

## **Civic empowerment: a critical step in government of the people**

**By Ntandazo Sifolo\***

### **Abstract**

The socio-economic development of a country like South Africa is the task that should be attended to through a people-centred approach. Indeed the National Development Plan (NDP) vision 2030 highlights the importance of enhancing the capabilities of the people of South Africa so that they can advance their lives as they desire. Thus, an expectation is that the people will play a pivotal role and work to raise living standards for all, especially the poor.

Unfortunately, the greater understanding of the relationship between the elected and the electorate requires nurturing in South Africa. It is only through intellectual empowerment that people will understand their power to those that have been allowed to wield power on their behalf. Any government should begin its tenure with the understanding that it is in the service of the people, regardless of political affiliation. Therefore, such responsibility could be revoked and leaders could be removed if they breach the contract and fail to deliver on the expectations of the people. This paper explores the need for citizenry empowerment to equip them to play a meaningful role in the public affairs.

*Key words: Citizenry, governance, public participation, national development plan*

### **Introduction**

Although the envisaged future that is touted by the NDP presents a glimpse of hope for the development of the country, it remains an interest of academics to continuously probe the relationship between expectation and reality. Against this backdrop it could be contended

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that unless the people are empowered to understand their role in holding the government accountable, the transformative agenda could be prolonged. Using the logic of democratic government as simple meaning ‘the government of the people for the people by the people’, it could be argued that the people should be empowered enough to understand that their role is not only during the elections where their votes matter to the politicians. Rather, they should begin to express, with clarity, that they hold an understanding that the government is not doing the society a favour, but carries a mandate from the society. This essentially, would mean that when any administration is given a mandate by the people to govern, it automatically enters into contract to serve the people for the given period (five years to be specific in South Africa). Therefore, when that contract is breached and politicians become selfish and ignore the promises made in the election manifesto (which resulted in them getting confidence of the society in the first place) the society should be capable of utilising state institutions, including the Judiciary, to demand retribution on the basis of the breached contract.

### **Critical fault lines**

On 03 June 2015 the Auditor General of South Africa, Kimi Makwetu, released the report on the 2013/2014 performance of the local government in South Africa against the yardstick of, amongst others, the government’s Medium Term Strategic Framework (MTSF) for the period from 2014 to 2019; the Municipal Financial Management Act No 56 of 2003 (MFMA); and the Municipal Systems Act 32 of 2000 (MSA). Amongst the points raised by the report of the Auditor General (2015: 1-21) were the following: non-compliance with key legislation; irregularities on supply chain management remain high; increased unauthorised expenditure; and inadequate consequences for transgressions.

This report of the Auditor General had been preceded by a similar report that focussed on the performance of the national government versus compliance with the Public Finance Management Act No1 of 1999 during the period 2013/2014 (AGSA, 2015: 30-31).

Some findings of this report could be summed up as follows:

No of Audited Entities	Finding on expenditure	Amount
30 departments	unauthorised expenditure	R2, 6 billion
309 audited entities	irregular expenditure	R62,7 billion out of which 93% resulted from non-compliance with supply chain management legislation
245 audited entities	fruitless and wasteful expenditure incurred	over R1,1 billion

*Table 1*

The audited entities in both reports are in contravention of both the PFMA and the MFMA respectively. For instance, section 38 (1) (b) of the PFMA states that the Accounting Officer has, amongst other responsibilities, the ultimate obligation to ensure effective, efficient, economical and transparent use of resources for the institutions of which they are in charge. The Act further enjoins the Accounting Officer to take effective and appropriate steps to prevent unauthorised, irregular, fruitless and wasteful expenditure (Section 38 (1) (c) (ii)). The Act (section 86 (1-3)) authorises a penalty for financial misconduct where those found guilty will be liable to a fine or to imprisonment for a period not exceeding five years.

Moreover, section 95 (a) of the MFMA obliges the municipal accounting officers to, amongst others, take responsibility of managing the financial administration of the entity, and take all reasonable steps to ensure that the resources of the entity are used effectively, efficiently, economically and transparently. The accounting officer is further called upon to ensure that irregular as well as fruitless and wasteful expenditure and other losses are prevented. Section 95 (f) is even more specific on injunctions that should be taken into consideration in an event of non-compliance. In this regard, it is stipulated that the Accounting Officer should ensure that disciplinary or, when appropriate, criminal proceedings, are instituted against any official of the entity who has allegedly committed an act of financial misconduct or an offence in terms of chapter 15 of the Act. Offences of chapter 15 include financial misconducts by

municipal officials and officials of municipal entities; the penalty of which, as stated in section 173 of the act, is the imprisonment for a period not exceeding five years or an appropriate fine determined in terms of applicable legislation. Indeed the PFMA and MFMA clearly present a glimpse of hope in relation to tackling critical failures in the South African governance system. However, the close scrutiny of the 2013/14 audit reports, both at national and local government level, presents a trend continuous noncompliance with governance prescripts.

The Auditor General's report (2015: 10) indicates that financial misconduct at local government level increased during the review period and that though reported in 50 audited entities, 12 of those had neither investigated nor tabled the reports to the council as required for senior managers. It is also maintained that "lack of investigations was more pronounced at 46 auditees (63%) ... (and that) the municipal manager(s) and council did not investigate the irregular expenditure of the previous year to determine if anyone was liable for the expenditure" (2015:21). The report (2015: 10) further states that "findings (on non-compliance with SCM) continued to increase. Furthermore, 87 of the auditees that had such findings in 2012-13 again had similar findings in 2013-14".

One other critical observation made by the report of the Auditor General (2015:11) relates to public participation. In this instance it is maintained that about 22 municipalities did not consult the local community in drafting and implementing the Integrated Development Plans (IDP) and that about 18 municipalities did not grant the community at least 21 days to comment on the IDP. Again, this is said to be at odds with the Municipal Systems Act (MSA) which advocates for public participation.

In the light of the above stated facts one would ask the question as to where is the South African citizen in the equation? It would equally be essential to understand what role is being played by the citizenry amidst the findings of the Auditor General especially considering that it has been revealed that some municipalities do not consult the public nor they follow due process of consultation if they happen to embark on a consultative approach. Discussion on these and other aspects is the reserve of the next section.

## **Where is the South African Citizen?**

According to the Constitution of South Africa (section 3 (2) (a)-b)) all citizens are entitled to the rights, privileges and benefits of citizenship. They are all equally subject to the duties and responsibilities of citizenship. Moreover, section 27 (1) states that everyone has the right to have access to:

- (a) Health care services, including reproductive health care;
- (b) Sufficient food and water; and
- (c) Social security, including, if they are unable to support themselves and their dependants, appropriate social assistance.

Importantly, section 27 (2) of the Constitution enjoins the state to take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of each of the rights in 27 (1).

Based on the above mentioned constitutional imperatives it could be argued that the South African citizen is reasonable and legally catered for in the Constitution, which is the supreme law of the land. In this regard, it could be contended that if the state fails to adhere to the provisions of section 27 it is breaching the Constitution. It is also prudent to consider section 152 (1) of the Constitution which entrusts the local government with the responsibility to:

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

In addition, the Municipal Structures Act No 117 of 1998 gives guidance to municipalities to consult with communities. Section 19 (1) of the act provides that a municipal council must

strive within its capacity to achieve the objectives set out in section 152 of the Constitution. In this context a municipal council is urged by the act to annually review the needs of the community; its priorities to meet those needs; its processes for involving the community; its organisational and delivery mechanisms for meeting the needs of the community (Municipal Structures Act: 1998). The Act further directs a municipal council to develop mechanisms to consult the community and community organisations when performing its functions and exercising its powers (Section 19 (3)).

Furthermore, section 4 (2)-(e)) of the Municipal Systems Act No 32 of 2000, instruct the council of a municipality to consult the local community about - (i) the level, quality, range and impact of municipal services provided by the municipality, either directly or through another service provider; and (ii) the available options for service delivery. Moreover, section 4 (2)-(f) of the Act guides the municipal council to give members of the local community equitable access to the municipal services to which they are entitled.

It could be observed that the provisions of section 152 of the Constitution; section 19 of the Municipal Structures Act and section 4 of the Municipal Systems Act do not only entrust the local government with the responsibility to provide services to the community, they equally oblige the local government to involve communities and community organisations in matters of local government. Indeed this is a benevolent legal gesture in favour of community involvement in the public affairs. One also notes the statement of the NDP that citizens should expect government to deliver certain basic services, and to hold leaders accountable for their actions. It is however, impossible for citizens to hold leaders accountable if they do not understand how to go about such important action.

A critical point of departure is that there seem to be an inconsistency between what is enshrined in the Constitution as well as subsidiary legislation (and subsequently envisaged in the NDP), with the status quo on the ground. It has already been indicated in the preceding section that the Auditor General has found that some municipalities do not consult their communities while others do not follow proper consultation processes of giving communities

at least 21 days to comment on IDPs. The inability to involve communities is according to Van Donk (2012: 16) a factor of ‘governance deficit’. According to Van Donk (2012:16-17)

“a critical factor in the ‘governance deficit’ is the dominant mindset that the state will act as a provider of services and deliverer of development, making communities passive recipients and beneficiaries of the development process...Where this mindset dominates, there is little appreciation of the intrinsic value of engaging communities in planning”.

Although consultation of communities is a constitutional imperative, it could be contended that communities should be equally empowered to understand their role on how to engage public officials. This point resonates well with Van Donk (2012: 18) who insinuates that public participation should not be approached as an activity or an event or even a mere compliance with the legislation. Instead, local communities should be routinely equipped with relevant insights, knowledge and information so as to meaningfully participate in the setting-up of priorities and planning. Moreover, Van Donk (2012: 18) indicates that the lack of feedback to communities after a consultative process (if any) often results in the discontent of communities due to perceptions of being side-lined or their views not being considered.

A study conducted in 2012 by Ngamlana and Mathoho (2012: 29-36) with the communities of District Municipalities of Cacadu in the Eastern Cape province and Ehlanzeni in the Mpumalanga province, exposes lack of public consultation. For instance, the report indicates that 41 % of the respondents in Cacadu and 34.4% in Ehlanzeni confirmed that there were no public consultation forums in existence. The study further points to a worrying trend where an average of 66% in Cacadu and 72% in Ehlanzeni reported that they had never attended a meeting convened by the municipality and had never participated in state legislated forum for community participation. The same number of respondents also stated that they had never participated in discussions about priorities for development of their respective areas. This study further reveals that 82% of the Cacadu respondents and 79% of the Ehlanzeni respondents had no clue about the vision of their municipality or their wards; the same goes for the developmental agenda of the municipal entities (Ngamlana and Mathoho 2012:32).

Against this backdrop, it is prudent to consider the recommendation of the African Peer Review Mechanism Report (APRM) (2014: 22) which calls for strengthening of the Community Development Workers Programme (CDWs) so as to improve efficacy. The APRM report also relates to the White Paper on Transformation of the Public Service (commonly known as the Batho Pele principle); and reveals that government departments do not comply with obligation to submit citizens' feedback reports to the office of the Public Service Commission (PSC) (2014: 23). This point concurs with the findings of the report of the PSC (2012: 143) that in 2012 more than 50% of service users at different service delivery points of respective national departments were not aware of the Batho Pele framework and the value of the implementation of the principles in improving their lives.

Essentially, the Batho Pele approach is a government initiative to put people first and optimise access to services offered by government (PSC, 2012: 2). It is therefore the responsibility of the PSC to regularly monitor compliance with the principles of Batho Pele which include amongst others: consultation on service standards and the needs of users as well as openness and transparency to citizens. In this regard, it could be contended that there is a disjuncture between "what ought to be known" by the served and "what is known" and done by the public officials. The latter is often cited as sitting at a vantage point of understanding processes and issues better. In addition, Shaidi (2013: 78) states that communities also know their needs better than public officials. It then becomes crucial of the served to clearly indicate their needs. Also, those serving the communities should ideally and continuously communicate government strategies, challenges, and developmental agendas to the communities. It could also be argued that it is this noted disjuncture that has resulted in the number of service delivery protests in the country. Through this logic it is believed that the frustration of citizens by lack or poor service delivery is based on poor or no public consultation. This frustration usually results in violent protests where the protesters even destroy the very infrastructure that is essential for the delivery of services. Allan and Heese (2009) advance the argument of protests being partly caused by poor communication. They state that "an assessment of service delivery protests in metros makes it clear how lack of access to information often leads to the rapid spread of rumours of favouritism, corruption and mismanagement – sometimes true, but often untrue". Therefore, it could be argued that if public consultations were honoured by the leadership of municipalities and various wards, the issue of poor communication could be dealt with sufficiently. In this context, citizens

would know about the plans of municipalities to improve delivery of services like electricity or water. They will also be informed on what is being done with financial mismanagement, corruption, unemployment, and land distribution. These issues are highlighted as among grievances behind protests according to the civic protests barometer of 2007-2014 (Powell, and De Visser: 2014). It could also be assumed that it is against this backdrop that the Public Participation Framework (PPF) has been developed. The overarching objectives of public participation within the legislative sector are to obtain the view of the public on policy, legislation as well as to impart knowledge to communities about governance and government matters that affect them (PPF 2013: 30). Importantly, the PPF also seeks to obtain information about the experience of the people with regard to service delivery and government action, so that the institutions take the necessary action to bring about change.

However, without practical implementation, PPF could suffer the same fate of other important instruments, namely, the Constitution, PFMA, MFMA, Municipal Systems Act, Municipal Structures Act, Batho Pele etc. It is therefore important to ensure that legislated injunctions and plans are followed by practical implementation. Hence it is sensible to heed the call of Friedman (cited by the Centre for Policy Studies 2006: 2) that

“the government will not reach effectively enough into society to secure cooperation on development, until society reaches effectively enough into government to ensure that policy is informed by an adequate understanding of grassroots realities and that citizens feel sufficiently invested in the state to want to work with it”

Based on the above statement, it could be contended that for citizens to feel sufficiently investing in the state they need to be empowered to better understand their role as investors.

### **What is recourse for a not consulted Citizenry?**

“Citizens, as financiers of government through the statutory duty to pay taxes, are “co-owners” of the government policies and spaces should be expanded for their participation, education and feedback to enhance their voice in the decision of the state” (APRM, 2014: 23)

The above quote undoubtedly illuminates how the relationship between the government and the governed should be. It paints a picture of citizens being the “shareholders” in the business of government. Biesta (2004:237) calls this relationship an economical relationship characterised by the state as a provider and the taxpayer as a consumer of public services (like healthcare, education and social, economic, security and safety services). The British Columbia report on the taxpayer accountability principles (2014:2) indicates that government entities that act on their own behalf and represent the interest of the executive clearly demonstrate lack of respect for the shareholders (who are citizens and taxpayers). In this regard, the report calls on board members and governors of public sector entities to understand their role as representatives of shareholders and honour fiduciary duty to the citizens and taxpayers. Based on this narrative it could be stated that citizens need to behave like shareholders. When they are dissatisfied by the services or government performance in all tiers (national, provincial or local) they should not destroy the infrastructure (which they have paid for) or vandalise schools or even cause damage to property. Instead, they should consider alternative ways (as shareholders) of indicating their dissatisfaction through calling for accountability or sanctions on those found to be in dereliction of duty and transgression in governance related matters (including financial mismanagement, corruption and poor performance).

It is noteworthy that out of the population of approximately 52 million in 2012 about 13.7 million individuals were registered taxpayers; while 17 million is a reported figure for 2013/2014 tax year. It is also important to indicate that South Africa’s largest source of tax revenue comes from the personal income tax. About 34% of total tax revenue collected during the tax year 2012/2013 and 2013/2014 came from personal income tax (National Treasury & SARS: 2013; see also 2014: 30). This is a skewed picture where approximately 30% of the population is responsible for 34% of the tax revenue that would have financed services for a population of approximately 52 million people. If this situation persists, coupled with the worrying trend of audit findings of financial mismanagement and non-compliance with supply chain management legislation, the vision 2030 of a capable and developmental state (projected in the NDP) could be far from realisation. As shareholders,

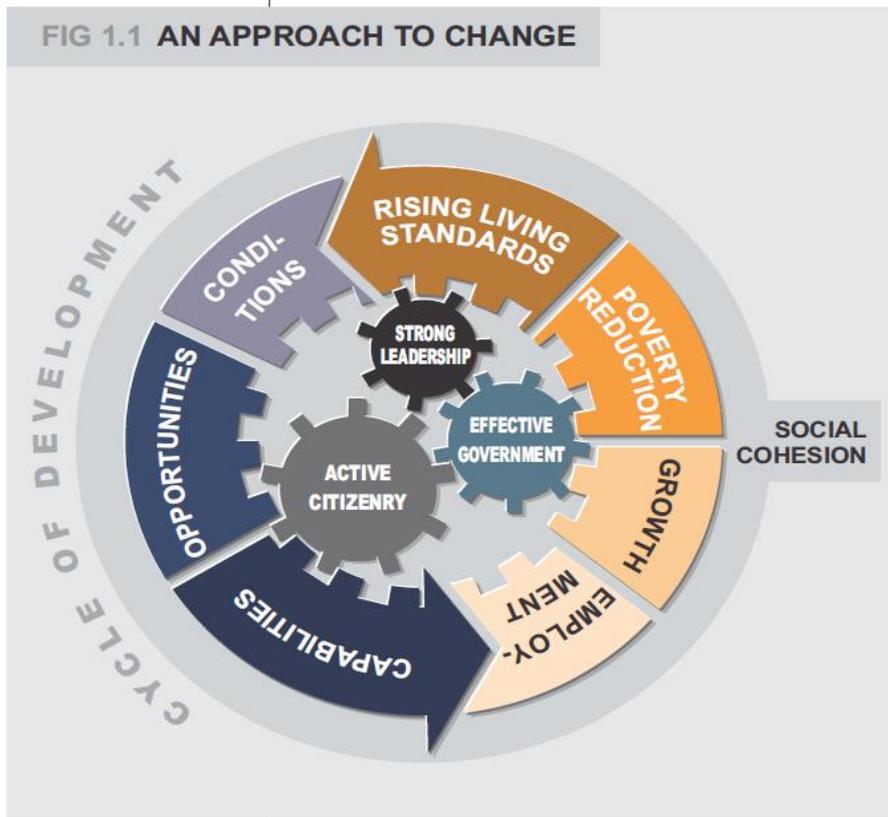
citizens need to be empowered so as to be the agents of change in the development of the envisaged capable and developmental state.

The revelation of the recent audit report points to impunity. Although, there have been consecutive audit findings on financial mismanagement and non-compliance with legislation, nothing has been done to hold those responsible accountable as provided for in the PFMA and MFMA. The basic logic is that laws are there to be obeyed and if they have been disobeyed there has to be accountability on why the law was disregarded. According to Deputy Chief Justice Dikgang Moseneke (2014: 8), “courts can only deal with prosecutions that come before them and these sadly have been surprisingly few. The last two decades no criminal prosecutions on tender irregularities, misuse of public funds or related fraud have served before our superior courts”. Van Donk (2012: 21) also argues that social accountability mechanisms, such as citizen report cards, service-level benchmarking, citizen charters and social audits are underexplored in the local government sphere. However and based on Moseneke’s assertion, it could be noted that there is an avenue for citizens to institute litigation against entities that have transgressed and have even been identified in the Auditor General’s report. Citizens can use other avenues like open letters or social media, naming and shaming public such officials. However, the question would be why are the citizens not acting accordingly and hold the representatives accountable through various platforms, including courts of law? Perhaps the answer lies in the preceding sections where there is evidence of poor or no public consultation albeit the provisions of the Constitution and various legislation. When citizens do not even know about the strategies, legislation, plans or even the vision statements that seek to ensure development and good or quality service delivery, how can they act against improper conduct of those entrusted with the responsibility to serve or even government at large? Therefore, as much as citizens have recourse through courts of law, they are equally in the dark when it comes to key aspects of government’s developmental agenda. This situation could be likened to a minor who knows about his or her inheritance but has no say on how it is managed let alone knowing the exact value of the estate that could have been bequeathed.

Prior to the 1994 elections (first democratic elections) one observed a concerted effort not only to encourage people to exercise their democratic right but commitment and dedication

by various bodies to teach people about how to vote. However, such enthusiasm does not seem to prevail when it comes to educating citizens on how to hold their representatives accountable (see also Ngamlana and Poswayo, 2013: 96). This idea seems to be eluding even the opposition political parties who should be capitalising on this void and educate citizens. Instead, parties tout their manifestos and ask for people to vote them to government so that they can bring about the culture of accountability. Moreover, South Africa commemorates important historical events that are a cornerstone of the development of a democratic South Africa. Amongst those are Human Rights Day on 21 March, Freedom Day on 27 April, Youth Day on 16 June, Women's Day on 09 August and the Day of Reconciliation on 16 December. However, an observation made is that over the number of years since 27 April 1994, none of these days has ever been dedicated to educate the South African citizenry on its responsibilities. In this regard, there is wisdom in the NDP statement that the State must actively support and incentivise citizen's engagement and that citizens should actively seek opportunities for advancement, learning, experience and opportunity. They should also hold government, business and all leaders in society accountable for their actions.

This vision, however, requires dedication to citizenship education. Hence it could be prudent to consider the call made by Görgens, Maiko Kambala and Van Donk (2013: 40) for the creation of "citizenship academies" with the intention of creating spaces for communities, civil society organisations, government officials, politicians, and professionals to be equipped with relevant skills and information and to debate solutions various issues of concern. In addition, Ngamlana and Poswayo (2013: 97) advocate for civic education to be linked to the school curriculum. It is appears that this approach could greatly assist in the realisation of the NDP vision which is characterised by citizenry at the centre of development (as depicted in the figure below).



*Source: National development Plan (2012:26)*

## **Conclusion**

Investment in the education of the citizenry will yield positive results for the realisation of the NDP vision and the development of South Africa. If citizens are empowered and informed, and at the same time are part of the developmental process of the country, they will significantly add value to the objective of the development of a capable state. An empowered citizenry will discourage complacency on the part of the elected. The power of the citizenry will not only be realised during elections, but throughout the administration period of any government. As shareholders of the government business, citizens need to be empowered to behave as such. Just like in business, the government should ideally seek to please its shareholders. The ideal political engagement could only be achieved when the citizenry is empowered enough to understand what is due to them and what quality of service they should get from their tax investment. As noted in the 2014 Human Development Report (2014: 24-25) people empowerment is at the apex of building stronger foundations for more resilient people and societies.

## References

African Peer Review Mechanism (2014) Third Report on the Implementation of South Africa's APRM Programme of Action: Broadening public participation (Midrand: NEPAD).

Allan, K. and Heese, K, (2009) Understanding why service delivery protests take place and who is to blame (South Africa: Municipal IQ).

Auditor General of South Africa (2015) Consolidated General report on the audit outcomes of Local Government 2013-14 (Pretoria: AGSA).

Auditor General of South Africa (2014) PFMA 2013/2014 Consolidated General Report on National and Provincial audit Outcomes (Pretoria: AGSA).

Biesta, G. J.J. (2004) *“Education, Accountability, and the Ethical Demand: Can the democratic potential of accountability be regained?”* In Education Theory Vol. 54 (3) (Chicago: University of Illinois).

British Columbia (2014) Taxpayer Accountability Principles Strengthening Public Sector Governance and Accountability (Victoria: British Columbia).

Centre for Policy Studies (2006) *Poverty and the People's Contract: Reaping the post-apartheid dividen?* In Policy Issues and Actors Vol. 19 (6) (Johannesburg: Centre for Policy Studies)

Görgens, T Masiko-Kambala, P and Van Donk, M. (2013) *“Establishing citizenship academies to cultivate ‘cunning intelligence’ and ‘practical wisdom’ in local governance in South Africa”* in Active citizenship matters Perspectives from Civil Society on Local Governance in South Africa (Cape Town: GGLN).

Human Development Report (2014) Sustaining human Progress: Reducing Vulnerabilities and Building Resilience (New York: UNDP).

Moseneke. D. (2014) Keynote address: Reflection on South African Constitutional Democracy – Transition and transformation (Pretoria: (MISTRA-TMALI-UNISA)

National Planning Commission (2012) National Development Plan Vision 2030: Our Future – Make it work (Pretoria: Government Printer).

National Treasury and SARS (2013) 2013 Statistics: A joint publication between National Treasury and the South African Revenue Service (Pretoria: National Treasury and SARS).

Ngamlana, N and Poswayo, S (2013) “*Barriers to active citizenship in local governance in local governance in South Africa*” in Active citizenship matters: Perspectives from Civil Society on Local Governance in South Africa (Cape Town: GGLN).

Ngamlana, N and Mathoho, M (2012) “*Citizen-led spaces for participation in local governance: Lessons from the Good Governance Surveys*” in Putting participation at the heart of development putting development at the heart of participation: Perspectives from Civil Society on Local Governance in South Africa (Cape Town: GGLN).

Powell, DM O’Donovan, M and De Visser, J (2014) Civic Protests Barometer 2007-2014 (Cape Town: MLGI).

Public Service Commission (2012) Report on the Assessment of the Effectiveness of the Batho Pele Policy in Public Service Delivery (Pretoria: PSC).

Republic of South Africa (2000) Local Government: Municipal Systems Act 32 of 2000 (Pretoria: Government Printer).

Republic of South Africa (2003) Local Government: Municipal Finance Management Act No 56 of 2003 (Pretoria: Government Printer).

Republic of South Africa (1998) Local Government: Municipal Structures Act 117 of 1998 (Pretoria: Government Printer).

Republic of South Africa (1999) Public Finance Management Act 1 of 1999 (Pretoria: Government Printer).

Republic of South Africa (2013) Public Participation Framework for the South African Legislative Sector (Cape Town: Government Printer)

Republic of South Africa (1996) The Constitution of the Republic of South Africa. (Pretoria: Government Printer).

Shaidi, E W (2013) Investigation into Causes of Service Delivery Protests in Municipalities: A Case Study of Nelson Mandela Bay Municipality (Port Elizabeth: NMMU).

Van Donk, M, (2013) “*Citizenship as becoming*” in Active citizenship matters Perspectives from Civil Society on Local Governance in South Africa (Cape Town: GGLN)