

DOI: <https://doi.org/10.5281/zenodo.6824292>

EVALUATING THE PUBLIC PARTICIPATION AND CONSULTATION PRIOR TO DEMARCATION AND AMALGAMATION OF MUNICIPALITIES

L Gwebelele, B Makiwane, S Balkaran & Y Lukman
Walter Sisulu University, SOUTH AFRICA

ABSTRACT

After the fall of apartheid, the new democratic government came into existence with three spheres of government. The Constitution of the Republic of South Africa (1996) prescribes that municipalities must be established throughout the Republic. The objectives of local government are provided in the Constitution and municipalities must strive to achieve those objectives. In 1998 the government drafted a White Paper on Local Government, which clarified a term 'Developmental Local Government. As described in the White Paper, Developmental Local Government is a local government committed to working with locals and groups within the society to discover sustainable ways to meet their social, economic, and material needs and improve the quality of their lives. After twenty-one years of democracy in South Africa, the municipalities have encountered problems in delivering services in South Africa. These problems are manifested by past protests of service delivery, where some protests were peaceful, and others were violent. The fact is that the locals are not satisfied by performance of municipalities in this country. It is against this backdrop of service delivery protests that this paper reveals that the local government is still in the process of achieving developmental local government. However, people have waited long than they have anticipated. Local government has functions to perform and powers to exercise in terms of the Constitution and legislation. However, these functions and powers are not absolute, the senior governments have been empowered by the Constitution to see to the effective performance by municipalities of their functions. All provinces have suffered service delivery protests and most of the service delivery protests were violent in nature. Therefore, this paper analyses the level of public participation and consultation by governing in South Africa. It is clear from our Constitution that the local government must be developmental, and this is backed up by local government legislation. However, in the process of achieving developmental local government, municipalities are facing number of challenges which hinder them to be developmental. This paper analyses the main persisting challenges of achieving developmental local government in South Africa.

Keywords: Public Participation, Consultation, Demarcation, Matatiele Local Municipality.

1. INTRODUCTION/BACKGROUND

The Constitution of the Republic of South Africa (1996) mandates the set-up of developmental and democratic local sphere of government which consists of municipalities. However, the establishment of local government lasted for a long time, and it went through three stages, namely preparatory stage, a transitional stage in accordance with Local Government Transitional Act 201 of 1993 and final stage which was implemented in 2000 (Steytler, 2015). There are three categories of municipality in South Africa. The first category comprises of municipalities that have exclusive municipal executive and legislative authority in their areas (Section 155 (1) (a) of the Constitution, 1996). They are often called metropolitan municipalities and there are eight metropolitan municipalities in the country (Department of Government Communication & Information System, 2015). The second category composes of municipalities that share municipal executive and legislative authority in their areas with third category within whose areas they fall (Section 155 (1) (b) of the Constitution, 1996). These municipalities are called local municipalities and there are 226 local municipalities in the country (Department of Government Communication & Information System, 2015). The last category comprises of municipalities that have municipal executive and legislative authority in the areas that include more than one municipality (Section 155 (1) (b) of the Constitution, 1996). These municipalities are called district municipalities and there are 44 district municipalities in the country (Department of Government Communication & Information System, 2015). One of the contentious issues with regard to the Municipal Demarcation Board's (MDB) decisions regarding municipal boundaries demarcation and re-demarcation relates to poor public participation in these processes. Often, the municipal citizenry expects the Board to demarcate their area through a due procedure where they 'must' be part of the process. This is in line with citizen-driven development whereby people must be part of their own development initiatives (Mathebula, 2015). (Sebola, 2017) states that public participation and consultation should be viewed as a process whereby communities learn and participate on policy and developmental issues in their communities. Therefore, public participation refers to a process in which the community as a single component democratically and openly influences decision-making processes (Maimela & Mathebula, 2015; Mathebula, 2015).

It should be considered as a method for redressing historical inequities and injustices caused by the apartheid rule. This is in light of the apartheid regime's previous practices, which forced some sectors of the people to live in specified regions without their permission (Mathebula, 2015). As a result, there was no sense of belonging among the general people in such towns. If a developing South Africa is to be realized, public involvement in municipal procedures, including demarcation, must include input from the concerned municipal community (Mathebula, 2016). Past incidents of violence related to demarcation decisions have been, and continue to be, centered on local communities' lack of inclusion. This is despite the fact that legislation relevant to developing local government explicitly encourages public engagement in important decision-making processes. Section 195 of the Constitution of the Republic of South Africa (1996), for example, specifies that citizens' demands must be met, and individuals must be encouraged to participate in policy and decision-making processes. Community members affected by the MDB's rulings believe they have a right to participate in judicial proceedings along these lines. From the start of the border

adjustment process in South Africa, there was a lack of public engagement (Ramutsindela, 2007). Lack of community engagement has been the major source of conflicts in South Africa, according to the literature on cross-border delineation (Harrison et al., 2012). According to Mavungu (2011), the government must address the fundamental Constitutional Act No. 106 of 1996 governing community engagement and identify ways to rigorously maintain government-community interactions.

The issue of community participation has been studied in provincial and local governance (Boyce and Davids, 2009) as well as development and planning (Innes and Booher, 2010), and many attempts to evaluate integrated development plans have been made. However, there has been little focus on community participation, particularly in integrated development planning processes for municipal demarcation. Mavungu (2011) claims that the government failed to arrange meaningful public hearings despite its plans to interact with communities on policies that impact them. While this has resulted in a significant loss of confidence, this may be restored by simply using effective communication tactics. It may be required to assess consultation and communication approaches as components of effective governance. While border dissidents are driven by a desire to achieve a better socio-economic future in the province/municipality of their choice, Mavungu (2011) finds that their dispute with the government represents competing visions of regional planning, democracy, and public engagement. Whether such disputes can be avoided or better handled in the future is mainly dependent on resolving fundamental conceptual tensions. The goal of decentralisation is to promote efficiency and equality in the use of public resources by allowing the public to participate in local decision-making.

Problem statement

It is widely acknowledged that local government affords a platform for citizens to involve themselves in local decisions that affect their lives. Different authors have substantiated this perspective who assert that local government exists to promote local democracy, which is a political system based on representative government, citizen participation in the political process, basic freedoms of citizens and transparency of political processes in general (Netswera and Nealer, 2020).

The history of this view dates back to philosopher Jean Jacques Rousseau, who laid the foundation for theories on participatory democracy by insisting that the participation of each citizen in political decision-making is vital to the functioning of the state (Aldean, 2017). In Matatiele Municipality and Municipalities with similar demarcation issues, the President of the Republic of South Africa ordered for investigation as to whether the correct procedure was followed when the legislature sought to pass the Twelfth Constitutional Amendment that would in effect alter the provincial boundaries of KwaZulu-Natal and the Eastern Cape. Under previous regimes the majority of South Africans were excluded from public life in particular, they were denied the right to vote. In breaking from the old, sections 59(1)(a), 72(1)(a) and 118(1)(a)13 introduce a constitutional duty on National Assembly the National Council of Provinces and provincial legislatures respectively to facilitate public participation when executing their legislative processes. The Freedom Charter declared many years ago that “the People shall govern”.

Objectives

The main objective of this study was to:

- To assess the level of participation and consultation that took place during demarcation of Matatiele community.
- To assess the overall impact of the demarcation process on the Matatiele community.

Methodology

This study reviewed literature, legislation, reports, and policy documents and followed a critical and analytical approach. The research empirical based consisting of mainly primary and secondary sources. In terms of primary sources relied on the Constitution and local government legislation encompassing the legal framework that regulates powers and functions of local government. Secondary sources to be used are books, academic articles, policy documents, reports and newspapers which constitute the bulk of the sources used. It also places reliance on research and reports from various sources and gathered and collated by the author.

The researchers used both qualitative and quantitative approach because of its flexibility and effectiveness in nature where the researcher has various options to collect data. (Johnson et al., 2015) believe that a cases study is when one instance of a phenomenon is under investigation. Stratified random sampling was used in the study, and 75 respondents that participated in the study consists of Xhosas, white farmers, government officials and key informants, ordinary citizens both males and females who reside in the Municipality

Ethical Considerations

According to Brittain, Ibbett, de Lange, Dorward, Hoyte, Marino, and Lewis (2020), ethical consideration focuses on people's rights. It emphasizes respecting people's confidentiality and treating them with dignity. This study dealt with many respondents with different beliefs, and it was necessary to understand the ethical and legal responsibilities of conducting the research. Recker, (2021) averred that ethics is typically associated with morality and both deal with matters of right and wrong, and also conforming to the standards of conduct of a given profession or group. Primarily, ethical Clearance Certificate was obtained from the Walter Sisulu University Research Ethics Committee. Participants were assured of confidentiality and anonymity. The researcher thoroughly briefed the respondents on the purpose of the study, the intended use of the data obtained from them as well as the potential results of the study. The researcher conformed to the following ethics during the study viz. informed consent, voluntary participation, anonymity confidentiality and no harm to respondents.

LITERATURE REVIEW

The primary focus of part of the study is to investigate whether the people of Matatiele participated in the demarcation process. This study is informed by the Batho Pele principles, which were developed in 1997 by the Department of Public Service to serve as an acceptable policy and legislative framework. These principles are aligned to the constitutional ideals which emphasized on responding to people's needs where citizens are encouraged to participate in policy making.

The first principle is consultation which emphasized that people should be consulted if a decision affects them (Department of Public Service, 1997). One of the contentious issues with regard to the MDB's decisions regarding municipal boundaries demarcation and re-demarcation relates to poor public participation in these processes. Often, the municipal citizenry expects the Board to demarcate their area through a due procedure where they 'must' be part of the process. This is in line with citizen-driven development whereby people must be part of their own development initiatives (Mathebula, 2015). Sebola, (2017) states that public participation should be viewed as a process whereby communities learn and participate on policy and developmental issues in their communities. Therefore, public participation refers to a process in which the community as a single component democratically and openly influences decision-making processes (Maimela & Mathebula, 2015; Mathebula, 2015). It should be viewed as a mechanism aimed at addressing the imbalances and injustices of the past inflicted by the apartheid regime. This is in cognisance of the erstwhile policies of the apartheid dispensation where particular segments of the population were coerced to reside in certain areas without their consent (Mathebula, 2015). This in turn, meant that there was no sense of belonging for the public in those communities. Public participation in municipal processes including demarcation must be inclusive of the input from the concerned municipal community if a developmental South Africa is to be realised (Mathebula, 2015). The past occurrences of violence relating to demarcation decisions were and continue to be centred on lack of inclusivity of the municipal communities.

This study was informed by the Batho Pele principles which were developed in 1997 by the Department of Public Service and Administration (DPSA) and which were developed to serve as an acceptable policy and legislative framework. These principles were aligned with constitutional ideals, like responding to people's needs, the citizens are encouraged to participate in policy-making. The first principle is consultation, which emphasized that people should be consulted in all the decisions that affects them (Department of Public Service, 1997). Public participation in municipal processes including demarcation must be inclusive of the input from the concerned municipal community. In addition, 70% majority of the participants in the study complained about the quality of consultation, they stated that they never participated in incorporation, one of the participants had these to say: "It wasn't consultation, it was just an announcement that Matatiele is taken to Eastern Cape Province" and the other one added that: "We were just summoned in the community hall and ANC just informed us that we are being incorporated under Alfred Ndzo in Eastern Cape and even if we were to say no, it was clear that, Matatiele was going to be incorporated anyway", others emphasized that: they heard it from the streets, taxi ranks, and on radio stations and televisions otherwise they never participated in the process. To buttress these findings, 30% of participants claimed that there was proper consultation and Matatiele community participated in the demarcation process. One of the 30% participants opined that: "There was consultation but as per as how effective it was, I would not know but what I am sure of is that there was consultation process" others said they were called by ANC in the community halls to be informed that Matatiele will be incorporated to Eastern Cape Province".

Local democratic participatory perspective

It is widely accepted that local government provides a platform for citizens to involve themselves in local decisions that affect their lives. This viewpoint has been corroborated by different authors who assert that local government exists to promote local democracy, which is a political system based on representative government, citizen participation in the political process, basic freedoms of citizens and transparency of political processes in general (Eremenko 2014: Internet; Finn 2008:13–14; Pillay, Reddy & Sayeed 2015:46–48). The history of this view dates back to philosopher Jean Jacques Rousseau, who laid the foundation for theories on participatory democracy by insisting that the participation of each citizen in political decision-making is vital to the functioning of the state (Michels & De Graaf 2010).

Public participation for municipal service delivery

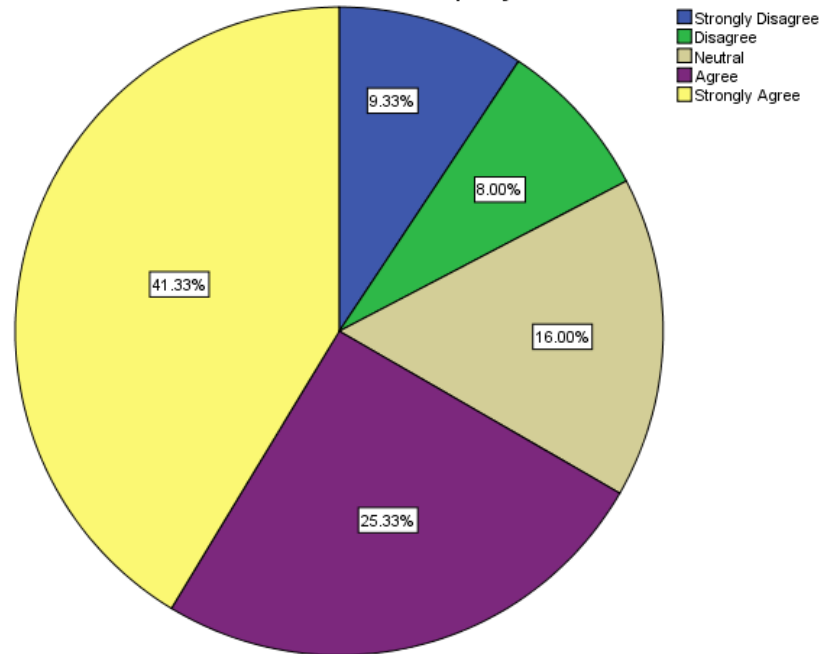
Public participation, in its most noble form in terms of democracy, is a proactive means to governance assuming that the process is not entirely predefined in the interest of a particular but rather a holistic learning process. The challenge of public participation in governance is that communities must be knowledgeable of political and public processes. If not, the political elite must foster a culture of participation in governance with the understanding that direct and indirect benefits can be derived for improved and expansive service delivery. Public participation in essence is a political process that essentially should not be underpinned by party political rhetoric. Rather, the aim should be to establish communication links among, inter alia, ward committees, public officials and communities that allow for relationship building to facilitate insight into the need for development as well as the monitoring and evaluation of projects (Sibanda, 2011). According to (Breakfast et al., 2015), public participation is the creation of opportunities and avenues for communities to express their views and opinions in matters of governance either directly or indirectly. Communities must be engaged from the planning to the implementation and evaluation phases of a particular activity or project, to ensure the transfer of skills, knowledge, ownership of the process to local people.

This article adopts the view that public participation is the process of engaging local communities in the democratic process of consultation in municipal matters. This process requires communities to demonstrate their engagement for service delivery by exercising their votes in local elections. Communities should then be able to influence the determination of the type and level of service delivery they receive from municipalities.

FINDINGS

Citizens not consulted before incorporation of Matatiele to ANM

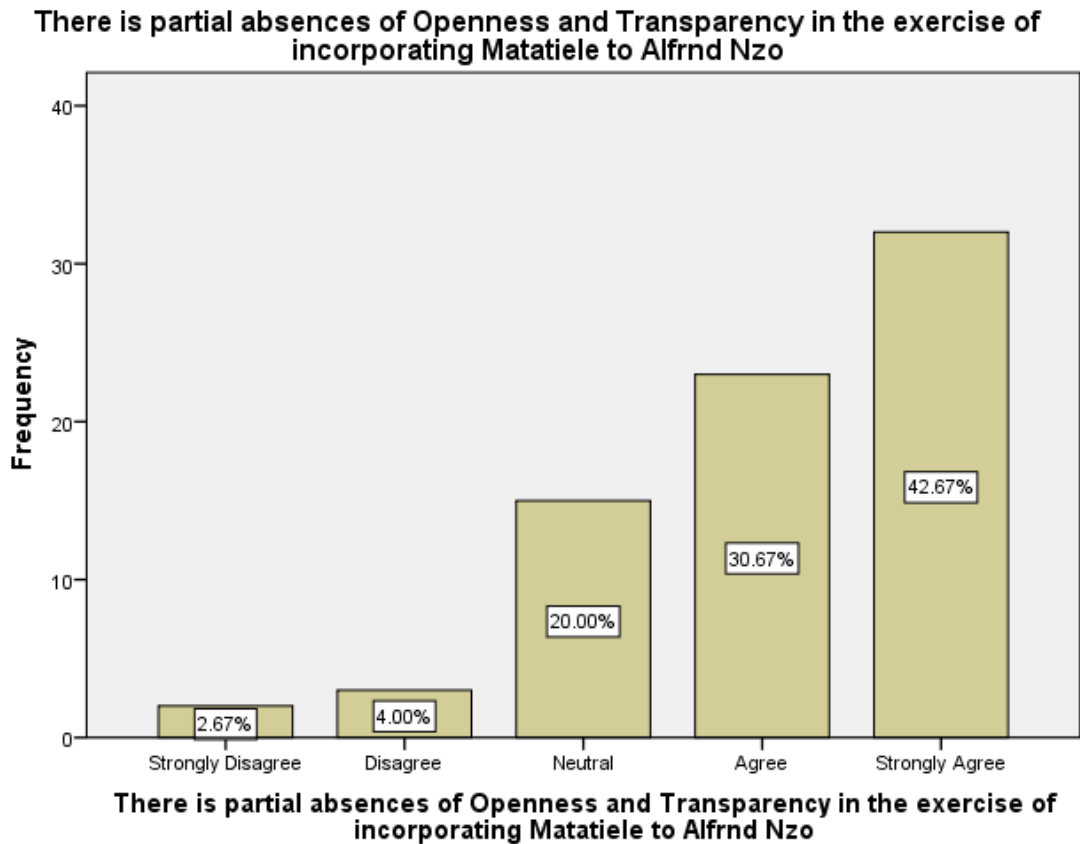
Citizens were not consulted before the incorporation of matatiele to Alfred Nzo municipality



Figures above shows that 32(41%) strongly agree that Matatiele citizens were not consulted before incorporation to Eastern Cape, 19 (25%) agree that they were not consulted, 12 (16%) are neutral, 7 (9%) strongly disagree that citizens were not consulted, they believe there was a proper consultation and 6 (8%) disagree that there was no consultation before incorporation to Eastern Cape.

Partial absence of openness and Transparency in ANZ

Table below shows that 32(43,7) participants strongly agree that there was no openness and transparency in the incorporating Matatiele from Eastern Cape to KZN, 23(30.7%) agree, 15(20%) are neutral, 3(4%) disagree and 2(2.7%) strongly disagree.



The finding above was supported by the by a response from participant who claimed that “there was proper consultation and Matatiele community participated in the demarcation process. one of the 30% participants opined that: “There was consultation but as per as how effective it was, I would not know but what I am sure of is that there was consultation process” others said they were called by ANC in the community halls to be informed that “Matatiele will be incorporated to Eastern Cape Province”

The overall impact of the demarcation process on the Matatiele community

The findings indicate that ANC as the governing party together with Municipal Demarcation Board decided to incorporate Matatiele without fully considering the impact of re-demarcating Matatiele, they should have focused on main potential 93 consequences: economic efficiency, managerial effectiveness, and democratic outcomes. Before Matatiele Local Municipality was incorporated into the Alfred Nzo District Municipality, it had a population of approximately 597 211 people but after the demarcation, the population rose by 11% to 663 271 in 2007/08 (MDB, 2013). This meant the geographical area of the municipality also increased from 956 km² to 4352 km². This move saw the establishment of 24 more wards (MDB, 2013), leading to additional costs for the municipality. The Matatiele Local Municipality included the towns of Matatiele, Cedarville and the magisterial district of Maluti which formerly fell under the Umzimvubu area. This has undergone a few amendments to the provincial and ward demarcation which had a profound impact

in the planning of the town. THE FOLLOWING EXCERPS SUPPORT THIS CLAIM: “The incorporation of Matatiele resulted in a politically disenchanted people resulting in unrest within the once united community. The outcome was expressed through vandalism of road signs and the re-writing KwaZulu Natal names on the street signs. One complaint against the Matatiele incorporation was that the legislation which enabled it, was politically motivated eventuating in the matter being raised in court. The opposition to the incorporation was widely supported by other communities.” It can be determined that most participants blamed poor infrastructure service delivery on the limited municipal budget, whilst others ascribed the challenge to municipal demarcation. The criteria employed by the MDB in the reconfiguration of municipalities had been condemned for making local municipalities financially unsustainable (MDB, 2005). However, the ruling ANC, at its 53rd National Conference at Mangaung (2013), resolved that the MDB should consider the financial and racial implications of the re-demarcation process. The Department of Cooperative Governance and Traditional Affairs (CoGTA) also grew concerned and eventually tasked a team of representatives to review the municipal demarcation process before the 2016 local government elections (Ncube and Vacu, 2015). The concerns revolve around the boundaries and 94 cross-boundary municipalities, the effect of the process on the financial performance of municipalities, and the effect of the process on establishing a solid developmental local government.

The effectiveness of public participation and consultation process

The demarcation at Matatiele has caused unrest and mixed feelings amongst its people. The African National Congress (ANC) took the decision to incorporate the Matatiele area without consulting the affected people and according to one of the Batho Pele principles, consultation of the affected people is the first step. THIS IS IN LINE WITH A RESPONSE FROM ONE OF THE PARTICIPANTS: “The fact that the matter resulted in a legal challenge, was premised on the fact that the people were not properly consulted about re-allocation nor on the incorporation which they hold was politically motivated.” 80% of participants in the study indicated that they were not consulted during the incorporation, they were just informed that Matatiele will be incorporated to Eastern Cape Province. This research is informed by participatory democracy. Participatory democracy according to (Pateman, 2012) is direct democracy, in the sense that all citizens are actively involved in all important decisions. This is interpreted as the obligation of citizens to participate in the decisions made by their governmental representatives that impact the lives of citizens. The primary focus is whether the people of Matatiele participated in the demarcation process (BROWN, 2010). This study is informed by the Batho Pele principles, which were developed in 1997 by the Department of Public Service to serve as an acceptable policy and legislative framework. These principles are aligned to the constitutional ideals, like responding to people’s needs where citizens are encouraged to participate in policy making. The first principle is consultation which emphasized that people should be consulted if a decision affects them (Department of Public Service, 1997).

To find out whether the demarcation achieve the desired goals

The main desired goal for ANC through Municipal Demarcation Board to demarcate Matatiele was *“bring Matatiele Local Municipality to its own people and to show good governance and to*

enable Matatiele Local Municipality to fulfil its constitutional obligations” as per ANC. Good governance can be defined as the degree to which government delivers on its promises of economic, political, social, cultural, and civil and human rights (UN Habitat, 2007). The process of municipal re-demarcation is assessed as to whether these goals are met. This leads to suggestions for improvements in the process.

“Matatiele incorporation never address any challenges we have we have, instead it complicated our lives because we have to drive 6 hours to provincial head office yet its only 1 and half to drive to KZN”

CONCLUSION

The findings indicate that Matatiele community is not happy with the decision to be incorporated to Eastern Cape Province by Municipal Demarcation Board had to clear positive goals intended except ANC’s political agenda of winning the election results.

This article corroborated several recommendations regarding the assessment of the public participation and consultation in the Matatiele Local Municipality demarcation process. In the light of the deliberations as provided above, firstly the article recommends that:

An integrated approach to demarcation processes be enforced to compel the Municipal Demarcation Board to include all stakeholders (public participation). Under previous regimes, the majority of South Africans were excluded from public life; in particular, they were denied the right to vote. In breaking from the old, sections 59(1)(a), 72(1)(a) and 118(1)(a)13 introduce a constitutional duty on National Assembly, the National Council of Provinces, and provincial legislatures respectively to facilitate public participation when executing their legislative processes. Public participation serves as the pillar for any functioning democratic government as illustrated by governmentability that the people should be consulted on decisions which are going to affect their lives. The boundary demarcation issues, at least from the past experiences have demonstrated its problematic side as far as governance is concerned. This can be achieved through including a compulsory provision into the Local Government: Municipal Demarcation Act of 1998).

The findings revealed that there is a need for educational awareness among members of the public concerning the processes of municipal demarcations and re-demarcations. Facilitation of communication channels for demarcation and government should be more transparent about demarcation issues. Effective communication in any institution is critical to its success and this requirement is contained in several legislative prescriptions pertaining to developmental local government to be successful in respect of service delivery to the community and accountability is imperative to ensure an accountable and transparent government.

REFERENCES

- Aldean JC. (2017) Opportunities just beneath the surface: Participatory and deliberative processes in Rwanda. Naval Postgraduate School Monterey United States.
- Baxter LA and Babbie ER. (2003) *The basics of communication research*: Cengage Learning.
- Brittain, S., Ibbett, H., de Lange, E., Dorward, L., Hoyte, S., Marino, A., ... & Lewis, J. (2020). Ethical considerations when conservation research involves people. *Conservation Biology*, 34(4), 925-933.
- Boyce G and Davids CJPMR. (2009) Conflict of interest in policing and the public sector: Ethics, integrity, and social accountability. 11: 601-640.
- Breakfast N, Meko I, Maphazi NJAsPSD, et al. (2015) Participatory Democracy in Theory and Practice: A Case Study of Local Government in South Africa. 3: 31-51.
- Doche, C., Dufour, G., Foret, G., Eremenko, M., Cuesta, J., Beekmann, M., & Kalabokas, P. (2014). Summertime tropospheric-ozone variability over the Mediterranean basin observed with IASI. *Atmospheric Chemistry and Physics*, 14(19), 10589-10600.
- Gilbert N. (2002) *Transformation of the welfare state: The silent surrender of public responsibility*: Oxford University Press, USA.
- Harrison J, Rouse P, de Villiers CJJoCCTB, et al. (2012) Accountability and performance measurement: a stakeholder perspective. 5: 243-258.
- Innes JE and Booher DE. (2010) *Planning with complexity: An introduction to collaborative rationality for public policy*: Routledge.
- Johnson JB, Reynolds HT and Mycoff JD. (2015) *Political science research methods*: Cq Press.
- Mathebula NJIIPAR. (2015) Community participation in the South African local government dispensation: a public administration scholastic misnomer. 13: 185.
- Mavungu EMJUDdUotW, Johannesburg. (2011) Frontiers of prosperity and power: Explaining provincial boundary disputes in post-apartheid South Africa.
- Michels, A. and De Graaf, L., 2010. Examining citizen participation: Local participatory policy making and democracy. *Local Government Studies*, 36(4), pp.477-491.
- Ncube M and Vacu NJFSft. (2015) The impact of demarcations on the financial performance and sustainability of municipalities. 16.
- Netswera MM and Nealer EJJTTJfTRiSA. (2020) Municipal demarcation process in the establishment of the Collins Chabane Local Municipality and reasons for the eruption of Vuwani, South Africa. 16: 1-9.
- Ramutsindela MJGj. (2007) Resilient geographies: land, boundaries, and the consolidation of the former bantustans in post-1994 South Africa. 173: 43-55.
- Sebola MJAJoPA. (2017) Communication in the South African public participation process-the effectiveness of communication tools. 9: 25-35.
- Sibanda D. (2011) The role of community participation in development initiatives: The case of the Danga ecological sanitation project in the Zvishavane District, Zimbabwe. University of the Western Cape.
- Steytler, N. (2015). The constitutional conversation between the federal structure and a bill of rights.

- Maimela, K. K., & Mathebula, N. E. (2015). Community Participation in the South African local government. *Local Government Administration in Post-apartheid South Africa: Some Critical Perspectives*, 138-150.
- Recker, J. (2021). Ethical considerations in research. In *Scientific Research in Information Systems* (pp. 197-214). Springer, Cham.
- Pateman, C. (2012). Participatory democracy revisited. *Perspectives on politics*, 10(1), 7-19.