to embark on a to-and-fro exercise to request missing information from the applicants, it would lengthen the turnaround times significantly.’⁹⁶

Recent developments

The NLB is aware of many of the concerns about its poor functioning raised by CSOs and in the media. Since mid-2011, the agency has made various moves towards improvement. These include:

- Provincial and national consultations with civil society
- Road shows
- Capacity building

Provincial and national consultations with civil society

Given the increasing public and legal challenges reflected in media reports and in the courts, the NLB responded by hosting provincial meetings, followed by a national consultative meeting in June 2011 ‘*with a view to aligning the impending amendment of the Lotteries Act to the needs of our communities*’. The national indaba afforded the NLB a chance to share improvements already instituted, as well as providing a platform for new suggestions to emerge.

Road shows

The NLB recently introduced road shows to coincide with the annual call for proposals. The road shows have resulted in an increased number of proposals being received by the NLB with the number of applications in the Charities Section alone more than doubling from 4 000 in 2010, to more than 8 500 in 2011.⁹⁷ As the NLB has struggled to deal with the proposals it received prior to the road shows, it remains to be seen how it is going to effectively process an increased volume of applications.

However, advocacy by civil society has led to improvements in the turnaround times, as noted by the DTI Minister at the national consultative meeting in June 2011:

I do not believe it is fair to applicants that they have to wait an excessive time (sometimes in excess of a year) to know the outcome of their submission. As I have said earlier, the Board has already made impressive improvements to the turnaround time from adjudication to payment which now is at 90% within three months.

The same improvements are not yet evident from the time of application to the time of adjudication.

93 *National Lotteries Board vs South African Education and Environment Project* (788/2010) [2011] ZASCA 154 (28 September 2011). (Appeal judgement)

94 Ibid.

95 Ibid., The Supreme Court of Appeal of South Africa Judgment A, Cachalia, Judge of Appeal

96 <http://www.nlb.org.za/general-public/mediareleases.html>

97 <http://www.ngopulse.org/category/tags/lotto>

In 2011 the NLB raised concern about the dependency of organisations relying solely on NLDTF funding. The NLB saw the cause of this dependency as organisations failing to pursue fundraising from other sources and not making contingency plans in the event that the NLDTF is unable to fund them. In a press release, the NLB indicated that the funding requests for applications received in the 2010/2011 call for proposals exceeded R40 billion, while the NLB had a budget allocation of R796 million.⁹⁸ There are many possible explanations for the increase in funding applications to the NLDTF, but irresponsible NPOs not making contingency plans is not the most likely. The increase is more likely linked to organisations seeking internal funding sources with the decline in international funding, as well as a consequence of the NLB road shows that have created greater awareness of potential lottery funding.

Capacity building

A recent development outlined by the DTI is that of outreach programmes to educate the public on requirements for the applications. The capacity-building programmes proposed included addressing drafting constitutions, business planning, financial reporting and management and record keeping. Proposed amendments to the Lotteries Act will incorporate the capacity-building component. While this is a positive development, participants in this research process do not believe that the NLB currently has the capacity to implement such an initiative.

Recommendations

While the changes mentioned above signal steps in the right direction, until there is clear evidence of improvement, the lack of confidence by CSOs in the NLDTF will continue until all stakeholders are satisfied that the institution is fulfilling its responsibilities as intended.

The recommendations below are informed by the Coalition’s legal research, provincial consultative process, case study interviews, engagement with relevant government representatives, strategy workshops, and those that emerged from the NLB national consultative conference.

Central to the recommendations are issues of developmental vision, governance, accountability, management and administration of the NLB and the distribution agencies.

Legislation

- The Lotteries Act should be amended to allow the Minister to appoint DAs rather than individual ‘members’. The legislation should include the provision that the Minister commence appointment of DAs at least one year prior to the expiry of the serving DAs.
- Processing time frames should be stipulated in amended regulations – such as a six-month time-frame for processing / adjudicating applications, a 60-day time-frame for drawing up grant agreements, etc.
- The Minister should issue further directions to make specific provision for a minimum allocation of funds to be directed towards capacity building, including governance development of grant recipients of lottery funding.

- The Minister should also provide for fixed percentages of funding to be set aside for certain categories, e.g. children, the aged, people with disabilities, etc.
- The Act should be amended to expand the definition of alignment to political parties or political office bearers to include committees in political parties. There should be severe penalties for non-disclosure, including rejection of the application.

Governance and accountability

Lottery governance structure and systems

- A new Lottery Governance Structure that reflects recommendations from civil society research, including from this Coalition, should be implemented and clearly communicated.
- The NLDTF entity should be governed by its own board or a sub-committee of the existing NLB, comprising members with significant development experience.
- The board needs to ensure civil society representation and accountability.
- DAs should execute their mandate independently of the NLB, declare their interests and should not create dissension.
- Regulations should require DAs to submit and publish audited reports annually.
- Regulations should stipulate increased public accountability reporting by NLB and DAs detailing all applications received, processed, approved and rejected, and the time frames / amounts / appeals involved. All provisions of The Promotion of Access to Information Act (PAIA) should apply at all times to every application.
- The DTI should set up a structured forum for civil society to engage with the autonomous DAs to allow consultation and for civil society to monitor performance.

Lottery transparency and accountability

- Annual reporting requirements of the DAs should be prescribed through regulations determined by the Minister (or through the terms of appointment by the Minister) and can mirror the reporting requirements of the NLB as contained in Section 12 of the Lotteries Act. DAs should be directly accountable to the Minister, Parliament and the public.
- The distribution agencies and NLB should be required to compile / submit an externally audited data report containing the following information: details of applications for funding received, details of applications for funding that have been rejected, and details of successful applications.
- The NLB’s initiative to introduce a fraud hotline has been welcomed. Mechanisms need to be put in place to follow up on allegations of fraud reported to the hotline, in cooperation with Corruption Watch.
- Proper probity checks and investigations by the Board should be done along with compulsory disclosure from applicants. There should be penalties for non-disclosure, including rejection of an application.

Vision and strategic direction

- The NLB should develop a clear and well-researched development funding vision supported by clear policies and good grant-making principles, to be re-visited every three years.
- The NLB should develop procedures and sector adjudication criteria that align with overarching development priorities.

⁹⁸ <http://www.nlb.org.za/general-public/mediareleases.html>

- The NLB should provide an allocated percentage of funding to development and human-rights related projects that address poverty reduction and eradication.
- The new entity should develop and implement an effective impact monitoring and evaluation policy and programme.
- The new entity should allocate funds and support towards capacity building that is not necessarily project-related. This would be consistent with the NPO Act.
- Provision should be made for rapid response processes to support emergency action, such as against the results of the xenophobic violence of 2008.

Lottery structure

- The Minister should require establishment of a separate distribution entity with its own administrative capacity and infrastructure that improves on all aspects of management and distribution.
- The DAs would manage the NLDTF.
- A clear distinction between the oversight function of the NLB and the distribution function of the distribution agencies should be maintained.

Lottery management

- The new entity should have its own management team (CEO and COO), or be outsourced to existing funding organisations with proven track records.
- An institution-wide Performance Management System that aligns with Lottery aims and objectives should be developed.
- Every individual, at every level within the lotteries (including board members) should be required to sign a performance contract that includes clear deliverables and time frames in accordance with the Performance Management System.

Grant-making processes

- The budget for administration and grant-making should be increased to cover institutional development costs, such as recruitment and retention of skilled staff, training and development, information technology and management, etc.
- The website should be upgraded and easy to navigate.
- The application process should be simplified and standardised, along with all the requisite supporting documentation. To facilitate access to funding for CBOs, assistance with application should be provided.
- E-mail applications should be encouraged, supported by a significantly upgraded grant management system that supports every step of the grant-making process including recording each application, production of an acknowledgment letter, filing of applications into relevant focus areas, production of all requisite data as required, etc.
- The technology-based grant management system should be complemented with dedicated programme staff, and each funding focus area should be administered by competent programme officers.
- Management should ensure that only staff with development interest, expertise and experience are employed. Additional staff training should be provided to those requiring it.

- Adjudication committees should reflect a range of specialist expertise within each sector, as well as experience of a range of organisation types (NGO, CBO, etc.). Where necessary, this expertise should be co-opted.
- While it is recognised that the time between approval of application and payment has been significantly reduced, the same should be done from application to adjudication. Clear timelines for the adjudication process should be determined and communicated to applicants in a transparent manner. This will assist the organisations in their planning.
- There should be regular feedback to applicants on the status of their proposal.
- Larger organisations with more experience in managing funds should be contracted to channel funds to CBOs.
- Organisations should be informed within a prescribed period if their applications have been rejected, along with reasons for the rejection.
- The new entity should set up a research team that analyses progress reports and documents lessons learned in order to contribute to knowledge of grant-making practice.
- To simplify grant management and build sustainability multi-year funding contracts should be available for certain categories, for example the aged, children and people with disabilities.
- DAs should interact and share information with government departments and other funders to identify and prevent ‘double-dipping’ (when organisations access funding for the same project from more than one funder).
- Reporting methods should be simplified and streamlined, including a financial template, so that beneficiaries can comply with the requirements more easily.
- There should be a clear identification of the appeal process that applies to declined applications.

Lottery communications / marketing

- A communications strategy in support of the vision and objectives of the Lottery should be produced and continuously revisited.
- Skilled, experienced and diplomatic spokespersons with developmental competence and commitment to the role of civil society should be appointed.
- The call centre should be well managed and staffed by competent personnel who understand the purpose of their role and perform accordingly.
- Clear, more user-friendly information (printed and online) on guidelines, policies, criteria, application forms, available budgets, etc. must be developed and made easily and clearly accessible.
- Regular capacity building programmes should be devised and implemented in all provinces to explain funding requirements, time frames, etc. to potential grantees.
- The DA Research Team should provide successful and/or innovative case studies and ‘lessons learnt’ for wider distribution.

Addressing problem-gambling

- The NLB, in liaison with the National Responsible Gambling Programme (NRGP) and other organisations, should support interventions that assist people with gambling addictions and gambling-related social problems.
- Lottery players should be made aware of the gambling counselling service offered by the NRGF.
- The NLB should contribute to school curricula that address gambling and associated social and economic problems.
- Advertising of gambling should be strictly monitored, including lottery advertising.
- Children under the age of 18 should be barred from all gambling activities.
- Warnings about the risks of gambling should be displayed at all Lottery outlets.

Until there is clear evidence of improvement, the lack of confidence by CSOs in the NLDTF will continue until all stakeholders are satisfied that the institution is fulfilling its responsibilities as intended.

CHAPTER SEVEN

The National Development Agency

The same process to that informing the section on the NLB informs this section of the report. The Coalition’s research and advocacy process included commissioning legal research into the NDA by Ricardo Wyngaard, a non-profit lawyer. The chapter includes the findings of the legal research in addition to suggestions from the provincial consultations, case studies and meetings held with the NDA and government departments.

Fewer of the provincial workshop participants had engaged with the NDA. This was attributed to the minimal funds currently available via the NDA, and thus its minimal role as a grant-maker to the sector. The workshop participants also mentioned their lack of confidence in the NDA. Most workshop participants who had experience with the NDA indicated similar challenges to those experienced with the lotteries.

Findings from the research process found that, unlike the NLB, the NDA has a clearer developmental vision. However, the NDA has been plagued with management and governance weaknesses leading to fraud and corruption. A key shortcoming that has negatively affected civil society has been the NDA’s inability to produce adequate research on civil society in accordance with the requirements of the Act. The directive to maintain a database of the sector has also been neglected. The skewed allocation of resources, which sees a significant amount of its budget going towards staff and administration costs, results in depleted funds for the CSO sector. All these failings have resulted in the previous primary donors to the NDA (including the European Union) withdrawing funding for disbursement to civil society, thus rendering the NDA inadequate to the most urgent needs of civil society.

Background

The concept of an NDA was first mooted in the RDP. Discussions on setting up such an agency began in 1994 with a proposed merger between the Independent Development Trust (IDT) and the Kagiso Trust. In early 1995, senior representatives of Kagiso Trust, the IDT and government met to discuss the need for a new state-created funding agency to channel funds to CBOs and CSOs.

An advisory committee was established in 1996 by Cabinet to consider the functional relationship between government and CSOs, in order to build sustainable partnerships between the state and CSOs and to build capacity for the implementation of the RDP. In March 1997, government accepted a report of the Advisory Committee to the Deputy President entitled *Structural Relationships between Government and Civil Society Organisations*.⁹⁹ The report recommended that a new, independent, statutory body, a national development agency, be established to coordinate policy consultations and dispense funds to CSOs.

99 Structural Relationships between Government and Civil Society, June 1997, Summary Brief available at: <http://www.healthlink.org.za/pphc/Phila/nda.htm>

As the IDT was linked with the apartheid government, it was agreed to establish the Transitional National Development Trust (TNDT) for an interim period until such time as a new regulatory framework had been put in place that would result in the creation of what eventually came to be known as the NDA. The NDA was established in terms of the National Development Agency Act of 1998, with the objective of supporting NPOs, especially those involved in poverty eradication. In addition, the NDA was legally charged to facilitate research and policy dialogue between government and NPOs, to promote effective capacity-building of NPOs and to establish and maintain an NPO database.

Although the Act was adopted in 1998, the NDA was only launched three years later in 2001. Responsibility for the NDA was transferred from the Ministry of Finance to the Ministry of Social Development. The Advisory Committee had suggested the Ministry of Finance or the Office of the Deputy President as locations for the NDA. The location of the NDA in the Department of Social Development (DSD) rather than the Finance Department as initially envisaged, has resulted in an emphasis on funding Social Development priorities (such as early childhood development (ECD)) and thus the intended broader developmental focus has been lost.

When the NDA came into operation, it sought to distance itself from the TNDT and establish its own identity. This resulted in minimal sharing of experience, lessons learned or skills transference. Despite its many problems, the TNDT had managed to develop some level of expertise and experience. This institutional memory was lost once the NDA came into being.

The concept of the NDA was aligned with the ethos of the RDP, but by the time the NDA became operational, government policy had shifted and CSOs were no longer viewed as instrumental in the fight against poverty. The political context within which the NDA was supposed to operate had changed, with a number of implications for the NDA.

The Legislation

The NDA’s responsibilities are very clearly articulated in the Act.

The primary objective of the NDA is to:

- contribute towards the eradication of poverty and its causes by granting funds to CSOs for the purposes of carrying out projects or programmes aimed at meeting development needs of poor communities, and strengthening the institutional capacity of other CSOs involved in direct service provision to poor communities.

The secondary objectives of the NDA are to:

- promote consultation, dialogue and sharing of development experience between CSOs and relevant organs of state;
- promote debate on development policy; and
- undertake research and publication aimed at providing the basis for development policy.

Duties and powers of NDA are to:

- act as a key conduit for funding from the Government of the Republic, foreign governments and other national and international donors for development work to be carried out by CSOs;

- develop, conduct and coordinate policy relevant to its objects;
- contribute towards building the capacity of CSOs to enable them to carry out development work effectively; and
- create and maintain a database on CSOs including, but not limited to, the scope and subject matter of their work and their geographical distribution, and share the information in that database with relevant organs of state and other stakeholders.

The NDA vision and mission

Vision

The NDA vision is a society free from poverty.

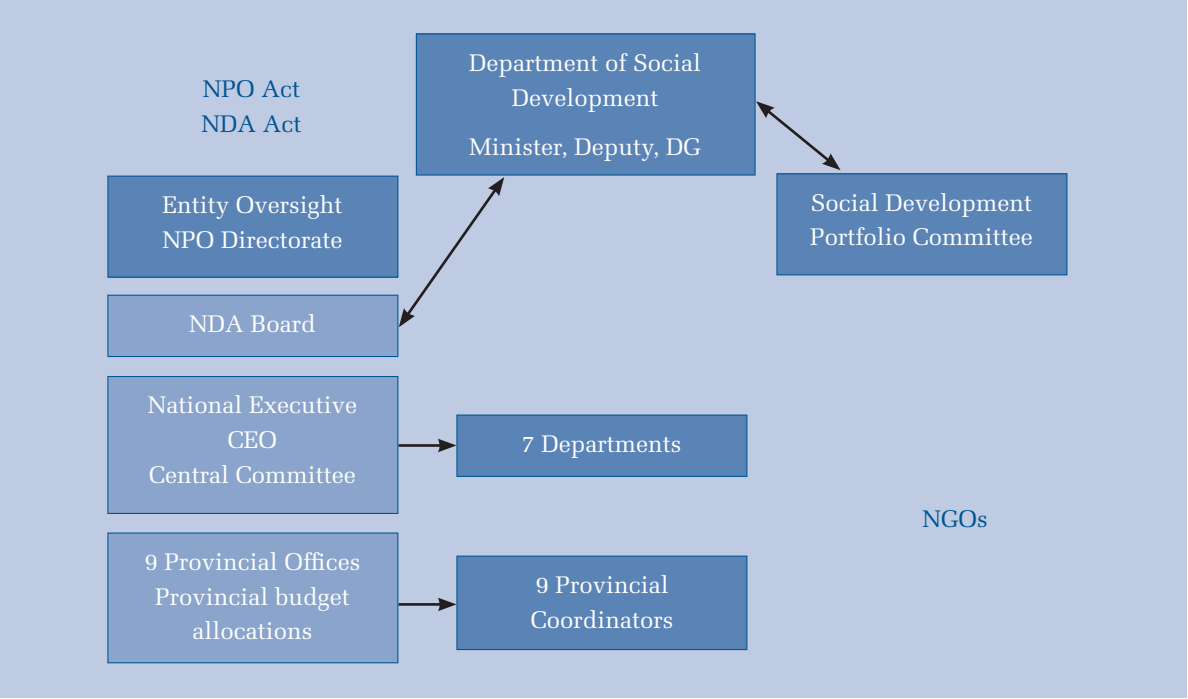
Mission

The NDA mission is to ‘facilitate sustainable development by strengthening CSOs involved in poverty eradication through enhanced grant funding and research’. The mission statement was changed from the original statement which was to ‘contribute to poverty eradication and elimination of its causes’. The new mission statement is seen to be more specific than the previous one (NDA 2011).

The language of the NDA mandate is framed from a development perspective rather than a welfarist one. It is explicit that it supports ‘developmental projects in poor communities’.¹⁰⁰ The NDA has interpreted its mandate as limited to reaching rural communities.¹⁰¹

Structure and governance

The NDA board and management



¹⁰⁰ <http://www.nda.org.za/>

¹⁰¹ <http://redsummit.org/d.ph?&PageID=353&IX=5754>

The NDA has 11 board members who are appointed by the Minister of Social Development for three years and may serve two terms. The board has five government representatives and six CSO representatives. The CSO representatives are appointed via a public nomination process. The Minister must consult with Cabinet before appointing the government representatives to the board, although the criteria used for appointment of government representatives are unclear. The Minister appoints one of the CSO representatives as chairperson.

Board members have come from a range of sectors including education, research, community development, child and family development and the faith-based sector. Some board members had previous connections to the IDT and the TNDT.

In terms of the PFMA, the board is the accounting authority of the NDA. Two board members are supposed to have proven knowledge and experience of financial management. In terms of the PFMA, the board of the NDA must: ensure protection of the assets and records of the NDA; act with honesty, integrity and in the best interest of the NDA in managing the financial affairs; disclose information on the financial status of the organisation; and prevent prejudice to the financial interests of the NDA.

The NDA board and management have been hampered by similar problems to those experienced by the lottery. In addition, the NDA has been plagued by cases of corruption and mismanagement. This has resulted in the board playing an interventionist role in the NDA's management. Participants in this research process pointed to the absence of grant-making experience and capacity within the NDA. This has resulted in the board making decisions on behalf of the NDA management.

In the first two years of operation, the NDA staff grew to 79 people but only managed to disburse 26 per cent of its budget. The board attributed the weaknesses to the mismatch in skills of the first CEO who was then replaced by a board member, Delani Mthembu.

The NDA board is directly accountable to the Minister and falls under the Entity Oversight Directorate. Despite legislation that includes oversight structures, during the terms of the first board, and under the leadership of board-member-turned-CEO, Delani Mthembu, the NDA was caught in a corruption and fraud scandal. Mthembu resigned in 2004, although he contested the disciplinary process in court. The COO, Pule Zwane, was also suspended and during this time there was a fire at the NDA which allegedly destroyed the evidence of corruption. The NDA spent over R1.2 million investigating the allegations while the two were on paid suspension.

The second board was appointed in 2003, with only one board member remaining from the previous board. Although this resulted in a loss of institutional memory, it also represented a break from the previous board under whose watch corruption and fraud took place. A new CEO, Godfrey Mokate, was appointed in 2005. Despite allegations that the board was 'too hands on', under the second board's watch another corruption scandal emerged. R8.7 million was transferred to accounts linked to the NDA's accounts clerk. The new board was seen as more decisive in addressing it, and a criminal charge was laid against the staff member concerned. At the same time, the European Union (EU) demanded that funds be returned due to lack of accountability and the ongoing mismanagement and corruption scandals. Participants in the Coalition workshops spoke of the impact this had as the loss of funds negatively affected service delivery by CSOs, along with compromising the quality and quantity of what could be offered.

In 2007 the NDA received its first unqualified audit, albeit with concern over irregular expenditure and irregular procurement practices. This reveals the limitations in practice of the supposedly rigid PFMA requirements.

In 2008 the NDA engaged the Institute of Directors to induct its board and management on sound governance principles. The 2008 NDA Annual Report noted:

This is to align the NDA with the requirements and best practice standards as defined in the NDA Act, the PFMA and related treasury regulations, the protocol and the recommendations of King II.

Appointments for the third board were seen as more political and aligned to the ruling party. This is counter to the Act, which saw civil society participation as ensuring independence. A new board was appointed and will serve from 2011 to 2013. The new chairperson is Mr M F Kekana. The current board includes CSO representatives, but it remains unclear how they anticipate reporting back and accounting to civil society.

It took almost three years to appoint the next permanent CEO, but in June 2010 Ms Vuyelwa Nhlapo, a former DSD deputy director, became CEO. Her appointment has coincided with significant financial cutbacks to the NDA budget, which will impact on her ability to achieve the NDA's objectives.

The central issues of concern with regard to the NDA governance and management are less about the lack of accountability measures but rather the lack of compliance, meeting the objectives of the Act through effective implementation, and the absence of remedial action in situations of non-compliance.

Governance could be best strengthened through greater accountability to the non-profit sector.

Resources

Since its inception, the NDA has been allocated comparatively small budgets considering its vast mandate. The government has never made the amounts available to the NDA that the apartheid government made available to the IDT.

Over the ten years since its inception, the NDA's budget has contracted significantly. For example, in 2011 the NDA board approved grant funding to 43 CBOs, CSOs and cooperatives amounting to R42.4 million. However, in the previous year, funding worth R94.7 million was awarded to 77 projects. This was a 55 per cent reduction in funds disbursed. The proposed budget for 2011 was R67.4 million. This was, however, reduced to R33 million due to budget cuts implemented by National Treasury in the 2010/11 financial year (NDA 2011). This amount is less than the amount allocated by the NLB to Makhaya Arts and Culture which received R41 million for its programme. The total funds received from the National Treasury for 2011 were R83.5 million, representing a reduction of 42 per cent from the previous year where the NDA received R144.8 million. The NDA's plans to raise an additional R20 million from other sources did not materialise. R22 million is listed as a liability owed to the EU in 2010.¹⁰²

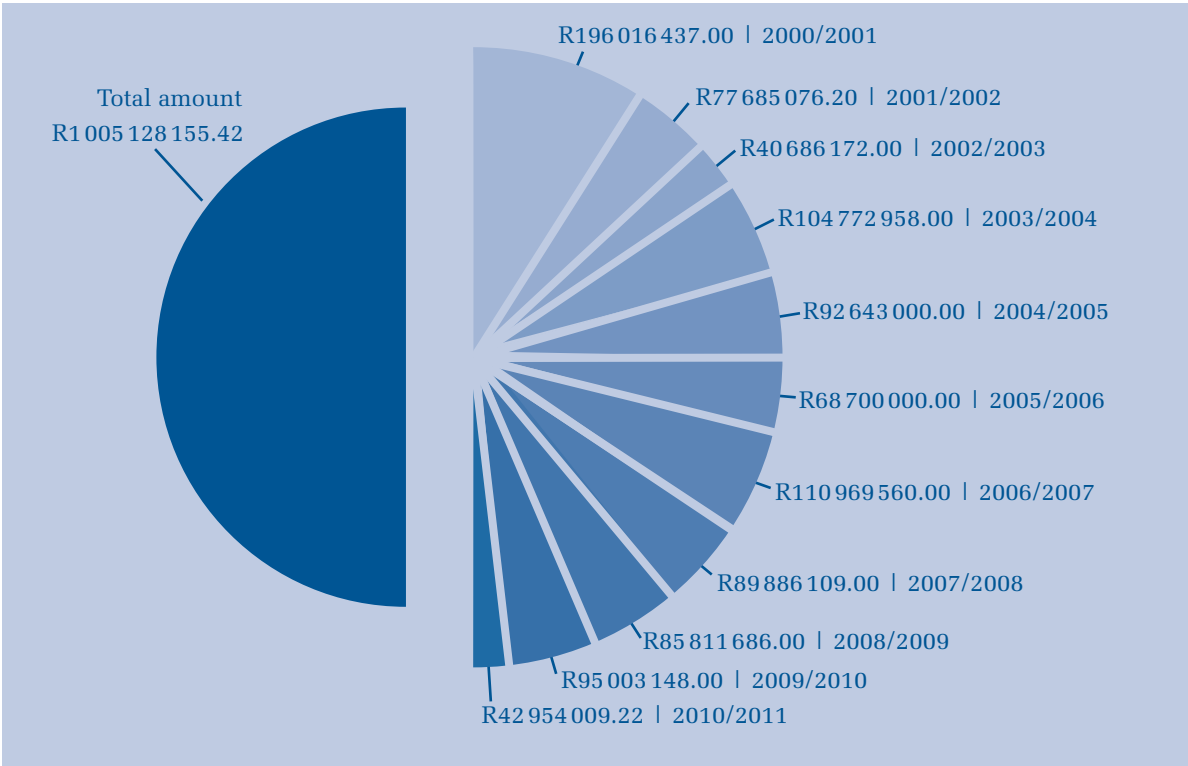
¹⁰² See also <http://www.pmg.org.za/report/20111013-national-development-agency-201011-annual-report-deputy-minister-pres>; National Development Agency 2010/11 *Annual Report to the Portfolio Committee on Social Development*, by NDA CEO: Ms Vuyelwa Nhlapo, 13 October 2011

The NDA's administrative and governance costs consumed R75.8 million in 2011.¹⁰³ The NDA reported that, 'Management is still pursuing a financial management model whereby a large percentage of its available financial resources are channeled towards service delivery'. This has not yet happened.

In its 2011 annual report presentation to Parliament, the NDA reported a deficit of R30 million. It attributed this to the large cut in funding received from the National Treasury. The deficit was covered by accumulated reserves from an unused portion of seed capital that it received from IDT at the inception of the NDA, as well as from re-appointed funds from discontinued projects.¹⁰⁴

Despite its legislative mandate to 'act as a key conduit for funding', this has clearly not materialised. The funds disbursed by the country's NDA are insignificant compared to the billions disbursed by the lottery and the corporate social investment sector. The meagre funds allocated to the NDA are seen as indicative of government's lack of commitment and lack of confidence in the NDA's capacity to act as a conduit of funding. Diminished financial resources are also perhaps to blame for the NDA's inability to meet related responsibilities. Thus, in a context where CSOs are profoundly affected by the global recession and cutbacks in international donor funding, there have also been significant cutbacks in the budget of the government's main vehicle to support CSOs.

Board approved project funding 2000/2001 to 2010/2011 financial years



(NDA 2011:4)

103 See also <http://www.pmg.org.za/report/20111013-national-development-agency-201011-annual-report-deputy-minister-pres>; National Development Agency 2010/11 *Annual Report to the Portfolio Committee on Social Development*, by NDA CEO: Ms Vuyelwa Nhlapo, 13 October 2011

104 Ibid.

Strategic direction of the NDA

The NDA is obliged to prepare a three-year strategic plan. Although the NDA was intended to act as an independent body, the institution in fact seems to pride itself on closely aligning its strategic direction with that of the government:

*The NDA's five-year plan is informed by the Millennium Development Goals (MDGs), the five Government Priorities, the 12 Government Outcomes, the Government-wide Programme of Action, Provincial Growth and Development Programmes and Local Economic Development. In doing so, the plan positions the NDA as a relevant and strategic role player that is geared towards supporting critical development initiatives of CSOs and government at different levels.*¹⁰⁵

- The NDA's current Strategic Plan (2010–2013) outlines the following five strategic goals:
- to build the capacity of CSOs to enable them to carry out development work effectively;
 - to grant funds to contribute towards the eradication of poverty;
 - to facilitate research towards poverty eradication;
 - to position the NDA as a premier development agency and mobilise resources; and
 - to promote and maintain organisational excellence and sustainability.

The plan does not include developing a database of CSOs or building partnerships between the state and CSOs as one of the five strategic goals, although the 2010/2011 annual report includes leveraging 'strategic partnerships to eradicate poverty to enable poor communities to achieve sustainable livelihoods'.

In its presentation to Parliament in October 2011, the NDA included the following strategic objective:

*to position the NDA as a premier development agency and to promote and maintain organisational excellence and sustainability.*¹⁰⁶

Statements such as these suggest that rhetoric can replace reality. Considering the history of corruption, mismanagement, ineffectiveness in supporting CSOs, and the more recent significant budget cuts, such pronouncements suggest that the NDA believes it can talk its way out of problems it behaved its way into.

The NDA has four key focus areas: rural development, vulnerable groups, early childhood development (ECD) and land reform. The NDA also partners with the Department of Rural Development to support land reform programmes and sustainable food production.¹⁰⁷ The NDA commends itself for highlighting the issue of food security before it appeared on the national radar.

In line with its developmental agenda, the NDA chose to work with CBOs to the exclusion of CSOs. CBOs were viewed as closer to the communities that the NDA set out to reach.

105 <http://www.nda.org.za/docs/Spring%20Issue%202011.pdf>; NDA's ten-year journey towards becoming a 'reservoir of knowledge'

106 <http://www.pmg.org.za/report/20111013-national-development-agency-201011-annual-report-deputy-minister-pres>

107 <http://www.nda.org.za/docs/Spring%20Issue%202011.pdf>; NDA's ten-year journey towards becoming a 'reservoir of knowledge'; Interview with Mr Sonnyboy Lekgau: CSOs and land reform

According to Swilling and Van Breda (2006:97):

This approach wins political favour because of perceived professional bias in NGOs ‘out of touch’ with community needs.

From a developmental perspective, reaching CBOs that are close to communities and addressing grassroots concerns is admirable. The NDA encourages community empowerment and promotes developmental activism. The NDA’s Dr Anthony Bouwer described developmental activism as follows:

*It involves changing the relationships between ordinary people and people in positions of power, so that everyone can take part in the issues that affect their lives.*¹⁰⁸

Strategically, the NDA sees CBOs as the vehicle through which to reach ‘ordinary people’ but, while theoretically this is sound, support to CBOs has been offered without strategies in place to address their lack of capacity, weak controls and inability to account for the funds. This absence of strategic focus has reduced the NDA’s ability to transfer significant amounts of funding to the CSO sector. In the NDA’s presentation of the 2010/2011 Annual Report to Parliament, the CEO reported that 80 per cent of NDA projects supporting vulnerable groups failed. Ms Nhlapo conceded that, ‘the NDA would continue to face a challenge in terms of capacity building because new organisations needed basic training to manage funds’.¹⁰⁹ She reiterated that in some cases proper reports were not produced.

The NDA’s close alignment of its strategy with that of government has the benefits of ensuring that it is supporting national priorities. This has, however, been done without consultation with civil society. While the Coalition supports CSO interventions that contribute to a broader developmental vision, it does so on the understanding that the autonomy of CSOs and institutions such as the NDA need not be compromised.

Funding categories

The NDA’s precursor, the TNDT, identified education and training, health, rural development, urban development and SMME development as priority areas. The NDA has steadily reduced its focus to three main areas. These are economic development, education and health.

Criteria for funding of projects include:

- Promote eradication of poverty and its causes.
- Promote community ownership of the development process.
- Adopt a broad-based approach in addressing poverty and its causes.
- Optimise the effective use of resources / skills through a partnership approach.
- Build sustainability and quality development into the project.

In 2010/2011 the NDA funded projects in agriculture, food security, local economic development, capacity building for organisations working in ECD and organisations caring for orphans and vulnerable children (OVCs). In support of its economic development focus, the NDA has supported cooperatives in activities, such as jewellery making, beekeeping, goat

farming, poultry and vegetable production, and support for communities to enter business, for example in the sugar industry.

Leadership and capacity

The Minister is responsible for appointing a CEO on recommendation of the board. The Minister is also required to approve the NDA’s business plan and estimated statement of income and expenditure.

The NDA Act outlines the responsibilities of the CEO, which include: managing the affairs of the NDA and reporting to the board; accounting for all money received by the NDA; and performing functions delegated by the board. The CEO is required to enter into a performance agreement with measurable objectives, which include preparing the business plan and reporting to Parliament.

The NDA is managed by a National Executive Management Team. The National Office has seven departments:

- Development Management
- Human Resources
- Finance
- Internal Audit
- Operations
- Research and Development
- Marketing and Communications

There are nine provincial offices, each with a Provincial Coordinator and up to five support staff. Provincial offices were set up in order to make the NDA more accessible to CSOs in outlying rural areas, but as these are mostly situated in provincial capitals, they do not provide significantly improved access for outlying areas.

The NDA, which distributes a meagre budget, has 120 staff positions (NDA 2011:41). This is the same as the NLB staff complement which distributes billions of rands. The NDA supported 43 CBOs, CSOs and cooperatives to the value of R42 million (R33 million came from the 2010/2011 budget) in the 2010/2011 financial year. The staffing costs for this same period were over R47 million (NDA 2011:20.44).

There is clearly a misalignment between its intention to be more accessible (which is welcomed by CSOs) through a bulky provincial structure and the impact that this has on the NDA’s ability to meet its legislated responsibility as a conduit of funding. Currently the NDA staffing costs are consuming significant amounts of its resources, which divert funds intended for CSOs. This then sets the NDA up as a competitor for the very funds meant to reach the CSO sector. At the NDA’s presentation of its Annual Report to Parliament, it was stated that, ‘the NDA should be working for the poor and should guard against serving individual interests’.¹¹⁰

As noted above, in addition to the corruption charges, the NDA has been plagued with management, leadership and capacity problems (Kuljian 2009:129). There has been little leadership towards the core vision of the institution, which has negatively affected strategy

¹⁰⁸http://www.nda.org.za/index.php?option=3&id=25&com_task=2&x=6

¹⁰⁹<http://www.pmg.org.za/report/20111013-national-development-agency-201011-annual-report-deputy-minister-pres>

¹¹⁰<http://www.pmg.org.za/report/20111013-national-development-agency-201011-annual-report-deputy-minister-pres>

and implementation. There is clearly misalignment between the organisation’s resources and structures. Thus the NDA has so far substantially failed in its responsibilities towards civil society.

Swilling and Van Breda (2006:97) lamented this loss of opportunity:

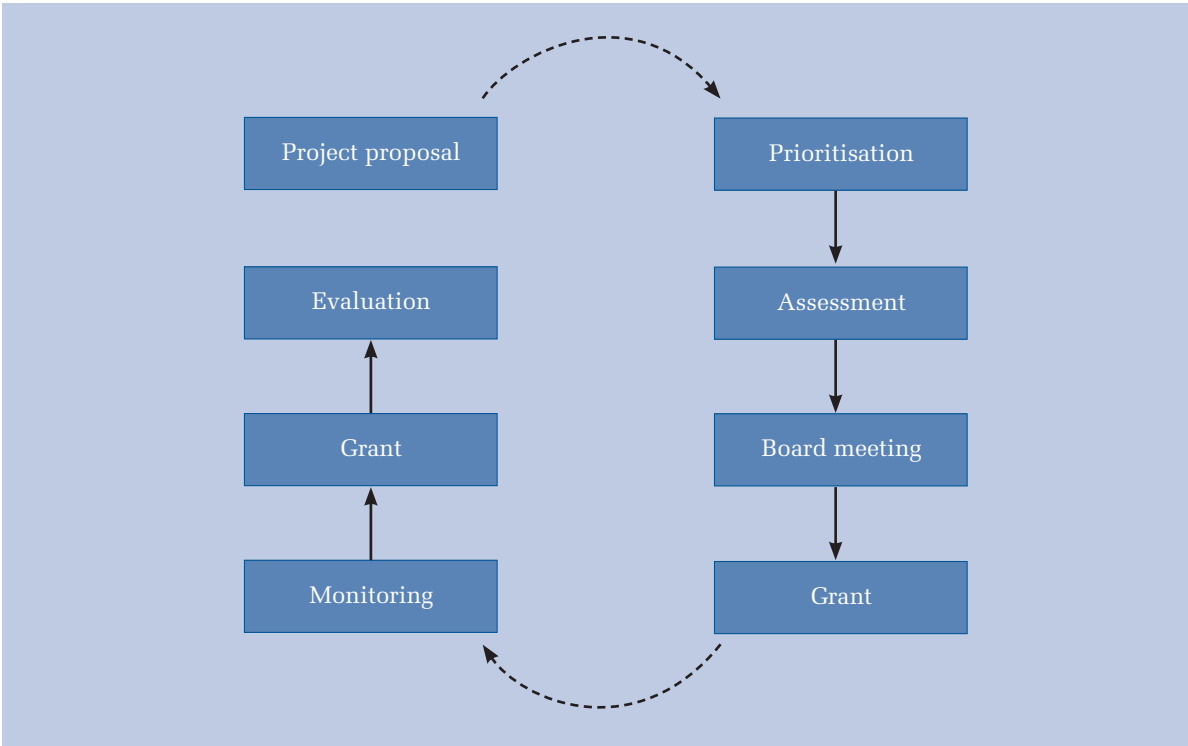
There is little doubt that if the NDA could have been led from the start by the kind of competent leadership with an inspiring vision supported by effective institutional capacity that characterised the history of both the Kagiso Trust and the IDT, this would have resulted in the NDA becoming a dynamic animator of civil society-based development approaches, programmes and projects.

Its ability to act independently could have been earned through competence; instead it lost credibility with both government and civil society. While possibly overstating the NDA’s potential, Swilling and Van Breda (2006:98) bemoan the NDA’s failures:

Government probably erred when it came to board selection and the board erred when it came to management selection. The strategic opportunity costs are incalculable. This was the agency that could have changed the course of developmental history in South Africa.

The NDA acknowledges weaknesses in leadership and the damage this has caused to its reputation. With the appointment of Ms Vuyelwa Nhlapo as the new CEO, the NDA position is that it has ‘turned a corner’.¹¹¹

Grant-making process



http://41.204.196.124/www.nda.co.new/index.php?option=3&com_task=1&id=11&x=83

¹¹¹ <http://www.nda.org.za/docs/Spring%20Issue%202011.pdf>

Sourcing applications

The NDA has two methods of sourcing applications. It has a request for proposals (RFP) method, which is advertised in the media. This process is aimed at well-established CBOs, CSOs and cooperatives. The second method, termed the programme formulation (PF) method, refers to the process where the NDA provincial offices conduct research into areas identified in the provincial growth and development strategy as poverty pockets. The provincial offices approach CBOs and CSOs working in these areas to develop proposals for economic development or food security projects. Where there are no such organisations, the NDA has been known to initiate projects to fill in gaps in government service delivery. If necessary, an organisation with the capacity to manage funds administers the grant and channels these to the smaller implementing partners.

While the idea of initiating projects as a form of outreach has definite developmental possibilities, the process is also open to manipulation and even fraud if it is used as a means to circumvent the request for proposals process.

Processing applications

The NDA has disbursed more funding through the PF method than the RFP method. As the RFP method is more competitive and transparent, the NDA has thus largely funded through non-competitive processes. Four of the nine provinces (KwaZulu-Natal, Limpopo, Gauteng and the Northern Cape) indicated that funds will only be disbursed through the PF method in this financial year.¹¹² The remaining provinces will use a combination of PF and RFP. The NDA currently prioritises their own form of proactive funding at the expense of CSO-initiated projects.

Has the NDA served the needs of CSOs in South Africa?

The promulgation of the NDA Act signalled the intention of government to support CSOs in a developmental fashion. As reflected above, the preamble to the Act states that it is aimed at promoting an appropriate and sustainable partnership between the government and CSOs to eradicate poverty and its causes. The NDA Act thus provides civil society with a lobbying tool to hold government accountable to its stated commitment to collaborate with CSOs.

Despite the tremendous potential for the NDA to ‘change the course of developmental history in South Africa’, research has shown that it has ‘been unable to disburse funds adequately, and its funding practices cannot be described as developmental’ (Swilling and Van Breda 2006:98) – this despite the language of the Act being framed in developmental terminology and concepts.

The NDA has similar operational problems to those identified in the NLB. These include application processing delays, payment delays, site visit delays, poor communication with applicants and grantees, and a need for the IT / grant management system to be upgraded. Urban organisations are overlooked as the priority is for organisations working in rural areas. Organisations waiting for applications to be processed have had to consume reserve funds which damages longer-term sustainability.

¹¹² <http://www.nda.org.za>

Capacity-building

In contrast to the Lotteries Act, the NDA Act makes explicit provision for strengthening the institutional capacity of CSOs. Additional research would be needed to assess this aspect of the NDA's performance, but based on available evidence it does seem that capacity-building interventions have taken place. These have included effective governance, financial management, resource mobilisation, community organising, understanding the legal framework for CSOs, project management, and other key leadership and management competency and capability areas. These initiatives continued into 2011, although it appears that the number of organisations reached declined due to the funding cuts. Organisations participating in the Coalition's provincial workshops complained that communication about the NDA's training workshops is poor, thus for many organisations these opportunities are lost.

Capacity building and support will remain an ongoing challenge and will require creative approaches to ensure that the NDA can reach CBOs effectively. The current failure rate of 80 per cent of projects reaching vulnerable people reveals that the current approach is not working.¹¹³ The NDA acknowledges that a 'new approach is needed', particularly in relation to failures in the land reform sector. The NDA's Spring 2011 newsletter notes that:

*a number of CSOs have closed shop due to mismanagement of resources and directors pursuing their own personal agendas.*¹¹⁴

Again, in theory the NDA approach is attempting to address developmental concerns around support for CBOs in rural areas. What is lacking seems to be appropriate levels of communication and consultation. The NDA should develop processes to work collectively with a broad range of stakeholders, notably those in the CSO sector.

Research and policy development

The NDA Act commits the NDA to undertake research to provide the basis for policy development. The NDA has so far not made a significant contribution to research and policy development. Participants in this research process lamented the lack of reliable, current data and information which hinders the effectiveness of the CSO sector.

The lack of investment in research and policy development is reflected in the financial investment. In 2006/2007 the NDA spent R445 717 on research and development, compared with the R1.9 million spent on consulting fees for the CEO's office in the same financial year. While the expenditure in research has increased steadily since then, from R3 million in 2007/2008 to over R5 million in 2008/2009, the NDA is still not a significant player in generating knowledge and information that informs poverty eradication approaches or strengthens the CSO sector.

The NDA acknowledged this shortcoming in its Spring 2011 newsletter:

*We have not yet engaged successfully as a think-tank for issues related to poverty eradication. Therefore a more critical focus is needed to continue our strategic conversation with such organisations towards becoming a 'reservoir of knowledge'.*¹¹⁵

A number of research reports were developed in the 2010/2011 time frames. These include two best-practice reports, a consolidation of closeout / impact evaluation reports and a consolidation of due diligence reports. About eight reports and manuals were compiled or distributed on topics such as 'how to write a project proposal' and 'how to start a successful cooperative' (NDA 2011:27). However, these reports are not accessible on the NDA website.

Consultation, dialogue and sharing development experience

One of the objectives of the NDA is to promote consultation, dialogue and sharing of development experience between CSOs and relevant organs of state. The NDA has hosted conferences and dialogues. In 2010/2011 it hosted nine provincial workshops and four national think-tanks in preparation for the Rural Economic Development Summit that took place in October 2010. The outcomes of the summit were supposed to inform an implementation and action plan to be carried forward by the NDA. Reports for the various conferences and dialogues are not accessible on the website. The NDA had undertaken to coordinate regional and international dialogues in 2010 and 2011 to promote a vibrant civil society. However these did not take place due to budgetary constraints. The impact of the conferences and dialogues is not clear, and without accessible reports, the knowledge generated is not transferred.

Creating a database

Despite the NDA having been in existence since 2001, it only began its legislated responsibility to establish a CSO database during the 2008/2009 financial year. The database has seemingly not been maintained.

The NPO Directorate also maintains a database of registered CSOs. It seems self-evident that the NDA and the NPO Directorate should be cooperating in this regard, especially as both fall under the aegis of the Department of Social Development (DSD). CSOs have repeatedly approached the two institutions, as well as Stats SA, to suggest cooperation. The absence of current and reliable information is a major hindrance to coordination efforts by CSOs, and to the policy and planning of potential donors to the sector.

Conduit of funds

The intent of the legislation was to establish the NDA as a key conduit for funding from the South African government, foreign governments and other national and international donors. As shown above, the organisation has failed to deliver on this intention and has thus lost this opportunity, and in the process deprived civil society of much-needed funding sources.

¹¹³<http://www.pmg.org.za/report/20111013-national-development-agency-201011-annual-report-deputy-minister-pres>

¹¹⁴<http://www.nda.org.za/docs/Spring%20Issue%202011.pdf>

¹¹⁵Interview with Executive Director of Development Management, Mr Reuben Mogano, <http://www.nda.org.za/docs/Spring%20Issue%202011.pdf>; NDA's ten-year journey towards becoming a 'reservoir of knowledge'

In addition to the damage caused by the corruption charges and the governance and management failures detailed above, the NDA has also lost credibility because it has acted as the implementing arm of government policy. While this may have been a survival strategy, this stance has compromised the NDA's credibility among international donors, most notably the EU, which has completely withdrawn from its relationship with the NDA. In contrast, the Foundation for Human Rights (FHR), successfully disburses EU funds via cooperative relationships between the EU, Department of Justice and CSOs. This example shows that it is possible to maintain commitment to founding values, remain independent, and serve as a conduit of funds via government.

The NDA's current use of more than 50 per cent (50%) of its annual allocation to cover operational costs demonstrates that urgent steps must be taken towards re-directing these resources to the intended beneficiaries.

Organisations applying for and receiving funds from the NDA have had mixed experiences. Some expressed reluctance to engage with the NDA again, while other CSOs participating in the Coalition's workshops had a positive experience with the NDA. There are NDA staff members who seem to have a 'heart' for and genuine commitment to rural development.

CASE STUDY: Siyakhula Trust¹¹⁶

The Siyakhula Trust does community capacity building work to assist community leaders, CBOs, NPOs and government officials to develop the skills needed to manage development and job creation projects. Between 2006 and 2008, the trust applied three times to the NLDTF but was unsuccessful each time. It then decided to abandon attempts to seek funding from the lottery and sought NDA funding. In June 2006 Siyakhula responded to an RFP as part of the national poverty alleviation project. Siyakhula received funds to facilitate the development of six umbrella community structures in nine municipal regions in the North West. Their application was successful and they received a grant for two years (2006–2008) for a total of R1.7 million. A total of 22 CSOs received funding to conduct various development initiatives under this NDA Programme. The director of Siyakhula Trust, Jill Fenwick, described the NDA staff as *‘very supportive and interested in the work being done’*.

Despite experiencing a number of payment delays for the second and third tranches, Siyakhula Trust was able to continue with implementation and complete the project on time. Some of the other 22 CSOs participating in the programme did not have reserves to tide themselves over during payment delays and they collapsed. From this project, Siyakhula Trust developed a good relationship with the NDA and received further funds. They found working with the NDA to be *‘a very positive experience’* as they found the staff committed to rural development.

Finally, many of the participants in this research process strongly criticised the NDA's funding of cooperatives as these are not NPOs. Cooperatives receive funds from the DTI, and NDA support to cooperatives further diverts funds from worthy CSOs.

¹¹⁶Interview conducted with Jill Fenwick, Director, 2011

Public accountability

The NDA Act and the Public Finance Management Act (PFMA), provide a number of accountability measures. Annual reports, including the Auditor-General's reports, are in the public domain. The NDA is subject to the stringent regulatory provisions of the PFMA. The PFMA should, in theory, ensure also a high level of accountability.

Despite these measures, the NDA has been plagued with allegations of corruption and mismanagement. The NDA website and annual reports mention some of the organisations that have received funds. They do not include complete lists of beneficiaries, which has raised questions over whether funds are distributed in a fair and equitable manner. CSOs participating in the Coalition's workshops are calling for a greater role in holding the NDA accountable.

The most significant failure in the NDA's internal controls emerged in 2006 when the Auditor-General found that R8 770 082.26 of the NDA's funds was misappropriated through 28 irregular payments from the NDA's bank account into four bank accounts linked to the accounts clerk of the NDA. The Auditor-General's office pointed out a number of weaknesses in the control environment which allowed for the misappropriation of the funds and, more importantly, that the transfer of such huge amounts through fraudulent payments was not detected by senior management. A disciplinary process was instituted against the chief financial officer, the company secretary and finance manager. All were found not guilty on the grounds that the accounts clerk had illegally obtained authorised passwords. The press release on the clearing of the charges did not mention that they failed to detect the payments.¹¹⁷ Criminal charges were laid against the accounts clerk who was found guilty and sentenced to a 15-year jail term. As mentioned above, the board has subsequently paid closer attention to financial governance.

Recommendations

NDA governance

- The NDA should seek to operate as an autonomous grant-making institution, working as an independent conduit of government and international funding. Its strategic priorities and programmes should be determined through a consultative process with government and CSOs in the three-way partnership that was initially envisaged.
- Regulations are needed to ensure that there is regular disclosure of information that enables monitoring by civil society. To this end, a budget should be allocated in order for the NDA to engage with civil society formations on an annual basis around its work, the board's performance, the Auditor-General's report and the NDA Annual Report.
- Civil society board representatives should be required to account to civil society. This should include information being made available on performance standards, the resources available through the NDA, management of such resources, expenditure-tracking reports, strategic plan evaluations and performance monitoring reports.

¹¹⁷http://www.nda.org.za/?option=3&id=1&com_id=282&parent_id=273&com_task=1; 2007/16/08; 'NDA senior managers cleared of negligence charges'

NDA legislation

- The NDA has become a funding arm of the DSD. Regulations could provide guidance to ensure a wider developmental focus, aligned with civil society priorities and government policy beyond the DSD. Funding criteria should be open to public consultation and scrutiny.
- There is currently no open, transparent process for appointing government representatives to the NDA Board. Regulations should identify criteria and skills required for government representatives.
- The legislation should be amended to allow a system of increased public accountability of NDA board members. The legislation should make provision for civil society to monitor the performance of the six members representing civil society. This would mean that sufficient information is made available on required performance standards, the resources at the disposal of the NDA, the management of such resources, expenditure tracking reports, strategic plan evaluations and performance monitoring reports.
- The definition ‘civil society organisation’ should be amended to allow for only NPOs to obtain funding from the NDA. The definition should not include cooperatives.
- The board should regulate the time frames for considering and deciding upon grant applications. Applicants that have not received grant funding should be notified of the rejection and be given reasons for the rejection of their applications within a specified time period.
- The NDA should be required to compile reports containing the number of applications for funding received, the number of applications rejected and the number of successful applications.
- The Annual Report to be prepared by the NDA should reflect the number of board meetings held during a particular period, who attended or not, and whether the chairperson provided prior approval for the absence of a member.
- A process is needed through which NDA board decisions can be reviewed.

Resources

- The NDA needs to be adequately resourced so that it can function as intended.
- A review and rationalisation of operational expenses must take place so that an appropriate level of spend on the effective functioning of the institution is achieved, while the proportion available for disbursement to civil society is increased.

NDA strategy

- The NDA should be guided by a developmental agenda that includes support for advocacy and human rights.
- The NDA board should provide guidance and oversight to ensure that the NDA delivers on all legislated obligations including research, policy dialogue and data production on civil society.
- The NDA needs to ensure that it is aware of the activities of other government departments so that, for example, it does not duplicate the responsibilities of agriculture, land affairs and the DTI.

NDA management

- The NDA board needs to ensure that the CEO is capable and experienced, with significant development funding experience.
- The CEO must establish and oversee the implementation of efficient and effective management systems and procedures.

NDA operations / human resources

- Experienced and competent staff should be appointed, including people with development and grant-making skills.
- Systems and efficiency issues are similar to those within the NLB and these should be remedied, particularly the flow of applications from provincial to national level, and the communication with grantees.
- Provincial coordinators and project staff need training and support.
- Provincial offices should engage more actively in pre- and post-funding impact assessment and the Research Team should document and publicise the lessons learnt.

NDA communications / marketing

- The NDA should develop more user-friendly on-line and print materials with guidelines for applicants.

Capacity building and support will remain an ongoing challenge and will require creative approaches to ensure that the NDA can reach CBOs effectively.

CHAPTER EIGHT

Good practice by grant makers

While an in-depth study of good grant-making practice is beyond the scope of this report, the Coalition believes that a brief overview of the work of successful grant-making institutions may be useful at this point.

This section is thus informed by:

- snapshots of other national lotteries
- the Multi-Agency Grants Initiative (MAGI) – a consortium of funders supporting CBOs¹¹⁸
- interviews with the DG Murray Trust (DGMT), Tshikululu Social Investments and the Foundation for Human Rights (FHR)¹¹⁹

Interviews conducted for this research illustrated that South African CSOs are struggling financially. The gradual withdrawal of international donors, the effects of the global recession, and the inefficiencies within the NLB and the NDA are among the reasons for this situation. For example, PEPFAR's withdrawal and the removal of NGO funding in bilateral agreements with government have resulted in substantially reduced revenues to the CSO sector. Philanthropy-based funders, such as the Bill and Melinda Gates Foundation, have been affected by the financial crisis. This has resulted in more CSOs turning to local sources of funding, evident in the dramatic increase in applications received by local donors.¹²⁰ Donors interviewed for this section spoke of CSOs retrenching staff, cutting back on programmes and closing down.

Organisations that once had multiple sources of funding no longer do. The financial crisis is forcing grant makers to reassess their roles and strategies. The following were identified as good funding practice:

- Relevance and intelligence
- Independence and integrity
- Good governance

¹¹⁸Established in June 2006, the Multi-Agency Grants Initiative (MAGI) is a collaborative venture between Humanist Institute for Cooperation with Developing Countries (HIVOS), Atlantic Philanthropies, Uthando and the Ford Foundation. The purpose of the fund is to provide a responsive mechanism for the provision of small grant funding to organisations at community level within South Africa.

¹¹⁹Interviews for this section were conducted with: David Harrison, CEO of the DG Murray Trust, 2 December 2011; Tracey Henry, CEO of Tshikululu Social Investment, 7 December 2011; and Yasmin Sooka, Executive Director of the Foundation for Human Rights, 10 December 2011. The Funding Practice Alliance is conducting more detailed research into good practice in funding that is likely to be released in 2012.

¹²⁰The DGMT received double the applications in 2011 than it did in 2010.

- Strategic approach
- Capacity
- Partnerships
- Grant-making processes

Relevance and intelligence

Assessing their roles and relevance requires making the time and setting up processes for critical reflection. The Big Lottery Fund (BLF) which distributes 46 per cent (46%) of funds raised in the UK lottery, explicitly strives to be an 'intelligent funder'. This means that '*working more closely with applicants and grant holders will achieve better outcomes*' and where improved systems and processes can streamline the 'funding experience'.

Intelligent funding includes ongoing dialogue with CSOs, long-term investments and a partnership approach (Unwin 2006). Dialogue facilitates better decision-making; long-term support enhances sustainability and frees organisations to do their work rather than spend time and resources pursuing funds; and partnerships based on respectful and mutually beneficial relationships create leverage.

The DGMT was set up by the construction company Murray and Roberts. The DGMT also engages in reflection on their role. Grant makers acknowledge that their resources are meagre in relation to the state and thus set out to influence change through leverage. The DGMT CEO David Harrison commented on the role of grant makers saying, '*Foundations are located between service delivery and policy and can play a different role*'.¹²¹

As grant makers become increasingly aware of the limitations and inefficiencies in the state, they are moving away from playing the role of 'gap fillers' and are working towards more creative funding models, identifying bottlenecks and supporting replicable projects that can have a knock-on effect, such as the DGMT leadership project.

Successful grant makers work to their areas of expertise. Where relevant, Tshikululu Social Investments encourages social entrepreneurship, such as the hospice shop, as avenues for revenue generation for CSOs. There are many approaches that CSOs have used for years that are effective. Tshikululu CEO Tracey Henry commented:

*Times are tough and are likely to be like this for a while, so we need to ensure that funding that is available is responsibly channelled and to constantly question our role and what value we add.*¹²²

To avoid falling into empty cycles of administrative and bureaucratic compliance, the organisations interviewed for this research see themselves as knowledge organisations and have internal structures to build knowledge and generate critical thinking. In Tshikululu those working on different areas, such as education, meet every six weeks to share information. Tshikululu produces a newsletter and it is part of staff performance areas to produce thought pieces. Tshikululu has a book club where colleagues bring in relevant books and readings. It runs social investment workshops where knowledge is shared within the corporate sector.

¹²¹Interview with David Harrison, CEO of the DG Murray Trust, 2 December 2011

¹²²Interview with Tracey Henry, CEO of Tshikululu Social Investment, 7 December 2011

Independence and integrity

The value of the CSO sector lies partly in its independence from the state. Grant makers that maintain their independence from the state add value by operating in a space between service delivery and policy. The FHR clearly demonstrates the ability for funders to be a conduit of funds through government and to simultaneously retain their own programme. Despite its close relationship with the Department of Justice, the FHR has funded organisations that can be seen as challenging to government, including social movements. The FHR supported the Right2Know Campaign, which lobbied against the Secrecy Bill.

Good governance

Clean and thoughtful governance is central to effective grant-making organisations. This includes clear codes of conduct and performance management for board members, ethics, values, transparency and risk management.

Grant makers interviewed for this chapter described their boards as ‘active’. Boards that merely rubber stamp decisions from management are not likely to play an effective oversight function. It is important for board members and trustees to participate in the development of the organisation’s strategy and then to play a strong oversight role.

The DGMT has endowment funds and an independent board of trustees. The trustees serve a five-year term. A diversity matrix on skills and demographics is maintained. The DGMT board was described as ‘very engaged’, with a high level of accountability. The CEO and trustees have a good working relationship. The DGMT uses a charter to guide the relationship between the governance structure and management, with clear conflict of interest clauses. The CEO of the DGMT allocates 20 days per year to governance-related meetings and committees.

Tshikululu Social Investments too places important emphasis on governance and compliance and has streamlined processes to minimise bureaucracy. Flexibility is available for creativity and initiative.

Strategic approach

Local grant makers take national government priorities into consideration, particularly using available research such as the National Planning Commission reports. This ensures that funding is addressing key developmental priorities. For example, the DGMT has a strategic focus on education: it therefore supports early childhood development, complements this with a ‘critical transitions’ programme for school children and finally seeks to create ‘connections to opportunity’ for young people.

The DGMT encourages partners to think in terms of *results* rather than *projects*. The DGMT leadership programme seeks not only to support leadership development in disadvantaged communities, but also programmes that create linkages between advantaged and disadvantaged youth. 85 per cent (85%) of this programme’s participants come from disadvantaged communities and 15 per cent (15%) from more advantaged communities. The programme is currently being piloted and tested.

The BLF ‘regularly and widely’ consults with the voluntary and community sector with regard to their strategy, programmes and funding principles. Its *Big Thinking* strategic framework to 2015 was informed by an online survey that received almost 3 500 responses. An analysis of the responses is available on the BLF website.¹²³ Its strategic plan was thus informed by an open and transparent consultation process.

Funding powerful tools for change: advocacy, lobbying and litigation

Foundations and grant makers are motivated by the need to improve the lives of people in need and achieve social justice. Historically, philanthropic giving focused on charity and welfare-based interventions, with less focus on advocacy, lobbying and litigation.¹²⁴ As the government increasingly views CSOs as service providing agencies for government, private foundations are paying more attention to organisations working in social justice and public innovation.

The FHR focuses on rights and social justice, including support for organisations that undertake advocacy and lobbying. The FHR has initiated a programme aimed at building participatory democracy. This includes convening provincial and national forums and facilitating public policy dialogues to strengthen participation in national and provincial legislatures. The FHR is concerned that:

*the inadequate presence of the voices of the vulnerable in these processes robs the nation of critical inputs to help deepen and sustain a democratic culture based on the values enshrined in the constitution.*¹²⁵

This is the type of work that the NDA should be doing.

Organisations like the DGMT have traditionally not supported advocacy and lobbying. This is changing with the realisation that, ‘*there is a need to regain the commitment to the public good, and for foundations this may include supporting legal instruments and focusing across sectors.*’¹²⁶ The DGMT leadership programme aims to develop ‘*a cohort of connected young people with a focus on the public good*’. David Harrison noted that, ‘*old white money is waking up to advocacy concerns with the rise of corruption*’. He advised advocacy organisations to develop clear programmes that could ‘give foundations hooks’ to invest in.

For Tshikululu Social Investments supporting advocacy and lobbying is, ‘*becoming an increasingly important part of what we do*’.¹²⁷ Tshikululu supports advocacy on issues such as gender-based violence and disability, along with supporting organisations that offer legal support.

¹²³ <http://www.biglotteryfund.org.uk/index/about-uk/bigthinking.htm>

¹²⁴ <http://www.atlanticphilanthropies.org/learning/speech-investment-south-africa-inside-and-out-reflections-overseas-friend>

¹²⁵ http://www.fhr.org.za/page.php?p_id=70

¹²⁶ Interview with David Harrison, CEO of the DG Murray Trust, 2 December 2011

¹²⁷ Interview with Tracey Henry, CEO of Tshikululu Social Investment, 7 December 2011

Many of those working in foundations and grant-making organisations have a sense of honour and privilege in being able to do their work. They approach their interactions with grantees in a spirit of partnership and derive tremendous satisfaction from the contributions they make. They appreciate the opportunities to work up close with *‘the champions of change, people who are silent heroes doing the most amazing things’*.¹²⁸ This includes some people in government (and the NDA and NLB) who are committed to addressing poverty and under-development.

Proactive vs reactive funding

Some leading foundations and grant makers are concerned that some CSO partners do not keep up with changing social development needs. Therefore, some funding agencies are adopting more proactive approaches: they regularly assess social needs that may not yet have support and sometimes initiate programmes based on this assessment.

For example, the FHR scans the human rights context nationally and provincially and initiates projects where there are ‘gaps’. However, the FHR is keenly aware that their proactive approach may be perceived as competition by implementing CSOs. This possibility is managed through consultation and cooperation. Until 2010, the DGMT only responded to proposals. With the introduction of a new strategy in 2011, the Trust is now more proactive and implements some lead initiatives.

Capacity: the ‘dream team’

While the NLDTF and the NDA are plagued by inefficiencies, outside of government the grant-making sector has become increasingly professionalised. Grant-making in a context of resource scarcity comes with profound responsibility, and funding agencies must have the requisite capacity and experience for wise and informed decision-making. Good grant-making requires individuals who understand development and are accountable, ethical and unwilling to compromise the integrity and purpose of their organisation.

Grant-making leaders interviewed for this research believe that grant makers need to be open to ongoing learning in a rapidly changing context. This requires respect for the knowledge and expertise of the CSOs supported. Humility and good listening skills strengthen funders’ ability to forge relationships and develop better understanding of the issues facing partner organisations.

Leaders need to be aware of issues facing management. When the DGMT shifted strategy in 2011, the opportunity to recruit a ‘dream team’ was created. This team was rapidly bogged down when the number of proposals doubled in 2011. To address this required active management intervention. The DGMT reviewed how staff were spending their time. When it was found that time was disproportionately spent, for example on smaller grants, then the process for managing smaller grants was trimmed to rectify this. Management interventions are done in a way that reinforces confidence in the team and creates latitude for them to take initiative and avoid unnecessary administrative drudgery.

¹²⁸Ibid.

The MAGI project indicated that the ingredients required for an effective grant-making team include *‘top-class people, with experience and networks in development, or with the potential to develop these, and with passion for, and commitment to, what they are doing’*. Getting the right people into the right jobs is essential for grant-making to be innovative and effective.

Partnerships

With grant makers aware of limitations in the context of diminishing resources, leverage and ‘punching above their weight’ are largely aimed for by forging partnerships.

MAGI sees the basic pillars of grant-making as capacity-building, brokering linkages and referrals, monitoring and evaluation, and leveraging of additional funds within a consortium model.¹²⁹

To enhance the impact of its ECD intervention, the DGMT is working with two other non-governmental funders – UBS Optimus and Elma Philanthropies. The three foundations are supporting a single strategy and pooling resources in partnership with the government in the North West.

Interviewees all noted that establishment of successful partnerships requires time and diplomacy: as Tracey Henry noted, *‘The gaps are huge between knowledge of the problems and how to solve them’*. The private sector can be cautious to partner and invest when there are unallocated budgets in the state, or concerns that the funds won’t be used for the intended purpose. Added to the mix are complex state structures where it can be difficult to locate people with authority and identify the most appropriate channels for partnerships.

Effective foundations and grant makers are aware of the power dynamics inherent within the funder-beneficiary equation. Tracey Henry said, *‘What funders don’t always realise is that it is not their money... there can be a grandiose sense from some funders.’* Conversely, *‘Foundations can be patronising in their attempts to not be patronising’*.¹³⁰ The DGMT, Tshikululu Social Investments and FHR have high expectations and treat their ‘beneficiaries’ as partners and equals. David Harrison said:

There is a need for robust engagement which leads to more honest relationships. Foundations are looking for good projects and success stories so it is not a one way street.

Grant-making processes

Effective grant makers have clearly articulated visions and strategies that guide implementation. For example, the UK’s Big Lottery Fund (BLF) aims to be an ‘intelligent’ funder by following the following steps:

- Creating and sharing a clear vision and purpose
- Knowing and stating their place in the market
- Creating a ‘learning’ organisation
- Aligning structures and resources with vision / mission
- Managing and adapting to change

¹²⁹<http://magi.org.za/>

¹³⁰Interview with David Harrison, CEO of the DG Murray Trust 2 December 2011

Good grant-making organisations work to be vibrant participants in addressing poverty and development. The grant-making process flows from a clear sense of purpose underpinned by relevant capacity and skill. Interviewees for this chapter stressed that grant-making is not ‘rocket science’, and that the simpler and more accessible it is, the better both for applicants and for those processing applications. Assessment processes need to be as transparent as possible, communication with potential grantees timely, and financial processes and systems streamlined to avoid delays in payments. There is a need for accountability, regular feedback, communication and evidence-based research to inform decision-making. Monitoring and evaluation should cover both quantitative and qualitative indicators.

Taking into consideration the capacity limitations of many CBOs, a number of grant makers have conscious strategies to ensure access to funding by smaller organisations. These strategies include:

- administering smaller grants;
- offering capacity-building support through training, mentoring or coaching;
- simplifying reporting requirements; or
- seeking out larger more sophisticated CSOs to mentor and monitor funds on behalf of CBOs.

Another strategy is to include smaller organisations in larger consortium projects. Some large donors support other donor programmes, such as MAGI, that have specific programmes to support CBOs.

Effective grant makers have clearly articulated visions and strategies that guide implementation.

CHAPTER NINE

Conclusion and final recommendations

There is no doubt that the South African civil society sector is facing a funding crisis. This needs to be addressed on many fronts. At the macro-level, legislative reform and renewed work on an enabling policy environment for civil society, and for grant-making and other forms of investment in social development, is required. It is unfeasible to expect that a developmental state can be built in the absence of visionary legislation that defines the human development objectives of the country.

At the more intermediate and micro-levels, there is urgent need for more strategic and effective approaches to development funding. International sources are now much less available, which means that local funding sources must be developed and leveraged. These include private philanthropy, corporate social investment and the contributions from state-related agencies such as the NLB and the NDA.

The work of the Coalition and other civil society formations such as the Funding Practice Alliance (FPA) highlight the problems within these agencies and suggest remedial action. Since the Coalition began work on this initiative, both the NLB and the NDA have publically committed to change. As this report is going to print, the NPO Directorate in the DSD is hosting consultations with civil society with regard to intended improvements in its functioning. The environment is clearly ripe for change. However, these changes must be informed by appropriate contributions from civil society. The Coalition intends this report as one of those contributions.

CSOs are encouraged to continue their creative efforts to access funds and to hold the NLB and the NDA accountable. It is important to remember that members of the public who purchase lottery tickets are often motivated to buy tickets because of the perception that their money supports good causes. It is therefore possible to use the power of these consumers to ensure that the lottery is held accountable for how it uses the funds. CSOs can and are using the various strategies available to them, such as research, advocacy, litigation and protest, to extract funds from the NLB and the NDA, and to push for enduring changes.

Much more cooperation is needed, including partnerships between public and private funding sources. For both the NLB and the NDA, there is need for both short-term repair and regulatory reform leading to systemic change. If the South African government is indeed serious about its ‘developmental state’ stance, then legislative reform must not take place in piecemeal fashion. During the Coalition’s various engagements with government and other state-related agencies, it became disturbingly clear that there is very little contact, let alone cooperation, between the various government institutions having responsibility for the wellbeing of civil society.

While we acknowledge and commend the movements towards improvement currently taking place in the NLB, the NDA and the NPO Directorate, we urge these agencies, together with responsible leadership in related bodies such as Treasury, SARS and the National Planning Commission, to commit to a cooperative process towards over-arching and systemic reform of the enabling environment for civil society.

We call for a review by the NPC of the developmental aid architecture in South Africa as a matter of urgency.

We further recommend that a cross-sectoral working group, which includes strong civil society representation, is established to plan the necessary changes. We expect the outcome of this recommendation to be a holistic framework for the location and effective functioning of the National Development Agency (NDA), the National Lottery Distribution Fund (NLDTF), specific allocations from official development assistance, private philanthropy and corporate social investments, congruent with the developmental state.

*The environment is clearly ripe for change.
However, these changes must be informed by
appropriate contributions from civil society.
The Coalition intends this report
as one of those contributions.*

Appendix

Provincial consultation schedule

- Durban, 21 April 2010
- Middelburg, 14 July 2010
- Polokwane, 15 July 2010
- Cape Town, 11 August 2010
- East London, 16 August 2010
- Port Elizabeth, 17 August 2010
- Potchefstroom, 10 September 2010
- Johannesburg, 15 September 2010
- Bloemfontein, 16 September 2010
- Kimberley, 17 September 2010

Consultative meeting, SANGONeT CEO circle, October 2009

List of interviews

- Interviews with six CSOs for case studies
- Interviews with Lottery DA member (request for name to be withheld)
- Interview with NDA board member (request for name to be withheld)
- Interviews with NDA CEO, Vuyelwa Nhlapo, and senior management
- Interview with Big Lottery Fund (UK)

Engagement with government

- Meeting with Minister Rob Davies, Department of Trade and Industry
- Meetings with executives in the Presidency
- Meeting with R. Toli of National Treasury
- Meeting with H Mhkize of NEDLAC
- Meeting with Methodology and Standards division, Statistics South Africa
- Meetings with NLB board member, and with management during 2010/2011
- Participation in NLB National Consultative Indaba, June 2011

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www.cafsouthernafrica.org

CIVICUS

www.civicus.org

CORE

www.corejhb.org.za

Legal Resources Centre

www.lrc.org.za

National Welfare Social Service & Development Forum

www.forum.org.za

SANGONeT

www.ngopulse.org

Coalition on Civil Society Resource Mobilisation