



### **Report of the DDP roundtable discussion on socioeconomic rights**

**Date** : March 3, 2010  
**Venue** : Saartjie Baartman Centre  
**Time** : 10h00 – 13h00  
**Facilitators** : Mzonki Poni (AbahlalibaseMjondolo)

**Vainolla Makan (New Women's Movement)**

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It is fifteen years since the South African Constitution was introduced with a set of socioeconomic rights, in 1996. Since then the post-apartheid state has been providing social services to many of South Africa's poor communities. However, large numbers of poor people are still without houses, electricity water, sanitation, etc. As a consequence, community protests to demand quality and affordable social services and space for democratic participation in decisions over what and how services are being delivered have been rife from early on in the new constitutional order, reaching close to 10 000 protests by 2005.

In this context, the Democracy Development Programme hosted a discussion with members of grassroots organisations to determine their thinking of South Africa's much vaunted constitutionally enshrined socioeconomic rights, based on the experience of their everyday life activities and others with whom they share similar social conditions. The following three questions framed the discussion:

1. How are socioeconomic rights perceived by those living in poor working class communities?
2. Do they think rights litigation is an effective strategy to demand social services?
3. Do they feel that civil society organisations who use the courts to claim socioeconomic rights are representing the interest of a broader mass?

The roundtable discussion forms part of an assessment of the redistributive effects of socioeconomic rights and the effect of a rights-based approach to political activism on mobilisation in grassroots organisations in the South African context. In this regard, the assessment critically looks into the provisioning of housing, electricity and water, the adjudication of these rights by the courts and the legal participatory strategies of grassroots organisations, since the inauguration of South Africa's democratic constitutional order. The aim is to use the analysis and findings of the study as a framework for a longitudinal survey of the perceptions of individuals and groups in different social locations and to explore the impact of rights litigation on social mobilisation in grassroots organisations.

### **Information about the organisations represented at the roundtable discussion**

Mzonki : "Let's start by introducing the organisations that we come from so to see how the guiding questions prepared for the discussion relate to the activities of our different organisations. I am a member of AbahlalibaseMjondolo in Khayelitsha. I'm not sure when I talk about ABM that I'm referring to a particular structure. In my view, ABM refers to all people living in informal settlements - I am Umlali Mjondolo.

The movement Abahlali was formed in Durban, in 2005. It spread to Cape Town in 2008. I was solely responsible for launching the organisation here in Cape Town. Prior to that I was active in the AEC. The structure of ABM in Cape Town is different from that of ABM in Durban. We don't have a president or deputy-president. We don't believe in all that. We have a flat structure, comprising a coordinating committee with task teams. We believe decisions that affect communities must be made within communities. ABM Cape Town is a space for different communities to share and reflect on their experiences. We have no agreed participatory strategies. Different communities can voice their own demands separately or collectively. When we engage in protest action we ask different communities to list their demands separately in the memorandum. We believe there's no silver bullet to deal with the

needs of communities. There are different interests in communities and so they need to be treated according to their needs. We'll not say because people in QQ section want to move to Patel we'll not push for that. People in Joe Slovo don't want to be relocated to Langa, so we'll support them. We use different actions. Direct action to march to the City of Cape Town. In Maccasar Village we took land by force. However, the municipality and the CCT's land-invasion unit came and demolished our structures and confiscated our materials and as a result we slept outside. There were women, children and people with disabilities. With the help of the South African Council of Churches we went to the High Court to seek relief. A court order was granted, preventing the municipality from demolishing our structures. So, we rebuilt our structures on the occupied land. However, the municipality and the anti-land invasion unit came again the next day and demolished our structures. They got an interdict from a different Judge, preventing us from rebuilding or building new structures. We've also barricaded the N2 highway with burning tyres and filled it with rubbish to lobby the media to report on our struggles so it can become known to people through out the country."

Mbulelo : "I am a member of the Gugulethu branch of the Anti-Eviction Campaign. Our activities include resisting evictions in the community and demanding jobs and houses for needy residents in the community. For example, during the construction of the Gugulethu Mall, we demanded that Mzoli employ people irrespective of their political affiliation. We also tried to forcefully occupy land at R44A and the Post-Office. However, our structures were demolished and building materials confiscated."

Laurence : "I am a member of the Treatment Action Campaign. The TAC is a movement of people living and affected by HIV/AIDS. Our main focus is on HIV/AIDS, TB and gender-based violence. We see this meeting as very critical because the issues that are being discussed here are directly link to our main focus. For example, TB is a result of poor housing conditions and the scourge of HV/AIDS is directly linked to other social stresses. Our strategy is to organise communities to voice their own demands, at grassroots level. The TAC was formed in 1998 and will be celebrating 10 years of existence this year. A book documenting the history of the TAC will be launched at our national conference".

Nobomi : "I am from the Young Women's Chapter. It's an organisation that fight for the rights of young women who suffer abuse. It's an organisation where we bring our socioeconomic problems and they take them to court, fighting for our rights."

Vainolla : “To add to what Nobomi said. The YWC is the youth wing of the New Women’s Movement. We take up issues of grassroots women. We have 16 branches across Cape Town. We have campaigns on teenage pregnancy, education, reproductive health, cost of living, where women have to stretch their budgets and the national budget is not supporting their social needs.”

### **The observations of participants on socioeconomic rights**

Mom Nontwala : “I am a member of the Anti-Eviction Campaign in Gugulethu. I’m still living with my parents and have been on the waiting list [for a house] since 1996. It might look like we are fighting among ourselves, as it look like some are being favoured. But, the fault is with the people who represent us. They are selling us out”.

Anuschka : “We might have access to rights, like housing and health, but doesn’t necessarily mean that you can actually benefit from them. What’s this talk about having all this rights, but you can’t get real benefit from them. It’s like you fighting a loosing a battle. I just think that there’s this huge gap between the people who formulate policies and those who live in harsh social conditions.”

Mom Nontwala : “How long are we going to wait for the houses? We don’t have a space to put on our shacks. We have no rights to do that. I born in Cape Town in 1965. We moved to 7<sup>th</sup> Avenue in Kensington. There were shacks all over until they built houses. I think 1976, we made a big toy-toy. We said we don’t need passes. We marched from Gugulethu, Langa and Nyanga. When we were in Cape Town Mr. De Klerk came out and asked whether we know what we want. We said we don’t want passes. Now everybody has IDs. Us, we fought for that. Others, who didn’t fought for this, who came after us, are forward. We have no rights, no jobs, no houses. It’s making us sore because we don’t know where to complain.”

Mbulelo : “We mustn’t put the blame to the councillors. We must blame the ministers. They always promise us! I remember getting a call from the Department of Housing early last year,

saying we should work with municipalities. It was Whitey Jacobs who promised that we'll be put on the waiting list as backyarders, but they did nothing about that! The councillors are there for their mouths and kids. Their kids are going to white schools in Claremont and other places. Ours attend schools in the township locations.”

Ivy : “We should not divide ourselves from people born in Ciskei and outside Cape Town. We all poor. All homeless. Those living in backyards are still better off than those in informal settlements who have no access to water, electricity. The councillors advance their own interests. All we can do is to organise ourselves. Mobilise to demand that our needs are addressed”.

Mom Nontwala : “I didn't want to provoke anybody. Just want to express my pain. I'm staying in the same house with my brothers and sisters. As much as we have a flush toilet, conditions are not good. As Xhosa people, we perform rituals. I every time have to listen to hate speeches that you don't belong here. This is our father's home. As a result, family members are killing each other. I wish to have my own house.”

Tembo : “If you rely on ward councillors, you'll wait for a long time. Why don't we march directly to Parliament with a memorandum? Tell Helen Zille, Mayor we want this and that because our councillors are corrupt. We never see councillors in our communities because they don't care for us! We must depend on our organisations, not councillors. We have no electricity, no water, no toilets, nothing! We live in dirty, very bad conditions. Our kids get sick from those conditions!”

Thulani : “It's very important that we attend community workshops, at community level. I lost my house last year and then applied for a RDP house. But, my friend got a house before me because he attended a community workshop”.

Nobomi: “When we attend community meetings we must take-off political party heads. Opportunities go to those who are members of a political party. It's mostly ANC members who benefit from economic opportunities in my community.”

Nosisi : “It has been a painful journey for me. I'm approaching 50 years. I don't have a house. I don't have a job. I go everywhere they tell me I'm too old. They want people from 35 years down. It's painful, if you don't have a job. How are you going to survive? I have three kids and they can't find jobs. I have skills, but it is very hard to find a job. Sometimes I go to sleep without food.”

Mzonke: “Abahlali was formed with the belief that without us there’s no us and if there’s no us, who will represent us? In my experience in the AEC and Abahlali, we tried many times to use the court or litigation to get relief. Like in Delft, when houses were unlawfully occupied, we realise that it would be difficult to resist evictions because of the force of the metro police who come with guns and whatsoever. So, there’s one way we need to do, we run straight to court for an interdict. It’s just to say that people should not be evicted from their structures without an order that authorises that. But, in terms of reversing the evictions we know that we have zero chances of doing that. It’s a technical defence that we using in terms of delaying the process. But, at the end of the day people will be evicted. Just that the law who deals with these things, it says people should not be evicted without a certain procedure being followed. Once that procedure is followed, it’s guaranteed, it’s likely possible that the eviction will take place. Then as a result of that, in the movement, we view the court, as a last resort that we have. We belief through mass resistance people can occupy land. What count is to have numbers behind your back. In Du Noon, there’s formal dwellings that came about not through legal intervention. In Maccassar Village, people built 12 structures on the first night and 8 on the second day. We belief it was easy to demolish the structures and to confiscate the building materials. But, if 150 structures were build on the first day, it would have been more difficult to demolish the structures. The materials are not a gift of god! At community level, people must be clear what they want. Once people occupy land, they need to build structures and move into the structures. In Kennedy Road, in Durban, Abahlali and the municipality signed some sort of Memorandum of Understanding that people will be housed where they are, as long as no new structures are built. So, if new structures are built, the Kennedy Road Development Forum will notify the authorities which cause internal divisions. If we want to resist evictions, our first form of defence should be our mass power, not the courts. But, where it is clear that we’ll not win, we should use the courts, as a technical defence. On the Slums Act, Abahlali was invited to participate in the discussions on the Act. They rejected it, but the KZN provincial government went ahead to turn it into a Bill. Abahlali was left with no option, but to go court to challenge the legality of the Act. It went to the Constitutional Court and won. During court actions, we are able to mobilise large numbers of people. But, the numbers diminish after court defeats. Once cases are lost, it create some sort of division within the community, especially where communities lack resources to explore alternative legal routes. Like for instance, the issue of Delft, where there was no resources, no funds, people had to contribute out of their pockets in order for them to afford the services of the advocate. There was 2 groups, because the attorneys charged us

R30 000, each group had to contribute R15 000, R15 000. That also created lots of problems. Then with the issue of Joe Slovo, we attended the case in the High Court many times. But, in Joe Slovo we were very lucky. There was LRC who agreed to do the case for free. But, there was also some dynamic issues. I guess those issues come from the leadership and the management of resources. But, the impact was quite positive, you know. Then there's the issue of Maccassar Village. In Maccassar Village we went to court and won an interdict that has no legal power, but it's just a piece of paper that has no meaning."

Laurence : "Yah, I think, of course people get dejected, even when it's not a court case, but maybe lawyers write a letter to demand something. To a certain extent it happened in the TAC. I remember with the Aids Law project, we will have more people living with HIV and they were poor, and not working, and needed to have at least a grant. So, we'll have a data base of those people and they will fill-up affidavits for them to challenge Social Development through the Aids Law Project for provision of a grant or social assistance. Yah, so, the then Minister of Social Development was cooperative, but it was on the brink of a new administration. And within that time and the coming in of the new administration, although we filled affidavits, but because till this day there hasn't been a break through in terms of gaining a legal grant to challenge it through the courts, it did affect a lot of people."

Mom Nontwala : "I think we vote for nonsense, they don't care of the people that are poor...look now, an example, they make houses in Khayelitsha. There's houses called Mandela Park. They keep those houses, they make it, 50 something houses. They finish it, they keep it until the people push the door and they go inside. When the people do that, they said, no this houses is not for you. It's for Gugulethu people and then the trouble start. Why you keep it for long-time! We think this houses is for us because it's in the Khayelitsha area, you see. And they were not wrong those people because those houses, they build it for long and they keep it their. They don't put the people inside quick until the people ask, what is going on? What is wrong? And then they start saying, no-no this houses is not for you it's for Gugulethu people. And they start saying, no not for Gugulethu people. For us because it's in Khayelitsha area, you see. They make the black to fight with the black and which is wrong.

Vainolla : "These rights are in the Constitution, they ours. They are there on paper, but they need to be made real. So, I think it's important that we also talk about the strategies that are needed to make these rights real."

Mzonke : “In my view, I don’t think that these rights are segregated, you know. Because if you campaign for a right to education, in reality a child would not learn under conditions that are not conducive. If she does not have access to electricity. If she does not have access to water. Even if you campaigning for housing, but, a house on its own will not change poverty in terms of the livelihood of a person. Because once you have a house that person needs to have means to maintain or sustain himself. Then, that person needs a job or employment so that he can be able to maintain the house, and if that person does not have the means, that person will sell the house. And then, even in terms of where the house is situated. Whether that person has access to health care and whatsoever, you know. But, in terms of that, if you interpret this in the context of the constitution, I guess they are just there, like in a form of paper, you know. In reality, they don’t exist at all. It’s like, in reality, they are in dreamland.”

Thulani : “For me, I got a problem with Dan Plato because that guy, since last year, he promised us a lot. But, the way I see it, there’s nothing that he has done so far. At the time when we met with him, he was saying that in June [2010] he’ll send some people to bring us service delivery. Tell me, do you think that is going to be possible? Because in June people are going to get busy with sports. Dan, can you tell me that you can go to the sports while you hungry? Can you go to the sports while your house is getting a lot of water? Because that time in June it’s winter, it’s raining. For me, I don’t think that is going to be possible.”

Nosisi : “The Mayor also came to Gugulethu, I was there, we were asking questions and he kept making promises. And I don’t think that they will be able to fulfil those promise because that’s what they’ve been doing, ever since they have been in the offices. There’s no way that they have fulfilled any promises; jobs, housing, nothing! There is nothing that has been fulfilled, it’s only promise, promise, promise. It’s painful because most people go to vote with the hope that I’m going to get a job, I’m going to get a house. My life is going to change. Ever since we’ve been voting nothing has changed. I know that they can’t make everybody happy, but at least if we can see there are changes here and there, then we will say, okay the turn will come to us as well. So, those rights, they mean nothing really, they are just there in paper. To me, they mean nothing!”

Mzonki : “When you go to court, let’s say you go to high court, you not allowed to speak. You want to approach an advocate, you not allowed to approach an advocate directly. You need to appoint an attorney and it’s then the attorney that needs to instruct the advocate. And when they speak, they speak the language that we don’t understand. You are inside the court,

but you don't understand what is been said inside the court while you inside the court with the issue that affects you and the community.”

Mom Nontwala : “When we go to the court it's not easy. You just sit their and the magistrate speaks so slowly so that you couldn't hear what she says. And the next thing they just say, okay come this next date. They don't care about the time that you take and the money that you spend to go to the court.”

Ivy : “The court is not accessible to everyone. The language is difficult to understand. So, we need a different strategy. We need to target relevant people within the system.”

Nosisi : “The only way that we get access to those rights are through bribery because if I bribe, I will get a house, I will get a social grant.”

Vainolla: “ I want to attempt a summary. We've been talking about a lot of issues, but there are a few important things that came out. When we talk about socioeconomic rights, it's really the everyday life issues that we encounter. When you wake up in the morning you need to eat, you need to be healthy, you need to have a space where you sleep. But, now inorder to ensure that everyday life has quality, the government has been bragging all over the world that, unlike other countries, we have socioeconomic rights protected in the Constitution. So, that is our pat on the back. But now the discussion today was about how real is that. To what extent is that being felt by people. So, at a policy level, we have the Constitution, the courts, attorneys and advocates who must see that these become real. Then there's the budget. How are the monies spend on social needs. The government always says there's no money. The money goes for housing, social grants, education, and so on. But who do we see driving the 4x4s? Then there's the procedures to implement the government's policies. Unequal procedures fuel social divisions. And finally, we spoke about whose accountable. The politicians and the bureaucrats and what we should do to keep them accountable.”

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