

Article

An enabling environment for public participation in local government

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Background

Public participation is a relatively new phenomenon on South African soil. The previous government created race-based municipalities to facilitate and regulate the suppression of participation by African, Indian and Coloured communities. Under Apartheid, the bulk of power resided at the centre with local government being the lowest tier within a strict hierarchical structure. Consequently, there was only minimal space for meaningful public participation in decision making processes. For Naude (2001) the local government system was structured to advance the agenda of racial segregation and exclusion.¹ Willims (2000) reiterated that 'in terms of community participation, South African history reflects very little opportunity for community participation primarily because local government in South Africa had until the early 1990's no constitutional safeguard, as it was perceived as a structural extension of the State and a function of provincial government.

Yet, since the demise of the notorious apartheid government, leaders of the new South Africa were compelled to create space for community participation. In its endeavour to advocate public participation, the new government embarked on a process of devolving political and administrative authority and transferred it to independent local-level statutory agency, for example to municipalities or local councils and ward committees².

The notion of public participation

Public participation is one of the buzz words of the day in South Africa. It is a term often and widely used by the government, politicians, civil society organizations,

analysts and advocates of democracy. The new government regards public participation as a cornerstone of democracy. Sisk et al reiterates that participation is 'intrinsic to the core meaning of democracy'.³ Blade Nzimande⁴, asserts that, the question of public participation is central in any democratic order, and it is something we dare not take for granted but must ensure that we constantly work on it all the time. To many, public participation is seen as a vehicle to promote and instil a culture of good governance at the local government level. As indeed, Ackerman (2004:448) argues that 'the opening up of the core activities of the state to societal participation is one of the most effective ways to improve accountability and governance'⁵. To some people, public participation is tantamount to basic service delivery. By definition, the term public participation is not confined to issues pertaining to delivery as it concerns development, policy formulation and it is also about maintaining good order at the local government level. In a nutshell, public participation is an important ingredient for good governance and quality service delivery. Moreover, 'public participation is a constitutional matter, going beyond granting the right to vote'⁶. In essence, public participation is a political right afforded to all citizens of

¹ Naude, W. A. (2001). South Africa's Local Government Transformation: An economic development perspective. University of Leipzig Press.

² Mills, 1990- Decentralisation

³ Sisk, T. et al, 2001, 'Expanding Participatory Democracy', chapter 5 in democracy at the local level: The International IDEA Handbook on Participation, Representation, Conflict Management and Governance, IDEA

⁴ Blade Nzimande is the General Secretary of the South African Communist Party. The quote has been taken from the key note address delivered at a conference on Public Participation at the International Convention Centre in Durban.

⁵ Ackerman (2004:448), in Janine Hicks 'Assessing the effectiveness of community based involvement. Critical dialogue, Public Participation Review

⁶ Janine Hicks 'Assessing the effectiveness of community based involvement. Critical Dialogue

South Africa. At its heart, as Williams puts it, public participation 'is often driven by specific socio-economic goals that seek to ensure a better life for all, especially for those who have been historically marginalized during the successive colonial-cum-apartheid regimes in South Africa'. Williams, goes on to asserts that 'the direct involvement/engagement of ordinary people in design, implementation and evaluation of planning, governance and overall development programmes at local or grassroots level, has become an integral part of democratic practice in recent years'⁷.

Legislative frameworks

When the new government came to power in 1994, it dedicated its effort on transforming and developing decentralized institutions, such as local government with a separate autonomy and a legal status distinct from other spheres of government, to create an enabling environment for community consultation. The Constitution (Act 108 of 1996) provides for the establishment of three separate, yet interdependent and interrelated spheres of government: a national government, 9 provincial governments and 284 local municipalities. The creation of these spheres sought not only to transfer powers and resources to local authorities, but also to create more opportunities for citizens to actively participate in matters that affect their lives. It was envisaged that reaching out to civil society would strengthen participation in political, economic, and social activities that could harness the process of democratization. Section 152 of the South African Constitution requires of a local authority to 'encourage the involvement of communities and community organizations in matters of local government'⁸

The new government has recognized public participation as a critical factor at all levels of government. It became even more endorsed at a local level where municipalities are charged with an enormous responsibility of providing services to disadvantaged communities. Against this background, several government policy documents, (including principles for the Reconstruction and Development Programme; White Paper on Local Government; Municipal Service Partnerships, Rural Development Framework and Municipal Community Partnerships), served as the legislative cornerstone advocating for and promoting the need of public participation.

The participation process became structured and institutionalized through the enactment of the Municipal Structures Act, which endorsed the creation of municipal councils for which citizens may elect their own representatives (Mayors and Councillors). The Structures Act of 1998 (amended in 1999 and 2000) is clear about the need to legally streamline public participation by providing for the right to:

- contribute to the decision making process of the municipality;
- be informed of decisions of the municipal council;
- disclosure of the state of affairs of the municipality

Although these legislative guidelines sought to ensure transparency and accountability in the management of local government affairs, they have been proven inadequate in practice due to:

- Party politicization of development and participatory structures,
- Lack of commitment by municipalities to prioritise public consultation,
- The slow pace of basic service delivery. The lack of access to basic social services does not only hamper participation but also deters ordinary South Africans from enjoying a decent standard of living.
- General lack of capacity amongst stakeholders,
- Access to information,
- Failure to recognize and work closely with community based organizations

Steven Friedman (2004) believes that the post-1994 constitution order, has only freed us from racial minority rule, and has not offered citizens effective channels for participation in government decisions. This is to argue that despite the progressive legislative frameworks sought to create a conducive atmosphere for meaningful community consultation, in practice there has not been any major progress, the legislations have not yet yielded any major results in as far as transparency, consultation, accountability in the management of local government affairs. What accounts for this is that not all local government stakeholders⁹ are involved or represented in community structures as per the requirements of the Municipal Structures Act. The lack of representation is exacerbated by the relationship of mistrust that continues to haunt local government stakeholders. The attitude of 'us' and 'them' is very rife and severely deters public participation from flourishing.

⁷ Williams, JJ. 'Community participation and democratic practice in post-apartheid South Africa: rhetoric vs. reality, in Critical Dialogue, Public Participation Review

⁸ Constitution of the Republic of South Africa (1996)

⁹ Local government stakeholders includes, the civil society, councillors, councils officials, and traditional leaders.

Ways of participating in local government

There are many ways that individuals can participate in local government and influence decision making. Claude Kabemba¹⁰ catalogued three different types of citizen/government interaction:

- Citizen's action, by means of lobbying bodies like parliamentary committees, public demonstrations and protests.
- Citizen involvement, by means of public hearings, consultation with advisory committees and attitudinal surveys
- Electoral participations, by means of casting votes and electing representatives.

These forms of participation are critically important and serve as a yard stick to measure the level of democratic development and political maturity in our country. Lobbying is mainly used by organizations to persuade politicians to support their position on a particular issue. Communities can lobby their councillor. Councillors can use lobbying to try to persuade committees, the Mayor and other parts of government.

Electoral participation remains a key principle of democracy. 'Local government is the closest form of government to the people and as such has potential to enhance participation. The advantage of local elections is that citizens know candidates generally well and choose on an informed basis' (Kambuya Kabemba 2004). However, a lot has to be done in terms of providing the citizens with information about election processes and why voting is important. Voter education should indeed become an integral part of larger civic and government education programmes which ought to be undertaken to educate the citizens. In essence the government and civic society organizations need to do a lot more to provide factual information for voters in a neutral way so they can participate knowledgeably and thereby increase voter turnout both at national and local government levels.

Direct Advice and Support

Councillors are the most direct form of access people have to government. Usually people will turn to a councillor for direct advice and support. Once a problem has been referred to a councillor, the person should demand to know what the councillor is doing or has done

to deal with the problem. Yunus Carrim¹¹ argues that elected representatives are faced with a major challenge in promoting and enhancing participatory governance, especially in rural areas where local government structures and systems are still evolving. It is important for councillors to serve as representatives of the people immaterial of their political affiliations.

Public participation through ward committees

According to Roger Southall¹², 'participatory democracy entails a high level of public participation in the political process through a wide variety of institutional channels'. Ward committees are a vehicle for engaging communities in municipal decision-making. The Constitution creates space for public participation in local governance through specific mechanisms such as Ward Committees and Integrated Development Planning and demand that local government promotes public participation¹³.

Chapter 6 of the South African Constitution (Act 108 of 1996) denotes that Ward Committees and their members can participate in local government in the following ways:

- Assessing and approving the budget
- Planning and developing the Integrated Development Plan -Ward committees should work closely with councillors and other community organizations to identify priority needs and make sure these needs are included in the budget proposals and plans.

The role of ward committees is to make sure that voters are involved in and informed about council decisions that affect their lives. The ward committees should be set up in a way that it can reach most sectors and areas in the ward. The ward committees' main tasks are to communicate and consult with the community in respect of development and service plans. It has, however, no formal powers to force the council to do anything. Ward committees should keep their electorates informed of decisions, progress reports. There are various ways of keeping citizens informed including radio, newspapers and regular public meetings.

Ward committees however, are largely perceived as ineffective in advancing citizen participation at the local government level. Their inefficiency is caused by among other things, lack of capacity and incentives to persuade them to work whole heartedly towards the betterment of

¹⁰ Claude Kambuya Kabemba – 'Citizen's participation: power beyond parliament. Electoral Institute of Southern Africa.

¹¹ Yunus Carrim 'Bridging the gap between the ideas and Practice: Challenges of the New Local Government System

¹² Roger Southall is the Executive Director, Democracy and governance, Human Science Research Council.

¹³ N. Bezuidenhout and B. Mautjane- Civil society Participation in Local Governance

their constituencies. Janine Hicks¹⁴ argues that whilst ward committees are a key component of community-based involvement, many municipalities still do not have formal or functional ward committees in place. She further reiterates that in municipalities where ward committees are operational, these are marked by uncertainty and in some instances, chaos. This largely stems from the fact that there appears to be no clear cut understanding of the role that ward committees are supposed to perform. Community members have certain expectations of what they expect of their ward committee representatives, yet councillors have different expectations. Furthermore, as Janine argues there is no clarity on the roles of ward councillors as opposed to proportional representation (PR) councillors, there are tensions between ward committees members and ward councillors, and limited resources available to enable ward committees to function better and improve efficiency. This is perhaps the most widespread challenge facing ward committees in their quest to involve communities in matters of local government. The lack of understanding of roles leads to a greater ill perceptions and misconceptions about the performance of ward committees and other local government stakeholders in general. This gap should thus be an entry point for some form of awareness and capacity building intervention.

It should be acknowledged therefore that ward committees on their own do not appear to be the only answer to promote and facilitate community involvement in decision making at the local government level. It is imperative that we encourage and do not preclude other forms of public participation, such as “Imbizos”, sector forums created by Civil Society Organisations and Community Development Workers (CDW) - structures created to assist and facilitate community development.

Traditional Authorities

Another important way that communities, particularly traditional communities can participate in local government is through the structure of traditional authorities. Traditional leaders also play a role in participation and are an important component of a councillor’s constituency. The Traditional Leadership and Governance Framework Act of 2003, recognizes tribal authorities as traditional councils with important functions linked to local government.

The functions of traditional councils are as follows:

- to facilitate involvement of the traditional community in the development of a local government’s integrated development plan

This system of leadership is however, still faced with challenges which deters community participation. It remains a daunting task to forge coexistence of two diverse and conflicting systems of governance (Modern democracy vs. traditional authority). The party politicization of tribal structures invariably compromise the credibility and autonomy of the institution and its leadership. Traditional leaders who are partisans bar the efforts to spearhead community participation. The traditional leadership of ‘Amakhosi’ is flawed by a lack of a clear cut roles and functions. Lack of capacity on the part of traditional leaders is also a problem. The Traditional Leadership and Governance Framework Act-2003 which was enacted to redeem these problems had been lambasted by Amakhosi for being Westernized in its provision and consultation. This has exacerbated the mistrust that exists between traditional and democratic authorities. There is also an ongoing dispute over traditional authority boundaries and the merger of tribes.

Civil Society Organisations and participation

A key agent of participation is an active civil society. The involvement of the civil society is perceived as essential for democratic consolidation. According to Steven Friedman¹⁵ who argues that participation by civil society remains an important check on government, which helps ensure that it accounts to citizens (2004).

Post 1994 legislative frameworks provided a space for the proliferation of community based organizations and created a platform for public participation in local governance through legitimate bodies that exist in the communities such as political parties, cultural groups, civic forums, business, youth organization, women’s organizations, and NGOs. Section 152 of the Constitution states amongst other things that the function of local government is to encourage the involvement of communities and community organizations in local government. Similarly, the Municipal Structures Act (No 117 of 1998) requires municipalities to engage in consultation with civil society in meeting needs of local communities. The White paper on Local Government stipulates that municipal councillors should promote the involvement of community groups in the design and delivery of municipal programmes (RSA 1998 sec B par1.33). These government policies were promulgated to recognize as bona-fide role players the broad range of civil society in assisting government in promoting public participation and championing the interests of the citizens. From 1994, Civil Society Organizations (CSOs) played an important role in assisting government in raising awareness of the implications of the new

¹⁴ She is Director, Centre for Public Participation.

¹⁵ Steven Friedman (2004) ‘A voice for all: Democracy and Public Participation. Critical Dialogue, Public Participation Review

dispensation, while the period from 2000 to date has seen CSOs not only assisting with service delivery, but also playing an increasingly vocal advocacy and monitoring role¹⁶.

The local political environment is however, not always conducive for CSOs to articulate their mandates. It is sometimes a hassle for CSOs to participate in local governance due to political nature of consultations. Participatory mechanism at local level are normally structured along Ward lines and a few CSOs are ward or constituency-based, this invariably bars their participation. Similarly, most municipalities use Ward Committees as their IDP participatory structures, inevitable the role of CSOs is rendered insignificant. Some problems however, related to their own lack of capacity and inability to deliver on their mandate. Legitimacy is another controversial issue faced by CSOs. Some civil society organizations are deemed illegitimate because they are not democratically elected and eventually are accorded a mediocre status. Kambuya Kabemba asserts that 'in many instances civil society has been left out of major political and economic decisions on matters concerning the people'¹⁷.

How well do municipalities promote public participation?

Some municipalities have an astonishing record of public participation and budgets are allocated to promote participation and also to render support to legitimate participatory structures. Other municipalities are battling to promote community participation due to lack of human resources and institutional capacity. The non-availability of councillors, especially those who work part time is another hindrance to community consultation. Another problem relates to party politicization of community participation and Ward committees. This in turn mars the involvement of certain participatory structures and ordinary citizens that are not partisan. The rampant wave of protests staged countrywide in various municipalities are also an indication of the weaknesses that are symptomatic of defective public participation structures such as municipalities and Ward Committees. The continuous redefinition of municipal boundary affects the equilibrium of community participation.

How to foster a conducive atmosphere for public participation?

¹⁶ N. Bezuidenhout and B. Mautjane- Civil society Participation in Local Governance

¹⁷ Claude Kambuya Kabemba works for the Electoral Institute of Southern Africa quote cited from the article 'citizen's participation: power beyond parliament'. Critical dialogue, volume 1 No. 1 2004

Public participation should be seen as an on going process rather than an event. It is a process that neither happens naturally nor over night, it requires strategic and pragmatic interventions and efforts. The factors as furnished below could help strengthen and facilitate public participation:

- Continuous consultation with the citizenry and involvement of CSOs. Consultation should be implemented in a step by step way where responsibilities of all participatory structures are clearly outlined. Citizen participation should not be reduced to participation only by elite. Organized civil society, in the form of predominantly non-governmental organizations (NGOs), business, interest groups and ordinary citizens (especially the poor) are critical agents of the participatory process.
- Promotion of innovative ways of popular participation as opposed to the dominance of Ward Committees over the participatory space.
- Recognition of the contribution of different sectors and interest groups as opposed to the politicization of the participatory space
- Ensure improved information dissemination.
- Link Ward committees with community structures
- Capacity building of municipalities. It is important that municipalities are capacitated about the importance of participation
- Budget allocation for community consultation

The government needs to empower people so that they can feel confident and that they have the capacity to confront their problems and finds the way towards solutions (Kambuya Kabemba: 2004).

Challenges of public participation

For the efficacy of community consultation, participatory mechanisms should involve disadvantaged groups such as women, youth, the urban/rural poor, and the disabled in decision making processes. Such mechanisms should acknowledge that participation is not a once off process but rather an on going process that should engage multiplicity of stakeholders, including the poor in the preparation of the budget of local governments. The participatory process of decision making will not strengthen public-private partnerships but also translate into major beneficial consequences: efficiency, equity, good governance and sustainability in the planning and management of community affairs.

- The transformation of the local government system has taken place within a framework that endeavours to spearhead public participation as a cornerstone of local democracy and

- development. As a new phenomenon, public participation is still faced with numerous challenges. Participatory structures must be de-linked from party politics. The roles and
- responsibilities of the various stakeholders involved in the quest for development and participation must be defined. There is a need:
 - For clear communication channels between municipalities and community based structures.
 - To transform the relationship of mistrust that currently exists between all participatory agents.
 - To facilitate a flow of information
 - Encourage municipality outreach programmes
 - For capacitation of municipalities and stakeholders working on issues of community consultation
 - To make IDP representatives forums proactive and accessible to people
 - To educate communities and address apathy
 - To build networks with stakeholders and practitioners

Conclusion

Participation in South Africa remains largely at the level of electing political leaders and progress has not been

made to ensure public participation in decision making. The lack of citizen participation in the affairs of local government, if not taken seriously, could negate and compromise our progressive democracy. Public participation will not happen by itself, as Kambuya Kabemba (2004) puts it, citizen participation will not happen by exhortation and noble talks. It will require struggle. It needs people who have a passionate conviction and commitment and are prepared to sweat. Effective participation also requires that municipalities be thoroughly capacitated and have to have the will to promote citizen participation. The government should ensure that all the conducive legislative frameworks are properly implemented and mechanisms should be established to monitor all participatory processes. Feedback is also important. Use of media to disseminate information is also important. The government should put in place a detailed plan to facilitate periodic consultation and feedback. Report back should be made a norm and be regular through community for a, ward committees and other participatory structures. It is also important that municipalities urgently attend to what is perceived to be the lack of service delivery. If delivery issues are properly addressed, this will in turn entice people, most especially the poor to actively participate in the affairs of the government. For public participation to be sustainable, it requires partnerships between government and civil society.