EXAMINING THE EXTENT OF PARTICIPATION BY NON-GOVERNMENTAL ORGANIZATIONS IN THE KWAZULU-NATAL LEGISLATURE SINCE 1994

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Abstract

This study entails an examination of the extent of participation by the non-governmental organisations in the legislative process of the KwaZulu Natal legislature. It aims to explore how far these NGOs have taken advantage of the new South African polity based on transparency, openness and accountability. It is hypothesised that organised groups such as these have been very much involved in government decision- making process, since the start of the new democratic South Africa in 1994.

This study, however, proves, that there is very minimal public participation and especially NGO participation in the KwaZulu-Natal legislature and in government in general. It further uncovers are various problems experienced by these NGOs in trying to participate in the legislative process. The legislature's inaccessibility was seen as one of the major inhibiting factors. Apathy and lack of interest in the legislative process was also identified as a problem among these NGOs. This study has raised many issues that both the NGO sector and the KZN legislature itself have to address in order that our newly founded democracy can be truly nurtured.

This study is divided into two parts in which Part One explores literature on democracy, the policy making process and civil society to help give a clear indication on what various authors think should be the input of civil society in the policy making process of any democratic country. The second part looks at the South African situation and the findings of this study.

Declaration

This thesis was undertaken in the Centre for Government and Policy Studies, University of Natal Pietermaritzburg, with the supervision of Professor Ralph Lawrence. This is an original work by the author and has not been submitted in any form for any degree or diploma to any other university. Where the work of others have been used it has been duly acknowledged in the text.

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PART 1 : LITERATURE REVIEW

1.   INTRODUCTION

The 27th of April 1994 in South Africa will always be remembered as a day of new beginnings, the rebirth of our country. It would be difficult for many to forget the day when thousands of South Africans, young and old, stood patiently in long queues, waiting to cast their vote for a democratic country. This period saw South Africa experience a number of dramatic and miraculous changes . The old structures of apartheid died, then there was universal enfranchisement and constitutional reform. Consequently, the legislative and policy -making processes underwent momentous democratic changes. A key feature of these changes was the trend towards participatory democracy.

A wide variety of statutory provisions and new processes demonstrate the commitment to participatory processes beyond periodic elections. Ironically, in spite of all political developments in South Africa, socio-economic conditions are still largely dictated by the apartheid past. Indicators of social well-being, health, education, safe water, fertility, confirm that poverty is the overriding reality for the majority of South Africans (Indicator South Africa, 2000, p24) . One of the ways to empower the poor is to facilitate their participation in the legislative activities of the country.

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However, socioeconomic hardships have not always prevented people from effective participation. On the contrary, South Africans have a proud record of effective participation under conditions of extreme hardships. Civil society, in particular played a crucial role in the transition to a democratic society. This will be evident later in the discussion of the history of civil society in South Africa.

There is now a shift away from the narrow focus of getting rid of apartheid, to a broader goal of building a democratic society. Civil society is faced with the challenge of facilitating means for people to make their voices heard. In the policy making process of any democratic country, the relationship between the state and civil society informs the extent of democratic development of that country, in any form. There is therefore a need for an insight into the new policy-making approach, particularly regarding the extent of the public's involvement in the legislative process to find out if the country is as democratic as it is made out to be.

The first section will look at theories of democracy and public participation, thereby putting the whole discussion into context. The term democracy will be defined and different forms of democracy explored. The second section will examine the public policy making in the context of public participation. The third section will look at legislation and institutions for participation. This will assist in making one to understand the provisions made by our law for democracy to survive through ensuring public involvement in the legislative process. The fourth section will look at civil society and the state.

It is important to explore the significance of civil society in government, and also to learn what has been their contribution in government in other Third World countries. This discussion will assist in exploring the South African situation with regards to the extent of public of participation in the legislative process against its constitutional and institutional provisions.

2.   THEORIES OF DEMOCRACY AND PUBLIC PARTICIPATION

The South African Constitution offers to the people of South Africa a commitment to an open and democratic form of governance. It asserts that public participation is a cornerstone of a democratic government. Given the relationship that exists between democracy and public participation, it is worth exploring the concept and theories of democracy in order that a deeper understanding of public participation can be developed.

2.1   UNDERSTANDING DEMOCRACY

Definitions of democracy are many and varied. The word democracy is, however, conventionally used to refer to various systems of government which are said to be based on a majority rule. As a result democracy could be used to refer to any one of a number of forms of government. As such it becomes necessary to explore various meanings attached to the word of democracy for the purpose of this study. In doing this, authors including Larry Diamond, Moode and Studdert-Kennedy, Benjamin Barber and David Held will be examined.

Conventionally, democracy is said to be that system of government in which the ruling power of a state is legally vested, not in any particular population group or class, but in the people. Abraham Lincoln (President of the United States Of America 1861-1865) defined it as ' government of the people, by the people and for the people'.

Diamond (1999, p8) maintains that most scholarly and policy uses of the term democracy today refer to a purely political conception of the term. He refers to electoral democracy which he asserts descended from Joseph Schumpeter, who defined democracy as a system for "arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people's vote". He further asserts that Huntington, among others, explicitly embraces Schumpeter's emphasis on competitive elections for power as the essence of democracy.

Government by men and women elected in free and fair elections in which each citizen's vote is equally weighted (universal suffrage) has become the standard form of democracy (PIMS, 1999, p45). The underlying notion is that the elected representatives must directly represent the views of their constituencies- the electorate. In this regard " the mandate theory " posits clearly that representatives must only reflect the views of their supporters in various legislatures or public forums. They must remain informed of their constituents' views and wishes in various ways - through surveys, report backs and issue- based community meetings and constituency visits (ibid, p48).

According to Klug, Proctor and Young (1996, p17), there are complications with this form of democracy in the context of political parties. Instead of individual representatives bearing the mandates of their constituencies, the party is considered to have the people's mandate to represent or mediate the public view. This characteristic becomes even more important in a system of proportional representation. In this case, a party list determines who the individual representatives are and these representatives have little connection or accountability to a geographic constituency or community.

Elections are a precursor of democracy, but not constitute democracy. Yet without them nothing can happen. By gaining the consent of the electorate the government is granted the right to formulate policies. Elections are however not an end in themselves; citizens must participate directly through interacting with government. The Commission on Global Governance reports that many people expect more from democracy than two minutes in a voting booth every few years and that widening signs of alienation from the political process call for the reform of governance within societies, for decentralisation, for new forms of participation, and for the wider involvement of people than democratic institutions have allowed (Commission on Global Governance, 1995). To be genuine, democracy must not only allow for vigorous electoral competition for power, but also for conflict and discussion on a continuing basis between parties, interest groups and social improvements with different policy visions and interests.

If democratic exercises are confined to a periodic vote, David Held believes there will exist few opportunities for citizens to act as citizens, that is, to be participants in public life (Held, 1996, p323). He elaborates a view of 'democratic autonomy' which he defines thus : persons should enjoy equal rights and, accordingly, equal obligations in the specification of the political framework which generates and limits the opportunities available to them; that is they should be free and equal in the determination of conditions of their own lives, so long as they do not deploy this framework to negate the rights of others. (Held,1996, p324). The key features of ' democratic autonomy' are the state and civil society operating under a set of general conditions in public affairs; the introduction of ' citizen juries' and ' voter feedback' in order to enhance the process of enlightened participation; overall investment priorities set by government in discussion with public (Held,1996, pp324-325).

Diamond (p10) contrasts electoral democracy with liberal democracy. He maintains that in addition to the elements of electoral democracy , liberal requires first the absence of reserved domains of power for the military or other actors not accountable to the electorate, directly or indirectly. Second, in addition to the vertical accountability of rulers to the ruled (secured mainly through elections), it requires the horizontal accountability of office holders to one another; this constrains executive power and also helps protect constitutionalism, legality, and the deliberative process. Third, it encompasses extensive provisions for political and civic pluralism as well as for individual and group freedoms, so that contending interests and values may be expressed and compete through ongoing processes of articulation and representation, beyond periodic elections.

In the same vain, Moode and Studdert- Kennedy(1970, p14) view the principle of democracy as being three dimensional, the dimensions being those of discussion, power and security. It is a system of government in which decisions arise from a process of discussion, in which power is evenly and widely distributed, in which sections within the polity are able to continuously and without challenge to exercise preponderant power, and in which the individual is secure enough from arbitrary external control, by private or governmental agencies to be able to freely participate in the process of discussion and fearlessly to use the political resource at his command. In their explanation of discussion Moode and Studert-Kennedy (1970, p14) assert that the view that discussion and not violence or other forms of coercion, is the distinctive method of democratic government derived from the liberal democrat's conviction that no man or group of men know, with absolute and exclusive certainty, the answers to all human problems. All thoughts and action must be criticised for the sake of efficiency, acceptability and the avoidance of rigid orthodoxies.

Diamond in Schlemer and Gilmore (1994, p48) defines democracy as a system of institutionalised competition for power (with broadly inclusive political participation and effective guarantees for civil and political rights). The participatory model of democracy maintains that the exercise of power is good for citizens. In this sense, democracy would allow all citizens and not only elites, to acquire a democratic political culture (Deegan, 1999, p6).

According to Diamond (1999, p18) it is important not to take the existence of democracy, even liberal democracy, as cause for self congratulation. Democracy should be viewed as a developmental phenomenon. Even when a country is above the threshold of electoral (or even liberal) democracy, democratic institutions can be improved or deepened or may need to be consolidated; political competition can be made fairer and more open; participation can become more inclusive and vigorous; citizen's knowledge, resources and competence can grow, elected (and appointed) officials can be made more responsive and accountable; civil liberties can be better protected; and the rule of law can become more efficient and secure. Viewed in this way, continued democratic development is a challenge for all countries, including the United States; all democracies , new and established, can become more democratic.

Diamond (1999, p70) maintains that one of the challenges of democratic deepening is to provide citizens with access to power and to make institutions of democracy more responsive to their preferences. Democracy is enhanced where the role of representative structures is supplemented by allowing and encouraging direct and participatory democracy and where people exercise the power to take part in decision making processes and the structures of democracy are more liberal, accountable, representative and accessible. More democracy makes government more responsive to a wider range of citizens. The greater the opportunities for expressing, organising and representing political preferences, the greater the number and variety of preferences and interests that are likely to be represented in policy making.

Moode and Studdert-Kennedy(p14) also feel that the only way to ensure that 'ordinary people' will be accorded the participatory right is to back it with popular power- otherwise the unprivileged, the unwealthy, and the prestigeless will forever also be the exploited, the dispossessed, and the unheeded. Another reason why a democratic process of discussion requires substantial sharing of power, is that one cannot talk of a genuine discussion unless all the participants accord one another a genuine hearing - a discussion is not a one way process. This is to say that they must all regard the others with sufficient degree of esteem and respect to listen as well as talk or give orders.

Diamond (1999, p86) further asserts that the improvement and invigoration of democracy will not solve all social and economic problems that societies face. But widening the scope of public deliberation, empowering historically marginalised and alienated groups, and increasing citizen competence and government responsiveness - reforms that deepen and extend democracy- may increase the sophistication of mass public and legitimacy (and hence the governing of capacity) of elected officials. Beyond this, increasing citizen competence and participation in the political process will spill over into other arenas of social life.

Diamond (1999, p64) further asserts that democracies must be strengthened and improved within. The overriding imperative is to consolidate those democracies that have come into being during the third wave. Consolidation requires more than a commitment to democracy in the abstract, that democracy is "in principle" the best form of government.

For a democracy to be consolidated, elites, organizations and the mass public must all believe that the political system they actually have in their country is worth obeying and defending. This robust legitimacy involves a shared normative and behavioural commitment to the specific rules and practices of the country's constitutional system (Diamond, 1999, p66).

Finally, Barber (1984, p117) advocates for strong democracy as a distinctively modern form of participatory democracy. It rests on the idea of a self - governing community of citizens who are united less by homogenous interests than by civic education and who are made capable of common purpose and mutual action by virtue of their civic attitudes and participatory institutions rather than by their altruism. Active citizens govern themselves directly here, not necessarily at every level and in every instance, but frequently enough and in particular when basic policies are being decided and when significant power is being deplored. Self-government is carried on through institutions designated to facilitate ongoing civic participation in agenda setting, deliberation, legislation and policy implementation.

The discussion above shows that if a country is to regard itself truly democratic public participation should be clearly visible and vigorously encouraged. The public should involve itself and make input in all policy decisions that would affect them. It is in this context that a discussion on the process followed in public policy making is examined.

3. PUBLIC PARTICIPATION IN PUBLIC POLICY MAKING
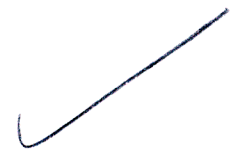
Generally, public officials as well as public institutions are always accused of narrow-mindedness,, facelessness, rudeness, having a disregard for society, inability to deliver as well as failure to communicate with the public at large. The truthfulness of these accusations is, however, beyond the scope of this study. It is, however, true that the shaping of public policies, is to a greater or lesser extent influenced by public opinion and participation by the public in matters they believe affect them directly, together with what is perceived to be in the public interest. The following section will therefore deal with the aspect of public policy making and the role of the public in the whole process.

3.1 PUBLIC POLICY DEFINED

Hanekom (S. X. 1996, p7) defines public policy as a formally articulated goal that the legislator intends pursuing within a society or with a societal group. Friedrich in (Anderson, 1997, p9), on the other hand, regards policy as a proposed course of action of a person, group, or government within a given environment providing obstacles and opportunities which the policy was proposed to utilize and overcome in an effort to reach a goal or realise an objective or purpose . According to Kingdon (1995, p2) public policy making can be considered to be a set of processes including; the setting of the agenda, the specification of alternatives from which the choice is to be made, an authoritative choice among those specified alternatives and the implementation of the decision.

Problem identification , agenda setting and policy formulation constitute the predecision segment of the policy process in that they do not involve formal decisions on what will become public policy. They are important, however, because they help determine which issues will be considered. It is during these stages that greater public participation is required. The following section on the process of policy making will entail a thorough examination of Kingdon's theory with more emphasis on the role of policy entrepreneurs in these processes.

3.2   AGENDA SETTING

Kingdon (1995, p87) maintains that there are three major processes in the government's agenda setting; problem recognition, formation and refining of policy proposals and politics. These three streams of processes develop and operate largely independent of one another, although not absolutely independently. These separate streams do however come together at critical times as will be shown in the discussion below.

3.2.1 THE PROBLEM STREAM

According to Kingdon (1995, pp90 -91) at any time people in and around government could attend to a long list of problems. Obviously they pay attention to some potential problems and ignore others. Sometimes their attention is affected by a more or less systematic indicator of a problem.

Such indicators abound in the political world because both governmental and non-governmental agencies routinely monitor various activities and events : highway deaths, disease rates, immunization rates, consumer prices, commuter and intercity ridership, costs of entitlement programs, infant mortality rates, and many others. Decision makers and those close to them use the indicators in two major ways : to assess the magnitude of a problem and to become aware of changes in the problem. Demonstrating that there is indeed a problem to which one's solution can be attached is a very real preoccupation of participants in the policy process. It helps for a problem to be countable. The indicator itself is very powerful.

Kingdon(1995, p94) maintains that problems are not self evident by the indicators. They need a little push to get the attention of people in and around government. That push is sometimes provided by a focussing event like a crisis or disaster that comes along to call attention to the problem, a powerful symbol that catches on, or the personal experience of a policy maker. Sometimes crises come along that simply bowl over everything standing in the way of prominence on the agenda. However, crises, disasters, symbols and other focussing events only rarely carry a subject to policy agenda prominence. They need to be accompanied by something else. Failure to solve or even address, as well as success, may result in its demise as a prominent agenda item. It takes time, effort, mobilization of many actors, and the expenditure of political resources to keep an item prominent on the agenda.

Feedback about the operation of existing programs, also bring to the attention of government the extent of a problem (Kingdon, 1995, p101).

Problem recognition is critical to agenda setting. The chances of a given proposal or subject rising on an agenda are markedly enhanced if it connected to an important problem. So policy entrepreneurs invest considerable resources bringing their conception of problems to officials' attention, and trying to convince them to see problems their way (Kingdon,1995, p198). The process of fixing attention to one problem rather than another is a central part of agenda setting.

3.2.2 POLITICAL STREAM

Kingdon(1995, p198) maintains that developments in the political sphere are powerful agenda setters. A new administration, for instance, changes agendas all over town as it highlights its conceptions of problems and its proposals, and makes attention to subjects that are not among its high priorities much less likely.

Also, people in and around government sense a national mood . According to Kingdon (1995, p146) governmental participants' sense of the national mood serves to promote some items on their policy agendas and to restrain others from rising to prominence. Generally government officials and those near them have a lot of experience with collections of attentive public, activists, and political elites. They hear from interest groups , read newspaper editorials, they give talks and listen to comments and questions at meetings and they talk to party activists and other politicos who presumably have their ears to the ground.

A shift in climate according to people who are actively involved in making or affecting public policy, makes some proposals viable that would not have been viable before,

and renders other proposals simply dead in the water. Advocates for the newly viable alternative find a receptive audience, an opportunity to push their ideas. Consensus is built in the political stream by bargaining more than by persuasion.

Governmental officials judge the degree of consensus among organised political forces. If they find that all interest groups and other organised groups point them in the same direction, the entire environment provides them with powerful impetus to move in the same direction. But if there is some conflict among the organized forces, then political leaders implicitly arrive at an image of their environment that strikes some balance between those for and those against a given proposal, or for and against the emergence of an item to agenda prominence (Kingdon, 1995, p163).

The political stream is an important promoter or inhibitor of high agenda status. The combination mood and elections has particularly powerful impacts on the agenda. It can force some subjects high on the agenda, and can also make it virtually impossible for government to pay serious attention to others. But once the item is on the agenda , organised forces enter the picture, trying as best they can to bend the outcomes to their advantage, either by affecting the final compromises over the alternatives to be considered or, in some case, defeating proposals altogether (Kingdon, 1995, p164).

3.3   POLICY STREAM (GENERATING ALTERNATIVES)

Before a subject can attain a solid position on a decision agenda, a viable alternative must be available for decision makers to consider. The availability of a solution increases the chances of a problem rising on the decision agenda. Rather than simply

complaining about a policy or law it is better to provide alternatives through research and presentation of evidence. No campaign will succeed without detailed compelling facts and figures. Those who are directly affected by a policy or law know as much as they need to about the issue, they can speak about how much it affects them which is often the most powerful evidence.

According to Kingdon (1995, p201) alternatives, proposals and solutions are generated and narrowed in the policy stream and relatively hidden participants, specialists in the particular policy area are involved. Within the policy communities, many ideas are considered at some stage and in some way. Getting the policy community receptive to a new idea takes a long period of softening up.

Policy entrepreneurs - people who are willing to invest resources of various kinds in hopes of a future return in the form of policies they favour-push their ideas in many ways. They aim to soften up the general public, more specialised public and the policy community itself. Softening up seems to be necessary before a proposal is taken seriously. Many good proposals have fallen on deaf ears because they arrived before the general public, the specialised public or the policy communities were ready to listen.

Proposals that meet several criteria enhance their chances of survival. They are technically feasible; that is, worked out and capable of being implemented. They are acceptable in the light of values held by members of the policy community. These values include not only notions of the proper role and size of government, but also concepts of equity and efficiency. A policy community produces a short list of ideas.

This short list is not necessarily a consensus in the policy community on the one proposal that meets their criteria; rather, it is an agreement that a few proposals are prominent. Having a viable alternative available for adoption facilitates the high placement of a subject on a governmental agenda (Kingdon, 1995, pp143-144)

Entrepreneurs do more than push, push and push for their proposals or for their conception of problems. They also lie in wait in and around government with their solutions at hand, waiting for problems to float by to which they can attach their solutions, waiting for development in the political stream they can use to their advantage (Kingdon, 1995, p165). The policy window is an opportunity for these advocates to push their solutions or to push attention to their special problems. These policy windows, the opportunities for action on given initiatives, present themselves and stay open for only short periods. If the participants cannot or do not take advantage of these opportunities, they must bide their time until the next opportunity comes along. The short duration of the open window lends powerful credence to the old saying " strike while the iron is hot" (Kingdon, 1995, p166).

There comes a time when the three streams are joined. A pressing problem demands attention, for instance , and a policy proposal is coupled to the problem as its solution. Or an event in the political stream, such as a change of administration, calls for different directions. At that point, proposals that fit with the political event, such as initiatives that fit with the new administration's philosophy, come to the fore and are coupled with the right political climate. Policy entrepreneurs must develop their ideas, expertise and proposals well in advance of the time the window opens. Without that earlier consideration and softening up, they cannot take advantage of the window

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when it opens. Action during this stage include building political coalitions, meeting with decision- makers, building awareness and delivering effective messages. They must identify key individuals who are the people to be persuaded. They are members of parliament, local councillors, key ministerial or department advisors or the president himself (Kingdon,1995, p201). The probability of an item rising on the decision agenda is dramatically increased if all three streams - problems, policies and politics - are joined. None of the streams are sufficient by themselves to place an item firmly on the decision agenda (Kingdon,1995, p178).

Kingdon(1995), Hanekom(1996) and Anderson(1997) all agree that interest groups are important in agenda setting because they promote new agenda items or advocate proposals. A group that mobilises support, writes letters, sends delegations and stimulates its allies to do the same can make government pay attention to its issues. Good advocates decide which problems to address and attempt to get the target institution to recognise that the problem needs action. The louder they shout, the higher the issue can get on the agenda.

Kingdon (1995, p49) maintains that even if an interest group raise an issue, it does not necessarily control the debate once the issue is raised. Indeed, a central interest group activity is attaching one's own alternative to agenda items that others may have made prominent. Lobbies often do not begin the push for legislation or the push for agenda status. But even if they haven't started the ball rolling, once it starts rolling they try to ensure that their interests are protected in the legislation that emerges (i.e. they affect the alternatives considered , even if they haven't affected the agenda).

3.4   DECISION MAKING

According to Parsons (1995, p245), the notion of a decision involves a point or series of points in time and space when policy-makers allocate values. Decision making in this sense extends throughout the policy cycle; for example, decisions about what to make a "problem"; what information to choose; choices about ends and means; choices on how a policy is implemented; choices about how a policy may be evaluated. In analysing the decision-making process three major approaches and categories will be outlined here; namely, power, rationality and institutional approaches.

3.4.1 POWER APPROACHES TO DECISION MAKING

According to Parsons (1995, p248) power models view decision-making as something which is shaped and determined by the structures of power: class, wealth, bureaucratic and political arrangements, pressure groups, and technical knowledge or professionals. This section will therefore look at elitist and neo-elitist models, Lasswell and power elites, pluralism and neo-pluralist approaches as discussed by Parsons as well as look at Steven Lukes three dimensions of power.

Elitist models in Parsons(1995, 248) hold that power is concentrated in the hands of a few groups and individuals. They argue that in the real world, there are those at the top with power and the ' mass' without power. They further argue that the classless society is a myth and democracy is little more than a sham. Mosca and Pareto's ideas

in Parsons (1995, p250) form the basis upon which later elitist approaches were to be formulated. They later modified their position by arguing that democracy could be viewed as a form of politics in which elites compete for the people's vote in order to secure legitimacy for elite rule. Lasswell accepted Pareto's idea that there was a circulation of elites in democracy and argued that in the modern era, a shift was taking place from a class struggle between different skill groups. These skill groups included; those skilled in the use of violence(such as military and police elites); those with communication and propaganda skills; those with business and commercial skills; "technocrats" who posses specialist technical knowledge; and bureaucrats with administrative or organisational skills. His great fear was that, when combined, these new elites posed a dangerous threat to democracy (Parsons, 1995, p250).

Lukes (1979, p16) , on the other hand, looked into three different views of power which he referred to as the one dimensional view (view of the pluralists), the two dimensional view (view of their critics) and the three dimensional view. The one dimensional view is often called the pluralist view of power. In the pluralist approach, an attempt is made to study specific outcomes in order to determine who prevails in decision making. The stress is on the study of concrete, observable behaviour. It involves a focus on behaviour in the making of decisions on issues over which there is an observable conflict of (subjective) interests, seen as expressed policy preferences, revealed by political participation.

In their critique of this view, Bachrach and Baratz (in Lukes,1979, p16), argue that this view is restrictive and thus give a misleading picture of the whole political system. Their central point is this: ' to the extent that a person or group- consciously or

unconsciously creates or reinforces barriers to the public airing of policy conflicts, that person has power. The importance of Bachrach and Baratz's work is that they bring this crucially important idea of the 'mobilisation of bias' into the discussion of power. Their typology of power embraces coercion, influence, authority, force and manipulation. The two dimensional view therefore looks at both decision-making and non decision making. Non decision- making is a means by which demands for change in the existing allocation of benefits and privileges in the community can be suffocated before they are even voiced; or kept covert; or killed before they gain access to the relevant decision-making arena; or, filing all these things, maimed or destroyed in the decision- implementing stage of the policy process. Just as the pluralists hold that power in decision-making only shows up where there is conflict, Bachrach and Baratz the same to be true in cases of non decision making (Lukes, 1979, pp18-19).

The three dimensional view of power involves a thoroughgoing critique of the behavioural focus of the first two views as too individualistic and allows for consideration of the many ways in which potential issues are kept out of politics, whether through the operation of social forces and institutional practices or through individuals' decisions. This, moreover, can occur in the absence of actual, observable conflict, which may have been successfully averted - though there remains here an implicit reference to potential conflict. This potential, however, may never in fact be actualised. What one may have here is a latent conflict, which consists in a contradiction between the interests of those exercising power and the real interests of those they exclude. These latter may not express or even be conscious of their interests (Lukes, 1979, pp24-25). The problem with both Bachrach and Baratz and the pluralists is that they see power as only showing up in cases of actual conflict. But

this ignores the crucial point that the most effective and insidious use of power is to prevent such conflict from arising in the first place. To assume that the absence of grievance equals genuine consensus is simply to rule out the possibility of false or manipulated consensus by definitional fiat (Lukes, 1979, p24).

Lukes further looks at Hannah Arendt's definition of power in which she writes that power corresponds to the human ability not just to act in concert. Power is never the property of the individual; it belongs to a group and remains in existence only so long as the group keeps together. When we say of somebody that he is ' in power' we actually refer to his being empowered by a certain number of people to act in their name. The moment the group, from which the power originated to begin with disappears, 'his power, also vanishes. All political institutions are manifestations and materializations of power; they petrify and decay as soon as the loving power of the people ceases to uphold them (Lukes, 1979, pp27-29).

According to the PPP Training Manual (2000, p90) different people's understanding of the purpose or goal of an advocacy intervention and the appropriate steps in the advocacy process depend on their conception of power and political change. Advocates in the public interest approach which is based on the pluralist view of power, focus on gathering specialist information to change the views of political representatives. The citizen approach, on the other hand, challenges the notion that the political arena is equal. According to this view, there are barriers to participation in political process. Money is vital for power. To gain access to decision making those without power need to be organised around grievances. Advocates in this situation would focus on organising people around an issue and ensuring that they are

equipped with the right information and skills. Lastly, the transformation approach is based on the concept of hegemony where social values embodied and perpetuated by the media and educational system shape consciousness about barriers to participation. Oppression and passivity are so internalised that the powerless believe their lack of access is due to their own inadequacy. Advocates then need to change the way people think about the problem and their power to change the situation.

3.4.2 RATIONALITY AND DECISION- MAKING

According to Parsons (1995, p271) the rational approach to decision-making has two contexts or sources; the idea of economic rationality as it developed in economic theory and the idea of bureaucratic rationality as formulated by sociological theories of organizational and industrial society. Rationality has its roots in the construction of 'economic man". In making decisions economic man derives his choice from the acquisition of all the information necessary, comparing the information on different options, and then selecting that option which will enable him to achieve his goals and interests.

Herbert Simon's work in Parsons (1995, p308) is central to the analysis of rationality in decision-making. He argues that it is impossible for the behaviour of a single, isolated individual to reach any high degree of rationality. The number of alternatives he must explore is so great, the information he would need to evaluate them so vast that even an approximation to objective rationality is hard to conceive. Thus Simon characterises decision-making by 'administrative man' as operating in a world of

bounded rationality and as motivated by satisficing, rather than maximizing: this means that he makes decisions which are not derived from an examination of all the alternatives. Simon's work does advocate the use of rational techniques and computers in order to solve problems. Lindblom (Parsons, 1995, p310) on the other hand, felt that we need to be more appreciative of ' non comprehensive analysis'. He proposed muddling through as a method or process for decision making.

3.4.3 INSTITUTIONAL APPROACHES

Selznick (in Parsons, 1995, p325) believed that the focus of institutional analysis should be the way in which organizations interact with their environments so as to adapt, survive and thrive. The decision - making which takes place in organizations is therefore influenced by its dependence on the environment in which it is situated, rather than on purely formal, rational consideration. Parsons, however, argues that Selznick's approach does not take account of power within and around organisations. Organizations, according to Selznick's model, adapt to deal with their environments. However, one could argue that there is a possibility that some may be powerful enough to shape their environment to suit themselves. Some organisation are better resourced and less dependent on their environment than others (Parsons, 1995, p326).

The discussion above shows that there are many challenges that are faced by civil society in a democratic country to ensure that all decisions are influenced by the views of the public. After all it is the public itself which put politicians in their positions

to represent their interests. It is, however, very difficult for an individual member of the public to have any significant influence on decisions, unless they have organised themselves into a group. It is in this context that the importance of civil society in a democratic country becomes apparent. The next section will therefore look at the importance of civil society and its relationship to the state.

4.   CIVIL SOCIETY AND THE STATE

At the roots of politics in whatever national context is the interactive relationship between the state and its people. Without some meaningfully structured cleavage in society, it is hard to see how democratic politics can operate. It will be impossible for the whole population to perform the ruling functions or to participate in government. Civil society is an intermediary phenomenon standing between the private sphere and the state. Civil society encompasses a vast array of organizations, formal and informal including economic, cultural, informational and educational, interest, developmental, issue oriented and civic bodies. It thus becomes important for one to explore the concept of civil society and its relationship to government.

4.1   THE IMPORTANCE OF CIVIL SOCIETY

As noted above , public participation in a democracy is more than just voting in elections or other involvement with government. Citizens frequently form their own organizations which have various goals such as improving the community, preserving the environment, protecting human rights, improving health, or participation in cultural

or recreational activities. These type of organizations are referred to as non-governmental organizations or non profit organizations, civic or voluntary organisations. When people act through non-governmental organisations they are taking part in what is called "civil society".

There are many definitions of civil society. Diescho (1997) maintains that there are no clear consensus in the social sciences as to the definition of civil society. Most theoreticians attempt to define civil society by contrasting the enterprise of governance by the state with the activities by members of the society in an effort to improve their lot. Diamond (1999, p221) defines civil society as the realm of organised social life that is open, voluntary, self generating, at least partially self supporting, autonomous from the state, and bound by a legal order or set of shared rules. It is distinct from"society" in general in that it involves citizens acting collectively in a public sphere to express their interests, passions , preferences and ideas, to exchange information, to achieve collective goals, to make demands on the state, to improve the structure and functioning of the state and to hold state officials accountable.

Many people believe civil society is a necessary part of any democracy. According to Barber (1984, p45) democracy can survive only as strong democracy which is secured not only by great leaders but also by competent , responsible citizens. Effective dictatorships require great leaders. Effective democracies need great citizens. Deegan(1999, p65) also feels that in a democratic society, civil society is both necessary and important. It can provide a ballast against the power of the state and permit the existence of channels of public expression in order that society's wishes can be articulated. Without civil society there is no motive for state actors to

recognize the demands of society and all the temptations of arbitrary rule can become a reality. When citizens participate in a civil society they make important decisions and carry out essential programmes. A group of people become a community when they work together towards a common goal.

A group of citizens is often more able to influence matters than an individual. Government, public and commercial bodies find it difficult to ignore a group of committed citizens. Further Diamond (1999, p59) also feels that civil society is important to democracy, because it provides a basis for the limitation of state power, hence for the control of the state by society, and hence for democratic political institutions as the most effective means of exercising that control. He further maintains that civil society provides an especially strong foundation for democracy when it generates opportunities for participation and policy access at all levels of governance, including the local level, thus deepening democracy and feelings of political efficacy and legitimacy. By enhancing the accountability, responsiveness, inclusiveness, effectiveness and hence legitimacy of the political system, a vigorous civil society gives citizens respect for the state and positive agreement with it.

According to Diamond (1999, p233) civil society advances democracy in two generic ways : by helping to generate a transition from an authoritarian rule to (at least) electoral democracy and deepening and consolidating democracy once it is established. In a number of prominent cases, civil society has played a crucial role, if not the leading role, in producing a transition to democracy. When this democracy has been achieved, civil society organizations need to adapt their missions, functions, structures to an altered political and social context, new imperatives and different

opportunities.

However, Roniger and Guness- Ayata (1994, p125) feel that civil society is not coterminous with democracy and does not necessarily lead to democracy. In Islamic societies such as Iran, for instance, the strength of civil society did indeed reshape the state but did little to generate democracy. In Sweden and Japan, in contrast, civil society is weak, yet democracy flourishes. In India both civil society and democracy may be working effectively, albeit not in mutually reinforcing directions.

4.2   CIVIL SOCIETY IN THE THIRD WORLD

Haynes (1997, p2) maintains that Third World governments have not only had to deal with an often hostile or at least uncertain, international economic environment. They have also had to try to win the trust of their citizens by policies perceived in the ' national interest'. Many governments have found both tasks to be beyond their capabilities. The result has been that initial loyalty and belief in government's efficacy has often drained away, replaced by popular cynicism regarding the state's competence and probity. Governments are perceived as vehicles for the self- interest of tiny elites and their ethnic, religious or class allies.

Nonetheless, hundreds of thousands of ordinary people in the Third World - in both rural and urban areas-are displaying different degrees of militancy by attempting to articulate and pursue what they see as their interests through collective effort.

While they are involved in a range of activities, economic development and the sociopolitical empowerment of subordinate groups-the poor, the young, women, religious and ethnic minorities- are frequent aims. Despite great diversity, what such endeavours have in common is that they are often beyond the control of the government.

Haynes further argues that Third World action groups, by seeking to protect and promote member's interests, are contributing to the slow emergence of the democratic process by strengthening and enlarging civil society. He says that Third World civil societies are often rather ineffectual counterbalances to the power of the state, not up to the job of controlling it because they are often weak and fragmented. In particular, popular participation, transparency in government operations and accountability are all inadequate. The effectiveness of civil society is dependent on (1) its cohesiveness, (2) a country's level of economic development (3) the length of time a country has been independent and (4) the extent of ethnic or religious schisms in the society.

The Africa Leadership Forum has discussed the need to strengthen civil society as a way of achieving unity, of building support for the institutions of democracy, and of preparing people to participate in governance. This would involve a deliberate task of enabling people to form and operate associations of various kinds such as cooperative societies, farmer's associations, guilds of artists, professional associations and even political parties. Membership in organizations will change the worker and other members of society, their way of life, their consciousness of themselves and their society (Africa Leadership Forum1991, p67).

Typically a transition to democracy is accompanied by and quite often derives its momentum and much of its ultimate from the "resurrection" or emergence of a pluralistic and assertive civil society. During the transition, all sorts of organisations, movements, and networks push not only for their narrow functional or ideological interests, but for democracy and civil liberties. However, after the transition, this systematic concern for democracy tends to fall away in the interplay of competing group interests. Yet experience shows that democratic consolidation is facilitated not merely by a pluralistic civil society, but by the emergence of citizen's groups devoted to improving and deepening the political process - democratic participation, representation, and governance - rather than to the pursuit of more pluralistic group aims (Deegan, 1999, p12).

5.   CONCLUSION

The South African Constitution presents an interesting and exciting challenge for both the government and the public in that it makes it obligatory for public participation to take place in the legislative process. Civil society is faced with a challenge to participate effectively in many public debates. The government, on the other hand, faces the challenge of ensuring that the framework on paper becomes a reality. My study is based on the premise that, without genuine civil society, it is impossible for democracy to survive. It is thus important to explore the issue of civil society's participation within the provincial legislature.

The following section will look at the South African situation with regards to the context under which the government operates, the history of participation in South Africa as well as structures and functions of government. This information will be used as a framework to analyse data that will be gathered from different non-governmental organizations within the field of social welfare. These interviews will used to determine the extent of these organization's participation in the provincial legislative process, the problem that they experience in participation, and what they think should be done to improve it.

PART II : FINDINGS OF THE STUDY

6.   INTRODUCTION

The policy making process followed by the South African government has changed since 1994. Prior to the election of the first democratic government, policy making was a very closed affair with very little, if any public participation. This has changed with the new South African Constitution which asserts that South Africa is a representative and a participatory democracy. The Constitution provides for public access to and involvement in the legislative process. Participation in the legislative process is open to both the weak and unorganised, as well as the organized and powerful .

The focus of this study is on examining the participation of the organised groups particularly non-governmental organizations in the KwaZulu-Natal legislative process. The legislative authority of the nine provinces in South Africa is vested in the provincial legislature of each province. It is therefore the responsibility of each provincial legislature to ensure that all the necessary steps are taken to ensure that public opinion is taken into account in decision-making. This, however, does not mean that civil society cannot push for issues to get onto the governmental agenda.

6.1 THE NEED FOR THE STUDY

In studying public policy one is made to understand that policy communities are composed of specialists in a given field, interests groups, academics and the general public, contributing to governmental agendas and alternatives through the generation of policy proposals. The transformation of the South African polity therefore justifies the need to evaluate the role of civil society and especially that of non-governmental organisations in the policy making or legislative process in the KwaZulu-Natal legislature. There is a need for an insight into the new policy making approach. It is therefore important to find out how NGOs have taken advantage of participatory democracy.

6.2 THE AIM OF THE STUDY

Firstly, the study aims to establish the extent of participation by non-governmental organizations in the legislative process of the KwaZulu-Natal legislature. It also aims to review current practises and procedures in the provincial legislature against the provisions of the Constitution, to find out if enough is being done by the provincial legislature to ensure public participation.

6.3 RESEARCH METHODOLOGY

The study was conducted using both primary and secondary sources. Structured individual interviews were used to elicit responses from thirteen non-governmental

organisations in the province. Secondary sources included attendance registers, minutes of proceedings, invitations to meetings, Hansard reports and annual reports of the KZN legislature, rules of the KZN legislature and the constitution.

This study has entailed an extensive piece of research which has had to be carried out in a relatively short time. Hence, it does not purport to be a comprehensive assessment of all NGOs in the province. The focus is on the work of one portfolio committee in the legislature which is the welfare portfolio committee.

The reason for choosing this portfolio committee was that it represents the needs of a number of South Africans as has been statistically proven that the needy, the unemployed, the disabled, the AIDS sufferers form a large part of the South African community. They key respondents were thirteen of the NGOs dealing with welfare issues in and around Durban and Pietermaritzburg. A preliminary exercise was conducted in relation to two organizations to ascertain whether the method will be useful for the whole study.

The study, therefore, first tracks the context of participation in the South African history. It further looks at the structures and processes for public participation in the legislative process and more particularly the KwaZulu- Natal legislature. Findings of the preliminary study are then presented to show how the method was tested. Lastly, the findings of the study are presented, analysed and recommendations on what should be done are made.

7. PUBLIC PARTICIPATION IN THE SOUTH AFRICAN CONTEXT

Public participation in South Africa, like its political and legal history follows patterns of participation which are defined racially into broad categories of formal and ' legal' activity on one hand, and informal 'illegal' protest on the other hand. Whilst it may be true that South Africa has undergone profound political changes, it is also the case that the prevailing socio-economic conditions are largely determined by the apartheid past. Improving public participation in the legislative activities of this country would serve as an impetus to empowering those affected by poverty. Indeed the founding principles of the present government clearly indicates its commitment to this course. The legislatures provide a vital interchange for the public to engage with law and policy - makers on questions of socio-economic transformation.

The creation of provinces as political entities, followed by creation of new legislative institutions, has added important dimensions to provincial politics. Provincial governments are a sphere of government less removed from the national government, and thus legislation and policy are more likely to directly affect the people of that particular province.

7.1. HISTORY OF PUBLIC PARTICIPATION IN SOUTH AFRICA

The experience of democratic participation during the struggle against apartheid provides the foundation for the extensions of democracy. For most activists and communities, exposure to active political participation came through trade unions,

local community structures (street committees and people's courts), and civic associations. South Africans of all political persuasions came together in a multitude of groupings to form organizations which furthered specific goals. A large amount of civil society activity grew up around the struggle against apartheid. Non-governmental organizations in particular, played a crucial role in the anti-apartheid struggle and had a strong sense of identity and an easily available agenda which provided a sense of political purpose and direction. It is obvious that these organisations helped to achieve the downfall of apartheid but it is also obvious that the downfall of apartheid created a new set of challenges for civil society in South Africa.

The nature and focus of public participation changed dramatically with the making of South Africa's new constitution in 1994 to 1996. CODESA and later multi-party negotiating forum set a precedent for public participation in policy issues. Replacing the fairly clear division between the old order, on the one side of the table, and those demanding change on the other, issues emerged that brought participants together across party lines and even across the traditional divide between supporters and opponents of apartheid. For example, women came together from all political groupings to demand more participation for women in their own parties and in the forum itself. Within the political parties, too, the first round of constitution-making generated participation ranging from conferences and meetings to formulate constitutional proposals to educational activities within branches to explain the parties' position and generate support for particular constitutional options(Klug et al, 1996, p45) .

With a large budget and a strong commitment to reaching the population, the National Assembly held meetings throughout the country to hear the views of ordinary South African citizens and conducted a massive public education program on the procedures and substantive issues being addressed in writing the new constitution. In advertisements on the sides of buses and full page newspaper advertisements the public was called to submit their views and the response was very overwhelming.

Telephone help lines to answer specific queries and an audio-text Constitutional talk line which provided prerecorded information in a selection of languages was made available. All these activities were supplemented by a national television program focussing on issues before the constitution making body and a site on the Internet was created with provisional draft texts of different provisions of the new constitution as they were being developed and debated by the assembly (Klug et al , 1996, p46).

With the inauguration of the democratic government in May 1994, the initial optimism regarding how NGOs might work with government rapidly vanished, as the new democratic government struggled to come to terms with the apartheid bureaucracy that it had inherited . Non-governmental organisations while playing a critical role in policy thinking in relation to almost every area of human endeavour , largely began to see themselves as victims of the transition. This was brought out by significant shifts in donor funding patterns, the uncertainty of the funding environment and high levels of mobility of people out of the NGO sector (IMPD, 1996, p13)

8. OFFICIAL PROVISIONS FOR PUBLIC PARTICIPATION

South Africa is a new player in democratic governance and therefore it is also necessary to put our discussion in context by outlining briefly the constitutional framework for South Africa's new democratic order. This would assist in understanding the constitutional provisions per se, the legislative process and the different spheres of government.

8.1 PUBLIC PARTICIPATION AND THE CONSTITUTION

According to Section 1 of the 1996 South African Constitution, the Republic of South Africa is

> one, sovereign, democratic state founded on the values of human dignity, the achievement of equality and freedom and the advancement of human rights and freedoms; non-racialism and non-sexism; supremacy of the constitution and the rule of law; universal adult suffrage, a national common voters roll, regular election and a multi-party system of democratic government, to ensure accountability, responsiveness and openness.

There are a number of sections in the Constitution which deal directly with the concept of public participation. Sections 59, 72 and 118 of the South African Constitution charge both houses of the National Parliament and the Provincial Legislature with the responsibility of facilitating public participation.

There are also other constitutional provisions that allow for parliamentary processes to be open and transparent.

Section 17: Everyone has the right , peacefully and unarmed, to assemble, to demonstrate, to picket and to present petitions.

Section 59 (1) : the National Assembly must facilitate public involvement in the legislative and other processes of the Assembly and its Committees.

Section 70 (b) : The National Council of Provinces may : make rules and orders concerning its business, with due regard to representative and participatory democracy, accountability, transparency and public involvement.

Section 72 (1)(a): the National Council of Provinces must: facilitate public involvement in the legislative and other processes of the council and its Committees.

Section 115(a) : a provincial legislature or any of its committees may : receive petitions, representations or submissions from any interested persons and institutions .

The South African Constitution offers the public a commitment to an open and democratic form of governance. Over and above people's right to exercise an elective option of choosing their representative, they have a right to exercise influence over all decisions made by government. The ability to bring a petition before the legislature is an important right, because it allows a member of the public to bring a matter before the legislature, via the relevant committee, with the potential result of introducing legislation. The public can through this process, initiate legislation or bring a matter to the attention of the legislature. The KwaZulu-Natal legislature is in the process of

drafting legislation that would set out the procedures of bringing a petition to the Legislature. This would create an opportunity for the public to be able to engage with decision makers on matters that they feel should be addressed. Furthermore, provincial legislatures are tasked generally with facilitating public participation and involvement in policy and law making processes in their provinces.

9. STRUCTURES AND FUNCTIONS OF GOVERNMENT

Policy institutions refer to the particular machinery of government which controls the authority and resources needed to sustain policy. It is important to explore the significance of public participation in the legislative processes through an analysis of the policy institutions and more specifically the provincial legislature.

The constitution provides for three branches of government, each with its own powers and functions : the legislature, the executive and the judiciary. In addition government is divided into three spheres, each with its own powers and functions: national, provincial and local government. Each of these has legislative power over certain areas and responsibility over others. According to the constitution these spheres are " distinctive, interdependent and interrelated". The principle of co-operative government governs the relationship between national, provincial and local government. National government is responsible for setting broad policy guidelines and passing laws in many areas, for handling issues that may arise between provinces and for regulating areas in which national equality and uniformity is required. Local government is primarily responsible for delivering essential services and making law and policies for

a city, town or rural district. Provincial government's responsibilities mix those of local and national government. It delivers services that cannot be provided at local level. It makes broad policy on issues where there are considerable regional differences (PPP Training Manual, 2000, pp9-11).

9.1 THE NATIONAL PARLIAMENT

Parliament is seen as the most accessible forum where organizations and individuals involved in advocacy may impact on government decision making in relation to law and policy. The national parliament consists of two houses; the National Assembly and the National Council of Provinces.

The National Assembly is the supreme law-making body . It debates draft laws/bills that ministers bring to parliament and can approve, reject or change them. It must also consult the public and seek their views and input on bills. Laws made by the National Assembly are applicable throughout the country. The President and his ministers are accountable to parliament. While there are areas of exclusive legislative competence for the National Assembly, it shares its legislative authority with provincial legislatures. The National Council of Provinces represents the provinces to ensure that provincial interests are taken into account in the national sphere of government. It does this mainly by participating in the legislative process and by providing a national forum for public consideration of issues affecting the provinces(see Table 2). Bills that affect the provinces are referred to as Section 76 Bills and those that do not affect the provinces are called section 75 bills (A Guide to the KZN Legislature, 1999, p2)

9.2 THE KWAZULU-NATAL LEGISLATURE

In 1994, provincial legislatures were introduced in each of the nine provinces. The provincial legislature is charged with the responsibility for considering, passing, amending or rejecting any Bill referred to it by the executive and also with initiating and preparing legislation. In dealing with legislation initiated by the executive, the provincial legislature provides the opportunity for elected representatives to scrutinise draft legislation for their practicality, relevance, comprehensiveness, clarity, anticipated impact, constitutionality, etc., and to introduce other views such as those of the public and the opposition - in the legislative process (Proctor, 1999 in Houston G. et al, 1999). Provincial governments can adapt policies and laws passed at national level to suit specific needs of their province. Provincial legislatures can pass their own constitution, subject to the national Constitution.

A provincial legislature has powers to initiate legislation, through the standing committees or private members' bills. In the KwaZulu-Natal legislature there is a standing committee tasked with carrying out this function. The provincial legislature can also take legislation to the National Council of Provinces which would then initiate it. Secondly, provincial legislatures have an oversight function over the executive and its agencies. The oversight tasks are carried out in plenary sessions and in standing committees. These committees have power to summon members of the executive council, and departmental officials to answer questions.

Public input is essential in both areas of a legislature's responsibilities. For members to be able to pass legislation that is relevant to the needs of the masses, they have to get

as much input on proposed legislation as possible (PPP Training Manual, 2000, p26).

The KZN Legislature comprises 80 members belonging to seven political parties ; the African National Congress (ANC), Inkatha Freedom Party(IFP), Democratic Party(DP), New National Party (NNP), United Democratic Front (UDM), African Christian Democratic party (ACDP) and the Minority Front (MF) . With the IFP and ANC having formed a coalition government in KZN in 1999, the DP is the official opposition party in the Legislature. South Africa does not have a constituency based voting system, but every political party has a proportion of seats in parliament according to how many seats were cast for that party (i.e. proportional representation). Of the 80 seats in the KZN provincial legislature, 34 belong to the IFP, 32 to the ANC, 7 to the Democratic Party, 03 to the NNP, 2 to the MF, 1 to the ACDP and 1 to the UDM. Although South Africa does not have a constituency based system, members are all allocated a particular area or constituency to be responsible for and they are also given allowances to establish and run constituency offices.

9.2.1 COMMITTEES

According to PPP Training Manual(2000, p1), most people picture parliament as a chamber full of public representatives, debating and arguing over bills and issues of public interest. What they do not know is that by the time members of parliament speak in the chamber , most arguments, decisions have already been taken in committees. These committees are the engine rooms of the new South African Parliament, the place where the real politics takes place. There are three types of committees :

standing committees, portfolio committees and ad hoc committees. Each of these committees has different functions in the legislature. Standing committees are committees such as the rules committee, the internal arrangements and disciplinary committee. These deal with internal matters affecting the members and staff of the legislature. Ad hoc committees are formed to consider specific issues (PPP Training Manual, 2000, p17)

There is a portfolio committee for every department. Each committee is responsible for monitoring the department it oversees, scrutinising what it does, investigating and making recommendations on any aspect of the legislative programme - i.e. budget, organisation, structure, personnel, policy formulation and any other relevant matter. It may make enquiries and hear evidence and it must debate, amend and put forward proposals for legislation. Furthermore, these committees scrutinise the departmental budgets and deliberate on how well the department is spending their budgets and to what extent their budgets are linked to their stated objectives (A guide to the KZN Legislature, 1999, p15).

Committee meetings are generally open to the public, although committees can decide to close their meetings to the press and public if they have good reasons to do so. In terms of rule 28 of the standing rules of the provincial parliament of KwaZulu-Natal, 1995; a committee should consist of the number of members determined by the Rules Committee in each case which shall not be fewer than 10 or more than 20 . The political parties are represented roughly in proportion to the number of seats they hold in the House. The KwaZulu Natal Legislature does not as yet have an official capital and as a result meetings are held at the Ulundi complex in one month and Pietermaritzburg complex the following month. Each committee meets once every month unless there is

a special issue that needs to be discussed.

9.2.2 ADMINISTRATIVE SUPPORT FOR COMMITTEES

9.2.2.1   COMMITTEE SECTION

Every provincial legislature has a committee section to service its different committees. It consists of committee secretaries, committee researchers and committee assistants. The KZN legislature has eight committee secretaries , with each allocated two to three committees depending on the amount of work involved in serving some portfolio committees. The committee secretaries schedule committee meetings to ensure that times do not clash. Committee secretaries have to ensure that all members are made aware of, in writing , when and where their next meeting is. They also have to ensure that the agenda and any documentation and materials are given to each committee member before or at the meeting. They take minutes and draw up a report on what was discussed and what decisions were taken.

The committee section also plays a big role when committees have public hearings. Its job is to inform and invite different organisations and members of the public to attend and make submissions to the committee. It does this through newspaper adverts and posting or faxing invitation to interested parties. Committee secretaries also have to make sure that all members of the committee get copies of the public submission. There is also one legal advisor allocated to the committee and one researcher who investigates issues of current concern to the committee.

9.2.2.2 PUBLIC PARTICIPATION OFFICE

The KZN legislature has established a component to deal specifically with facilitating public participation in the province. This unit has been in existence since 1998 and has two staff members. They are tasked with hosting public relations activities such as conferences hosted by the Legislature. They have to educate the public on how parliament functions, and arrange and conduct guided tours of the legislature. They are in the process of forging links with other organisations and some government initiatives. They have to educate the public to foster an understanding of the concept of public participation and how the public can engage and participate in the affairs and activities of the legislature. They have to use an integrated media strategy in order to reach diverse communities and more particularly print and electronic media. They have an hour slot in Radio Ukhozi where members of the legislature are interviewed on different activities of the legislature and members of the community phone in to engage with the politicians (Framework Document on Public Participation Programme for the KZN Legislature).

9.2.3 THE PROVINCIAL LEGISLATIVE PROCESS

The legislature is the body that has the legislative power. This, however, does not mean that the legislative process necessarily begins in the legislature. Government, private individuals, public officials or organisations will identify that there is some issue or problem in society that needs to be resolved or regulated through new policy or legislation. The appropriate government department will have to formulate a proposal for government policy on this issue. This process may take the form of a Green Paper or

presentation of government thinking on an issue for public input. Table 1 below

(p50) gives a schematic presentation of the legislative process. However, it is also

important to briefly outline how the public may participate in this process.

A range of formal and informal options exist for legislatures, or more specifically their

portfolio committees, to seek public input on policy or legislation. The most common form

of public participation is holding public hearings where comments are invited from interest

groups, stakeholders and individuals. Submissions apart from those solicited during

public hearings represent another fairly common activity. This is done by making written

or oral presentation to a proposed Bill. Involvement in the activities of portfolio

committees is another aspect of public participation. Portfolio committee meetings are

open formally to the public. The executive branch of government, in the course of its

business, also consults with the public in formulating policies, drafting legislation and

crafting regulations.

Lobbying is one of the most common methods used to influence public policy This is

done through a variety of methods, such meetings, phone calls or writing letters.

Citizens sign petitions as part of lobbying campaigns to convince lawmakers to be for or

against certain proposed laws. The more people that organise around an issue and the

more support they gain the more likely that authorities will listen. Organisations in civil

society also follow this process to put pressure on politicians and government officials to

take up their interests support their cause.

Snap debates also offer a unique point of intervention. Parties that want a snap debate

on a current issue may ask the Speaker to allow this. Any member of parliament may

introduce a motion for debate in the House. Asking ministers questions or summoning them to appear before committees can be a powerful way of keeping them accountable. Advocacy organisations should use member of parliament to ask questions from ministers about their portfolio (PPP Training Manual, 2000, p98).

Table 1　　The Provincial Legislative Process

THE PROVINCIAL LEGISLATIVE PROCESS	STAGES OF THE PROCESS
Draft Policy	Draft policy is set out for public comment in the form of a green Paper or White Paper
Draft Legislation	If the policy suggests that new legislation is needed, a law is drafted. This draft legislation is known as a Bill.
State Law for Advisors	The draft legislation is approved by State Law Advisors.
Cabinet	The Bill is sent to the Cabinet for approval.
Revision process	If Cabinet does not approve the Bill, it is sent back to the Department from which it originated. It would then have to be revised and resubmitted to Cabinet for approval.
Publication of Bill	Once approved, the Bill is referred to te Speaker and published in the Provincial Gazette. It is accompanied by a memorandum setting out the objectives of the Bill. The public has 21 days to make their input.
Legislature	The Bill is tabled in the Legislature by the Speaker.
Portfolio Committee	The Bill is referred to the relevant portfolio Committee for debate. The Committee may call for public hearings and obtain input from members of the public and interest groups.
House Debate	The Bill is then referred back to the House for debate. Amendments made by the portfolio committee are also debated
Vote	Finally, the House votes on the Bill.
Publication of Act	The Act is published in the provincial Gazette. It comes into force on the date stated in it on a date set by the Premier, or on the date of its publication in the Gazette.
Premier's Assent	Once adopted by the House, the Bill is sent to the Premier for his asset and signature.
Act	From this stage onwards, the Bill becomes an Act of Parliament and is enforceable

(Extracted from : A guide to the KZN Legislature, p18)

9.2.4 THE NATIONAL LEGISLATIVE PROCESS

The information on this process was summarised from a publication called 'A guide to the KZN legislature'. The schematic presentation of the NCOP process in Table 2 overleaf will show the legislative path of the NCOP legislation. Special procedures are followed for national legislation that affects the provinces. Such bills pass through National Council of Provinces, allowing for each provincial legislature to analyse and vote on national legislation. Bills that affect the provinces are referred to as Section 76 Bills(Section 76 of our Constitution provides for such legislation). Draft legislation or Bills that do not affect the provinces are referred to as section 75 Bills (as provided for by Section 75 of our Constitution). Bills are circulated to all provincial legislatures through their permanent delegates to the National Council of Provinces.

The KwaZulu-Natal Legislature has a special standing committee to facilitate its consideration of national legislation, known as the NCOP committee. This committee refers these bills to the relevant portfolio committee for discussion. In the case of Section 76 bills, the portfolio committee will vote to determine whether or not it supports the bill and on what changes it suggests to the bill. The NCOP takes this into consideration and agrees on negotiating and voting mandates, on behalf of the KZN legislature. This will determine whether or not the KZN legislature will vote in favour of this Bill at the next sitting of the National Council of Provinces. In the case of Section 75 Bills, the NCOP Committee and relevant Portfolio Committee will still consider the Bill.

However, they will not formally vote on the Bill on behalf of the legislature. In this case voting is done by members on the NCOP on the basis of whether or not their political parties support the Bill.

Table 2   Legislative Path : Section 75 & 76 Bills

Section 75 Bills	Section 76 Bills
Bill introduced in National Assembly	
Referred to Standing / Portfolio Committee	
Debate and vote in National Assembly	
Bill referred to the NCOP	
Referred to Provincial Portfolio Committee	
Discussion- No Vote	Vote (50 % majority)
Discussion by Party Caucuses	Portfolio committee report to Provincial NCOP Committee
	Vote (75 % majority)
Party causes adopt voting positions on Bill and instruct NCOP delegates accordingly	Bill in final form referred back to Provincial NCOP Delegates take mandated vote back to NCOP in Cape Town Provincial Premier votes in NCOP (Single vote by Premier or designate for each province)
NCOP delegates vote for or against Bill on party lines	Provincial NCOP delegates take mandated vote back to NCOP in Cape Town. Provincial Premier votes in NCOP (Single vote by Premier or designate for each province)
If a Bill is rejected by the NCOP it is referred back to the National Assembly for amendment , if accepted, it is passed and becomes law	

10. THE KWAZULU-NATAL LEGISLATURE AT WORK

The KwaZulu- Natal Legislature has been in operation since the inception of the new democratic in 1994. It should be noted that the focus of this discussion will be on the welfare portfolio committee as it is the object of this study.

Since 1994 to date the KZN legislature has passed 65 Acts which can be broken down thus; nine were passed in 1994, eight in 1995, ten in 1996, ten in 1997, thirteen in 1998, seven in 1999 and passed eight so far in 2000. They have been no petitions received by the legislature thus far. The legislature is however in the process of drafting its petitions Act. The three private members bill that have been proposed to parliament were all abandoned at committee stage level. The KZN Gambling Amendment Bill which had been proposed by the Democratic Party to oppose a similar bill which had been proposed by the Department of the Premier was rejected by members' of the Premier's portfolio committee. The other bill on community policing introduced by the New National Party, was rejected on the basis that police matters are a national competence. The third private member's bill which had been introduced by the African Christian Democratic Party, called the Children's Commission Bill, saw massive participation by a number of stakeholders including members of the Welfare Department, Lawyers for Human rights, Childline and other NGOs. They felt that the bill was not a solution to children's problems but was rather failing them, and as a result this bill did not go further than the committee stage. Lastly, the provincial parliament has not passed any welfare legislation, because they felt that national legislation is sufficient in addressing problems in the province.

National Parliament has passed 10 Acts that relate to the provincial welfare department. All these went through the normal NCOP process as has been outlined . As section 76 legislation,

they did come to the province, but the provincial portfolio committee of the legislature has never conducted public hearings on any of these pieces of legislation . It should be noted however that the National Department does conduct its own public hearings in most provinces before a Bill comes to the province, thus allowing for opportunities for participation. They are however not obliged to go to all provinces and depend mostly on written submissions.

The Welfare Portfolio Committee dealt with the following issues since 1995 :

YEAR	MATTERS DEALT WITH
1995/96	Discussion on Equalising the Qualifying Age for social grants Discussion on draft regulations on grants and social relief in accordance with the Social assistance Act, of 1992 Discussion with Cash Paymaster Services Planning Committee Planning Committee for the Bosberaad Discussion on the Newlands Park issue Bosberaad conference : discussion on welfare problems Discussion on issues flowing out of the Bosberaad Discussion on children and youth Discussion on pension problems
1996/97	Pension payments through the financial institutions Pension problems Social grants Amalgamation and rationalisation Departmental budget
1997/98	Maintenance grants Social relief funds Amalgamation and rationalisation Aids awareness campaigns Pension payout problem Welfare institutions for street children and rehabilitation Bills
1998/99	The future of St Anne's Hospital Requirement for applications for welfare grants Visit to regional offices and pension pay points Distribution of social workers HIV/AIDS epidemic Registration of pensions Insurance policies for the aged Policy for financing of developmental social welfare services Departmental budget
1999/00	Departmental budget Social development programmes Social security matters : pensions, child support grant Child and women issues HIV and AIDS Care for the aged and offender

Summarised from : KZN Legislature Annual Reports for (1995 - 1999)

It is important to also explore the extent of participation by NGOs that has taken place in the provincial legislature's welfare portfolio committee. Unfortunately there were no records available for the period 1994 to 1996. The other information was compiled from attendance registers of the welfare portfolio committee since 1997. Table 3 is a schematic presentation of the number of non-governmental organizations that have come to address the welfare portfolio committee each year.

Table 3

YEAR	TOPIC	NUMBER OF ORGANIZATIONS
1997	Presentation on HIV/AIDS related issues	8
1998	Pension issues	2
	Submission on Children's commission bill	10
1999	Workshop on Children's commission bill	24
	Presentation on AIDS orphans	2
2000	Pension problems	7
	Presentation on poverty alleviation	1

11.   PRELIMINARY STUDY

The preliminary study was conducted to test whether the method proposed is efficient in eliciting valid results. This was done through interviewing two diverse organisations, whose profiles meet the criteria for participating in this study. These are non-governmental organizations who have the potential of influencing government policy.

11.1 BACKGROUND ON THE TWO ORGANIZATIONS

11.1.1 CHILD AND FAMILY WELFARE OF PIETERMARITZBURG(CHILD WELFARE).

This organisation was formed by the amalgamation of three societies ; the Pietermaritzburg Child Welfare, Edendale Child Welfare and the Indian Child Welfare in 1994 to form a new entity which was not divided according to racial lines. Its main services are child and family care. They mainly deal with adoptions, foster care, child and spouse abuse, child protection and AIDS orphans. They have a staff complement of 36, 27 of which are social workers. Their main source of funding is government, but they also get funds through the Community Chest and other fundraising.

11.1.2 PROVINCIAL PARLIAMENTARY PROGRAMME(PPP)

The Provincial Parliamentary Programme was formed in January 1994. It was legally constituted in terms of section 21 of the Companies Act, 1973(non profit organisation) and two trusts. It is a project of a consortium of non-governmental organisations. It has a staff complement of four, three of whom are involved in the implementation of the programme. They monitor policy and legislative drafting process of the KwaZulu Natal Legislature, and lobby to promote public participation in them. PPP staff track the accessibility of the legislature, its attempts to generate public participation and how public input is addressed. They are also involved in the training of non-governmental organisations and community based organisations on the structure and processes of the legislature, sharing strategic advocacy and lobbying interventions. The

objective is to increase their capacity to monitor government and participate in the legislation drafting processes.

11.2   PRESENTATION OF PRELIMINARY FINDINGS

These findings are presented to ascertain whether or not the tool that is being used to test the hypothesis will be able to elicit valid responses. Originally the questionnaire had 25 questions, with the first part just exploring the nature of the organization and the subsequent parts seeking details of the level of participation. However the organizations that have been interviewed have assisted in adding questions that were not included in the original questionnaire . Some questions had to be reworded to avoid ambiguity which had been identified during the process of interviews.

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11.2.1   EXTENT OF PARTICIPATION BY NGOS IN THE PARLIAMENTARY PROCESS

As reflected in Table 4 below, it is evident that although PPP does not have a direct relationship with individual departments, they are very much involved in the parliamentary process, monitoring and tracking it as well as lobbying parliament to involve the public. Although they have not made any submissions they have encouraged and assisted organizations to do so and found appointments for them to attend. They have addressed several structures within the legislature including the executive board, chairpersons committee and the speaker' office and heads of departments on their activities and how to work together with parliament to involve the public. They have also been involved in public hearings organised by parliament, through publicising the hearings, attending them as well as hosted hearings on the Domestic Violence Act (i.e. paid for the hearings when the committee had no money). They have lobbied members and suggested ways of involving the public extensively. They have never themselves submitted a petition, but

have participated in some ranging from those addressing women to AIDS and violence.

CCJ's attempt would be one of the few moments when an NGO is going beyond advocacy and agency a actually proposing a policy intervention or policy forward suggestion a flegislate

Child Welfare on the other has had very limited input on the legislative process. They, however, have a working relationship with the Department of Welfare, liaise on a regular basis with the President's office and the office of the children's rights. They have visited parliament on three occasions when they were making presentation on the Children's Commission Bill, which together with other organizations managed convince parliament not to pass it. The first visit was through invitation by the legislature and the successive ones were just follow ups on the proceeding of the Children's Commission Bill. Although they have not made any submissions to the KZN legislature, they have made one submission to the national parliament on the Child Support Grant. They have participated in one public hearing on the Children's Commission Bill and lobbied members of the Legislature on the same Bill. Although they have not taken any petition to parliament, they have signed petitions and also facilitated a march for pensioners

Table 4   Extent of Participation by NGOs in the Parliamentary Process Since 1994

ISSUES	CHILD WELFARE	PPP	TOTAL
Relationship with Government			
yes	1		1
no		1	1
Visited Parliament			
no			
once			
twice			
three times &more	1	1	2
Made submission			
no	1		1
once	1		1
twice			
three times & more			
Participated in public hearings			
No			
once	1		1
twice			
three times & more		1	1
Lobbied MPLs			
No			
once			
twice	1		1
three times & more		1	1
Submitted a petition			
No	1	1	2
once			
twice			
three times & more			

11.2.2 AMOUNT OF INTEREST SHOWN BY NGOS IN PARLIAMENTARY ACTIVITIES

The study also identifies the level of interest that these NGOs have on policy issues which is schematically shown in Table 5 (p61) below. Besides following the formal legislative process, most organisations also use other means to bring issues to government. The PPP maintained that they write articles in the PPP newsletter and raise issues in meetings of portfolio committees. They track legislative processes both nationally and provincially. To do this they rely heavily on the electronic network and sometimes on parliament itself. They do not make any input on the content of legislation but on the process and as a result they do not advocate for any issue to become law. They have used the media to produce articles and publications that would influence government. Encouraging members (NGOs and larger communities) to participate in the legislative process is the core focus of their organisation. They notify them when there is going to be a public hearing. They publicise public hearings and have recently been involved in the Provincial Health Bill where they distributed the bill to relevant stakeholders. They organise workshops to train people on participating in parliament. They are also involved in joint advocacy initiatives.

Child Welfare on the other hand seems to be more interested in implementation rather than in policy formulation. Although they have participated it is to a very limited extent. However, there is some participation in the welfare departmental activities. They have also used other mechanisms to put their views across to government besides the legislative process. They have written letters to the Department of Welfare regarding the Child Support Grant and have also made a submission to the then Minister of Welfare , Minister Fraser Moleketi regarding kinship care. They do acquaint themselves with Bills that relate to their work, which they get through their national office and PPP. They have also developed other strategies to ensure that their views are considered in formulating laws, although their focus has not been on the provincial legislature.

They have commented on legislation through the national child welfare office and also involve themselves in existing discussions with other NGOs . As has been mentioned they coordinated a march once, for which they were criticised by the Department of Welfare. They have written articles to newspapers and spoken once on television. They also do encourage their members to participate in the legislative process. They also help communities to access funding for certain projects as well as mediate between departments and the public.

Table 5   Amount of Interest Shown in Parliamentary Activities Since 1994.

ISSUES	CHILD WELFARE	PPP	TOTAL
How issues were brought to government			
media		1	1
talk directly to officials		1	1
marches	1		1
conferences and workshops	1		1
comment on legislation	1		1
other			
Acquaint themselves with bills via			
not regularly	1		1
no			
regularly		1	1
Accessing these Bills			
PPP	1		1
Internet		1	1
Parliament		1	1
Media/ Government Gazzette			
Department			
Other	1		1
Strategies ensuring that their views become law			
Work with other NGOs	1		1
Make presentation in Parliament			
Meet with departmental officials	1		
Marches			
Lobbying			
Give opinion by trying to influence government through the media			
Yes	1	1	2
No			
Encouraged members of the organization to participate			
Yes	1	1	2
No			

11.2.3 CHALLENGES FACED BY BOTH THE PUBLIC AND NGOS IN PARTICIPATION

As evident in Table 6 on page 66 below, there are many challenges that are faced by NGOs in participating in the legislative process. PPP cited that they are not given information on time on when a particular bill / policy will be discussed. If they ever get the deadlines, time given for making submissions are too short. The public hearings are not well publicised in the media. Some organisations see no link between service delivery and policy, they think that policy making should be left to politicians. Some are not motivated because they think their submissions will not be taken seriously and will thus not make any difference. PPP also reported that Parliament is disorganised, it is difficult to find out who to contact on any issue and where to go if you want to make a presentation in parliament. Even if you make a submission there is no feedback that you from parliament. This is compounded by the fact that although there is a programme to to facilitate public participation in parliament,, there is nothing that it has done to encourage public participation. Similarly Child Welfare referred to accessibility and lack of information as well as the language of legislation not being user friendly, making it difficult for people who are not from the field of law to understand. The government also sees NGOs as a threat and any questioning on their part is seen as attacking government. Child Welfare has been threatened with withdrawal of funding when they facilitated a march. They view this as one of the problems that organizations face as they are afraid of losing funds.

On obstacles that communities face in participation, PPP saw transport as a major problem because these hearings are usually held in towns and not where the people live. The language of Bills is very difficult for a layperson to understand. Most of these public hearings are not well publicised and in some communities they do not have access to any form of media.

Illiteracy levels in this country are very high and people are not even aware of the parliamentary process itself. The larger public still see politician and officials are seen as Gods, attitudes formed because of previous experience. There is a lack of a strong rights culture. Most communities are not linked to any civic organizations and have not formed themselves into organised groups which makes it difficult for them to raise issues as individuals. On discussing a particular bill, parliament only arranges a few hearings in some areas, thus making it difficult for some interested people to make input. Time frames are too short. People do not have access to technological facilities like fax machine and telephones. They are also not motivated to participate because they think it is futile and see no no sense of submissions having an impact. Child Welfare also alluded to lack of information, the two centres and thus problems of transport, language and intimidation as major inhibiting factors.

On rating their own impact on policy decisions, PPP said, fair, because they felt that people who have been in their workshops have started participating and others are working towards making their input in the legislature. They, however, expressed concern with parliament's lack of an evaluation system where people's inputs are evaluated. Child Welfare on the other hand, said it depends on an issue, but they would rate themselves weak. This shows that Child Welfare acknowledges that although they have the potential of having a fuller impact on policy decisions but it has been very minimal until now simply because they have not participated extensively in policy making.

On whether their organization is involved in the same work that they used to do before 1994, PPP responded by saying that although their organization had not been formed yet, because of their previous involvement with NGOs,they were able to respond to the question.

They are aware that most other organisations had a lot of money before 1994, because of the political situation in South Africa, but after1994 most organisations had to redefine their role in order to work in cooperation with, rather than against, the government, to address gaps as well as work in a constructive role. Child Welfare, on the other hand, is still doing the same thing now as then, apart from the fact that they had to amalgamate to become an integrated organisation.

Further the two NGOs were asked to compare their impact on people's lives in comparison to the old government. PPP maintained that the focus now is on uplifting the quality of life in rural communities and it is easier to channel services and resources in this new government. The difficulty is that implementors of policy are much the same people who worked for the old government, whose mindset has not changed(bureaucracy, attitudes, inefficiency, racism and corruption). Similarly, Child Welfare said they were more effective now, because of working across racial lines. However people's expectations are very high now and as a result they demand more efficient services . Another difficulty is that whereas in the past, social workers did not want to work for the previous illegitimate government, more of them are now moving to government and as a result Child Welfare is losing their trained staff to government.

On how their organisation has taken advantage of open democracy in its operation, PPP said that through accessing information, participation in meetings and networking with officials who are cooperative, they have taken advantage of open democracy. Child Welfare, on the other hand, said that their ability to make people aware of their rights and offering a service which is non discriminatory, has been made possible by open democracy.

On whether they think their organisation has an important role to play in policy formulation, PPP responded positively and said that they have a role to publicise policy development, track policy processes, monitor opportunities for participation and lobby if those are inadequate and to assist community groups to respond. Similarly Child Welfare felt they have a role to play because they are at the forefront and thus have a better understanding of community needs. Their participation is however limited by the fact that the government is their funder and therefore dictates their services. They therefore structure their programs according to what government wants.

It was also ascertained whether these organizations work with communities, to which they both responded positively. On responding to whether they feel that these communities are organised enough to challenge issues that affect them, PPP felt that rural communities are more organized although they do not take up issues, and Child Welfare on the other hand, felt they are not organised, but do have capacity if only they could get support. Active people in communities who get elected to positions tend to forget about where they came from and there are no people left to uplift or formulate structures for lobbying government.

Table 6   Problems Experienced in Participation

ISSUES	CHILD WELFARE	PPP	TOTAL
Problems experienced by organised groups			
Access to information	1	1	2
not informed	1	1	2
time frame too short		1	1
not enough media work		1	1
some organizations see no link between policy and implementation		1	1
think it's futile		1	1
no programmes to facilitate participation	1	1	2
no sense of submission having an impact		1	1
seen as interfering with government	1		1
fear of losing funds	1		1
no feedback	1		1
Problems experienced by larger communities			
access to information	1	1	2
transport	1	1	2
language	1	1	2
illiteracy	1	1	2
intimidation		1	1
ignorance about rights		1	1
no capacity		1	1
no links with organisation		1	1
technicalities (phone and fax)		1	1
hearings not taken to all areas		1	1

11.3 ANALYSIS OF RESPONDENTS, METHOD AND HYPOTHESIS

These two organizations were selected for the pilot study because of the nature of services they render to the community. Whilst PPP's focus is geared towards facilitating public participation, Child Welfare works extensively with various communities and thus has a better understanding of problems experienced by these communities. As has been indicated in the first portfolio such organizations are expected to be in the forefront of policy formulation, pressing for issues to get on the governmental agenda and contributing positively to those issues that are already in the legislative process. Child Welfare as an NGO really fitted this description.

The director of Child Welfare who was interviewed on behalf of the organisation was very positive and felt that there is indeed a need for them to participate in the legislative process. However numerous problems were outlined as indicated above which stop them from participating more effectively. The interview with PPP was really helpful as they seem to be experts in the field , as they not only interact with most non-governmental organisations, but also with parliament itself.

Child Welfare was very defensive in their responses. The researcher could see that the respondent felt that her organisation was being analysed on its performance. This is where the significance of face to face interviews becomes apparent, as the interviewer had to constantly reassure the respondent that it was not an evaluation and that they had to be honest in order for parliament to be made aware of the problems that lead to the lack of participation. Further interviewing also helps in giving direction to the interview and in explaining the questions that are not clear.

The problem identified is that in these interviews one is letting organisations rate their level of impact which may make them overemphasize the little that they have done . Some organisations may feel that a negative self assessment could have negative repercussions, and this may contaminate the study. However interviews will help as has been mentioned.

This study is very focussed on participation in the legislative process. There are, however, two broad categories of participation : formal participation , which includes participation in the legislative process as well as in statutory and constitutional structures; and informal participation, such as behind the scenes negotiations and unofficial discussions between government officials and NGOs. Although the questionnaire does try to differentiate between the categories, the respondents, especially Child Welfare tended to dwell on the latter category. The researcher, therefore, has to be mindful of such factors when conducting the interviews so as not to lose the focus of the current study.

11.4 ANALYSIS OF PRELIMINARY FINDINGS

Although the findings of the pilot study cannot be conclusive, it is evident that much needs to be done to facilitate public participation. The problem may lie on the side of parliament, or with the NGOs themselves. Further research will however shed more light in this regard. The organisations interviewed lay the blame with parliament's lack of facilitating public participation. However, organisations themselves have a responsibility to participate in the parliamentary process.

It was also apparent from the review of legislation that of all legislation that has been passed in the province, none deals with welfare issues. It was reported that welfare depends very much on legislation that has been passed in the National Parliament. This the explains why Child and Family

Welfare of Pietermaritzburg has had such a low level of participation in the provincial legislature. It, however, does not justify why they are unable to initiate legislation or lobby for the passing of legislation that would address people's needs in the province. The policy process includes not only reacting to legislation that has been passed, but also advocating for issues to get onto the governmental agenda.

12. PRESENTATION OF FINDINGS OF THE INTERVIEWS

12.1 PROFILE OF RESPONDENTS

The main focus of this study is on examining NGOs within the welfare sector. This was based on the premise that it is mostly these organisations which work with people who are the most needy. Coincidentally, some of the organizations interviewed were also involved in advocacy and lobbying as part of their functions. Eleven organizations were sampled for this fuller study. It should be noted that this is not a sufficient sample to be comprehensive. However, the sample does capture the diversity of organizations according to the various welfare issues that they may bring to the legislature. There are organizations that deal with poverty and unemployment issues, women, children and family issues, the physically challenged, rural and community development, violence, HIV/Aids issues, advocacy issues and legal matters.

Eleven organizations were sampled for this study including, the Association for Persons with Physical Disabilities, Black Sash, Centre for Rural and Developmental Studies, Children in Distress, IDASA, Justice and Women, Lawyers for Human Rights, Pietermaritzburg Child and family Welfare, Provincial Parliamentary Programme, Survivors of Violence, Thandanani Association and Unemployed Silent Majority Organization.

Of the eleven organizations that were interviewed, eight were started before 1994, one in 1994 and two after 1994. However, four of those that were started before 1994 had to redefine their role after 1994. All of them are non-governmental organisations legally constituted under section 21 of the Company's Act, except the Unemployed Silent Majority Organisation which is a fairly informal organisation. They all service communities, varying according to their area of focus. They all depend on private funding, except two who also get state subsidy.

12.2   EXTENT OF PARTICIPATION BY NGOS IN THE LEGISLATIVE PROCESS

This section looks at how much the NGO sector has participated in the provincial legislative process since 1994. Various key areas of participation were used to determine their level of participation. The categories range from 'never' meaning the organization has never participated in that participated in that specific category, to 'three and more' which according to this study is a reasonable level of participation in each category. Table 7and Table8 below reflect this level of participation by NGOs.

As evident in Table 7(p71) most NGOs have a working relationship with government. They all receive funding from government and are therefore beholden to them. They also have meetings with departmental officials to work together on some problems. Some referred to this relationship as very superficial. They alleged that although they have meetings, they are not very productive in that although some decisions are made nothing comes up of those meetings. Some said it is sometimes very difficult to set up these meetings. One organisation said their relationship with government is very confrontational, because they have not receive any cooperation from government and have decided to demand such cooperation.

Table 7   **Extent of Participation by NGOs in the KZN Legislative Process according to Issues and the Number of Organisations since 1994 , n =11**

Issues	Number of organizations	%
relationship with government		
yes	11	100
no	0	0
visited parliament		
never	2	18
once	4	36
twice	2	18
three times & more	3	27
invited to parliament		
never	7	63
one	1	9
twice	2	18
three times & more	1	9
made a submission		
never	2	18
once	6	54
twice	1	9
three times & more	1	9
lobbied MPLs		
never	6	54
once	2	18
twice	1	9
three times & more	1	9
submitted a petition		
never	6	54
once	3	27
twice	2	18
three time & more	0	0

12.3 AMOUNT OF INTEREST SHOWN BY NGOS IN THE PROVINCIAL PARLIAMENTARY ACTIVITIES

In the literature review above (p15) it was revealed that interest groups are very important in agenda setting because they promote new agenda items or advocate proposals. They decide which problems to address and attempt to get the target institution to recognise that the problem needs action. But even if they haven't started the ball rolling, once it starts rolling they try to ensure that their interests are protected in the legislation that emerges (i.e. they affect the alternatives considered even if they haven't affected the agenda). This section therefore looks at the level of interest shown by NGOs in parliamentary activities. How have these NGOs ensured that parliament tackles social problems beyond those that are already in the parliamentary process? Do they see parliament as something that you can engage with on a regular basis to solve social problems ?

Table 8 (p73) below reveals that most organisations make use of the media to communicate their views through to government. Very few respondents read proposed legislation with an intention of making an input. The problem may lie with the fact that they a problem accessing these bills and they often rely on PPP to supply them with the relevant bills. Networking, seems to be a major tool used by respondents to ensure that their views and input are included in legislation that is being drafted. Although very difficult to prove, most NGOs alleged that they do encourage their members to participate.

Table 8   Amount of Interest Shown in Parliamentary Activities since 1994, n=11

ISSUES	Number of Organisations	%
how issues brought to government		
media	6	54
talk directly to officials	4	36
marches	2	18
conferences	2	9
federal council on disability	1	9
lobbying	3	27
acquaint themselves with bills		
no	2	18
not regularly	7	63
regularly	3	27
accessing these bills		
PPP	5	45
internet	1	9
parliament	1	9
media/ government gazette	1	9
national council	1	9
strategies ensuring views become law		
work with other NGOs	6	54
make presentations in portfolio committees	2	18
meet with departmental officials	2	18
marches	1	9
lobbying officials	2	18
follow up on legislation	2	18
media opinion influencing government		
yes	10	90
no	1	9
encouraging your members to participate		
yes	9	90
no	2	18

12.4 PROBLEMS EXPERIENCED BY NGOS IN PARTICIPATING IN THE LEGISLATIVE PROCESS

Constitutional and legislative imperatives that demand open and accessible processes are a necessary but not sufficient condition for effective participation. Although government seems committed to improving participation, the extreme inequalities in South Africa could pose problems to increasing public participation in government. On the other hand, the organised interest groups who are supposedly having the greatest advantage of being able to make use of the opportunities have cited various problems that they experience in trying to participate in parliament, as will be evident in Table 9 (p77) below.

All respondents felt that the government and the KwaZulu- Natal legislature in particular had failed the people in terms of facilitating participation. Firstly, the parliamentary environment is itself very intimidating. Because of our history parliament was something which seemed very remote and was not accessible to the people. Some organisations therefore find it difficult to define their role with regards to parliament. They do not know who to contact if they need to come to parliament. The issue of redtape and security came up in most interviews. One respondent said they had tried to arrange an appointment, but did not know who to contact and were referred to different people before they could get help. NGOs felt that they also lacked understanding of the parliamentary process and how they could participate. When attending parliamentary sittings, they are not made to feel that they are part of discussions taking place and as a result end up losing interest.

On issues surrounding HIV/AIDS, two NGOs felt that the government was totally uncommitted to solving this problem. One organization dealing with HIV/AIDs issues illustrated the frustration that they have gone through in trying to set up a meeting with the portfolio committees in the legislature.

They reported that they had written three letters to the welfare portfolio committee, Education Portfolio Committee and the Premier on the 28th of August 1999. By that October they had not received any acknowledgements or responses and again wrote reminders. From this exercise only the welfare portfolio committee managed to give them time to address the committee. They have not heard from either the Chairperson of the education portfolio committee or the Premier up to now. They reported that if they ever get to make a presentation there is no interest or enthusiasm shown about finding a solution to the HIV/AIDS problem.

Another problem which was reported by most NGOs was that government saw them as opposition rather than as potential partners. Some organisations like Black Sash, who are trying to help communities, have become so frustrated at the lack of cooperation from departmental officials that they have encouraged their clients to open court cases against the department. By doing this they are seen as being against the government. They felt this was very unfair as people have a right to litigate and that this right must be respected and they should not be made to feel guilty about it. Some organisations who have taken up issues with government fear that they will be penalised for it in terms of funding. However, most of them rely heavily on donor funding and they are therefore influenced by the perceived preferences and priorities of donors.

The Unemployed Silent Majority Organization (USMO) is an organization concerned with the poor and unemployed and was formed in 1992. They managed to persuade the previous government (i.e before 1994) to fund their project. They received food parcels and were involved in developmental projects which were funded by the government. However, when the present government took over in 1994, their funds were withdrawn.

They were, however, not very disturbed by this initially as they felt that because a legitimate government was in power all their problems will be solved. They have been to the KZN Legislature on several occasions to discuss their plight with members of parliament. They have had discussions with the Premier and some ministers who referred them to departmental officials. They have organised legal marches and taken their petitions to parliament. However all this was not well received by members of parliament or the Premier and other structures of government . They have allegedly been arrested on several occasions for picketing and at one time shot at in front of the provincial legislature. One of the members of parliament, Mr Powell, allegedly tried to run them over with his car. One time members of parliament pretended to be calling them to a meeting, when in fact they had apparently arranged police to arrest them. NGOs have tried to arrange meetings with the Premier, but have been unsuccessful because he always sends somebody else to address them. They alleged that members from different political parties have tried to entice them to join their parties so they can get help, instead of helping them as an apolitical organization trying to help the poor.

Lastly, most of the eleven organisations interviewed reported that they were involved in the implementation of policies and did not have time or capacity to take up issues with the legislature. They felt that public participation in the legislative process was increasingly poor. By not involving key role players in the drafting of legislation government fails to take into consideration the implications for practical implementation of the policy. For instance, the budget as a policy document should be discussed with NGOs as government sometimes put provisions in the Act, which are not provided for in the budget. They further asserted that there is growing intimidation and respect for power and thus low levels of accountability, disagreement and dissent.

Table 9   **Problems Experienced by NGOs in Participating in the Legislative Process since 1994, according to Issues and Number of Organisations,*n=11**

ISSUES	Number of Organizations	%
no access to information	7	63
not informed	7	63
time frame too short	1	9
not enough media work	1	9
see no link between policy & implementation	2	18
think its futile	3	27
no programmes to facilitate participation	6	54
no sense of submissions having an impact	2	18
seen as interfering with government	3	27
no feedback	3	27
not enough democracy	3	27
intimidation	4	36
defensiveness from politicians	1	9
2 capital centres	1	9
proportional representation principle breaks links	1	9
role of province not clear	2	18
legislative environment not inviting	6	54
financial constraint	2	18
no human resources capacity in NGOs	2	18
difficulty in questioning minister of own party	1	9
lack of trust	2	18

* It should be noted here that, although the total number of respondents is 11, each organisation could respond to more that one category, hence the reason why figures do not add up to 11

12.5 PROBLEMS EXPERIENCED BY COMMUNITIES IN PARTICIPATING IN THE LEGISLATIVE PROCESS

Improving public participation in the country's legislative activities is clearly an element in empowering those affected by poverty. Poverty typically comprises continuous ill health, ardous and often hazardous work for low income, no power to influence change and high levels of anxiety and stress. The absence of power is virtually a defining characteristic of being poor and is worse for women (PIMS, 1999, p65).

As organisations working with communities, it was felt that all eleven organisations would have a better understanding of community dynamics. Table 10 (p80) below lists some of the problems as mentioned by the NGOs that were interviewed. Firstly, communication and access to media is vital to communication. However most respondents felt that the section of the population that does not receive any media is likely to be poor , rural communities with the least education. These are people who are in most need of education about their constitutional rights, access to resources, democratic processes as well as information about venues of public hearings and so on. Lack of access to technological means of communication like phone and faxes also contribute to their lack of participation.

Lack of transport adversely affects public participation. Most people from needy communities are unemployed and mostly depend on taxies or buses for transport. It is therefore impossible for these people to visit the legislature, and this is further compounded by the fact that there are two legislative centres in KwaZulu-Natal. They cited the need for public hearings to be taken to where the people are.

Literacy levels were also mentioned as major inhibiting factors as the language of bills is usally sometimes even difficult for an educated person to understand easily. These communities have might also have difficulty reading information leaflets given to them or newspaper articles and thus remain ignorant about their rights.

Further, to mentioning problems that they think are experienced by communities, they were asked to give their opinion on whether they think communities are organised enough to take up issues that affect them. All of them felt that communities were not organised enough. They maintained that our society has become lethargic and disorganised without clearly articulated and binding goals. Some felt that communities were better organised before and that has been lost in the present government. Some said that most black communities are politically tuned rather than issue oriented - i.e. they feel that by affiliating to political parties who are represented in parliament their concerns would be addressed automatically. Black people only protest if it has become a " hot issue ". They felt that communities need to be educated and encouraged to mobilise around issues and also to be aware of their rights within the present system of government.

Table 10   Problems experienced by communities as perceived by these NGOs since 1994, according to issues and number of organisations, n=11

ISSUES	Number of Organizations	%
no access to information	8	72
transport	6	54
language	4	36
illiteracy	5	45
fear and intimidation	2	18
ignorance about rights	5	45
no capacity	1	9
no links with organisations	1	9
lack of technological means of communication like phones	6	54
hearings not taken out	5	45
financial constraints	7	63
apathy	3	27
people at work during hearings	4	36
Black people politically tuned rather than issue oriented	1	9
lack of understanding of the process	3	27
politicians not interested in the plight of communities	2	18
have to work through own leadership (hierarchical)	1	9

12.6   RATE OF IMPACT ON POLICY DECISIONS

The study also attempts to measure the perceived impact of NGOs on the provincial legislative process. Table 11 below shows how these NGOs classified their impact on policy on a scale ranging from 'none' to 'excellent'. Most organisations rated their impact on policy issues as 'fair'. Most of them felt they have not done enough to influence government due to the problems that have been mentioned.

They, however, felt that they have an important role to play to influence government policy because they work with disadvantaged communities. They have managed to establish good working relationships with the communities and therefore understand their needs. Some felt that although they have tried hard to lobby members of parliament, nothing concrete has come up as members sometimes do not attend their presentations and those who do sleep during them.

Table 11   Rate of impact on policy decisions, n=11

ISSUES	Number of Organizations	%
none	1	9
weak	2	18
fair	7	63
good	0	0
excellent	0	0
no response	1	9

Further, those organisations which started before 1994 were asked if they had to redefine their role with the advent of the present government. They responded by saying that after having achieved their primary political objective of bringing down the government, it was no longer relevant for them to continue to fight. Consequently, they had to redefine their role to that of collaborating and working together with government on projects. They started amalgamating with other NGOs offering the same service which had previously been divided according to racial lines. They started working with institutions which they could not work with in the past like traditional leaders. One organisation also reported that most people who were in NGOs moved to government after 1994.

Another problem is that most international organisation now direct money to government, instead of to NGOs, and there are well known cases of misappropriation of these funds. Most of them reported that they have taken advantage of open democracy by seeking collaborative solutions to massive problems. With the present government it has been made easier for NGOs to be able to question things. The problem is that they have been made to feel guilty about encouraging such action. They all acknowledged that the challenge in the present government is getting the government to honour its promises. This may only be done by being involved in government's policy making process.

13. ANALYSIS OF FINDINGS

The literature has alluded to the fact that democracy must not only allow for vigorous electoral competition for power, but also for conflict on a continuing basis between parties, interest groups and also social movements with different policy visions and interests. Parliament and more particularly provincial legislatures have a primary responsibility to give a lead in this direction. However, this does not prevent citizens individually or as organised groups to take up issues on their own initiative. Public policy theory states that interests groups are very important in the policy making process. The louder they shout the higher the issue gets on the agenda. It is in this context that the non-governmental organizations will be analysed.

The findings of this study reveal that South Africa is indeed committed to participatory democracy. Various constitutional provisions and structures of government in place indicate a commitment in this regard. Larry Diamond (1999, p3) maintains that democracy is enhanced where the role of representative structures is supplemented by allowing and encouraging direct democracy. The constitutional provisions are not an end by themselves; they are a means to an end.

Firstly, I shall look at the structure of the KZN Legislature as presented on pages 38 to 54 of this report. The legislature has rules that provide its committees with extensive powers discussed in earlier sections. Committees provide a point of entry for the public that a full sitting cannot permit. These committees constitute members from different political parties, yet they continue to function without sufficient public participation. Issues are discussed, resolved and finalised without anyone reminding them that public input should be sort. This problem may be compounded by the fact that South Africa's electoral system is based on proportional representation, with political parties responsible for the mandate of their constituencies. In this system, it is the party and not the individual who represents and mediates the public's view. Since the political parties' lists determine who representatives are, the accountability of the representatives may be uncertain.

These committees are provided with staff to help them facilitate public participation. However, capacity seems to be a problem. There are only two members of staff without cars and access to telephones who are expected to reach the whole of the province to educate people about their rights. This however does not mean that they should not do anything as, with proper networking and use of already available resources, they could reach a number of people. Although there are secretaries to serve committees, it became evident from interviews that organisations do not receive feedback, they do not receive Bills on time, if at all and they do not get to hear about meetings in parliament. The administration staff may be inefficient, but the question is whether the elected representatives who are the members of parliament are doing anything to ensure that such omissions do not occur.

It seems disturbing that since 1994, only three private member's bills have been proposed and these by the minority parties (p52). This takes us back to the effectiveness of the party list system, rather than the constituency based system. It is questionable whether members of parliament are really in touch with the issues. The fact that the legislature has not received any petitions and is in the process of drafting its petitions bill really shows that public participation has not been given

the attention it deserves up to now in the KZN legislature. Further, the fact that the provincial welfare department has not passed a provincial act is really abnormal, as it is doubtful whether there are not any issues of welfare that are unique in this province. To complicate matters, of the legislation that has come to the province from the NCOP, no public hearings have been held by this portfolio committee.

Further, Kingdon(1995, p2) maintains that public policy making can be considered to be a set of processes including, the setting of the agenda, the specification of alternatives from which the choice is to be made, an authoritative choice among those specified alternatives and the implementation of the decision. Using this as a framework for policy making in relation the KwaZulu- Natal legislative process, one can see that the steps taken are almost similar. It is the policy drafting process that sets out the stage for agenda setting. It is at this stage that a problem is recognised, formulated and refined. Once the Bill has been published, interests group should be ready with their proposals, marking the stage for the generation of alternatives. There are various processes which allow for public input before the Bill becomes an Act as was set out in Table 2 and Table 3. This marks an open window of opportunity for policy advocates to use. The short duration of the open window lends powerful credence to the old saying "strike while the iron is hot".

The structures and processes may be there, but looking at the context of public participation in governance in South Africa, one will find many obstacles inhibiting participation, some of which have been mentioned by respondents. South Africa does not have a history of democracy and people are expected to operate within these new structures without any education. While in theory it is possible for the public to participate in the early stages of legislation, in practice there are various factors which mitigate against this, including low levels of literacy, complexity and speed of the legislative process and lack of feedback on submission.

It is evident from the findings that the rate of NGO participation in the legislative process is very

minimal. The category 'three times and more' has been used as a benchmark for satisfactory participation. It is noted that very few organizations participated more than three times in any of the categories. There are particular points in the legislative process that are ideal for public input. These include the Green and White paper stage, as well as when parliamentary committees hold public hearings. Lobbying is also one of the methods to influence public policy. Signing petitions also part of the lobbying campaign. On visiting parliament, most organisations have come only once and a few have never been to parliament at all. This is a very bad reflection on the part of non-governmental organisations who as organised groups are supposed to pressurise for issues to be tackled by government. It was also evident that making submissions on bills under discussion did not rate very high on these organisations' priorities, with the highest number of respondents submitting only once each to the provincial legislature. Many of these organizations raised many issues that they were not satisfied about in which the legislature could assist in solving. It was however amazing how one of the directors on being asked if they have ever lobbied MPLs responded by saying " how do you do that ?". It shows the lack of knowledge or maybe apathy on some of these organisations. One wonders how larger communities with their lack of resources have managed to grasp the concept of participatory democracy.

It seems that most of these organizations use the media to communicate their issues to government. Although the media is a very influential communication tool there are avenues that have been provided for these organisations to communicate directly with the legislature which are not being used. The problem with the media is that it usually pays attention to issues only while they are newsworthy. Using the media may also be interpreted as attacking government. Some organisations talk directly to the departmental officials which is seen as very unproductive as these organisations have said that there is usually no feedback . The few organizations which have national offices use these particular offices to lobby government. This therefore means that participation in the provincial legislature is lowered.

There does not seem to be that much interest shown in the policy making process among most organisations that were interviewed. However, those that are interested have made several attempts to lobby the provincial legislature and the Cabinet, receiving very little cooperation from these structures of government. Although some organisations do acquaint themselves with bills under discussion, it is only when it is on an issue pertaining to their activities. The provincial legislature has also not been helpful in keeping these organizations informed and giving them copies of legislation under discussion. Most of them use the Provincial Parliamentary Programme to access these bills. It was also evident from the findings that some NGOs also work together to as a network to bring issues to government's attention. For instance, the success of this kind of participation was evident in the discussion of the Commission for Children's Bill, which was proposed as a private member's bill. The NGOs who were against this Bill came together and managed to persuade the KZN provincial legislature to abandon it regardless of the resistance from the member of parliament who had proposed that Bill. If such action and vigour that these NGOs showed in fighting against this Bill could always be visible in this legislature, this province would not experience problems in the implementation of policy .

According to Kingdon (1995, p165), advocates lie in wait in and around government with their solutions at hand, waiting for problems to float by to which they can attach their solutions, waiting for development in the political stream they can use to their disadvantage. The window does open when there is a Bill under discussion in the legislature and there are inputs that are required from these organisations in terms of oral or written submissions or even participating in public hearings. It was gathered from interviews that most organizations which implement policy have solutions to problems that they have identified. Although some have sent their problems to the national ministers, very few proposals have come to the provincial legislature. The problem lies with not understanding the processes of government and who to contact if you want to make a submission on a particular issue. There is confusion about the role of provincial legislatures and this came up in one of the interviews.

Decision- makers become more amenable to persuasion when they are presented with a solution. It seems that most NGOs have adopted a "wait and see" attitude rather than persuading members of parliament to take their issues seriously. Those that have come to parliament have not been very persuasive, made follow ups and persuaded government to take them seriously. This is evident in the number of contacts that they have had with the provincial legislature. It is true and has been reported by some of these NGOs that lack of resources and capacity are also a major inhibiting factor in this regard.

Larry Diamond (1999, p74) maintains that one of the challenges of democratic deepening is to provide citizens with access to power and to make institutions of democracy more responsive to their preferences. Democracy is enhanced where the role of representative structures is supplemented by allowing and encouraging direct and participatory democracy.

My earlier comments on the seemingly very limited participation of non government organisations in the provincial legislature strongly criticised this lack of participation. It is however questionable whether this criticism of the NGOs is justified, when the legislature which is tasked by the constitution fails to facilitate this process. Many of these respondents have cited lack of information as a major inhibiting factor in participating in the legislative process. They do not receive the schedule of meetings and those who get it, are not given the agenda of issues to be discussed. They do not get individual invitations to public hearings and if by mistake they do not read a newspaper they do not hear about such public hearings. They are not given copies of bills under discussion for them to make an input. They also complained that if they are informed it is usually too late.

The two dimensional view of power maintains that to the extent that a person or group - consciously or unconsciously- creates or reinforces barriers to the public airing of policy conflicts' that person has power (Lukes , 1979, p16). The three dimensional view of power looks at this

further by allowing for consideration of the many ways in which potential issues are kept out of politics. It maintains that the most effective and insidious use of power is to prevent such conflict from arising in the first place. To assume that the absence of grievance equals genuine consensus is simply to rule out the possibility of false or manipulated consensus by definitional fiat (Lukes S., 1979, pp23 - 24).

Although the KZN provincial legislature may not be doing this intentionally, it seems that exercise of power as understood by the two and three dimensional view of power is taking place in the legislature. The provincial legislature is obligated by South African Constitution to ensure that public participation takes place, before any legislation is passed in the South African government. It further gives right to people to lobby and petition government to take up their issues. It is evident from the findings that the KZN provincial legislature is really failing to do that. By not facilitating public participation, the legislature is exercising the three dimensional view of power because it prevents people from airing their views, through lack of information and education. It also exercises power, as explained in Lukes' two dimensional view of power, through creating and reinforcing barriers to public airing of policy conflicts. The arrests; shootings; lack of feedback; intimidation; lack of trust of those who question government, all indicate a commitment on paper, but no actual implementation of democratic principles.

It is sad that in the new South Africa, which many of our people fought for, the same people are still inhibited from making input that would influence government on issues that affect them. It is even sadder that non-governmental organisations which are seen as providing a ballast against the power of the state and permitting the existence of channels of public expression in order that society's views can be articulated, are seen as opposition to the government.

Larry Diamond (1999, p59) maintains that by enhancing the accountability, responsiveness, inclusiveness, effectiveness and hence legitimacy of the political system, a vigorous civil society

gives citizens respect for the state and positive engagement with it. It is therefore important that non- governmental organizations and government should be seen as vehicles for public involvement. The Africa Leadership Forum has discussed the need to strengthen civil society as a way of achieving unity, of building support for the institutions of democracy, and of preparing people to participate in governance.

Although there is an expressed commitment to participatory democracy on paper, the reality is that public participation in South Africa is very minimal. Civil society organisations which represent the majority of constituencies are still finding their role. They seem to be confused as to how to relate to a government with which they sympathise. The legislature on the other hand does not have a clue as to how they can deal with inputs from the public. They have not managed to go to communities to inform them about how they can access the legislature.

14. RECOMMENDATIONS

A.   NGOs should work vigorously to make parliament accountable. One of the most valuable roles played by NGOs in the past was that of watchdog over state expenditure. They should build networks with other NGOs so that they can more effectively participate in the legislative process. They should form relationships with government which is based on constructive engagement. NGOs should also be involved in educating the public about the parliamentary process.

B.   Public participation units in legislatures need to be expanded and be given increased funding. They should be adequately staffed and equipped with necessary resources to take participation programs out to communities.

C.   Public participation initiatives should be preceded by a well co-ordinated public education strategy. The legislature should develop citizen educational programmes that are in simple language informing the public about the Legislature and the public's role in policy formulation.

D. These public participation programs should encourage individuals to forms and join in with interest groups which share the same concerns. The ability of groups from communities to exert influence over the legislative process needs to be strengthened.

E. The provincial legislature should have more " people friendly " areas where visitors and members of the public are received. It was stated by most respondents that legislative buildings and the atmosphere do not make feel welcome.

F. The provincial legislature should have an area where they keep information, as well as distribute it to the members of public and especially organised groups. A schedule of meetings, detailed agenda and copies of Bills should be distributed to the public timeously. A database of all organisations with the KwaZulu Natal region should be kept.

G. The media should be used more effectively in public participation programs. Newspapers could have dedicated columns to inform and educate the public about new legislation and the process of participating in policy formulation and the legislative process.

H. Parliamentary constituency offices should be redefined as vehicles for improving public participation. Constituency offices need to provide links with the communities in the area.

The Legislature prean should have a committee in the sole aim of communicating with orgs groups or public serving as a bridge that who think around could have alerted the lack of attention a the very public

15. CONCLUSION

According to the report on the conference on public participation organised by the Khululekani Institute for Democracy in October 1998, public participation is very important because it reinforces democratic ideals; legitimises our democratic institutions; gives a sense of ownership of the lawmaking process to the public; provides an opportunity for a two-way democratic process; facilitates people's power; entrenches the rights of individuals in a rights-based society and contributes to the creation and maintenance of a democratic culture in South Africa citizens.

This study as well as various other studies that have been conducted show that although although the democratic ethos of openness, accountability and involvement is obligatory for all state and other

institutions as enshrined in the Constitution, there is very little public participation in this country. The Human Sciences Research Council conducted a study in which 200 people throughout South Africa were interviewed. This study revealed that participation in public hearings of provincial legislatures was very limited (Houston, p1999). A similar unpublished study was conducted by Wendy Leeb (1999), which found that of the 40 questionnaires administered randomly around Pietermaritzburg, 85 % respondents knew nothing or very little about the KZN legislature.

The legacy of the apartheid rule continues to haunt the democratic institutions and arms of government as well as its structures and processes even today. The new government has committed itself to a transparent and accountable system of government , which is closer to the people but for South African citizens government is seen as something distant and alien to them. It is evident from the findings above that both civil society and government are both to blame for this lack of participation. Civil society is supposed to lead the process of public participation and if they see that the government is failing in facilitating participation, they should be the ones lobbying government to take the issue of public participation seriously. However, government itself is suppose to spearhead the process taking into consideration our history.

If this is not rectified, there are dangers that this poses for a healthy system of democracy. Citizens will not support democratic institutions that appear foreign to them or incomprehensible. The Constitutional Assembly processes of 1994 to 1996 provides a precedent for extensive consultative process in respect of policy and institutional development. The institutional memory generated by the participatory practices can still be harnessed to ensure a culture of involvement that, in turn, will enhance the legitimacy of provincial government. If democracy is to take root and grow, we need a much wider public debate in which organisations representing majority interests, particularly those of the poor and the weak, participate more vigorously.

APPENDIX 1

QUESTIONNAIRE

Name of Organization   **Name of Respondent**

Address   **Designation**

A. PROFILE OF ORGANIZATION/ INTEREST GROUP

1. When was your organization established ?

2. Under what legislation was your organization constituted ?

3. What services do you offer ?

4. Who are the recipient of your services ?

5. What is the composition of your organization ?

6. Where do you get funding ?

7. Which name best describes your organization ; Non Government Organization, Community Based Organization, Voluntary Organization, Welfare Organization, Interest Group etc. ?

B. RELATIONSHIP WITH GOVERNMENT

8. Do you have any relationship with governmental departments ? If yes, what is the nature of your relationship ?

9. Have you ever visited parliament in your capacity as an organization ? If not why?

10. Has your organization ever been invited to parliament or relevant department to give an opinion on an issue relating to activities in your organization ? Please elaborate.

11. Have you ever made any submission (either oral or written) to parliament / department regarding any matter(especially those that relate to your interest as an organisation) ? If yes, how was it received ?

12. If no, what mechanisms do you use to bring to the attention of government any matter of concern ?

13. Have you ever participated in

- public hearings organized by departments or parliament?

- lobbied members of parliament on any issue?

- submitted a petition to parliament on a matter of concern?

- encouraged your members to participate?

- given an opinion through media that would influence government?

14. Are you familiar or do you acquaint yourselves with bills that are under discussions in parliament ? Please substantiate.

15. What strategies have you developed to ensure that your views are made into law ?

16. How would you rate your impact on policy decisions or in the legislative process on this scale and why ?

none	weak	fair	good	excellent

17. If your organization was established before 1994, were you involved in the same activities as you are now, or did you have to redefine your role? Please substantiate.

18. How would you compare the impact that you have had on people's lives in the present government with the old order ? What are the challenges of working under the present government ?

19. How has your organisation taken advantage of open democracy in its operation ?

20. Do you think your organisation has an important role to play in policy formulation ? Please substantiate.

21. What challenges does your organization encounter in their attempts to participate in the policy making process ?

C. INVOLVING COMMUNITIES

22. Does your organisation work with communities ?

23. Do you think communities are organised enough to challenge issues that affect them? Please elaborate.

24. If yes, what structures do they have in place to do this ?

25. What do you think are the obstacles encountered by these communities in their attempts to participate in the policy making process ?

26. As an organisation what have you done to encourage public participation and involvement in policy issues ?

27. What are your views on public participation in general ?

28. What do you think needs to be done to encourage public participation ?

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