



The Efficacy of Community Participation Towards Land Use Planning in South African Local Municipalities

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ABSTRACT

The aim of the paper to examine the efficacy of community participation in land use planning and logically conceptualize it. Participation in the society is understood to be the advantage of a group of citizens to engage in matters that express their eventual growth. As a policy to increase community participation at the community level, the current democratic government has implemented comprehensive municipal planning. For the municipality, land use planning has many significances, especially in resolving human settlement debacles, fostering citizen engagement to decide needs and goals, and addressing the historical spatial inequality brought on by apartheid spatial planning. The execution of land use planning, however, has faced several obstacles, including weak cooperation in areas under the jurisdiction of conventional authorities, unlawful land possession and political intervention, among others. The study argues that if land use planning in South Africa can be well integrated and coordinated the spatial justice can be reached and imbalances of the past can be redressed efficaciously. Nonetheless, the study concludes that communities are also upset with their extent of engagement. Despite the many municipalities general success in achieving citizen engagement, there is already an incomplete backlog in civic interaction owing to unethical activities, budget constraints, lack of capacity and improper targeting.

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1. Introduction

The focal attribute of participation by the community is that land use planning action is instigated, controlled, and directed at the local community level (Masum, 2018). There are various meanings for community participation in local planning (Jankowski, Czepkiewicz, Młodkowski, Zwoliński and Wójcicki, 2019). There are individuals who are influenced by planning results ought to be straightforwardly remembered for the decision making (Jankowski *et al*, 2019). There is a proceeding with banter, and lacking exact proof, on the adequacy of community participation in land use planning practice (Pacione, 2019). Effective land-use planning tries to zone the scene for various land-use while obliging individuals' inclinations through community participation (Karimi and Adams, 2019). Community participation in the land use planning procedure can give advantages to the community and government (Zaim and Buchori, 2019). Land-use planning, and decision ought to be supported by tenable logical research and

attending commitment with every single applicable member through community participation (Cockburn, Rouget, Slotow, Roberts, Boon, Douwes, O'Donoghue, Downs, Mukherjee, Musakwa, and Mutanga, 2016). With the expanding inclusion of community individuals in land use choice in third world countries, policymakers need a superior comprehension of how land get to be impacted through land use planning (Broegaard, Vongvisouk, and Mertz, 2017).

The rule of community participation is a recognized prerequisite of planning in most Western nations (Pacione, 2019). According to the Spatial Planning and Land Use Management Act (2013), many people live and work in areas that are marked and influenced by spatial planning and land use laws and policies, depending on ethnic disequilibrium, isolation and non-practical settlement designs. Many municipalities from South Africa have whined that their culture has been refused the possibility of land use planning and that proposals are accepted by traditional leaders without

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interest (Leonard, 2019). All South African municipalities they are governed by the Spatial Planning and land use management act of 2013 and as such, it does not refer for the community to participate in decision-making processes. According to Section 10 and subsection 3 to 4 of the Polokwane Municipal Planning by law (2017), “the municipality may for purposes of public engagement on the draft municipal spatial development framework arrange; (a) a consultative session with traditional councils and traditional communities; (b) a specific consultation with professional bodies, ward communities or other groups and (c) a public meeting”. The latter clearly shows that community participation in Polokwane land use planning is limited and not obligatory.

2. Discussion and conclusion

2.1. Definition of Concepts

Community Participation is “a political principle and practice that seeks and facilitates the involvement of community members potentially affected by, or interested in, a decision” (Pacione, 2019:6). Community participation is defined as “the involvement of citizens in a wide range of administrative policy making activities including the determination of levels of service, budget priorities, and the acceptability of physical construction projects in order to orient government programmes toward community needs, build public support and encourage a sense of cohesiveness within society” (Fox and Meyer, 1995:20; Makalela, 2018:50).

Land Use Planning “is the systematic assessment of land and water potential, alternatives for land use and economic and social conditions in order to select and adopt best land use options” (Metternicht, 2017:5). “Is a process, involving negotiations among stakeholders, leading to land use allocation decisions and implementation to ensure that not only the present generation benefit but also the unborn generation” (Adjei-Poku, 2018:46).

2.2. Conceptual Framework of Community Participation and Land Use Planning In South Africa

Participation in the community areas is in a passive manner on issues relating to land use planning. It is an incontestable reality that no developmental local government can adequately decide to improve the standard of living of its local people without their active participation. South Africa is a distinctive, substantial and representative, democratic state whereby the capacity of the elected representative’s decision-making power is subject to the constitutional laws that emphasis the fortification of the rights and freedoms of individuals (Mukwevho and Nkuna, 2018). In a democratic dispensation such as that of South Africa, the participation of communities and public participation in general plays an essential role in confirming that the directive of the developmental local

government is satisfied (Maimela and Mathebula, 2015). Further lamented that, permitting the community to actively participate in decision making and the integrated development planning (IDP) process of a municipality will in turn converse benefits to the municipality concerned (Maimela and Mathebula, 2015).

- Contextualising and Conceptualising Community Participation

Sebola, (2017) declares that community participation is one of the keystones of democracy in developmental local government which if well valued might placate the needs of the mainstream of the citizens and provides them with pride as donors to espoused policy decisions. Mathebula (2015) have argued that public participation is being employed inaccurately interchangeably with community participation. In South Africa however the view is still traditional, and participation is viewed as a key element of democracy based on premeditated approach (Sebola, 2017:28) hence the *Constitution of the Republic of South Africa*, 1996 Section 118 read thus; “(1) A provincial government must; (a) facilitate public involvement in the legislative and other processes of the legislature and its committee; and (b) conduct its business in an open manner, and hold its sittings and those of its committees, in public, but reasonable measures may be taken (i) to regulate public access, including access of the media to legislature and its committees; and (ii) to provide for the searching of any person and, where appropriate, the refusal of entry to, or the removal of any person (2) A provincial legislature may not exclude the public, including the media, from a sitting of a committee unless it is reasonable and justifiable to do so in an open and democratic society.”

Patel, (2016) asserts, however, that for dejected people socio-economic rights are inseparable from civil and political rights, which means that to achieve inclusive nationality poor people must participate in poverty alleviation approaches and policymaking. Sebola, (2016) further posited that in South Africa, the concept public participation is used interchangeably with community participation. South Africa does, though, have legislation in place that endorses community participation Sebola, (2016). Integrated Development Plan (IDP) of a municipality is a substantial tool to accomplish community participation. The Municipal Systems Act (Act 32 of 2000) requires municipalities to establish mechanisms, processes, and procedures to enable local communities to participate in local governance affairs. It further It states in section 42(2) that “a municipal council, within the municipality financial and administrative capacity and having regard to practical considerations have the duty to, amongst other things, encourage the involvement of local community and consult the local community.”

The Municipal Systems Act (Act 32 of 2000) “requires municipalities to establish mechanisms, processes, and procedures to enable local communities to participate in local governance affairs” (ASALGP, 2012:2; Sebola, 2016:57). The Constitution of 1996 states that “people’s needs must be responded to, and the public must be encouraged to participate in policy-

making. Institutions, both public and private, which are in partnerships with the government, are constitutionally bound to practice public participation in policy-making and implementation” (South Africa, 1996). According to Sebola (2016), this indicates that decisions taken by government, a public entity or the private sector without public consultation are unconstitutional and can be declared null and void. Community participation in municipal affairs should, therefore, be stimulated in properly functioning democratic dispensations, whereby the people ought to govern their own developmental needs and participate in meeting those needs (Mashiachidi and Moeti, 2016).

Public participation is an inclusive process that goes beyond mere representation (Manthwa and Ntsoane, 2018). Community members must not be regarded as passive participants, but as active agents of change and development (Mashiachidi and Moeti, 2016). Public participation permits community members to have control over the public affairs of their community and allows them to resolve any quarrels and wars that may ascend in their community (Manthwa and Ntsoane, 2018). Currently, public participation is reinvigorated and steered through forums like the Presidential Public Participation Programme (Izimbizo/Imbizo), Ward Committee Council and IDP processes (Manthwa and Ntsoane, 2018:111). The IDP in local government provides a forum to exchange proposals with the public who are influenced by such projects as are planned in the plan (Maimela and Mathebula, 2015). Manthwa and Ntsoane, (2018), argues that community participation should be evidently demonstrated through improving consultation, collaboration, involvement and cooperation between the government and the community concerned. Mofolo, (2016), posits that Community participation in municipalities ought to possess deliberative qualities. In general, community participation is seen as an open, accountable process where individuals and groups within selected communities can share opinions and impact decision making (Sinxadi and Campbell, 2015).

2.3. The Importance of Land Use Planning in South Africa

Apartheid left South Africa’s land use management and development regulatory system as disjointed and incoherent as the spatial landscape it created (Nel, 2016). With the advent of democracy in 1994, a plethora of new legislation were enacted by the new democratic parliament to redress the Apartheid laws and create new freedoms (Nel, 2016). In the 20 years since the arrival of a democratic government in South Africa, planned expenditure on infrastructure projects by municipalities has been used in part to redress inequalities and socioeconomic caricatures created by apartheid (Musvoto, Lincoln & Hansmann, 2016). Spatial planning is an important public policy tool for creating a long-term, sustainable framework for territorial and socio-economic development within a country (Mashiri, Njenga, Njenga, Chakwizira, Friedrich, 2017). When the African National Congress (ANC) came into power in 1994; their objective was to redress the spatial

imbalance of pre-1994 in terms of the provision of basic and services which was to create an inclusive land use planning (Bikam, 2016). Among the land use control operations are the land subdivision or consolidation or the formal transfer of land use rights (Dubazane, and Nel, 2016).

“It is essential to ensure sustainable development, health and safety of residents and infrastructure provision, as well as participation in land development processes (Healey, 2006; Pelling and Wisner, 2009; Todes, Karam, Klug and Malaza, 2010; Van Wyk and Oranje, 2014; Dubazane, and Nel, 2016:223). According to Van Wyk (2015:27),”the following components can be employed to use the importance of land use planning in South Africa which is to, (1) redressing past spatial imbalances and exclusions; (2) including people and areas previously excluded, and (3) upgrading informal areas and settlements”. Spatial planning and its alignment with transport planning and environmental sustainability represent the subject of sustainable planning and development (Schoeman, 2015).

The South African government propagated the Spatial Planning and Land Use Management Act No. 16 (SPLUMA) in 2013 to advance spatial resilience and ensure sustainable livelihoods in communities against the effects of environmental shocks and climate change (Busayo, Kalumba, and Orimoloye, 2019). Moreover, spatial planning has been found to be central to improving climate change adaptation and resilience especially in city environments (Busayo *et al*, 2019). Spatial planning has evolved from the master planning tradition into strategic forms in order to accommodate rapid urban change and anticipate environmental pressures (Odendaal, and McCann, 2016). It emphasizes redress, social justice, equity and inclusion, community participation and transparent decision-making, and awareness of the role of property, housing, and environmental management in creating functional, efficient, and humane settlements (Van Wyk and Oranje, 2014; Nel, 2016). Mandates comprehensive spatial development frameworks as the foundation for the land use scheme (Nel, 2016). Land use management systems are accommodated to ensure sustainable livelihoods in communities most likely to suffer the impacts of economic and environmental shocks (Barnes and Nel, 2017).

2.4. Legal Frameworks Pertaining to Land Use Planning in South Africa

- The Municipal Systems Act, Act No 32 of 2000
“Section 152 of the South African Constitution of 1996 identified that the most important aspects of post-Apartheid legislation were to establish decentralised Local Governments; therefore, introducing a shift in the role and authority of the Local Government system (Constitution of South Africa, 1996:76)”. “The Local Government functions as a robust system, ensuring democratic and responsible Government for local communities, guaranteeing the provision of services to communities in a sustainable manner, promoting social and economic development, encouraging a safe and

healthy living environment and supporting the involvement of communities and public participation in matters of Local Government (Retief and Cilliers, 2015:563-586)". "In following the Local Government Transition Act (LGTA) and its Amendment Act, Act 61 of 1995, the Municipal Systems Act (MSA), Act 32 of 2000, had at its core the empowerment of Local Government in order to attain its legal mandate, its constitutional goals, increasing its responsibilities and authority; especially in rural areas". "The Act was introduced to complement the Local Government: Municipal Demarcation Act, Act 27 of 1998, by facilitating key municipal organisational, planning participatory and service delivery systems" (Pycroft, 2000:143-145; Nyalunga, 2006:15-20; Niekerk, 2019)".

The implementation of the Integrated Development Plans (IDPs) was a crucial instrument in the Act to ensure that spatial development from divided settlements into community buildings with egalitarian residents was changed, integrated urban land use is ensured and urban land use is simplified and racially integrated communities are allowed. The Legislation mandated any municipality, which was now demarcated within the framework of the city government: a Municipal Demarcation Act, to implement a Single Strategic Plan (IDP) to improve the area of its competence. It replaced Apartheid discriminatory planning strategies with integrated growth and coordinates all the local economic development strategies that are fully coordinated with national development priorities and targets (Simphiwe, 2014: 8; Niekerk, 2019). The Act supports the local government through the application of MSDFs to support sustainable planning processes through a spatial vision, development targets and business objectives.

- Spatial Land Use Management Act (SPLUMA) Act 16 of 2013.

This act seeks to provide an overarching framework for spatial planning, policy and land use management for the entire country. Its provisions include spatial planning principles and the concept of an inclusive spatial planning system. "The previous dispensation in South Africa (pre-1994) had an extraordinarily complex legal framework relating to the different segregated areas" (Christopher, 1994:42). In several cases, apartheid law is necessary to reconcile segregation with strict land rights and, in particular, ownership criteria. The challenges arising from this dispensation accompanied an ongoing overhaul of former law on urban planning marked by a heavy focus on integrated growth. Apartheid law was nuanced and decentralized and contained a minimal transition process planning framework.

The challenges of the legislation on apartheid have led to a broad legislative overhaul of the current legislation on spatial planning and the need for an integrated development. "The SPLUMA principles, norms and standards deemed indispensable for the attainment of integrated development" (Joscelyne, 2015:43). "Section 3 of the Act provides key objectives for the development of an effective, uniform, and comprehensive system, promoting social and economic

inclusion" (Laubscher et al., 2016:48). This portion maintains that the land is used effectively and efficiently for rectifying past apartheid imbalances. Sections 6 and 7 of the SPLUMA offered basic policy standards for all bodies of state and other agencies, for applying the associated planning laws, for the implementation of space planning, land usage and land development to all Nations (SPLUMA, 2013:16-18). In comparison, "section 8 of the Act identified principles permitting effect to the development of national norms and standards, implicating planning activity procedures, land use management and land development" (SPLUMA, 2013:20).

"Section 6 of the Act states the primary approach for integrated spatial development is a tiered system, developing a national plan that effects the development of provincial plans, trickling down to district plans and local development plans (SPLUMA, 2013:16). The tiered system is defined as vertical integration, supporting the revised spatial legislation for frameworks to be constant at different spheres of Government. These frameworks must be strengthened by a set of development principles, norms and standards that supports a consistent approach across all spheres of Government. The Act, consequently, ensures the SDFs consistent coordination and cohesive participation throughout the different spheres of Government (Fuo, 2014:354)."

The legislation has modified radically the scope and degree by which SDFs are defined and involves the creation of the instrument by state, regional and local authorities. "The Act provides essential guidance relating to content requirements of SDFs to ensure the development of compliant SDFs; especially section 21, identifying that MSDFs should contain more detail than national, provincial and regional SDFs, for example, to include provisions for population growth and housing demands" (Padarath, 2015:36). The Act, it seems, could contribute to a better integrated planning method, to deepen the connection between urban planning, land use management and land development management, as demonstrated by the standardization of all facets of land use planning. "The process of revoking the overabundance of segregation-based legislation of the previous dispensation and standardising the spatial planning process has hence taken motion as a consequence of the promulgation of the Act" (Laubscher et al., 2016:6).

2.5. Efficacy of Community Participation In Land Use Planning

The democratic dispensation in South Africa did not suggest that, the country has achieved almost everything. Consequently, just because, South Africa has a solitary national bit of enactment, the Spatial Planning and Land Use Management Act, 2013, that makes an overall structure for spatial planning, strategy and land use management for the whole country, including provincial and local settlements (Nel, 2016). Not at all like politically sanctioned racial segregation period enactment, SPLUMA is unequivocally regulating as it underscores change, social equity, value and

consideration, community participation and straightforward decision making (Nel, 2016). Numerous municipalities in South are too huge to even think about allowing for dynamic and direct community participation of the considerable number of occupants in an unpredictable planning form (Makalela, 2018). As per the National Planning Commission (2012), the planning framework ought to support appropriately financed, resident drove community vision planning forms.

In South Africa, the role of citizen involvement in land use planning in a law-based democracy cannot be undermined (Maimela and Mathebula, 2015). It has been obvious or rather it is realized that people in general is just occupied with the later stages during community hearings and conversations of advancements or spatial planning currently, plans have just been set up (Mahlare and Ogra, 2016). As indicated by Mahlare and Ogra, (2016) community participation in this way frames an essential piece of Spatial Planning as it is a division which land use planning falls under in South Africa. According by Nsele (2016) community interests in land use arranging are in a latent way in South Africa. For example the Polokwane municipal land use planning make provisions for community participation through section 10 and subsection 3 to 4 of the Polokwane Municipal Planning by law (2017), it stipulates that “the municipality may for purposes of public engagement on the draft municipal spatial development framework arrange; (a) a consultative session with traditional councils and traditional communities; (b) a specific consultation with professional bodies, ward communities or other groups and (c) a public meeting”.

The logic for public participation usually calls the public to participate in formulating development plans at the formative stage, rather than after politicians and officials have made their particular choices (Mzimakwe, 2010:504; Mofolo, 2016). When the public is involved as originators of policies, the relevance of policies in the eyes of society could be heightened (Molepo, Maleka & Khalo, 2015:349). It can be argued that it is critical that citizens are engaged from the planning to the implementation and evaluation phases of government activities or projects (Mofolo, 2016). Community participation processes in preparing the plan and deciding on land use requests must be inclusive and transparent (Nel, 2016:263). The inclusion of community members in decision-making processes and the implementation and evaluation of land use planning issues have far-reaching benefits (Bakre and Dorasamy, 2018). To facilitate collaboration between local governance structures and community members, the South African government has enacted legislation such as the Constitution (Republic of South Africa 1996), the Municipal Structures Act 117 of 1998, the Municipal Systems Act 32 of 2000, as well as the White Paper on Local Government (cited by Vivier and Wentzel 2013, 239; Bakre and Dorasamy, 2018:3). The planning process needs to improve dramatically, because the communities’ interests are involved in the affairs of the local municipalities, and that remains a thorny issue (Thebe, 2016).

2.6. Efficacy of Community Participation In Land Use Planning

Land use planning is a central component of the South African Integrated Development Planning (IDP). In this chapter, the transformation imperatives of democracy were used to provide a detailed background the quest of addressing spatial injustices of the past. In the South African context community participation were explained considering the legislative imperatives that promotes public participation. In compliance with the *Constitution of the Republic of South Africa, 1996* Section 118 read thus; “(1) A provincial government must; (a) facilitate public involvement in the legislative and other processes of the legislature and its committee; and (b) conduct its business in an open manner, and hold its sittings and those of its committees, in public, but reasonable measures may be taken (i) to regulate public access, including access of the media to legislature and its committees; and (ii) to provide for the searching of any person and, where appropriate, the refusal of entry to, or the removal of any person (2) A provincial legislature may not exclude the public, including the media, from a sitting of a committee unless it is reasonable and justifiable to do so in an open and democratic society”.

The importance of land use planning was provided before discussing the efficacy of community participation towards land use planning. Through debunking the legislative framework pertaining to the governance of land use planning it was clearly shown that the LUP is placed under IDP. IDP documents gives rise the land use planning as it even open for the inclusiveness of the community concerned. Major legislative framework that locates and originate land use planning are the Municipal systems Act, no 32 of 2000, Spatial Land Use Management Act (SPLUMA). If land use planning in South Africa can be well integrated and coordinated the spatial justice can be reached and imbalances of the past can be redressed efficaciously. It is of a preponderant view that participation in South Africa more particularly in matters of local government is passive as opposed to active participation of the public or community. The use of community participation in the South African developmental local government sphere is erroneously employed interchangeably with public participation.

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