



## Public Participation In Local Government

*"The biggest problem is the lack of information and knowledge by the Community. They don't know who is responsible for what service delivery, like housing, clinics, ambulance and transport of school children etc. The Municipality is not responsible for these services but the responsibility of National and Provincial Government. The buck is just then passed to the Municipality."*<sup>1</sup>

### 1. Introduction

On 17 October, the Catholic Parliamentary Liaison Office hosted a roundtable discussion entitled 'Public Participation in Local Government' with guest speakers Mr Sonwabo Gqegqe (SA Local Government Association), Ms Nontando Ngamlana (AFESIS Corplan), and Ms Roegchanda Pascoe (Manenberg Safety Forum). The discussion focused on the different ways in which citizens can participate in the way their communities are run, and especially on the gap between formal (or 'invited') participation and informal (or 'invented') participation.

The preamble of the Constitution lays down the foundation for a democratic and open society in which government is based on the will of the people and every citizen is equally protected by law, or in other words, the 'social contract'.<sup>1</sup> Governance is divided into three spheres: national government, provincial government, and local government. In South Africa, there are 278 municipalities that provide the link between services from government to citizens. There are eight metropolitan, 44 district, and 226 local municipalities. Metropolitans combine the residential and industrial areas of major cities such as Johannesburg, Cape Town, eThekweni, Tshwane, Ekurhuleni, Buffalo City, Mangaung and Nelson Mandela Bay. However, despite this extensive and sophisticated arrangement of municipalities, and the huge amount of money and resources that are poured into them, it is not always clear to citizens and residents how they can access their local government and what levels of participation may be available to them.

In this paper, we will look at local government and its role in creating a space for citizen engagement and participation. The paper also explores the number of ways in which citizens can engage with local government and what structures exist so that residents can fully participate in local affairs. Such structures constitute 'invited' spaces for participation. The paper will further look at some of the reasons why there are so many civil protests, and why some communities appear to reject the 'invited' spaces and instead carve out their own 'invented' spaces for participation. Finally, we will consider the potential for a middle ground between 'invited' and 'invented' spaces.

### 2. What is meant by Public Participation?

Public participation is a process by which Parliament, the Provincial Legislatures and Municipalities consult with the people, especially interested or affected individuals, organisations and government entities, before making decisions. However, public participation in actuality is a two-way street that should comprise of effective communication and a collaborative problem-solving mechanism, with the goal of achieving better and more acceptable decisions from both government and the people. Public participation can also be referred to as 'public involvement', 'community involvement' or 'stakeholder involvement'.<sup>2</sup> This is evident in the constitutional framework of our Municipal Structures Act and Municipal Systems Act.

### **2.1. The Constitutional Framework**

According to SALGA's Mr Gqegqe, the White Paper on Local Government sets the guidelines for municipalities' interactions with citizens.

Municipalities invite citizens to actively participate at four levels; as voters, citizens, consumers, and organised partners. It is intended that this will ensure accountability on the part of the elected political leadership for the policies they are empowered to promote. These policies should reflect community preferences and should result in value-for-money, affordable services and courteous and responsive service. Additionally, the Constitution provides that municipalities need to develop mechanisms to interact with the community in order to identify service needs, priorities and resources for development.<sup>3</sup> This is evident in Chapter 4 of the Municipal Systems Act, which stipulates that community participation should include:

- The development of a culture of participation.
- Mechanisms, processes and procedure for participation.
- Communication of information concerning participation.
- Public notifications of municipal council meetings.
- The admission of the public to council meetings.<sup>4</sup>

### **2.2. The Legislative Framework**

Section 19 of the Municipal Structures Act, 1998, provides that even though municipalities encourage citizens to actively participate, it remains the job of the municipality to ensure the community's involvement. This along with Section 4 of the Municipal Systems Act, sets out the duties of a municipality. Firstly, it must encourage the involvement of the local community and consult the local community about the level, quality, range and impact of municipal services. Secondly, the municipality must provide the community with information about the available options for basic service delivery. In addition Section 6 of the Systems Act addresses the duties of the municipal administration. These should be achieved by:

- Establishing clear relationships, and facilitating co-operation and communication, between the municipal administration and the local community.
- Providing members of the local community with full and accurate information about the level and standard of municipal services they are entitled to receive.
- Informing the local community about how the municipality is managed, the costs involved and the persons in charge<sup>5</sup>.

But while the Constitution clearly stipulates the roles and functions of municipalities, the opposite is often true when it comes to implementation, as municipal managers, local councillors, and other representatives are often not readily accessible to the communities they are supposed to serve.

### **3. Inclusive governance**

Inclusive governance calls for all people of the community to claim their rightful place in local governance. Therefore "municipalities are required by law to establish ward committees as a way of encouraging community participation in municipal matters."<sup>6</sup> In local government, every ward committee consists of up to ten persons. Each ward committee must accurately reflect the ward's registered community-based organisations in all relevant sectors. These include ratepayers associations, civic organisations, faith-based organisations, safety and security groups, environmental groups, education organisations, youth organisations, arts and culture groups, sports bodies, the business community, and designated vulnerable groups such as pensioners, women and children, and the disabled. The ward councillor is the chairperson of the ward committee. The allocated proportional representation councillor is a non-voting member. Committee members must regularly consult their sectors and advise the ward councillor on needs and priorities, including the budget, and make recommendations to the sub-council or other committees of council. Although ward committees have no powers, they are the most direct link between communities and the structures of the council, "as they promote social cohesion between government and the citizens, particularly in the provision of quality and sustainable services."<sup>7</sup>

Some Councils, by virtue of the operation of Section 17 of the Municipal Systems Act and Section 72 of the Structures Act, have resolved to establish public participatory mechanisms, called ward forums, in all of the wards. These council further resolved that the nature and type of ward forums must be determined by sub-councils, and as such ward forums exist as a public participatory mechanism at sub-council level. As public participatory mechanisms, ward forums serve as channels for information into and out of the communities. Ward forums also make recommendations to relevant ward councillors or sub-councils and serve as tools to measure service delivery in their respective wards.

But although these formal structures for participation exist, there is an increasing gap between them – the invited spaces – and the informal, or invented, spaces that communities have created for themselves.

### **3.1 Invited space**

Invited space in local government is the formal legislative space created by the Constitution, providing citizens with the right to public participation. Residents have the right and duty to participate in local government decision-making and, based on this right, citizens are invited to participate in local government through sub-councils, ward forums, petitions, public meetings, written submissions and online forms to influence the way in which the council functions and to make sure that local government policies, by-laws and projects are relevant to their needs. According to Ms Ngamlana, for local government to be successful it should have strong leadership, effective government, and active citizenry. If local government legislation is successfully implemented, invited spaces could be used to share experiences, formulate demands, demonstrate resistance and challenge power-holders, as well as to develop strategies to engage power-holders in other spaces.<sup>8</sup>

### **3.2. Invented space**

Invented space is the informal, non-legislative space created by citizens to protest against local government inadequacies. A report by Good Governance Africa suggests that popular dissatisfaction with local government is growing, with citizens at grassroots level often expressing their discontent about the absence of accountability. Other challenges in local government include the lack of knowledge at a grassroots level on how to access ward councillors

or representatives; how to participate in local government; and the inaccessibility of local government officials and structures. As a result, the level of violent protest has increased. “In 2014, 80% of protest involved violence from either the participants or the authorities.”<sup>9</sup> These protests were the end result of people’s dissatisfaction with municipal services, with the lack of skills and capacity in many municipalities, and with ward councillors who follow a party line instead of responding to the will of the people.<sup>10</sup>

Ms Pascoe reiterated the abovementioned sentiment by stating that people just do not participate in local government, despite it being their democratic right to do so. She further stated that an important reason for the growing despondency is that the delivery of local government services happens readily in city centres, but not places like Kreefgat, Manenberg, and Khayelitsha. While local government legislation clearly stipulates that municipalities are obliged to encourage and create conditions for communities to participate, according to Ms Pascoe, local government officials often only offer a top-down approach in such matters, rather than encouraging participation at a grassroots level.<sup>11</sup>

## **4. Do We Need a Middle Ground?**

Ms Ngamlana suggested that, if invited spaces and invented spaces are no longer serving their intended purposes, we need to look at ‘networked spaces’ as a solution. Networked spaces are the middle ground between invited spaces and invented spaces, with the ability to provide a platform for shared and integrated planning, implementation and learning.<sup>12</sup> Moreover, Ms Ngamlana stated that civil society, including the churches and other civil society organisations, should occupy these networked spaces, so as to be a buffer between government and the people. Networked spaces can be thought of as combining the formality and procedural integrity of invited spaces with the informality and spontaneity of invented spaces.

## **5. Conclusion**

Local government legislation makes it clear that public participation in local government is a two-way street involving, and placing responsibility on, both local government officials and the people. While this is true, it remains the responsibility of local government structures and representatives to encourage communities to be actively involved

in public participation, as well as educate them on the how this is possible. However, when invited spaces are incapable of fulfilling their role and function, and invented spaces are reduced to violence, networked spaces could be a viable middle path that combines the best of both these approaches.

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<sup>1</sup>Rousseau, J.J. (1762). *The Social Contract Or Principles of Political Right*.

<sup>2</sup> South African Legislative Sector. (2013). *Public Participation Framework for South Africa's Legislative Sector*. Accessed on November 7, 2016, from: <http://www.sals.gov.za/docs/pubs/ppf.pdf>

<sup>3</sup> Mr Gqeqqe, S. (2016). *Deepening and Strengthening Local Governance Through Inclusive Government and Governance*. 'Public Participation in Local Government' CPLO roundtable discussion.

<sup>4</sup> Mr Gqeqqe, S. (2016).

<sup>5</sup> Mr Gqeqqe, S. (2016).

<sup>6</sup> Department of Cooperative Governance. (2016). Ward Committee Elections: Community participation in the municipal ward committee elections process. Cape Times, November 11, 2016, pp.4.

<sup>7</sup> Department of Cooperative Governance. (2016). Ward Committee Elections: Community participation in the municipal ward committee elections process. Cape Times, November 11, 2016, pp.4.

<sup>8</sup> Dr Naidu, R. (2011). Public Participation and Ward Committees. Accessed on November 11, 2016, from: <http://ddp.org.za/information-material/research-unit/research-themes/citizenship-participation/Public%20Participation%20and%20Ward%20committees.pdf/view?searchterm=za>

<sup>9</sup> Dr Tschudin, A. (2016). Local Government: where do we stand?. Good Governance Africa: Africa in Fact, issue 36, March/April 2016.

<sup>10</sup> Mnguni, L. (2016). Local Government: where do we stand?. Good Governance Africa: Africa in Fact, issue 36, March/April 2016.

<sup>11</sup> Ms Pascoe, R. (2016). Response from the Manenburg Community Forum leader on public participation in local government. 'Public Participation in Local Government' CPLO roundtable discussion.

<sup>12</sup> Ms Ngamlana, N. (2016). Mechanisms for Citizen Participation: Lessons Learnt. 'Public Participation in Local Government' CPLO roundtable discussion.