

# Perceptions on the Institutionalization of Public Participation in South Africa

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## Abstract

*In democratic systems, public participation is understood to be complementary to representative democracy whereby regular parliamentary elections are held. The elected representatives are expected to engage the public in decision-making processes to enhance transparency and trust. Representative democracy additionally calls for the establishment of public participation platforms for engaging the citizenry in all public affairs. Moreover, the rationale for public participation advocates for the public to actively participate in the development of plans at the formative stage, rather than after officials have committed to particular choices. A self administered questionnaire survey was conducted to assess the perceptions of the Members of the Provincial Legislature, Parliamentary Constituency Officers and administrative staff on how public participation has been institutionalized in the Gauteng Provincial Legislature. The results of the survey show that the Gauteng Provincial Legislature is not adequately engaging its people in decision-making processes as per the constitutional mandate as provided for in the Constitution of the Republic of South Africa, 1996. The research supports the notion that a direct democracy is not feasible in modern nations, but it is important to have a model of democracy that will provide the best possible degree of direct popular public participation.*

**Keywords:** *Decision-making, democracy, Legislature, public participation, public policy, transparency, trust.*

## 1. Introduction

The evolution of public participation in the Legislature of the Province of Gauteng focused on the development of appropriate mechanisms to enable the public to actively participate in the processes of government in line with the provisions of the Constitution of the Republic of South Africa, 1996. Such mechanisms included: petitions, public hearings and public education. Public participation is defined by Creighton (2005) as "... a social process through which people exercise their collective initiative in an organised framework to promote their self-perceived interests through a means over which they can exert effective control". Public participation should play an important role in governance (Bauer 2009; Young 2002). In South Africa, it has literally become synonymous with legitimate governance (Williams 2006).

Furthermore, public participation gets renewed interest due to the presence of a perceived democratic deficit (Nkuna 2007); to enhance the legitimacy of decision making; to improve public delivery system; and to allow citizens, especially the disadvantaged and marginalized to have their say in issues that affect them.

Public participation is a subject of importance in democratic and participatory governance. It attracts attention in academia, among practitioners and most importantly the members of the public (citizens). For example, Eversole (2011:53) stressed that "... the idea of participatory governance has become a key policy aspiration: by involving the insights and energies of diverse actors, participatory governance arrangements bring the valuable agency communities to energise and inform the ongoing business of government". Kalema (2007:250) wrote that "... public participation has featured prominently in the debates on transition from autocracy to democracy, from one-party or military dominance to multipartyism". However, despite its popularity, the practice of public participation remains poorly understood and ineffectively applied in many countries and provinces alike. On the one hand, it is predominantly approached from a broad perspective. In fact, it appears to be of little use to public administration practitioners. On the other hand, it is construed in technical narrow terms, so narrow that it in fact blurs the deserving public. Such unbalanced approaches imply that there is a need for a review of the public participation approaches, to make them more transparent and understandable to the public. Research on public participation has largely concluded that public participation and/or community engagement is often conducted in a manner that fails to meet the public's real needs (Mowbray 2005; Taylor 2007; Teague 2007). Furthermore, Bauer (2009:31) argued that "... a direct democracy is not feasible in modern nations, but it is important to develop a model of democracy that will provide the best possible degree of direct popular public participation".

In the context of the Gauteng Provincial Legislature (the Legislature), the role and business of the Legislature is often not understood by the public. Thus it is necessary to contextualise the role of the provincial Legislatures. While the National Parliament is responsible for making national legislation, provincial Legislatures are responsible for specific areas ascribed to them by the Constitution. The Legislature is characterised by the lack of effective engagement with the citizenry by the public, it is expected to serve. In other words, the Legislature is not viewed as being transparent in carrying out its constitutional mandates of law-making, oversight, public participation and cooperative governance. Williams (2006:197) argued that "... it would seem that most community participation exercises in South Africa are largely spectator politics, where ordinary people have mostly become endorsees of pre-designed planning programmes, are often the objects of administrative manipulation and a miracle of reconciliation in the international arena of consensus politics whilst state functionaries ... ensconce themselves as bureaucratic experts summoned to ensure a better lives for all". However, there are success cases of effective delivery on constitutional mandates, although they are often clouded by failure to communicate

or keep the public abreast of the developments. A democratic deficit is then experienced, wherein there is a gap between governing bodies, institutions and the citizens' beliefs, perceptions, attitudes and actions. Eversole (2011:53) explained that "... the question, seen from inside institutions of government, thus becomes how to reach communities, engage them, work with them and encourage their participation". But before going to study the public's perception on the Legislature's public participation initiatives, it is important to determine how the institution itself perceives its strides of carrying out its constitutional mandate of public participation.

To fully understand the perceptions of the Legislature on its streamlining of public participation, a survey was conducted by the Legislature to study the effectiveness of its existing public participation mechanisms. The focus of the survey was on Members of the Provincial Legislature (MPLs), Parliamentary Constituency Officers (PCOs) and the administrative staff. The article seeks to communicate the findings of the perception survey and to recommend the use of alternative means of addressing the perceptions of the Legislature on its institutionalisation of public participation. The legal framework that informs public participation in the South African legislative sector provides a basis for anchoring this study.

## **2. The Legislative Framework For Public Participation**

In South Africa, the nature and focus of public participation has changed dramatically with the adoption of Constitution of the Republic of South Africa, 1996 (the Constitution). In terms of Section 195(1) of the Constitution, public administration must be development-oriented, which means that the public must be involved in the government processes. The requirement has a direct bearing on the extent to which the public is involved in the decision making processes of the government. Decisions about what services should be delivered and which ones need improvement should be made through public participation.

The Constitution guarantees the public a commitment to an open and democratic form of governance. To this effect, Chapter 2 of the Constitution contains the Bill of Rights. Burkey (1993:56) stated that "... participation by the people in the institutions and systems which govern their lives is a basic human right and also important for realignment of political power in favour of the disadvantaged groups and for social development". In addition to the right to elect their representative, the right to exercise influence over decisions made by government is clearly stated in the Bill of Rights. Section 59(1) of the Constitution stipulates that "... the National Assembly must facilitate public involvement in the legislative processes of the Assembly and its Committees". In terms of the Provincial Legislatures, Section 70(b) provides that "... the National Council of Provinces (NCOP) must facilitate public involvement". The Constitution mandates the three spheres of government, (the local, provincial and national spheres) to be transparent and engage the public in decision-making and oversight processes.

The Constitution is not the only legal document that informs public participation, especially in the local government context. The Constitution is supported by a number of Acts of parliament. For example, Section 19(3) of the Municipal Structures Act, 1998 (Act 117 of 1998) posits that a municipal council must develop mechanisms for public participation. In promoting trust and accountability, the Act further stipulates that "... a community's executive has to give an annual report on the extent to which the public has participated in municipal affairs". Furthermore, Chapter 4 of the Municipal Systems Act, 2000 (Act 32 of 2000) stipulates that a municipal council must develop a culture of participatory governance and must, for this purpose, encourage and create conditions for communities and other stakeholders in the municipality to participate in local affairs.

In terms of the financial imperatives of public participation, the Municipal Finance Management Act, 2003 (Act 56 of 2003) encourages the participation of communities in the financial affairs of municipalities, including the development of municipal budgets. Additionally, the Municipal Property Rates Act, 2004 (Act 6 of 2004) stipulates that "... the public must participate in the determination of municipal property rates". However, sporadic law-making (policy development and implementation) and service delivery related protests in South Africa, especially in the Gauteng Province, suggests that the public is not adequately involved in decision making and related democratic processes. Perhaps a consideration of a theoretical framework will assist in understanding the basis of involving the public in the government's decision making processes.

### **3. Theoretical Framework For Public Participation**

In line with the legal framework, the theoretical premise for public participation is based on the view that legitimate governance is subject to the will and consent of the governed, that is, the public. Public participation is not a once-of event that only occurs during the electioneering period, but should be based on regular interaction between the citizenry and those tasked with governing. A further understanding is that public participation should be conceived as the nexus between the electorate and the decision makers. From this perspective, Young (2002:268) cautioned that "... only in a democratic political system do all members of a society in principle have the opportunity to influence public policy". Effective public participation marks a shift from techno-bureaucracy towards techno-democracy.

As a vital component of democracy, the concept of public participation has received considerable attention. Public Administration scholars such as Booyesen (2009), Creighton (2005), Green (2004), Mafunisa (2004), Nkuna (2007) have written about the vexatious democracy-public participation relationship. Booyesen (2009:3) stressed that "... public participation and democracy are often intricately linked". Public participation allows for diverse views in governance and policy processes,

according to Booyesen (2009), Green (2004), Davids, Theron and Maphunye (2005), Mafunisa (2004). In this context, Green (2004:70) has elaborated that "... not only do citizens have to be interested and mobilised to practice democratic participation as citizen-activists, but governments also need to provide space in which civil society might influence policy making". Booyesen (2009:2) has argued that "... public participation in the process of policy and governance in democratic South Africa could be regarded as a cornerstone of society". It can, therefore, be deduced that the process of public participation is an important variable in the policy making process. As such, effective policy making cannot be fully achieved without sound public participation. Creighton (2005:25) stated that "... public participation creates a new direct link between the public and the decision makers in the bureaucracy. Potentially, it sensitizes experts and bureaucrats on the real needs of the communities".

Development study scholars such as Burkey (1993), Chambers (2005), Davids *et al.* (2005), Gibson (2006), Mogale (2003), Williams (2006) have also contributed extensively to the various forms of public participation. Mogale (2003:225) explained that "... public participation leads to the expectation that transformation in the system will take place to benefit those whom development projects target". Accordingly, from the Public Administration perspective, Ballard (2008:170) elaborated that ... "where citizens themselves are able to influence decisions, the imperative is to address suffering which becomes far stronger and more direct". Public participation should contribute to a transparent, effective, efficient Legislature in its quest to deliver on the mandates of law-making, oversight and cooperative governance. In other words, public participation lends legitimacy to the governance exercise. The process of policy initiation, lawmaking, oversight and governance should not be a solely bureaucratic affair but should be co-owned with the public. Another Public Administration scholar, Nkuna (2007:237) wrote that "... public participation can take different forms depending on its application". The categorisation of public participation was first developed by Pateman in the 1970s.

Pateman's (1970) categorization of public participation into three levels remains classical. *Pseudo participation*, referring to a situation where the concern is not about creating an environment where decisions are finally made, but rather to create a feeling of participation; *Partial participation* which involves a process in which two or more parties influence each other in the making of decisions but the final power to decide rests with one party only. This level of public participation leverages on the distinction between power and influence, for instance, workers are in a permanent subordinate position unable to exercise power but can only influence the final consequence; and *Full participation* where each individual member of a decision making-body has an equal power to determine the outcome of decisions. While the Legislature may be seen as utilising all three levels of public participation to a certain extent, it is also important to consider the typology of public participation.

Pretty (as cited in Davids *et al.*, 2005:114) identified the following seven typologies of public participation:

- **Passive participation:** People participate by being told what is going to happen or has already happened. Participation relating to a unilateral top-down announcement by the authority or project manager. Information being shared belongs to outsiders and/or professionals.
- **Participation in information giving:** People participate by answering questions posed in questionnaires or telephone interviews or similar public participation strategies. The public do not have the opportunity to influence proceedings as the findings of the research are neither shared nor evaluated for accuracy.
- **Participation by consultation:** People participate by being consulted as professionals, consultants and planners who listen to their views. The professionals define both problems and solutions and may modify these in the light of the people's response. The process does not include any share in decision making by the public, nor are the professionals under any obligation to consider the public's view.
- **Participation for material incentives:** People participate by providing resources, such as labour, in return for food and monetary reward typically takes place in rural environments, where, for example, farmers provide the fields but are not involved in the experiment or learning process related to production or marketing. The people have no stake in prolonging the activities when the incentives end.
- **Functional participation:** People participate in a group context to meet predetermined objectives related to the project. This may involve the development or promotion of externally initiated social organisations. This type of involvement tends not to occur at the early stages of project cycles or planning, but rather once the important decisions have already been made.
- **Interactive participation:** People participate in a joint analysis, the development of action plans and capacity building. Participation is seen as a right, not just a means to achieve project goals.
- **Self-mobilisation:** People participate by taking initiatives independent of external institutions to change systems. The bottom-up approach allows people to develop contacts with external institutions for resources and the technical advice they need, but they themselves retain control over how resources are used. Such self-initiated bottom-up and self-reliant mobilisation and collective actions may or may not challenge an existing inequitable distribution of wealth and power.

To simplify the above seven typologies, as well as to relate them to the South African context, Booysen (2009) has presented a summary format as detailed in Figure 1 hereunder.

**Figure 1:** Typology of public participation

Mode of Participation	Illustrations – actions, institutions, organisations
Participation through representative democracy and resultant institutions	Participation in elections; representation by elected public representatives; acceptance of electoral outcomes
Participation in the core institutions of democracy, including Chapter 9 institutions	Constitution of South Africa's requirement of opportunities for public participation; constitutionally established institutions facilitating participation through, for example, public submissions and hearings, outreach programmes of national, provincial and local government; reviews of effectiveness in engagement with public institutions
Co-operative engagement directed from the centre	Presidency and Cabinet Clusters for government management; direct opportunities for consultation and public engagement in government processes; centre-need defined consultation with civil society enclaves
Civil society action in advocacy and challenge	Anti-privatisation Forum, Treatment Action Campaign, strikes, civil society petitions and campaigns
Extended engagement, access and participation	Ward committees, Izimbizo/Community Meetings, Community Development Workers, Project Consolidate, Thusong/Assistance Services Centres and e-Government
Direct action and protest participation	Protest against lack of 'service delivery' and government performance in areas such as housing and services
Communicative participation	Dissemination of information by government; coverage of policy and governance by electronic and print mass media; formation and expressions of public opinion, with implications for other modes of participation

**Source:** Adapted from Booyesen (2009:9)

Although not universal, the above table offers a brief synopsis of what mechanisms and modes are used in the South African context. This self-reflection by the Legislature follows the theoretical underpinnings of constructionism. Schurink (2009) stated that "... constructionists believe that there is no truth 'out there', but only a narrative reality that changes continuously". Thus, this study has adopted appreciative inquiry (AI) as a constructionist paradigm that could lead the Legislature to the

desired outcomes. It is from this understanding that the following section focuses on public participation mechanisms used by the Legislature.

#### **4. Overview of Public Participation in the Gauteng Provincial Legislature**

From the above typology of public participation as presented by Booysen's (2009), it is important to provide an overview of public participation in the Legislature. Committees of the House are regarded as the engine of the Legislature. The general requirement for house committees in performing their work is that, there must be meaningful public involvement that influences decisions of committees. Therefore, public participation has been included in all the committees' terms of reference. All committees are required to involve the public in all the processes of law making, oversight and cooperative governance. Committees undertake "*Bua le Sechaba*" (talk to the nation) campaigns on matters that affect them most. *Bua le Sechaba* is a vehicle that the Legislature uses to engage the public on issues such as Health, Education, Housing and Social Development. The results of the engagement inform service delivery challenges in terms of the oversight role of the Legislature. While the *Bua le Sechaba* is an important public participation mechanism, its popularity and effectiveness is not yet felt by the people of Gauteng, since the campaign is generally not known to the people of Gauteng.

The Legislature has registered both successes and failures in the involvement of the public in governance processes. The successes include amongst others, the introduction of an effective petitions system, and the education of petitioners with regard to the petitions processes and the establishment of strategic relationships with the Department of Education in Gauteng, particularly the School programme. Petitions are an integral part of the public participation process of the Legislature. A dedicated petitions standing Committee is established to receive and deliberate on the issues raised in the petitions received. Furthermore, the Legislature undertakes sector parliaments as part of ensuring that issues of community sectors are considered in the legislative processes. Sector parliaments include among others, A Women's Parliament; Youth Parliament; Senior Citizens' Parliament and Persons with Disabilities Parliament. However, the Legislature does not have a mechanism to assess the impact of its public participation mechanisms. Therefore, the visibility and access to the Legislature by the public, both physically and electronically is blurred. In other words, public participation is not transparent or clear. Arising from this observation, it was necessary to conduct research on the effectiveness of the Legislature's existing public participation mechanisms and processes.

#### **5. Research Method**

In recognition of the above stated shortcomings, a study was conducted to investigate the perceptions on the extent to which public participation is embedded



in the Gauteng Provincial Legislature's processes in accordance with its constitutional mandate. A quantitative research method was adopted for this study. An electronic survey method was adopted as the targeted participants had access to electronic business tools. The selected data collection instrument was a Questionnaire which consisted of 25 questions. The target population was the Legislature administrative staff, Members of the Provincial Legislature (MPL) and the Parliamentary Constituency Officers (PCO).

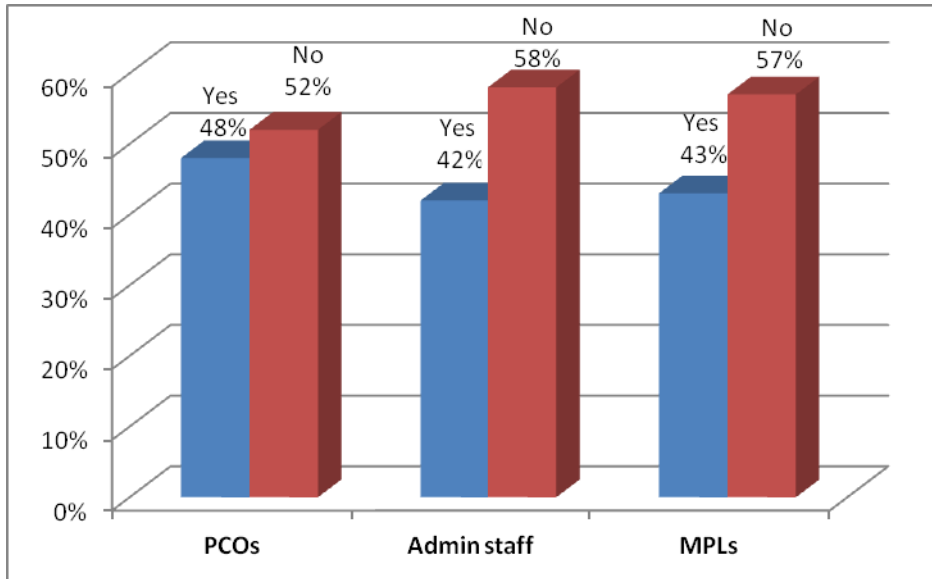
The Legislature has 83 MPLs, 40 Committee Support staff and 45 PCOs, which means that the target population was 168 participants. The limitation of this study is that it did not include the political administrative staff members, the Provincial Premier and the Members of the Executive Council (MECs) who are political representatives. The rationale for this exclusion is that, the excluded parties are accountable to the Legislature through the portfolio committees and political parties respectively. In other words, the Executive is accountable to the Legislature.

The survey process was designed and managed by the Research Services Unit, located in the Parliamentary Business Directorate, which is responsible for providing the Legislature with administration support to enable it in carrying out its Constitutional mandates. The questionnaire sought information on the perceptions of the members of the Legislature on the extent to which public participation has been incorporated in the process of the Legislature. The survey also attempted to determine who the Legislature consults and how often, the matters it consults on and, the perceived benefits of, and obstacles with regard to involving the public.

## 6. Results and Analysis

Responses were received from the Administrative staff (38), PCOs (40) and (22) from MPLs. A total of 100 completed questionnaires were received electronically. 58 of the respondents were females and 42 were males. Figure 2 below, presents the perceptions of all the respondents on the involvement of the public with the Legislature.

**Figure 2:** Percentage of the PCOs, Administrative Staff and MPLs Perception Levels of Public Involvement



Although 69 (69%) respondents indicated that the Legislature has effectively mainstreamed public participation, it is noted that 42 (42%) respondents were of the view that no good relationship existed between the Legislature and the public. This might be explained by the prevalence of ineffective communication of the Legislature's affairs and activities to the public; inadequate public involvement in the work of the Legislature; as well as a lack of robust feedback mechanisms as was indicated by 19 (48%) PCOs, 22 (56%) Administrative Staff members and 13 (68%) MPLs. This could be also due to the fact that there is no collaboration of various units of the Legislature, in enhancing effective public participation as was indicated by 38 (38%) of the respondents.

Figure 2 illustrates that all the respondents are of the opinion that the public is not effectively involved in the legislative process, all registering a negative impression. The survey revealed that 13 (59%) MPLs are of the view that the public was not effectively involved. Two thirds (75%) of the respondents are of the opinion that the Legislature's existing public participation mechanisms such as *Imbizos* (public meetings), public hearings, *Bua le Sechaba* (talk to the nation), public education programmes and the preparatory workshops held during the budget and annual report processes, are effective and have a potential to yield positive results. However, poor implementation of these mechanisms and programmes seems to be rendering the whole process of public participation process ineffective as was indicated by 53% of the respondents (that is, 53 out of a population of 100 respondents). The perceptions of the

respondents can be altered by among others, maintaining effective interaction with the public, and the provision of regular feedback.

## **7. Maximising Public Participation In Gauteng**

The study has revealed that the Legislature's business units dealing with public participation do not have a joint and integrated public participation action plan. The units are working in silos instead of cohesively streamlining their public participation processes. Furthermore, within the context of a diverse public, the existing public participation initiatives do not cater for all groups of the people of Gauteng. The question is: What can be done to improve the Legislature's institutionalisation of public participation? The findings of this survey provide the Legislature with the opportunity to re-look into how public participation can be maximised to enhance transparency and trust.

The study on the effectiveness of existing public participation initiatives suggests that the Legislature is not fully engaging the public in its processes of law-making and oversight. The role of the Legislature is often not understood by the public. As such, the Legislature is not seen as doing enough to educate the public about its activities and processes, particularly on how the public can fully access the Legislature. The lack or rather little use of appropriate public involvement mechanisms and inefficient post public participation feedback feature prominently in the results of the study. Mattes (2006) earlier on noted that "... direct participation and contact with the representatives is quite low while the so-called unconventional political participation is high in South Africa".

Whilst the survey had revealed shortcomings of the existing public participation initiatives of the Legislature, the opportunities for improving are equally in abundance. There is an opportunity to improve the current public participation initiatives. The benefit of improving such initiatives is that, it will enhance public confidence in the Legislature. Firstly, a well-informed citizenry will assist the Legislature in taking pride in its democratic processes. Establishing a good working relationship with all Parliamentary Constituency Officers, Community Development Workers and the public is but one example of promoting effective relationship between the Legislature and the public. That will increase avenues of public participation in Gauteng. Secondly, another opportunity that this study recommends is fully exploring the effective use of ICT and social networking, for example, the use SMS's, Twitter, Mixit Instant Messenger, Skype and Facebook to reach out to the connected public. The use of popular social media can increase participation by a large segment of the people of Gauteng, more especially the youth. Thirdly, tapping on the public participation resources available in the province such as higher education institutions and institutions supporting democracy should be explored. This approach might complement the Legislature's strategy to forge relationships with institutions supporting democracy (also referred to as Chapter 9 Institutions).

A lack of effective feedback mechanisms has featured prominently in the responses. The Legislature should develop and implement robust feedback avenues to keep the public abreast of the developments in government matters. A robust form of public participation may create confidence, trust, and understanding between the citizenry and the government, and help to clear the existing misconceptions. Another possible dividend that can be gained through meaningful public participation includes increased electoral participation. One of the most far reaching public participation dividends is the trust it builds between citizens and government. The more the citizens know about what is happening in government, the more they understand the limitations of government and the role they play in it.

## 8. Conclusion

The importance of public participation cannot be overemphasised, particularly in the democratic states where the public is expected to be involved in the matters that concern it most. In the South African context, the need for public participation is enshrined in the Constitution. This paper has acknowledged the existence of various public participation modes in South Africa, with special reference to the Gauteng Provincial Legislature. However, the existing modes have proven to be less effective as the results of the above mentioned study has indicated. The paper has argued that the public is not adequately involved by the Legislature. The outreach programmes do not reach all the citizenry in the Gauteng Province as they are mostly targeting organised groups.

The article has recommended an increased engagement of communities and other stakeholders in all the legislative processes in the Gauteng Province, and mainstreaming public participation across Committees alongside the mandates of law-making, oversight and cooperative governance. The development of a well coordinated and integrated public participation programme, a sound feedback system, and monitoring and evaluation mechanisms, are among others the mechanisms that the Legislature should employ to maximise public participation, transparency and trust. The implementation of a robust Public Participation Action Plan finds direction from the Public Participation Programme Strategy. In conclusion, this paper recommends that the Legislature should keep abreast of the technological developments such as the use of SMS's, Mixit, Facebook and Twitter, among others, to engage a broader citizenry, thereby maximising transparency and public trust.

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