



**The Role of Social Dialogue (Civil Society  
Participation) in Policy Decision-making in South  
Africa: The Case Study of NEDLAC**

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## **DECLARATION**

I, Siziphiwe Ngxabi, declare that this research report is my original work and that which is not is referenced accordingly. It is submitted in partial fulfilment of the requirements for the degree, Master of Commerce (Development Theory and Policy) at the University of the Witwatersrand, Johannesburg. It has not, either in whole or in part, been submitted before for any degree or examination in this, or any other University.

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Date: 27 August 2015

Signature:

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## **ACRONYMS AND ABBREVIATIONS**

NEDLAC	National Economic Development and Labour Council
ILO	International Labour Organisation
GEAR	Growth, Employment, and Redistribution
NPM	New Public Management
NGO	Non-Governmental Organisation
NPC	National Planning Commission
PCS	Public Services Commission
WNC	Women's National Coalition
SANCO	South African National Civics Organisation
DPSA	Disabled People of South Africa
SANACO	South African National Apex Cooperatives
FSCC	Financial Sector Coalition Campaign
SAYC	South African Youth Council
EU	European Union
Statssa	Statistics South Africa
NDP	National Development Plan
COSATU	Congress of South African Trade Unions
NGP	National Growth Path

## ABSTRACT

South Africa enshrines itself as a democratic developing country that adheres to the principles of good governance and acknowledges the role that civil society participation in state affairs can have. The purpose of this study was to establish the role and effectiveness of NEDLAC's social dialogue process through evaluating the contribution of civil society participation in the Development Chamber; and to understand the relationship between NEDLAC's social dialogue model and the World Bank ideology on civil society participation in policy making.

The study highlights that NEDLAC remains one of the key vehicles for social dialogue in South Africa and there have been positive contributions by civil society participation in the NEDLAC process. It takes its premise from the ILO model of social dialogue, whilst it also adapts from the World Bank ideology of civil society participation by including civil society in the process, through the Development Chamber.

However, the effectiveness of civil society participation in policy making through NEDLAC is at risk due to the impact of the changing socioeconomic environment. In many ways this study highlights contradictions in South Africa's social dialogue process. The Development Chamber is not being optimally used for its intended purposes as representativity and accountability of the community organisations are a concern; whilst there is an increasingly active civil society, demonstrated by civil unrest, which is not part of this social dialogue process.

**Key words:** civil society participation, social dialogue, good governance, policy making, NEDLAC

# **CHAPTER I**

## **1 BACKGROUND AND RESEARCH PROBLEM**

### **1.1 Introduction**

The democratic government of South Africa has adopted the civil society participation ideology in governance as key in promoting transparency, accountability and efficiency in government activities (NEDLAC, 2011). South Africa enshrines itself as a democratic developing country that adheres to the principles of good governance and acknowledges the role that civil society participation in state affairs can have. These objectives are also reflected in the NEDLAC Act of 1994 and The Constitution of the Republic (1996). The history of social dialogue in South Africa has its roots in the liberation movement in the early 1990's that led to the ushering of the democratic government in 1994. Therefore, in the new democracy social dialogue became one of the important tools to address the challenges of the apartheid legacy where the majority of the population was excluded from national discourse.

In order to drive this policy shift, the democratic government of 1994 established structures aimed at facilitating national discourse on the country's development agenda and government activities. These included structures such as public hearings, ward committees, citizen satisfaction surveys, citizen's forums, integrated development planning forums, and the National Economic Development and Labour Council (NEDLAC), amongst others (PSC, 2008). The main aim of these initiatives was to ensure that there was an increased civil society participation in government activities and a fast tracking of a collaborative democracy. To illustrate, the former executive director of NEDLAC, Alistair Smith, stated in the NEDLAC 2013-2014 Annual Report that:

When we celebrated the dawn of democracy, many of us understood that our socioeconomic legacy – as manifested in deep structural unemployment, extreme inequality, high levels of poverty and serious backlogs in social goods and services – would require a massive collective effort to be successful. (NEDLAC, 2014a)

This demonstrate that there was a concerted effort to involve social partners in policy making to solve the country's socioeconomic problems at the dawn of democracy.

NEDLAC is a statutory body that was established to promote social dialogue on economic development and labour market policy issues in South Africa through the NEDLAC Act of 1994. Also, it was established to address challenges in the new democracy by promoting sustainable economic growth, social equity and increased participation by cooperating through problem-solving and negotiation on economic, labour and development issues NEDLAC (2012). NEDLAC has its foundations from the International Labour Organisation (ILO) model of tripartite social dialogue, which involves labour, government and business negotiating on socioeconomic policies. However, it has also adopted the World Bank ideology of civil society participation in policy making by including civil society in the social dialogue process; a departure from the ILO model. To date, it is regarded as one of the main platforms to facilitate social dialogue in South Africa.

Social dialogue is defined as all types of negotiation, consultation or exchange of information between, or among, representatives of governments, employers and workers on issues of common interest relating to economic and social policy (ILO, 2013). It has an important role to play in the design and implementation of socio-economic policies by facilitating consensus leading to social cohesion as it provides the best possible means for effective and sustainable implementation of policies (NEDLAC, 2011). Whilst, the World Bank (1997) identifies civil society participation as including individual users, private sector organisations and other groups in civil society in the government policy development process. In all, social dialogue can be considered as a form for civil society participation when civil society is included in the consultation process.

There are differing schools of thought as to the contribution of civil society participation in development. One view suggests that, through the state and society synergies and consensus building, civil society participation promotes policy effectiveness (Harriss, 2001). They contend that successful social dialogue structures and processes have the potential to resolve important economic and social issues, encourage good governance, advance social and industrial peace and stability and boost economic progress (ILO, 2003). It is suggested, this would foster monitoring of public services thus accountability; enhanced efficiency and quality of public goods; transparency in policy decision making and ultimately promote the entrenchment of democracy. In contrast, other views contest

the notion that civil society participation, as an extension of the good governance agenda, is a prerequisite for development (Khan, 2005). Hence, the emphasis on good governance would not deliver economic development and policy prioritization for democracy may take away attention from other things necessary to achieve prosperity for making democracy more sustainable and capable of delivering real decision-making powers to societies (Khan, 2005).

In its 20 years of existence, NEDLAC has been involved in the development of numerous policies, however there have been critical views on its function in social dialogue in South Africa, particularly due to some government's policies that were implemented by the government without NEDLAC consultation; such as the Growth Employment and Redistribution (GEAR) policy of 1999 (Basset, 2004), amongst others. In addition, the effectiveness of civil society participation in the social dialogue process is not clear due to the challenges facing NEDLAC (Webster, et al, 2013). The credibility of this institution as a key player in policy making discourse has since come under scrutiny. Therefore, the purpose of this study was to establish the role and effectiveness of NEDLAC's social dialogue process through evaluating the contribution of civil society participation in policy making in NEDLAC – focusing on the work of the Development Chamber as the main platform through which civil society participates in NEDLAC. Also it was to understand the relationship between NEDLAC's social dialogue model and the World Bank ideology on civil society participation in policy making.

This study highlights that NEDLAC remains one of the key vehicles for social dialogue in South Africa and there have been positive contributions by civil society participation in the NEDLAC process; however the effectiveness of this process is under threat. Firstly, the participation of civil society in the NEDLAC social dialogue process does not adequately advance civil society participation in policy making due to uncertainty regarding the representativity of the community organisations that are part of the process; and civil society is not regarded as a strategic partner in the process. Secondly, the value of civil society participation cannot be fully realised due to the lack of adequate consultation and feedback mechanisms between the representatives and the represented; limited resources to facilitate participation; and a weakening relationship between the government and the structures of NEDLAC.

The rest of this chapter discusses the problem statement; provides a background on the research project, its objectives and discusses the research methodology. The second chapter covers literature on civil society participation; the ILO social dialogue model and the social dialogue regulatory framework in South Africa. Chapter three then evaluates the contribution of NEDLAC to civil society participation through assessing its structure and relationship to the World Bank ideology and the role and effectiveness of civil society participation in NEDLAC. The last chapter (four) provides a summary and concludes on the role and effectiveness of civil society participation in policy decision-making in South Africa.

## **1.2 Research Problem**

Civil society participation in economic policy formulation and implementation in South Africa is seen to be impeded by the government's perceived unwillingness to include social partners in the national planning agenda; despite the objectives reflected in legislation and the structures formed in this regard. This is evidenced by the dwindling inclusion of NEDLAC in the process of policy making. Whilst, others have criticised NEDLAC on a number of levels regarding its function citing that it delays the process of policy making (Basset, 2004). Is NEDLAC with its current structure and method still relevant in facilitating social dialogue on economic development and labour issues challenging the country? How effective is the role of civil society participation in the process?

Even though the role and effectiveness of civil participation in development is a highly contested issue, South Africa has adopted civil society participation in governance as key in promoting transparency, accountability and efficiency in government activities and as such established structures such as NEDLAC to fulfil this. How has the model of NEDLAC taken from or reflected the mainstream ideology on participation? What does this mean for social dialogue in South Africa?

### **1.3 Hypothesis**

Social dialogue in policy making can be useful to improve the quality of decisions and ensure that the interests of impacted civil society members are considered. This can be achieved through various ways of involving civil society in decision making processes through localised, provincial and national consultation bodies. However, the emphasis on civil society participation in policy making can take away focus from development initiatives that are aimed at directly inducing growth that is beneficial for development, as consultation can prolong decision making (Khan, 2005). Others see citizen participation in governance as a way of strengthening citizen rights and voice by influencing policy making, enhancing local governance and improving the accountability and responsiveness of institutions; where there is no empowerment of citizens, the participation process can be an instrument for managed intervention in government processes (Biccus, 2013).

In addition to this, the civil society participation ideology is largely seen as an extension of democratic principles such as accountability and transparency and overall good governance. Theorists such as Khan (2005) argue that democracy has not been proven to be a direct benefactor or a pre-condition for development and thus question the relevance of civil society participation in economic development. Nevertheless, the effectiveness of civil society participation in policy formulation has not been fully explored as it relates to the improvement of socio-economic wellbeing of a country and its citizens through policy making.

### **1.4 Research Aims and Objectives**

The aim of the research project is to establish the role and effectiveness of civil society participation in decision making on policy making in South Africa, through the case study of the Development Chamber in NEDLAC. The objectives of the research project are to provide insights on social dialogue in policy making in South Africa with reference to the relevance and impact of NEDLAC and the effectiveness of the role of civil society participation in NEDLAC. To compare the South African model of social dialogue

against the World Bank ideology on civil society participation in order to identify similarities and contrasts using NEDLAC as a case study.

## **1.5 Research Approach and Method**

The research was conducted by applying a qualitative approach. The use of primary and secondary sources was employed and was the main method of research. The qualitative approach was used in order to source opinions and insights from participants in the NEDLAC social dialogue process. The benefits of using this approach include that it allows for broad and open-ended enquiry in interviews and a better understanding of the beliefs and opinions of related parties (Choy, 2014). Its weaknesses lie in that it may be subject to the biases of the researcher; whilst the interview process may be time consuming (Choy, 2014). Similar methods have been used by other researchers such as Webster (2013) and Houston, et al (2001) in their evaluation of the social dialogue process in South Africa.

The hypothesis was established by reviewing and analysing literature and case studies on civil society participation, NEDLAC, policy making, social dialogue in South Africa and World Bank ideology on participation and its criticism. Reviewing and analysing government documentation case studies on social dialogue in policy making in South Africa, such as policy documents, legislations and public statements. Reviewing and analysing NEDLAC documentation on its contribution on policy making in South Africa (including examples) and challenges. Reviewing and analysing World Bank documentation and case studies on civil society participation and literature discussing the pros and cons and successes and failures of civil society participation. The abovementioned secondary data was selected for review and analysis due to (1) the leading role played by the World Bank in informing the agenda for civil society participation in relation to the good governance ideology; (2) the role played by the government policy in setting the agenda for civil society participation, in particular during the transition to a democratic government and afterwards; and (3) NEDLAC being the principal subject of this study. Consequently, these are the critical role players in the literature and practice of civil society participation in policy decision making.

The data utilised in the research was sourced through publicly available information from case studies, policy documents, government resources, other relevant organisations, and published literature. In addition, data was collected through interviews of participants in the NEDLAC process who have insight into the work of NEDLAC, specifically the Development Chamber (where civil society participates). The study focused on the work of the Development Chamber as the main platform through which civil society participates in NEDLAC. Participants from the labour, government, business and community constituencies who participate in the Development Chamber were selected. The interviews were conducted during the period of 03 – 18 February 2015. They provided great insights on the practical application of the civil society participation in NEDLAC's Development Chamber and the effectiveness thereof. Interviews were conducted with the following people:

- **Matthew Parks**, Member of COSATU, labour convenor at the Development Chamber.
- **Lawrence Bale**, President of SANACO, community convenor at the Development Chamber.
- **Adam Mthombeni**, Department of Public Works, government convenor at the Development Chamber.
- **Zama Ndaba**, Committee member of SAYC, member of the community constituency at the Development Chamber.
- **Thulani Mabuza**, General Secretary of SANACO, member of the community constituency at the Development Chamber.
- **Jonas Mosia**, Member of COSATU, member of the labour constituency at the Development Chamber.
- **Alistair Smith**, Former Executive Director of NEDLAC.
- **Conty Matlakala**, Committee member of WNC, member of the community constituency at the Development Chamber.

In terms of limitations, the interviews were performed only with persons who participate in the NEDLAC social dialogue process for the purpose of obtaining insights into the work of the Development Chamber and the social dialogue process in NEDLAC. Also, the study is limited to consultation of civil society participation in government policy making at a national level. Therefore, the study does not analyse consultation processes at

a local and provincial level; whilst it is recognised that there are existing participation processes at such levels. The policy formulation process is mainly conducted at a national level, thus the focus of this study.

## **CHAPTER II**

### **2 THEORETICAL PERSPECTIVES ON CIVIL SOCIETY PARTICIPATION IN POLICY MAKING**

#### **2.1 The Civil Society Participation Concept in Development**

##### **2.1.1 Definition of civil society and civil society participation**

The concept of what civil society is varies widely amongst theorists and is highly debatable as to what constitutes civil society and what level of interaction can be considered civil society participation. To put this in context, White (1994) describes civil society as an intermediate associational realm between state and family populated by organisations which are separate from the state, enjoy autonomy in relation to the state and are formed voluntarily by members of society to protect or extend their interests or values. Simply put, civil society is voluntary social associations outside the state and level of family and kinship groups (Harris, 2001).

Civil society participation may be defined at a general level as the practice of consulting and involving members of the public in the agenda-setting, decision-making, and policy-forming activities of institutions responsible for policy development (Rowe, 2004). McIlwaine (1998) admits that civil society organisations have been important conduits for democratising forces, and have played crucial roles in both challenging existing power structures, and in engendering change within societies.

##### **2.1.2 Democracy, governance and civil society participation**

Civil society participation is largely associated with the literature of democracy; as an extension of democracy or even as a mechanism to strengthen democracy. Khan (2005) defines democracy as a system of rules for electing the executive and the legislature that constitutes the government of a society through a process of competitive and contested elections. It denotes the ability of the citizens to effectively participate in the decisions made on issues that affect the society in general (Kabemba, 2003). In addition, Kabemba notes civil society participation as a key determinant of the 'nature of democracy' and as being crucial to social development.

The concept of civil society participation in governance is a highly contested issue in the development discourse. It is associated with a number of other ideas such as deepening democracy by fostering accountability; promotion of state efficiency through decentralisation; and strengthening of social capital to foster change, leading to poverty reduction (Leftwich, 1993; World Bank, 1997; and Harriss, 2001). This suggests that civil society participation is a wide subject covering many aspects; however the central theme surrounding all these subjects is governance, which Leftwich (1993) views as the structures of political and economic relationships and rules by which the productive life of a society is governed.

A robust civil society is seen as an important element of good governance (Harriss, 2001). Democratic good governance as per Leftwich (1993) generally refers to a political regime based on the model of a liberal-democratic polity that protects human and civil rights accompanied by non-corrupt and/or transparent accountable public institutions; structures which supposedly enable competitive and free markets.

### **2.1.3 Characteristics of civil society participation**

Kabemba (2003) discusses that there are four different types of citizen-government interaction where firstly there is citizen action such as lobbying for parliamentary committees, public demonstrations and protests. Secondly, there is citizen involvement in public hearings, consultation with advisor committees and satisfaction surveys. Thirdly, there is electoral participation to elect parliamentary representatives. Lastly, there is obligatory participation on mandatory responsibilities of citizens such as taxation. These at a high level depict the levels and forms civil society can participate in government decision-making and activities.

## **2.2 World Bank Ideology on Civil Society Participation**

### **2.2.1 Foundations of the ideology**

A focus on governance as a central factor in development arose in the late 1980s through a 1989 World Bank Report that identified governance as the main obstacle to progress in the developing countries after the apparent failure of the Structural Adjustment Programs

implemented in the early 1980s (Nanda, 2006; World Bank, 1989). In 1989 the World Bank issued a World Development Report on Financial Systems and Development in which it suggested that reform in developing countries was needed arising from the financial distress of the 1980s, not only for financial institutions but also governments. The government's contribution would be to provide macroeconomic stability by reducing their spending and effective use of state resources; and this reform would require institutional capacity and political skill (World Bank, 1989). Hence the introduction of the good governance agenda as a policy requirement in developing countries.

Twelve years later (1997) the World Bank issued a World Development Report on the State in a Changing World where it extended its view on the role of institutions (or the good governance agenda) in economic development. It suggested that the state has an important role to play in economic development as a partner, catalyst, and facilitator for the market because of the perceived failures of state-led development in many developing countries (World Bank, 1997). As such an effective state was needed to provide goods and services and rules and institutions that allow markets to flourish (World Bank, 1997). It highlights that state-sponsored development has failed, thus introducing the state versus market argument in the development discourse.

In respect of the origins of this ideology, Leftwich (1993) points out that there have been four main influences on the World Bank's focus on good governance; (1) the outcomes of structural adjustments lending, which interfered with the use, production and distribution of resources; (2) the penetration of neo-liberalism in developed countries, which assumes that democratic politics is necessary for a thriving economy by compelling governments to be more accountable and efficient – thus pushed the agenda of democratisation); (3) the collapse of communist regimes; and (4) the rise of pro-democracy movements in developing countries.

### **2.2.2 World Bank framework on participation**

The World Bank (1997) views that the state's role should be matched to its capability by establishing a foundation for law; maintaining non-distortionary policy environment; investing in basic social services and infrastructure; protecting the vulnerable; and

protecting the environment. In other words, these good governance features include an efficient public service; independent judicial system and a legal framework to enforce contracts; accountable administration of public funds; independent public auditor; general respect for the law and human rights at all levels of government; pluralistic institutional structure; and free press. All this as an aid to ensure market efficiency (or continued operation of the imperfect market) and protection of property rights.

In addition, according to the World Bank (1997), reform would be through three basic mechanisms: rules and restraints; voice and partnerships, and competitive pressure. The second reform introduces the concept of civil society participation in government. The World Bank (1997) argues that governments that ignore the needs of large segments of its population are not capable of being effective in their roles. It further states that part of the reform should include bringing the government closer to people because evidence suggests that government programmes work better when they seek participation of potential users and use the communities 'social capital' or 'civic responsibility' (World Bank 1997; Grootaert 1999). Thus overall, the World Bank views participation as having good effects in the process of development.

### **2.3 Arguments in Favour of Civil Society Participation**

The proponents of civil society participation mostly base their arguments on the principles and benefits espoused by the good governance agenda. The main argument being that having active citizens in the policy making process is good for governance and good governance promotes the effectiveness, transparency and accountability of institutions. Such institutions are then good enablers for facilitating the promotion of the market. This ideology has its founding roots in neoclassical economics.

Firstly, civil society participation is good because it promotes the effectiveness of the state through optimisation of the civil service. Thus, the New Public Management (NPM) theory seeks to embed this goal. It suggests that the state should use the economic market as a model for political and administrative relationships (Hope, 2001). It promotes participatory management for empowering citizens through their enhanced participation in decision making and development planning and management for enhancing

governance (Hope, 2001). As such this ideology fully aligns with the good governance ideology.

Secondly, civil society participation is good because it fosters transparency of government activities. In this regard, public involvement provides for the political education of the public; through participation, individuals can gain the confidence that comes from shared control of actions (Kabemba, 2003) and what kind of activities to expect from the government. Harriss (2001) agrees that the ideas of social capital and of civil society are important themes in a wider discourse in relation to participation in development, with the argument of grass roots development informed by and responsive to people's ideas, needs and interests if there is a common end in sight implemented by broader sets of ideas and organisations such as social movement, NGOs, etc. with bases outside the community.

Thirdly, civil society participation is good because it ensures accountability of the state regarding public monies. Un (2006) says that the absence of horizontal (responsibility between institutions) and vertical (responsibility to constituencies and civil society) accountability of institutions undermines state autonomy and the consolidation of democracy in countries where the political and economic process has been captured by elite interest in society. He argues that civil society can serve as a catalyst for democratic consolidation, since it can mobilize people against the power of the state and also monitor the accountability of the state.

Fourthly, civil society participation is good because it furthers the goal of strengthening democracy. Box et al (2001) propose that substantive democracy can be obtained through a collaborative model of administration by giving citizens the knowledge and techniques they need to deal with public policy issues. The International Labour Organisation (ILO) (2003) also views that social dialogue in economic and social policy meetings has a fundamental role to play in furthering democracy, social justice and a productive and competitive economy. Furthermore, the ILO (2003) suggests that the main goal of social dialogue is to promote consensus building and democratic involvement among the main stakeholders in the development process. Thus, successful social dialogue structures and processes have the potential to resolve important economic and social issues, encourage

good governance, advance social and industrial peace and stability and boost economic progress (ILO, 2003).

Lastly, through the state and society synergies (Harriss, 2001) and consensus building, civil society participation promotes policy effectiveness. Social dialogue provides the best possible scenario for the effective and sustainable implementation of the policies concerned, and minimizes the risk of industrial and social conflict (ILO, 2003). Successful social dialogue can be a key to forging consensus and commitment to common objectives while providing the means of accommodating competing roles and managing conflicts among the stakeholders in society (ILO, 2003).

## **2.4 Arguments against Civil Society Participation**

Firstly, one of the arguments is that democracy is seen as a concomitant of modernity and hence an outcome of socioeconomic development and not a condition of it and that the foundation of most modern advanced industrial economies were laid under non-democratic conditions; this was a largely held idea in the 1960's (Leftwich 1993). Meisel, et al (2007) show in their study that there is correlation between good governance and the level of development; however there is no direct correlation between good governance and the speed of development as it does not influence the driving forces behind institutional, economic, political and social change. Thus, it is not seen as priority factor in the economic take-off process, however becomes one where countries have experienced lengthy and sustained growth just as Leftwich suggests (Meisel, et al 2007).

Meisel et al (2007) further argue that the relationship between good governance and growth is weak and programs in support of good governance (such as civil society participation) have very little impact because the transposition of the process introduces impersonal formalisation of rules in low-income countries where inter-social relations in society are a core basis for structure. There are also arguments that premature introduction of democracy may actually hamper development in its early stages where there is a cruel choice between rapid expansion and democratic processes (Leftwich, 1993). Thus the combination of democratic politics and economic liberalism has rarely

been associated with the critical early breakthrough from agrarianism to industrialism now or in the past (Leftwich, 1993).

Khan (2005) adds that democracy does not result in a significant change in economic characteristics because it does not eliminate property rights instability, rent seeking, or corruption in developing countries and patron-client networks are not driven by the existence of democracy but by structural features of the economy that make modern welfare-driven redistributive politics unviable. Since the evidence on the impact of democracy on development is inconclusive, the policy prioritization for democracy may take away attention from other things necessary to achieve prosperity for making democracy more sustainable and capable of delivering real decision-making powers to societies (Khan, 2005).

Secondly, the World Bank pairs the notion of civil society to ‘good policies’ for government and thus the regulation of aid to poor countries. This, Kabemba (2003) suggests, introduces untoward pressure on countries to implement ‘choice-less’ democracy; where conditionalities of policies driven by the international aid agencies are accepted without much deliberation. Some argue that the emergence of the good governance agenda was a direct result of the failure of the Washington Consensus<sup>1</sup> policies pushed on to developing countries; arguing that the problem was not with the policies but with their effective implementation; thus good governance became a conditionality of the World Bank on funding agreements (Saad-Filho, 2010). Instead, the Washington Consensus (and Post-Washington Consensus) is deemed to have promoted *inclusive* political systems to enforce *exclusionary* economic policies; which is in direct contrast with the provisions of democracy that should respond to the needs of the majority (Saad-Filho, 2010).

## 2.5 Social Dialogue and its Roots

Social dialogue, the corporatist (also referred to as tripartite social dialogue) nature, was introduced by the International Labour Organisation (ILO) at its inception. The ILO was

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<sup>1</sup> Washington consensus is a policy proposition of the World Bank in the 1980s, wherein Structural Adjustment Programmes were proposed to developing countries. See Saad-Filho (2010).

established in 1919 as part of the Treaty of Versailles to promote universal values and the harmonisation of labour norms across borders (Dahan, et al, 2013). The ILO organized itself along the lines of the corporatist structure by creating a platform for consultation and negotiation on labour norms; where each member state of the ILO was represented by three constituencies: workers, employers and government (Dahan, et al, 2013). It was a distinct way of consulting workers and employers in policy making; a departure from the other international organisation's way of doing things. (Dahan, et al, 2013).

According to Simpson (1994), corporatism was founded on the evidence that voluntary interaction and dialogue among representatives of the various parties (labour, business, and government) is vital for social and economic stability and progress, while being consonant with democratic ideals. In addition, Molenaer and Renard, (2008) suggest that there is sufficient evidence that corporatist strategies can make for superior economic performance, if there is a shared notion of severe crisis on the level of state, private sector, trade unions, and if these involved partners have a sufficiently broad "social footprint". On the other hand, others argue that the ILO's model of social dialogue is not representative enough because participation is limited to workers, employer and government. Thus, other groups such as women workers, migrant workers, the unemployed, and workers in the informal sector are marginalised from formal representation in the social dialogue process of the ILO (Dahan, et al, 2013).

Nevertheless, the social dialogue model of the ILO is widely practice in the European countries and other parts of the world. The emergence of European social dialogue in the 1980s was the outcome of a crucial initiative taken by Jacques Delors, the incoming President of the European Commission, in January 1985, who believed that the launching of the Single European Market programme should go hand in hand with the organisation of a European social area, with social dialogue accorded a central place (Norad, 2011). As such, Articles 138–139 of the European Community Treaty were introduced, which served to establish the European Union social dialogue for development of European Union social policy.

## 2.6 Social Dialogue Regulatory Framework in South Africa

Comparing South Africa to other countries in the region, opinion polls indicate that South African citizens have the lowest level of trust in democratic institutions and, more important in empirical terms, the most limited contact with government institutions and traditional forms of authority (Fioramonti, 2005).

South Africa has adopted the civil society participation ideology in governance as key in promoting transparency, accountability and efficiency in government activities. It enshrines itself as a democratic developing country that adheres to the principles of ‘good governance’ and acknowledges the role that civil society participation in state affairs can have, hence these objectives are reflected in the NEDLAC Act and The Constitution of the Republic (1996). The Constitution requires the National Assembly to facilitate public involvement in the legislative and other processes as per section 59; whilst the National Council of Provinces may make rules and orders concerning its business, with due regard to representative and participatory democracy, accountability, transparency and public involvement as per section 70 (Buccus, 2012). Also, the Batho Pele White Paper supports the constitutional requirement for civil society participation by emphasising the need for citizens to be consulted about the level and quality and given choice about the services they receive from the public services (PSC, 2008).

Moreover, the NPC Diagnostic Report (2011) outlines that South Africa is a democratic state, rooted in the values of the Constitution, working with all sectors of society to improve the quality of life. Therefore, the purpose of civil society participation is to get buy-in from civil society on government programs.

As per the PSC (2008), the civil society participation initiatives that have been implemented by the South African government since 1994 include:

1. *Izimbizo* – political leadership of government holds public meetings to engage communities on issues of government policies and service delivery.
2. *Exco Meets the People* – provincial initiatives to engage communities of government policy and service delivery issues.

3. *Public Hearings* – organised by different organs of the state to engage the general public on government policy and service delivery.
4. *Ward Committees* – local municipalities engage with the communities they serve on their needs.
5. *Community Development Workers* – community based resource persons who collaborate with other community workers to disseminate information and resources from government.
6. *Citizen Satisfaction Surveys* – a methodology used to engage with citizens and to establish their views and expectations on service delivery.
7. *Citizens Forums* – a mechanism to facilitate civil society participation in public service developed by PSC.
8. *NEDLAC* – forum for government, organised business, labour and community groupings at a national level discuss issues on socio economic policy.
9. *National Anti-Corruption Forum* – coalition against corruption by various role players such as business, civil society and government.

## **CHAPTER III**

### **3 THE CONTRIBUTION OF NEDLAC TO CIVIL SOCIETY PARTICIPATION IN POLICY MAKING**

#### **3.1 The Structure of NEDLAC and its Relationship with the World Bank Model**

##### **3.1.1 Origins**

In the wake of the political struggle pre-1994 that saw trade unions being instrumental to the liberation movement that led to a democratic government being in power in 1994; there was a view that a compromise was necessary between the major social players, government, labour and business, in order to build the future. Thus the development of NEDLAC. The successful drafting of the Constitution and the RDP through a social dialogue process made the development of entities such as NEDLAC lucrative and a positive step towards the consolidation of the new democracy.

The NEDLAC model has its foundation from the corporatist social dialogue model of the ILO (Bassett, 2001); which involves negotiation, consultation or exchange of information between, or among, representatives of governments, employers and workers on issues of common interest relating to economic and social policy (ILO, 2013). Houston, et al (2001) point out that NEDLAC represents the institutionalisation of the principle of tripartite social dialogue and the practise of societal corporatism in the making of policy on social and economic matters at a national level. This model of social dialogue is also widely practised in the European countries (Norad, 2011). South Africa is a member state of the ILO, and therefore the establishment of this model was not unfounded.

The introduction of NEDLAC as a corporatist structure did not come without its criticism. Even though there was wide consensus that the establishment of NEDLAC was good for democracy and participation, some were concerned that it may introduce a concentration of power to an elite few (Houston et al, 2001). That decisions may only favour the interests of employers and employed workers and further marginalise the interests of the unemployed, the informal sector, women and rural dwellers (Houston et

al, 2001). This realisation led to the introduction of the community pillar in NEDLAC (Houston et al, 2001), a departure from the traditional structure of corporatist structures seen elsewhere in the world such as in the European countries. However, there have been debates about the representativeness of the European Union social dialogue process to the extent that a position paper was put forward to look into the introduction of civil society in the social dialogue process in order to increase representativity and ensure that the process advances democracy (Milman- Sivan, 2009).

Consequently, NEDLAC was established by the democratic government of 1994 through the NEDLAC Act of 1994. It was aimed at securing the commitment and active participation of all social partners in areas identified for prioritised action in ways that build on lessons learnt from development programmes (NEDLAC, 2011). Its vision was to address the new democracy's challenges of promoting sustainable economic growth, social equity and increased participation; a vehicle by which government, labour, business and community organisations seek to cooperate through problem solving and negotiations on economic, labour and development issues facing the country (NEDLAC, 2011). NEDLAC strives to promote the goal of economic growth, participation in economic decision making and social equity by seeking consensus on social and economic policy before such policies are finalised by parliament and promotes coordination of policy (NEDLAC, 2011).

The mandate of NEDLAC is to (1) strive to promote the goals of economic growth, participation in economic decision-making and social equity; (2) seek to reach consensus and conclude agreements on matters pertaining to social and economic policy; (3) consider all proposed labour legislation relating to labour market policy before it is introduced in Parliament; (4) encourage and promote the formulation of coordinated policy on social and economic matters; (5) consider all significant changes to social and economic policy before it is implemented or introduced in Parliament; and (6) consider socioeconomic disputes in terms of Section 77 of the Labour Relations Act. (NEDLAC, 2014).

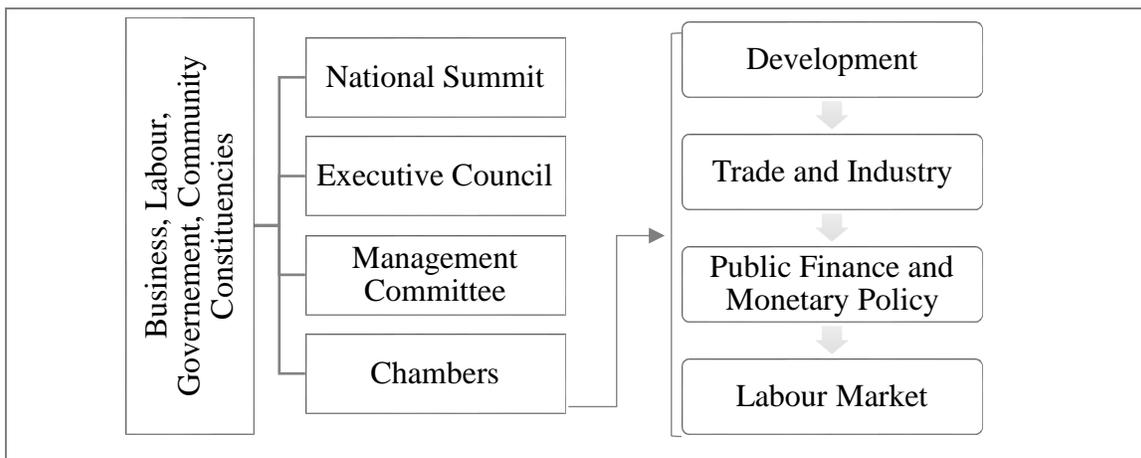
NEDLAC is regarded as one of the main platforms to facilitate civil society participation. It asserts that social dialogue has an important role to play in the design and

implementation of socio-economic policies by facilitating consensus leading to social cohesion as it provides the best possible means for effective and sustainable implementation of policies (NEDLAC, 2011).

### 3.1.2 NEDLAC consultation process

NEDLAC is organised along four pillars of business, labour, government and community organisations intended to represent the main social partners in South Africa. NEDLAC activities are structured through the nine different policy work streams depicted in the Figure 3.1 below (NEDLAC, 2011).

**Figure 3.1: Structure of NEDLAC**



Source: NEDLAC, 2011

The National Summit is held on an annual basis comprising of as many relevant groups as possible to provide feedback on the NEDLAC Executive Council activities and obtain inputs from organisations and persons not involved in the day to day activities of the Council. The Executive Council is the highest decision making body with 18 members from all the Chambers and convenes at least four times a year to evaluate progress, reach consensus and ratify agreements from the work of the Chambers and management committee. The Management Committee oversees and coordinates all NEDLAC work and consists of 18 members from all the Chambers and the Executive Director of NEDLAC. (NEDLAC, 2011).

The structure of the Chambers is intended to facilitate negotiation, develop and reach consensus, conclude agreements and evaluate the associated institutions of delivery. The

Development Chamber, discussed in-depth in the following section, considers matters pertaining to development - both urban and rural, implementation strategies; financing of development programmes, and campaigns to mobilise the nation behind development. The Trade and Industry Chamber considers matters pertaining to the economic and social dimensions of trade, as well as industrial, mining, agricultural and services policies. The Public Finance and Monetary Policy Chamber considers matters pertaining to the framework within which financial, fiscal, monetary policy and exchange rate policies are formulated and seeks to enhance the coordination of fiscal and monetary policy related elements of macroeconomics policy. The Labour Market Chamber considers all proposed labour legislation relating to labour market policy before it is introduced in parliament (NEDLAC, 2011).

The NEDLAC consultation process follows that policy proposals are tabled by one of the constituencies; parties agree whether the matter is being tabled for consultation or negotiation or both; parties agree on the engagement process, scope and timeframes to consider the matter; and the terms of reference are drafted. The next step is engagement where representatives are mandated to participate in the discussions and a NEDLAC report is produced and ratified by NEDLAC structures. The last step is reporting where the NEDLAC report that has been signed-off by the executive council is sent to the relevant government minister who in turn tables it in parliament. NEDLAC is also given the opportunity to brief the relevant parliamentary Portfolio Committee on the NEDLAC Report on an annual basis (NEDLAC, 2012). NEDLAC has also developed a Protocol for tabling issues in NEDLAC to enforce a consistent structure for engagement of issues and regulate the timelines spent on specific types of engagement; an area of contention as it pertains to the success and failure of NEDLAC.

### **3.1.3 NEDLAC's Development Chamber**

The Development Chamber considers matters in relation to development - both urban and rural; implementation strategies; financing of development programmes; and campaigns to mobilise the nation behind development and it seeks to reach consensus and make agreements on such matters (NEDLAC, 2011). NEDLAC (2014b) asserts that the purpose of the Development Chamber as a sub-programme is to consider and engage on

policy and legislation pertaining to urban and rural development, youth, gender, people with disabilities and the associated institutions of delivery.

The Development Chamber has mandated membership a total of 33 members, with representation from Government (4 members); Business (16 members); Labour (8 members); and Community (5 members) constituencies (NEDLAC, 2014b). The scope of matters discussed that the Chamber is driven by the government's legislative agenda for the year and social partners have an opportunity to also table items at the Chamber for discussion. The Development Chamber has worked on a number of matters to date noted in the tables below (NEDLAC, 2014a).

***Table 3.1: Development Chamber matters agreed on to date***

- Guidelines for local development
- National Development Agency (1996)
- Declaration on Crime and Violence (1996)
- Reports on Social and Economic Developments in South Africa 1997 | 1998 | 1999 | 2000 | 2001
- Framework Agreement on job Creation in Public Works Programmes and the Construction Industry (1997)
- Guidelines for local development (1997)
- Water Services Act (1997)
- National Water Bill (1998)
- National Water Service Bill
- Special Report on Housing (1997)
- Memorandum of Understanding on Service Tariffs (1998)
- Presidential Lead Project on Housing (1998)
- Masakhane campaign (1998)
- Municipal Systems Bill (1999)
- Infrastructure Delivery in South Africa (2000)
- Draft Nedlac Work Programme 2006/7/8

*Source, NEDLAC, 2014a*

**Table 3.2: Development Chamber matters recently finalised**

- National Education and Evaluation Unit (NEEDU) Bill
- Public Transport: Road Accident Fund
- Public Transport: Metered Taxi Implementation Strategy
- Climate Change (Joint project with the Trade and Industry Chamber)
- Cooperatives Amendment Bill (Joint project with the Trade and Industry Chamber)
- Rental Housing Amendment Bill

*Source, NEDLAC, 2014a*

**Table 3.3: Development Chamber matters currently being tabled**

- National Disability Policy
- Integrated Youth Development Strategy (IYDS)
- Women Empowerment and Gender Equality Bill
- Expanded Public Works Programmes

*Source, NEDLAC, 2014a*

The fourth constituency, the community, was selected by NEDLAC through a criteria defined in the NEDLAC Act (1994) which requires that prospective organisations meet three criteria: they must represent a significant interest on a national scale, have a direct interest in reconstruction and development, and be democratically constituted. There are a total of six organisations in the community constituency; these organisations are: the Women’s National Coalition (WNC); the South African National Civics Organisation (SANCO); the South African Youth Council (SAYC); the Disabled People of South Africa (DPSA); The South African National Apex Cooperatives (SANACO); and the Financial Sector Campaign Coalition (FSCC) (NEDLAC, 2011).

Each organisation has a representative in NEDLAC and there is an overall community convenor who is responsible for positioning the interests of the community members. The constituency is only represented in the Development Chamber (NEDLAC, 2011); however this is not mandated by the NEDLAC Act. The NEDLAC Act articulates that the four social partners should engage in social dialogue. Based on NEDLAC’s official documents it is not clear as to why the community constituency has been excluded;

however according to the Webster report (2013) some participants of NEDLAC have alluded the lack of capacity of the community constituency as a reason for its exclusion.

There have been several challenges noted by participants of NEDLAC, academics and other stakeholders with including civil society in social dialogue in a predominantly corporatist structure like NEDLAC. Firstly, issues have been noted with the representativity of the community constituency. Houston et al (2001) argue that the civic organisations, women's organisations, youth organisations, rural development forums and the disabled persons represent significant sectors of the South African society, and that their participation in NEDLAC significantly broadened the potential for direct participation in policy making because these groups have members who are unemployed, informal sector and rural poor who are regarded as marginalised. However, Webster, et al (2013) note that the representativity of the community constituency remains a concern, particularly regarding the representation of small businesses; with a general consensus that the community constituency is seen as an outsider in the social dialogue process in NEDLAC. Thus, there have been calls to strengthen civil society presence (Webster, et al, 2013).

Secondly, challenges have been noted with the extent of participation of the community constituency in NEDLAC and its structures. The community constituency has representation in the Development Chamber, the Management Committee and the Executive Committee only; whilst labour, business and government all have equal representation in all the NEDLAC structures (Executive Council, Management Committee and all the Chambers). This means that the community constituency does not contribute and represent the interests of its members in the Labour Market Chamber, the Public Finance and Monetary Policy Chamber and the Trade and Industry Chamber.

Lastly, another challenge that has been noted that undermines the ability of the community constituency to participate effectively in the social dialogue process, is that there is limited capacity in terms of time, financial resources, and knowledge (Webster, et al, 2013). This challenge is not unique to the community constituency, however it is seen as being particularly weak in its capacity to effectively engage in discussions (Webster, et

al, 2013). The agreement making process of NEDLAC makes it difficult for the various organisations to obtain mandates or arrive at common positions with their members and the inclusion of so many organisations also may make it difficult for the community constituency to arrive at common positions (Houston et al, 2001); thus hindering the engagement process. This was also cited in the Webster report (2013).

#### **3.1.4 NEDLAC comparison with World Bank ideology**

The inclusion of the community constituency in NEDLAC is a departure from the traditional structure of corporatist institutions which just include government, business and labour. However, concerns that NEDLAC may introduce a concentration of power to an elite few and that decisions may only favour the interests of employers and employed workers and further marginalise the interests of the unemployed, the informal sector, women and rural dwellers (Houston et al, 2001), led to the introduction of the community constituency at the establishment of NEDLAC in 1994. The introduction of the community constituency in a traditional corporatist structure identifies the interest by the post-1994 democratic government to cultivate the bottom-up approach to participation encouraged by the World Bank. As such, the representation of the community constituency in NEDLAC was mandated by the NEDLAC Act (1994).

#### **Similarities with the World Bank ideology**

Firstly, NEDLAC has taken both from the ILO and EU model of tripartite social dialogue and the mainstream World Bank literature (henceforth mainstream literature) on civil society participation as part of the good governance agenda. The EU social model is characterised by the engagement of social partners to comment, provide recommendations, or a decision on the matters tabled before it with the primary stakeholders being business, labour and government (Milman-Sivan, 2009), this is evident in the NEDLAC model. On the other hand, NEDLAC has included the community constituency in the negotiation, consultation and deliberation process, which is a deviation from the ILO and EU model, but largely conforms to the mainstream World Bank literature on including all social partners; particularly marginalised civil society.

Secondly, the NEDLAC model conforms to the mainstream literature in that a consultation and decision-making forum involving interaction between government and civil society is key in the government policy development process. The enablement of voice as part of the democratic process is critical through bringing the government closer to the people; this fosters consensus building and social cohesion by achieving a collaborative democracy through common objectives. NEDLAC has a mandate to consider all social and economic policy before they are implemented or presented before parliament. Also, the desire to reflect participatory governance in legislation is shared.

Thirdly, civil society participation is seen as a process to advance good governance, particularly in the areas of transparency, accountability, state efficiency, and state effectiveness in order to ensure the legitimacy of the state and obtain buy-in and trust from the social partners; hence policy effectiveness. This is the major cornerstone of the good governance agenda, a principle that NEDLAC agrees with.

Fourthly, civil society participation is seen as a process to strengthen democracy. This notion largely conforms to the theory of neoliberalism in that democracy is necessary for development; good policies and a capable government will lead to faster economic development and eradicate poverty. Therefore, a robust civil society is seen as an important element to good governance. The NEDLAC vision to address challenges of economic growth, social equity and participation is largely aligned to this.

Lastly, the mainstream literature considers the existence of associations that civil society is affiliated to as an important element of civil society participation in governance and direct result of social capital. This generally agrees with the model of NEDLAC in that the social partners involved in the NEDLAC process are affiliated to organised associations. The importance of representativity of all section of society is shared as NEDLAC includes all social partners (business, labour, government, community) in its structures.

## **Contrasts with the World Bank ideology**

Firstly, the formulation of NEDLAC was largely necessitated by the need to transform the inherited apartheid state from an authoritarian governance to an inclusive process; and civil society participation was as instrumental to this. However, ultimately it also conformed to the mainstream literature.

Secondly, the selective nature through which policies are chosen to be tabled in NEDLAC for consultation does not conform to the mainstream literature in that all government policies that ultimately have an impact civil society should be consulted on. The main reason this is the case for NEDLAC is the potential conflict on certain policies between labour, business and the government. The primary focus of NEDLAC is socioeconomic and labour policy (which are key objectives of NEDLAC and are aligned to the South Africa's challenge of inequality and unemployment).

Lastly, the NEDLAC model focuses on the centralisation of decision-making at a national policy making level for macroeconomic policy and socioeconomic policy, whilst ensuring representation through organised associations form social partners. On the other hand, the mainstream literature focuses on decentralisation of power (decision-making) through local participation forums.

Therefore, based on the above analysis it can be concluded that the NEDLAC model largely conforms to the mainstream literature, with minor deviation attributable to the specific objectives and the vision of NEDLAC. However, important to note is that many development theorists assert that democracy and good governance are not necessarily prerequisites for economic development, but rather a by-product of the development process. As such, primary focus should move to actual productive activities that will boost economic development and eliminate inequality and unemployment; industrial and economic policy are instrumental to these means. This is not to say that the consultation on policy development should be abandoned, but rather it should strategically promote these policies.

## **3.2 Evaluation of the Role and Effectiveness of Civil Society Participation in the Social Dialogue Process in NEDLAC**

### **3.2.1 The Development Chamber and the participation of the community constituency do not adequately advance civil society participation in policy making**

#### *The definition of civil society remains problematic*

Responses to the question of whether the community organisations participating in NEDLAC were adequately represented were mostly referred back to the challenges of defining civil society, noting that representativity depends on how you define civil society. Some respondents from the trade unions even alluded that the labour constituency may be classified as civil society and thus advance the representation of civil society in NEDLAC. This view may be contentious. Others may argue that the representativity of the labour constituency is also in question as membership of trade unions has drastically declined in recent years (currently only 29.5% of employed South Africans are members of a trade union, according to Statssa (2014)) and trade unions only represent those already in employment; leaving out the unemployed and those in the informal sector or those who would not primarily identify with their employment status.

In addition, there are no clear guidelines on the criteria of organisations that fit the definition of civil society for the purpose of NEDLAC apart from that which is spelled out in the NEDLAC Act of 1994 which requires that the organisations (1) must represent a significant community interest on a national basis; (2) have a direct interest in reconstruction and development; and (3) are constituted democratically. This leaves an opportunity for wide interpretation and speculation as to the appropriateness of the organisations that are represented in NEDLAC. This is reflected in the fact that civil society is not adequately represented in NEDLAC.

#### *Civil society is not adequately represented in NEDLAC*

Respondents suggest that in the beginning there was good representation from civil society, however the landscape has drastically changed from 20 years ago and the question of representativity has come at the forefront of the debates in NEDLAC. Firstly, respondents felt that representativity of the community organisations cannot be confirmed

because there are many other civil society formations in South Africa and some of them are a duplication of the existing structures in NEDLAC. Therefore, from the issue of the definition of civil society, it becomes a challenge how you choose which organisations should participate and not participate and this ambiguity has allowed the participating community organisations to remain static. Some of the organisations that do not participate in NEDLAC include specialist organisations whom the labour respondents feel their participation may strengthen civil society participation in NEDLAC. One of these of organisations is Equal Education; which is an NGO that promotes the quality and equality of education in South Africa, through analysis and activism established in 2008 in Khayelitsha, Cape Town (Equal Education, 2015).

Secondly, one dominant view from the community organisations respondents is that because the community constituency does not participate in the other Chambers in NEDLAC; it cannot be concluded that civil society is adequately represented in NEDLAC. In contrast, respondents from government and labour shared the view that even though they acknowledge that the community constituency does not participate in the other Chambers, NEDLAC is not the only platform for social dialogue in South Africa. For example, parliament has its own public consultation processes whereby parliamentary Portfolio Committees may conduct public hearings on proposed policies presented before parliament (Buccus, 2012).

Lastly, due to the various community organisations that participate in NEDLAC having different interests; the representativity of civil society in NEDLAC is diluted by their inability to organise themselves and speak with one voice. In some instances, the respondents felt that the community organisations pull against each other on certain matters discussed in the Development Chamber. This not only influences the representativity of civil society in NEDLAC, but it also has an impact on the quality of their inputs and the time it takes the Chamber to conclude on matters presented for discussion.

In order to address the representativity issue, SANACO suggested that provincial NEDLAC structures should be created in order to open the social dialogue to a broader

civil society platform as not all organisations can participate at a national level. However, the suggestion never materialised due to resource constraints. There is a view that civil society concerns are not necessarily at national level; but occur in pockets, such as the service delivery protests that have increased over the years (Alexander, 2010). Hence the suggestion. Yet, I would argue that even though challenges may be experienced by certain communities and civil society unrest occurs more often in some areas than others; the concerns of the community are not all that different. South Africa faces common challenges of inequality, poverty and unemployment. Policy making goes a long way in shaping the outcomes of the lives of its citizen; addressing socioeconomic challenges and ensuring a decent standard of living for all citizens. Therefore, social dialogue at national level remains important and representativity of civil society is at the centre of that and there should be a connection between the local and national level in terms of civil society representation.

Moreover, as an institution of social dialogue, careful attention should be paid to the form and structure of NEDLAC. If civil society is to participate in NEDLAC at all; consideration of the representativeness of the organisations should be of importance and a key area of discussion amongst the social partners. In the absence of addressing the issue of representativity, the NEDLAC process becomes a tick box exercise and is far removed from the intended purposes of the NEDLAC Act and the ILO definition of social dialogue which premise the establishment of NEDLAC. The good governance model emphasises the involvement of citizens in policy making, but consultation for the sake of consultation will not deliver the results and promises of social dialogue of which the good governance model shares.

***Vulnerable groups are covered, only theoretically***

Vulnerable groups are represented in NEDLAC when looking at the definition of vulnerable groups which considers women, youth, people with disabilities and the unemployed and informal workers. The organisations that participate in NEDLAC are founded on the basis of these vulnerable groups. However, if the essence of representation of these organisations is considered, it cannot be confirmed. Social unrest is an ongoing concern where there are prominent community organisations that are taking

the lead in driving the interests of civil society, as identified by Alexander (2010) in the rising trend of civil society protests. More often than not these organisations do not necessarily have linkable relations with the community organisations that participate in NEDLAC and are not privy to the policy engagement processes of NEDLAC; this would be expected for organisations such as SANCO, as a civics movement.

In addition, through this study, the relationship between the vocal civil society organisations, community members and the community organisations that participate in NEDLAC cannot be confirmed. As such, they may be far removed from representing the interests of ordinary citizens if they operate in a vacuum. One of the respondents highlighted that

...there is limited information available to ordinary citizens about [the] organisations that participate in NEDLAC and about the NEDLAC process for people to understand that they are actually being represented and their needs are being considered in the policy making process. Mabuza, T. General Secretary of SANACO

This statement highlights the real problem that the community constituency is facing of not being close enough to the people it represents, hence people are unaware of NEDLAC as a channel for social dialogue.

***The community constituency is not regarded as an equal strategic partner but as an add-on***

There was a difference of opinion as regards the exclusion (or inclusion) of the community constituency in participating in the other NEDLAC Chambers. The community organisations strongly believe that they should be included in the other Chambers. This is due to the view that the issues of civil society are not only developmental but that there is an interest for civil society in the other Chambers and as things stand decisions are being taken on behalf of civil society. In contrast, the labour and government constituencies are of the view that the community constituency has not shown enough determination or convinced the other stakeholders that they need to be included in the other Chambers; and at this stage there is no need for the community constituency to be included in the other Chambers. Part of the hesitation of including the community constituency from the other Chambers stems from the fact that there is uncertainty regarding their representation and feedback mechanisms to people on the

ground. The former executive director of NEDLAC pointed out that the issue of representation and accountability of the community organisations should be addressed before their participation is extended to more Chambers.

According to the respondents, the exclusion of the community constituency is driven by the NEDLAC constitution, which explicitly states that the community constituency shall by design participate in the Development Chamber only. There is a view that the Development Chamber was designed specifically for the participation of civil society on developmental issues (and the NEDLAC Act to an extent supports this); such that civil society may raise and deliberate on all issue pertinent to civil society and hence it is their space to play. This is largely influenced by the foundation of NEDLAC in the tripartite social dialogue model of the ILO which only includes government, labour and business stakeholders. Accordingly, the labour and government respondents noted that the participation of civil society in NEDLAC was an add-on and they were accommodated in the process.

Therefore, the comments by the labour and government constituencies demonstrate that there is a shadow of doubt cast on the role and effectiveness of civil society in NEDLAC, even by the social partners themselves, hence it is not treated as an equal partner and given an inferior status of an add-on. This was also noted in the Webster report (2013). Nonetheless, the community constituency is included in NEDLAC's Executive Committee and Management Committee and thus have sight on matters that have been concluded in the other Chambers; and in certain instances the other Chambers may include the community constituency in task teams by invitation only.

***The community organisations that participate in NEDLAC have remained static since the inception of NEDLAC***

The organisations that participate in NEDLAC have not changed since the inception of NEDLAC when they were appointed by the Office of the President as indicated in the NEDLAC Act of 1994. Some of the respondents have pointed out that it is probably time to review the membership of NEDLAC as a whole in order to address the representativity issue and assess the appropriateness of all the organisations that participate in NEDLAC.

However, there is resistance from current members in doing this; particularly from the community organisations as they are perceived to apply a territorial approach to the NEDLAC platform.

The resistance in the revision of membership and the inclusion of the other organisations in the social dialogue process in NEDLAC is symptomatic of a bigger challenge. All the community organisations that participate in NEDLAC were appointed by the Mandela administration at the inception of NEDLAC in 1994. They have strong links to the liberation struggle and the social dialogue process pre-1994 that led to the democratic government coming into power in 1994. As such, they have strong ties with the governing political party. For example, the President of SANCO is a parliament member and sits on a number of Portfolio Committees. Heller and Ntlokonkulu (2001) note that SANCO's identity and independence was blurred by the absorption of SANCO's leadership into ANC and government structures. This close relationship with the government may influence the interests of civil society when they participate in NEDLAC and may lead to them being perceived as pro-government and is a deviation from the understanding that civil society organisations are apolitical and independent of the government in order to drive their influence.

Some may even argue that these organisations have not changed since inception because of the benefits they derive from participating in NEDLAC; and hence drive the maintenance of rents. Respondents highlighted that each constituency obtains funding on the basis of the number of Chambers they participate in, however information on the extent of the funding and requirements for allocations could not be confirmed.

### **3.2.2 Effectiveness of civil society participation in policy making through NEDLAC is hindered by the challenges facing the community constituency and NEDLAC at large**

#### ***There is no ongoing interaction between the representatives and the represented***

Based on the responses from the interviews it is not clear how the community organisations obtain their mandate from members and give feedback in relation to the policy discussions in the Development Chamber. The majority of the community

organisations stated that they obtain a broad mandate from their members on matters of interest to the organisations. However, they could not confirm the frequency of obtaining that mandate. The exceptions were respondents from SANACO who confirmed that they hold special meetings with members to give a mandate on a Bill being discussed in NEDLAC and the respondent from the WNC stated that they hold quarterly meetings to obtain a mandate and give feedback; even though there are no clear organisational structures. The main challenge pointed to by the respondents is the lack of financial resources to solidify the consultation and feedback process with their members. This significantly hinders their ability to organise themselves accordingly and ensure that there is a constant flow of information in the organisational structures.

The government respondent noted that the fact that civil society unrest is rising is an indicator that the voices of the people are not being heard and the community organisations should do more to provide feedback to communities. The community organisations are of the view that NEDLAC should allow more time and resources for the community organisations to consult and give feedback to their members in order address this challenge. These concerns confirm that there is a disconnect between the community organisations that participate in NEDLAC and civil society in South Africa at large; a very different view from 20 years ago when the institution was established. Also, it highlights that government needs the involvement of civil society in NEDLAC as a feedback mechanism on government decisions on socioeconomic issues. Therefore, the accountability of the community representatives is in question here and social partners are of the view that this needs to be addressed before extending civil society representation in the other Chambers.

There is an appreciation that it is not possible to obtain a mandate on each piece of legislation being discussed in NEDLAC. However, at the very least the organisations should have a mandate on subjects based on the scope of items discussed in the Development Chamber and review this periodically. This could not be confirmed from the interviews, neither was the existence of feedback mechanisms. Thus, this leaves an opportunity to conclude that there is no ongoing interaction between the representatives and the represented and this presents serious challenges regarding the effectiveness of civil society participation in NEDLAC.

***Cooperation and interaction between government and the Development Chamber is weak***

Respondents identified that there are numerous challenges that they encounter with government such as dealing with multiple government departments who do not necessarily coordinate their efforts. The lack of coordination leads to the social partners often having to identify conflicts between policies being presented in the Development Chamber and bring this to government's attention. Therefore it takes more effort and time for social partners to conclude on matters being presented in the Development Chamber.

In other instances, government has deliberately delayed tabling items in NEDLAC or tabled matters in Parliament before the NEDLAC process is concluded. For example, National Treasury bypassed NEDLAC and tabled the Employment Tax Incentive Bill, which deals with the Youth Wage Subsidy, in parliament in 2013 (Aboobaker, 2014). This is testament that government sees NEDLAC as a sideshow and is not committed to the social dialogue process as was the case 20 years ago, this is also noted in the Webster report (2013). Therefore, the cooperation and interaction between government and the Development Chamber has significantly weakened over the years and some may go far as to say that the relationship between government and NEDLAC is strained. This change in the attitude of government towards NEDLAC definitely affects the effectiveness of civil society participation in NEDLAC and if any socioeconomic headways are to be made through social dialogue, this needs to be addressed.

The government's retreat from placing issues in NEDLAC is not an admission that participation does not work or contribute to the strengthening of democracy but rather a clear sign of government not wanting opposition to its decisions and an attempt to exert authority in an increasingly challenging socioeconomic environment where the success of the ruling party is coming under fire also evidenced by the growing civil society protests and dissension within the tripartite alliance.

***Limited resources constrain the participation of civil society in NEDLAC***

Limited resources was one of the major hindrances that all respondents felt undermines the social dialogue process in NEDLAC. These ranged from limited subject expertise on

matters discussed in the Development Chamber to the research capabilities of the community constituency and financial constraints. These challenges have also been highlighted and discussed in depth in the Webster review (Webster, et al, 2013). In terms of areas of improvement, labour and government respondents made a call that there should be a platform created within NEDLAC to allow for more and diverse expertise to participate, such as NGOs who specialise in certain socioeconomic matters like Equal Education. They also noted that if government is committed to the social dialogue process, funding for the community constituency and the capacity of NEDLAC as a whole should be increased in order to enable more effective participation.

Without in-depth knowledge on matters being discussed in the Development Chamber, the lack of capacity to conduct research in order to increase the knowledge, and a lack of funds to conduct research; the quality of inputs of the community organisations to the discussions in the Development Chamber is compromised. Hence the effectiveness of civil society participation in the Development Chamber is hindered.

### ***Volunteerism influences the level of participation of civil society in NEDLAC***

The community organisations respondents pointed out that their participation in NEDLAC is voluntary. Therefore the demands of work outside of NEDLAC impedes the effectiveness of civil society participation in the Development Chamber. In contrast, the labour and business constituencies are better organised financially which puts them in a better position to appoint resources dedicated to the consultation process in NEDLAC. The labour and business constituencies are better able to organise because membership to their organisations is fee based; whilst the community organisations are dependent on NEDLAC funding allocations and donor funding. Donor funding in itself may influence the interests of the community organisations that participate in NEDLAC. Robinson and Friedman (2005) suggest that the goals of civil society may be driven by the interests of donors; for example the availability of funds to support programmes that promote democracy and good governance led to a creation of new organisations geared towards donor objectives.

***The scope of items discussed at the Development Chamber are not necessarily aligned with the national development agenda***

The basis for the scope of policy matters discussed in the Development Chamber is the government's legislative programme for the year; and this is not necessarily aligned to the National Development Plan (NDP), according to the respondents. They noted that there is probably scope to review this. As the legislative programme may not agree with the NDP, respondents also felt the social partners should have had an opportunity to engage on the NDP as it was not discussed by the social partners.

This points to the lack of coordination within government and that the scope of items for discussion by social partners should be evaluated on a continuous basis to ensure that it is aligned to the national development agenda. Civil society participation in policy making should be aligned to the key policy initiatives of the government in line with its strategic focus. In the absence of this, the social dialogue process in the Development Chamber becomes a tick box exercise for policy matters government deems unimportant. It should be noted however that all the social partners (labour, government, business, community) that participate in the Development Chamber may also table items at the Chamber for discussion; but the respondents pointed out that this opportunity is rarely ever exercised. It is not clear as to why social partner do not exercise this opportunity.

**3.2.3 There is a role for civil society participation in NEDLAC and there have been positive contributions amidst the challenges**

***Discussions in the Development Chamber are robust and have made some substantial contributions to policy making on areas of expertise of the community organisations***

Although many of the items discussed in the Development Chamber have been at the request of the Chamber; in the majority, respondents were of the view that discussions in the Development Chamber are robust and have made substantial contributions to policy making on areas of expertise of the community organisations. One of the respondents noted that "...we try to drive small advancements that overtime should translate to incremental positive change (Parks, M. Member of COSATU)." The fact that the Development Chamber requests for matters to be presented by government to the Chamber may reflect that the Chamber is proactive in carrying out its mandate; whilst on

the other hand sceptics may note that this is because the Chamber is not taken seriously by the government; hence it has to make the requests. Both points of view have merit; this approach does drive the purpose of civil society participation in social dialogue, but it definitely points to the challenges that face NEDLAC as a whole and the Chamber specifically discussed in point 3 above of the strained relationship between government and NEDLAC.

Some of the successes include the Cooperatives Amendment Act of 2013. The NEDLAC Report on the Cooperatives Amendment Bill (2012) recommended and agreed to (1) the policy document being aligned to the guidelines of ILO Recommendation 193 for the promotion of labour standards for all workers in cooperatives; (2) the establishment of a Tribunal; and (3) the objectives of the Development Agency, amongst other things. These recommendations were taken into account, presented in parliament and included in the final Act. Moreover, the community organisations are vocal in relation to their areas of expertise. Respondents attested that the SAYC; DPSA; and SANACO took the lead on the Youth Accords (NGP, 2013); National Disability Policy (still under discussion); and the New Cooperative Act, respectively, and contributed massively to the final outcomes of the policies. These are some of the examples, amidst the challenges, that show that social dialogue can play a pivotal role in policy making and creating a socio-economically cohesive society. In addition, the Development Chamber plays a consultative role to the other Chamber on areas of their expertise; according to one of the respondents.

### **3.2.4 NEDLAC remains one of the key vehicles for social dialogue in South Africa**

Respondents were of the view that social dialogue in South Africa is still relevant. More so if we consider the challenges of unemployment; poverty and inequality and increasing civil society unrest; the role of social dialogue is even more important than ever. Government cannot succeed without the involvement of civil society and taking decisions on behalf of citizens. Respondents were of the view that the effectiveness of social dialogue depends on (1) the ability of social partners to mobilise their financial resources and, capacity; (2) increased cooperation amongst and between social partners; (3) the recommitment of government to the social dialogue process; and (4) strengthening of

NEDLAC financially. Therefore, NEDLAC remains one of the key vehicles for social dialogue in South Africa.

In addition, respondents pointed out that South Africa has a unique model of social dialogue in including civil society and has a much stronger form of social dialogue that extends to negotiation and not just consultation as many other models across the world. This is true in the sense that the establishment of NEDLAC as a consultation institution was not driven by the need to obtain donor funding from international financial institutions such as the World Bank and IMF; unlike the countries that pursued participation as a conditionality of funding through the Poverty Reduction Strategy Papers (Kamruzzaman, 2009). Civil society participation was driven by the need to reverse the legacy of the apartheid government of state authoritarianism; even though NEDLAC also espouses after the World Bank's good governance model for an inclusive democracy.

Consequently, many countries look up to South Africa as a model and have visited South Africa and have enquired on the NEDLAC model, according to the respondents. NEDLAC plays a major role in the social dialogue process as the outcomes of the social dialogue process are being tabled at Parliament for discussion and debate. Recently, the Deputy President was appointed as the political champion for social dialogue in South Africa and the overseer of NEDLAC as a sign of re-commitment by government to the process, according to one of the community respondents. Only time will tell whether this constitutes a recommitment by the government or it a just window-dressing exercise.

Nonetheless, without structural and operational adjustments being undertaken to redeem the institution of its earlier glory, the relevance of NEDLAC will continue to wane or else it will diminish to become a tick box exercise for the purpose of the good governance ideology.

## **CHAPTER IV**

### **4 CONCLUDING REMARKS**

The debate on the accuracy of the World Bank's view on good governance being a pre-requisite for the reforms required for development has largely occupied the development field for the past 25 years or so and a difference in views still exists today. Civil society participation in South Africa is largely an outcome of the political transformation process and the liberation in the South that occurred at a time when globalisation was taking off (Habib, 2005). This introduced the willingness to involve civil society in governance and made it popular, on the part of the South African government. This study shows that the NEDLAC model of social dialogue is different from the traditional tripartite model. Even though it takes its premise from the ILO model of social dialogue, it has also taken from the World Bank ideology of civil society participation by including civil society in the process, through the Development Chamber. This has brought dynamism to the social dialogue process in South Africa and an opportunity for civil society to participate directly in policy making at a national level.

However, the effectiveness of civil society participation in policy making through NEDLAC is at risk due to the challenges it faces 20 years later operating in a socioeconomic environment that is significantly different from when the institution was established, whilst the institution itself has not changed. In light of the service delivery protests and declining confidence in the state, there is a dire need to renegotiate the social contract. The preceding study has shown that the issues facing NEDLAC are significant and need to be addressed if there is any hope to use channel in a meaningful way so as to deliver to the socioeconomic needs of this country.

In particular, challenges with the definition of civil society; the representativity and accountability of the community organisations that participate in NEDLAC; the lack of cooperation of government; the lack of resources; the resistance to change of the community organisations; and the disregard of the community constituency as a strategic partner need to be addressed. Therefore, even though the NEDLAC model is regarded as an example for the developing countries, social dialogue could be at a better level and the

involvement of civil society could be improved. In many ways this study highlights contradictions in South Africa's social dialogue process. The Development Chamber is not being optimally used for its intended purposes as representativity and accountability of the community organisations are a concern; whilst there is an increasingly active civil society, demonstrated by civil unrest, which is not part of this social dialogue process.

Nonetheless, social dialogue is still necessary to address socioeconomic challenges the country faces and there is a role for civil society participation in NEDLAC and NEDLAC could be a key vehicle for this. However, there should be a strategic rethink of NEDLAC's structure in terms of a review of its membership; the scope of items for discussion in the Development Chamber; guidelines on the definition of adequate representation; and the enforcement of feedback mechanisms to civil society. This should be done in order to ensure that NEDLAC and the participation of civil society in NEDLAC is more in line with the socioeconomic challenges facing South Africa and that it is responding and addressing the interests of ordinary South Africans. However, this can only be effectively achieved if there is a political will to drive this. Only once these key initiatives have been undertaken should there be more investment in NEDLAC to ensure that social dialogue is robust and plays its role effectively.

Even the ILO (2003) suggests that the enabling conditions for social dialogue are (1) the existence of a strong, independent workers' and employers' organisations which are broad-based and representative and have the technical capacity and access to the relevant information to participate in social dialogue; (2) the existence of a political will and commitment to engage in social dialogue on the part of all the parties; (3) the respect for the fundamental rights of freedom of association and collective bargaining; and (4) appropriate institutional support. The institutions and mechanisms of social dialogue must be able to adapt and change over time so that they can facilitate the dialogue and respond to new challenges as they emerge. Therefore, social partners cannot ignore the fundamental restructuring of NEDLAC that is required if there is any hope of keeping social dialogue relevant through NEDLAC in South Africa.

In conclusion, the key original contribution of this research is the in-depth analysis of the community organisations that participate in the Development Chamber, their role and

effectiveness in the social dialogue process in NEDLAC. In addition, the key policy discussion points that arise from this research include firstly, the renegotiation of the social contract amongst the partners involved (government, labour, business and civil society) in relation to their roles and responsibilities. Secondly, it is the evaluation of how to effectively use NEDLAC as a social dialogue vehicle by reviewing its structure (who is a member and who participates, is this complete?); its scope (are the matters of socioeconomic relevance in the current and future developmental discourse?); and feedback mechanisms (are the community organisation adequately equipped to solidify the consultation and feedback process with their members?). This would ensure that there is credibility in the processes and outputs of civil society participation in NEDLAC and the represented are confident that their voices are heard and considered in policy decision-making that impacts the socioeconomic welfare of ordinary South Africans. Lastly, it is the redefinition of the role government plays in promoting civil society participation by ensuring that there is more cooperation and interaction with the Development Chamber. For further research, it would be interesting to evaluate how other emerging and growing democracies are (1) promoting or rescinding the role of civil society participation in governance and (2) ensuring the representativity of civil society organisations in comparison to South Africa; as evaluated in this report.

## 5 APPENDIX

### 5.1 References

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## **5.2 Interview questions**

### **A. Role and representativity of the community constituency**

1. Do you believe that civil society is adequately represented in the social dialogue process at NEDLAC?
2. In your view, is the community constituency representative enough of all the vulnerable groups (rural dwellers, women, youth, the unemployed and informal workers) in South Africa? For example, the social movements behind the service delivery protests?
3. In contrast to how the labour and business constituencies are organised, how do the organisations in the community constituency obtain their mandate from members and give feedback in relation to the engagements at NEDLAC?
4. Do you believe that the existence of the community constituency and the Development Chamber at NEDLAC adequately advance the involvement of civil society in policy decision making in South Africa?

### **B. Participation at NEDLAC and effectiveness of Development Chamber**

5. Why is the community constituency excluded from the other Chambers, considering that the NEDLAC Act does not specify this?
6. To what extent does the Development Chamber substantially influence policy on matters tabled at the chamber? EXAMPLES?
7. To what extent does the community constituency influence policy discussion in the Development Chamber? EXAMPLES?
8. What would you say have been the major successes of the Development Chamber in the last 20 years?
9. What would you say have been the major challenges the Development Chamber has faced that hinder its effectiveness in the last 20 years?
10. In terms of the scope of items presented before the Development Chamber, to what extent are they aligned to the development agenda of South Africa as it is spelled out in the NDP?

**C. Role, relevance and effectiveness of NEDLAC**

11. What changes do you think are required to make civil society involvement in policy decision making more effective and relevant?
12. Is social dialogue (structures like NEDLAC) likely to be marginalized? What do you believe is the next phase of social dialogue amongst social partners in South Africa? Is it still necessary?