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Journal Title:

☐ **Peer reviewed**

☒ **Non-peer reviewed**

Suggested keywords:

Environmental decision-making, public participation, social justice, environmental justice

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Environmental assessment tools like the Environmental Impact Assessment (EIA) have been adopted to address environmental impacts. An important aspect of an EIA is public participation that is included so as to include the views of the marginalized in environmental decision-making. With the scaling down of the EIA process in 2006, recent debates have highlighted the implications for effective and informed public participation.

Further highlighted in these debates are a number of handicaps with regard to the practice of effective and influential public participation in EIAs. Firstly, there has been no further guidance on the process as compared to the 1998 EIA regulations. Secondly, the public are not provided the opportunity to play a role in project design, resulting in participation being a mere formality. Thirdly, the public are not included after the completion of the EIA hence the public do not have a say on compliance to environmental management plans.

In this paper it is argued based on the evidence from four EIAs in South Durban that there is no effective and influential role played by the public participation process in incorporating the views of the public in the decision-making process of EIAs in South Durban. This is highlighted by the fact that contrary to what is stipulated in the 2006 EIA regulations; public participation is seen and implemented as a rigid one size fits all process especially in the South Durban region.

THE ROLE OF PUBLIC PARTICIPATION IN THE DECISION-MAKING PROCESS OF EIAs IN SOUTH DURBAN

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ABSTRACT

Environmental assessment tools like the Environmental Impact Assessment (EIA) have been adopted to address environmental impacts. An important aspect of an EIA is public participation that is included so as to include the views of the marginalized in environmental decision-making. With the scaling down of the EIA process in 2006, recent debates have highlighted the implications for effective and informed public participation.

Further highlighted in these debates are a number of handicaps with regard to the practice of effective and influential public participation in EIAs. Firstly, there has been no further guidance on the process as compared to the 1998 EIA regulations. Secondly, the public are not provided the opportunity to play a role in project design, resulting in participation being a mere formality. Thirdly, the public are not included after the completion of the EIA hence the public do not have a say on compliance to environmental management plans.

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INTRODUCTION

This paper seeks to determine the institutional context of Environmental Impact Assessments (EIAs) and the role of public participation in influencing this process. Post-apartheid South Africa has for the first time allowed for socio-economic issues and quality of life to be included in the environmental policy agenda. Environmental assessment tools like the Environmental Impact Assessment (EIA) have been adopted to address environmental impacts, which are broadly defined to include the economic, social, cultural and natural environment. Participation is an important process of an EIA, which seeks to include the marginalized in environmental decision-making (DEAT, 2006). One of the key findings of a study undertaken in 2005 in South Durban has found that the voices of the marginalized were not included in the participation process of a sample of EIAs. The finding of this 2005 study and other studies undertaken provides the context and the opportunity for further research to be undertaken in South Durban and in the country as a whole in determining the role of public participation in the decision-making process of EIAs.

With the recent scaling down of the EIA process in the form of new EIA regulations there has been much debate by environmental scholars on the implications for effective and informed public participation (Murombo, 2008; Patel, 2009). This scaling down is seen to hinder the incorporation of the views of interested and affected parties (I&APs) into the decision-making process of an EIA as well as the level of influence on the process. There is currently not much evidence to support these recent debates (Murombo, 2007; Patel, 2009) and this paper aims to present evidence from a study undertaken to determine whether the participation processes of EIAs under the new EIA regulations (2006) in South Durban are being played out differently, and the likely effects of this on the decision-making process. It further seeks to determine the extent to which the public participation process gives precedence to the public in influencing the decision-making process and the likely implications in achieving social justice. Overall the paper provides evidence to add to current debates and show the extent to which public participation is influencing the decision-making process through the inclusion of the views of I&APs in South Durban.

BACKGROUND: PUBLIC PARTICIPATION IN ENVIRONMENTAL DECISION-MAKING

Public participation is a legal requirement of an EIA process allows interested and affected parties the opportunity to provide their viewpoints as well as influence the process and decision being made (Republic of South Africa, 2006). This has come at a time in South Africa so as to address apartheid policies that have prevented any form of participation in decision-making processes especially by black people that has led to their marginalization and to grave injustices (Wiseman & Roussouw, 2004). Hence there is a need for including 'invisible' stakeholders and marginalized communities to enhance democracy and improve environmental outcomes (Scott and Oelofse, 2005). Environmental policies and procedures in South Africa make vast reference to the role and importance of public participation as a tool in environmental decision-making.

The term public participation has been and is currently widely used in environmental assessment. However, there is said to be no agreed definition of what constitutes public participation (Murombo 2008). As defined by Greyling (1999) public participation is a "process leading to a joint effort by stakeholders, technical specialists, the authorities and the proponent who work together to produce better decisions than if they had acted independently" (in DEAT 2002, 6). From this definition it can be realized that participation is seen as a decision-making process and aims to include the views of stakeholders at all levels of the process. Therefore, this process seeks to enable the views of all to be heard and influence the outcomes of the environmental decision-making process.

This shows that public participation is a key process for the public to air their views which is critical for the South Durban community. This is due to its history of environmental and social injustice as a result of noxious industries located in close proximity to the community. Industrial development had reshaped the South Durban to be the largest Industrial node in the city known as the 'South Durban Industrial Zone'. This context sparked community resistance with the coalition of community organizations to form the South Durban Community Environmental Alliance (SDCEA), being the dominant environmental organization within the region for the past twelve years. SDCEA is currently active in various environmental issues that affect the community and South Durban region. It is within this context that the extent of public participation in influencing the decision-making process of a sample of four South Durban EIAs will be analyzed.

THEORETICAL DEBATE: IMPLICATIONS FOR PUBLIC PARTICIPATION

Recent debates by environmental scholars (Murombo, 2008; Patel 2009) highlight handicaps and implications of the participation process of EIAs under the 2006 regulations. The amendments of the 1997 ECA Regulations to the 2006 NEMA Regulations according to Murombo (2008), is to ensure

more effective public participation in the EIA process as it was deemed inadequate. This led to the scaling down of the whole EIA process. As emphasized by Murombo (2008) the new EIA regulations even though trying to address past inadequacies from the 1997 Regulations has shown severe handicaps of the public participation process. Some of these broad handicaps of the participation process stemming from the 2006 NEMA regulations are outlined as follows:

1. NEMA does not define the idea of 'public participation'
2. There is no further guidance on participation in the 2006 regulations that will assist in its implementation "other than the size, contents, and place of publication of notices to I&APs" (Murombo, 2008).
3. The public is only informed of the implementation of a project after an application for authorization has been made. The decision to go ahead with the project has already been made prior to the public's knowledge of such a project and any participation thereafter is undertaken as a mere formality that will not have any bearing on the decision (Murombo, 2008). Hence the public are not given the opportunity to be involved in project design or conception or formulation
4. There are no provisions in the regulations for the inclusion of public views after the EIA has been authorized even in the monitoring and compliance of Environmental Management Plans (EMP) (Murombo, 2008).

These handicaps of the public participation process provide the context within which this study seeks to provide evidence to show whether these handicaps are resonating within EIAs in South Durban. Four industrial EIAs in the South Durban region were analyzed according to the extent and constraints of public participation and the level of influence I&APs have on the decision-making process, which is unpacked further.

EXTENT OF PUBLIC PARTICIPATION IN EIAs IN SOUTH DURBAN

From the analysis of the four EIAs, three undertook a Basic Assessment (BA) and one undertook a full EIA. Two have been completed with one having been exempted with the other still being finalized. Public participation issues that resonate from the four EIAs were firstly the fact that there was a very low turn out at public meetings undertaken. All public meetings were attended by the proponent, environmental assessment practitioner (EAPs) and representatives of environmental, community organizations. There has also been no attendance hence less to no input from the South Durban public/community. The use of the term I&APs will therefore refer to representatives of environmental and community organizations. The highest number of participants at a public meeting were 10 with half of this number consisting of the proponents and environmental assessment practitioner with the remaining being I&APs (representatives). Therefore low single digit numbers (ranging from 4 to 5) of I&APs participating in the EIA process is a cause for concern especially with regard to the credibility of the public participation process in being effective in providing input by the public in influencing the decision-making process.

Secondly, participation is seen by the SDCEA as being privatized by the proponent. This is emphasized by a member of the SDCEA in a focus group discussion as follows:

Also there is a privatization of public participation. We see that industries are not willing to have public meetings and the reasons for that is that they are scared off the public confronting them with serious issues. They rather have focus group meetings so the people don't know the full impact of that development
(Focus Group 4, 2009)

The privatization of public participation is due to EIAs being used by I&APs as an avenue to ensure that developments do not have negative impacts on the people's health and well-being. This is seen by industries to be a hindrance to the process, who then prefer minimal participation. Low turn out at public meetings and low levels of comments from I&APs are emphasized by two environmental consultants to be due to the fact that there were overall positive benefits of the developments and that these were small in nature. However, the other two EIAs that had a significant negative impact on the environment also had a low turn out at the public meetings. This therefore does not serve as a valid explanation for the previous two EIAs as this seemed to be the general trend amongst all EIAs. Furthermore, the EIA that undertook a full EIA with significant negative impacts on the environment had not sufficiently secured a public meeting. Environmental consultants again outlined the reason for non-participation as the fact that there was no interest by the public of the development. As stated in the SR and EIR "registered I&APs were contacted with regards to the public meeting, and informed of the lack of interest in the project" (Kerry Seppings Environmental Management Specialists, 2008, 13).

This shows that overall participation at EIA public meetings is very low. Reasons for this can range from as outlined earlier to be the fact these EIAs were small in nature and had potential positive impacts on the environment. Low participant numbers could be a strong sense of public participation fatigue being experienced especially of public meetings in the South Durban Basin or the lack of making people aware of the process taking place. Furthermore, the source of the lack of participation partially stems from the handicaps or constraints of the participation process outlined in the regulations (Murombo, 2008).

HINDRANCE OF 2006 EIA REGULATIONS FOR PUBLIC PARTICIPATION: EVIDENCE

The extent of public participation outlining issues of the public participation process of EIAs in South Durban has touched on some of the hindrances of the 2006 Regulations as emphasized by Murombo (2008). As outlined in interviews with environmental practitioners and focus groups discussions with I&APs, there were many instances in which hindrances of public participation were outlined due to the current 2006 EIA regulations. Evidence of hindrances of the Regulations as outlined by Murombo (2008) to incorporating and allowing the views of I&APs to influence the decision-making process are briefly represented in the table 1 below and thereafter unpacked. This is unpacked as and how I&APs and environmental consultants described them and further shown how these emphasize these handicaps of public participation as represented in the 2006 Regulations.

Table 1: Evidence of Implications for Public Participation (according to Murombo 2008) in EIAs in South Durban

IMPLICATIONS FOR PUBLIC PARTICIPATION (Murombo, 2008)	EVIDENCE OF IMPLICATIONS FOR PUBLIC PARTICIPATION
1. No definition of public participation	<ul style="list-style-type: none"> • I&APs clearly outline that a lack of definition
2. No further guidance on participation to assist in implementation	<ul style="list-style-type: none"> • Insufficient advertising and inadequate commenting time frames, • Inappropriate times of public meetings • lack of feedback and information from participation processes • Insufficient inclusion of information in the form of a summary
3. Public not involved in project design or conception or formulation	<ul style="list-style-type: none"> • Public are only made aware of the EIA once the authorization has been granted. • SDCEA provides guidance to EAPs on public participation processes but not taken into account

4. No provisions for the inclusion of public views after the EIA has been authorized, in M&E & compliance to EMP	<ul style="list-style-type: none"> • Lack of feedback and information and non-transparency • I&APs express concern with lack of compliance and monitoring of EMPs by the competent authority.
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Lack clear definition of 'Public Participation'

The lack of a clear definition of the term public participation in the 2006 Regulations is emphasized by I&APs in South Durban as outlined by one focus group participant "we have not defined public participation in the sense that we know what everybody is talking about" (Focus Group 1, 2009). When asked what are the differences of public participation in terms of the 1997 Regulations as compared to the 2006 Regulations, the participant emphasized "Not much has changed, they [Regulations] have not defined participation, in terms that we [public] would accept it" (Focus Group 1, 2009). Therefore the lack of a clear definition and the difficulty of actually defining the term public participation to suit all is a major obstacle and hindrance that could not be eradicated as a broad definition will lead to ambiguity and a specific definition will not be conducive to a particular context.

Insufficient advertising of EIAs and participation process

I&APs are not satisfied with the way in which EIAs and the participation process of these EIAs are advertised. Firstly they outline that the papers in which these adverts are placed are not suitable as well as the language in which it is advertised as they do not reach the majority of the disadvantaged people that are likely to be affected by the EIA. This is emphasized by one of the focus group participant as follows:

so for us that get the paper delivered and can afford to pay for the paper were able to access and find out what, which companies are advertising EIAs and developments.....But for the majority of ordinary citizens and black people in this country, who don't by the paper the mercury, they are left out of the process.....the companies and consultants are short changing these people by not putting it in the language that they understand better

(Focus Group 4, 2009)

Therefore the above shows that there is insufficient advertising that has also been experienced in EIAs under the 1997 regulations that are still a cause for concern. The 2006 regulations by providing no further guidance on advertising has failed to address these very concerns that are hindering access of the public to information about developments and hindering the opportunity for them to participate in EIAs.

Inappropriate times of Public meetings

It was outlined by those that participated in the public participation process of EIAs in South Durban especially by the representatives of SDCEA that public participation in the new regulations is just done as a window dressing and that public meetings especially are not achieving its purpose.

Having said that there is a lot of apathy though, because the consultants don't go out of their way to provide the necessary, you know cos people sometimes come back late at night from work and so consultants deliberately hold meetings during the day or in the evening from 4 to 5 and beyond that is very difficult. And I think there is this time factor that plays a crucial role when people can participate. (Focus Group 4, 2009)

This reinforces that the regulations has streamlined the participation process so as to allow the EIA process to be fast tracked, which has been achieved at the expense of the quality of the public participation process taking place. Environmental consultants emphasized their commitment to adhering to the regulations

Lack of feedback and information from participation processes

Furthermore, as outlined by I&APs their views are captured in public meetings but no feedback on comments are provided. This is expressed by I&APs of the undertaking of the participation process:

The same we had in the Breweries case, this is now finished, we got nothing to say anymore, your input has been recorded and now it's finished (Focus Group 1, 2009)

This shows that I&APs regard public participation as a once off process that is finished not warranting any feedback on comments or issues raised. This reinforces the fact that I&APs views are not addressed hence influencing the final decision-making outcome of an EIA with their full essence of concerns not completely reflected in the summary in EIA documents sent through to the relevant authority.

Summary of Public Participation in EIA reports

The public participation process is outlined in the BA, SR or EIA report with the major comments highlighted in the comments and response sheet and the details of the process attached as Appendix E. Furthermore this is emphasized to be "basically a synopsis of the public participation process" (Interview 1, 2009). As outlined by all environmental consultants when asked how the views of I&APs from the public participation process were captured in the EIA report, all provided the same answer conducive to that stipulated in the regulations, which is as follows:

...the consultant follows the process of going through the proper process recording the comments and but I don't think that the responses are properly given in those reports of the authorities to make a decision
(Interview 1, 2009)

This is reinforced by another EAP who stated that "the summary helps but is not sufficient" (Interview 3&4). It was further outlined that according to the regulations it was basically sufficient and they had done exactly what was required (Interview, 3&4). Furthermore, in terms of including the voices of all I&APs it was highlighted by an EAP that "everything was recorded, everything according to the regulations were followed". This shows that the environmental consultants are adhering to the regulations on the grounds that it assists in streamlining the EIA and specifically the participation process. Adherence to the 2006 regulations in terms of public participation is outlined as there are checklists in place making the process much better and does not allow for I&APs to attack the process or development, which the 1997 regulations had room to allow (Interview 3&4, 2009).

Therefore, the regulations in terms of participation are adhered to by EAPs as outlined above but inputs are not adequately captured in the form of a summary for the competent authority to make an informed decision. This further reinforces one of Murombo's (2007) handicaps of participation, which is that there is no further guidance on public participation as compared to the previous 1997 regulations that also stipulated public participation to be in the form of a summary in EIA reports. I&APs when asked about the public participation process highlighted the fact that their views captured and presented as a summary is a big hindrance to the whole process. This is highlighted by one participant to be "biased, it is prejudiced in the extreme that is the executive summary" (Focus Group 1, 2009). Therefore this is regarded as a hindrance by I&APs to the process. These were expressed by I&APs using examples of

other current EIAs in South Durban as follows:

We had a pile of rejections and you know what, what goes to the DEAT is an executive summary, don't tell me he looked through ten thousand pages, he looks at the executive summary and that summary is ok'd by the applicant

(Focus Group 1, 2009)

This shows that I&APs are aware that decision makers are not making an informed decision, due to the correct amount of public input not being adequately represented in the reports in the form of a summary. Furthermore, the summary is also seen to be biased as it is only reviewed by the applicant before it is sent to the competent authority. This raises the question whether I&APs are in fact reviewing the final EIA reports, which is required as part of the regulations. Due to this lack of I&APs views being represented in reports concludes that public participation in EIAs in South Durban is not fulfilling its role. All of these handicaps culminate to the point where all I&APs are not satisfied with the 2006 Regulations in providing effective participation as highlighted by one focus group participant:

.... the legal process doesn't justify the effort that we put in it, because they [EAPs] run through the process.... then the input from the public or the participants is just ignored

(Focus Group 1, 2009)

Due to this regulatory and institutional context shaped by these handicaps of participation has contributed to changing the public participation environment. These changes have been highlighted as having the potential to intentionally further hinder effective participation within the South Durban region. These changes are seen in the legitimacy of environmental and community groups in representing the public as a whole and the creation of a knowledge differential amongst I&APs in South Durban.

LEGITIMACY OF ENVIRONMENTAL AND COMMUNITY ORGANIZATIONS?

Since I&APs consisted of only representatives of community organizations it prompts the question as to why this is occurring especially in an area that has a history of community involvement in environmental activism. The reasons for this were highlighted by EAPs and I&APs, which provokes questions of legitimacy of environmental and community groups in representing the views of the public. One EAP emphasized that the competent authority prefers comments from community groups rather than individual I&APs concerns. This is expressed as follows:

...on the authority's point of view they take more of the comments you get from the KZN Wildlife, like from your big organizations basically rather than the public participation process. So basically if you address those comments you (EAP) fulfil your commitments and they make a decision on that..... I think with South Durban the public participation process is taken big because SDCEA is regarded as an organization like DWAF, it's not just a community organization so if they have any concerns they are fulfilled
(Interview 1, 2009)

From the above statement, it can be seen that comments from big community or environmental organizations carry more weight than that of the general public. The competent authority focuses on bigger organisations concerns and if these are addressed in the EIA reports then it seems to be by the authorities that participation has taken place. This shows that there is a corporatization of public participation, which is non-inclusive of all those who are interested or affected by the development. Therefore this has serious implications on individual I&APs and their views in influencing the

decision-making process. Furthermore, this concern was highlighted by the SDCEA themselves as follows:-

The danger is that the SDCEA has created also a one stop shop in the sense that people can rely on us to do their work for them. I think that is a huge danger that people must realize that the more the public participate the more enlightened people are about EIAs the more better it is. (Focus Group 1, 2009)

Therefore, the SDCEA recognized that their role is currently hindering effective participation of the South Durban community and general public and that the views of a whole community can never be effectively represented by one or two individuals, who are obligated to attend as stressed by another SDCEA representative by saying that "I represent maybe 200 or 300 or 10 people makes no difference. I stand up as one voice and I am allowed only 3 questions" (Focus Group 1, 2009).

Furthermore, there is consensus amongst environmental practitioners and I&APs that the competent authority do take bigger organizations comments to mean that participation has taken place. This concern is reinforced by a SDCEA official as

DEAT officials tell the consultants go to SDCEA and you will get a response from them and I think that we want to get rid of that myth that SDCEA represents all people and that the public is not generally SDCEA only and the public must be consulted in a proper way and so they views can be taken on board. (Focus Group 4, 2009)

This reinforces the point that the competent authority has succeeded in 'corporatizing' the public participation process as they encourage environmental consultants to inform and address big organizations concerns that clearly marginalize majority of the public. Furthermore, environmental consultants obligation to adhere to the regulations that outlines a very fast-tracked (due to set time frames) participation process creates an ideal situation for contacting and noting concerns of dominant environmental and community organizations, which is less time consuming. This links to just merely following the legislation and abiding by this that leads to a great bias that is hindering the value and changing the role of public participation. Overall these participation processes cannot be regarded as democratic as environmental organizations are supposedly representing the views of the public, which is representative democracy. This shows that environmental democracy in South Durban is taking place in a representative form, which is not the highest level of democracy.

EXISTENCE OF A KNOWLEDGE DIFFERENTIAL

The legitimacy of environmental and community groups is also linked to the existence of what can be called a knowledge differential. This stems from the fact that EIAs have been seen as a very scientific, technical and reactive method of assessing the impacts on the environment that requires expert knowledge especially in gaining specialist input in compiling specialist reports. Furthermore, the analysis of impacts on the biophysical environment is predominantly science based, and used by scientists to determine pollution levels and cumulative impacts. Decision-makers in the environmental domain trust and are dependent on the judgment of scientific experts, thus providing these experts with a great deal of power in society (Blowers, 1997) especially in providing input that can influence the decision-making process. Scientific and technical language is seen as a tool to gain power over the less knowledgeable community.

This shows that the EIA is biased towards those knowledgeable in scientific and technical aspects of the development process as compared to those who lack this type of knowledge. As outlined by a SDCEA official with regard to SDCEA's role in the area is that they as an organization they have the

experience and required scientific and technical know how gathered over the years that equips them to provide considerable inputs on EIAs. This can be seen to be one of the main reasons why the South Durban public relies on SDCEA as they lack this type of knowledge. Upfront this looks like a positive participatory environment but over time it has turned into a barrier for achieving effective 'public' participation. This knowledge differential is what is distancing those that are interested and affected by developments from participating in EIAs in South Durban. The lack of the public from participating may be due to public participation fatigue felt due to their concerns raised not influencing the final decision as it is sidelined as concerns from bigger organizations are regarded as more important and summarized as such within EIA reports.

EXTENT OF INFLUENCE ON DECISION-MAKING PROCESS

The principle of public participation outlined in NEMA (2006) is therefore lost as I&APs no longer "have the opportunity to develop the understanding, skills and capacity necessary for achieving equitable and effective participation" and has further not assured that "decisions must take into account the interests, needs and values of all interested and affected parties" (Republic of South Africa, 2006). The public participation process does include the voices of those that participated in the process, which are representatives of the public but not all concerns are taken into account at the decision-making level.

The voices of bigger organizations more than the ordinary public are considered by the competent authority that creates a bias that stems from a clear knowledge differential that is one factor amongst others that define who are I&APs of an EIA process in South Durban. This shows that power to influence the decision making process is in the hands of a few organizations and representatives of these organizations. Therefore public participation in EIAs in South Durban is hindered by the 2006 Regulations that further hinders the incorporation of and level of influence that I&APs have in influencing the final decision making process of an EIA.

ROLE OF PUBLIC PARTICIPATION: WAY FORWARD

There is no effective and influential role played by the public participation process in incorporating the views of the public in the decision-making process of EIAs in South Durban. Furthermore, all of the evidence show that the regulations are hindering the inclusion of voices of I&APs and thus need to be re-looked at the role of the public participation process of EIAs so that an informed decision can be made by competent authorities.

Therefore, the main aim of revising the EIA regulations should be to achieve effective participation by all I&APs. This can be done through providing specific guidance with regards to advertising of the EIA as well as stipulating compulsory EIA techniques to be used for different scopes of development, for example knock and drop to all within a 100 metre of the site. Adverts should be placed in more local newspapers that reach the people and should be in the respective language of those in the area. Other sources of advertising like the radio should also be considered as viable options. Furthermore, a quota system should be enforced for the approximate number of people that are required to participate in the public participation meeting so as to ensure that effective participation has taken place.

As a way forward, the competent authority in order to make an informed decision on EIAs should appoint one official to partake in the full process of an EIA especially the public participation process. This would firstly, ensure that EAPs are independent in their compilation of the EIA reports and secondly, ensure that all I&APs concerns are taken into account and addressed. The regulations should provide a longer period of time for the reviewing and commenting of EIA documents. Considering these points when re-looking at the 2006 Regulations would certainly be a step forward in ensuring that

decisions do take into account the interests, needs of the public that are much required, especially in South Durban.

REFERENCES


- Blowers, A, (1997) Environmental Policy: Ecological Modernisation or the Risk Society?. *Urban Studies*, vol 3, no. 5-6, pp 845-871.
- Department of Environmental Affairs and Tourism (2002) *Stakeholder Engagement*, Integrated Environmental Management. Information Series 4, Department of Environmental Affairs and Tourism (DEAT), Pretoria.
- Focus Group 1 (2009) *I&APs of South African Brewries EIA*. Amanzimtoti Golf Club, Amanzimtoti, 27 March 2009.
- Focus Group 4 (2009) *I&APs of Divfood EIA*. South Durban, 20 April 2009.
- Department of Environmental Affairs and Tourism (DEAT) (2006) National Environmental Management Act. No. R. 385, 21 April 2006.
- Hoosen F (2005) *An Investigation of the extent of the incorporation of social issues into EIAs undertaken in South Durban*. Honours Dissertation, School of Life and Environmental Sciences, University of KwaZulu-Natal, Durban (unpublished).
- Interview 1 (2009) *Bohlweki Environmental (Pty) Ltd*. Pinetown, 27 March 2009.
- Interview 3 & 4 (2009) *Kerry Seppings Environmental Management*. Hillcrest, 20 April 2009.
- Kerry Seppings Environmental management Specialists (2008) *EIA Scoping Report for the proposed Sasol Gas Pipeline*. Isegen Pty (Ltd)
- Murombo T (2008) Beyond Public Participation: The disconnection between South Africa's Environmental Impact Assessment (EIA) law and sustainable development, *Potchefstroom Electronic Law Journal*.
- Patel, Z., (2009): *Environmental Justice in South Africa: Tools and Trade Offs*, School of Geography, Archeology and Environmental Sciences, University of Witwatersrand, South Africa.
- Republic of South Africa (2006) Guideline 4: Public Participation, in support of the EIA regulations 2005. *Government Gazette*, vol 491, no. 28854, 19 May 2006.
- Scott D and Oelofse C (2005) Social and Environmental Justice in South African Cities: Including 'Invisible Stakeholders' in Environmental Assessment Procedures. *Environmental Planning and Management*, vol 48, 3, (forthcoming).
- White S C (1996) Depoliticising Development: The Uses and Abuses of Participation, Development, *Development in Practice*. vol 6, no 1, 6-15.
- Wiseman, K and Rossouw N (2004) Learning from the implementation of environmental public policy instruments after the first ten years of democracy in South Africa. *Impact Assessment and Project Appraisal*, vol 22, no 2 pgs 131-140.

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IAIASH Conference 23-26 August 2009

Fazeela Hoosen





Context: Public Participation in Environmental Decision-making

- Environmental policies emphasize importance of public participation in including the voices of the marginalized
- No agreed definition
- EIAs dominated by scientific and technical data, sidelining social issues (Scott & Eloise, 2005; Eden 1996)
- Public participation process in EIAs under 2007 regulations hinder the incorporation of social issues & voices of the marginalized in EIAs in South Durban (Hoosen, 2005)
- Scaling down of EIA process (2006 regulations) to ensure more effective public participation & efficient completion of EIAs




Current Context: Public Participation

- Recent debates on implications of 2006 regulations for effective & informed public participation (Muroombo's, 2008; Patel, 2009).
- However:
 - Not much evidence to support these recent debates (Muroombo's, 2007; Patel, 2009)

AIM:

- Provide evidence by assessing the extent/quality of public participation in influencing the decision-making process of EIAs in South Durban



Implications/Handicaps of Public Participation (2006 Regs)

Murombo's (2008):

- No definition of 'public participation'
- No further guidance on participation to assist in implementation other than specifics on advertising
- No opportunity provided for I&APs to be involved in project design or conception
- No provision for inclusion of views of I&APs after EIA has been authorized especially in monitoring & evaluation of the EMP

Are these evident within EIAs in South Durban???



South Durban Context

- Past & current experiences of environmental injustice
- Pollutants from noxious industries - close proximity to communities
- Result of apartheid planning – South Durban Industrial Zone (SDIZ)
- Strong community resistance to industrial expansion since 1960s
- Collective voice – South Durban Community Environmental Alliance (SDCEA)

Social science that makes a difference



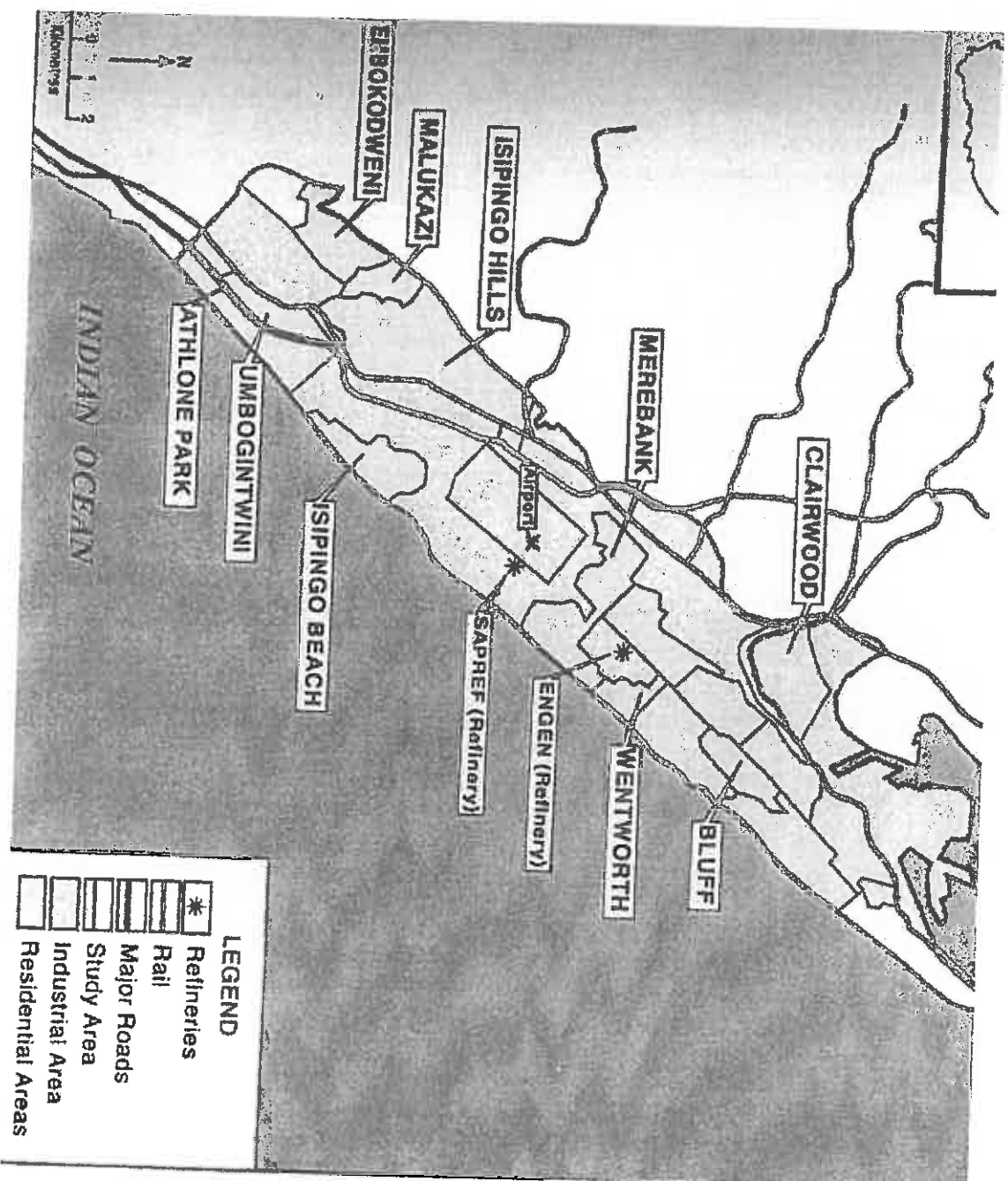
South Durban Context

- EIAs currently used as an avenue to participate in addressing potential environmental impacts by industries/developments
- Public participation process of past EIAs (1997 regs) showed evidence of hindrance of social issues and voices of the marginalized
- Total empowerment of marginalized people in which stakeholders have the opportunity to consider options in the decision-making process was not achieved
- Necessary to assess the quality of public participation in EIAs under 2006 regs in shaping decisions taken

South Durban Area

4 EIAs


1. South African Breweries Ltd (SAB) – Prospection
2. SI Group - South Africa – Prospection, Mobeni
3. Sasol Gas Ltd - Isegen Pty (Ltd), Isipingo
4. Divfood - Mobeni



Characteristics of South Durban EIAs

	Size	Environmental Impact	Public Meeting	Number of Participants
1. South African Breweries Ltd (SAB)	Basic Assessment (BA)	Positive	Yes	9 (4 I&APs)
2. SI Group - South Africa	Basic Assessment (BA)	Positive	Yes	10 (5 I&APs)
3. Sasol Gas Ltd - Isegen Pty (Ltd),	Scoping & Environmental Impact Report (EIR)	Significant Negative	No	N/A
4. Divifood	Basic Assessment (BA)	Significant Negative	Yes	10 (5 I&APs)

Social science that makes a difference



Extent of Public Participation in EIAs in South Durban

- Low turn out of public (environmental & community organizations) & low levels of comments at public meetings

REASONS:

I&APs PERSPECTIVES	EAPs PERSPECTIVES
1. Public participation is privatized - not all I&APs informed	1. EIAs being small in nature & positive benefits of development
2. Regarded as focus group meetings - deemed sufficient by EAPs and proponent	2. Less interest in the project by I&APs
3. Do not trust EAPs and proponent as no respect given	3. I&APs are against the proponent/project & bring in other agendas (soap box)
4. Feel the agenda is already set and is a rubber stamping process	4. Feel that complying with PP procedures (regulations) is enough

Evidence: Hindrance of EIA Regulations for Public Participation

IMPLICATIONS (Murombo's)	EVIDENCE
1. No definition of public participation	<ul style="list-style-type: none"> • I&APs outline a lack of definition
2. No further guidance on participation to assist in implementation	<ul style="list-style-type: none"> • Insufficient advertising • Inadequate commenting time frames • Inappropriate public meeting times • Summary not sufficient - excludes relevant information
3. Public not involved in project design or conception	<ul style="list-style-type: none"> • Public only made aware of the EIA once authorization has been granted.
4. No provision for the inclusion of public views after authorization, in M&E & compliance to EMP	<ul style="list-style-type: none"> • Lack of information feedback leads to non-transparency • Lack of compliance and monitoring by competent authority



Key Issue:

Legitimacy of Environmental & Community Organizations

- I&APs & EAPs - Competent authority focuses on comments from bigger organizations & whether these are addressed
- SDCEA concern - role as a representative of the South Durban community
- Corporatization of public participation – excludes general public/community concerns
- Encouraged by scaled down fast-tracked participation process enforced by regulations

Social science that makes a difference




Key Issue:

Existence of Knowledge Differential

- Dominance of scientific & technical methods of assessing environmental impacts
- Dependence on expert knowledge & specialist inputs
- Dominance of power (environmental & community organizations) over the decision-making process
- SDCEA equip with technical & scientific knowledge BUT not always representing the views of community/public
- Creation of a *gap* between representatives & community/public
- Those who are really affected are not given the conducive environment & opportunity to participate
- Results in a *barrier* for achieving effective participation

Social science that makes a difference




Extent of Influence on Decision-Making Process

- Public participation process includes voices of those who participated (representatives of the public) in EIA reports

HOWEVER:

- Public are not participating = No *PUBLIC* participation
- Not all concerns taken into account in making decisions
- Evidence show regulations are hindering the inclusion of voices of I&APs as debated by Murombo's (2008) in EIAs in South Durban
- No effective/influential role played by public participation in informing decisions of EIAs as aimed by the 2006 regulations



Role of Public Participation: Way Forward

Recommended by I&APs and EAPs:

- Context specific guidance on advertising and on the use of participation techniques (public meetings etc)
- Quota system - number of people required to participate in an EIA should be stipulated by competent authority
- One official to partake in full EIA process to eliminate any bias & ensure all concerns are taken into account

Thank you!

