

Public Participation in South Africa: Is Intervention by the Courts the Answer?

Betty C. Mubangizi¹ and Maurice Oscar Dassah²

*School of Management, Information Technology and Governance University of
KwaZulu-Natal, Durban 4041, South Africa*

E-mail: ¹<mubangizib@ukzn.ac.za>, ²<dassah@ukzn.ac.za>

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ABSTRACT This paper examines the implications on public participation of the Supreme Court's ruling against eThekweni Municipality for not following procedures in renaming streets in South Africa, reviews other similar cases, and highlights the need to adhere to legislative and policy provisions in nurturing public participation relating to decisions affecting the citizens. A brief historical background on participation is provided, and Arnstein's pioneering analysis of levels of participation, is drawn into the discussion. Public participation is discussed by referring to relevant legislation and policies, whilst reflecting on participation processes, opportunities and challenges. The problem investigated is the increasing involvement of the courts in enforcing correct public participation procedures, which are well known. The methodology is based on a reflection on two the Matatiele and Merafong demarcation cases that the courts upheld. While the salience of legislation and the courts in cultivating a public participation ethos seems relevant, it is concluded that the courts need not enforce public participation – because such enforcement denigrates the notion of communal and collaborative effort in decision-making. It is recommended that community participation practices be cultivated through concerted promotion of democratic processes which are commensurate with existing policy and legislation – rather than resorting to the courts.