



**The Development-Participation Dilemma:  
Rates Increases and Public Protest in the uMngeni Municipality 2004-2007**

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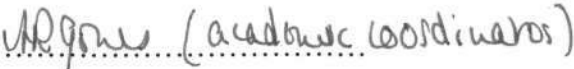
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Submitted in *partial (for coursework)* fulfilment of the requirements of the degree of Master of Social Science in the School of Politics, University of KwaZulu-Natal, Pietermaritzburg.

As the candidate's Supervisor I have approved this dissertation/thesis for submission

Signed: .....  ..... (academic coordinator)

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**Table of Contents**

<u>Declaration</u> .....	2
<u>Acknowledgments</u> .....	4
<u>Chapter One: Introduction</u> .....	5
<u>Chapter Two: Literature Review</u> .....	11
<u>Chapter Three: Methodology &amp; Theory</u> .....	28
<u>Chapter Four: The uMngeni Municipality Rates Protests: A Chronology of Events</u> .....	37
<u>Chapter Five: Assessing Public Participation and the Rates protests</u> .....	51
<u>Chapter Six: Assessing the Financial Imperatives of Development and Delivery</u> .....	74
<u>Chapter Seven: Conclusion</u> .....	84

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## **Chapter One: Introduction**

Across the world, almost three billion people survive on the equivalent of less than US\$2 per day. Poverty is a phenomenon occurring even in 20 of the world's most industrialised states, including the United States of America (USA) (*International Labour Organisation* report on poverty, available online: [www.ilo.org](http://www.ilo.org), 2008: 3). Approximately 500 million of the world's poor are found in the global south but most notably in Africa; three-quarters of Africans live in poverty, which means there is also an acute gap between the few rich and many, many poor. Of these poor, estimates are that 320 million live in extreme poverty or on the equivalent of US\$1 a day or less (*International Labour Organisation* report on poverty, available online: [www.ilo.org](http://www.ilo.org), 2008: 3). This situation of poverty and inequality is indeed preventing the global South from realising its potential and the World Bank has warned that unless radical shifts are made to uplift these poor, poverty will not decrease sufficiently (*International Labour Organisation* report on poverty, available online: [www.ilo.org](http://www.ilo.org), 2008: 3).

In response to calls for such global development, many writers have presented developmental strategies and solutions to uplift especially the historically poor and marginalized. Central to these developmental strategies are the notions of decentralisation and democratisation; advocates of such strategies come from across the globe. These advocates encompass both the left and right as evidence has been seen from social movement groupings as well as the World Bank. It should be noted that this global realisation of decentralisation being conducive to development is a recent one and is based on the premise that previous "expert-driven" approaches toward development have failed. This dissertation concerns itself largely with the theory that decentralisation and simultaneous democratisation of local government in the form of enhanced public participation for all peoples would result in development because meaningful public participation in the tier of local government is a "process through which stakeholders (can become able to) influence and share control over development initiatives and the decisions and resources which affect them" (World Bank 1998: 1). The idea is that this brings government closer to the people on the ground and dramatically increases the opportunities for their concerns to be addressed. The Bank advocates that public participation in local government means that the poor and marginalised are given a fair and equal opportunity to make their needs and concerns known.

## **Development in South Africa**

South Africa (SA) has always been a unique case for political scientists to analyse because of its heavy socio-economic cleavages created as a result of racist apartheid policies, but what has not been extensively covered is *how* these economic and social cleavages could impact on the practical experiences of public participation in post-apartheid South Africa. There are indeed many unexplored dimensions of this area. Herein lies the rationale for this research which revolves largely around global consensus amongst academics, development practitioners, civil society as well as, amongst others, global bodies, that public participation is part of the solution to SA's development challenges but acknowledgement that obstacles to constructive SA public participation with local government do exist; it are these (potentially unique) obstacles which this dissertation aims to identify and examine in order to become part of the solution for a better SA for all.

### **The case study and general problem area**

The Municipal Rates Act 6 of 2004 gave all municipalities in SA, including KwaZulu-Natal, the power to levy rates on residents in their vicinity, after obligatory consultation with residents in their jurisdiction. The Demarcation of Boundaries Act of 1998 allowed for the determination of new municipal boundaries by a municipal demarcation board, as appointed by the President of the Republic (Demarcation of Boundaries Act 1998: 1).

Under this Demarcation of Boundaries Act, several additional areas were incorporated into the uMngeni jurisdiction by 2000, as requested by national government. This also included farming areas which were traditionally exempt from paying rates because, historically, the traditional commercial farm, did not receive municipal services. As a result of these changes, the uMngeni Municipality proposed three consecutive times to increase property rate prices (as based on the valuation of properties) in their district. Proposals of between 200% and 400% during the financial years of 2004/2005 , 2005/2006 were announced and by 2007/2008, proposal increases of up to 700% were in operation.

All three times, residents were vocal in opposing the situation and those residing in the historically white (but not restricted to white residents alone) and wealthy areas of Hilton and

Howick areas founded the Hilton/Howick Concerned Ratepayers'/Residents' Association(s), and participated very actively through official and formal public participation platforms such as municipal budget consultations, ward meetings as well as at municipal *izimbizos* over the proposed rates increases. In addition to this, a petition, numerous submissions and letters of objection to the Municipality were produced over the four years and the residents' plight finally culminated in a peaceful protest march of over 4000 effected ratepayers to submit a memorandum to the Municipal manager, Mr Dumisani Vilikazi, on the day in 2007 that council was scheduled to convene to either approve or reject the 700% increase.

Despite it all, each year the uMngeni Municipal council passed the budget, including the latest 2007/2008 financial year which effectively increased the rates by between 500% to 900%. This prompted the seemingly helpless residents to challenge this development in the Supreme and High Courts on the grounds of "premature implementation of the Rates Act". The courts however ruled in favour of the Municipality. The residents then took the matter further to the provincial and national levels of government as will be elaborated on in Chapter Three of this dissertation (Keys 2008: 3). Parallels here can be drawn where a similar situation ensued in Sandton in 1996, where residents contested and were active in opposing a proposed 200% property rates increase by the Metropolitan Municipality. Similarly, despite petitions and peaceful protests as well as active participation in budget consultations, Sandton property rates were hiked by up to 230% (Daley 1996: 6).

These events suggest a tension between two imperatives of local government being, on the one hand, the requirement to take seriously public participation around key decision-making processes, particularly on an issue as significant as rate increases which directly impacts on the lives of ratepayers; and on the other, the requirement to be a developmental state and uplift historically impoverished, black areas. This really is an imperative that requires resources, roughly 40% of which is acquired from property taxes, according to the uMngeni Municipality CFO, and as reflected in the IDP document. Succinctly put, the general problem appears to be a paradoxical tension between, on the one hand, the imperatives to deepen local democracy, and on the other, to uplift the historically poor and marginalized. These will now be outlined in more detail. It should be noted that the tension is indeed paradoxical because public participation is de facto orientated toward aiding the historically poor and marginalised, not the wealthy.

Post-apartheid South African institutional design entails a vision for democratic local government which includes harmonious and “constructive” relations between residents and their municipalities. In this context public participation can be understood as a major step in empowering all citizens and granting residents opportunities to participate in their governance. Notably, these developments mirror the recent international shift towards the decentralization and especially democratisation of local government, and stand in stark contrast to the character of South African local governance prior to 1994. While the decentralisation of power in the South African political system is modest, a key assumption is that the local government sphere does have some distinct powers and resources, and is especially important in the chain of delivery for basic services like water and electricity. Furthermore, *democratic* decentralization implies more than the downward delegation of authority but rather a system of governance in which citizens possess the right to hold local public officials to account through democratic means (Johnson 2001: 9).

At the same time as enjoying greater powers and a new democratic character, post-apartheid local government has significant responsibility in respect of improving the lives of the historically poor and marginalized, particularly in historically black areas. This is partly through its role as a developmental state which requires that it develops strategic plans for local economic and social development which, in theory, includes everything from assisting in the provision of education to enhancing conditions for local business. Moreover, local government is a key player in the delivery of core basic services, and by law plays a central role in the rolling out of water, electricity, sewerage and local roads. Properly managed, local government has the potential to greatly enhance the lives of poor residents, but a key reality is that this is an objective that costs money. While some of this can be secured from national grants and service delivery charges, some is also recovered from local taxes on property or rates. Indeed, national government has not been able to radically change the funding ratio, causing most of local government’s funding to be sourced locally. The logic of the new system therefore, is to put upward pressure on rates.

Notably, in exploring the tensions between enhancing participation and redistributive justice, this dissertation aims to question if these events are explicable in terms of competing democratic and developmental logics or developmental dilemma. Conceptualized more thoroughly, this can be understood as a “developmental dilemma” involving both historically white and wealthy residents who feel it a burden to engage in the transfer of wealth from their

own developed areas to underdeveloped historically black areas, in the form of property taxes; and the municipality who, as part of a developmental state, is obligated to do just that. This dissertation explores as well then the possible clash in this developmental logic.

A deliberate limitation in this study will be less focus on the plight of the farmers who belong to a category of traditionally unrated residents and a significant emphasis on the situation of urban residents in the whole of the uMngeni district but more specifically within the areas of Howick, and the previously very minimally rated but still very elite area of Hilton.

### **Research Questions and Value of Research**

The overall research problem, as explained above, can be understood as an exploration of the rates protests as an apparent failure of public participation in the case of the uMngeni Municipality and Hilton/Howick residents, and the extent to which the failure of (white and wealthy) articulation with the municipality is explicable in terms of financial pressures associated with the development of historically black and poor communities. Whilst bearing in mind that these events may be explicable in terms of competing democratic and developmental logics, a background issue is the extent to which these dynamics were exacerbated by race politics. In light of this, the research questions were:

1. Where, when, how and why did rates protests take place? Who took part in them and why?
2. Did public participation actually take place with regards to rates increase proposals and if so, who was included in this process, what was argued by whom, and what was the outcome?
3. What are the developmental and delivery plans of uMngeni Municipality, where does the money come from, and are they linked to the rates increases?

The value of this research lies in its close analysis of the practical experiences of public participation within the unique SA climate where legacies of apartheid in the form of socio-economic cleavages are now in the process of being rectified by equity policies which emphasise the transference of wealth from historically white and wealthy areas to black and poor areas. This has serious potential to create various tensions for local government officials who are still obliged to take into consideration the needs of the historically white and wealthy but must uplift the poor, with primarily their own resources. It are essentially these tensions



which are rarely documented, conceptualized or operationalised in respect of public participation in post-apartheid South Africa and yet it is only when this occurs that South Africa can remove yet one more barrier to fulfilling its promises within its policies of “creating a better life for all.” Creating this “better life for all” has included the implementation of formal means of public participation to entice the voice of the poor but for a cocktail blend of reasons which include bureaucratic red-tape and a lack of resources, public participation for the poor, has been largely unsuccessful.

In short then, this dissertation looks to explore the dynamics between two sets of new requirements for local government: the imperative to operate in a democratic and participatory way on the one hand, and the requirement to economic and social development, with its attendant financial pressures on local property owners.

## **Chapter Two: Literature Review**

This chapter aims to provide a thorough examination of the literature involving decentralisation, democratisation and public participation. It will go further to provide an explanation of the demise of the centralized state and highlight the global shift toward decentralization. In addition to providing a theoretical context, the chapter aims to highlight the limits of development in a centralised state. To better situate the literature, international experiences of decentralisation will be dealt with and an historical overview of South African experiences of decentralisation will be provided. Perusal of such literature is tantamount to gaining sufficient background information on the complexities of local government and allows one the benefit of fully grasping the fundamentals of decentralisation.

### **Conceptualisation: on decentralisation, and democratisation as public participation**

Piper and Nadvi (2007) note, that decentralisation and public participation have become central to the dominant developmental model advocated by the World Bank and other national development agencies. Indeed, such arguments presented by the World Bank include the valuable conceptualisation of public participation as being that “process through which stakeholders influence and share control over development initiatives and the decisions and resources which affect them” (World Bank 1998: 1). Other descriptions from the Australia South Africa Local Governance Partnership include, “public participation as a democratic process of engaging people in thinking, deciding, planning, and playing an active part in the development and operation of services that affect them and as an open, accountable process through which individuals and groups within selected communities can exchange views and influence decision-making” (Dollery and Dollinger 2006: 15).

General objectives of the process, according to this partnership, include arguments that decisions made by people themselves as opposed to on their behalf will be more effective for generating solutions to their problems because “people know what they need in their own lives”; in addition to this, extended assumptions such as the fact that skills gathered through the participation process can have spill-over effects to other aspects of their lives – such examples presented include a general increase in personal confidence and development (Dollery and Dollinger 2006: 15).

Public participation has three major components, according to Otachi (1999: 15), of which two will be cited here: participation as empowerment which entails empowering citizens making their own decisions on matters concerning their livelihoods; and secondly participation as a voluntary contribution for the poor to identify projects and programmes. Essentially, as Bulman (2002:2) contends, “public participation is a process whereby policy makers consult those who will be affected by proposed policy” (Bulman 2002: 2).

Notably, as Haus et al (2006: 7) argue, such a system of government is most effective within a democracy which is interpreted as the idea to “promote a common good under circumstances where there is no strong pre-existing agreement on what the common good is”. Wittenberg (1992:1) adds that decentralisation actually promotes democracy because it increases the accountability of government, it improves access to decision-making processes, it disperses power, it gives more people experience in government and increases the choices of people as to how they want to be ruled . Local democracy, Haus advocates, can be understood then as a coordinative democracy, and the common good of citizens would arise out of coordination from the relevant players (Haus 2006: 267-268).

Former World Bank President James Wolfensohn (1996:1), remains convinced that the involvement and collaboration of those on the ground not only make development efforts more sustainable but also fosters ownership and a general climate of belief in the relevance and value of development initiatives. The World Bank is also quick to highlight that they are not advocates of a “perfect model” of public participation and concede that no such model exists. Instead they point out that effective participation is conducted when there is acknowledgment that it is heavily influenced by the overall circumstances and the unique social context in which action is being taken. They contend too that public participation has many faces and means of showing up in the multidimensional field of development (World Bank 1998: 1).

### **The demise of centralisation**

It is indeed development which serves as one of the primary motivations for state-policy, which was first thought to have been best achieved by centralized means. Leveux has argued that development was the primary objective of many governments in the period after the Second World War and it became synonymous with economic, social and political change in



Africa, Asia, Latin America and the South Pacific. The notion of development according to LeVieux (1998:3) derives from the 19<sup>th</sup> century “idea of progress, although contemporary development emphasises conscious action to facilitate the transformation of societies and is broadly viewed as being concerned with tangible improvements for the majority especially the poor”. Notably, Otachi contends that development ought to be about not only materialism or physical goods but also processes of humanisation where people are expected to be central to the development process. Any genuine development ensures participation of the people in a mutual learning experience, involvement in decision-making, resource control and planning and implementation of project entities. This view is articulated by Julius Nyerere of Tanzania who writes that “people cannot develop if they are hardened like animals. People can only develop when they are involved in making decisions on matters that concern their lives”. This enables them to address their needs and find equitable solutions on how to move out of poverty (Otachi 1999: 14).

There have been several hypotheses presented by scholars aiming to explain the motivation for this global shift to decentralization. One of the more salient of these is by Sharma (2005:3) who traces the emergence of decentralisation to the historic “third wave of democracy” of the 1970s and according to Sharma triggered a subsequent equally profound wave of decentralization in the 1980s.

Another view comes from an array of scholars including Piper and Nadvi, present these new trends of public participation within the context of decentralization as, at least in part, responses to the failures of centralised development. Up until the 1980s, in pursuing development the dominant global trend was one of favouring a more economic role of the state which is what gave rise to the extreme forms of centralization, as noted by Sharma. This centralisation means governance was understood as a major mechanism to “rationalise scarce resources and depoliticise the masses” (Sharma 2005: 3). This was in stark contrast to how decentralisation was viewed at the time by the international community and in particular, major international institutions such as the World Bank, as a measure likely to “heighten socio-political, ethnic, religious and economic cleavages”. There seemed, according to Sharma to be an obsession with curtailing the economic role of the state and reducing the size of the public sector which were seen as major causes for financial crises in developing countries (Sharma 2005: 3). Instead of the public sector being perceived, according to Sharma, as an engine of development, it was viewed as an obstacle to it (Sharma 2005: 3).

Indeed, assertions favouring decentralisation are often founded upon a wider critique of central state planning. This essentially holds that large and centrally-administered bureaucracies represent an inefficient and potentially destructive means of allocating and distributing resources (and generating wealth) within society (Sharma 2005: 3). Substantiating this claim is the explanation that central state agencies lack the “time and place knowledge” to create policies and programmes that are a reflection of people’s “real” needs and priorities (Sharma 2005: 4). In addition to this, centralised, states can lead to “unchecked authority and inadequate incentives (reflected in salaries, rules of promotion and so on)

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### **Local government**

It would perhaps be useful to review the concept of local government before a briefing on the benefits of decentralisation. Local governments, according to Nyalunga (2006: 3)

...are defined as political units or instrumentalities constituted by law (the peculiar or unique characteristics of which is their subordinate status to the central government) which have substantial control over local affairs and likewise have the power to tax. It is also defined as a set of rule-making and rule-enforcement activities binding upon a set collectivity, when the same collectivity is also subject to rules binding on at least one more inclusive collectivity. Local governments have defined areas, populations, continuing organizations, and the authority to undertake and the power to carry out public activities in a particular area. Local government has three essential characteristics: 1) a set of local authorities or institutions with a separate autonomy and a legal status distinct from that of the central government, 2) power of the autonomous local institutions to raise their own revenue and spend it on the discharge

of their functions, as assigned to them by the law, and 3) power of the local institutions to make decisions as responsible organs in their own right and not as an extension of the central administration. Generally, the laws for local government in South Africa provide for these essential characteristics.

For the purpose of this dissertation, local government will be used when referring to the lowest level of SA government being the municipality

### **Benefits of decentralisation**

Sayed (2002:35) contends that the concept of “decentralisation” is one which is very often used but generates “more heat than light”. It would indeed be valuable to establish a definition surrounding this concept and the best starting-point is the common sense definition: to centralise is to concentrate by placing power and authority in a centre, whilst to decentralise is to disperse or distribute power from the centre (Bennet 1990: 29). This essentially means that there is dispersion of authority to sub national units and more specifically for the purposes of this dissertation, to local government (Bennet 1990: 30). The concept of decentralisation covers, according to Wittenberg, both the case where some legislative and executive power is vested in a sub national political structure and that where a national bureaucracy delegates authority to local personnel (Wittenberg 1992: 13).

The democratic decentralisation of local government; as Piper and Nadvi (2007) argue entails, “effective public participation within local government (which) means that there is semblance of democratisation within it. Transparency, accountability, freedom of speech and other such instruments of democracy are indeed also essential to the democratisation of local government” (Piper and Nadvi 2007: 4). In expanding on this concept, one can argue that democratic decentralisation implies more than simply the somewhat superficial “downward delegation of authority”. It crucially demands a system of governance in which citizens own the unreserved right to hold local public officials to account through the use of elections, collective action and other democratic means. Blair captures the essence of this important idea: democratic decentralisation can be conceptualised as authority that is meaningful and is devolved to local units of governance that are both accessible and accountable to the local citizens of any given area and who unreservedly exercise full political rights and liberty. One can agree then that this differs from the vast majority of earlier efforts at decentralisation in

developing areas, “which go back to the 1950s, and which were largely initiatives in public administration without any serious democratic component” (Blair 2000: 21).

In addition to emphasis placed on worldwide shifts toward democratic decentralisation, there has also been the simultaneous emphasis on the value of participatory institutions which have been initiated according to in the developing world in order to deepen the quality of democracy. As the Development Research Centre advocates, “it is not enough to secure effective participation if the institutions of the state do not respond as this could lead to voice without influence” (Development Research Centre 2006: 8). As will be elaborated on later in this chapter, several states such as Brazil, India, Venezuela and Indonesia – as well as South Africa – have experimented with participatory institutions to promote governmental accountability, create active and knowledgeable citizens and establish the conditions for achieving social justice (Heller 2001: 140). Much literature on participatory institutions highlight how these institutions have been able to provide specific social and political advances that deepened the quality of democracy. For example, Wampler (2000:14) argues that participatory institutions can generate social capital, empower citizens and make government more transparent.

Wampler cites Barber in providing guidelines on what participatory institutions should ensure in order to deepen democracy which include being realistic and workable. This translates into them being a product of actual political experience. Secondly they should complement and be compatible with the primary representative institutions of large-scale modern societies; thirdly he cites Barber as having said that participatory institutions should directly address “liberal anxieties over such unitary propensities of participatory communities as prejudices, uniformity and intolerance as well as dealing concretely with the obstacles that modernity appears to place in the way of participation namely scale, technology, complexity and the paradox of parochialism, and lastly to give expressions to the special claims of strong democracy as a theory of talk, judgment and public seeing by offering alternatives to representation, simple voting and the rule of bureaucrats and experts” (Barber 1984: 40).

The idea of decentralisation is very attractive because it suggests the hope of “cracking open the blockages of an inert central bureaucracy, curing managerial constipation, giving more direct access for the people to the government and the government to the people, simultaneously the whole nation to participate in national development plan” (Mawhood



1993: 1). The arguments in favour of decentralization are very strong and include accountability. This refers to the fact that because of the geographic scope of regional and local government is more limited, it becomes easier for people within its jurisdiction to understand what government is doing and for it to be called to account, therefore also increasing the political awareness of citizens within specific jurisdictions. One should be aware though that often the situation is not that simple, and begs the question of accountability to whom and for what. Local areas are not homogenous social entities and lower levels of government can be controlled by particular interest groups which prevent other local groups from voicing their own concerns as in the case of India where a group of rural notables often succeed in "capturing" village level government and from there impede rural reforms, furthermore regional and local government structures are as prone to become bureaucratized as central government and hence to become opaque to the ordinary citizen (Wittenberg 1992: 7). This is why it is important for decentralisation, as it does in certain states, such as SA, to regularly hold decision-makers accountable to the public through local elections as a means of checking power (Bennet 1990: 32).

Another common argument in favour of decentralisation, according to Bennet, is that additional levels of government increase the opportunities for people to influence and become directly involved in government decision-making. Local government bodies do indeed introduce additional levels of councillors and politicians but one should be aware of the fact that just because a political officer is local does not necessarily warrant him automatically as being inherently accessible. However, decentralisation would certainly improve the likelihood of this accessibility and as a result of the "closeness" of the official, it would serve to exacerbate it. In placing government closer to the people, Bennet holds that decentralisation contends fosters a greater responsiveness of policy makers to the will of the citizenry and is more likely to result in a "closer congruence between public preferences and public policy" (Bennet 1990: 32).

Over centralisation of power in one body can lead to abuses, and even tyranny, which is further argument for the decentralisation of government but then again, concentration of power anywhere can lead to as many abuses as seen with the apartheid homeland governments (Wittenberg 1992: 8). There is a school of theorists who see the virtue of sub national government in terms of the provision of choices to the population. There may be different preferences within the population for various goods; if people do not like the

choices made by their local government structures they can move to another locality which expresses their lifestyle (Wittenberg 1992: 9). Decentralisation decongests the centre; if certain decisions are made within the localities, provincial and national level can be freed to deal with other issues. Decentralisation also ensures that local variation is better dealt with. For example, channelling potable water to the inner city of Durban need not effect or concern Capetonians (Wittenberg 1992: 10). Local bureaucrats also claim that local government is much more effective in addressing the problems of a region because people based in the regions understand the issues much better than the people in the legislature or national bureaucracies. Decentralised structures promote diversity in public policies which is valued because it provides the necessary conditions for the "public-choice mechanism" or in other words, it assures that citizens have a wide variety of tax and service packages to decide where to reside (Bennet 1990: 33).

Decentralisation devolves real decision-making to local levels and in doing so, increases the levels of participation and interest in local government thereby anchoring citizens to the political system and enhancing democratic values. In short, decentralisation performs a system maintenance function and leads to political stability. It encourages political education and debate which are prerequisites for democracy (Bennet 1990: 34). Despite some of the flaws in the arguments for decentralisation, which can well be remedied by effective democratisation within this tier of government, all states see the need for decentralising state structures to a certain extent (Wittenberg 1992: 11).

Having cited the benefits of decentralisation and public participation in the broader context of development, one should be aware of arguments presented that too much participation leads to inefficiency, problems of governance, and ultimately dissatisfaction on the part of citizens. Goldfrank (2002: 53) cites Huntington who writes that a "surge of participatory democracy" weakens democracy by overloading the system with demands and makes it impossible to govern. Those who actively participate may end up feeling alienated because their demands cannot be met. Scholars who favour centralisation contend that because some interests are concentrated locally, decentralisation would benefit the powerful and jeopardize the local minority interests. Centralists also contend that lower levels of government are not "closer" to the people and not appropriate spheres for encouraging participation but rather transfers social conflicts to the lower level where there is generally higher levels of political inequality thereby reinforcing relationships of subordinate (Goldfrank 2002: 53). This however is an

exceptionally pessimistic view and many other advocates of decentralized government and participation such as The World Bank argue that civic participation educates people to become full citizens, reduces conflict by helping people accept government decisions and integrates the community.

### **International experiences of decentralisation**

There are many examples from all around the world of successful forms of democratic decentralisation that are benefiting from public participation. For example, the World Bank cites *village credit committees in Albania*, *village health committees in Benin*, *homeowner condominiums in Brazil*, *community resource management committees in Egypt*, *forest protection committees in India*, *community management boards in the Philippines* (World Bank 1998: 2). Even though some of these experiences are very successful, one should not forget Fung and Wright's (2003: 77) assertion that "institutions of liberal democracy are somewhat limited in their ability to address the challenges of just and equitable development" but as the World Bank highlights, the benefits far outweigh the technicalities. Examples from more left sources – to drive home the point?

Perhaps one of the most prominently successful examples of democratic decentralization and public participation for development comes from Porto Alegre's (Brazil) participatory budget process in which this country, according to Wampler, provides municipalities with nearly 15 percent of all public spending. This helps to explain the logic behind why social movements, NGOs, neighbourhood associations and policies have focused so much attention on budget at the municipal level; Brazilian mayors are given considerable autonomy and many local government have used this relative flexibility to thoroughly and unreservedly implement participatory budgeting. This participatory budgeting process is a year-long decision-making process in which citizens and officials negotiate over the allocation of new capital investment spending on projects, such as health care clinics, schools and street paving. In the more successful cases, citizens have the authority to make policy decisions which has the potential to alter the basic decision making processes in Brazilian politics. Citizens are mobilised to attend meetings during which they vote for public policies and elected community representatives (Wampler 2006: 4-6).



Participatory budgetary programs combine elements of direct and representative democracy and these programs pay increased attention to transparency and social justice both of which are designed to change how local governments in Brazil have long functioned, which is often described as clientelistic (Wampler 2006: 4-6). Indeed, Brazilian cities have been the sites of significant experiments in participatory and deliberative governance with participatory budgeting being singled out as one of the most successful; this has now been extended to 170 Brazilian cities. One should be aware as well that these important experiments have been driven by two transformations in the political landscape – the first was the process of democratization. Between the 1970s and the 1980s neighbourhood associations blossomed as part of the general reaction in authoritarianism and the second transformation was as a result of the new constitution in 1988 which expanded the forms of and the arenas for participation (Avritzer 2006: 623).

Perhaps what is also startling is that participatory institutions materialised and were effective in Brazil at a time when economic growth in this third world state was uncertain and slow as a consequence of inappropriate macroeconomic policies from government as well as international constraints (Navarro 2002: 3). Perhaps what is noteworthy to say here as well is that citizens, particularly in third world states *want* decentralisation and public participation; nowhere is this more evident, as highlighted by Isaac and Franke (2002:5), than in Kerala. Here, the “Kerala Peoples’ Campaign for Democratic Decentralisation” constitutes a remarkable radical experiment in democracy. It has decentralised the functions of government bureaucracy and planning while mobilising the energy of hundreds of thousands of activists to go beyond what government-funded projects can accomplish.

### **The South African experience – past and present**

Cameron argues that in the apartheid days of pre-1994, local government merely occupied the third level in the institutional hierarchy of SA government institutions; municipalities he contends were branded as agents for the implementation of national policies of government. This essentially translated into local government conducting activities according to racial groupings within the policy of separate but de facto unequal development. Elaborating on this, Barichievy contends that apartheid legislation demanded “own management for own areas”, which materialized into separate and individual local government structures for each racially defined area. The Group Areas Act, officially enacted by the government in 1950 is

significant apartheid legislation and had the general aim of separating and dividing the SA population on racial grounds. Black people were allowed only in black areas and vice versa for whites, Indians and coloureds. "All municipalities throughout the country were required to give effect to the provisions of this Act. Everything possible was done to reduce to the minimum any contact between race groups" (Barichievy 2006: 13).

Indeed, as contended by Nyalunga (2006:2), the historical conventional norm in apartheid SA "was racial segregation and (violent) control of the influx of Black people into the city" and were banned from living in designated "whites-only" areas. "Those areas reserved for Black people were underdeveloped and characterized by poor service". Indeed, he continues, "little attention was paid to everyday spatiality's such as home environment, neighbourhoods and trans-local social networks in the social construction of living space". This stood in stark contrast to the "White" cities, which received "exaggerated attention, with parks, libraries, schools and public facilities abounding often creating model environments not even found in more developed countries" (Nyalunga 2006: 2).

Local government can be then argued to have been structured to "facilitate and regulate this agenda of racial segregation and exclusion. Consequently, each "racial group" was afforded its own type of local government and the different types coincided spatially with the formal segregation of races in terms of the Native Areas Act (1923) and later, the Group Areas Act (1952). Practically, it meant that the four designated "racial groups" (in terms of the Population Registration Act of 1950), Whites, Coloured, Indians and Africans, had their own version of local government, although with very different capacities and powers" (Nyalunga 2006: 2). The Group Areas Act can be regarded as "one of the most notorious centrepieces of apartheid legislation, legislating the residential segregation and compulsory removal of Africans to "Own Group Areas". It heavily curtailed, until 1982, the permanent presence of Africans in urban areas through a notorious pass system.

The pre-1994 local government system, Nyalunga contends, attempted to make the racially "discriminatory system more palatable, but with minimal success" (Nyalunga 2006: 2). The local government system ended up making "provisions for race based municipal authorities. White (group) areas were governed and administered by White Local Authorities (WLAs) that were fully-fledged municipal institutions with a political council and, administration to carry out the functions of the council and taxation powers. Management Boards and Local

Affairs Committees technically governed Coloured and Indian areas.” Both these institutions were reliant on the WLAs to provide services on its behalf (Nyalunga 2006: 2).

Skewed and hierarchical development occurred as a direct result of apartheid separate development policies where on the one hand contends Barichievy, white suburbs had municipal service standards akin to first world countries whereas black homelands or townships were under-resourced and under-serviced to extreme levels of depravation. This type of development, punts Barichievy, “was supported by a local government system designed to produce and perpetuate inequality on the basis of race, for example, commercial and industrial properties from which municipalities derive their higher property rates were located in “white” areas.” He goes one further to highlight how ingrained and embedded this system of exploitation was in saying that, “although township residents worked and shopped in white areas, income derived from the local tax base was collected by white municipalities and spent on serving white areas only” (Barichievy 2006: 13).

The “apartheid city”, had a number of key characteristics presented by Nyalunga: firstly, “environment, health and other administrative structures were duplicated for each race group and between local, provincial and national levels of government. This resulted in fragmentation in terms of legislation, policy, and programmes and led to inefficient and wasteful operations. In the Cape Metropolitan Area (CMA), for example, there were prior to 1996 some 18-20 different local government administrative structures with little metro level co-ordination. Secondly, local government was unaccountable, with Black South Africans having no elected representatives. Finally, service delivery was characterised by great inequalities in access between well-resourced White suburbs and poor rural communities. Historically, therefore apartheid policies of segregation fragmented the city in how and where the public sector delivered goods and services”. The primary role of local government under apartheid was to create and perpetuate local separation and inequality (Nyalunga 2006: 2).

Boulle contends that during apartheid, popular participation in public-policy making was manipulated by the state, hampered by the lack of information and informal debate and subject to overrule or ratification by the executive which essentially failed to satisfy any of the democratic claims made for it. Policy-making under the apartheid rule was highly centralized, secretive and dominated by political executives and higher reaches of bureaucracy (Boulle 1980: 1). During apartheid the bulk of power was heavily concentrated

at the centre with local government being the lowest tier into a strict hierarchical system. As a result there were no *de facto* public participation forums; rather the local government system was structured to advance the agenda of racial segregation and exclusion. This situation was further aided by the fact that it was only in the 1990s that local government was granted constitutional safeguard, thereby fundamentally discouraging any community participation especially from the Indian, black and coloured population (Nyalunga 2006: 1).

Barichievy then usefully highlights Dr Michael Sutcliffe, in his capacity as Treasurer of the Southern Natal region of the African National Congress (ANC), who published an article entitled "The Road to Good Governance", in 1992. Here, he contended that the apartheid local government system "was fundamentally divisive: it divided communities territorially, socially, racially, on gender lines, and the like". Barichievy highlights that Sutcliffe observed that "squatter settlements had been allowed to spring up in Indian and African areas, but not in white areas. He pointed out that this was simply another cynical effect of apartheid policy, where the disadvantaged and racially oppressed were forced to squabble amongst each other over slightly more than 13% of the land" (Barichievy 2006: 18).

Indeed as highlighted by Nyalunga, colonial and apartheid policies "have left the majority of South Africans living in a highly unequal society in which poverty and social dislocation have had profound and traumatic effects on the social fabric. They further stated that the democratically elected government inherited a system which was aimed at providing quality services for a racially defined, privileged minority. Whites systematically excluded the majority of South Africans from owning land in urban areas, employment, education, health and other basic services. In other words, when the new government came into being in 1994, it inherited a country with high levels of poverty, social dysfunctionality and growing levels of inequality" (Nyalunga 2006: 2).

After also emphasizing how exploitative and unfair the apartheid system was, Barichievy points out that by the 1980s several mass mobilisations of township residents materialised. These mass forces engaged in consumer boycotts which heavily threatened the lifestyles of the white suburbs forcing national government to allow for the creation of negotiating forums which sprouted across the country creating waves amongst national government and forced them, after much negotiation to pass the Local Government Transition Act (L.G.T.A). This legislation, according to Barichievy "dealt essentially with the local government

democratization process and the division thereof into three phases, namely, the Pre-interim Phase, the Interim Phase and the Final Phase.” This was continued by the ANC government and he highlights these as being :

- a) The Pre-Interim Phase which began with the passing of the L.G.T.A in February 1994. This marked the starting point of the transformation and restructuring of local government. In addition to this, it contributed to post-apartheid SA, the establishment of local multi-party forums for negotiating the restructuring of local government (Barichievy 2006: 20). This phase also saw the creation of appointed transitional councils which would play crucial roles in the future of SA. Transitional councils were functional until the first local government elections, “which were held in November 1995 in seven of the provinces (and the urban areas of the Western Cape), in May 1996 in the Western Cape (metro and rural areas), and June 1996 in KwaZulu-Natal” (Barichievy 2006: 20).
  
- b) The Interim Phase started with the first local government elections in 1995. Transitional councils, during this time were classified as Transitional Local Councils for non-metropolitan areas and Transitional Metropolitan Councils (Barichievy 2006: 20). Powers and duties ascribed to the transitional councils as well as the determination of the number of seats were determined by the relevant Member of the Provincial Executive Committee. This phase also saw the creation of detailed legislation dealing with the future of local government being enacted. This legislation has been embodied in the Municipal Demarcation Act of 1998, the Municipal Structures Act of 1998 and the Municipal Systems Act of 2000. This interim phase lasted up until the local government elections held in November and December of 2000 (Barichievy 2006: 20).
  
- c) The Final Phase: this has been heralded as the elevation of local government because it ushered in new principles, structures and systems designed essentially to “facilitate the move away from the old into a new era”. Barichievy highlights that Section 43 of the “Constitution provides that the legislative authority for the local sphere of government is vested in the municipal councils” (Barichievy 2006: 20). This essentially means that for the first time “local government has been made a partner in the governing of the country. The power of municipal councils to make law is protected by the Constitution and this power can only be withdrawn by amending the Constitution ” (Barichievy 2006: 20).



As is now clearly evident, the post-apartheid South African government has embraced the idea of decentralization for development through public participation and has also embraced democratic decentralisation as the most effective means to do so through participatory institutions. SA has formally drafted new legislation and policy to enable the implementation of decentralisation and simultaneous democratisation of government. After reviewing public participation policy, Buccus *et al* acknowledge that public participation in SA is largely limited to public consultation but that extensive and official room is made for this (Buccus *et al* 2007: 16). Centre for Public Participation director, Janine Hicks, contends that the SA constitution provides that the structures of the National Assembly, NCOP and provincial legislatures must facilitate and not merely tolerate public involvement in their legislative processes (Hicks 2003: 6).

Buccus *et al* contend that in addition to official national stances at engaging with the public, obligations in the local sphere are more developed in comparison to national and provincial government. They cite section 152 (1) as national policy that “local government must encourage the involvement of communities and community organizations in the matters of local government.” Here as well, Buccus *et al* emphasise the Municipal Systems Act 2000, section 16 which obliges municipalities to “develop a culture of municipal governance that complements formal representative government with a system of participatory governance, and must for this purpose (a) encourage, and create conditions for, the local community to participate in the affairs of the municipality, including an (i) Integrated Development Plan (IDP); (ii) the performance management system; (iii) performance, (iv) the budget (v) and strategic decisions relating to services” (Buccus *et al* 2007: 10). Over and above requiring local councils to consult communities on key municipal processes, the Municipal Structures Act of 1998 creates ward committees who are intended to act as the main means of communication between the council and local communities.

Public participation in SA is now intended to complement and deepen representative democracy in ways that would improve delivery and development. Much SA legislation shows a distinct desire for effective public participation but Barichiev *et al* contend that the practical experiences of public participation leaves “a lot to be desired and at best, yielding a modest reduction in democratic deficit” (Barichiev 2006: 20). After a fair analysis of the Buffalo and Msunduzi Municipalities, they contend that both Municipalities display traits of formal spaces for participation being less effective than informally-structured spaces. There

were also clear disparities in the coordination of ward committees and local councillors and definite “lack of initiative from above mirrored by lack of activity from below” (Buccus et al 2007: 6). In short, the majority of practical experiences of public participation in SA local governance is by no means exemplary and often plagued by a host of tensions culminating in inefficiency.

It must be noted that the restructuring of local government in SA, post-1994, has caused the municipalities to experience a variety of financial challenges which often places the municipalities under immense financial pressure. These include dramatically increased services and responsibilities, increased administrative costs, upward pressures on salaries, cuts in operating subsidies and reductions in experienced personnel, especially in the financial sector. These challenges place significant pressure on municipalities’ cash flows and have led to a reduction of their resources. One major means with which to alleviate such financial pressure stems from the largest source of tax revenue for municipalities which are property rates. These generate around 20% of total revenue. Property-owners pay this tax (as based on a valuation of their properties) in order to finance municipal services and functions. While this tax is by no means the sole source of municipal revenue, it is an important source of discretionary own revenue for local government and enables it to function effectively.

In light of the fact that property-owners are the ones who foot the bill for a municipality’s efficient functioning, before a municipality adopts or alters its rates policy, rigorous community or public participation activities must take place as stipulated in the Municipal Rates Act 6 of 2004. These include conspicuous displays of the proposed changes and inviting the local community to submit comments and representations to the municipality concerned within a period specified. These comments and representations must be taken seriously and used when altering the rates policy. Public participation in the development of both integrated development plans and municipal budgets is also, essential. This enables ratepayers to be involved in the process of proposed rates increases which directly affects them, and presents them with an opportunity to understand and accept the trade-offs which need to be made between competing demands for resources.

## **Conclusion**

Fung and Wright contend that although beneficial, decentralization operates within a system of political representation which is somewhat, as they argue, ineffective in accomplishing the central ideals of democratic politics which essentially translate as facilitating active political involvement of the citizenry, forging political consensus through dialogue, devising and implementing public policies that ground a productive economy and healthy economy and healthy society and ensuring that all citizens benefit from the nation's wealth. They contend that reforms must be entrenched so as deepen the ways in which ordinary people can effectively participate in and influence policies which directly affect their lives, for which they offer Empowered Participatory Governance (EPG) as an answer to. They contend such a model as being effective because it relies upon the commitment and capacities of ordinary people to make sensible decisions through reasoned deliberation and empowered because they attempt to tie action to discussion (Fung and Wright 2003: 5).

After a thorough examination dealing with decentralisation and the inherent failures of centralisation, this chapter provided international experiences of decentralisation as well as the South African affair with the phenomenon. What is now clear is that decentralisation is the most conducive form of governance for development and when combined with democratisation, has the potential to becoming a powerful mechanism for people-centred development. What follows is an outline on the best possible methodology to analyse if decentralisation in SA local government has indeed translated as that powerful mechanism.



## **Chapter Three: Methodology and Theory**

### **Methodology and Methods**

Overall this research is a qualitative study. According to Babbie and Mouton (1998: 281), qualitative research is “conducted in the natural setting of social actors; there is a focus on the process as opposed to the outcome and the main concern is to understand social action in terms of its specific context”. As in the case of much qualitative research, this study attempts to study human action from the perspective of the social actors themselves; the primary goal whilst using qualitative studies is to describe and understand that which is used as the basis for explanation (Babbie and Mouton 1998: 270). Special mention here too must be made of the contextual interest this study has which means that it has a preference for understanding events and processes in their context as opposed to quantitative emphasis on variable analysis (Babbie and Mouton 1998: 272).

In order to examine the practical experiences of public participation in contemporary South Africa, a case study of the uMngeni municipality and Hilton/Howick residents is used. A case study is an “intensive investigation of a single unit but involves the examination of multiple variables; the interaction of the unit of study within its context is a significant part of the investigation. Thickly described, case studies take multiple perspectives into account and attempt to understand the influences of multilevel social systems on subjects perspectives and behaviours” (Babbie and Mouton 1998: 281). In using case studies, a wealth of information becomes available and, it is therefore necessary to ensure the employ of contextual detail in order to grasp the full picture of the case presented. This entails being able to understand the context in detail and is pivotal because the “unit of analysis is rarely isolated from and unaffected by factors in the environment in which it is embedded” (Babbie and Mouton 1998: 282).

In examining this case study of the uMngeni Municipality and the rates protests, this dissertation aims to use the theoretical framework of public participation as outlined below for analysis. In addition to the usage of a case study, the research design is an empirical study because it addresses “real life” problems whilst the research methodology has incorporated limited primary data and analyzes existing data such as texts (Babbie and Mouton 1998: 74).

With the intention of attempting to answer each research question, the following research has been used. The research question regarding issues around the rates protests themselves were answered through the use of data which included primary documents (such as minutes of meetings) and secondary documents (such as newspaper reports) as well as information collected from interviews. These interviews come in several forms as outlined by Babbie and Mouton; the first kind is that of basic individual interviewing which materialised as an open interview which allowed the object of the study to speak for him/herself and was “characterised by being ‘flexible and iterative’ rather than being prepared in advance and locked in some” (Babbie and Mouton 1998: 292). As in the case of basic individual interviewing, a general plan of inquiry was provided rather than a specific set of questions. In sum, conversation became the main instruments through which to gather data. My role was to establish the general direction of the dialogue whilst the respondent did most of the talking.

Focus group interviews also proved most useful and were used in two ways. With the case of ratepayers in the developed areas of Hilton and Howick the instrument of focus groups was used. Five to six individuals were set up in a dialogue circle and I managed these groups by ensuring that everyone spoke so as to have the result of a general consensus on issues. The second and much more valuable method to be used, particularly in the rural township of Mpophomeni was to form a focus group of around half-a-dozen who reside in the township so as to access information I would not have been able to locate otherwise. The focus groups method is especially useful because it allowed for the creation of safe spaces in which people got together and created meaning for themselves (Babbie and Mouton 1998: 292).

In order to get a general picture of development initiatives occurring in township areas, I also aimed to utilise the observation and direct participation research method whereby I used simple observation of the development processes occurring for my own contextualisation; this forced me to become familiar with the subjects, allowed for previously unnoticed aspects to be seen and for the process to be unobtrusive because when obtrusive, the effect does wear off in time, as stipulated by Babbie and Mouton (1998: 295).

The research question on the nature of public participation around the issue of rates increase proposals was answered using primary government documents, secondary documents such as newspaper reports, and insights retrieved from interviews with both residents’ organizations, and key community leaders from both designated communities, as well as municipal officials.

In answering the research question of the financial pressures linked to development and delivery, the same set of sources and methods were employed: analysis of primary government documents and secondary documents such as newspaper reports, and insights retrieved from interviews with key role players, especially municipal officials. The structure of the interviews were determined according to the interview schedule found at the end of this dissertation and for reference purposes, were taped and stored according to university procedures.

## **Theory**

The theory of public participation is important to this research. Stemming from the recognition that standard top-down technocratic approaches to development have failed, participation is a long-established theory which experienced a renaissance in the 1990s (Levieux 1998: 12). Perhaps it is worthwhile to repeat the idea of public participation as that “process through which stakeholders influence and share control over development initiatives and the decisions and resources which affect them” (World Bank 1998: 1). Other descriptions, as mentioned earlier, include “public participation as a democratic process of engaging people in thinking, deciding, planning, and playing an active part in the development and operation of services that affect them and as an open, accountable process through which individuals and groups within selected communities can exchange views and influence decision-making” (Dollery and Dallinger 2006: 15). Essentially, as Bulman contends, public participation is a process whereby policy makers consult those who will be affected by proposed policy (Bulman 2002: 2).

In addition to these definitions are the theoretical arguments of Fung and Wright (2003) as well as Gaventa (2007) directed to modelling the prerequisites for effective participatory institutions and therefore, meaningful public participation with government. These theories will be thoroughly and extensively employed to analyze the situation of effective public participation in this case study. These prerequisites, as advocated by Gaventa (2007), are (i) political will amongst political elites and (ii) popular mobilization by stakeholders and affected communities, and, as advocated by Fung and Wright (2003), (iii) appropriate institutional design is also required. More specifically, Fung and Wright argue that effective participatory institutions share the following characteristics a) the devolution of public decision authority to empowered local units, b) the creation of formal linkages of

responsibility, resource distribution and communication that connect these units to each other and to subordinate, centralised authorities, and c) the use and generation of new state institutions to support and guide these decentred problem-solving efforts (Fung and Wright 2003: 21-22).

Political will amongst political elites can be understood, according to Gaventa as being in recognition that that “while strong citizen capacity is critical for successful participatory governance, equally important is the leadership and political will of “champions of participation” inside government” (Gaventa 2007:2). Indeed, according to Gaventa, the dialogue between government and governed has been accepted as a positive outcome of democracy ensuring ongoing legitimacy and the creation of a sense of trust and ownership of government decisions. Conversely, according to an independent inquiry into British democracy, a decline in involvement in democratic processes “is a sign that...dialogue is under threat” (Flower 2006: 35). Gaventa valuably highlights here as well the importance of “working on both sides of the equation” between citizen demand and government response. He argues that much attention ought to be directed on the citizen voice side of the formula. Here he contends that assumptions claiming that improvements can only be made on the side of the citizen as opposed to institutions are flawed. He is adamant that there needs to be a dual effort on both sides in order to generate more effective dialogue (Gaventa 2007: 2).

In spite of concerted global efforts at democratic decentralisation and public participation over the last decade, Gaventa cites the example of the recent Power Inquiry, which is an independent report on the state of democracy in the United Kingdom which found that “citizens do not feel that the processes of formal democracy offer them enough influence over political decisions” (Flower 2006: 29). He goes further to highlight that the report went on to call for amongst other things, “allowing citizens a much more direct and focused say over political decisions and policies.” Gaventa, in explaining the issue of political will amongst political elites highlights as well, the study by the Commonwealth Foundation which was conducted in the early 1940s “found a growing disillusionment of citizens with their governments, based on their concerns with corruption, lack of responsiveness to the needs of the poor, and the disconnection from the lives of ordinary citizens” (Flower 2006: 29). This is a pivotal point because there seems, according to Gaventa a detachment of political elites from taking public participation seriously from all walks of life, for whatever reason. With a specific focus on Britain, it was found by The Power Inquiry’s report “Power to the

People”: An Independent Report into Britain’s democracy, that many people feel that their views and accounts are not taken into account when key policies are developed and key decisions are made if they do get involved in official public participation mechanisms (Flower 2006: 29).

This said, Gaventa can be interpreted as arguing that political elites have become lethargic and indeed far less committed to effective public participation for a host of reasons, as specific to each individual state. He states that in recent times, many political elites have adopted the role to “speak for” people and believes that a prerequisite for effective political will amongst political elites to ensure better participatory institutions, is for them to playing a more facilitative and listening role in public leadership”. He contends that government officials and civil servants have also retreated to “making decisions based on their own expertise and role as implementers of policy or deliverers of services”, and a further prerequisite would be to “inform, consult, listen and involve, as well as share decision making power” (Gaventa 2007: 3-5). In hosting international workshops on these prerequisites he also cites the fact that true “champions of participation” or political elites should engage in discussing, amongst themselves, the benefits of and incentives for greater citizen engagements in local governance processes; “consider the challenges and costs of promoting greater citizen engagements faced by local officials; and identify practical and creative approaches to overcoming the challenges to promoting greater citizen participation in local governance, including policy frameworks” as additional prerequisites (Gaventa 2007: 8).

In explaining further the means by which to support citizen engagement, the prerequisite of elite political will was identified, including the fact that there do exist “entrenched views” among certain government officials who may not be willing to “give up” or share power. Essentially this kind of arrogance from government officials directly opposes citizen engagement especially since it is tinged with “arrogance, corruption, indifference and abuse”. Consequently, it needs to be eradicated in order to strengthen public participation and increase political will amongst officials. Gaventa notes that the challenge of elite political will is often an issue of funding. Often, he contends, “innovations began with designated funding, perhaps from an outside source, and now the challenge is gaining support from the core budgets of local governments.” At the same time the issue of sustainability means linking “citizen engagement processes with existing decision-making structures, and how to



make citizen engagement ‘part of everyone’s day job.’” And also “for yet others, changes in political leadership at the top, affected the degree to which commitment to extensive engagement would continue.” He very valuably notes that increased citizen engagement is not a “quick fix” and it will entail a great deal of cultural and institutional change to mainstream the new ways of working, which should be understood by political elites in order to ensure public participation (Gaventa 2007: 6-8). As trumpeted by the *Inquiry* edited by Flower (2006), “when participation meets the expectations of today’s citizens, they will get involved” (Flower 2006: 98).

Gaventa also writes about political mobilisation by stakeholders and affected communities as a prerequisite for effective participatory institutions and therefore public participation. In elaborating on this point, Gaventa contends that across the globe, there is expanding unity in agreeing that the best means for bettering citizen engagements is found to be “working on both sides of the equation – that is, focusing on both a more active and engaged citizenry as well as a more responsive and effective state which can deliver needed public services” (Gaventa 2007: 6-8). Debates such as this allow for citizens and stakeholders to evolve from being simply “users or choosers” of public services policies made by others, into “makers and shapers” of policies themselves. In this process however participation will mean much more than consultation, but essentially entails “shared responsibilities for decision-making in the making of policies and the allocation of resources” (Gaventa 2007: 6-8).

As a result of this kind of thinking, one is able to understand from the citizens perspective what could contribute to the prerequisite for the most effective mobilisation as Gaventa highlights here: citizens should emphasize a more active and participatory forms of citizenship. Such views do not patronize communities as mere “consumers” but rather allow them to be individuals who “engage in policies and in the delivery of services”. This also entails going beyond consultation “to deeper, more empowered forms of involvement” (Gaventa 2007: 8-10).

Secondly where citizens are concerned with the inclusion, “especially of poor people, racial and ethnic minorities, youth, older people, and others seen as previously excluded or marginalized”, is truly evidence of prerequisites for effective mobilization. Thirdly, focusing on the joint emphasis of involving multiple stakeholders in new forms of partnerships, in turn enables “wider ‘ownership’ of decisions and projects” is also part of an effective public

participation strategy on the part of citizens. Fourthly, emphasising the “quality and methods of deliberation, including with the use of knowledge and dialogue to support and legitimate policy decisions” is an additional effective mobilisation trait as is an emphasis on general forms of accountability, that allows for “multiple partners to hold institutions and policy makers to account, and which involve social accountability as well as legal, fiscal and political forms” are additional contributing factors to mobilisation (Gaventa 2007: 8-10).

In addition to this, mobilisation should be based on fair representations and representativeness; this essentially means that there have been concerns in the past over how people gain legitimacy for the people they represent and if they do represent these people’s best interests at all. Effective mobilization is also about building new partnerships which are equitable and just. These partnerships with interested stakeholders and parties should be based on trust as well as partnerships between citizens groups is invaluable but also fragile and easily damaged.

In explaining appropriate institutional design, Fung and Wright do so by analysing cases of institutions in relation to their principles of appropriate institutional design. These are a) the devolution of public decision authority to empowered local units, b) the creation of formal linkages of responsibility, resource distribution and communication that connect these units to each other and to subordinate, centralized authorities, and c) the use and generation of new state institutions to support and guide these decentred problem-solving efforts (Fung and Wright 2003: 21-22). The cases which he presents are functionally specific neighbourhood councils in Chicago, USA, Habitat Conservation Planning Under the USA Endangered Species Act, Participatory City Budgeting in Brazil and Democratic Decentralization in India, West Bengal and Kerala (Fung and Wright 2003: 7-12). They contend that though each of these varies in their objectives, scope and concrete aims, they are very, similar in their motivating principles and institutional design features. Here he states that they have enough in common to warrant describing them “as instances of novel” but broadly, they can also be categorised as a model of deliberative democratic principles that can be expanded both horizontally – into other political areas and regions – and vertically, into higher and lower levels of social life.

Fung and Wright conceptualise this as Empowered Participatory Governance (EPG) (Fung and Wright 2003: 15). The design properties which they analyse the cases against and which

are inclusive of the EPG model can be expanded on as follows. The first design property which they highlight is that of the devolution of public decision authority to empowered local units which entails the administrative and political devolution of power to local action units which comes in many forms such as neighbourhood councils, personnel in individual workplaces and delineated natural habitats. These have the responsibility of devising and implementing solutions, and are held accountable to performance criteria. It is important to note that such bodies – including the likes of municipalities – are not merely advisory but rather creatures of a transformed state endowed with substantial public authority (Fung and Wright 2003: 20).

The second design property of centralised supervision and authority entails acknowledgments that whilst local units do operate with substantiate power and discretion they are not autonomous, atomized sites of decision-making in empowered participatory governance. Instead, Fung and Wright contend, each case features linkages of accountability and communication that connect local units to subordinate bodies. In turn, these subordinate bodies can then reinforce the quality of local democratic deliberating and problem-solving in a variety of ways such as coordinating and contributing resources, solving problems that local units cannot assess themselves and diffusing innovations and learning across boundaries (Fung and Wright 2003: 21).

The third institutional property design highlighted by Fung and Wright include the use and generation of new state institutions to support and guide these decentred problem-solving efforts. This means that effective decentralised bodies should be able to colonize state power and transform formal governance institutions and seek to influence state outcomes through outside pressure. In doing so, the EPG principles of practicality, participation and deliberation in civic or political organizations are advanced.

It is worthwhile to note Fung and Wright's coverage of the enabling conditions which can either facilitate or impede the progress of empowered participatory governance. Here they largely cite the balance of power between actors engaged in EPG and in particular the configurations of non deliberative power that constitute the terrain upon which structured deliberation inside EPG occurs. They cite three paths which lead to power balances sufficient for deliberation which include self-conscious institutional design efforts, historical accidents not intended to establish deliberation in participation at all and lastly, groups such as



community organizations, labour unions and advocacy groups who often check the tendencies of both officials and groups of citizens to commandeer deliberative processes to advance their own narrow ends (Fung and Wright 2003: 22-23).

In addition to this they also contend that effective participatory institutions require also a clear focus on a specific problem and must have the power to do something about the problem.

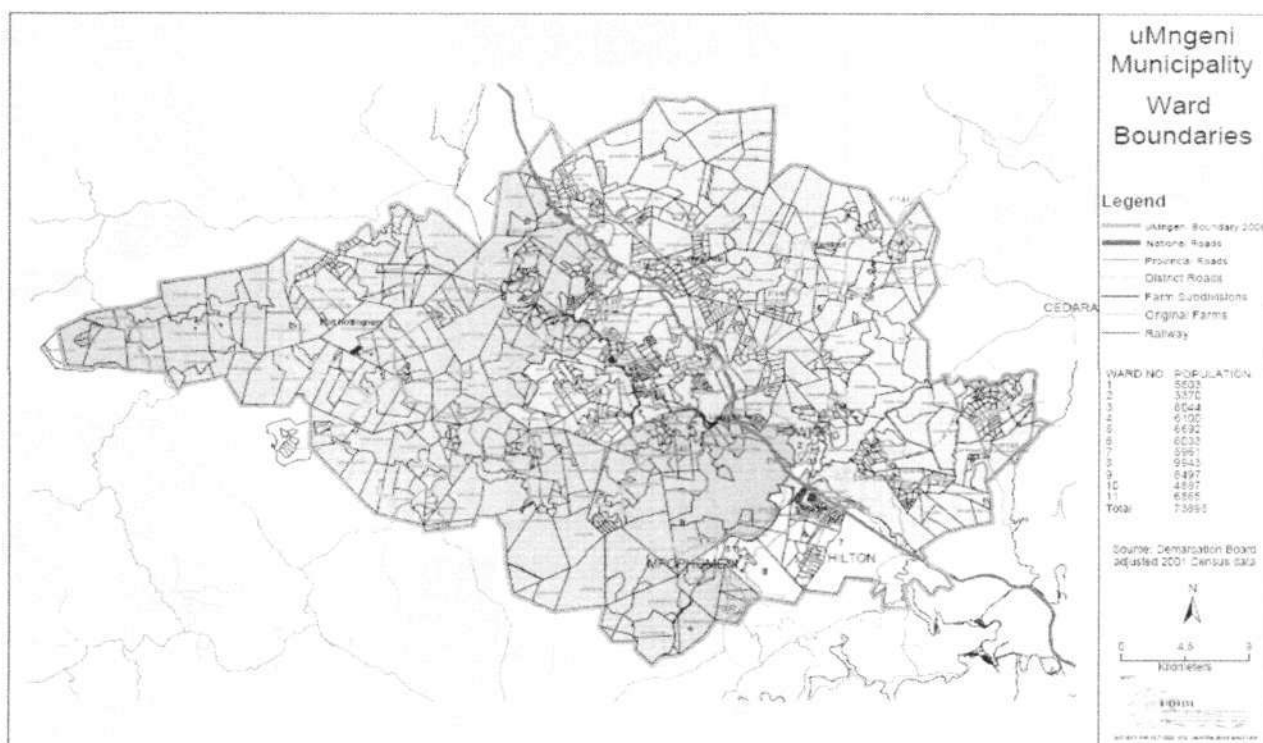
In developing the research questions, the theory draws our attention to assessing more closely the design of local participatory institutions, particularly those linked to rates increases. This will be covered under research question 3. Moreover, the insights of Gaventa (2007) concerning political will of politicians and officials and the effective mobilization of affected constituencies, will be explored under research questions 1 and 2.

## Chapter Four: The uMngeni Municipality Rates Protests, A Chronology of Events

### Introduction and Background

The uMngeni Municipality is a unique institution within the local government sphere because it is a product of the amalgamation of four separate Transitional Local Councils (TLCs). These formerly existed independently as the TLCs of Hilton, Howick, World's View as well as the greater rural areas comprising Fort Nottingham, Lidgetton West and Midmar. This process was in line with following the processes stipulated in the Municipal Demarcation Act of 1998. The move was initially very controversial because in addition to amalgamating four previously independent areas, it also entailed incorporating extensive agricultural farming land, found *in-between* the newly amalgamated areas, into the uMngeni Municipality boundaries and obliging these previously unrated areas to commence with rate payments, in line with the valuation of their properties. These former TLCs and farming areas were officially incorporated into the uMngeni Municipality on 5 December 2000 (Interview, CFO: 2008).

Map retrieved from: IDP 2007, retrieved online: PTO for URL



[http://devplan.kzntl.gov.za/idp\\_reviewed\\_2007\\_8/IDPS/KZ222/Adopted/Map%207\\_Ward\\_Boundaries.pdf](http://devplan.kzntl.gov.za/idp_reviewed_2007_8/IDPS/KZ222/Adopted/Map%207_Ward_Boundaries.pdf)

Because of the newly amalgamated uMngeni jurisdiction, the valuation procedures conducted each year are now as follows: after extensive advertising for tenders to value properties, “an independent service provider” is commissioned to do the work thoroughly and must consolidate the valuation role by 16 January each year (Interview CFO: 2008). The tender has been awarded to eValuations (PTY) Ltd (hereafter, independent service provider); according to their website, they are a “young ambitious, black empowerment company...with expertise in valuation, consulting and the property sector”. Their present clients include the uMngeni Municipality, the Ethekwini Municipality, the Umshwati Municipality as well as ABSA trust (<http://www.evaluations.co.za/newsEvents.html>).

With the new additions to uMngeni Municipal boundaries, these previously separate areas (ie former TLC’s and farming areas) are now subject to the same standard, uniform randages (as based on cents per Rand) applied to all areas within this jurisdiction. The first rate randage in 2001 was two cents per Rand. As with each year, the valuation role is then presented to the public at meetings held in each ward between January and March. If objections arise, residents have twenty one days to make appeals for re-assessment (Interview, GM Operations: 2008). This process is consistent with the relevant legislation (Interview CFO: 2008).

According to its official website, the uMngeni Municipality is today located at an estimated 26 km from the capital of KwaZulu-Natal, Pietermaritzburg, and has eleven wards. It comprises a blend of manufacturing enterprises, leisure facilities and a burgeoning agricultural sector. This municipality’s vision is to remain a “people focused, efficient and cost effective municipality providing quality service and addressing unemployment and poverty through the promotion of agriculture, commercial and industrial productivity, education, tourism and conservation” ([www.umngeni.gov.za](http://www.umngeni.gov.za) 2008: 4); it is notable to highlight the Municipality’s claim to always “ensure community participation in all projects; sustainable service delivery and promote local economic development.” ([www.umngeni.gov.za](http://www.umngeni.gov.za), 2008: 4). It is interesting then in light of its “sustainable service delivery and economic growth through good governance” pledges, the Municipality has been

taken to court twice - both by agricultural farmers and urban residents in its jurisdiction thoroughly dissatisfied by the Municipality's conduct and rates policy. This will be outlined later on in this chapter.

It is necessary first though to outline the relevant content found in the White Paper regarding the demarcation of boundaries which directly incorporated Hilton, Howick, World's View and the greater rural areas as well as previously unrated farming areas into the uMngeni Municipality in 2000. This Act essentially provides "the criteria and procedures for the determination of municipal boundaries by an independent authority" and to provide for related matters. According to the Municipal Structures Act of 1998, the MEC for Local Government in a province must establish a municipality in each municipal area as according to the Demarcation Act. Provision here is also given for regulating the effects of establishing a municipality on an already existing municipality. (Municipal Structures Act 1998: 20-25). The Demarcation Act calls for an independent juristic demarcation board to perform impartially and without fear, favour or preference and as appointed by "the minister" with the primary function of determining municipal boundaries in accordance to this Act (Municipal Demarcation Act 1998: 7-9).

The demarcation objectives include the fact that the new boundaries must enable the Municipality to perform its functions which include "the provision for accountable and democratic government to the local communities, the provision of services to the residents in an efficient and equitable manner and so forth (Municipal Demarcation Act 1998: 16-20). In the case of uMngeni, the board performed this task on request by national government who aimed to decrease the amount of municipalities in SA in order to increase efficiency. As was the case in the events leading to the additions to the uMngeni Municipality, public notification of the boundaries proposed must be given in newspapers and other mediums of expression and allow for objections which, if have reasonable cause, must be taken seriously (Municipal Demarcation Act 1998: 16-20).

In the process leading up to the proposed amalgamation, the Municipality posted notices to all residents who would (potentially) be affected by the proposal. Vocal objections were voiced by farmers in the area who contended that they did not need to pay rates (as they had historically done) because they do not receive municipal services (ie refuse removal). In addition to this, they contended that the rate taxes would hinder their capacity to produce

reasonably-priced goods. Hilton residents were also adamantly against the move and proposed to rather become a separate Hilton Municipality. Despite these objections, the amalgamation materialized in December 2000. This was because the uMngeni Municipality, together with national government argued that fewer municipalities would entail stronger, united efforts at governance because the process eradicates weaker, ineffective municipalities and that rates are not used for services but more for development projects such as the construction of roads and a more consistent valuation throughout uMngeni is necessary to prevent certain residents having a “rates holiday” at the expense of lesser developed areas (Interview, CFO: 2008).

### **2001-2004 and Act 6 of 2004**

With the eradication of the TLCs, property within this former vicinity was valued for the first time as part of the uMngeni Municipality. This was done in early 2001 by independent valuers. There was now consistency in having one service provider valuating areas at the same time, under a uniform rate randage. Previously, several individual service providers were doing this task in different areas and at different times, under different rate randages which saw property being valued at very high figures. Despite this, rates were still increased by over 100% in some areas and by 2004, after successfully levelling the playing fields, the Municipality saw some rate bills being raised as much as 550% (Wilsworth 2007: 7). It is noteworthy to mention here that in levelling the playing field, whilst some residents property valuations increased, an equal approximately 50% decreased (Interview CFO: 2008).

During 2002 and 2003, residents whose rates increased continued to express their dissatisfaction of rates hikes at ward and budget consultations<sup>1</sup> but the Municipality felt that taking seriously its development pledges, particularly in underdeveloped areas, was “imperative”, according to the General Manager of Operations, Mbali Myeni. Evidence of this has indeed been seen in the poorer areas of Howick West and Mpophomeni where facilities such as public libraries and community halls have been constructed, after indication from residents that such developments are what they desire (Focus group interview Mpophomeni: 2008; site visit Howick West and Mpophomeni: 2008). This move, to increase rates, was later given further legitimacy by the passing of the bill to create Act 6 of 2004,

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<sup>1</sup> Ward committee meetings are held throughout the year with IDP meetings held between July and November.



which according to Andrew Layman – former CEO of the Pietermaritzburg Chamber of Business, was “one of the most controversial of modern times.” He is quick to highlight that in the Act’s developmental stages as a bill, it prompted many concerns and vocal objections that it may give license to municipalities to engage lawfully in “spurious wealth redistribution”. The then chairman of the relevant portfolio committee, Yunus Carrim regards this Act as allowing municipalities, should they so wish “...to extend the levying of rates to properties that have until now been partially or fully excluded from rates” (Layman 2007: 10).

The main objective of the Act is essentially “to regulate the power of a municipality to impose rates on property; to exclude certain properties from rating in the national interest and to make provision for municipalities to implement a transparent and fair system of exemptions, reductions and rebates, and to make provision for fair and equitable valuation methods of properties” (Layman 2007: 10; Act 6 of 2004). The intention of the legislation is that land across the whole of South Africa be rated; it should be understood that the legislation allows for rates to now be levied on agricultural land previously exempted and that there would be an increase in the amounts paid on previously rated properties (Coyningham ed 2007:8). Many commentators have described the act as acutely “pro-poor” which immediately triggers alarm amongst those who are well-off (Layman 2007: 10).

It becomes necessary here to give an aside as to the rationale behind the now higher valuations of property and therefore, increases in rates. Previously, as illustrated in chapter two, the Group Areas Act of 1950 allowed for the racial demarcation of boundaries where white designated areas had an oversupply of land and under-demand for this same land. In order to encourage and attract more whites to the bounty of land available, properties were artificially valued at low-levels so as to grant residents extremely low-rates and, as contended by the uMngeni Municipality, these same residents were comfortable with the rates holiday allowed for them (Interview Assistant CFO: 2008; Interview Municipal lawyer: 2008). This is especially true for properties in Hilton where residents were notorious for boasting about their low rates. In Indian and black areas such as Howick West, there was an undersupply of land and over demand for this same land resulting in properties being valued at high levels so as to quell the demand. With the amalgamation, it became necessary to level the playing field and adhere to post-1994 equity policies of transferring wealth from the exclusively wealthy areas which were created as such because of the underdevelopment of black and

Indian areas to these underprivileged areas (Interview uMngeni Municipality lawyer: 2008). Indeed, the area of uMngeni is largely rural, mostly unemployed and endemically poor (Bailey 2002: 6).

### **Public Participation or the “Art of Non-Consultation”?**

By early 2002, simmering tensions between farmers, urban residents and the Municipality had developed. Residents began labelling the Municipality's efforts at public participation “the art of non-consultation”. To worsen matters, it became evident that the Municipality was struggling to roll out new development projects due to non-collection of service payments by the previous Howick TLC. Arrears at this stage amounted to R30 million and ratepayers began expressing fears that this situation might trigger further rate hikes inevitably felt hardest by those who had a history of paying. In response to such fears expressed at ward committee meetings and written letters to the Municipality, uMngeni Mayor, Mr Edward Dladla established that the municipal council was aware of the fears expressed and that the council was determined to reverse the situation by advertising for new consultants who would be successful in retrieving rates and service payments and has appointed a new Chief Financial Officer, Mr Albertus van der Merwe, who was entrusted with ensuring that problems inherited by previous councils were “sorted” (Memela 2002: 7). He went further to say that this would not be the rationale for increasing rates further.

By late 2001/early 2002, the uMngeni Municipality was accused by residents of not consulting them on these matters affecting their lives. Residents made general complaints that they were being “duped by municipal officers who were consulting the electorate in order to legitimize their preconceived plans” (CRG Newsletter: 2002). Evidence of such complaints come from verbal complaints to the Municipality itself, letters to the editor of various newspapers and written complaints from the CRG to the Municipality. Between 2002 and 2004, residents and farmers lived in such a charged climate of discontent that the Concerned Residents' Group of Howick uMngeni Municipality (as formed in 1998, with issues of rates being on the periphery of its agenda) found itself mobilizing very prominently around the rates issue as also seen with the newly formed Hilton Ratepayers' Association. Grievances during this period included the fact that uMngeni Municipality took a decision, in a dictator-like fashion, to impose uniform rate randages (which translates into land and houses having the same rate randages and some experiencing increases), the decision by the Municipality to

charge rates monthly instead of annually and very significantly, despite organizing and inviting all residents to official public participation attempts in the form of ward committees and IDP meetings, the municipality's "failure" to engage with the community over all of the above and on the rates issue in general (CRG Newsletter: 2002).

General increases presented by *The Witness* using one resident's case as an example is as follows (Naidoo 2007: 16):

Year	Property tax
2003/2004	R3400
2004/2005	R9140
2005/2006	R9140
2007/2008	R21800

In elaborating on the issue of the Municipality not engaging with residents, residents felt that at ward meetings (held monthly throughout the year, in all eleven wards) where they aired grievances on these issues, "the Municipality heard them with closed ears" because they felt that plans had "already been made". Residents contended that despite their heavy attendance at meetings (in all areas of the uMngeni) arguing against increases because they simply could not afford any more, municipal officials (who diligently attended all meetings) contended that it is "necessary as a privileged community to aid in developing underdeveloped areas and one major means of transferring wealth from perceived wealthy areas to poorer areas is through a uniform rating system across the municipality" (Interview ratepayer: 2008; Interview Community Development Workers: 2008; Interview CFO: 2008). This debate has been raised several times, following proposals for further increases to be discussed at IDP meetings held during July and November of each year. It is noteworthy as well, according to Bailey (2002) that in levelling the playing field of rate payments, whilst some residents rate fees increased, an equal number decreased but this is very seldom spoken of (Bailey 2002: 6).

At such meetings (between January and March as of 2001), five residents interviewed said that they "complained that municipal officials did not engage constructively with the community but rather retreated under technocratic jargon, when challenged on relevant rate

issues" (Interview Ratepayers: 2008). Residents claimed as well that such meetings, as with "their notification of the assessment of rates" were "badly advertised" and the reason for their knowledge of the assessment as well as large turn-out was because of the Rates Organizations' vigilance in notifying them as well as of contacting the municipality directly for more information (Interview Ratepayer: 2008). One ratepayer interviewed said, "the advertising done for the meetings was a sham because (he) did not see a single poster anywhere" (Interview Ratepayer: 2008). Conversely, the Municipality contends that "every effort was made in advertising the meetings, as well as the assessment of general rates for each year, in the print media, at municipal offices as well as at municipal libraries and in "black areas" where newspapers are not as widely read, loud hailers are used to notify residents of the meetings" (Interview GM Operations: 2008). Advertisements in the *Witness* and *Village Talk* confirm this.

**uMNGENI MUNICIPALITY**

**MUNICIPAL NOTICE No. 25/2004**

**ASSESSMENT OF GENERAL RATES**

**2004/05**

Notice is hereby given in terms of Section 75A(3)(b) of the Local Government Municipal Systems Act (Act 32 of 2000), that the rates payable on rateable property within the area of uMngeni Municipality for the financial year 1 July 2004 to 30 June 2005 have been assessed as set out hereunder:

1. **ERSTWHILE HOWICK T.L.C., ERSTWHILE HILTON T.L.C., LIJOGTON WEST AND WORLD'S VIEW AREAS**
  - (i) 2,3 cents in the rand of the total improved value.
  - (ii) A rebate of 30% on residential properties.
  - (iii) An additional rebate of 50% for the indigent aged persons, having applied therefore and submitted proof of total monthly household income of not more than R2000,00. This additional rebate will only be granted from the month following the date of the approved application.
  - (iv) A rebate of 50% on the Midmar and farming areas as detailed in Proclamation No. LG 90, 1995 dated 7 March 1995.
  - (v) A rebate of 20% to provincial and national government owned properties.
2. **FORT NOTTINGHAM**

A general rate of R585 per 5000 square metres or part thereof with the maximum payable R2925 per annum (R243,75 per month) irrespective of the total hectareage registered in the name of the ratepayer (including any hectareage of land purchased, leased or otherwise, acquired from the state whether or not such land is registered in the name of that person).
3. **ALL AREAS WITHIN THE BOUNDARIES OF uMNGENI MUNICIPALITY WHICH WERE NOT VALUED BEFORE AND FORM PART OF A NEW VALUATION ROLL.**
  - (i) 4,4 cents in the rand of the land value only with a maximum payable of R6000 per annum for properties < 20 hectares and a maximum payable of R10000 per annum for properties > 20 hectares.

Rates will be levied monthly from 1 July 2004 for (1) and (2) above and from 1 October 2004 for (3) above and payable on the last working day of each month. Ratepayers who want to pay on an annual basis should do so in advance before 31 July 2004 for the areas in (1) and (2) above and 31 October 2004 for the areas in (3) above.

**GENERAL**

Any rates remaining unpaid after the last working day of each month shall be subject to a penalty of 1,5% per month or part thereof during which such default continues.

Any rates outstanding as at 28 February 2005 will be subject to a collection charge of 10%, calculated on the amount owing on 28 February 2005.

Any rates remaining unpaid for a longer period than 3 months shall be subject to legal action to be instituted to recover the arrear amounts.

**F.D. VILAKAZI**  
**MUNICIPAL MANAGER**  
**uMNGENI MUNICIPALITY**  
**P.O. BOX 5**  
**LIJOGTON**

**uMNGENI MUNICIPALITY**

**Municipal Notice No. 11/2007**

**ASSESSMENT OF GENERAL RATES FOR 2007/2008**

Notice is hereby given in terms of Section 74 of the Local Government Municipal Property Rates Act No. 6 of 2004, that by resolution taken on 20 April 2007 the Council of uMngeni Municipality has resolved to determine the rates payable on all rateable property within the area of uMngeni Municipality for the financial year 1 July 2007 to 30 June 2008 at 1,50 cents in the rand on the market value of the property as stated in the valuation roll.

All rates and conditions are contained in the Rates Policy and may be obtained from the Council Office, uMngeni Municipality, P.O. Box 5, Lijogton, uMngeni Municipality.

**GENERAL:**

1. Rates will be payable monthly in three (3) equal instalments with the first instalment payable on 31 August 2007 and the last instalment payable on 30 June 2008.
2. The date on which the determination of rates come into operation is 1 July 2007.
3. Any rates remaining unpaid for a period longer than 3 months will be subject to legal action to be instituted to recover the arrear amount.
4. Any rates that are not paid on the due date will be subject to interest at the rate of 15% per month or part thereof.
5. A collection fee of 10% will be based on the amount outstanding on 30 February 2008, month or part thereof.
6. The date on which this notice was first displayed on the Municipal Notice Board is 25 April 2007.
7. This notice is also available on uMngeni Municipality's website: [www.uMngeni.gov.za](http://www.uMngeni.gov.za).

**F.D. VILAKAZI**  
**Municipal Manager, uMngeni Municipality**



(Vilikazi in *Village Talk* 2004: 18; Vilikazi in *Village Talk* 2007: 23)

In written responses to ratepayers however, the Municipality contended that all objections against tariff and rates adjustments were dealt with in council in terms of the relevant legislation and that, after “sufficient advertising”, meetings were held in Howick, Hilton and Mpophomeni to discuss the budget and tariffs. The meetings in Howick and Mpophomeni were well attended, but in Hilton the Mayor was not given an opportunity to respond to questions because residents left in protest. During this time of between 2002 and 2004 as well, there was consensus amongst both farmers and urban residents that the Municipality has not followed correct legal procedure in assessing and levying rates (Keal 2004: 9). This is in response to the fact that rates had at this stage increased from 50% to 300%. An accounting expert speculated that the “massive rates increases are directly linked to the cash-strapped municipality trying to find a “quick fix” solution to its financial woes” (Interview ratepayer: 2008). Debtors at this stage, allegedly owed the Municipality as much as R58 million. Residents believed this the reason as to why the Municipality has changed to a monthly billing system in a “clandestine fashion”, without adequately consulting residents and “dismissing objections”. Others speculated that up to 95% of rates were used to pay salaries of municipal staff, as exacerbated by the perceived lack of accessibility to transparent documents on the matter of salary increases (Keal 2004: 9; Interview Ratepayers: 2008). The issue of pensioners during this period became a heated point as many elderly live on fixed incomes and cannot afford such increases.

Municipal Manager, Mr Dumisani Vilikazi is reported as continuously stating that the rates have increased in the Hilton area to place them in line with Howick because in the past Hilton residents paid only 50% of that of which Howick paid, and especially the Indian areas of Howick West, paid for properties for the same valued property. Hilton residents, according to Vilikazi benefited for years at the expense of other ratepayers in the uMngeni Municipality. In addition though, Vilikazi was clear in stating that “the reason rates were now levied monthly was as a result of having a more constant cash flow in order to honour commitments with regard to service delivery” (Keal 2004: 9).



### **Court Action 2004-2006**

It was in this environment of acute disgruntlement that farmers in the area (who formed the Howick District Landowners' Association) took the Municipality to the High Court and as a result, on 17 October 2004, managed to attain a temporary halt on permitting the Municipality from "taking any steps to levy or collect general rate on certain properties in the Howick Area; the Howick District Landowners' Association (representing over 100 farmers in the area) was granted an interdict after arguing that the Municipal Property Rates Act had not yet been proclaimed thus making the collection of rates on previously unrated agricultural land illegal" (Regchand 2004: 4).

The matter proceeded to the Supreme Court in the same year where farmers argued that they disagreed with both the method of remedying of the situation on the part of the municipality as well as the continued rating by the municipality. The court rejected this challenge and ruled in favour of the municipality because it was felt that the landowners relied too heavily on the various flaws in the procedure the municipality undertook to meet the problems the previous judgment identified, and "rejected the landowners" complaints that the rates assessment was arbitrary and unjust. It found that far from being irrational, the assessment provided a just and rational basis for introducing the new rates. In fact, the court heard that the landowners regarded themselves as "rural landowners" and as "owners of farm properties" with "farming interests", but the municipality highlighted the manipulative "impression of bucolic simplicity this evokes" because the reality is that such properties include "holiday homes, hotels, bed-and-breakfasts, restaurants, guest farms, golf courses and sectional title developments that previously escaped rating only because of out-dated municipal boundaries" (Registrar Supreme Court 2006: 2-4).

A few months later in August 2005, the Municipality was given a thumbs up by an audit report by the Auditor-General's office for the second consecutive year ranking it amongst 10% of the country's 284 municipalities to have received favourable reports (Barnes 2005: 7). It is valuable here to mention that in two consecutive years of 2005 and 2006, the uMngeni Municipality received the provincial and national initiative *Vuna* award for service and performance excellence.

The Hilton Ratepayers' Association (HRA) attempted also to take the Municipality to court in mid-2005 over their claim that the municipal budget and rates for 2004/2005 financial year, be declared invalid, also as a result of premature implementation by the Municipality. During such time, residents became very irritated that the Municipality was still charging them interest and penalties on their outstanding rates (Naidoo 2005: 3). The HRA contended that a new system of a uniform rates randage was discriminatory that different valuation on different rolls resulted in discrepancies, but Judge President V Tshabalala ruled in the High Court that the uMngeni Municipality had regulated its affairs within the bounds of competent legal authority and acted in accordance with the intent of the legislature. He added that he was unconvinced that this was a case where the courts could in fact interfere with the autonomous authority of the local authority. This ruling was taken nine months after the Association took the Municipality to court in August 2005 (Bishop 2006: 3).

A separate grouping called the Just Rates Group arguing for rates increases to be fairly hiked contended that rates were levied according to the correct legislation up until 2005 and therefore this Group were happy to pay as such but the Group contended that that rates are now not being levied correctly and therefore there can be "no charge" (Interview Municipality's lawyer; Interview Rates Organization Member: 2008). Using the Constitution and Local Government Municipal Structures Act to make their case, the Just Rates Group took their case to court on the basis that the rates being levied were unconstitutional, unlawful and unreasonable and that the assessment of rates was procedurally flawed. In 2006, the group also instituted proceedings in the equality court to obtain a refund for any rates paid in good faith and the cancellation of arrears (Coan 2007: 1).

### **2007-to-Present**

In between the court cases and as a result of having felt continually marginalized, much protest in several forms occurred. Dozens of letters to the editor from both ordinary ratepayers and executive members of the rates organizations were received by the *Witness* and *Village Talk* Newspapers. Meetings by the respective residents' organizations calling for decreases in rates were held and, written letters of objection to the Municipality were sent. In addition, individual visits to the municipal officers by concerned ratepayers as well as petition-drafting and picketing comprised the euphoric and active campaigning against rate increases of over 7%.

2007 however, marked an even more vigilant, organized and outspoken civil society in response to even heavier rates increase proposals. Property values had soared from R57 601 312 in 2006 to R139 110 211 in 2007/2008 for one resident, thereby dramatically increasing rates if the 2007/2008 budget was to be passed (Singh 2007: 18). After the municipal council proposed further hikes for the 2007/2008 budget, residents were very vocal in protesting in written and verbal form with both the municipality and newspapers. These protests culminated in a 4000 member peaceful protest march to submit a memorandum and petition with 2000 signatures to municipal manager to prevent further hikes which would be passed that day, but at the council meeting, on the day, there was no mention of the memorandum or march and ratepayers listened helplessly as the budget was passed. The only concession was acceptance of proposals to reduce the rate randage from 1,50 cents to R1, 35 per rand of assessed property value (Naidoo 2007: 3). This was as a direct result of the protests against the rate hikes, as according to Executive members of the Ratespayers' Organizations and as verified by the CFO.

### **To province**

As a result of feeling ignored, in May 2007 ratepayers took their concerns to the KZN provincial Finance Department as the Provincial Treasury has to rubberstamp the budget before it can be implemented by the municipality (Naidoo 2007: 3). In this last ditch attempt, residents got KZN local government MEC Mike Mabuyakhulu to hear how the petition and march were "ignored" (Interview Ratepayer: 2008). Chairman of the CRG, Claude Edwards attended the council meeting to see if their grievances were addressed but reported to the MEC that the petition was not dealt with or considered by council and that the manner in which the council debate was conducted was a "travesty of democratic process" (Naidoo 2007: 13). Special mention to the MEC was made on behalf of the elderly who live on fixed incomes and simply cannot afford such increases. As far as the municipal council was concerned they "met all democratic proceedings by holding public meetings in January/February 2007 and the necessary public notices were issued" (Naidoo 2007: 13). In May 2007, the province stepped into the matter of the rates saga. They brought the rates increases to the attention of the relevant national ministers with the intention of action being taken; the idea was mooted at a joint sitting of the finance and local government portfolio committees (Naidoo 2007: 13). Less than one month later, the Municipality received praise from KZN

Provincial Finance committee for reducing the rate randage in line with the Municipal Finance Management, Act (Naidoo 2007: 12).

In early 2008, following the complaints of elderly residents who claimed to be unable to afford the rates increases, the South African Human Rights Commission visited the retirement villages of Amberfield and Amberglen in Howick to assess the situation and the outcome is anticipated by the end of the year (CRG newsletter 2008: 3).

An interesting continuous complaint in the 700% hikes has been the increase in municipal salaries which far exceeded in 2007 the limit of 6%. There are questions over the justification for Vilikazi's salary increasing by 126% from 2003 to 2006 and a furore has erupted over the R1.7 million home purchased by the municipality for the mayor (Naidoo 2007: 6).

Perhaps a useful aside would be to provide basic details of municipal salaries; it are such perceived "exorbitant" wages which still enrage residents

<b>Councillors' remuneration</b>	<b>2006</b>	<b>2007</b>
Mayor's allowance	274,040	449,047
Deputy Mayor's allowance	112,359	199,628
Councillor's allowances	1,099,867	2,312,564

(Annual Report: 2006/2007 : 33).

Additional increases in salaries, including 15% performance bonuses shows managers earning the following:

<b>Designation</b>	<b>Salary: 2007</b>
Municipal Manager	546,523
Chief Financial Officer	412,470

GM: Operations	412,470
GM: Planning and Development	412,470

(CRG Newsletter: 2007)

The case study does make for interesting analysis because of its multidimensional nature; an analysis and presentation of findings will now follow.



## **Chapter Five: Assessing Public Participation and the Rates Protests**

### **Public participation**

In proceeding with this research, it is valuable to note that I had a preconceived notion that ratepayers would be apathetic with regards to immersing themselves in formal public participation mechanisms. What I found however was quite the opposite and I draw parallels here, to start with, by citing Flower (2006) on what he labels “the myth of apathy” occurring in Britain. In launching an inquiry into why British citizens were politically disengaged, preconceived notions were given weight by the fact that if the average citizen does not vote, why would they would then not be at all interested in participating in a public Inquiry with a political theme? Contrary to expectations, the Flower inquiry had sessions which drew large, vocal audiences; indeed securing and maintaining witnesses and participants proved a simple task with previous fears of citizen apathy having been proved completely groundless, by the citizens themselves (Flower 2006: 141-43).

This particular inquiry, showed citizens as being far from apathetic in a wide range of issues. This trend became evident in my research as well. British citizens proved generous in terms of both time and support- much like the overwhelming majority of citizen participants from the Hilton, Mpophomeni and Howick areas, as according to both ratepayers and Municipal opinions and through my own observations. The British inquiry found, much like this dissertation found, that those involved in campaign groups and community groups enjoy high morale, unity and commitment. Many activists berate the time, energy and effort almost always involved in the work which they do and acknowledgment that at times, they do feel that they are unfairly perceived as “do-gooders” or extremists and in the case of rates organisations, certain senior members are regarded by municipal officials as, at times, “old meddlers” who are a “right pain to deal with” (Interview, CFO: 2008). Despite this, however, there is still vibrant political participation that as one of the British citizens put it can, “make a real difference and produces real results that impact on people’s lives” (Flower 2006: 41-43).

With regards to answering research question two by first giving a presentation of the results and then an analysis, Gaventa, Fung and Wright’s prerequisites for effective participatory institutions will be used. These prerequisites include (i) political will amongst political elites

and (ii) popular mobilization by stakeholders and affected communities, and, as advocated by Fung and Wright (2003), (iii) appropriate institutional design is also required. More specifically, Fung and Wright argue that effective participatory institutions share the following characteristics a) the devolution of public decision authority to empowered local units, b) the creation of formal linkages of responsibility, resource distribution and communication that connect these units to each other and to subordinate, centralised authorities, and c) the use and generation of new state institutions to support and guide these decentred problem-solving efforts (Fung and Wright 2003: 21-22). The research question of whether public participation actually took place with regards to rates increase proposals and if so, who was included in this process, what was argued by whom, and what the outcome, will now be addressed by using primary, secondary and interview sources.

Perhaps the first thing to mention is that the Municipality has proven most helpful with regards to this research and an array of individuals were consulted at individual interviews which includes their lawyer, two community development workers, a senior rates clerk, an assistant financial officer, the chief financial officer, the general manager of operations, the mayor as well as telephone contact by the general manager. Accessibility, although initially challenging due to the above mentioned individuals having extremely busy schedules, soon proved fruitful and all interviewees returned calls and gave of their time and expertise willingly at interviews conducted in their offices. Their approach was very diplomatic and it was evident that the officials had an outstanding grasp of the issues occurring with regards to the perceived dissatisfaction amongst ratepayers. However, as will be presented, there was no consensus between ratepayers and municipal officials as to how the issues should be addressed because of differences in developmental and democratic attitudes.

Official statements in the uMngeni Municipality's annual reports trumpet this municipality as having "people centred development". In his foreword to the annual report, the Mayor writes that the Municipality has "vigorously taken serious strides and intervention mechanisms bent on uplifting the lives of our people" and that a "titanic battle is being undertaken against the challenges brought by the twin challenges of poverty and unemployment" (uMngeni Municipality yearbook 2006/2007: 62). The operations department which includes the community development sphere advocates that it strives to ensure community participation for IDP and Budget meetings, to communicate and organize workshops and meetings for communities regarding services rendered by the municipality and to give administrative

support to ward committees. In the 2006/2007 financial year, 16 IDP and budget meetings were held with ongoing monthly workshops and meetings regarding the services rendered by the municipality (uMngeni Municipality yearbook 2006/2007: 62). In the municipality's 11 wards, ward meetings are held at a compulsory monthly date but can be held at any additional time as requested by citizens (uMngeni Municipality yearbook 2006/2007: 3). Indeed, as according to General Manager of operations, the uMngeni Municipality is a "B category" municipality because it is a municipality with a mayoral executive system combined with a ward participatory system (Municipal Structures Act 1998:15).

The mission which the municipality features throughout its yearbook is "to ensure community participation in all projects; improve the skills of the municipal staff; strive for financial viability (and) provide sustainable services and local economic development" (uMngeni Municipality yearbook 2006/2007:104). As advocated by all interviewees, every effort is made to take public participation from all walks of life seriously and is often discussed at council meetings; every effort is also made to accommodate individuals or grouping who display dissatisfaction, disappointment or concern over any issue involving the activities of the uMngeni Municipality.

This then leads one to the next point whereby respondents from the municipality report that all endeavours to take public participation seriously are based on national law and policy. In the yearbook, the following is presented, to substantiate this claim. The yearbook argues that the primary legislative mandate of the municipality stems from chapter 7, section 151 (2) of the constitution being that the municipality must strive within its administrative and financial capacity to execute the objects of local government which are to:

- provide democratic and accountable government for local communities
- ensure sustainable provision of services to communities
- promote a safe and healthy environment and to
- encourage communities to become involved in local government matters (uMngeni Municipality yearbook 2006/2007: 2).

They are quick here too to cite other constitutional obligations being to

- prioritize the basic needs of communities
- promote the social and economic development and

- participate in national and provincial development programmes (uMngeni Municipality yearbook 2006/2007: 2).

It is important to note that these constitutional stipulations are also reinforced in section 73 (1) of the Local Government Municipal Systems Act no. 117 of 1998. The constitution is further supported by

- Local government: Municipal Structures Act no 117 of 1998
- Local government: Municipal Systems Act no 32 of 2000
- Local government: Municipal Finance Management act no 56 of 2003
- Local government: Municipal Property Rates Act no 6 of 2004
- Development Facilitation Act date?
- Division of Revenue Act (uMngeni Municipality yearbook 2006/2007: 2).

Perhaps in order to broadly comprehend a snapshot profile of precisely how “seriously”, as according to municipal officials, the municipality takes public participation and if there is indeed political will amongst these political officials to do so would be to elaborate on one very significant act. The issue of political will is well-covered in the Local Government Municipal Systems Act of 2000, especially in Chapter 4 which calls for community participation and offers guidelines in the development of a culture of community participation in which a municipality must develop “*a culture of governance that compliments formal representative government with a system of participatory governance*” which essentially allows for guideline such as to “encourage, and create conditions for, the local community to participate in the affairs of the municipality, including, amongst other things, in the preparation, implementation and review of its Integrated Development Plan; in terms of Chapter 5, it should also strive, according to this act to build the local community so as to enable it to participate in the affairs of the municipality; and councillors and staff to foster community participation; and use its resources, and annually allocate funds in its budget, as may be appropriate” (Municipal Structures Act 1998: 10-20).

Mechanisms, processes and procedures for community participation include according to this act, “participation by the local community in the affairs of the municipality must take place through political structures for participation, councillors and generally applying the provisions for participation as provided for in this Act” (Municipal Structures Act 1998: 10-20). In addition to this however, a municipality must establish “appropriate mechanisms,

processes and procedures to enable the local community to participate in the affairs of the municipality, and must for this purpose provide for the receipt, processing and consideration of petitions and complaints lodged by members of the local community; notification and public comment procedures, when appropriate: public meetings and hearings by the municipal council and other political structures and political office bearers of the municipality, when appropriate; consultative sessions with locality recognized community organizations and, where appropriate, traditional authorities; and report-back to the local community” (Municipal Structures Act 1998: 10-20).

Communication of information concerning community participation is also stipulated in this act being that a “municipality must communicate to its community information concerning the available mechanisms, processes and procedures to encourage and facilitate community participation, the matters with regard to which community participation is encouraged; the rights and duties of members of the local community; and municipal governance, management and development” (Municipal Structures Act 1998: 10-20).

Public notice of meetings of municipal councils, as claimed to be adhered to by the uMngeni Municipality, includes the fact that “the municipal manager of a municipality must give notice to the public, in a manner determined by the municipal council, of the time, date and venue of every ordinary meeting of the council; and special or urgent meeting of the council, except when time constraints make this impossible” (Municipal Structures Act 1998: 10-20).

Admission of the public to meetings, such as the ones regarding the increases in rates include the fact that “meetings of a municipal council and those of its committees are open to the public, including the media, and the council or such committee may not exclude the public, including the media, from a meeting (Municipal Structures Act 1998: 10-20). Communications to local community essentially advocates that communication must be official in the form of the local newspaper or newspapers of its area, in a newspaper or newspapers circulating in its area and determined by the council as a newspaper of record; or, by means of radio broadcasts covering the area of the municipality” (Municipal Structures Act 1998: 10-20).

It will soon become apparent that this above-mentioned minimum standards regarding public participation are being met by the Municipality but perhaps what is more important than simply meeting the bare minimum is for the Municipality to have the “right attitude” which



has been conceptualised in “champions material” or literature (Dunn *et al* 2007). A key point highlighted here is that in the application of inclusive participatory design, “participation has to be open to all- it cannot only work with poor, vulnerable or minority groups”; it elaborates by saying that wealthy and poor socioeconomic groups must be equally accommodated by participation implementation (Dunn *et al* 2007: 25). Post-apartheid South Africa has placed fundamentally more emphasis on participation than the previous government and with one of the most progressive constitutions in the world, all its citizens, especially those in the historically wealthier areas, have perceptions and expectations that they are entitled to such inclusive participatory design but this process can be tainted somewhat if municipal authorities do not have the “right attitude”.

### **Public Participation: Political Will from Elites**

Speaking specifically about public participation on the rates issue the General Manager of Operations, Mbali Myeni, says that the municipality makes every effort to engage with the community and at *imbizos*, budget consultations (January to March) and IDP meetings which occur in July of each financial year and in each ward, where essentially the rate randage is presented as determined by the Chief Financial Officer (CFO) based on expenditures. If the current property taxes which presently forms over 40% of municipal income can cover the expenditure, then the randage remains the same but if not then randage increases. It is essentially the randage which determines the valuator’s assessment of property rates and therefore rate prices.

The Municipality claims that notifications of izimbizos were placed outside municipal clinics and libraries, the town hall, community centres and individually mailed notifications, “amongst several other places to notify residents of the meetings” (Interview GM: Operations 2008). In the township of Mpophomeni loudhailers were used to notify residents of such meetings out of recognition that not all people read newspapers. The outcome of such meetings, in the historically white and wealthy areas, was that residents generally agreed that development needs to occur but not so much so that they “cannot afford it” in other words above a figure of 7% (Interview Ratepayer: 2008). The CFO however, advocates that this figure of 7% “will not in anyway aid in a transfer of wealth and therefore development” (Interview CFO: 2008). Often, especially at Hilton *izimbizos*, the outcome is that residents, after a heated debate with officials, storm out in protest. In the case of Howick, the outcome

is that the meeting ends on bad terms because of, according to the municipality, a lack of willingness to compromise on the part of residents. Residents who attended such meetings indicated that they felt the municipal authorities were “arrogant and at times, hostile to (their) suggestions” (Focus Group Interviews: 2008).

In addition to this being a case of “developmental dilemmas”, the champions material literature indicates that there can also be instances of authorities not “knowing the community”, which is reflective of not having the best attitude when it comes to implementing participatory requirements (Dunn et al 2007: 23). The “Champions material” report is a product of bringing together numerous local government delegates, from across the globe, in order to explore the problems and the potential for strengthening citizen participation in local government. The conference encompassed thoroughly analysing the challenges facing local government in response to growing demands for citizen engagement and more participatory forms of governance (Dunn et al 2007: 3). This can be achieved by literally “walking the streets, listening to people and going to places where people meet” (Dunn et al 2007: 23). Municipal authorities conceded that whilst they made themselves available in their offices for the community to meet with them or through IDP meetings, and the like, they are guilty of not having made concerted efforts of speaking to ordinary residents in their everyday settings (specifically middle class residents) (Interviews CFO: 2008, Interview GM: Operations: 2008). This is also, interestingly enough, unique to those in the wealthier areas, Municipal authorities do make attempts at “getting to know” those in the townships but make assumptions that they “already know” what goes on in the wealthier areas (Interviews CFO: 2008, Interview GM: Operations: 2008).

It is also about “knowing the issues” by taking the time to listen rather than being uncompromisingly loyal to strict participatory procedures (Dunn et al 2007: 23). Here, the CFO indicated that after dozens of meetings with the chairman of the rates organisation, he “does not want him inside his office again” because they argue at cross purposes regarding development being the justification for rates increases. This dissertation asks whether it is perhaps also then not an issue of municipal authorities not “knowing their whole community” and therefore being unable to listen to their concerns. Knowing their issues can also be seen with regards to the relative dismissal of the plight of the pensioners in the area; it is noble to give them rebates but if their plight was so bad that they had no option but to call in the HRC, then surely something was missed?

In Mpophomeni however, the situation is slightly better and residents, especially since they are some of the benefactors of development initiatives, (and perhaps because the Municipality makes concerted efforts to know this community) have a happier outcome, because these meetings generally explain to them how wealth is being transferred toward their area. Mpophomeni residents interviewed gave the view that they are “very much happy with the Municipality who engage with us and give us better lives” (Interview Mpophomeni residents: 2008). In addition to this, as a result of the visible facilities already built, a “relationship of trust” has been built between Mpophomeni residents and the Municipality (Focus group interviews: 2008). Community development officers interviewed say that such meetings are very tense in the Hilton and Howick areas where residents choose to meet the municipality with preconceived ideas on how processes should work and find themselves at loggerheads if told otherwise (Interviews CFO, GM Operations, Community Development Officers: 2008). Whilst residents may be guilty of not agreeing to new development paradigms, this tension could also be as a result of local government not understanding this part of the community which they are also obliged to serve.

Actual valuation of properties is done between July and November, by what the Municipality calls at its public participation meetings and on its website, the “service provider”. This service provider is employed as an independent body and is authorised by the Property Rates Act. Residents are informed of this development each year by notices placed outside municipal clinics and libraries, the town hall, community centres and individually mailed notifications, amongst several other places. The valuation roll is then consolidated at the beginning of each year by January 16<sup>th</sup> and between January and February meetings are held with ratepayers in each of the eleven wards as communicated by newspaper adverts and notices conspicuously placed. These meetings at the beginning of each year, according to the operations manager, is really where the unnecessary confusion on the part of ratepayers lies because these “are not forums for resolving matters on rates but merely to inform the public about the new roll and the procedures entailed in achieving the consolidation of property valuations” (Interview GM Operations: 2008). In this case, whilst residents are guilty of using such forums to table agendas not relevant to that specific forum, despite notices placed informing residents of issues to be tabled, champions literature indicates that there needs to be “a collective understanding and ownership of the participation process, its objectives, what will be required from everyone involved and how it will benefit each player” and that there

needs to be an understanding of how decisions are made and that people are getting involved at the right point of the system (Dunn *et al* 2007:24). The municipality insists that there was “disregard” for the procedures on the part of residents but perhaps, residents did genuinely not understand the process involved. If the process is not responding to their needs, flexibility is required.

The General Manager of Operations as well as Chief Financial Officer were quick to point out that at these meetings, despite “explicit communication of the purposes of the meetings”, came to contest rate hikes and argue that such hikes were unconstitutional; the municipal officials here contended that this was a “deliberate choice on the part of residents to disregard what was clearly communicated and treat the forum for valuation rolls as a platform for rate increases complaints” (Interview CFO: 2008; Interview GM Operations: 2008). The Operations Manager was clear here as well that at the meeting, residents were reminded that as part of constitutional procedures, if they were unhappy with their property valuations which informs property taxes, they were requested to fill out objection forms as stipulated by Municipal Property Rates Act 6 of 2004, chapter 6 (Interviews CFO, GM: Operations: 2008). Many residents, particularly elderly interviewees, expressed anxiety over the objection forms and were “fearful” that their objections would be dismissed because it was “merely a piece of paper” but they felt that if they voiced their concerns in person then perhaps change could occur (Focus group interviews: 2008). Here again, the issue of not knowing one’s community surfaces, as a reflection of not having the right attitude in generating participatory development. One resident claimed that she did lodge an objection but it was “ignored” and as a result she felt that false hopes were created; as a result of the Municipality’s failure to deliver, the trust has been lost (Interview ratepayer 2008; Dunn *et al* 2007: 24).

The meetings, according to community development workers, who work at the Municipality were very well-attended in all eleven wards. All people interested in or affected by the valuations roll were invited by the municipality on behalf of the General Manager. The community development workers both agreed that although the attendance of these meetings were excellent across the board, particularly in early 2005 and 2006, the Hilton areas had dwindled at the beginning of 2007 and 2008 but in the township of Mpophomeni and Howick West, resounding numbers were maintained. These numbers were approximately one hundred residents in these wards of Mpophomeni and Howick West, according to a resident who diligently attends such meetings (Interview ratepayer: 2008). When asked if perhaps this was



indicative of an attitude of being marginalized, the community development workers felt that it was more about the “Hilton residents refusing to compromise on issues and to understand what the developmental reasons behind increases are” (Interview community development workers: 2008). Because of this act’s very specific and thorough nature, as explained at the meetings mentioned above, it was felt by the municipality that it was sufficient as a means for accommodating individual objections to rate hikes as catered for on an individual basis. These objections were, as stipulated by the act, “taken very seriously by the valuations board” (Interview CFO: 2008)

Champions literature also indicates that “it is not just a question of the nature of the spaces in which people meet and engage; it is also about how people behave in those spaces” (Dunn et al 2007: 26). The fact that residents attend meetings shows that they are interested in engaging on issues and although they are antagonised by rates increases, they do not boycott participatory processes; this is indicative of respecting the procedures involved but when municipal authorities arrive late for such meetings, this is a sign of dishonouring residents’ commitment and the very essence of the procedure itself (Dunn et al 2007: 26). This acutely irritates residents. One man said that he refuses “to be treated like a child” when it comes to punctuality (Interview Ratepayer: 2008). The mood then becomes a very hostile one in the venue and residents are doubly aggressive in their attitudes.

The municipality’s case remains the same : they claim to have “empathized” with residents over rates increases effecting parts of the population and in order to answer questions and be consulted, they attended meetings organised by the rates organisations which were very well-attended, from the side of the residents as well. It is noteworthy too that the Mayor and most senior members of the Municipality live in the Hilton area. However, municipal officials state that at such meetings when the process of precisely why property rates are higher is explained, this information is disregarded and deliberately chosen to be ignored. Residents ignore the explanation of the need to develop previously marginalised areas. Instead the chief financial officer states, “ratepayers retreated under accusations that the municipality did not consult them over the matter of new demarcation” and essentially “could not see past the increasing tax imposed”. In addition to this, particularly from the Hilton areas, many residents understood that rates were to be used for development initiatives but could not comprehend that the increase they argued for ie 7% “would simply not be enough for



development initiatives that are sustainable” (Interviews CFO, GM Operations, Assistant CFO, Community Development workers, Senior rates clerk, Mayor: 2008).

In addition to this, all municipal officials stated that there were initiatives from the community to engage the municipality on the rates issue which they took seriously and came in the form of written objections (as invited by the municipality), verbal objections, individual and group complaints but there seemed to be “a total disregard for what was communicated to them, at *izimbizo*, budget consultations and IDP meetings, and eventually, they could no longer take seriously that which essentially became irrelevant” (Interviews CFO: 2008). The point which the CFO is making here is one of a developmental dilemma; he is advocating that there is a refusal on the part of those residing in historically white and wealthy areas to part with their money for the benefit of those who are previously disadvantaged.

One can conclude in this section on political will on the part of political elites that they do indeed have the will to take public participation seriously and in light of the fact that they hold *izimbizos*, budget consultation meetings and IDP meetings and have tried several times to explain to the public that the increases are not as a result of their willingness to exploit them but for development purposes and levied by the rate randage, reflecting development intentions. When it comes to having the right attitude however, the municipality is perceived by residents to lack this somewhat. Residents feel that is all well and good to do the bare minimum but knowing one’s community, listening to their issues and acting out of respect are all factors which disregard citizen’s perceptions of what the outcomes of such processes should be, detracts from healthy democracy. It should be understood however that such perceptions are inaccurate because miscommunication aggravates these perceptions; the Municipality is taking public participation seriously whilst still trying to uplift the historically poor, but this message falls on the deaf ears of residents not wishing to pay higher rates.

### **Public Participation: Political Mobilisation from Residents**

Political mobilisation on the part of ratepayers and integrated and affected parties are also an excellent example of how powerful mobilisation can be. The Concerned Residents’ Group (CRG) of the uMngeni Municipality (as formed in 1998 in Howick, with issues of rates being on the periphery of its agenda) found itself mobilizing very prominently around the rates

issue as was also seen with the newly formed Hilton Ratepayers' Association. Its objective, as defined in its constitution, is to "concern itself with all aspects of local and provincial government with special reference to the interests of all residents and residential property owners in the uMngeni Municipality and shall take such action as it sees fit to represent such interest" (CRG Constitution 1998: 1). It contests that it shall not become involved in matters of purely political nature and shall remain apolitical. The CRG as well supports governments stated policy of good governance which (the CRG) will continuously test and measure against the stated criteria of fairness, accountability, responsibility and transparency, with the full participation of its members. They are clear in their mission in stating that "we the residents of uMngeni need to be proud of our area and must stand together to ensure that the uMngeni Municipality and our elected councillors manage our environment and habitat in accordance to the best world practices" (CRG Constitution 1998: 1). "Continuous uncontrolled squatting by SA citizens and refugees has escalated and we need an action plan and not continuous talk from our administrators if we in Howick are to survive the increased crime rate and polluted environment; don't be apathetic, strong members numbers mean that its become a force to be reckoned with on all issued effecting our lives" (CRG mission statement 1998: 1).

In response to budgets prepared by the CFO and presented at IDP and budget consultation meetings determining the rate randage, the CRG requested budgeting principles as published by the local newspaper, *Village Talk* on February 16 2005. The chairman wrote this letter to municipal manager which "was necessitated by the excessive rates increases imposed in residents" (Interview CRG Chairman: 2008). They contended that there has been a decline in service delivery despite the rates increases. Budget recommendations include "1) guaranteed revenue to be addressed before expenditure determined; there should be tight lid kept over spending while maintain and growing revenue streams through improved debt collection, 2) income from rates should not increase above national governments target of CPIX presently at 4,25%, 3) staff productivity has to be increase and should be measured against key performance objectives, 4) increases for directors should be abolished or as measured by market indicators as calculated by the market indicators as calculated at national government level in order not to undermine national government inflation targets, 5) no performance bonuses should be paid unless the above targets have been met" (Edwards 2005: 1).

In addition to this, they contend that the municipality has not involved them and in citing the Municipal Systems Act, section 4 raises the point of a municipality having the duty to encourage the involvement of the local community and stipulate that the community has the right to contribute to local decision-making processes and submit oral and written recommendations and representations. Section 6 requires that a municipality's administration must be responsive to the needs of the local community and facilitate a culture of public accountability amongst staff. The entire chapter 4 is devoted to community participation notably with regard to the drafting of IDPs and the council must consult the community on tariffs (Edwards 2005: 1).

Five residents interviewed were elderly, particularly from the Howick areas who very prominently stated that the plight of the elderly was being completely ignored by the municipality (but did perhaps inadvertently failed to mention the R60 000 rebates on property for the elderly). They contended that they are living on fixed incomes and are simply unable to pay such high rates. They do attend IDP meetings about the rates increase proposals but say that they feel as though the municipality listens to the above points with "closed ears" and already "know what the outcome is" and treat IDP meetings as "dissemination of information forums as opposed to proper consultation" (Interview ratepayer: 2008).

One elderly gentleman interviewed is also the former mayor of Mooi River and contests that he has never seen such a "Mickey mouse operation" when it comes to public participation initiatives from the municipality particularly with regards to pensioners. He contends that the municipality is "extremely insensitive" to the elderly and "unwilling to truly empathise with their plight" (Interview ratepayer: 2008). These residents say that they did not see posters advertised in sufficient quantities and the majority of the time, were informed by the CRG of time, dates and venues (Interview ratepayer: 2008).

Other ratepayers of middle-age were also interviewed and expressed similar sentiments that although IDP and budget consultation, *imbizos* did occur, "they may as well have not happened" because the "attitude of officials was not to consult but to dictate" (Interview Ratepayers: 2008). This group is better aware of posters being advertised but still uncertain as to who invited the public to attend. Both groupings agreed that attendance was excellent from both sides and did comment that "citizens were punctual but often officials were not" (Interview Ratepayers: 2008). They also said that the municipality took a very "defensive

position as opposed to compromising”; they said that they “justified each manoeuvre instead of explaining” (Interview Ratepayers: 2008). Many who raised their hand to contribute, said they “were ignored” (Interview Ratepayers: 2008). These residents stated that at times the venue was “too small” and some residents had to leave due to this; one stated that the “Municipality can’t even give us proper ventilation when meeting with us, why would they give us a proper hearing?” (Interview ratepayer: 2008).

Seven residents complained about officials answering cell phones in meetings and that the overhead slides presented were “slipped through too quickly” (Interview Ratepayers: 2008). Young adults say that they are being exploited and do not understand why “*klein dorps*” are paying more in property taxes than anywhere else in SA (Interview Ratepayer: 2008). All people interviewed said that their rates did not decrease after lodging objections with the valuations boards and that letters of objection (which they say was written on their own initiative as opposed to invitations from the municipality) were not replied to. All three groupings generally agreed that development in order to rectify the injustices of the past where the Group Areas Act caused some areas to be marginalized and others to have first world served was necessary, but “to a certain extent” said one and “not if it is going to impact on my quality of life” said another (Interview Ratepayers: 2008). Two middle-aged gentlemen were adamant that if they were going to pay higher property taxes for development then “that development should only occur in (their) area alone”; these gentleman said that they were not responsible for apartheid and it is “not (their) burden to bear” (Interview ratepayers: 2008).

All women, across the age groups, were far more likely to endorse that it is “our” responsibility to ensure development of poorer areas but also expressed concerns over issues that needed improvement in their own areas - especially for their children. Conversely, men were more inclined to stating that development is necessary but “not at our expense” or “solely for us” (Interview ratepayers: 2008). All three age-groupings said that outcomes of such meetings were always “vinegar-sour” because the municipality was “not listening to the input offered by all people present- men and women, old, young, disabled and fit alike” (Interview Ratepayers: 2008). Whilst some conceded that certain residents became unnecessarily emotional at the IDP meetings, it as a reflection of the dire straits some were in. Many felt that at times however, “melodramatic aggression” from certain residents “detracts from our case” (Interview Ratepayers: 2008). All groups as well made it clear that it was “not



that (they) did not want to pay rates, it was just that they could not afford to pay *exorbitant* rates” (Interview Ratepayers: 2008). It should be noted here that many children of these residents attend/attended private schools such as St Annes, Michaelhouse, St Johns and Hilton as well as Maritzburg College where fees range from R15000 per annum to R100 000 per annum. In addition to this, when questioned on the large estates many residents, and even the elderly lived on, they were quick to comment that they had “worked very hard for what (they) have”, most being professionals, successful entrepreneurs or ex-farmers and had to “pay for (their) own water pipes and sewerage and that at times, had to see to the cutting of their own grass and had to remove their own refuse” (Interview Ratepayers: 2008). Residents interviewed were uncertain as to whether official attended meetings held by the CRG but executive members confirmed that such attendance was erratic (Interviews ratepayers: 2008).

Residents in the Mpophomeni township agreed that they “heard the loudhailers screaming about meetings” and there was good attendance on their and the municipality’s part to these meetings but also highlighted, “the meetings started late” (Focus Group Interviews Ratepayers: 2008). The majority did not initially understand the purpose of the meetings through the loudhailers but once in attendance, they did after explanations by an interpreter. This group said that it was mainly teachers and nurses ie semi-professionals who participated but that there was input from “other residents” (Focus Group Interviews Ratepayers: 2008). They said that they were “very much impressed and happy” that if their properties were valued under a certain percentage then they had a R60 000 rebate and if they were elderly living that home then they received an additional R60 000 off (Focus Group Interviews Ratepayers: 2008). They were also quick to highlight that a certain percentage of water and electricity is “free of charge”. The outcomes of the meetings according to these residents was somewhat “confusing” or ambiguous because they were “not sure if what (they) had said about not wanting to pay higher rates would be seriously considered” but that due to the fact that they were told that “much development would occur in Mpophomeni”, they were not “very displeased” with rate increases. Many said that they did not see why it was necessary to join the CRG because they had always paid rates and with inflation, things “would always rise” (Focus Group Interviews Ratepayers: 2008).

Minutes of meetings taken at community organizations include summations that had occurred but perhaps noteworthy is the offering that there was, on their initiative, a Human Rights Commission hearing on 21 June 2007 regarding the financial burdens retired pensioners face.



Individual examples were submitted to the commission such as unit 1 at Greendale Place valued at R640 000 less R50 000 rated 1c in the rand and further discounted by 30% rebate amounts to R4130 per year in eleven instalments at a 58,67% increase. These increases they contested to the commission cannot be afforded by pensioners who retired eighteen years ago and are reliant on fixed payments (CRG newsletter: 2007).

### **Rates Protests: Political will from Elites**

Political elites have been somewhat unsympathetic to the rates protests; the CFO feels that the residents need to “before protesting get their facts straight” and that the “bottom line is that there is a need to develop impoverished areas”. Further, all financial imperatives are operating in accordance with the auditor-general’s consent and as highlighted by the municipal manager, the municipality has received *Vuna* awards in two consecutive years (Interview CFO: 2008). Many officials interviewed stated that these ratepayers “make a lot of noise” based on the fact that they “simply disregard what is communicated to them countless times and think about their own pockets” (Interviews CFO, GM Operations, Mayor, Community Development Officers, Assistant CFO: 2008). A great deal of the objections and protests heard have become “irrelevant due to the fact that the municipality and residents have actually commenced operating on different development logics”, said the General Manager for Operations. The ratepayers, she said, “do not wish to see the broader picture of poverty-alleviation in the rural areas and they perceive this as the municipality filling their own coffers”. All officials stated that salaries were “tools of the trade” and in line with the Public Office Bearers Act. One official asked me if residents were vigilant in pointing out rebates which are one of the highest in the country (Interviews CFO, GM Operations, Mayor, Community Development Officers, Assistant CFO: 2008).

### **Rates Protest: Political mobilisation from residents**

Ever since the new boundaries of the uMngeni Municipality came into being, Howick and Hilton Associations found themselves mobilising more and more around the rates issue which they argued during interviews, although primarily about finance, has also become an issue of “incompetent leadership” from the municipality and calls for urgent public participation in the uMngeni Municipality. Due to these grievances, protests have been occurring since 2004 with increasing frequency and intensity.

Interviewees expressed “disgust” at the way in which municipal officials conduct themselves with regards to addressing grievances. Protests expressing opposition to a host of rates-related issues in the form of letters dating back to 2005; one couple in the Howick area showed written evidence of having approached the municipality on twenty-three different occasions through these letters which “expressed grief over the rates increases, lack of consultation, disrespectful and insensitive conduct of municipal officials” but had “received not a single whisper of response”. A municipal administrator stated during an interview that the General Manager is reported to have said that “when the “municipality receives ten letters of the same nature from ten different people, it becomes redundant to reply to the same issue and at times, only one letter as opposed to all sent, reaches the officer concerned due to this mentality”. The chairman of the CRG says that in representing ratepayers, he has often scheduled meetings indicating that he was there to protest in his capacity as chairman with officials which ended in “heated tempers” because the municipality “refused to take action or even agree that their grievances have weight” (Interviews ratepayers, senior rates clerk, CRG chairman: 2008).

At meetings conducted by the CRG in which ratepayers attended in hundreds, rallies were held on these issues and municipal officials were invited but because of their erratic attendance, more discontent was caused. The meetings then turned into a venue to generate protest action and minutes of meetings show discontent with the lack of communication and participation in decision making and updates on attempts to engage the municipal manager were also given who is reported to have said that “even on the issue of felling trees he is not prepared to meet the public” and meetings concluded that the prevention of public participation is an ongoing and serious problem (CRG newsletter 2007: 3). Valuably as well, at one meeting noted that “clearly the channels of communication between uMngeni Municipality and our residents must be distorted if residents feel that they need to protest to be heard; the failure of the municipality to adopt effective complaints handling mechanisms and customer care strategies only amplifies the problem”; they acknowledge at such meetings that “community members are more likely to respond to a municipality which is accountable to them and which takes the time to explain why their needs and service delivery expectations are not being satisfied” (CRG newsletter 2008: 2). The forums, were in addition, also used to update residents on court action taken and snapshots of draft budget proposals; in addition here as well the meetings are used to notify residents of times dates and venues of and

meetings and *imbizos* as well as penalties for late rate payments (CRG newsletter 2006: 1; CRG newsletter 2008: 2).

At the end of April 2007, the CRG also compiled a petition for “reasons for objecting to the proposed uMngeni Municipality multi-year capital budget 2007-2010”. Essentially the petition which consisted of over 2000 signatures was signed for agreement that if implemented, the draft budget will increase rates for 2007/08 between 200% and 700% and that “clearly such increases will be devastating and highly inflationist for everyone especially for pensioners reliant on fixed incomes and protected by the Older Persons Act no 13 of 2006; some may be forced to sell their homes and retrench their staff”. The petition contends that the major reason for increases is as a result of council’s “gross mismanagements of finances and the failure of the municipality to collect all the revenue owed to it”. Also the petition contends that despite “mismanagement and ignoring the constitution, the municipality proposed staff increases of 51% and cited that fact that there are nine managers earning R4 974 655 plus perks and that the general manger has R541 792 plus perks and that this places a burden on ratepayers”. The petition cites the older persons act no 13 of 2006, treasury circular no 41 of 2006, MFMA section 61 (1) (b) in support of its arguments (CRG Original Petition: 2007).

Perhaps, as explained in chapter 4 of this dissertation where three groupings of ratepayers challenged the municipality in court is also an extremity pertinent example of protest. Farmers, ratepayers’ organizations as well as ordinary ratepayers took the municipality to court and despite losses, it is a sign of severe discontent.

This petition was taken by 4000 peaceful legal marchers in protest, to be handed over to the municipal manager who decided not to table it on the afternoons agenda, according to the interviewees, but a response on that afternoon’s was given in terms of their documented “input on draft budget and draft rates policy” advising that council has resolved to reduce the rates randage to 1,37 cents in the rand. After this however, in protest, the ratepayers through the organizations submitted all documentation to the KZN provincial government and because no response was heard after 21 days, copies of documentation were sent to President Thabo Mbeki’s office appealing in terms of President’s powers as contained in chapter 5 of the constitution to “enforce the municipality to comply with section 229 in limiting the increases in rates payable to not more that 6% for the new financial year”. As a result of

further such endeavours, a response from national government was heard and the rates randage was reduced to one cent (CRG newsletter 2008: 2).

In May 2008, organisations representing agriculture, manufacture, the business sector and residential ratepayers throughout the uMngeni Municipality area met in Howick to seek better relations with the local municipality. This followed serious concerns expressed over unexplained aspects of the proposed 2008/09 budget as well as “stonewalling matters” frequently raised in terms of good governance and the failure to respond to correspondence. Concerns raised at the meeting included why rates have been raised to 7,5% without public participation as a rate hike of 6,2% was advertised, resolving outstanding debts owed to the municipality and to explain why incorrect billing of landowners is seldom rectified. In response the CFO stated that the municipality was handling these issues in a manner that was acceptable to the auditor-general and that all outstanding debt had already been recovered so there was no reason to protest on an outdated issue (*Village Talk* 2008: 1).

It is interesting as well that those taking part included a cross-section of rate-paying society and that it was interesting how ratepayers across age, gender, race were able to unite. Protesters included all races, adults ranging from 20 to 93 years of age, both genders, all ethnic groupings and religious factions who live in the historically wealthy areas and therefore effected by rates increases. These include residents who have lived in this jurisdiction for generations or only two years. It would seem after a thorough assessment of political will and political mobilisation that there is indeed intention and practice on the part of the municipality to accommodate and encourage public participation from all walks of life but the problem lies in the kind of citizen engagement. It is all very good to be a valiant rallying force and vigilant in public participation processes but if one attends such events with closed minds and without an ounce of lending an ear to the logic behind rates increases or worse yet, oppose development initiatives to develop previously marginalised areas, then the fault lies not with the municipality or even popular mobilisation but with competing developmental and democratic logics.

In conducting these interviews, it seemed to me that residents and municipal officials were arguing at cross purposes and it is in fact, the municipality, although not entirely satisfactory, is definitely more aware of these competing development logics. To my mind there is clear evidence of common good mentality being displayed by the Municipality as opposed to a



particular good mentality defining the actions and beliefs of ratepayers. In fact when challenged on this issue, residents dismissed it as “propaganda from the municipality” and then quickly cited individual efforts at dismantling apartheid in defence. In my view, the municipality has been patient with residents, particularly the CFO who at both the individual and en masse level communicated several times the need for development but was ignored and accused for mincing his words and retreating behind technocratic jargon in order to further and justify the exploitation of ratepayers. It has indeed even come to the point where management of the municipality have on their own accord deliberately declined to see anymore CRG executive members on the issue because it’s a bit like “talking to a brick wall”.

### **Institutional design**

In addition to elite will and popular mobilisation being criteria for effective public participation, institutional design is key. It is all well and good to have elite will and popular mobilisation but if this is crippled by poor or non-existent institutional design then the process is heavily compromised. This is especially true of young democracies aiming to generate healthy dialogue between itself and its citizens.

Post-apartheid South Africa has seen a far more substantively decentralized government as opposed to pre-1994, particularly in the functioning of municipalities which have in some cases become shining examples of Empowered Participatory Governance (EPG) (Fung and Wright 2003: 15). Whilst municipalities tend to focus on specific, tangible problems and are formed as governance structures geared toward concrete issues facing the lives of people on a daily basis, the institutions of participatory governance such as ward committees are not. These same institutions rather attempt to directly involve ordinary people affected by shared problems or concerns through concerted efforts of community participation as well as through more formalized routes of ward councillors; institutions of participatory governance also share the trait of allowing and facilitating “deliberative development of solutions to these problems” where participants listen to each others positions and generate group choices after due consideration (Fung and Wright 2003: 15). As drawn from Fung and Wright, whilst these principles are attractive, they would be somewhat useless if they were unsupported by principles of institutional design which serves to further them. Fung and Wright present three institutional design principles as also understood as prerequisites for effective participatory



institutions and therefore effective public participation as was explained in chapter three of this dissertation.

With regards to the first design property of devolution, one can assert that in the case of the institutions of participatory governance within the uMngeni jurisdiction, this is non-existent. There is no *de facto* administrative or political devolution of power to local units; these institutions (such as ward committees) are not charged with devising and implementing solutions and are not held accountable to performance criteria (Fung and Wright 2003: 20). The only real obligation for ward committees is to meet monthly with residents and to listen to the problems raised. Issues raised could be anything from “untrimmed verges to the uMngeni response to global warming” (Interview former ward councillor: 2008). It is left to the councillors of the ward to take (often selectively chosen or prioritised) issues to the Municipal council which has the final say on any issue and essentially holds all the decision-making power. This was clearly seen in 2001 where residents were unhappy with the proposed changes of the annual rate fee becoming a monthly one. Accounts from ratepayers who attended such meetings stated that they were “crystal clear with regards to their unhappiness on the issue” during *izimbizo* and ward meetings but council still took the decision to make the change, “regardless of the feedback from citizens” (Interview ratepayer: 2008; Interview former ward councillor: 2008).

There does in fact seem to be a patronising attitude adopted by the Municipality toward the institutions of participatory democracy and one can perhaps understand this in light of it being only the council of the uMngeni Municipality which has the final say when making decisions. This essentially gives council the capacity to monopolise the decision-making process. This should however be understood in relation to the fact that there is an imperative to develop the historically poor areas within the uMngeni jurisdiction and the primary means of doing so is to transfer wealth from the wealthier areas toward these former townships. This does cause unrest and “kicks dust up” because in striving for the long-term goal of upliftment, short-term obligations of public participation become diluted (Interview Senior rates clerk: 2008). The point here however, in relation to Fung and Wright’s (2003) model, is that in this case, the institutions of participatory governance are merely advisory as opposed to being “creatures of a transformed state endowed with substantial public authority” (Fung and Wright 2003: 22). Indeed, one can contend that the participatory forums to deal with

rates increases are not empowered as they cannot take decisions. One can perceive them to be merely deliberative or information-exchange spaces (Fung and Wright 2003: 20).

With regards to the second design property of centralized supervision and coordination of participatory spaces to supervenient structures, one can say that institutions of participatory governance fulfils this prerequisite because they do show evidence of “coordinated decentralisation”; this essentially shows their support for rejecting the notion that democratic centralism and strict decentralisation are unworkable (Fung and Wright 2003: 21). As established, institutions of participatory governance are not autonomous sites of decision-making in EPG and have to “reciprocate linkages of accountability and communication to a higher authority” (Fung and Wright 2003: 21). These central offices Fung and Wright (2003) speak of come firstly in the form of other councillors in the area who sometimes meet on an *ad hoc* basis to compare and contrast issues which arose during their own meetings with residents. Interviews conducted showed however that this largely hinges on the amount of dedication councillors have to their work because, as established above, there is “no obligation to being passionate” (Interview former ward councillor: 2008). Indeed, in 2007, these *ad hoc* meetings were “erratically attended but attended nonetheless” by councillors (Interview former ward councillor: 2008). When such meetings do occur, they serve to “reinforce the quality of local democratic deliberation and problem-solving in a variety of (non-tangible) ways” as highlighted by Fung and Wright (2003).

Secondly, selected “commonly experienced” issues are also taken to the municipal council level for further scrutiny through the lens of these same councillors. Herein lies a potential danger of having elite interests served because the possibility of having issues sent to municipal council is reliant upon communication through one filter being the ward councillor. An example could be the issue of better-preserving the Midmar Dam. Eight elderly ratepayers interviewed mentioned this as being communicated to their ward councillors but this issue was tabled as “peripheral agenda” (Interview ratepayer: 2008). Interviewees felt this was unfair as the issue of conservation should be at the forefront of agenda (Interviews Ratepayers: 2008). This essentially means that whilst the principle of centralized supervision and coordination of participatory spaces to supervenient structures, is fulfilled, the agenda-setting process is a polluted and flawed one.

Another means by which such institutions of participatory governance reciprocate linkages of communication to a higher authority is through IDP meetings which essentially feeds relevant concerns, issues and complaints to the Municipality; this is used to inform the budget (Interview GM Operations: 2008). Indeed, at such IDP meetings, executive members of the Rates Organisations brought their concerns forward about the detrimental effects rates increases would have on them which was then considered by council in drafting the budget (Interview CFO: 2008). It was also at these IDP meetings that local government explained the justification for the rates hikes being the need to generate resources to uplift the historically disadvantaged areas (Interview Community development workers: 2008). Indeed, one can say that through the principle of centralized supervision and coordination of participatory spaces to supervenient structures that whilst the goal of “coordination” is achieved, problems of agenda-setting as a result of local units not having decision-making power and perhaps being ill-adequately equipped to filter such issues to higher powers, arise (Fung and Wright 2003: 21).

The third institutional design principle is one that highlights that the invited spaces of ward committees and izimbizos have not colonised state power and are certainly not evidence of a transformed formal governance institution (Fung and Wright 2003: 22). Whilst they can be seen to having attempted to “influence state outcomes through (their) outside pressure”, they certainly do not remake official institutions along these principles, as the municipal council is the body which makes the final call (Fung and Wright 2003: 22). The outside pressure placed on council by the Rates Organisations through *izimbizo*, ward and IDP meetings include written letters of discontent, a petition and a mass march of protest. However, despite their intentions, these units as a result of poor institutional design can be indisputably regarded as leaving “intact the basic institutions of state governance”, thereby deeming them somewhat less-empowered than other international examples of empowered institutions of participatory governance (Fung and Wright 2003: 22). It is indeed not only on the issue of rates that institutions of participatory governance fail to transform formal governance institutions but also on issues of conservation, pollution and crime as a result of their lack of decision-making power.

## **Chapter Six: Assessing the Financial Imperatives of Development and Delivery**

### **Rates policy**

In conducting an assessment of the financial imperatives of development and delivery, it would be valuable to begin with a brief identification and outline of the uMngeni Municipality's official rates policy. This begins with the explanation that

...Council shall, as part of each annual operating budget component impose a rate in the rand on the market value of all rateable property as recorded in the municipality's valuation roll and supplementary valuation roll. Rateable property shall include any rights registered against such property, with the exception of a mortgage bond (available online: [www.umngeni.gov.za](http://www.umngeni.gov.za))

The rates policy of the Municipality highlights that "A municipality intending to levy a rate on property must cause a general valuation to be made on all properties in the municipality, and must prepare a valuation roll of all properties in terms of such valuation". It provides a definition of the market value of a property being the "amount the property would have realized if sold on the date of valuations in the open market by a willing buyer".

Accommodation for objections is given in the form of an appeal board who investigate objections from residents over the valuation of their property, upon payment of a fee (available online: [www.umngeni.gov.za](http://www.umngeni.gov.za)).

In addition to this, Council pledges early on in the document to limit "as far as possible each annual increase over the period preceding the financial year to which the increase relates". Also highlighted here is a commitment to be considerate of the accumulative burden of rates and service charges that may negatively impact on representative property owners, in the uMngeni district. The document states that "a rate levied by a municipality on property must be stated as an amount in the rand" this must be levied on the market value on the property; specific attention is also made in the case of public service infrastructure where a rebate of 30% is given of the specific value and in the case of residential property where there is also a less 30% granted on the first R50000 of the market value of that specific property. Special mention is given in the rates policy that "the municipality may not exercise its power to levy rates on property in a manner that materially and unreasonably prejudices national economic

policies, economic activities across its boundaries, or the national mobility of goods, services, capital and labour” (available online: [www.umngeni.gov.za](http://www.umngeni.gov.za)).

Also of value is the fact that due consideration is given to newly rateable property which must, according to the policy, be phased in over a period of three financial years. “Similarly, a rate levied on property owned by a land reform beneficiary must, after the exclusion period has lapsed, be phased in over a period of three financial years. The phasing in discount on a property must in the first year, be at least 75% of the rate for that year otherwise applicable to that property; in the second year, be at least 50% of the rate for that year otherwise applicable to that property; and in the third year, be at least 25% of the rate for that year otherwise applicable to that property.” These rates are recovered on a monthly basis, as determined by the municipality (available online: [www.umngeni.gov.za](http://www.umngeni.gov.za)).

The document also highlights that in imposing the rate in the rand for each annual operating budget component, there are seemingly generous rebates to certain properties which are in accordance with a national framework “but the Council reserves the right to amend these rebates if the circumstances of a particular annual budget so dictate”. Such rebates, as an example is presented as:

<b>Persons entitled to rebates</b>	<b>Income</b>	<b>Rebate</b>
Property owners who are over 60 years of age, who are both the permanent occupants and disabled persons and the sole owners of the property concerned, and whose aggregate household income is proved to the satisfaction of the municipal manager.		
	R0	- R2 800 further 30%



	R2 800	- R3 800 further 20%
	R3 801	- R4 800 further 10%

(uMngeni Municipality rates policy. [www.umngeni.gov.za](http://www.umngeni.gov.za) 2008: 4).

The policy is aware of the need to accommodate the following category of individuals in levying rebates:

The need to accommodate indigents and less affluent pensioners. The services provided to the community by public service organizations. The value of agricultural activities to the local economy coupled with the limited municipal services extended to such activities, but also taking into account the municipal services provided to municipal residents who are employed in such activities.

The need to encourage the expansion of public service infrastructure. A municipality may not levy a rate on: the first 30% of the market value of public service infrastructure”;

The following special circumstances qualify persons to apply for deferment of the payment of rates in terms of section 26(3) of the Municipal Property Rates Act:-

Property owners who are over sixty (60) years of age; or

Property owners who are not over sixty (60) years of age, but have retired from employment by reason of illness or disability certified by a medical practitioner, and are in necessitous circumstances (uMngeni Municipality rates policy.

([www.umngeni.gov.za](http://www.umngeni.gov.za) 2008: 4).

### **Assessing the financial imperatives of development and delivery**

Obstacles to furthering the principles of participatory democracy arise when an institution such as the Municipality is forced to operate in a unique environment, such as the

environment of the developmental state, heavily characterized by acute wealth disparities and where it finds itself caught between attempts to honour community participation from all walks of life whilst simultaneously being forced to transfer to wealth from the historically wealthy areas to historically marginalized areas as can be seen in this case.

The uMngeni Municipality budget document of 7 May 2008 shows clearly where the municipality's finance comes from; two budgets are financed, these are the legal requirements of the capital as well as operating budgets. The capital budget is largely for capital projects such as stadiums and lighting whereas the operating budget is for day-to-day expenditure including wages. For the 2008/2009 financial year, income generated from property taxes, without including income foregone and penalties or fines imposed, constitutes R103,193,297 of the R201,529,247 which comprises the operating income. In previous years of 2006 and 2007 similar, albeit slightly less dependence was placed on rates as the major generator of municipal income. Other income is generated from leasing of municipal property, rent of equipment, interest earned, license and permit fees, surplus on sale of assets as well as national funding and subsidies (Budget document 7 May 2008: [www.umngeni.gov.za](http://www.umngeni.gov.za)). Rates then, as can be derived from this document and as confirmed by the CFO is an indispensable part of municipal finances. Indeed, the municipality could be brought to its knees without this 35% income generated.

<b>Income</b>	<b>2004/2005</b>	<b>Total %of income</b>	<b>2006</b>	<b>Total % of income</b>	<b>2007</b>	<b>Total % of income</b>
Property rates	R39,800,000	35%	R45,200,215	32%	R43,278,859	34%
Service charges	R58,513,710	51%	R65,129,249	47%	R69,494,326	54%
Other income	R15,377,180	14%	R29,713,954	21%	R14,773,644	12%
<b>Total Income</b>	<b>R113,690,890</b>		<b>R140,043,418</b>		<b>R127,546,829</b>	

<b>Expenditure</b>	<b>2004/2005</b>	<b>Total % of expenditure</b>
Salaries, wages & allowance	R37,670,400	33,1%
General Expenses	R58,750,500	51,7%
Repairs & Maintenance	R6,207,500	5,5%
Capital Charges	R6,913,370	6,1%
Contribution to capital outlay	R1,188,100	1,0%
Contribution to internal funds	R9,790,000	8,6%
Grants and subsidies expenditure	R2,650,000	2,3%
Gross expenditure	R123,169,870	108,3%
Less: charge outs	R9,490,000	8,3%
<b>Nett Expenditure</b>	<b>R113,679,870</b>	<b>100,00%</b>

<b>Expenditure</b>	<b>2006</b>	<b>Total % of Expenditure</b>	<b>2007</b>	<b>Total % of expenditure</b>
Employee related costs	R36,634,339	22.3%	R50,310,760	28.7%
Remuneration of councillors	R1,865,093	1,1%	R3,363,231	1.9%
Bad debts	R25,000,000	15.2%	R7,962,573	4.5%
<u>Collection costs</u>	-		-	
Depreciation	R0	0%	R6,510,579	3.7%
Repairs & maintenance	R8,469,563	5.1%	R9,330,733	5.3%
Interest paid	R1,258,980	0.8%	R1,937,674	1.1%
Bulk purchases	R12,674,408	7.7%	R15,214,029	8.7%
Contracted services	R2,016,839	1.2%	R3,041,764	1.7%
Retirement & long service benefits	-		R921,911	0.5%

General expenses	R60,393,564	36.7%	R62,085,190	35.4%
Loss on disposal of property	-		R98,683	0.1%
Contributions	R6,063,212	3.7%	R2,032,072	1.2%
Refuse Site Rehabilitation cost	-		R2,000,000	1.1%
Departmental recharges	R10,106,859	6.1%	R10,632,416	6.1%
<b>Total expenditure</b>	<b>R164,482,857</b>	<b>100%</b>	<b>R175,441,615</b>	<b>100%</b>

(uMngeni Municipality Yearbooks 2004-2007).

When asked the reasoning behind why the municipality would need more finances, the CFO was quick to highlight that this is “largely a reflection of IDP input which informs the budget”. At IDP meetings, municipal officials confirmed, residents are free to inform the municipality of the kinds of projects they wish to see transpire. Community Development Workers highlighted that the most input received was from the poorer areas of Mpophomeni and surrounding rural areas, because, being an historically poor area whose residents were and are used as the domestic helpers in the urban areas, “this is the kind of area where the most development is needed”.

The General Manager of Operations acknowledged that often “these concerns are seen as priorities by the municipality” because of the plight of these impoverished residents and the CFO added here that it is impossible in light of this fact that they can adhere to a 7% rates increase which wealthier residents call for because this “will not see any transfer of wealth”. It was here too where he reiterated that these areas are “already developed but in order to appease them even more so, the municipality has gone out of its way to make their lives easier and this includes free refuse removal tariffs, free water tariffs (up to 6 kilolitres) per month as well as free sewerage tariffs (up to six kilolitres) per month and domestic water (up to six kilolitres) per month for domestic consumers as well as substantially low tariffs on electricity exceeding this amount” (uMngeni Municipality tariff notices 2007: 2-4). Here as well, the CFO acknowledged the perceived controversy over municipal salary increases which has featured strongly in the press but states that such salaries are “tools of the trade” and in line with the Public Officers’ Remuneration Act and the reason it is controversial is

because it is an easy target to point fingers at in the blame game for the causes of higher rates (Interviews CFO, GM Operations: 2008).

There was adamant agreement across municipal officials that the municipality is spending enough on development and delivery, and consensus that more than just the bare minimum is being done. uMngeni residents in the poorer areas are the only ones in the country, according to the CFO, to “be receiving en masse installations of flush toilets as opposed to the bucket system and the municipality has taken the initiative in electrifying all areas including the ones not supplied by Eskom and this is predominantly the case of the poor areas” (Interview CFO: 2008). Rebates of rates as illustrated above and as further outlined by the CFO is “the most progressive in SA as is the reduced charge of electricity which instead of the national norm of 50 units provided free to residents, 150 units is provided” (Interview CFO: 2008). All managers interviewed were extremely confident that the municipality is exceeding excellence in respect of development and delivery citing examples of municipal libraries in previously marginalized areas such as Howick west and Mpophomeni as well as community halls, sports stadiums, recreational grounds, theatres, as evidence. “These facilities simply did not exist before”, according to the CFO. As highlighted in the Mayor’s budget speech the following development has occurred

773 Low income houses built to the tune of R17 million, 9.2 kms of roads upgraded for about R14.5 million, 14.5 kms of road rehabilitated at R2.4 million, 1305 water and sewer connections valued at R1.9 million, 971 electricity connections valued at R3.4 million, the electrification of Siphumelele and Lions River.

Furthermore, the municipality has adopted an Anti-Corruption and Fraud Prevention Plan “with a dedicated hotline and an e-mail through which any suspicions are reported. According to the Mayor (Dladla 2007: 4), this was done long before the launch of the National Local Government Anti Corruption Strategy”. In addition he also contends that the uMngeni Municipality as a whole has seen dramatic economic growth which has demanded that the Municipality increase capacity in terms of resources to support this dramatic growth in services required by the community.

Operationally, according to the mayor, the municipality also now provides services such as refuse collection, verge maintenance, electricity, street cleaning, water services, road and



storm water and traffic services to all urban and peri-urban areas throughout the Municipality which comprises approximately 18000 properties. Furthermore, there are also plans to extend these services even further into the rural areas. The uMngeni Municipality was also, for the previous financial year, regarded as the “best performer in the region for the delivery of low income housing” (Dladla 2007: 6). In addition to this, a progressive move in the form of a conditional approval for the Mpophomeni Multi Service Centre is indeed significant. This is because it aims to address many historical social legacies through the Neighbourhood Development Partnership Grant which Minister Trevor Manuel in his 2007 budget speech presented to Parliament on 21 February 2007. He described it as a “new innovative funding model which encourages private participation in the rejuvenation of townships and attempts are being made for further funding of a similar nature for the townships of KwaMevana and that of Lidgetton West” (Dladla 2007: 7).

All of this is not to say that the majority of development funds generated are reliant solely on rate payments; indeed the municipality highlights that it has managed to secure a loan in the amount of R20 million from ABSA to fund projects listed in the capital budget which include

- General road rehabilitation at R2.4 million
- Central Business District Refurbishment at R2.2 million
- General surfaced road construction at R14.5 million
- Water and Sanitation upgrade and refurbishment at R1.3 million
- Construction of low income houses at R17 million
- Industrial Infrastructure Development at R1.4 million
- uMngeni Sports and Recreation and multi purpose centre at R6.5 million
- Electricity network refurbishment and extensions at R8.5 million (Dladla 2007: 8).

According to the assistant CFO as well as a senior rates clerk, increasing rates would make a major impact on the municipality’s finances because there is much development still required particularly in the townships. Rate increases would allow for extra income that can allow the municipality to seriously honour the input of the community at IDP meetings because it will have the economic muscle to do so. On the cards at the moment, through the assistance of public private partnerships, is a huge development project in Mpophomeni being the Neighborhood Partnership Development. This is essentially a total-one-stop shopping centre

comprising a host of facilities including retail outlets, wholesale stores, a post office, recreational facilities, a satellite municipal office and it is valued at approximately R50 million (Interviews CFO; senior rates clerk: 2008). This was confirmed by ward councillors in the area and from interviewees in Mpophomeni who attended IDP meetings outlined above.

The management of the municipality makes claims to honour participation but also felt it necessary to mention that residents in developed and previously extremely advantaged bracket “simply do not want to pay higher rates and farmers do not want to pay any rates; in fact the majority of individual objections have centred on disgruntlement around the location of development, occurring with these ratepayers money” (Interview CFO: 2008). “They do not wish to see a transfer of wealth” (Interview CFO: 2008). In response to accusations by these wealthy residents that the municipality does not wish to follow public participant procedure, the officials hotly contested otherwise stating that when these residents leave meetings, “they either do so before the meeting has ended or simply disregard what was communicated to them on development-orientated goals and trumpet exploitation.” (Interview CFO: 2008; Interview GM Operations: 2008).

After a careful examination of the services, development and delivery plans of the uMngeni Municipality, one can state that these plans seem to have the intention, as claimed by the municipality of being comprehensive, holistic and extensive. They are aimed, according to Municipal officials “at those areas where development did not previously reach”. There does seem to be an emphasis on sustainability in the development-initiatives and sensitivity displayed in the introduction of the various kinds of projects which will be the most beneficial to residents, as outlined by the municipality. In pre-1994, such municipal initiatives in township areas “were nowhere near the plans of the uMngeni Municipality but were orientated rather toward the historically white suburbs to maintain the first-world status of such areas”, whilst collecting very limited property taxes in these same areas to the detriment of Indian and Black areas which were heavily taxed, according to the GM of Operations.

One can see then that with what the Municipality calls a “newly equal and progressive rating system, those in the historically white areas are being taxed far more extensively, not as punishment, but for purposes of incorporation into the present-day SA”. In addition however,

in order to reduce the acute socio-economic cleavages created by such a system there needs to be a transfer of wealth from these “first-world” areas to the impoverished areas in order to crush the legacies of apartheid. The major means of doing so in a sustainable and equitable manner is through increased property taxes imposed on historically privileged and historically unrateable property, so as to generate the massive resources required for this intention.

Further, the CFO holds that “this is not to say that the taxes are exploitative because individual considerations are taken into account which is why generous and extensive rebates are given according to the specific situation of the ratepayer concerned” (Interview CFO: 2008). These same privileged residents are also the recipients of very progressive water, refuse removal and electricity tariffs and are still, according to the Municipality, treated with honour at public participation gatherings. The problem here though is that the divergent concerns of the two groupings (the municipality and privileged ratepayers) have reached deadlock. Interviewees who vociferously indicated that they if they were going to pay such property taxes, then they wanted to see even more development in their already heavily developed areas as well as interviewees who felt that development of poorer areas is not their responsibility, and that their pocket should not have to shoulder the burden, indicates clearly that there is a “development-participation dilemma”: This is why negotiations between the municipality and residents have reached deadlock and stalemate. The new rates have come as a shock to residents because they are suddenly much higher than previous decades of rates-holidays to the detriment of the poorer areas who were penalized with high property taxes coupled with poor service and development standards and now that there is a shift to try and tip back the scales of equality in the form of rates increases, the ratepayers simply fail to comprehend all that is communicated on this issue to them.

## **Chapter Seven: Conclusion**

The case study employed in this dissertation dealt with public participation with regards to rates increases. After the Municipal Rates Act 6 of 2004 gave municipalities the power (provided that public participation was conducted) to levy rates fees on residents in their vicinity and which includes previously unrated areas, the uMngeni Municipality proposed to increase property rate prices in their district between 300% and 500%, as of 2006. Residents (primarily in the white and wealthy areas of Hilton and Howick) were very vocal in opposing the situation and those residing in these historically white and wealthy (but not restricted to white residents alone), areas founded the Hilton/Howick Concerned Ratepayers' Association(s), and participated very actively through official and formal public participation platforms such as municipal budget consultations as well as at *imbizos* over the proposed rates increases, as hosted by the municipality. In addition to this, numerous petitions, submissions and a peaceful protest of over 4000 effected residents were successfully organized.

Despite it all, the uMngeni municipal council, passed the budget which effectively increased the rates by between 300 to 700% (Keys 2008: 3). This then prompted seemingly helpless residents to take their plight to both national and provincial government as well as to the Human Rights Commission. Parallels were also drawn with 1996 whereby a similar situation ensued in Sandton. Here residents contested and were active in opposing a proposed 200% property rates increase by the Metropolitan municipality. Despite petitions and peaceful protests as well as active participation in budget consultations, Sandton property rates were hiked by up to 230% (Daley 1996: 6).

As highlighted, such events suggest a tension between two imperatives of local government to take public participation seriously from all walks of life but also operating in a developmental state where there is an urgent demand to uplift the historically black and poor areas- this responsibility requires resources, which as shown in the case of uMngeni Municipality is heavily reliant on income generated from property taxes. It is essentially this tension which this dissertation explored and attempted to examine if the root-cause is perhaps competing developmental and democratic logics, thereby heavily determining the nature of practical experiences of public participation in local government.

This research founds exceptionally high levels of participation which went beyond the bare minimum. Officials did indeed go the extra mile in accommodating and explaining the situation; this proved challenging when the explanations had to be given to the wealthy and middle classes who are essentially shouldering the financial responsibility of local government's commitment to uplifting the historically marginalised areas but it was done respectfully. There were signs of a lack of rootedness of officials in the wealthy communities and hence, there was miscommunication which occurred, but this can also be attributed to wealthy residents refusing to empathise with the dilemma at hand, as was communicated to them. Being the recipients of development, the poor and marginalised in this case, did not have much to protest about and, on the contrary, expressed gratitude.

In conducting this examination a thorough survey of literature was conducted which included emphasis on the nature of decentralization and its effects as well as international and local experiences of the phenomenon whilst the research methodology section emphasised the qualitative nature of this research and gave the specifics of the theories which this dissertation used in its analysis being public participation theory as well as pivotal identification by both Fung and Wright (2003) as well as Gaventa (2007), of the prerequisites for effective participatory institutions and therefore, effective public participation with government. These prerequisites, as advocated by Gaventa (2007), are (i) political will amongst political elites and (ii) popular mobilization by stakeholders and affected communities, and, as advocated by Fung and Wright (2003), (iii) appropriate institutional design is also required. More specifically, Fung and Wright argue that effective participatory institutions share the following characteristics a) the devolution of public decision-making authority to empowered local units, b) the creation of formal linkages of responsibility, resource distribution and communication that connect these units to each other and to subordinate, centralized authorities, and c) the use and generation of new state institutions to support and guide these decentred problem-solving efforts (Fung and Wright 2003: 16).

The municipality's claims to honour public participation surfaced during the research as did vibrant mass political mobilisation from residents in the spheres of both public participation and rates protests. There seemed to however be a seemingly irreconcilable parallel in the wavelengths on which the municipality and residents were operating. The municipality was arguing the case of uplifting the poor, through property rates increases, whereas the wealthy residents were contending that they could not afford such payments and the burden should



not be placed on them, despite acknowledgement that apartheid policies of creating socio-economic cleavages left them as the victors.

To deepen one's understanding of the above situation, a more detailed explanation of the imperatives of development and delivery was conducted which provided a more accurate picture of the exact nature of the development-orientated policies and practices. What can be concluded after a thorough and careful study of the tensions involved, is that the uMngeni Municipality claims to be committed to the upliftment of the historically black, poor and marginalised areas but in order to do so, requires major resources made available through property taxes; generous rebates are granted to those in need and assessments are made on the basis of income and individual cases are also taken into consideration. The already developed areas of Howick and Hilton feel this to be an unfair situation and perceive themselves as victims of exploitation. This study has shown that in fact for half a decade under apartheid rule, it were these areas that were the benefactors of the exploitation of the black and poor areas. In order for there to be a transfer of wealth and equal distribution in society, properties in these areas need to be taxed. It seems to be a deliberate choice on the part of the wealthy residents to continually disregard this information explained at *izimbizos* and accuse the municipality of daylight-robbery. These are indeed further obstacles to the young SA democracy which need to be addressed, so as to encourage a better SA for all.

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