

# **Do communities really have a say? The implementation of public participation in the liquor regulatory process: A case study of uMgungundlovu District**

by  
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## **Declaration**

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## Abstract

This study was motivated by the researcher's interest in the implementation of the new liquor policy in the province of KwaZulu-Natal, with specific regard to the public value and meaningfulness of the public participation processes of the policy from a citizenry perspective. One of the key features of the new liquor policy is the inclusion of public participation in the liquor regulatory processes. The study was conducted to assess the implementation of the public participation processes and the meaningfulness of the processes for those affected by the policy, namely the citizens, with an aim to formulate recommendations for the implementing entity of the liquor policy.

In conducting the literature review, the 7C protocol was specifically instrumental in providing a framework to assess the implementation of the policy. Emphasis was also placed on current public participation models to determine the meaningfulness of the public participation arrangements.

The study followed a qualitative research design based on the uMgungundlovu District in KwaZulu-Natal as a case study, using semi-structured interviews and focus group interviews with the implementers of the public participation process and the public as participants in the process. A documentary analysis was utilised to support the data collected. The four research questions delved into what problem was being addressed through the introduction of public participation in the liquor policy, how public participation is being implemented, as well as the experiences and challenges of the beneficiaries and implementers of the policy with regard to the public participation processes.

The study found that, while the content of the policy substantively provides for public participation, the implementation thereof leaves much room for improvement. In its current state, public participation is being implemented on a basic level and appears to be more symbolic, or is used to comply with the regulatory process rather being an opportunity for a collaborative relationship between the policy implementers and the citizens. In the context of the regulation of liquor, where the economic benefit has to be balanced against the effect on society and conflicting citizen expectations may exist, meaningful public participation plays a significant role in gaining citizens' trust and tolerance of government agencies' decisions.

Recommendations are made to improve communication and co-ordination within the public participation process as the implementing agency does have control over these variables which would have a direct influence on the improving public value and objective of the inclusion of public participation in the liquor policy.

## Opsomming

Hierdie studie is gemotiveer deur die navorser se belangstelling in die implementering van die nuwe drankbeleid in KwaZulu-Natal, veral met betrekking tot die publieke waarde en betekenisvolheid van die publikasieprosesse van die beleid vanuit die perspektief van die burgery. Een van die belangrikste kenmerke van die nuwe drankbeleid is die insluiting van openbare deelname in die drankreguleringsprosesse. Die studie is onderneem om die implementering van die openbare deelnameprosesse te assesseer, asook die betekenisvolheid van die prosesse vir die mense wat deur die beleid geaffekteer word, naamlik die burgers, met die doel om aanbevelings te formuleer vir die entiteit wat die drankbeleid implementeer.

In die literatuuroorsig was Brynard (1995) se 5C-protokol veral instrumenteel in die verskaffing van 'n raamwerk om die implementering van die beleid te assesseer. Klem is ook geplaas op die huidige openbare deelnamemodelle om die betekenisvolheid van die openbare deelnamereëlings te bepaal.

Die studie het gebruik gemaak van 'n kwalitatiewe navorsingsontwerp gebaseer op die uMgungundlovu Distrik in KwaZulu-Natal as gevallestudie, en semi-gestruktureerde vraelyste en fokusgroeponderhoude is gebruik met die implementeerders van die openbare deelnameproses en lede van die publiek as deelnemers in die proses. 'n Dokumentanalise is gebruik om die data wat versamel is, te ondersteun. Die vier navorsingsvrae het ondersoek ingestel na watter probleem aangespreek is deur die ingebruikneming van openbare deelname in die drankbeleid, hoe openbare deelname geïmplementeer word, asook die ervarings en uitdagings wat deur die begunstigdes en implementeerders van die beleid ervaar is met betrekking tot die openbare deelnameprosesse.

Die studie het bevind dat hoewel die inhoud van die beleid substantief voorsiening maak vir openbare deelname, die implementering daarvan tekort skiet. Tans word openbare deelname op 'n basiese vlak geïmplementeer en blyk dit eerder simbolies te wees, of dit word gebruik om aan die reguleringsproses te voldoen eerder dat dit 'n geleentheid verskaf vir 'n samewerkende verhouding tussen die beleidsimplementeerders en die burgery. In die konteks van die regulering van drank, waar die ekonomiese voordeel met die effek op die samelewing gebalanseer moet word en waar daar teenstrydige verwagtinge onder burgers mag bestaan, speel betekenisvolle openbare deelname 'n belangrike rol in die verkryging van burgers se vertroue asook hulle verdraagsaamheid van die besluite van regeringsagentskappe.

Aanbevelings word gemaak om sekere van die veranderlikes binne die openbare deelnameprosesse waarvoor die implementeringsagentskap beheer het, te verbeter, veral dié wat 'n direkte invloed op die verbetering van ander veranderlikes sou hê. Dít sal die openbare waarde en doelwit van die insluiting van openbare deelname in die drankbeleid verbeter.

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## List of Abbreviations

CPF	Community Policing Forum
KZNEDTEA	KwaZulu-Natal Department of Economic Development, Tourism and Environmental Affairs
The Act	KwaZulu-Natal Liquor Licensing Act, No. 06 of 2010
KZNLA	KwaZulu-Natal Liquor Authority
LC	Local Committee
MEC	Member of the Executive Council
SAPS	South African Police Service

# CHAPTER ONE

## INTRODUCTORY CHAPTER

### 1.1 Introduction

The purpose of this research report is to determine the value derived by the public from the introduction of public participation processes in the implementation of liquor policy in KwaZulu-Natal, using the uMgungundlovu District as the case study. The study analyses the policy provisions regarding public participation in the liquor regulatory process in the KwaZulu-Natal liquor policy framework, how these policy provisions are being implemented, and the opinion of the public on the public value obtained, if any, by the new processes. This was achieved by assessing the implementation of the public participation process through its four components, as stated by King, Feltey and Susel (1998:319), namely (1) the issue or situation; (2) the administrative structures and processes within which the participation takes place; (3) the administrators; and (4) the citizens themselves. As Stewart (2005:12) notes, many criticisms of public participation efforts are that they are simply acts of public relations and not genuine attempts to engage the public. Liquor policies are crafted in a manner to ensure that public interest is prioritised and to protect society against the harms associated with liquor.

Liquor regulation contains public value pluralism in its attempts to balance the economic benefits of liquor trade against the public values regarding health, accessibility and safety. Historically, liquor policy in South Africa did not provide accessible measures for the public to participate in the liquor regulatory processes. Preliminary research has shown that there are many studies that analyse liquor policy implementation from a state-centred approach, with little emphasis on a citizen-centred approach and on the citizens affected by the policy. It has been noted by Moore (1994:301) that the overall purpose of a government enterprise can only be established through its citizens, as it is the citizens who justify the expenditure of public resources. These and other views are explored further as part of the study to provide a holistic view of the dynamics within the liquor industry and to investigate whether the current policy response with regard to public participation is adequate and responsive to the challenges liquor imposes on society.

To frame the research study, the researcher will begin by identifying herself. The researcher is a coloured female, who at the time of conducting of the research was an employee of the KwaZulu-Natal Liquor Authority working in the Social Responsibility Business Unit as a Regional Manager, responsible for developing education and awareness programmes to address the socio-economic ills caused by alcohol abuse in communities. The researcher has been passionately involved in community development programmes for sixteen years (16) years. The aspect of communities being involved in the decisions that affect them is of great interest to the researcher. It therefore stimulated the interest of the researcher to understand whether the “beneficiaries” of the new policy find value in the provisions outlined in the policy for their inclusion and involvement in the liquor licensing regulatory regime.

## **1.2 Background and Rationale**

The KwaZulu-Natal Licensing Act, No. 06 of 2010, as amended (referred to as the Act) was promulgated on 28 February 2014 and ushered in a new liquor licensing policy regime in the province. The KwaZulu-Natal Liquor Authority (referred to as the KZNLA) was established as the implementing agent of the Act, with the mandate to regulate the retail sale and manufacturing of liquor in the province.

The Act has four objectives, as outlined in Section 2, one of which is stated in Section 2(c) as: “to provide for public participation in the consideration of applications for registration.” With the Act having been implemented for six years and the KZNLA being in operation for seven years, the researcher embarked on this particular study to provide insight into whether the introduction and implementation of public participation measures as a policy objective are being done in a manner that adds value to the public whom the policies were specifically drafted to protect against the harms of liquor abuse in society.

After the new Liquor Act was introduced in 2014, an implementation analysis was conducted by Mchunu (2016) which was angled more from the state perspective rather than a society-centred approach wherein the focus was on the administrators and stakeholders involved in the implementation of the Act; this study pointed to many deficiencies in its implementation. The purpose of this research was to understand the current policy approach with regard to society in its role as recognised participants in liquor regulatory processes and the value, if any, that the public and communities gain from being included in the regulatory processes. There has not been a study in this regard to date.

### 1.3 Preliminary literature review: theoretical and conceptual framework

As part of a proposal to undertake the study, the researcher conducted a preliminary literature review covering the conceptual and theoretical framework regarding the following terminology: public policy, public participation, and public value. Due to the volume of available research on the matter, the preliminary literature review enabled the researcher to conceptualise a framework within which to focus the study.

#### 1.3.1 Public policy

Ile, Eresia-Eke and Allen-Ile (2012:1) describe public policy as a set of guidelines or decisions that the government determines to achieve a particular vision or change for the benefit of the populace of a country. The most internationally recognised and common policy process is described as a chronology of events, all interdependent of each other (Dunn, 2016:42). The eight phases are agenda setting, policy formulation, policy adoption, policy implementation, impact assessment, policy adaptation, policy succession and policy termination. Various other policy processes have been adopted, but the integrated model is deemed by Ile et al. (2012:5) to be the most concise and representative of all other public policy models, making it easier to understand and implement. The integrated model consists of the five steps in Figure 1.

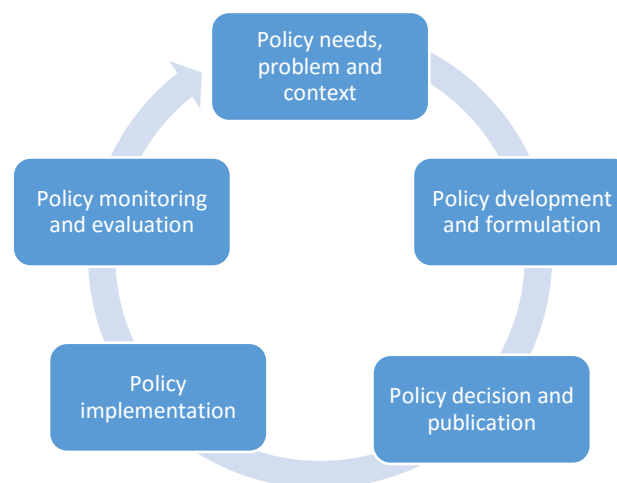


Figure 1: The integrated public policy model (Ile et al., 2012:5)

Brynard (2005:657) emphasises the link between policy evaluation and policy implementation. In order to achieve policy implementation or evaluate a policy's effectiveness, the process of policy implementation must be understood so that it can be influenced, if needs be. It is important to understand the maze through which policy travels

through the environment, including the implementation process and the environment that changes because of it. For the purpose of this research study, policy implementation underpins the focus of the study.

Importantly, to explore the effectiveness or impact of policy implementation, policy monitoring and evaluation have to take place. As explained by Dunn (2016:320), policy evaluation provides information on policy performance and whether the initially intended objectives and policy goals have been realised. It also assists with revising policy problems and seeking new alternatives where policy performance has not been adequate to its initially intended outcomes. Ile et al. (2012:29) also note another benefit of policy evaluation, namely that it promotes political and administrative accountability, which then demands a level of responsibility to ensure the members driving the policies and programmes strive for success.

Dunn (2016:320) outlines various criteria for evaluation that can be applied retrospectively, such as effectiveness, efficiency, adequacy, equity, responsiveness and appropriateness. Dunn (2016:321) outlines three approaches to policy evaluation, each with a different aim, such as pseudo-evaluation, which uses descriptive methods to produce reliable and valid information about policy outcomes; formal evaluation, which aims to produce reliable and valid information about policy outcomes that have been formally announced as policy-programme objectives, and decision-theoretic evaluation, which aims to produce reliable and valid information about policy outcomes that are valued by stakeholders.

Ile et al. (2012:43) highlight some key considerations and elements that should be included in the evaluation of public policy to ensure a quality outcome. These are the development of clear objectives, the tools and mechanisms used in the data collection, the time available for the evaluation, and the focus of the evaluation, which could range from a single element, a thematic evaluation or a single-phase evaluation.

### **1.3.2 Public participation in policy processes**

King, Feltey and Susel (1998:319) recognise that public administration decisions made without participation by citizens can render the decisions ineffective, and in fact public participation in the managerial process has become “a fact of life” due to citizens having diminished trust in government and demanding more accountability. Vigoda (2002:534) points out that interrelationships between citizens and the government have become a strategic goal of modern democracies, with higher levels of collaborative relationships and greater responsiveness by government to citizens’ demands.

King et al. (1998:319) highlight the four major components of public participation processes as being: (1) the issue or situation; (2) the administrative structures and processes within which the participation takes place; (3) the administrators; and (4) the citizens themselves. Fung (2015:517) provides four benefits of public participation, which include, firstly, more accurate framing of problems than public administrators acting alone; secondly, where there are ethical or material trade-offs, the public may be better placed to adjudicate those trade-offs; thirdly, citizens are well placed to provide information relevant to devising solutions and evaluating the implementation of the solutions; lastly, citizens can also be directly engaged in solving public problems through the provision of required resources.

Webler, Tuler and Krueger (2001:435) acknowledge the need for principles that characterise good public participation processes. Through a process of discourse with citizens, the following five principles arise as being important: (1) legitimacy through consensual decision-making, which is not forced and is transparent; (2) the process of participation should promote a search for common values – not information only, but also the process of implementation; (3) the process should be a participatory decision-making process, be fair and unbiased; (4) the playing field should be level so that there is equal power among all participants and viewpoints; and (5) the process should foster responsible leadership, with leaders making the best decision based on the deliberations.

### **1.3.3 Public value**

Moore (1994:296) asserts that the role of the public manager is to create public value. Public value is defined by Moore (1994:297) as government acting through the efforts of public managers to create value in the lives of citizens. Nabatchi (2012:699) defines public value similarly – as “an appraisal of what is created by government on behalf of the public”.

Public value has been measured through the following four methods over the past four decades (Moore, 1994:298): (1) the achievement of political mandates, (2) the achievement of professional standards, (3) analytical techniques such as programme evaluation, cost-effective analysis and cost-benefit analysis and (4) assessing stakeholder and customer satisfaction. In terms of the above methods, Moore (1994:301) believes that customer satisfaction should be given the highest priority when measuring public value, as citizens pay for services, through their taxes, and therefore are giving “up a sense of their freedom” for public enterprises to succeed.



Nabatchi (2012:701) offers eight elements to be utilised in public participation processes to increase the level of public value: (1) level of co-operation between government and citizens, with interest-based public participation processes generating higher levels of cooperation rather than position-based processes; (2) communication modes should be deliberative in nature and structured toward problem-solving; (3) levels of shared decision authority should empower the public in the decision-making processes with the promise that government will implement what the public decides; (4) participatory mechanisms that are smaller in nature, with integration mechanisms to promote collaboration and deliberation that is facilitated by professional facilitators to allow all voices to be heard and considered equally; (5) informational materials that allow the public to engage in an effective and informed way; (6) participant selection that identifies a broader set of participants and not only special interest groups; (7) participant recruitment through mechanisms of voluntary self-selection, random selection, targeted demographic recruitment and incentives that seek to minimise participation bias, which are more likely to help administrators identify and understand public values; and (8) recurrence and iteration of the public participatory events to allow for the updating of decisions and the consideration of new information on a complex policy issue.

#### **1.4 Research problem and objectives**

The thrust of current liquor policies is to protect society from the harms associated with liquor, indicated through the public having a direct voice in the regulatory process. The interest of the researcher was to assess how public participation as a policy objective is being implemented and what the experiences of the public are regarding the process.

The purpose of this study therefore was to assess the implementation of the liquor policy in KwaZulu-Natal, with specific regard to public participation in the uMgungundlovu District as a case study, to determine the public's perception of the value of the process. A study was conducted to address the statement: Do communities really have a say? Public participation in the liquor regulatory process: A case study of the uMgungundlovu District. The motivation to utilise the case study method to conduct the research was that it provided the researcher with a bounded context within which to conduct the research and obtain in-depth insights into the research problem.

This paper aimed to respond to the following primary research question:

- What are the experiences of the beneficiaries with regard to public participation in the liquor policy?

A secondary research question which this paper aims to respond to is:

- How is public participation in the liquor policy being implemented?

The research aim was thus to explore the public value derived through the introduction of public participation processes in the implementation of liquor policy in the uMgungundlovu District.

Given the research aim provided above, the following research objectives needed to be addressed:

- To examine policy frameworks and options relating to public participation in policy design and implementation – This objective will be addressed in chapter two and three
- To identify the applicable public values ascribed to liquor policy formulation from an international and national perspective - This objective will be addressed in chapter two
- To define public value in public participation processes - This objective will be addressed in chapter two
- To explore the public participation processes in the implementation of liquor policy in the uMgungundlovu District in KwaZulu-Natal - This objective will be addressed in chapter five
- To determine the level of public satisfaction from participation in the liquor policy public participation processes in the uMgungundlovu District in KwaZulu-Natal - This objective will be addressed in chapter six and seven
- To make recommendations regarding the public participation processes in the implementation of liquor policy in KwaZulu-Natal - This objective will be addressed in chapter eight

## **1.5 Research design**

Research design is described by Mouton (1996:107) as the “blueprint” of the research project, or the “route planner” to achieve the research goals. Mouton (1996:108) says the importance

of the research design is to structure the research project in such a way to ensure that the validity of the research findings are maximised and to minimise potential error.

Taking the above into consideration, the research design for the study was influenced by the research objectives, as well as a thematic framework based on the 7C protocol. With regard to the 7Cs, the researcher made use of the 7Cs as the theoretical tool of analysis to explore the implementation of public participation with regard to content, context, capacity, commitment, coalitions, communication and co-ordination. The reason for the use of the 7C protocol as the theoretical framework was that the variables utilised in the framework have been identified and synthesised from various scholars with differing perspectives as important causal factors which shape the direction that policy will take. The public participation models proposed by scholars such as Fung (2015) and Nabatchi (2012) will also be utilised as reference to assess the current public participation practices relating to the liquor policy.

Stebbins (2008:327) argues that an explorative study is necessary when there is little or minimal information about a certain activity, condition or group but a belief that something valuable can be discovered. Exploration is also explained by Babbie and Mouton (2017:79) as a typical research approach when the subject of study is relatively new. Creswell (2013:47) supports using qualitative research when conducting an exploratory study to understand complex circumstances. Denscombe (2010:109) states that qualitative research is associated more with exploratory studies; it provides a level of flexibility if a need arises within the design for development. Following the above guidelines and the exploratory nature of the research question, the research design selected for the study followed a qualitative approach.

Qualitative research is explained by Creswell (2009:176) as providing a holistic account of the problem being studied from the viewpoint of the participants. Babbie and Mouton (2017:270) note that qualitative research can be distinguished by its aim of in-depth understanding of actions, as well as the focus being more on process rather than outcome. This study also incorporated a combination of primary and secondary data sources as a means of triangulation to converge and corroborate information to provide “a confluence of evidence that breeds credibility” (Eisner, 1991:110). As Bowen (2009:28) explains, by examining information from various sources, the researcher reduces the potential impact of bias. The following research methods to collect the data were utilised:

- Semi-structured individual interviews with the subject experts and administrators of the public participation processes from the KZNLA. Semi-structured individual interviews were also conducted with the local committee members who belong to the public participation forum representing various sectors and make recommendations to the KZNLA regarding liquor licence applications. The interviews were semi-structured to allow for the participants to describe their experiences in their own words and to raise other matters that they may want to bring to the fore.
- Focus group interviews were also held with members of community groups in the District regarding the public participation processes of the liquor policy. Babbie and Mouton (2017:292) note that focus group interviews allow for more interaction on a topic and observation by the researcher regarding participants' opinions and experiences.
- A documentary analysis of literature and documents was undertaken by the researcher, which, along with the information from the individual and focus group interviews, provided further insight into the topic being assessed. Documentary analysis is described by Bowen (2009:27) as a qualitative research method in which documents, both electronic and printed, are examined and interpreted to elicit meaning and gain understanding.

## **1.6 The subjects for study and data collection**

The subjects selected to participate in the study are categorised as primary stakeholders, secondary stakeholders and policy beneficiaries according to their relevance in the implementation of the liquor policy. Brugha and Varvasovsky (2000:242) define primary stakeholders as those who are essential to the survival and well-being of the organisation, whilst secondary stakeholders are those who interact with an organisation but are not essential to its survival. The subjects selected are also based on their relevance in addressing the research objectives.

The primary stakeholders are the management of the KZNLA, who were purposively selected to form part of the study, viz. the Executive Manager: Licensing and Administration, the Manager: Licensing and Administration, the supervisor of the local committees, as well as the Local Committee Secretariat. Semi-structured individual interviews were held with these participants. The above subjects were selected to provide an overview of the implementation of the public participation processes from a strategic and administrative perspective. This will

also address the fourth research objective in understanding the public participation processes in the implementation of liquor policy in the uMgungundlovu District in KwaZulu-Natal.

An important primary stakeholder is the Local Committee (LC), the members of which constitute a public participation forum comprising various sectors and act as representatives of the District within which they serve. They provide recommendations on liquor licence applications prior to the final decision by the KZNLA Adjudication Board regarding the granting or refusal of a liquor licence. The LC is constituted of and represents the views of various key stakeholders, which include the South African Police Service, employees of the Planning Units of the Local Municipality, Local Councillors, and members of Community Policing Forums. The LC also adjudicates the public hearings when the public object to a proposed application. It is prudent to have the inputs of this structure regarding their constitution, the representation of the committee and its processes, as well as how communication is facilitated between them and the sectors that they represent. A purposeful sample of the eight members who form the LC in the uMgungundlovu District addressed the fourth and fifth research objectives to understand the process of public participation and its implementation by the LC, and the level of satisfaction of the members representing the public. This will be achieved through semi-structured individual interviews.

To address the fifth research objective, and understand the satisfaction of community members regarding the public participation process, policy beneficiaries identified as members of the public, community-based organisations, faith-based organisations and ward committee structures were interviewed in a focus group interview setting.

### **1.7 Scope and limitations of the research study**

The study was limited to exploring the implementation of public participation within the liquor regulatory process in uMgungundlovu District in KwaZulu-Natal. The study is limited to the geographical jurisdiction of the district as the implementation of public participation in terms of the liquor policy is based on a district model, whereby provision is made for one Local Committee to be established per district. uMgungundlovu district is the second highest district in the province of KwaZulu-Natal with regard to the number of liquor licences and liquor licence applications, and therefore the opportunity for the public to participate in the liquor licencing process is greater, as each application has to incorporate the opportunity for the public to participate. The researcher is also based in the district which primarily made the

research study manageable with easier access to the subjects of the study and minimised the use of resources.

The introduction of public participation as a policy objective is one of four objectives contained in the KwaZulu-Natal Liquor Licencing Act 06 of 2010. The study was limited to exploring this one policy objective as the aspect of public participation is an entirely novel process in the liquor policy in comparison to the National Liquor Act 27 of 1989, which was previously in force in the province. The other three objectives of Act were excluded as they would have expanded the scope of the study with regard to resources, which were limited.

There are two reasons for focusing on this one policy objective:

- 1) There are very few studies conducted on the implementation of public participation in the liquor regulatory process. Liquor policies are crafted in a manner to ensure that public interest is prioritised and to protect society against the harms associated with liquor. It was the interest of the researcher to explore how is public participation being implemented and is the purpose of promulgating this aspect of the legislation having any effect in communities?
- 2) The World Health Organisation (WHO) Global Strategy to Reduce the Harmful use of Alcohol (2018:94) lists interventions that governments could implement to reduce the harmful use of alcohol. Community Action is one area that the WHO suggests as the involvement of communities allows for local knowledge and solutions to local problems and is “one of the most commonly reported interventions for reducing the harmful use of alcohol.” The element of communities being informed and involved in decisions affecting them regarding the granting of liquor licences becomes an important aspect to explore in light of the reduction of harmful use of alcohol.

The public participation process in the liquor policy was explored from the perspective of a purposive sample of the KZNLA management and officials involved in the implementation to understand the process. KZNLA management and officials who are not directly involved in the implementation were excluded from the study. There are eleven district Local Committee structures established throughout the province who represent various community structures, the Local Committee members from UMgungundlovu district were purposively selected to form part of the study. Community members were purposively invited to participate in the study based on their association to a community organisation within the district.

The questions posed in the semi-structured interviews with the KZNLA management and officials are structured in accordance to the 7C protocol which was selected as the theoretical framework for the study. After reflection of various policy implementation theories and identifying critical variables from scholars such as Van Meter and Van Horn(1977), Berman (1978), Lipsky(1978) and Najam(1995), the 7C protocol was selected as the theoretical framework based on the interconnectedness of its variables. These variables have also been identified and synthesised from various scholars with differing perspectives as important causal factors which shape the direction that policy will take and can be applied to various policy cases.

To determine the meaningfulness of participation by the public in the liquor regulatory process, questions in the focus group interviews for community members and the local committee members were based on Fung's (2006) Public Participation Democracy Cube. Fung's (2006) Public Participation Democracy Cube determines the meaningfulness of public participation across three dimensions and was selected amongst other models of public participation from scholars such as Nabatchi (2012), Arnstein(1969) and Turner(2014). This was based on the model having being incorporated from and based on various case studies and synthesising three different, but most important issues of meaningfulness of participation determined by the public in democratic societies.

It should be noted that a limitation of the study is that the data collection was conducted during the COVID-19 pandemic, during the level five restrictions which posed a constraint to the study as access to groups was limited. This did have a constraint on the conducting of the focus group interviews which were initially planned for the LC. Some of the committee members were non-responsive to the invitations made by the researcher, resulting in semi-structured individual interviews eventually being conducted. A further limitation was with regard to the focus group interviews for the community members. The researcher conducted one in-person focus group interview with community members a week prior to the restrictions being imposed by Government. The second focus group was intended to take place virtually however this became a challenge as not all community members have access to technology and are not digitally literate. This limitation was addressed by exploring alternative administrative methods, such as a Whatsapp chat group. This too, became a hindrance as members were not participating. The second focus group was conducted telephonically, ensuring that the community members were asked the questions in the same manner, as advised by the research supervisor.

## **1.8 Data analysis**

The following analytical techniques were used to analyse the data.

The qualitative, structured focus group interviews were tape-recorded and transcribed, and the resulting texts were analysed using the Framework method, which has clear steps to follow and produces highly structured outputs of summarised data (Gale et al., 2013). The framework model is ideal to analyse transcriptions and compare and contrast views from various interviewees. The findings from the interviews were supplemented by secondary data obtained from the documents perused, such as the Act, newspaper articles and reports. The primary and secondary data were analysed according to the themes of the 7C protocol.

## **1.9 Ethical considerations**

Ethics approval was required for the purposes of the study due to the data-gathering processes involving human participants, but also because of the need to access organisational information and assessing information from a database.

The following ethical guidelines were utilised to ensure ethical standards were applied: Informed written consent was obtained from all the participating in the interviews, and they were informed of their right to refuse or withdraw their participation. The participants were ensured of confidentiality, in that their responses and information would only be known by the researcher. The use of names did not form part of the research report to allow interviewees to express their opinions freely. In accessing data from the KZNLA, a letter of consent was sent to the Chief Executive Officer requesting permission to access data of liquor licence holders and organisational information for the purposes of the research study, as per the Stellenbosch University ethics guidelines

## **1.10 Chapter outline**

The chapters of the research project are structured as follows.

### ***Chapter one: Introduction***

Chapter one entails the introduction to the research problem, the background and rationale for the research study, the research aims and objectives, the theoretical framework underpinning the study and the general plan of the research project in terms of data collection methods, sampling and analysis. The remainder of the dissertation is also outlined in Chapter one.



***Chapter two: Literature review***

Chapter two reflects on and summarises the current literature applicable to liquor policy from a global and national perspective. It also compares and synthesises various public policy implementation theories. The principles of public participation and the values ascribed to public value are also explored.

***Chapter three: Policy and regulatory framework***

Chapter three presents the holistic policy framework regulating the liquor industry in South Africa in all spheres of government.

***Chapter four: Research design and methodology***

The research design type and methodology used are presented. The sample frame, data collection and analysis methods are explained in detail in chapter four.

***Chapter five: Case study***

Chapter five delves into the functioning of the KZNLA, its legislative mandate and the scope of the retail liquor industry in KwaZulu-Natal, as well as the public participation processes provided for in the KZNLLA. This chapter also presents the demographics of the UMgungundlovu district as the case study and describes the setting for the research.

***Chapter six: Fieldwork results***

The results from the data collected through the semi-structured interviews, focus group interviews and document analysis are described.

***Chapter seven: Research findings***

A detailed analysis of the findings from the fieldwork against the 7C Protocol, as the tool of analysis is presented.

***Chapter eight: Conclusions and recommendations***

The interpretation of the findings is summarised in relation to the various sources utilised in the study. Recommendations and areas for possible future research based on the findings are proposed in relation to the implementation of liquor policy in KwaZulu-Natal.

## **CHAPTER TWO**

### **LITERATURE REVIEW**

#### **2.1 Introduction**

This chapter provides the theoretical perspective as it applies to the research problem, with a key focus on the public policy cycle, public participation, public value and the various liquor policy frameworks that shape the formulation of liquor policy from an international and provincial perspective. The literature review focuses on defining the terms and key concepts, namely liquor policy frameworks, tobacco policy frameworks, public policy models, public participation and public value, with views from various scholars.

The literature review firstly defines the broader public policy cycle, before exploring policy implementation and the models associated with it. The core theory of this research is the 7C protocol, found in Cloete, de Coning, Wisskink & Burger (2018) which consists of seven interlinked variables to provide a better understanding of policy implementation. The seven variables will be dealt with extensively in this chapter.

The need for public participation in government processes and what it aims to achieve is then explored, along with best practice models that can be applied to meaningful public participation. The literature review then delves into liquor policy imperatives that exist from international and local perspectives. Similar policies relating to the regulation of similar commodities such as tobacco are also explored to identify linkages in the regulation of these similar products.

#### **2.2 Policy implementation within the context of the public policy cycle**

South Africa is a development state. The Constitution of the Republic of South Africa (1996) ushered in a new democratic dispensation which has led to the reform in all spheres of government and administration. New policies and legislation had to reflect the founding provisions of the Constitution (1996), as it is essential that good public policies are produced and implemented in a democracy as these are essential to drive the service delivery agenda.

Based on contributions from Dye (1995), Fox and Meyer (1995) and Andersen (1997), Roux (2002:425) defines public policy as the “proposed course of action of government, or guidelines to follow to reach goals and objectives, and is continuously subject to the effects of environmental change and influence. Public policy, indeed, is also an authoritative

statement on what government chooses to do or not to do, and implies the authoritative allocation of values for the whole society.”

The chronology of the public policy cycle, as explained by Jann and Wegricht (2006:43), is most widely adopted to be agenda setting, policy formulation, decision-making, implementation and evaluation. The cycle is regarded as an ideal-type, rational and evidence-based model for public policy making. Dunn (2016:42) describes a similar policy process or series of events, which incorporates agenda setting, policy formulation, policy adoption, policy implementation, policy assessment, policy adaptation, policy succession, and policy termination. For the purposes of this study, policy implementation will be brought into focus.

Policy implementation is defined by Van Meter and Van Horn (1975:447) as being those actions by public or private individuals that are directed at the achievement of objectives set forth in prior policy decisions. Policy implementation studies typically ask the question, “Why did it happen?” whereas policy impact studies would look at the question, “What happened?” Cloete et al (2018:195) state that policy implementation is concretised when material and human resources are changed into deliverable outputs that lead to change in the lives of members of society. Policy implementation is crucial and complex, yet a widely accepted model or theory of the causal processes of implementation still remains. As Najam(1995:6) quoting Goggins (1990) states, there is still confusion as to when does implementation begin and end, and how many type of implementation there are.

The literature shows an evolution of implementation theory research which spans over the last twenty years, these are arranged according to three generations, as outlined by Najam (1995:8) which are 1) the first “classical” generation of thinkers 2) the second “empirical” generation and 3) the third “analytical” generation . These will be explored further below.

### **2.2.1 Three generations of policy implementation research**

The classical generation began with the assumption that policy implementation was an “automatic cog in the rationalised administration machine”, Najam (1995:9). Public administration was conceived as being predictable and rational with the political methodology being labelled as a single authority, “top-down” approach. Policy implementation during the first generation was significantly minimised as it was assumed that it would automatically happen once the policies had been proclaimed by the authorities. As

Smith (1973:197) explains this assumption of the policy automatically being implemented rested upon certain political and organisational conditions.

Najam (1995:10) points out that it became apparent during the post-World War-II period that public policy was not an orderly machine and was in fact quite complex. To highlight the complexity of policy administration and implementation, scholars of the second generation undertook empirical case studies to fault the first generation scholars and their underestimation of complexity in the policy implementation process but did little to actually aid the development of effective policy making systems. There are a number of specific case studies in the United States which meticulously document that the grand policies of the 1960's were not working as presupposed by the first, classical generation. The complexity of policy implementation was highlighted by Bardach (1977:3), where he states, "it is hard enough to design public policies and programmes that look good on paper. And it is excruciatingly hard to implement them in a way that pleases anyone at all, including the supposed beneficiaries or clients."

The third generation of implementation research sought to cumulate and compare knowledge from different case studies and sectors to arrive at organising frameworks and conceptual models or variables crucial to understanding how policy implementation worked. Najam (1995:11) notes that whilst researchers of the second generation focused on empirical studies of why specific cases of implementation failed, the third generation set a goal of understanding how policy implementation worked generally. Whilst much diversity still exists and there is not yet agreement on a predictive implementation theory there certainly is convergence on the understanding of variables that can impact the successful implementation of a policy which can be attributed to the third generation of researchers. Najam (1995:12) also attributes the two major theoretical streams of thought which emerged in the field of policy implementation from the third generation scholars, namely, the top-down approach and bottom-up approach which is elaborated on further in the section below.

### **2.3 Policy implementation – the top-down and bottom-up approaches**

An examination of the policy implementation field signifies two distinct views, that of the "top-down" view of implementation and the "bottom-up" view of implementation.

The top-down perspective is explained by Najam (1995:13) as having the authority policy decision at the top as central. The earlier analytical models of Van Meter and Van Horn(1977) and Edwards (1980) typically begins with the perspective of the policy decision

being at the top-level of government and according to Sabatier (1986:22) asks the following, (a) the extent of how the actions of implementing officials were consistent with those outlined in the policy, (b) were the objectives attained over time, (c) what were the key factors affecting the outputs and impacts of policy and (d) was the policy reformulated over time based on experience and how was this done? It is noted by Najam (1995:13) that the top-down view has still remained the more dominant view.

The bottom-up view was more a reaction identifying weaknesses against the top-down view which was purported by scholars such as Lipsky (1978:398) wherein it was suggested that the analysis of policy implementation should be “focus on those who are charged with carrying out policy rather than those who formulate and convey it.” As Kaufman (1973) noted, “subordinate compliance does not automatically follow upon the issuance of orders and instructions,” implying that authorities cannot expect that by outlining policy that it will be executed in that fashion by subordinates.

Whilst the debate regarding the top-down versus bottom-up has not concluded, many scholars recognise the value in both approaches and the insights they provide in policy implementation studies appreciating that either approach could be relevant in particular policy implementation case studies. However, Najam (1995:14) notes that implementation policy requires an evolution toward a new model which will incorporate the strengths of both approaches.

## **2.4 Policy implementation models**

The focus of this section will be to focus on some of the models of policy implementation, both the top-down and bottom-down models, and the more recent frameworks which have attempted to synthesise these approaches.

The first implementation model is that of Smith (1973:197) wherein he recognises that the general assumption made by scholars is that a policy will be implemented once that policy has been made. He suggests that it is because of this assumption that policy implementation is often overlooked in policy analysis models. Smith (1973:198) has noted that governments often initiate policies without consultation with the interested and affected groups. Consultation only tends to happen when the policies are being implemented, which then leads to the policy either being abandoned or modified dependant on how it is received by the affected groups. This phenomenon is particularly notable in the politics of the Eastern and African nations where Smith (1973:199) notes policies are not made in an incremental

fashion as in Western countries, but are rather “ambitious and sweeping” which administrators cannot implement.

Smith (1973:202) argues that a “policy formulated by government serves as a tension-generating force in society” because there will be tension or conflict by those imposing the policy and by those affected by the policy. Against this backdrop and to address the shortcomings of policy making models, Smith (1973:202), re-evaluates the importance of policy implementation in the policy making process through the use of a model which includes four variables of this “tension generating matrix”.

The first variable is the idealised policy which Smith (1973:203) defines as the idealised patterns of interaction that the policymakers are attempting to induce which include the formal policy and the form that it is intended to take as well as the type of policy which could be complex or simple in nature, for example, and the programme of the policy and lastly the images of the policy and what type of image the policy invokes in society.

The second variable in Smith’s implementation model is the target group who are defined by Smith (1973:204) as those who are most affected by the policy and who would be required to adapt new patterns of interaction because of the policy.

The third variable is the implementing organisation responsible for the implementation of the policy which is required to have stability in terms of its structure and personnel, leadership and the general capacity of the organisation to meet the objectives of the policy implementation.

The final variable is environmental factors which Smith (1973:205), notes is the “constraining corridors” of the political, cultural, social and economic conditions through which policies need to prevail.

In their top-down model of policy implementation, Van Meter and Van Horn(1977:103) explicitly define policy implementation as being “those actions by public and private individuals (or groups) that affect the achievement of objectives set forth in prior policy decisions.” To aid policy implementers regarding factors of unsuccessful policy implementation, Van Meter and Van Horn(1977:104) propose a model integrating six variables to explain the implementation process and factors that can hinder or facilitate policy performance. The model, entitled, “A model of intergovernmental policy implementation” is shown in Figure 2 below. These are a) the relevance of policy standards and objectives whereby it is proposed that a detailed guideline of the policy standards and measures need to

be constructed and changed over time. Van Meter and Van Horn (1977:107) argue that if policy standards are inconsistent or unclear they will create problems with policy delivery. The second variable is policy resources which are a crucial requirement for the administration of programmes and enforcement, the lack of resources or poor timing in the release of resources can be an impediment to stimulating interested individuals to strive for successful policy implementation, Van Meter and Van Horn(1977:107) Inter-organisational communication and enforcement activities are the third variable in the model where the emphasis is on the understanding and interpretation of policy standards when communicating as well as the achievement of compliance with policy standards through enforcement techniques of norms and incentives, Van Meter and Van Horn(1977:111) The fourth variable relates to the characteristics of the implementing agencies where Van Meter and Van Horn(1977:114) emphasise the competence and skill of the staff regarding the tasks they need to perform to ensure successful policy implementation. The economic, social and political conditions affecting the implementing organisation are the fifth variable whereby, dependant on the needs of the particular community, policy implementers would need to reject certain approaches or goals of the policy. Politically, the support by superiors and the elite of the policy objectives are also identified by Van Meter and Van Horn(1977:114) as an important determinant of successful policy implementation. The final variable purported by Van Meter and Van Horn(1977:113) is the disposition of implementers for carrying out policy decisions, where it is explained that if policy implementers are not fully supportive and comprehend policy objectives or standards it will affect their willingness or ability to implement the policy.

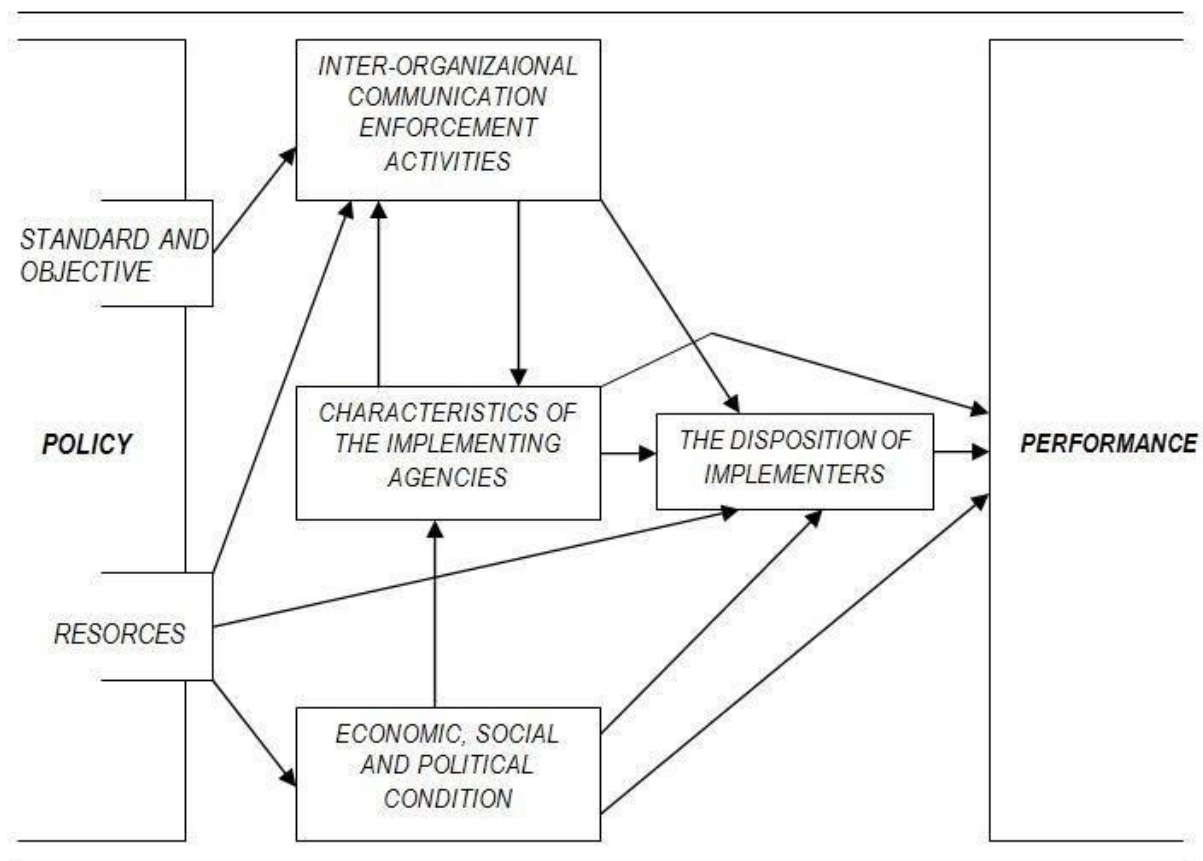


Figure 2: A model of intergovernmental policy implementation (1977:104)

Bernman (1978) also offers building blocks to develop a framework on how to improve policy implementation and performance. Bernman's framework (1978) builds on the assumption that policy implementation problems arise from the interaction of a policy with its institutional setting. Bernman (1978:1) criticises the top-down approaches to policy implementation research as being "pre-occupied with the workings of government" and on the policy without considering the policy makers and the intervening institutions. Bernman (1978:5) then defines implementation analysis as the study of why authoritative decisions do not lead to expected results.

Bernman (1978) explains that implementing a national policy consists of two classes of problems, the "macro-implementation problem" whereby the federal government has to execute its policy in such a manner that influences the local delivery organisations to behave in desired ways and the second problem termed as the "micro-implementation" problem where the local organisations have to then devise and carry out their own internal policies. The distinguishing factor between the two problems Bernman (1978:10) explains is the



institutional settings. Bernman (1978) articulates that the effective power to determine a policy's outcome rests with the micro-implementation processes as local delivery will determine the outcome of a social policy. In trying to improve the micro-implementation process, Bernman (1978:28) suggests that organisational change needs to be facilitated through a three phased approach of mobilisation, deliverer implementation and institutionalisation. He then suggests that following this approach, implementation can then follow one of four paths: a) non-implementation, no adaptation in the project plan or in deliverer behaviour, b) co-optation, no adaptation in deliverer behaviour, but adaptation in the project to accommodate existing routines, c) technological learning, no adaptation of the project plan but adaptation of routinized behaviour to accommodate the plan and d) mutual adaptation, adaptation of both the project and deliverer behaviour. Based on his earlier research (Bernman and McLaughlin, 1977) points out those effective outcomes were seen on projects which showed mutual adaptation and that a continued outflow of outcomes cannot be realised unless they become institutionalised as part of the local delivery system.

Lipsky (1980:xii) challenges the hierarchy model of policy implementation and instead argues that public policy "is not best understood as made in legislatures or top-floor suites of high ranking administrators because in important ways it is actually made in the crowded offices and daily encounters of street level workers." Lipsky (1980:xi) defines the street-level bureaucrats as the "schools, police and welfare departments, lower courts, legal services offices and other agencies whose workers interact with and have wide discretion over the dispensation of benefits or the allocation of public sanctions. Lipsky (1980: xii) argues that it is these street level bureaucrats who should be central to the study of policy implementation as the content of a policy and its impact on affected parties can be substantially modified through the "decisions of street level bureaucrats, the routines they establish, and the devices they invent to cope with uncertainties and work pressures that effectively become the public policies they carry out."

In exploring the various frameworks and complexities that policy has to travel in the course of implementation, Najam (1995:35) introduced the 5C protocol, which highlights critical variables that could determine the direction that implementation might take. These variables have been identified by Najam (1995:35) and synthesised from various scholars with differing perspectives, working on different issues, in different political systems in countries at various levels of economic development. The five variables are content, context, commitment, capacity, and clients and coalitions. Brynard (2005:662) introduced

communication as a sixth variable to the Najam's (1995) original 5C protocol due to its importance in policy implementation. The seventh variable which was recently added to the original 5C protocol is co-ordination, according to Cloete et. al (2018: 206). Co-ordination is particularly important in bringing together all the variables within the protocol, because without the co-ordination of variables, such as content, commitment, capacity and communication, the intent of the policy will not be achieved. The seven variables will be discussed below.

The content of a policy can be characterised as distributive, regulatory or redistributive (Brynard, 2005:659). Distributive policies are policies that create public goods for general welfare; regulatory policies are policies that specify rules of conduct; and redistributive policies are an attempt to change allocations of wealth or power of some groups at the expense of others. Brynard (2001:180) suggests that "the content of policy is not only important in the means its employs to achieve its ends, but also its determination of the ends themselves, and in how it chooses the specific means to reach those ends". This choice of ends and means, as well as the setting of goals and the actions geared to achieving them, forms the content of the policy.

The context within which a policy is to be implemented and its impact on the implementation process need to be understood (Brynard, 2005:659). This context that requires understanding could include, for instance, the institutional context within which a policy needs to be implemented, as well as the larger reality and context of social, economic, political and legal realities within which an institution needs to operate and is shaped.

The third variable that is critical to the policy implementation process is commitment. As Brynard (2005:660) explains, government may have the most cost-benefit, logical policy within a perfect bureaucratic structure but if those who are responsible for implementing the policy are unwilling or cannot do so, the policy will fail. Commitment is important on all levels, from street level to state level, i.e. whether one views policy implementation from a bottom-up or top-down perspective. Commitment, Brynard (2005:660) argues will and will be influenced by all the other remaining variables and implementers.

Capacity is the fourth variable unpacked by Brynard (2005:660), viz. the structural, functional and cultural ability to implement the policy objectives and public services. It also refers to access to and availability of tangible resources, such as human and financial resources. Intangible requirements are aspects such as leadership, motivation, courage and

endurance; “the political, administrative, economic, technological, cultural and social environments within which action is taken must also be sympathetic or conducive to successful implementation” (Brynard, 2001:192). Brynard (2005:661) goes a little further in saying that, whilst articulating the capacity requirements of policy implementation is important, even more important is knowing what the required resources are. Brynard (2001:182) suggests that, where resources are scarce, such as in South Africa, changes are needed in government focus, structure, functioning and organisational culture if policy implementation is to be successful.

The fifth C in the Najam’s (1995) 5C protocol is clients and coalitions. Brynard (2005:661) highlights the importance of identifying and joining coalitions with the appropriate interest groups and opinion leaders who will support a particular implementation process. He emphasises that it is necessary to determine the potentially influential clients and coalitions and equally important not to have too many “minor” actors

In addition to the original 5C Protocol, a sixth variable was introduced by Brynard (2005:662) that is critical to and important for policy implementation, namely communication. Brynard (2005:662) emphasises that in a country such as South Africa, which has eleven official languages communication is an integral part of the other variables and should be singled out as such. Cloete et. al (2018:212) argue that policy implementation and communication are mutually dependant, especially in the light of increased public engagement and consultation. As Cloete et. al (2018:212) highlight, policies are more inclined to be adhered to when stakeholders are engaged regarding decisions to be taken. However, the opposite is also true: when stakeholders are not engaged, organisational legitimacy is diminished and there is resistance to change among the stakeholders.

Cloete et. al (2018:213) explains that the seventh variable that could augment the 5C protocol and that is critical to successful policy implementation is co-ordination. Co-ordination, Cloete et. al (2018:213) explains, relates to intra- and inter-organisational co-ordination and co-operation towards the implementation of policies. Inter-organisational co-ordination is defined by organisations co-operating together, whilst intra-organisational co-ordination refers to working relations amongst department or units within an organisation. Cloete et. al (2018:213) recognises that, as organisations graduate through different stages, there is a need for different modes of co-ordination. This can be achieved through mutual adjustment, direct supervision and standardisation of outputs and work. Co-ordination is particularly important in bringing together all the variables within the protocol, because without the co-ordination of

variables, such as content, commitment, capacity and communication, the intent of the policy will not be achieved.

Parsons (1995:464) adds that policy implementation should be understood as an evolutionary and a learning process, which will unfold and adapt and change in the practice of the policy and the effectiveness of policy implementation, will vary across policy types and policy issues.

Brynard (2005:657) emphasises the link between policy evaluation and policy implementation. In order to achieve policy implementation or evaluate a policy's effectiveness, the process of policy implementation must be understood so that it can be influenced, if needs be. It is important to understand the maze through which policy travels, from the environment, the actual implementation process and the environment that changes because of it. Parsons (1995:547) describes the evaluation of policy implementation as a formative evaluation that provides policy-makers with tools to monitor the way in which a policy is being delivered, to either control or correct the policy-delivery process more effectively.

Dunn (2016:320) adds that policy evaluation provides information on whether the initially intended objectives and policy goals have been realised. It also assists with revising policy problems and seeking new alternatives where policy performance has not been adequate to its initially intended outcomes. Nagel (2002:145) conveys five key elements of policy evaluation, namely (1) goals and weighting of policy goals, (2) the policies, projects or programmes available for achieving the goals, (3) relations between the policy and the goal, (4) drawing tentative conclusions regarding which policy it best to adopt in the light of the goal, policy and relations, and (5) determining what is necessary for the second-best policy alternative to become the best policy alternative.

Parsons (1995:545) defines policy evaluation as learning about the consequences of public policy. Parsons (1995:543) claims that policy evaluation has two interrelated aspects, namely the evaluation of the policy and its programmes, and the evaluation of the people who are responsible for implementing the policy and its programmes. In this regard, two dimensions need to be addressed: the measurement of the goals the policy had set out to attain, and the measurement of the actual impact of the policy. There are various definitions of policy evaluation, with Nagel (2002:133) defining policy evaluation as contrasting alternative public policies rather than describing or explaining why they exist.

Dunn (2016:320) outlines various criteria to evaluate policy that can be applied retrospectively, such as effectiveness, efficiency, adequacy, equity, responsiveness and appropriateness. Similarly, Nagel (2002:134) identifies the key characteristics of good policy analysis to be validity, importance, usefulness, originality and feasibility. Validity, says Nagel (2002:134), refers to the accuracy of the policy goals as well as the feasibility of all policy alternatives, whilst importance in policy evaluation is defined as whether the research deals with major societal benefits or costs.

Parsons (1995:550) approach to summative evaluation, which is the measuring of the impact of a policy after implementation, is based on a model of comparative enquiry, which seems to be an attractive option for evaluation by governments. However, he also declares that comparative enquiry, which is usually conducted through experimentation, does not produce conclusive data but rather interpretation, and is fraught with a number of problems, such as cash and time restraints.

Dunn (2016:321) outlines three approaches to policy evaluation, each with a different aim. The first is pseudo-evaluation, which aims to use descriptive methods to produce reliable and valid information about policy outcomes. The second approach is formal evaluation, which aims to produce reliable and valid information about policy outcomes that have been formally announced as policy-programme objectives. Third is decision-theoretic evaluation, which aims to produce reliable and valid information about policy outcomes that are valued by stakeholders.

Parsons (1995:564) also offers three approaches to policy evaluation, namely the multiplist approach, the design approach and the naturalistic approach. The multiplist approach is explained by Parsons (1995:564) as the use of several approaches and methods during the evaluation in the form of triangulation, as there is not one correct method of evaluation. The design approach also uses multiple frameworks and is the construction of debate and arguments that are used as frameworks and tools for critical dialogues and ways of looking at policy problems (Parsons, 1996:566). The naturalistic approach is described by Parsons (1996:567) as the most radical form of policy evaluation that entails a form of negotiation between stakeholders, and the knowledge gained is constructed based on the mediation and facilitation of views from all stakeholders. The design approach is similar to the participative evaluation method, which is defined by Berriet-Sollic, Labarthe, Laurent and Baudry (2011:5) as having all stakeholders who were involved from the policy design stage contribute their opinions of the value of the policy or programme. Berriet-Sollic et al.

(2011:3) propose policy evaluation methods be based on the desired goals assigned to the evaluation – either being to learn about, to measure or to understand the policy implementation. Berriet-Sollicet et al. (2011:13) propose that, ideally, all three objectives be combined into a single framework, although they realise that this is often impossible or very costly to do.

Adaptive management is another method used by policy makers to evaluate policy. According to McLain and Lee (1996:438), adaptive management allows policy makers to see the broad impact of policies and is an approach that determines how to implement control devices that are capable of learning from experience. Adaptive management, say McLain and Lee (1996:439), “relies upon teams of scientists, managers and policy makers to jointly identify and bound management problems in quantifiable terms”. This is achieved through the development of a model based on the key components of the system being managed and testing a range of theories and hypotheses against the model to identify which policy options would best achieve management’s objectives. A systematic monitoring and evaluation process is then established to measure the actual performance against the expected performance of the implementation of the model, which allows for the rapid accumulation of knowledge about policy performance.

Schwella (2014:84) introduces organisational learning as a means of policy evaluation and believes that good governance can only benefit from the use of ideas, innovation and learning in order to ensure effective policy-making and implementation. Knowledge-based learning processes utilising ideas and information require organisations to incorporate processes that involve organisational learning, knowledge management, as well as individual and institutional capacity (Schwella, 2014:85). As part of institutional capacitation, governance practices need to be analysed continuously. Schwella (2014:87) introduces a model for action-based organisational learning, based on a process of questioning. The model is called “four leadership learning-for-performance questions” (see Table 1).

Table 1: Four leadership learning-for-performance questions (Schwella, 2014:87)

1. What happened? – The answer to this question provides a quantitative and qualitative assessment of performance trends.
2. Why did this happen? – The answer to this question provides an explanation of the results of the actions on performance.
3. What can I/we learn from this? – The answers to this question can only benefit individuals and the institution by challenging current mental models and improving empowerment and team learning.
4. How can the learning be used and built back into the system to improve the quality and performance of the system? – The answer to this question enhances and improves institutional performance.

In considering the evaluation of a public policy, the National Collaborating Centre for Healthy Public Policy (2012:2) provides six dimensions for analysing public policies based on policy effects and policy implementation, with the question of durability cutting across all six dimensions. These are depicted in Table 2 below:

Table 2: The six dimensions for analysing public policies Source: The NCCHPP dimensions for analysing public policies (2012:2)

<b>Effects</b>	Effectiveness	What effects does the policy have on the targeted problem?	<b>DURABILITY</b>
	Unintended effects	What are the unintended effects of this policy?	
	Equity	What are the effects of this policy on different groups?	
<b>Implementation</b>	Cost	What is the financial cost of this policy?	
	Feasibility	Is this policy technically feasible?	
	Acceptability	Do the relevant stakeholders view the policy as acceptable?	

In their evaluation of smoke-free policies in the United States, Schillo, Babb and Juster (2011:167) developed a practical toolkit using mixed methods to assess the newly enacted laws and their success rate in terms of compliance and their intended benefits. Schillo et al.



(2011:171) recognise evaluation as an integral part of the policy process, with the collection, analysis and communication of data being central to foster debate about policy implementation, the need for policy change, and to ensure that policies remain in place once they are entrenched. This requires concrete evaluation tools, sample materials such as surveys and press releases, and a clear method of communicating findings to stakeholders in a non-technical way (Schillo et al., 2011:172).

Similarly, Flynn and Wells (2014:145) advise that evaluating public policy relating to alcohol should be approached by combining data from various sources, because alcohol use and harm is such a complex phenomenon, and to make a comprehensive assessment of the impact of alcohol policy on communities.

## **2.5 Public participation in policy processes**

Mayekiso, Taylor and Maphazi (2013:187) define public participation as one of the key tenets of a democracy enshrined in the Constitution of South Africa (1996). In Section 195(1)(a), Constitution of South Africa (1996) alludes to the principles of good governance, which include accountability to communities. Mayekiso et al. (2013:191) also allude to the Batho Pele principles, which mean “people first”, implying that government departments should strive for efficiency, accountability and ensure value for taxpayers’ money.

King et al. (1998:319) recognise that public administration decisions made without participation by citizens can render the decisions ineffective, and in fact public participation in the managerial process has become “a fact of life” due to citizens having diminished trust in government and demanding more accountability. Vigoda (2002:534) points out that interrelationships between citizens and the government have become a strategic goal of modern democracies, with higher levels of collaborative relationships and greater responsiveness by government to citizens’ demands.

King et al. (1998:317) refer to authentic public participation, which is a concept of participation that stimulates interest and investment in both administrators and citizens alike and involves citizens in the making of decisions instead of just judging a decision. King et al. (1998:319) highlight the four major components of authentic public participation processes, namely being conscious of: (1) the issue or situation; (2) the administrative structures and processes within which the participation takes place; (3) the administrators; and (4) the citizens themselves.



In their comparison of authentic and inauthentic participation, King et al. (1998:321) highlight the differences set out in Table 3.

Table 3: Comparison of authentic and inauthentic participation (King et al., 1998:321)

<b>FACTOR</b>	<b>INAUTHENTIC PARTICIPATION</b>	<b>AUTHENTIC PARTICIPATION</b>
INTERACTION STYLE	Conflictual	Collaborative
PARTICIPATION IS SOUGHT	After the agenda is set and decisions are made	Early, before anything is set
ROLE OF ADMINISTRATOR	Expert technician/manager	Collaborative technician/governor
ADMINISTRATIVE SKILLS NEEDED	Technical, managerial	Technical, interpersonal, discourse, facilitation
ROLE OF CITIZEN	Unequal participant	Equal partner
CITIZENSHIP SKILLS NEEDED	None	Civics, participation skills, discourse skills
APPROACH TO “OTHER”	Mistrust	Trust
ADMINISTRATIVE PROCESS	Static, invisible, closed	Dynamic, visible, open
CITIZENS OPTIONS	Reactive	Proactive or reactive
CITIZEN OUTPUT	Buy-in	Design
ADMINISTRATOR OUTPUT	Decision	Process
TIME TO DECISION	Appears shorter and easier, but often involves going back and “redoing” based upon citizen reaction	Appears longer and more onerous, but usually does not require redoing because citizens have been involved throughout; may take less time to reach decisions through traditional processes
DECISION IS MADE	By administrator/political and/or administrative processes, perhaps in consultation with citizens	Emerges as a result of discourse; equal opportunity for all to enter the discourse and to influence the outcomes

King et al. (1998:323) have adopted a three-pronged approach to achieving authentic participation, which involves (1) empowerment and education of citizens, where citizens

have access to participate in processes and know that their participation has the potential to make an impact; (2) re-educating administrators to change their roles to being co-operative participants or partners in the process, rather than expert managers; and (3) enabling administrative structures, processes and change in the functioning of bureaucracies, with administrators working with citizens as partners.

Fung (2015:517) provides four benefits of public participation, which are: more accurate framing of problems than public administrators acting alone; second, where there are ethical or material trade-offs, the public may be better placed to adjudicate those trade-offs; third, citizens are well placed to provide information relevant to devising solutions and evaluating the implementation of the solutions; last, citizens can also be directly engagement in solving public problems through the provision of required resources. Halvorsen (2003:541) suggests that high-quality public participation plays a significant role in citizens' trust and tolerance of government agencies' decisions where conflicting citizen expectations exist. High-quality public participation includes the following factors (Halvorsen, 2003:536): (1) access, in terms of efficient use of time, comfortable venues and low-cost catering, (2) representation of various and diverse , which viewpoints encourages fairness and understanding of the problem, and (3) deliberative discussion characterised by open, reasoned and thorough discourse.

However, as much as public participation is recognised as a necessity King et al. (1998:319) have found that some administrators view the process as giving rise to further red tape and delays in administrative decision-making, and that the inclusion of the public in decision-making does not help solve “wicked problems”, but rather creates a new set of problems. Wicked problems are defined by Rittel and Webber (1973:160) as public policy problems which are inherently resistant to a clear statement of the problem and resistant to a clear and agreed solution. Turner (2014:888) refers to this phenomenon as conventional public participation, in which administrators control the ability of citizens to influence the situation after the issues have been framed, thus making the participation symbolic rather than real, and therefore not meaningful. In the context of conventional public participation, the citizens' power is aimed at redirecting or “blocking” administrative actions, rather than being a partner in assisting administrators to define the issues and possible solutions (Turner, 2014:888).

There are various strategies as a framework to improved public participation. Turner (2014:888) refers to substantive participation, which is public participation that encompasses the entire community and is a deep and continuous involvement by the public in

administrative and developmental processes. Substantive participation requires a focus on the process of participation and the outcome, so that citizens feel they are key actors in a dynamic relationship (Turner, 2014:888). Substantive participation involves the following four processes to allow for maximum opportunities for citizen involvement and input: (1) allowing for the direct participation of citizens or non-experts in the decision-making process, (2) citizens having shared authority with administrators, (3) extended periods of time for participation and face-to-face interaction between administrators and the public, and (4) the opportunity for the public to participate as equals with officials and experts.

Webler et al. (2001:435) acknowledge the need for principles that characterise good public participation processes. Through a process of discourse with citizens, they offer the following five principles as being important to a good public participation process: (1) legitimacy through consensual decision-making, which is not forced and is transparent, (2) the process of participation should promote a search for common values – not information only, but also relating to the process of implementation, (3) the process should be a participatory decision-making process, fair and unbiased, (4) it should offer a level playing field with equal power among all participants and viewpoints, and (5) the process should foster responsible leadership, with leaders making the best decision based on the deliberations.

## **2.6 Meaningfulness, public value and satisfaction during public participation processes**

Having defined public participation and the principles of ideal public participation, the proposed models and benefits, one can now explore methods to determine whether public participation is a process that conveys meaningfulness and public value.

Moore (1994:296) asserts that the role of the public manager is to create public value. Public value is defined by Moore (1994:297) as government acting through the efforts of public managers to create value in the lives of citizens. Nabatchi (2012:699) defines public value similarly, as “an appraisal of what is created by government on behalf of the public”. In defining public value (Moore, 1994:309) reminds us that politics are not to be excluded, as it represents the aspirations of the citizens through the decisions they make through legislation.

Public value has been measured over the past four decades using the following four methods, as explained by Moore (1994:298): (1) the achievement of political mandates, (2) the achievement of professional standards, (3) analytical techniques such as programme evaluation, cost-effective analysis and benefit-cost analysis, and (4) assessing stakeholder and

citizen satisfaction. In terms of the above methods, Moore (1994:301) believes that citizen satisfaction should be given the highest priority when measuring public value, as they pay for services through their taxes, and therefore are giving “up a sense of their freedom” for public enterprises to succeed.

However, Moore (1994:303) also points out that government is in the business of not only obliging citizens, but serving them through the means of authority and money. However, authority should only be used to benefit everybody in a fair and economical way. Moore (1994:303) points out that public value often can be seen to be good not only through the experience of the service received by a public sector institution, but through the fairness displayed by the organisation in its operations, especially in regulatory and enforcement agencies.

Nabatchi (2012:700) points out that there may be instances where public values cannot be so clear cut, such as in policy pluralisms, in terms of which there are various value sets regarding a particular issue, and all which may be equally valid and correct. Nabatchi (2012:700) advises that, in these instances, administrators should identify the relevant values at play, understand the different values and reconcile the value conflicts by rank to assist in creating overall public value and preventing public value failure. There are eight elements that can be utilised in public participation processes to help public administrators better understand public values in public policy conflict areas. These are (1) the level of cooperation among government and citizens, with interest-based public participation processes generating higher levels of cooperation rather than position-based processes; (2) communication modes, which should be deliberative in nature and structured toward problem-solving; (3) levels of shared decision authority that empower the public in the decision-making processes, with the promise that government will implement what the public decides; (4) participatory mechanisms that are smaller in nature, with integration mechanisms to promote collaboration and deliberation and that are facilitated by professional facilitators to allow for all voices to be heard and considered equally; (5) informational materials that allow the public to engage in an effective and informed way; (6) participant selection that identifies a broader set of participants and not only special interest groups; (7) participant recruitment through mechanisms of voluntary self-selection, random selection, targeted demographic recruitment and incentives that seek to minimise participation bias, which are more likely to help administrators identify and understand public values; and (8) recurrence and iteration of the

public participatory events to allow for updating decisions and considering new information on complex policy issues (Nabatchi, 2012:701).

In contrast, Coglianese (2002:8) argues that public satisfaction as a measure of the impact of public participation is not an appropriate standard for evaluating public participation in the regulatory process, because the mere fact that the public participated in a regulatory proceeding and is satisfied with the decision does not mean the policy decision was a quality, effective one. Another reason presented by Coglianese (2002:9) is that the participants in a regulatory proceeding are not the only people whom the regulatory decision will affect, so their view is only a partial representation of the overall social welfare. Coglianese (2002: 25) refers to other reliable measures that can also be utilised when evaluating policy outcomes, and that one should not rely totally on public participation satisfaction. An example is measuring the results yielded by the policy outcome against their intended objective, and utilising alternative processes in addition to public participation so that the public's collective interests are more likely to be satisfied.

In addition to measuring the outcome of a policy decision, Beierle (1998) articulates six social values arising from public participation efforts that could also be measured. These are: (1) educating the public, (2) incorporating public value into policy-making, (3) improving the substantive quality of public policy, (4) increasing public trust, (5) reducing conflict and (6) achieving cost-effective public policy.

In order to deduce the authenticity or meaningfulness of the public participation process, Arnstein (1969:217) introduced the "Ladder of Citizen Participation", in which the eight rungs of the ladder each represent the extent of a citizen's power in determining the end product of a participatory process. Power is the most essential part of the ladder – who has power and whether the community can get it. The ladder serves to depict the graduations of participation, and that not all types of participation are empowering (see Table 4).

Table 4: Adaptation of Arnstein's eight rungs of the ladder of citizen participation

RUNG ON THE LADDER	EXTENT OF CITIZENS' POWER	COMMENTS
8. Citizen control	Citizen power	At this level, citizens have increasing degrees of decision-making clout. On the topmost rungs, citizens obtain the majority of decision-making seats.
7. Delegated power		
6. Partnership		
5. Placation	Tokenism	Placation is simply considered to be a higher level within tokenism, as the have-nots can now advise but the ultimate power and right to decide still remain with those in power.
4. Consultation		This level of participation allows for the have-nots to have a voice and be heard.
3. Informing		
2. Therapy	Non-participation	According to Arnstein (1969:217), the objective of this level of participation is not to enable participation, but rather for those in power to educate or cure the participants' thinking about a situation.
1. Manipulation		

Building on Arnstein's work, Fung (2006) developed the democracy cube to determine the meaningfulness of public participation across three dimensions, namely participant selection, communicative mode and the extent of influence. As Fung (2006:67) explains, three questions of institutional design are important to determine the limits and potential of public participation. The questions are: 1) who participates? 2) how do they communicate and make decisions? and 3) what is the connection between their conclusions and opinions on the one hand, and public policy action and decision on the other? Each question is plotted on a different axis to form a three-dimensional cube, and each depicts a different method of public participation to demonstrate the overall meaningfulness of participation for the public.

The question, who participates? delves into the primary feature of public decision-making, described by Fung (2006:67) as being the "character of its franchise" – who can participate and how do citizens become participants. Importantly, one needs to be aware of whether the public who participate in public participation discussions are appropriately representative of

the relevant population, include all interests and perspectives, and have the required competence and information to make good judgements and decisions (Fung, 2006:67). Fung's inclusive continuum involves five common public-participation selection methods, two state options and one public option.

The range of participant selection methods are illustrated on the continuum in Figure 3 below.

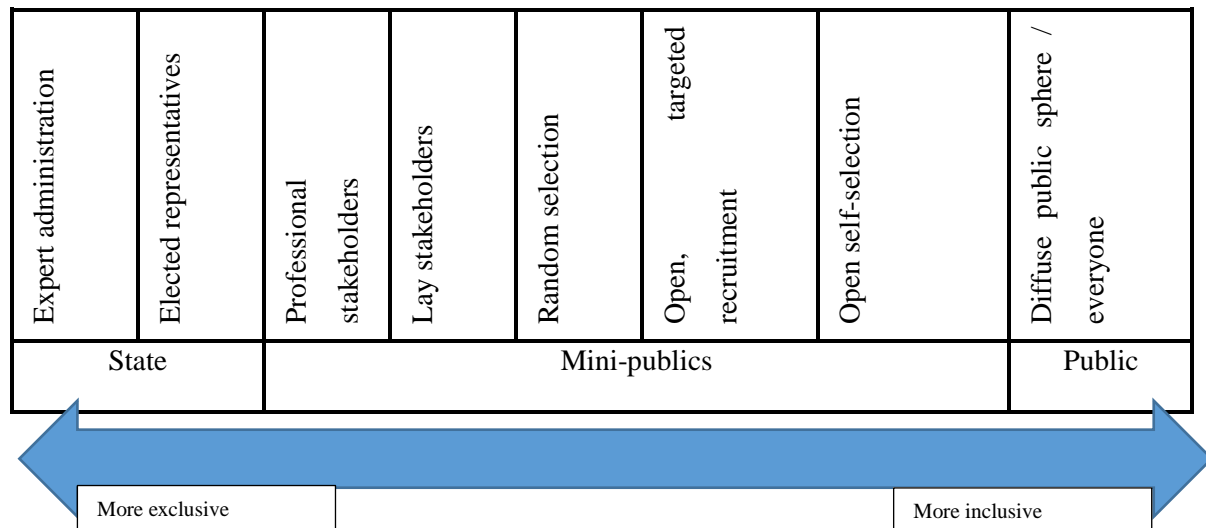


Figure 3: Adaptation of Fung's participant-selection methods

The next dimension of the institutional design is separated by Fung (2006:68) into six dimensions across a continuum describing how participants communicate and interact in the participatory setting. The continuum ranges from least intensive to most intensive, with the level of intensity being the level of investment, knowledge and commitment required from the participants, as illustrated in Figure 4 below.

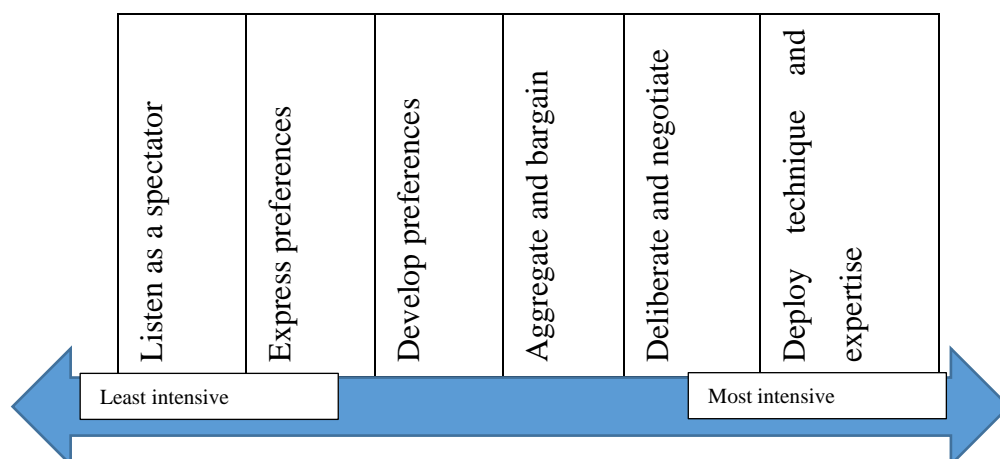


Figure 4: Adaptation of Fung's modes of communication and decision

The third and final dimension of the democracy cube is the impact of public participation and the link between the voice of the public and the final policy decision. Fung (2006:69) develops a spectrum of five institutionalised categories of influence and authority, depicted in the figure below. These range from participating in the process for personal benefit, exerting influence on the officials and public opinion regarding an issue, and at the very highest level of empowerment, citizens having direct authority over public decisions or resources.

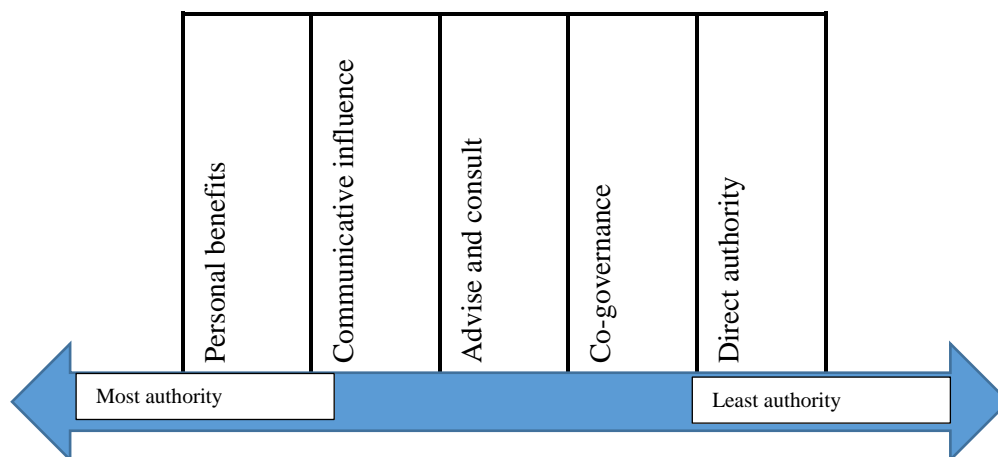


Figure 5: Adaptation of Fung's modes of influence and authority

Combining the three scales outlined above creates the Democracy Cube. By plotting the different methods of public participation, a visual demonstration of the meaningfulness of public participation and the kinds of participatory mechanisms that would be suited for different governance problems can be achieved. Fung (2006:74) emphasises that public participation serves three values, namely legitimacy, justice and the effectiveness of public action, with certain participatory designs being better suited to achieve certain objectives. Fung (2006:74) highlights how, for instance, budgetary processes versus community policing forums require certain participatory designs to better achieve their objectives and are therefore more meaningful.



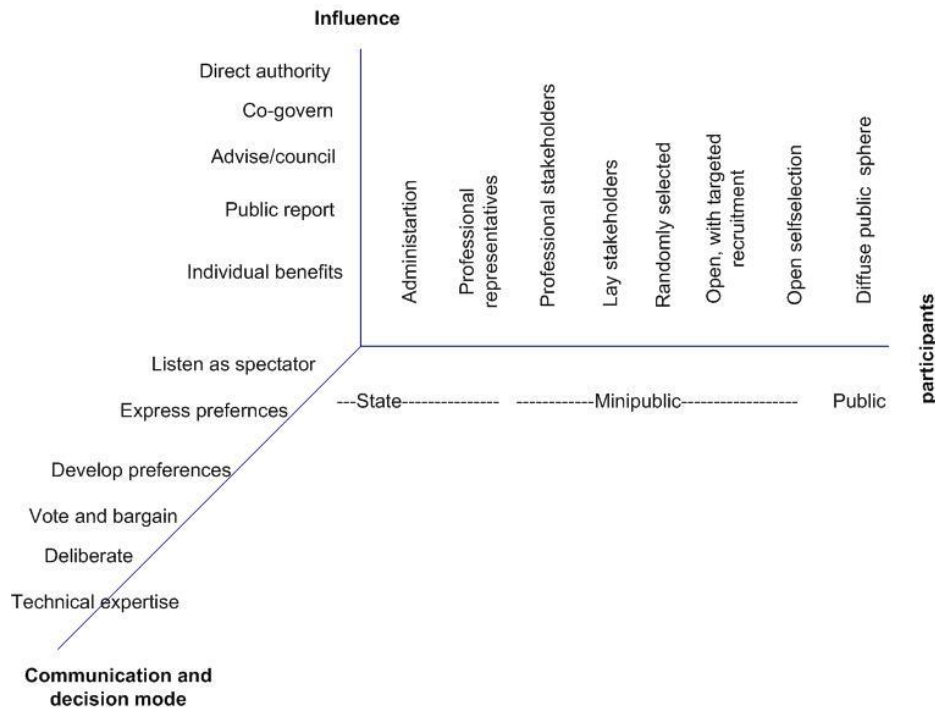


Figure 6: Fung's Democracy Cube (PB Works, 2010)

## 2.7 Alcohol policies – global values

The subsequent literature to be reviewed focuses on alcohol policy and the policy imperatives regarding alcohol globally and locally, at a National level.

Alcohol policy is defined by Babor (2010:771) as being the purposeful decision by government to minimise or prevent alcohol-related consequences. Babor (2010:771) says that the alcohol policy adopted by government should be informed by evidence and be based on sound theory. The World Health Organization (2010:11) proposes various policy options for countries to reduce alcohol harm amongst the populace. The policy options proposed by Maclennan, Kypri, Connor, Potiki and Room (2016:2) and Howard, Gordon and Jones (2014:1) are deemed to be the most effective methods of reducing alcohol harm. The policy options proposed by the World Health Organization (2010:11) include restricting the availability of liquor and the promotion of liquor, accessibility to liquor through a minimum drinking age, pricing strategies as well as restrictions on the density and trading hours of alcohol outlets. Babor (2010:772) identifies the theory behind each policy option, for instance the policy approach that undertakes to increase taxes is based on the theory that demand for alcohol will be reduced if the cost of alcohol is increased, and the policy approach related to restricting alcohol availability through controlling the density of outlets is based on the theory that, by making access to alcohol more tedious, alcohol consumption will be reduced.

Giesbrecht, Bosma, Juras and Quadri (2014:203) use the international norms of the World Health Organization and apply them to the local sphere, as alcohol-related burdens are most felt by and directly affect the local community. In their evaluation of community-based alcohol policies and interventions in the United States, Australia, Canada, Finland, New Zealand, Norway and Sweden, it was found that policies and programmes that have focused on issues of under-age drinking, community mobilisation and promulgating local by-laws have shown success but require sustained implementation and enforcement. In the survey conducted by Giesbrecht et al. (2014:212) in 107 communities in the United States where formal policies were adopted, 44 percent reported that, once policies were in place for longer than six months, there were reductions in alcohol-related problems.

Furthermore, in their evaluation of the Australian and New Zealand alcohol policies, where the key aspects have been restrictions on liquor availability, controlling drinking in public places and stricter local government enforcement, Giesbrecht et al. (2014:213) show that there is greater success in reducing alcohol-related problems where there is strong public support of the policy changes. The same study showed similar success in the Nordic countries.

Amidst the successes of implementing alcohol policy at the local level, it has been noted that there is no central, systematic resource of previous evidence-based projects to draw on for best practices regarding the successful implementation of alcohol policies, but there also is a gap in resources to sustain programmes and insufficient evaluation of policies (Giesbrecht et al., 2014:218). Another challenge identified by Giesbrecht et al. (2014:220) is that the enactment of policy at the local level is constrained by higher policies, and when national- or provincial-level policies are relaxed, it prevents the local level from imposing stricter restrictions.

Howard et al. (2014:11) reveal a slightly different picture in their evaluation of Australian alcohol policy based on the World Health Organization's framework of alcohol policy options. The study by Howard et al. (2014:11) shows many negatives, with alcohol policy in Australia being fragmented and inconsistent amongst the states and territories. Also, there is no national co-ordination of policies and a lack of evaluation of alcohol control policy. Howard et al. (2014:11) also identify a need for increased public support in the formulation of alcohol policy, and an increase in alcohol research amongst the population to gather the public response.

MacLennan et al. (2016:1) utilise a mixed-method policy evaluation framework to evaluate the implementation of alcohol policy changes in New Zealand and their effectiveness based on the objectives of the legislation which are to 1) “improve community input into local decision-making on alcohol availability, 2) reduce the availability of alcohol, and 3) reduce hazardous drinking and alcohol-related harm”. The current research evidence points to insignificant effects of public participation on the licensing process nor the availability of liquor in New Zealand or a reduction in alcohol-related harm. MacLennan et al. (2016:9) emphasise that although empirical evidence is not yet available, it is believed that increasing public participation in alcohol policy decisions will be effective in reducing alcohol availability. This novel approach to reducing alcohol harm does come with impediments, such as a lack of knowledge, political structures and a lack of resources.

## **2.8 Alcohol policies – local values**

Setlalentoa, Pisa, Thekisho, Ryke and Loots (2010:11) highlight that alcohol has served many purposes in South Africa. In the rural areas, domestic consumption was reserved for the men at social gatherings and was consumed moderately. This pattern of consuming alcohol changed with the arrival of European farmers in the 1800s, when European alcohol was introduced to Africans and affected their behaviour, making them unruly. This also led to the introduction of beer halls by the Europeans as a control measure. This had a reverse effect, however, in that it led to the abuse of alcohol by Africans as they were not sure when they would have alcohol again. Alcohol was used by the colonisers as a mechanism to seize power through the “dop” system, which is still largely entrenched amongst wine farm labourer’s in the Western Cape, although it was formally outlawed by the South African government in 1961. In general, access to and availability of alcohol in South Africa have largely been linked to Apartheid controls and segregation.

As Brits (2008:80) emphasises, the first democratic government in South Africa took a new approach to liquor policies, in which the broader public impact is of concern and public interest is central. Walbeek and Blecher (2014:2) allude to an “optimal point of consumption”, to which government is trying to move South African society closer through stricter legislation, such as outlawing drunk driving and the regulation of liquor trade. This is due to South Africa being considered one of the highest consumers of alcohol in the world, as per the World Health Organisation data in 2016 which tracks the level of consumption in different countries. According to the WHO (2018) South Africa’s drinking population

consumes 28.9 litres of pure alcohol – per capita – a year, the fifth highest consumption rate in the world, below Namibia (31.3 litres), Eswatini (32.7 litres), Cook Islands (32.9 litres) and Tunisia (33.4 litres) and thus the country suffers high negative externalities regarding health and crime associated with excessive consumption of alcohol. Matzopoulous, Truen, Bowman & Corrigall (2013:131) estimate that the tangible costs related to alcohol in various sectors, such as the health, crime and labour, amounted to R37.9 billion, or 1.6 percent of South African GDP in 2009. Despite this, Matzopoulous, Wall, Cook and London (2020:1) note that the price of alcohol in South Africa has become 60 percent more affordable over the last 50 years. In 2010, the tax and excise revenue generated from alcohol amounted to R16 billion, whereas R17 billion was allocated by government for alcohol-related harms. The alcohol policy environment poses many opposing challenges, both economically and socially.

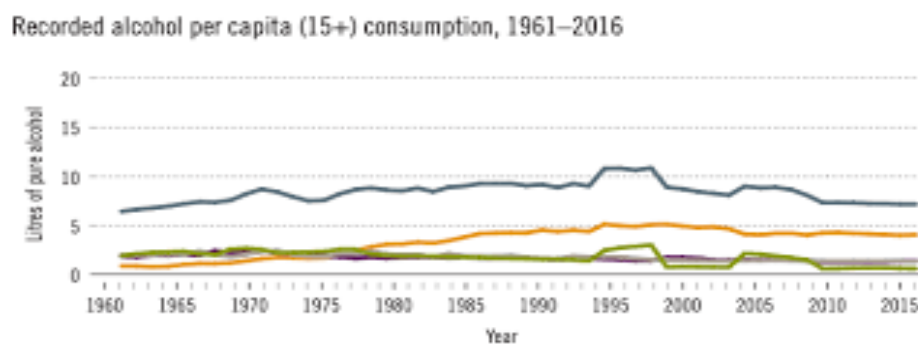


Figure 7: Alcohol consumption in South Africa in litres (WHO, 2018:181)

The Alcohol Environment Protocol (Parry, Morojele, Petersen, Nel & Burnham, 2013) is a study in which some of the policy options, such as marketing, pricing and taxation, drink driving as well as licensing and compliance, were analysed. In the current South African context, the findings are that many of the prevailing policy options have a number of weaknesses and the current liquor policy in South Africa needs to be reviewed.

Dayomi and Ntiwane (2013:33) point out that, in South Africa, liquor policy is constantly changing because of “the failure of legislation to equitably and adequately monitor and regulate the operation of liquor manufacturing and distribution outlets’ contribution to socioeconomic consequences of alcohol abuse”. The Department of Trade and Industry (2013) acknowledges that the current liquor policy environment is very fragmented amongst the various spheres of government, let alone in the collaboration with industry stakeholders and civil society and proper public consultation. It seems this incremental approach to reviewing liquor policy is not restricted to South Africa. As Grunewald (2011:250) points

out, it is also found in the United States, where liquor regulations and policies proceed in a “piecemeal” fashion and in “fits and starts”, depending on each state’s political and regulatory environment.

In the wake of the current COVID-19 pandemic and the restriction on the sale of alcohol, mid-March 2020 saw the ban of alcohol during the subsequent lockdown. The impact of alcohol on South African society through associated economic, social and health costs, has been highlighted, through its absence. (Matzopoulous et al., 2020:1). Matzopoulous et al. (2020:2) emphasise that the current moment should be used as a window of opportunity to highlight the association between alcohol availability and injury caseloads. They state that this would be an opportune moment for stakeholders to revise the alcohol policies of South Africa to safeguard the future of all South Africans.

## **2.9 Policy considerations in the regulation of alcohol and its related harms**

### **2.8.1 Availability of alcohol**

The measurement of the availability of alcohol, as defined by Flynn and Wells (2014:141), relates to the commercial access to alcohol, which includes alcohol outlet density, days and hours of sale and price of alcohol.

In their cross-sectional study of alcohol outlet density and excessive alcohol consumption, Campbell et al. (2009:565) found that alcohol outlet density shows consistent positive associations with excessive alcohol consumptions and related harms, including crime, violence and public nuisance. However, Campbell et al. (2009:567) have also noted that there may be resistance to reducing alcohol outlet density due to losses that could be experienced from licensing fees and tax revenues, but this speculation has not been documented. The only negative that Campbell et al. (2009:566), have identified in reducing alcohol outlet density is the increase in night-time vehicle crashes due to having to drive longer distances to alcohol outlets. Flynn and Wells (2014:141) note a positive relationship between outlet density and crime, drink driving, medical harms and rates of violence in communities. Grunewald (2011:251) also points out that communities with high alcohol outlet density are generally more socially disorganised, which predisposes them to many social ills, such as crime. Babor (2010:773) suggests that the best means of reducing alcohol availability is through a reduction in hours and days of sale, limits on the number of alcohol outlets and retail access to alcohol. However, he adds that enforcement is key to the effectiveness of the regulations,

with suspensions and revocations of licences being the most immediate enforcement mechanism.

In their study on the risk of children being exposed to alcohol by passing alcohol outlets on the route to and from school, Milam, Furr-Holden, Cooley-Strickland, Bradshaw and Leaf (2013:17) concluded that children with an alcohol outlet on their route to school were more than two times more likely to be offered alcohol or other drugs.

At the same time, the Department of Trade and Industry (2013:71) has reported that the formal retail liquor industry in South Africa has doubled in the past decade and, whilst the numbers of illegal retail liquor outlets cannot be estimated in full, it is suggested that there are 180 000 to 250 000 illegal alcohol outlets in South Africa. It is also noted by the Alcohol Environment Protocol (2013) that the density of on- and off-consumption alcohol outlets in South Africa is not regulated. From a competition point of view, liquor retailers interviewed by Dayomi and Ntiwane (2013:52) concur that density and the mushrooming of liquor outlets create unhealthy competition and the flouting of regulations amongst liquor retailers to make sales.

Another key policy approach to regulate the availability of alcohol and its harm in society is a restriction on trading days and hours, although this is still widely debated. As Grunewald (2011:251) emphasises, limiting trading hours just redistributes use and problems to other non-restricted days and times. In their systematic literature review on the impact of liquor outlet trading hours in eight countries, Wilkinson, Livingston and Room (2016:5) have shown that reducing late-night trading hours, particularly amongst on-consumption liquor outlets, can significantly reduce rates of violence, whilst increasing trading hours to later hours increases rates of harm.

### **2.8.2 Accessibility of alcohol**

The accessibility of liquor as a policy option is applied to factors such as point-of-sale regulations, which include the minimum legal drinking age. The minimum legal drinking age is a widely debated issue, with the United States having a minimum drinking age of 21. As Wagenaar and Tooney (2002:206) point out, the intention of this policy option is to “lower alcohol use and its associated problems among youth”. In their review of 132 reports on the subject of the overall effect of 21 as minimum legal drinking age on the youth, Wagenaar and Tooney (2002:206) found that alcohol consumption amongst the youth was lower as a result of a higher legal drinking age. Issues of false identification being presented have also been

found to be minimal; however, it is also noted that the prosecution of those providing alcohol to minors is rare. These authors argue that, of all the measures and efforts to reduce drinking amongst the youth, increasing the legal age to 21 has been the most effective, despite many issues and counterarguments, but this must also be coupled with increased enforcement.

On the other hand, Miron & Tetelbaum (2009:16) challenge the claim that the minimum legal drinking age (referred to as MLDA) of 21 reduces the number of fatal road crashes, and rather that improved vehicle safety features are the cause of reduced fatal road crashes in the United States over the decades. They show that the rise of the MLDA from 18 to 21 years in some states has shown an insignificant -0.0007 change in alcohol-related fatal road crashes.

In the first National Liquor Policy draft bill, the Department of Trade and Industry (2016) is proposing that the minimum legal age for drinking and purchasing alcohol in South Africa should be raised from 18 years to 21 years to delay the introduction to liquor, and also because of the harmful effects of alcohol on teenage brain development.

## **2.10 The retail liquor landscape in South Arica**

The retail liquor industry consists of on- and off-consumption liquor outlets. Examples of the former are bars, restaurants and nightclubs. The Department of Trade and Industry (2013:71) has reported that the formal retail liquor industry in South Africa has doubled in the past decade, with the largest concentration of retail liquor stores being amongst the bigger franchise groups, such as Tops, which is the biggest market leader, and Checkers Liquors. The KZNLA Annual Report for 2016/2017 reported a total of 8 157 formal retail liquor outlets in the province. In 2013, the Department of Trade and Industry (DTI) reported a total of 29 908 licensed retail liquor outlets, with the density of licences and licence types differing considerably from province to province. Interestingly, expenditure on beer is 42.5 percent amongst the poorest households, who earn on average R16 386 a year. In terms of diversification, figures on the BBBEE initiatives of smaller independent liquor retailers are non-existent. However, for the larger retailers such as Makro, Tops and the like, BBBEE initiatives are in place, although the market is dominated by a few players.

Economically, the manufacturing sector is the biggest contributor to the economy, followed by the off-consumption retail sector. The DTI (2013) reported that the total VAT and excise contributions across the liquor industry are estimated to be R19.3 billion, which implies that



40 percent of the direct value added by the industry accrues to the state. In total, the manufacturing and retail of liquor is estimated to have contributed R93.2 billion to the economy in 2009/2010, or 3.9 percent of the GDP in 2009.

It would be naïve to focus on the formal retail liquor industry without acknowledging the burgeoning informal industry. The numbers of the informal and illegal retail liquor industry cannot be entirely estimated, but it is suggested that there are 190 000 to 265 000 illegal liquor outlets in South Africa (Charman, Petersen & Piper, 2013:1) that contribute to 90 percent of beer volume sold and 50 percent of wine volume sold annually. Charman et al. (2013:5) argue that the proliferation of informal liquor retailers is due to government's lack of fundamental understanding of the cost-benefit analysis that the sale of liquor versus the risk of punishment by law enforcement agencies holds for the shebeen owner. Charman et al. (2013:15) dispute the notion that increased enforcement and stricter liquor policy will convince the informal liquor retailers to formalise themselves. In fact, the contrary is true, as they state that "the informal economy in alcohol exists because of state policies – it is a case of enforced informalisation".

## **2.11 Related regulatory policies – tobacco policy environment**

Tobacco smoking and the harmful use of alcohol are two of four non-communicable disease risk factors which the South African government has had to address in the post-apartheid era, as part of the overall strategy to reduce the burden of disease in South Africa. (Ndinda, Ndhlovu, Juma, Asiki & Kyobutungi, 2018) This was further amplified in the World Health Organization Global Status Report on Non-communicable Diseases (2014), in which it is stated that tobacco kills nearly seven million people each year, 600 000 of whom are non-smokers affected by secondary smoke. The WHO (2014) estimates that, without action being taken, tobacco will kill more than eight million people every year by 2030. The evolution of tobacco policies in South Africa is of particular interest as alcohol and tobacco rank amongst the most harmful psychoactive substances and the policies regulating these substances are often met with controversy.

In 2005, the WHO implemented the Framework Convention on Tobacco Control (WHO FCTC), an international treaty that governs the production, sale, distribution, advertisement and taxation of tobacco to reduce its impact. The World Health Organization recommends the following "best-buy" interventions, such as banning tobacco in public places, warnings to be placed on packaging about the dangers of tobacco use, enforcing bans on tobacco advertising,



promotion and sponsorship, and increasing the taxes on tobacco, which will address tobacco use as well as protect the public from tobacco smoke (Sanni, Hongoro, Ndinda & Wisdom, 2018:52). Sanni et al. (2018:55) conducted a study on the formulation of tobacco policies in South Africa, using the WHO “best-buys” interventions as a barometer. An increase in tax on tobacco is cited as being the most difficult intervention to adopt and implement (Sanni et al., 2018:56).

Prior to 1993, tobacco control policies in South Africa were characterised by a lack of government interest due to the tobacco industry being dominated by white, Afrikaans-speaking South Africans with close ties to the apartheid government (Sanni et al., 2018:56). The tide began to turn when the *South African Medical Journal* advocated for a tobacco control policy in 1998, and with the collapse of the apartheid government in 1994 ushering in a new political regime that supported the development of tobacco control policies (Sanni et al., 2018:57). South Africa’s tobacco policies are now compliant with the WHO FCTC (2005) best buys, although these were passed incrementally between 1993 and 2009, with the promulgation of the Tobacco Product Control Act in 1993 (Sanni et al., 2018:55). South Africa has implemented a comprehensive ban on tobacco advertising, promotion and sponsorship. This package of interventions as a whole has been effective in reducing tobacco use although it is difficult to disentangle the effect of the advertising ban from the larger package of tobacco control policies which include public smoking bans, youth access laws, health warnings and tax and price policies. There are concerns though from some scholars that the approach to the policies and regulation of alcohol and tobacco are very different, as discussed below.

As pointed out by Daube (2012:108), tobacco and alcohol are recognised major causes of preventable death, although the differences between the two substances are clear in that tobacco is harmful when used as intended, whilst alcohol plays a well-recognised role in society when used responsibly. Daube (2012:108) points out that whilst the substances are different, the industries are very similar and have followed a very similar route, in that tobacco companies have known the dangers of smoking for over 60 years, whilst alcohol companies have known about the harmful consequence of their product for centuries. Both industries are owned or controlled by multinational companies, both industries fund lobbyists, political parties and public policy groups, both industries have negotiated with government to play a role in public education and have established organisations designed to

determine health messages to make them appear self-regulatory and responsible. (Daube, 2012:108) The difference arises in policies and recommendations by health authorities, where it is recognised that the objective for tobacco is to end all use, while for alcohol it is to ensure that it is not used harmfully (Daube, 2012:108).

This is brought into question by Hawkins, Holden, Eckhardt and Lee (2016: 13) where they argue that given the similarity of the industries, in terms of market and political strategies, there appears to be a very divergent approach to their policies and the manner in which they are regulated. The tobacco industry, in terms of pricing, promotion and availability, is more tightly regulated. The alcohol industry, on the other hand, Hawkins et al. (2016:13) observe, enjoys a much closer relationship with policy makers through a partnership approach in the policy making process, which they believe should be brought into question. Daube (2012) offer a similar view as Hawkins et al. (2016), stating very strongly that “they should not be permitted any role in the development of public policy” and “alcohol market should be treated with as much disdain as the tobacco industry.”

## **2.12 Conclusion**

This chapter has provided a discussion of the definitions of the key terms in the research study as provided by various scholars, in particular public policy process cycle, public policy implementation, public participation and public value. The various definitions of these key terms were discussed and frameworks and best practice models were emphasised. The chapter also outlined the local and global positions regarding the historical development of alcohol policies and provided some insight on the current developments in alcohol policy in the light of the COVID-19 pandemic. Common policy approaches used in the formulation of alcohol policies to minimise its harmful effects on society were also discussed and their merits analysed. Finally, the chapter also focused on tobacco policies and the similarities between the regulation of this substance to that of alcohol.

The literature review has also shown that policy implementation should be understood as an evolutionary and a learning process, which unfolds and adapts and changes in the practice of the policy, and that the effectiveness of policy implementation will vary across policy types and policy issues. The study of policy implementation is critical (Brynard, 2005:662) because it is only during implementation that the original policy design will be put to the test and customisations can be done. It therefore was important to introduce the 7C protocol as a tool to assist policy implementers to make sense of the complexities of policy implementation;

this protocol was used for the purposes of this study. The strength of the tool lies in its representation of diverse scholarship in the field of policy implementation, and the interdependent ability of the different variables utilised as part of the tool.

To measure the meaningfulness and value of the public participation process and design, the researcher opted for Fung's Democracy Cube (2006:71) to determine which range of participant methods would be most ideal in trying to achieve the objective of the liquor policy, and where on the spectrum of the cube the current status quo exists.

The study now proceeds to the legislative framework regulating liquor in the Republic of South Africa.

## CHAPTER THREE

### LIQUOR LEGISLATIVE FRAMEWORK IN SOUTH AFRICA

#### 3.1 Introduction

The liquor regulatory framework requires concurrent and co-operative control across the different spheres of government, that is nationally, provincially and locally, with each sphere having certain powers, control and authority. The various areas of jurisdiction and control are depicted in the diagram in Figure 8 below, and are discussed further. It is prudent, however, to understand the context and history of liquor policy in South Africa to appreciate the values that shape liquor policy in South Africa.

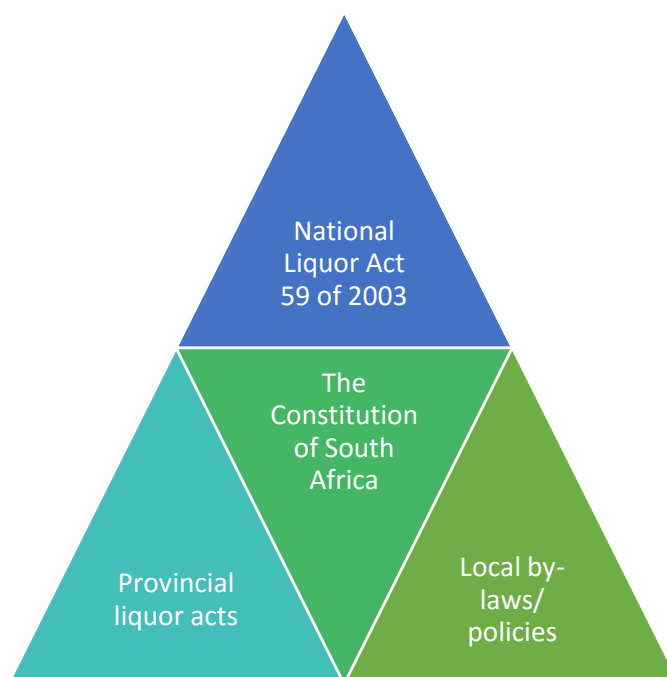


Figure 8: The liquor regulatory framework in South Africa

#### 3.2 The Constitution of the Republic of South Africa

Section 22 of the Constitution of South Africa (1996) provides that “every citizen has the right to choose their trade, occupation or profession freely. Laws can be passed to regulate how people practise their trade, occupation or professions”. The parameters and jurisdiction of liquor legislation across the different spheres of national, provincial and local government are set out in Schedule 4 and 5 of the Constitution, as follows:

Schedule 4 – Concurrent areas of national and provincial legislative competence

- Schedule 4 a – sets out the provincial legislative competence

- Schedule 4 b – sets out the exclusive local government functions with regard to trading regulations

Schedule 5 – Functional areas of exclusive provincial legislative competence

- Schedule 5 a – lists liquor licensing as an exclusive provincial competency

This schedule has been defined by De Visser (2004:2) to mean that provinces have the competency to regulate the retail sale of liquor, which, as per the Constitutional’s Court Liquor Bill judgement (2000 (1) BCLR 1 (CC), relates to:

- the granting or refusal of permission to sell liquor at specified premises;
- the power to impose conditions pertinent to that permission; and
- the collection of revenue that might arise from or be attached to its grant.

- Schedule 5 b – lists the control of undertakings that sell liquor to the public as a local government competency

This schedule relates to local government deciding where and when liquor can be sold to the public. However, it is to be noted that provincial governments can also legislate on these matters, although only “to the extent set out for provinces in sections 155(6)(a) and 155(7)” as provided for in the Constitution (1996). As De Visser (2004:3) points out, provincial government can set out a framework within which local authorities can exercise their power with regard to maximum hours of trade and standard days when liquor outlets may open.

### **3.3 National Liquor Act No. 27 of 1989**

Before the enactment of the National Liquor Act No. 59 of 2003, provinces were responsible for all functions regarding the value chain of liquor through the provisions of the National Liquor Act, 27 of 1989. The latter Act has been repealed in some provinces, but some still utilise it for the licensing of the retail sale and micro-manufacture of liquor in the absence of their own liquor legislation. However, as per the National Liquor Act No. 59 of 2003, provinces have started enacting their own legislation, for example the Gauteng Liquor Act 2003 (No 9 of 2003), the Western Cape Liquor Act, 2008 (No 4 of 2008), and the KwaZulu-Natal Liquor Licensing Act No. 06 of 2010 (as amended).

Generally, although the provincial legislation will differ in certain provisions, the provincial pieces of legislation regulate the granting and refusal of retail liquor licences, the application

processes for retail liquor licences, the conditions applicable to licence holders and the enforcement of liquor licence holders.

### **3.4 National Liquor Act No. 59 of 2003**

The National Liquor Act No. 59 of 2003 was enacted in 2004 and provides for “the manufacturing and distribution of liquor to be regulated at national level where liquor volumes meet or exceed the set thresholds”. The Liquor Act of 2003 mandates the nine provinces of the country with the responsibility to administer liquor legislation in respect of liquor micro-manufacturing and retail licensing. The National Liquor Act is an overarching piece of legislation that sets the national norms and standards for the regulation of liquor in the country. The Act requires provincial legislation to adhere to the broad objectives of the regulation of the liquor trade, the promotion of opportunities for new entrants, and the mitigation of the harmful effects of liquor abuse.

The objectives of the Act are:

- a) To reduce socio-economic and other costs of alcohol abuse by:
  - Setting essential norms and standards in the liquor industry;
  - Regulating manufacture and wholesale distribution of liquor;
  - Setting essential norms and standards for the regulation of the retail sale and micro-manufacture of liquor; and
  - Providing for public participation in the consideration of applications for registration; and
- b) To promote the development of a responsible and sustainable liquor industry in a manner that facilitates:
  - The entry of the new applicants in the industry;
  - Diversity of ownership into the industry; and
  - An ethos of social responsibility in the industry.

### **3.5 Draft Liquor Amendment Bill, 2016**

The Draft National Liquor Amendment Bill, 2016 was presented for public comment on 3 October 2016. The phase for public comment closed on 15 December of that year. The Bill seeks to amend the National Liquor Act, No. 59 of 2003 and suggests new provisions to curb alcohol-related harms, standardise the regulation of liquor, improve regulatory collaboration

and eradicate the manufacturing of illicit and illegal liquor. Some of the amendments are listed as follows:

- Increasing the legal drinking age from 18 to 21 years
- Restricting the advertisement of alcoholic beverages
- Restricting trading days and hours
- Establishing an internal review mechanism regarding aggrieved applicants
- Restricting trading within a 500 m radius away from schools, places of worship, recreational facilities, rehabilitation or treatment centres, residential areas and public institutions
- Manufacturers or distributors to be held liable for any unlawful conduct as a consequence of them having sold liquor to an unlicensed liquor retailer.

According to the DTI (2017), the comments from the various public participation platforms were being consolidated and would still need to undergo a long and rigorous process before being signed into law. The DTI (2017) has also commented that the comments put South Africans into “two camps”, the general public who welcome some of the amendments and business people who are more interested in the negative economic impact the amendments will have on their businesses.

### **3.6 KZN Liquor Licensing Act, No. 06 of 2010, as amended**

The new Liquor Licensing Act, No. 06 of 2010 sets out the objectives that KwaZulu-Natal wishes to achieve with regard to retail liquor licensing and micro-manufacturing. It also extends beyond the process of licensing and includes balancing the congruent objectives of providing a stable social environment against promoting the growth and diversification of the liquor industry.

The Act was promulgated in February 2014, with the objectives:

- To provide for the regulation of the micro-manufacturing and retail sale of liquor;
- To reduce the socio-economic and other costs of alcohol abuse;
- To provide for public participation in the consideration of applications for registration;
- To promote the development of a responsible and sustainable retail and micro-manufacturing liquor industry in a manner that facilitates:

- The entry of new participants into the industry
- Diversity of ownership in the industry

### **3.7 Local government by-laws**

De Visser (2004:3) explains that “the development of communities and the protection of the environment in which they live are primary concerns for local government”. Hence, Schedule 5, Part B of the Constitution allows for the local government’s perspective on the regulation of the liquor industry, with particular emphasis on the impact of the sale of liquor on the community surrounding the liquor outlet.

Local government can control the effect of the sale of liquor on communities by deciding where outlets can be situated on the basis of appropriate zoning policies, as well as deciding when liquor can be sold; however, this has to be within the framework of the provisions of the provincial liquor legislation (De Visser, 2004:3). Local government can exercise this mandate by passing by-laws to enact trading times for their local jurisdiction.

### **3.8 Conclusion**

Given the history of alcohol regulation in South Africa, this chapter has outlined the various centres of control and responsibility regarding the regulation of liquor in the country. The regulation of liquor in South Africa has concurrent functions across the three spheres of government, with the common thread being the various pieces of legislation that protect public interests and the associated harm from the consumption of liquor.

It is evident that the processes of refinement to achieve the ideal liquor policy for the South African context are still in development, as reflected in the discussion of the Draft Liquor Bill, which is yet to be enacted.



## **CHAPTER FOUR**

### **RESEARCH DESIGN AND METHODOLOGY**

#### **4.1 Introduction**

This chapter describes the research design and methodology utilised to address the research questions and the research objectives. Given the exploratory nature of the study, as well as the research being a fairly new field, the research design employed is a qualitative design using a triangulation of research methods. Stebbins (2008:327) argues that an exploratory study is necessary when there is little or minimal information about a certain activity, condition or group, but a belief that something new and valuable can be discovered. A disadvantage to the utilisation of the exploratory case study design is that qualitative information is generated and the interpretation thereof is subject to bias. Another drawback in exploratory case study design is the moderate use of a sample size which may not adequately represent the target population.

This chapter also outlines the research design, sampling, data-gathering methods, data-analysis techniques and the ethical requirements of the research. The methodology enables the exploration of public participation in the implementation of the liquor policy and the presentation of the findings according to themes.

#### **4.2 Research design and methods**

The research design is described by Mouton (1996:107) as the “blueprint” of the research project, or the “route planner” to achieve the research goals. Mouton (1996:108) says the importance of the research design is to structure the research project in such a way that the validity of the research findings are maximised and potential error is minimised.

Taking the above into consideration, the research design for the study was influenced by the research objectives, as well as a thematic approach based on the 7C protocol. The public participation models proposed by scholars such as Fung (2015) and Nabatchi (2012) were also utilised as references to assess the current public participation practices within the liquor policy.

Exploration is explained by Babbie and Mouton (2017:79) as a typical research approach when the subject of study is relatively new. Creswell (2013:47) supports using qualitative research when conducting an exploratory study to understand complex circumstances. Denscombe (2010:109) states that qualitative research is associated more with exploratory

studies; it provides a scope of flexibility if the need for development arises within the design. Following the above guidelines and the exploratory nature of the research question, the research design selected for this study was a qualitative approach. The study also incorporated a combination of data sources and methods as a means of triangulation to converge and corroborate information so as to provide “a confluence of evidence that breeds credibility” (Eisner, 1991:110). As Bowen (2009:28) explains, the researcher reduces the potential impact of bias by examining information from various sources. The following research methods were used.

The research design focused on the use of the 7C protocol as a tool to measure the implementation of public participation as a key objective of the liquor policy in KwaZulu-Natal. The researcher made use of the 7Cs as a theme to explore the implementation of public participation as a component of the liquor policy with regard to content, context, capacity, commitment, coalitions, communication and co-ordination.

The qualitative design of the study incorporated research methods such as focus group interviews with the members of the local committee, which is a public participation forum representing various key stakeholder sectors that are involved in the public participation processes of the KZNLA. Subject experts and administrators of the public participation processes were also interviewed individually on the liquor policy and its processes. Qualitative research provides a holistic account of the problem being studied from the viewpoint of the participants (Creswell, 2009:176).

In addition, focus group interviews with the citizens on the public participation processes of the liquor policy were conducted. The interviews were semi-structured to allow for the views of citizens and other matters that they may want to bring to the fore. Semi-structured interviews allow for participants to describe their experiences in their own words and to clarify matters.

In addition, secondary data was gathered and a document analysis of documents such as the legislation, reports and newspaper articles was undertaken. This provided insight into the level of awareness and participation in the regulatory process.

The thematic approach used the 7C protocol to assess the implementation of the liquor policy and guided the thematic design. The aspects of this protocol are:

- The content of the liquor policy as it relates to public participation

- The context within which the liquor policy intends to achieve the objectives of public participation
- The capacity to implement the liquor policy as it relates to public participation
- The level of commitment to implement the policy
- Identifying the coalitions and clients in the implementation of the policy
- Communication in implementing the policy
- The methods of co-ordination of the policy

Primary and secondary data were used in the research. The primary data was aimed at providing an in-depth understanding of the implementation of the policy by both the policy implementers and the beneficiaries (the citizens). Secondary data was gathered through the analysis of reports, liquor licence applications and public comments, media publications, and the legislation.

### **4.3 Research methods**

Research methodology is defined by Babbie and Mouton (2017:75) as the process and kind of tools to be used and focuses on the steps in the research process and the unbiased procedures to be employed. The sampling, collection tools and data analysis are now explored further.

### **4.4 Sampling**

Babbie and Mouton (2017:164) describe sampling as the process of selecting observations and advise that a critical part of social research is the decision about what to observe and what not to observe.

For this research study, purposive sampling was used, which was deemed appropriate based on the aims and the nature of the study. Babbie and Mouton (2017:166) explain that at times it is appropriate for the researcher to select the sample based on knowledge of the population, its elements and the nature of the research aims.

Purposive sampling was used as the best method to elicit the required knowledge and information for the study. The management and officials of the KZNLA, who were purposively selected to form part of the study, were the Executive Manager: Licensing and Administration, the Manager: Licensing and Administration, the supervisor of the local committees, as well as the local committee secretariats of the uMgungundlovu and Ugu

Districts. These five subjects were selected to provide an overview of the implementation of the public participation processes from the legislative and administrative perspective, using semi-structured interviews.

Important primary stakeholders are the members of the local committee (LC), a public participation forum that is legislatively constituted from various key sectors, such as the SAPS and the local municipality. They serve as public representatives of the district within which they serve and provide recommendations on liquor licence applications prior to the final decision by the KZNLA Adjudication Board on the granting or refusal of a liquor licence. The LC also adjudicates the public hearings when the public objects to a proposed application. It is prudent to have the inputs of this structure regarding its constitution, the representation of the committee and its processes, as well as how communication is facilitated between it and the sectors it represents. Therefore, a purposive sample of the seven active members who form the LC in the uMgungundlovu District was selected to form part of a focus group interview. However, due to the COVID-19 pandemic and the limitations imposed on gatherings, the researcher conducted the interviews telephonically with members who were willing to participate and were accessible, which resulted in four out of the seven active members participating in the study. Three of the members were contacted on several occasions but did not respond to the researcher's requests for an interview.

Two focus-group interviews were conducted with members of the public representing various community-based organisations in the district. These members were purposively invited to participate in the study based on their association to a particular community organisation. The first focus group consisted of twenty(20) community members, whilst the second group consisted of ten(10) members. The community-based organisations that were invited formed part of different community wards, community policing forums, neighbourhood watch groups, ratepayers' associations, school principals and faith-based organisations in the district.

#### **4.5 Data gathering methods**

The study made use of primary and secondary data-collection methods. The primary data collection involved semi-structured interviews and focus-group interviews, and the secondary data collection process related to data from institutional reports, the liquor policy and academic literature, thereby ensuring that all data gathered was relevant to the study.

## 4.6 Documentary analysis

Documentary analysis is defined by Bowen (2009:27) as a systemic procedure for reviewing or evaluating printed and electronic documents and requires that data be examined and interpreted in order to gain meaning. Bowen (2009:28) explains that this is done through finding, selecting and appraising data contained in documents, and then organising it into themes, categories or case examples. In this instance, the 7C protocol was the framework utilised to analyse the data. The rationale for documentary analysis is to allow for triangulation of data to seek convergence and corroboration of evidence related to a particular phenomenon, thus reducing the impact of potential bias (Bowen 2009:28).

Documents selected for this study were based on their relevance to the research and consisted of the legislation, the regulations and their annexures, the annual report, the strategic plan and academic literature. The documents were selected to gain an understanding of the legislative and institutional frameworks within which the public participation is being implemented to confirm the data that was collected through interviews.

Bloomberg and Volpe (2016:157) highlight that a document review contains all relevant written documents, visual data and artefacts and is a valuable resource to confirm information through data collection methods.

## 4.7 Interviews

Semi-structured individual interviews were held with the subject experts and administrators of the public participation processes in the KZNLA. The interviews were semi-structured to allow for experiences and other matters that citizens may want to bring to the fore in their own words.

Additionally, semi-structured individual interviews were conducted with members of the local committee, which is a public participation forum representing various sectors that makes recommendations to the KZNLA regarding liquor licence applications. Initially, focus-group interviews were planned and intended for the Local Committee members but due to the national lockdown this was altered and members were not as willing and responsive. Focus group interviews were facilitated with the citizens from community groups within the District regarding the public participation processes of the liquor policy. Babbie and Mouton (2017:292) say that focus group interviews allow for more interaction on a topic and more observation by the researcher of the participants' opinions and experiences. However, it must be noted that there were limitations to the latter aspects due to the COVID-19 pandemic and

lockdown regulations, especially in relation to community members who do not have access to technology and resources for data costs. This was addressed by exploring alternative methods of administration, guided by the research supervisor, such as telephonic interviews, ensuring that the questions were asked in the same manner for all participants. The telephonic interviews were utilised following the non-responsiveness to a Whatsapp focus group. Of particular interest were the stories that emerged from community members during the interviews, and the COVID-19 pandemic and the lockdown also added some stimulating perspectives on the liquor policy from community members.

The interviews were recorded for transcription purposes and data analysis.

#### **4.8 Data analysis**

Qualitative data analysis is described by Leech and Onwuegbuzie (2007:564) as a systematic search for meaning whilst Dey (1993:6) defines the process of qualitative data analysis as an emphasis on categorising data and making connections between these categories. Byrne (2001:904) describes the process of qualitative data analysis as consisting of “identifying, coding and categorizing patterns” found in the data. The advantages of qualitative data analysis are termed by Dey (1993:12) as having greater richness and diversity as it can encompass “virtually any kind of data” but on the other hand qualitative data can also be dismissed as being too subjective. Another disadvantage of qualitative data analysis, Dey (1993:15) points out, is that it is associated with research methods that are unstructured.

The data collected in this research study from interviews was organised according to codes to make the analysis process easier and to protect the identity of the participants.

The individual and focus group interviews were recorded on a digital voice recorder and stored on a computer that was password protected. A back-up of the data was stored on an external hard drive that was password protected. The data was transcribed verbatim according to the codes assigned to each respondent, and then analysed to identify specific themes. The documentary analysis was utilised as a means of triangulation to expand on the findings from the individual and focus group interviews.

Byrne (2001:904) describes this process as thematic analysis, in terms of which qualitative information is coded according to particular themes. The research study utilised the 7C protocol as the framework within which the data-collection instruments were developed. The primary and secondary data was also analysed according to the themes of the 7C protocol.

Byrne (2001:904) emphasises the coding of themes to ensure a proper audit trail and the credibility of the study, and goes further to suggest five elements of a good code, viz. labels, definitions of what each theme concerns, descriptions of how to know when each theme occurs, descriptions of any qualifications or exclusions to identifying themes, and examples to eliminate possible confusion when looking for themes.

#### **4.9 Research ethics**

Research ethics is not just a mere formality, but a significant element in research that builds general trust in scientists, data protection, anonymity and confidentiality, but also in the ability of the researcher to build and retain trust relationships with respondents (Zakuaskas, 2018).

According to Babbie and Mouton (2017:520), there are important ethical agreements that prevail in social research, including voluntary participation, no harm to participants, anonymity and confidentiality, and avoiding deceptive practices. The researcher adhered to these principles through the actions described below.

The research project complied with the rules set out by Stellenbosch University, and data collection commenced once approval was received from the Stellenbosch School of Public Leadership and the KwaZulu-Natal Liquor Authority. Due to the COVID-19 pandemic and the subsequent national lockdown, data collection methods needed to be adapted after being authorised by the research supervisor.

Informed consent was given by all participants, and they were informed that they had the right to withdraw from the research at any time. Consent forms were signed before the commencement of the interviews, and verbal consent was provided prior to the commencement of the telephonic interviews. Participants were made aware of the research aims and objectives and were also assured that their responses would be kept confidential, although they would be recorded for transcription purposes. All participants agreed to this. No incentives were provided to participants to encourage their participation. Participants were coded for anonymity and the codes were only known by the researcher.

#### **4.10 Conclusion**

This chapter has provided the discussion of the research methodology and design utilised by the researcher in undertaking the research study and collecting the data. The chapter also focused on the sampling methods utilised, as well as the practical implementation of research

ethics principles. The adjustment of the research methodology due to COVID-19 and the subsequent lockdown were also mentioned as aspects to be recognised in the ambit of the research study.



## **CHAPTER FIVE**

### **DESCRIPTION OF THE CASE STUDY**

#### **5.1 Introduction**

Chapter four provides a background to the KZN Liquor Authority as the administrator of liquor policy in the retail liquor sector in KwaZulu-Natal. The legislative mandate of the entity and its objectives are discussed with specific regard to public participation. The organisational structure and its linkage to public participation structures are explained. Finally, background is provided to the uMgungundlovu District demographics, relating to the number of liquor outlets and number of liquor licences granted in the period of the study.

#### **5.2 Background information**

The KZNLA is a Schedule 3C public entity under the purview of the KZN Department of Economic Development, Tourism and Environmental Affairs (KZNEDTEA). The entity is one of thirteen public entities, with EDTEA being its single shareholder, and was established in 2012 under the auspices of the KZN Liquor Licensing Act, No. 06 of 2010.

A public entity, more commonly referred to as a state-owned enterprise (SOE), is an independent body partially or wholly owned by government. (Ovens, 2013:4). According to Gumede (2014:46), SOEs assist by taking advantage of the efficiencies of the private sector whilst maintaining public accountability. SOEs play a pivotal role in the process of economic development that is trying to move South Africa towards its vision of global economic competitiveness, competency, competition and development (Gumede, 2014:48).

#### **5.3 The case study**

The functions of the regulation of the retail sale of liquor fell within KZNEDTEA until 2012, when the KZNLA was established. KZNEDTEA implemented liquor regulations in accordance with the National Liquor Act, No. 27 of 1989. According to KZNLA (2011), KZNEDTEA is the custodian of the Act and KZNLA is the implementing agent. The National Liquor Act, No. 27 of 1989, made little provision for public participation in the decision to grant a liquor licence. It also lacks provision for balancing the economic imperatives against the societal harms associated with liquor. As explained in the KZNLA Strategic Plan 2015-2020, liquor is a potentially harmful substance that requires tighter control, hence the 1989 Act that was inherited from the Apartheid past had to come under review and was eventually repealed in KZN in 2014 through the promulgation of the new Act on 28 February 2014.

## 5.4 The KwaZulu-Natal Liquor Authority

The KZNLA was established in terms of Section (5)(1) of the Act. The official sign-off by the then MEC for Economic Development and Environmental Affairs for the establishment of the entity was in February 2012, and the entity became operational in August 2012. Its vision, as outlined in its Strategic Plan 2015-2020 (2014:8), is to “position the entity as a leading and distinguished liquor regulator in the country” with a mission to “ensure strict regulation and control of the retail sale and micro-manufacture of liquor in the province of KZN through effective policies, strategies and partnerships”.

Section (7)(1) of the Act outlines the powers, duties and functions of the KZNLA, as follows:

- Consider and process applications
- Refuse or grant liquor licence applications
- Advise the MEC on any matter referred to the Liquor Authority by the MEC
- Investigate and make recommendations to the MEC regarding any matter relating directly or indirectly to the liquor industry in the province
- Advise the MEC on the development of a social responsibility programme in respect of alcohol consumption and the implementation thereof
- Assist the MEC in formulating policy and establishing norms and standards concerning any matters in relation to the liquor industry in the province
- Participate in programmes aimed at promoting the development of a responsible and sustainable retail and micro-manufacturing liquor industry in the province
- Initiate and participate in programmes aimed at reducing the socio-economic and other effects of alcohol abuse
- Assist and advise the responsible MEC on the development of a programme to pursue the objects of the Act as detailed in Section 2
- Within the framework of the national and provincial liquor policies, assist and advise the MEC about advising and guiding local committees, the business unit within the department responsible for small business development, stakeholders in the liquor industry, consumers and organisations or institutions whose activities or aims have an impact on and relate to the liquor industry in the province
- Perform such other functions as may be assigned to it in terms of this Act

The statutory mandate of the KZNLA is to ensure the objectives of the Act are achieved. Section (2) lists the objectives of the Act as follows:

- To provide for the regulation of the micro-manufacturing and retail sale of liquor;
- To reduce the socio-economic and other costs of alcohol abuse;
- To provide for public participation in the consideration of applications for registration;
- To promote the development of a responsible and sustainable retail and micro-manufacturing liquor industry in a manner that facilitates:
  - The entry of new participants into the industry
  - Diversity of ownership in the industry
  - An ethos of social responsibility in the industry

For the purposes of the study, the objective of public participation in the considerations of applications will be a key focus.

## 5.5 Public participation as it applies in the KZNLA structure

The organisational design as alluded to in the KZNLA Strategic Plan 2015 -2020 (2014:13), is decentralised through the establishment of the local committees in each district to allow for the participation of communities in the liquor licencing process. The organogram of the KZNLA to link to the organisation achieving its objectives is as follows:

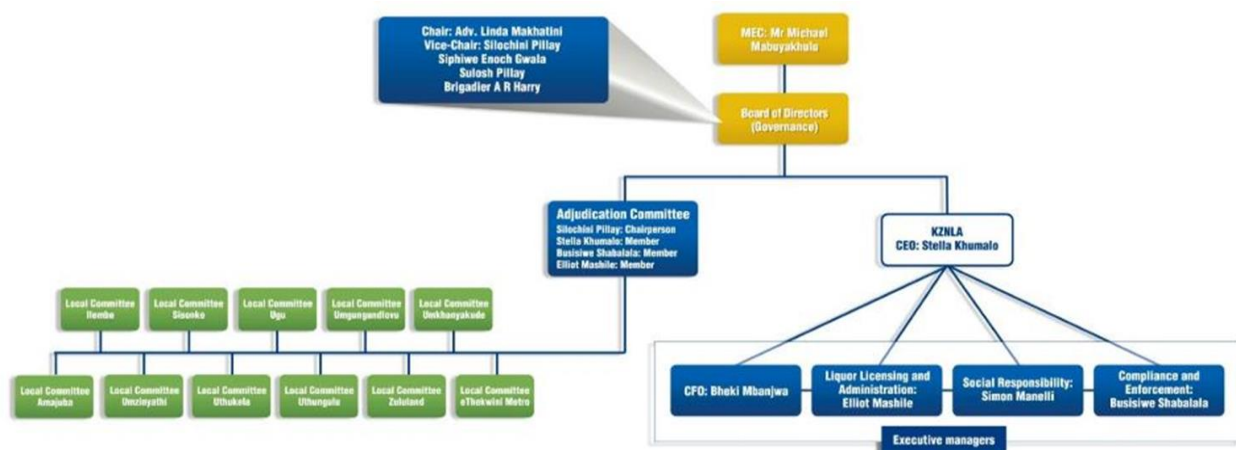


Figure 9: KZNLA organogram

As pictured in the organogram above, the Local Committee (LC) is an external structure placed in each district municipality and is appointed by the Member of the Executive Council

(MEC), after a public nomination process, with the following powers and functions as set out in Section 31 of the Act:

- Deal with and consider all applications for licences made in terms of Section 41 of the Act
- Make recommendations in respect of all applications to the liquor authority immediately after consideration of the application
- May advise the liquor authority or furnish a report on any matter referred to it by the Liquor Authority
- Perform any other functions as may be assigned in terms of the Act
- Hold objection hearings in terms of Section 47 of the Act

The LC comprises of the following eight members in terms of Section (32)(1):

- One person who is in possession of a legal qualification, with at least five years in the legal profession or in the administration of justice;
- One person representing an organised commerce body who has knowledge of the liquor industry but who has no direct vested interest within the liquor industry, for which area the local committee is established;
- A representative of the municipality within which area the local committee is established, being an employee of the municipality concerned who is experienced in, or in charge of, business licensing or similar functions within the municipality;
- Two representatives appointed by the community in the area of the local committee appointed by reason of their knowledge in the field of welfare or socio-economic development, social services or health;
- A member of the community policing forum (CPF) of the South African Police Services (SAPS) cluster within the district of the local committee concerned, nominated by the KwaZulu-Natal Provincial Secretary of the CPF
- A councillor elected by the district or metropolitan municipality concerned; and
- A member of the SAPS from the SAPS cluster within the district of the local committee concerned.

The above-mentioned members are nominated through a process outlined in Section 33, whereby the MEC, by giving notice in two widely published newspaper, invites nominations for members of the LC.

Furthermore, the LC members are remunerated for their sittings. However, those members who are from a sphere of government are not remunerated.

## **5.6 Public participation as applied within the legislation**

Public participation within the liquor regulatory process is outlined in the following sections of the Act, prior to, during and post application.

Prior to the consideration of the application in terms of the provisions of Section (42)(1), the applicant has to provide notice of the application through the following prescribed forms, which should remain in place for a period of 21 days:

- In at least one newspaper circulating widely in the area in which the licensed premises will be located;
- Display a notice in the prescribed form and size in a prominent place at the proposed premises so that it is visible to passers-by;
- If the premises are in a residential area, serve notice of the application in the prescribed form on a member of the household over the age of sixteen years of each of the households occupying residences within a 100 m radius of the proposed premises;
- The applicant is required, simultaneously with publication in the newspaper, to deliver a copy of the application to the SAPS in whose area of jurisdiction the proposed premises will be located.

In terms of Section (42)(3)(a), all the notices should indicate that the application is available for inspection at the relevant KZNLA office and at the office of the relevant Station Commissioner of the SAPS for a period of 21 days from the date of publication of the notice in the newspaper. Section (42)(3)(b) indicates that any interested person may object or make representation for or against the granting or refusal of the application to the relevant LC within the 21-day period.

Section (43) outlines the process for a member of public, company or close corporation or a trust to make representation or object to an application by providing the following information to the LC:

- His or her full name and address
- His or her identity number or registration number
- If applicable, the name or address of his or her representative
- The nature of his or her interest in the granting or refusal of the application; and
- Comprehensive grounds for the objection to or support of the application.

It is to be noted that Section (43)(2) provides that the person making objections or representations must serve a copy of his/her objection to the applicant or his or her representative, and Section (43)(4) allows the applicant to submit a written response to the LC within seven days of receiving an objection or representation.

During the consideration of the application, the LC will have to take into account the written objections or representations and responses received thereto. The LC, in taking into account the objections or written representations, must in terms of Section (47) hold an objection hearing in which the affected parties will be notified of the date, time and place of the hearing and all parties will be afforded an opportunity to make oral or written representations and be allowed an opportunity to be heard.

The proceedings of the objection are noted for consideration when the final Adjudication Board considers the granting or refusal of an application.

During the consideration of an application, the LC considers the following six aspects related to the application, as per Section 48(5):

- The recommending of the application will be in the public interest
- The suitability of the applicant in terms of qualifying criteria
- The suitability of the premises
- Alignment with the zonal laws of the local authority
- Proximity to educational and religious institutions
- Proximity to other liquor outlets and residential dwellings

The final register, with all licences granted within a financial year, is published annually in widely distributed provincial newspapers, so that the public are aware of which premises are licensed.

## 5.7 The uMgungundlovu District retail liquor demographics

The statistics of the number of liquor licences within the uMgungundlovu District, are provided to illustrate the number of retail liquor outlets and through the number of approved licences over the two year period, the possible opportunities for the public to participate in the liquor licence application process.

The growth in the number of licences for the period 2017 to 2019 was 61, as shown in Table 5 below.

Table 5: Statistics of liquor licences within uMgungundlovu District: 2017 to 2019

March 2017	March 2018	March 2019
947	965	1008

## 5.8 The uMgungundlovu District demographic characteristics

The following demographic profile of the uMgungundlovu District is provided to present the context of the implementation of the policy with regard to public participation. The profile of the district with regard to its population size, gender disaggregation, employment rate and economic activity is presented below.

The uMgungundlovu District is one of eleven districts in KwaZulu-Natal, is located in the midlands, and is home to the capital city and legislative capital of the province, Pietermaritzburg. The district is home to seven local municipalities. According to Statistics South Africa Census (2011), the district has a population of 1, 017, 762, with 48% of the population being male and 52% female. The age demographic breakdown indicates that the majority of the people are in the age group of 15-64 which shows a low dependency ratio, as there are more people in the working age group, as compared to children and the elderly. The uMgungundlovu District Growth and Development Plan (2015) indicates that the unemployment at 30.4% with the youth unemployment rate being 39.5%. The primary drivers of the economy within the District are the tertiary sector, which contributes 69% to the District's economy, with the main sectorial contributors in the tertiary sector being the community and personal services, followed by trade and accommodation and finance and business sectors. According to

StatsSA (2011), the education levels within the district are as follows: 10% have higher education, while 33% have some secondary schooling, and 13% have some primary schooling whilst 9% have had no schooling at all.

## **5.9 Conclusion**

This chapter has described the public participation processes in terms of the KwaZulu-Natal Liquor Act and the organisational arrangements to implement them. The detailed process involved in providing the notice to the public, as well as the objection process, was also outlined comprehensively. The appointment and function of the district local committee as part of the public participation model were also introduced, with an emphasis on the considerations when recommending a liquor licence. Finally, an overview of the statistics of liquor licences in the uMgungundlovu district over the past four years as well as the demographic characteristics of the district was presented. The next chapter presents the fieldwork results from the primary and secondary data collected.



## **CHAPTER SIX**

### **PRESENTATION OF FIELDWORK RESULTS**

#### **6.1 Introduction**

The previous chapters have provided an outline of the case study and the theoretical aspects related to this research study. The various frameworks within which the policy and the public participation process were thematically assessed have also been defined in the preceding chapters.

This chapter presents the results of the fieldwork interviews and the documentation analysed that is pertinent to the implementation of the public participation processes in the liquor policy. Data was collected through semi-structured and focus group interviews based on a schedule, as well as secondary data, which included legislation and reports pertinent to the study. The data is presented in themes according to the 7C protocol. The latter part of the chapter focuses more specifically on the research questions and the status of public participation.

#### **6.2 Key fieldwork results**

This study explored the implementation of public participation as a key policy objective of the KZN Liquor Licensing Act, No. 06 of 2010. The study focused on the following themes from the 7C Protocol relating to the implementation of the policy, namely content, context, capacity, commitment, clients and coalitions, communication and co-ordination. A brief explanation of each theme precedes the respondents' views.

Eleven (11) interviews were conducted, comprising nine (9) semi-structured interviews and two (2) focus group interviews. The respondents were selected on the basis of the study's research objectives. The sample from the KZNLA staff comprised five (5) officials from various levels within management, as well as the fieldworkers who implement the public participation processes on a daily basis. The uMgungundlovu District Local Committee members were all approached to participate in the study. The committee is constituted of eight (8) members, however, only four (4) members were eventually interviewed due to non-responsiveness from certain members, who were contacted on several occasions. The local committee is represented by different sectors, including the South African Police Service, community policing forums, municipal officials dealing with business licensing, community

representatives and a local ward councillor. The COVID-19 pandemic also made establishing contact and gaining commitment from the members challenging, as the interviews initially were going to be done in person, but this was revised to telephonic interviews due to the lockdown and members no longer willing and responsive to participate .

The data-collection methodology of the focus group interviews was also changed due to the COVID pandemic. Two(2) focus group interviews were conducted; the first was in person a week before the nation-wide lockdown, comprising twenty(20) community representatives whilst the second focus group comprising ten(10) community representatives was conducted telephonically, ensuring that the questions were posed in the same manner for all participants. The methodology was agreed upon with the research supervisor, after a Whatsapp group did not elucidate responses from participants. The sample for the focus group interviews was based on representing various community-based groups within in the district, such as community policing forums, ward committees, and faith-based organisations. The responses from the two focus groups have been distinguished according to the two groups.

The documentary analysis entailed analysing the following documents:

- The KZN Liquor Licensing Act, No. 06 of 2010 (as amended)
- The KZN Liquor Regulations (2014)
- The National Liquor Act, No. 27 of 1989
- The regulations in terms of Act 27 of 1989
- KZNLA Strategic Plan 2015-2020
- KZNLA Annual Report 2018-2019
- The KZNLA website

The interviews were audiotaped, to which the respondents did not object, on the understanding that the recordings were confidential and would be used for transcription purposes only. The respondents were quoted verbatim, and their responses were coded. The code assignments were known only by the researcher for the purposes of confidentiality and anonymity.

The analysis was conducted using qualitative thematic analysis, which is defined by Vaismoradi (2013:399) as being an independent and reliable qualitative approach to analysis,

focusing on identifying, analysing and reporting pattern (themes) in data. The themes guiding the research were based on the 7C protocol.

The perspectives of the stakeholders are arranged according to the themes, as below:

- The perspectives of the KZNLA management
- The perspectives of the local committee members, who also represent key stakeholders
- The perspectives of the community

The responses from different respondents mentioned above are coded as follows:

For the KZNLA management it is KM\_01, KM\_02, respectively

For the local committee members it is LC\_01, LC\_02, respectively

For the community focus groups it is FG\_01, FG\_02, respectively

### **6.3 Theme 1: The content of the policy**

Lowi (1963, in Brynard, 2005:659) notes the three characteristics of policy content, namely distributive, regulatory and redistributive. In terms of these classifications, the liquor policy falls neatly into the definition of the regulatory characteristics of policy content, as it specifies rules of conduct with sanctions for failure to comply. However, despite the usefulness of these classifications, Brynard (2005:659) goes further by elaborating on the content of the policy as being not only a means to achieve particular ends, but also by identifying what those ends are and mediating the choices of means and ends so that policy implementation is seamless. The discussion below provides the various viewpoints regarding the content of the policy.

#### **6.3.1 The perspectives of the KZNLA management**

In response to the question of what their opinion was regarding the main objective of including public participation in the new Liquor Act, all the participants were of the same view, that the content of the new legislation was extensive in articulating the public participation process, which they regarded as a positive move from the previous legislation, namely the National Liquor Act, No. 27 of 1989.

To quote one of the officials:

*In my opinion, it is about inclusivity. In previous years the Liquor Board, which is now known as KZN Liquor Authority, was the main player in deciding whether to*

*grant a liquor licence in a particular area. This new Act now allows for the community to decide, so it is all about inclusivity (KM\_01)*

In contrast, when asked if the objectives regarding public participation as they are currently in the Act, realistic, 60 percent of the participants noted that the content of the policy was not realistic for the lay person to comprehend and implement. It was also highlighted that there were errors in the Liquor Regulations on the procedure to follow, which further confused matters.

*They are realistic, however difficult for people to understand. Especially lay people who want to apply without the help of a consultant or attorney. It is not absolutely clear on how to object (KM\_04)*

*And certain words within now the public participation process they are not clear. For a first timer I have to explain further (KM\_05)*

The content of the policy has evidently also given rise to unintended consequences, as businesses use the public participation process as a means to compete against each other by objecting to a licence application. This was a concern raised by the majority of the KZNLA staff respondents, and two officials are quoted below:

*People are using other people to make a delay on the application process, they abusing the policy to try and minimise the competition in the environment as quick as possible (KM\_03)*

*I would say as much as we have public participation people are not interested. Only businesspeople will object. Our normal citizens no (KM\_05)*

The researcher then conducted a documentary analysis of the differences between the KZN Liquor Licensing Act, No. 06 of 2010 and the National Liquor Act, No. 27 of 1989 with regard to the liquor licence application process and providing notice of public participation. It was noted that Act 27 of 1989 did not allude to any notice to the public, whereas this was articulated explicitly in Act 06 of 2010, under Section 42. The differences between the two pieces of legislation are set out in Table 6 below.

Table 6: Differences between the KZN Liquor Act, No. 06 of 2010 and the National Liquor Act, No. 27 of 1989 with regard to notice to the public

KZN LIQUOR LICENSING ACT 06 OF 2010	NATIONAL LIQUOR ACT 27 OF 1989
<p>Sec 42(b): The applicant must give notice of the application in the prescribed form, as follows:</p> <ul style="list-style-type: none"> <li>(i) In at least one newspaper circulating widely in the area in which the licensed premises will be located,</li> <li>(ii) Display a notice in the prescribed form and size in a prominent place at the proposed premises, so that is visible to passers-by, and</li> <li>(iii) If the premises are in a residential area, serve the notice application in the prescribed form on a member of the household over the age of sixteen years of each of the households occupying residences within a radius of 100 metres of the proposed premises.</li> </ul>	<p>There is no provision for notice to the public in the Act.</p>
<p>Sec 42(c) The applicant must, simultaneously with publication of the application in the newspaper, deliver a copy of the Station Commissioner of the South African Police Service in whose area of jurisdiction the proposed premises are or will be located.</p>	
<p>Sec 42(d) The applicant must submit proof of compliance within seven days from date of publication and notification to the local committee.</p>	

As tabulated above, the National Liquor Act, No. 27 of 1989 makes no provision for public participation in the Act. However, the Regulations (1992) in terms of Act 27 of 1989 do allude to the Notice of Intention to Apply under Section (4)(1). The Regulations read as

follows: “The applicant shall forward to the Government Printer a notice, substantially in the form of Form 2 contained in the Annexure, in each of the official languages, to reach him timeously for publication in the *Government Gazette*.”

The Liquor Act Regulations 2014, Section 5 also provide more detail regarding the process to be followed for the applicant to give notice to the public, as in Table 7 below.

Table 7: Processes to be followed when notifying the public of a proposed liquor licence

<b>Procedure to be followed by applicant upon receipt of written notice from local committee in terms of section 42(1)(b) of Act</b>
<b>5(1) Upon receipt of a written notice from the local committee, the applicant must –</b>
(a) publish such notice in at least one newspaper circulating in the area in which the proposed premises (whether premises is complete or incomplete) will be located, using Form KZNLA 3 of Annexure D;
(b) display a 1 m x 1 m notice board in a prominent place at the proposed premises, visible to passers-by, clearly showing the same information contained in Form KZNLA 3 of Annexure D; and
(c) serve a notice in terms of section 42(1)(b)(iii) on a member of the household over the age of 16 years where such residents are within a radius of 100 metres from the proposed premises, complete or incomplete, using Form KZNLA 3 of Annexure D.
<b>(2) The notice referred to in subregulation (5)(1)(a) must –</b>
(a) be published in a local newspaper;
(b) contain the information requested in Form KZNLA 4 of Annexure E;
(c) be 5 cm x 10 cm in size; and
(d) lie for inspection at the relevant district local committee and the relevant SAPS station for a period of 21 days from the date of publication in the newspaper.

A documentary analysis of the Liquor Regulations 2014 and the form KZNLA 03 that the applicant must use to give effect to the above provisions reads: “*NB: Objections should be lodged with the local committee in the district from where the application emanates within 21*

*days from the date of the display.*” Notably, there are no details of who the “local committee” is or where they are situated.

### **6.3.2 The perspectives of the local committee members**

The participants were all of the same view that the content of the policy was important in allowing the public to participate more fully in the liquor regulatory processes.

However, the researcher noted that the participants held a similar view that the content of the policy, was not enabling for public participation. When asked if the policy enabled the public to participate, their responses were:

*First of all the notices that go out for public participation, what I have noticed, they are written in English. Secondly, in terms of the Act, the applicant has to put it on the premises so that people who are going past are aware and also publish it in the newspapers, the problem is, how many of the community members, in particular, the rural areas go and buy the newspapers to see who applied for the liquor licences in the area and as indicated I have not come across a notice for the people in the rural areas. So they might not become aware of what is going on, but they see the notice and they might not know the importance of the notice and how it affect them. They only become aware when a licensed premises starts operating and that is when they become aware and by then it is too late to object. (LC\_01)*

*While legislation does create for this process to happen, but what actually happens doesn't really transpire. (LC\_02)*

It is apparent from the responses provided above from both the KZNLA officials and the local committee members that there is a similar trend regarding the content of the policy not being enabling for the members of the public to participate in the liquor regulatory process.

### **6.3.3 The perspectives of the community**

In discussions held with the community groups in the focus group interviews, only two members of the community had heard of the KZN Liquor Licensing Act, No. 06 of 2010, let alone the of content regarding the public participation process. In response to the question, asking whether they were aware of the new KZN Liquor Licencing Act, one participant responded, “*Never heard of it. Didn't know about it until this question was posed. I would say 90% of communities do not know about this*” (FG\_03).

The two members who were aware of the Act did so due to a family member's involvement in the liquor trade. This showed a glaring gap in awareness of the liquor policy by the community whom it is intended to serve. The stark lack of knowledge on the KZN Liquor Act and its content is depicted in the bar graph in Figure 10 below.

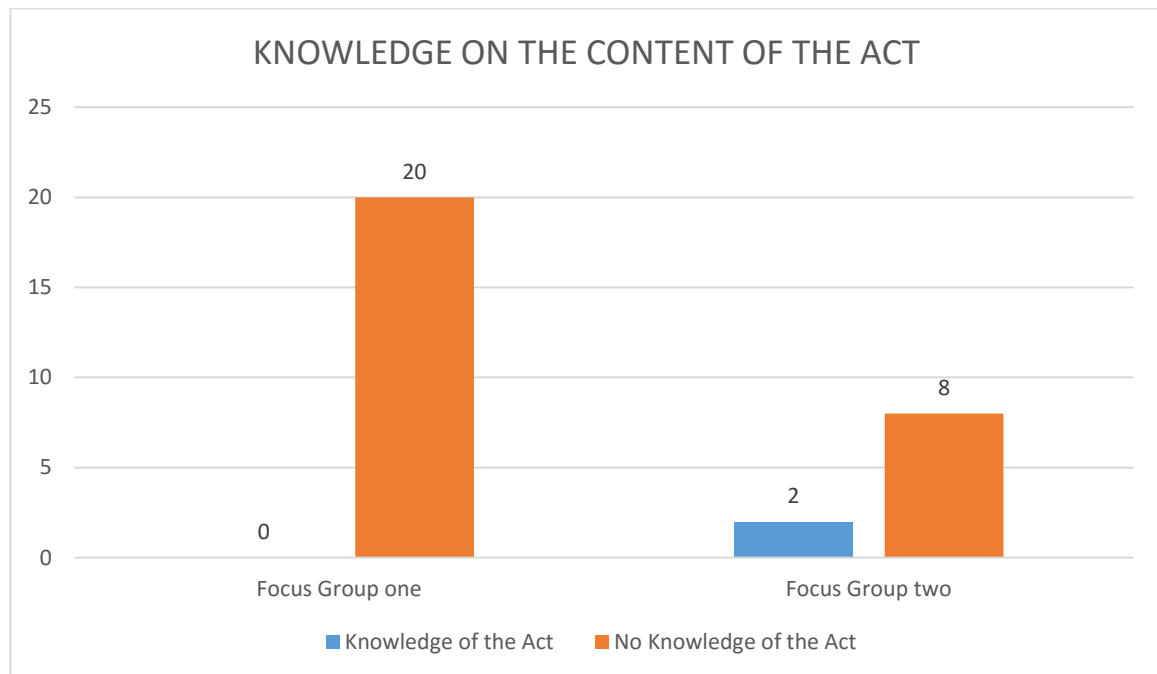


Figure 10: Focus group knowledge on the content of the Act

## 6.4 Theme 2: The context of the policy

Brynard (2005:659) emphasises the importance of understanding the context within which the policy must be implemented – from the larger context of the social, political, legal and economic realities to the institutional context within which the policy must be implemented and the “institutional corridor through which implementation must pass”. With regard to context, many of the participants alluded to the larger societal and geographical context within which the policy is being implemented, as can be seen from the responses provided.

### 6.4.1 The perspectives of the KZNLA management

Three (3) out of five (5) respondents were of the view that the Liquor Act does not fully take the context of the province's demographic, social and economic context into consideration. In responding to the question, “Do you feel the objective of public participation within the liquor policy takes into cognisance the context of province,” the majority of the views were that the Act and its public participation processes catered to a particular segment of society:



*We have very vast rural areas and they are far and few between, if you go and stick a board in the middle of nowhere, who will see it? It was not thought of that well. (KM\_04) Most of our notices are in English and most of our demographics in the province speak isiZulu. (KM\_03)* It is apparent from the views expressed above that the context of the society within which the policy is being implemented is not catered for fully.

*It is enabling for a specific part of the public. The people who can get access to newspapers, as the applicant has to advertise in a newspaper. In some areas the newspapers are a luxury so it not enabling to certain communities. However, there is a lot that can be done, there could be audio as well (KM\_01)*

*The objections are too complex in nature. There is no prescribed application form for the objection process. I have tried to create diagrams to explain it to them. It's a block diagram, creating a grid to assist the objector and have a format to follow in a simple way. There is no specific format for the objection application in the Act. (KM\_02)*

*The objections have all been in favour of the applicant. Because the Act is so legalese, the applicant will get a lawyer. (KM\_02)*

#### **6.4.2 The perspectives of the members of the local committee**

In regard to the current context in the province, the majority of comments from the local committee participants were recommendations to bridge the divide between communities and the limitations of the legislation to ensure more education takes place within communities.

*I am aware that there is a unit within the authority that is going out there to educate the communities about the Act and applications and how it affects them but in my personal opinion not much has been to empower the communities by that section. There still needs to be a lot more done to educate the community. (LC\_01)*

Also, to address the context of the district and being aware of some of the limitations in rural areas, three of the local committee members also highlighted that they conducted physical inspections of the location of proposed premises to get a clearer picture of the dynamics of an area and the community's views.

*In those cases of which we not sure of, we go through thick files, it is difficult to visualise exactly what it is. In that case we go out and do a physical inspection. We*

*interview community leaders, neighbours and go over and above that so we have an actual visual of what is happening. (LC\_02)*

*If we are not satisfied with certain aspects we do go on inspections on our side to see. We ask the people basic questions because they want to know what we are doing there. We ask them questions like 'are they aware that applications for this kind of licence' just to find out if it has come to their attention because as I indicated, in the rural areas most people are unaware. (LC\_01)*

*We go there as a committee to satisfy ourselves because the inspector goes before us. We physically check if we are not sure. We then come back and take a resolution. (LC\_03)*

In the above responses, two recommendations are made by the members of the local committee to address the societal context, namely education and conducting physical inspections at proposed liquor premises. In trying to address the limitations with regard to the context of public participation, the local committee members have also utilised physical inspection and interviews with community members, which is termed by Turner (2014:888) as substantive public participation that involves processes to allow a maximum opportunity for citizen involvement and input. This input should (1) allow for the direct participation by citizens or non-experts in the decision-making process, (2) give citizens shared authority with administrators, (3) grant extended periods of time for participation and face-to-face interaction between administrators and the public and (4) give the public an opportunity to participate as equals with officials and experts.

### **6.4.3 The perspectives of the community**

Regarding the context, the researcher posed the question to the community focus group members regarding their views regarding liquor outlets to gain an understanding of the lived experience and provide the context of the social and economic perspectives of the community on liquor outlets. The views of the respondents were mixed. It was apparent that 50 percent of respondents were totally against liquor outlets, whilst 50 percent were of the view that, as much as they were not fully supportive of liquor outlets, they understood their need to exist due to their economic contribution to society. The common thread amongst the respondents who were against liquor outlets in the community related to their location: *“there is a contradicting factor because of the location of the bottle stores. It is currently situated in an area that is close to a church, supermarket, hair salon and doctor’s room” (FG\_03)*, and *“In*

*my opinion, I think that there are too many liquor outlets in my community, there are too many outlets around the school areas and too many bottle stores in the same area of each other and too much abuse within the area of where I stay because of liquor” (FG\_01).*

Another apparent problem cited was that there were too many liquor outlets: *“The first issue is that there too many of them, we want computer labs and things that can uplift our youth” (FG\_09).* There were also some very strong views that emerged against the sale of liquor: *“I actually hate liquor because of the damage that it has caused in the community and families” FG\_07).*

Participants who were more tolerant of liquor outlets gave the following reasons:

*It is free market economy. It is a business so there is nothing wrong with that and we have to live with it even though we do not like it. (FG\_06)*

*“I don’t have a problem with places that are registered because they are trying their best to make a living. However the unregistered one are the problems. (FG\_08)*

The pie chart in Figure 11 depicts the two views on liquor outlets in communities.

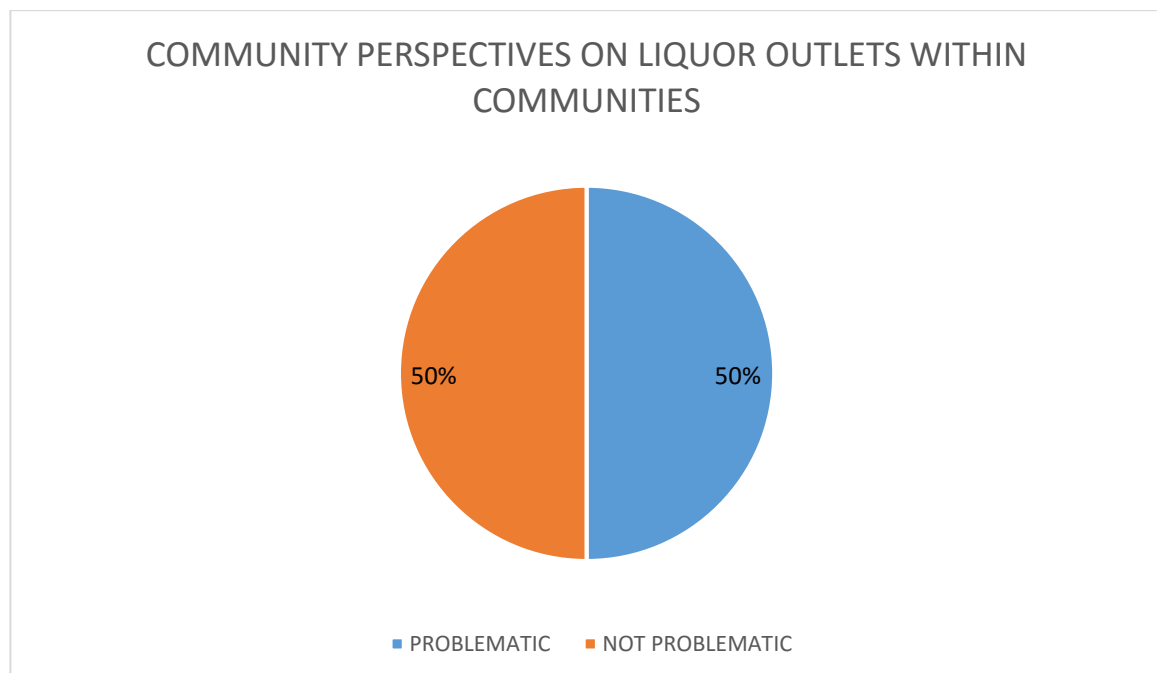


Figure 11: Community perspective on liquor outlets within communities

Members of the public also shared insightful stories regarding the abuse of liquor and its effect within the context of communities.

*The other chap was prosecuted that abused his wife because of abuse of alcohol. This chap got angry with his wife, he said to her on a Friday evening, he wanted chops for supper, had a few drinks got drunk. But it wasn't lamb chops he wanted, he wanted pork chops so he stabbed her across the face. (FG\_07)*

*A large number of people consuming so it is a societal thing. People are facing so many problems so liquor is becoming an escape to deal with things that they can't deal with. Most people are not working so they have time on their hands so they have liquor to depend on to help them cope. (FG\_08)*

The ban on liquor during Level 5 of the National Lockdown had various effects within communities. Community members offered the following experiences regarding their access to alcohol.

*My observations during the lockdown, it was so quiet and peaceful. There were no people loitering. It was so easy to go shopping. I think they should ban alcohol honestly. (FG\_04)*

*The liquor was flowing, but getting access to alcohol was very easy except the prices were very high. (FG\_02)*

*Being involved in the CPF, domestic violence was at an all-time low. With the ban being lifted we immediately saw an increase in crime and accidents. (FG\_01)*

*Alcohol and drugs have destroyed our community. It is largely to do with the owner of the establishment, during the lockdown our bottle stores remain closed but I also saw on the other hand the community were looking for the person who is selling it. (FG\_03)*

*During the lockdown people were still consuming liquor, not home brew, but stuff they were getting access to. Quite a lot of the outlets in our area were selling liquor. I think there was more the fear of being caught and you wouldn't give up your supplier but people definitely were drinking, just at home. (FG\_06)*

The above responses provide an interesting indication of the complexities regarding liquor within communities and the context within which communities exist.



“What the current level of commitment of the various sectors in ensuring support and representation toward the local Committee”, the unanimous response amongst the respondents was the dismal support from the ward councillors on the local committee, and commitment often being linked to issues of self-interest. Interestingly, the ward councillor also did not respond to the requests made by the researcher to participate in this research study.

*Participation and commitment is dismal. The local councillors are dismal. They do not attend at all and some do not have the decency to even report. For other members, it differs from time to time. The commitment is only seen when there is an application of interest. For example, with SAPS, if there is an application in an area with lots of crime, the SAPS interest will be there for the application not to be granted. (KM\_01)*

*The ones who are paid a lot more supportive than those who are not paid. Then on the SAPS, if they have other duties, they are not always there. Because of their circumstances. They may be nominated but the station commander may not allow them to attend because of other duties, that's the issue. Ninety-five percent of councillors do not attend because they are not paid. They do not get paid they do not attend. (KM\_04)*

As Brynard (2005:660) points out, if the parties in the implementation structure responsible for carrying out the policy are unwilling or unable to do so, “little will happen”.

There were also interesting perspectives regarding the public's commitment to participating in the process.

*It is just our people. Do our people use the opportunity? You know us as people, we don't look at something until it hits close to you. (KM\_05)*

*I don't recall one objection that has been raised as a concern from the community due to an interest from the public it has only been about competition. (KM\_03)*

The responses above piqued the researcher's interest, and a documentary analysis of the files from the three objections lodged in uMgungundlovu District in 2016 and 2017 showed that two of the objections were from community members in the form of a petition, one containing over one thousand signatures, whilst one objection was from a nearby business competitor.



### 6.5.2 The perspectives of the local committee

The local committee members were asked, if the members within their sectors are committed and provide the necessary inputs and information regarding liquor licence application, the common response received from the local committee members was that commitment was high from the various key sectors within their district committee, but the community representatives needed to be more significant and understand the significance of their role in the committee and be able to provide the necessary information regarding the various dynamics within the community when a recommendation was made on an application.

*According to the Act there are supposed to be members coming from different sectors of the community but sometimes those represent certain sectors, in particular, the community sectors it is not well represented. There is someone who represents the community at large but there is no one who will represent schools because in terms of the public participation, we need to look at the proposed licence we look at the proximity to places of worship, to learning institutions. We do have someone who represents the religious sector but not someone to represent the learning sector who will then be in a position to say, 'look, this proposed licence is very close proximity to a school and this is how it is going negatively impact the school and learners'. So on that, a community member needs to be informed clearly about their role when representing. (LC\_01)*

*We have an elderly man on board to give us a feel of what is coming from the community. There need to be more authenticity, because we get proper views and we get better input about how the liquor is affecting the community. (LC\_02)*

The responses provided allude to a critical aspect of Fung's democracy cube, in which the question of "who participates" delves into the primary feature of public decision-making. This is described by Fung (2006:67) as being the "character of its franchise". It is important that one is aware of whether the public who participate in public participation discussions are appropriately representative of the relevant population, include all interests and perspectives and have the required competence and information to make good judgements and decisions (Fung, 2006:67).

### 6.5.3 The perspectives of the community

All members of the public expressed a strong commitment to participate as stakeholders in the liquor regulatory environment if they knew how to. Many of them cited reasons such as

that they are parents and worry about the future of their children and their communities. There was a resounding notion that it was time for communities to be more involved in decisions regarding their environment.

*The new Act gives us more power, we didn't even know before. (FG\_09)*

*Yes, I would participate because I do not want to bring kids up in a toxic environment. (FG\_08)*

*We think what is very important. We would like to know how to object but also how can the community also support. (FG\_09)*

*Yes I would participate. What I am beginning to discover is that our young people are using it as a gateway to do other things such as drugs. I would love to get involved in something like this to help. (FG\_07)*

*Once we know what is currently being done to make the public aware of the processes and everything else that goes on. There is not enough exposure given the fact that I am a very well read man and well versed in legal stuff, given my occupation as well, and not coming across this Liquor Act is very strange which mean that not enough emphasis is being placed on this and public participation. (FG\_06)*

*Yes, I think that it should be the community's decision as to whether there should be an outlet or not. (FG\_02)*

*Yes, I would participate as an active leader in my community as well as an activist also in own personal capacity as well. I know an overwhelming number of people who would participate as well. (FG\_03)*

*Most definitely, I do think we actually need to get more involved. Growing up and seeing how families are broken up because of alcohol you thought it was just a part of life. We have actually done nothing. Because it was sort of legalised by the government and accepted by society, we didn't cry out against it. And yet we should have done something about it. (FG\_07)*

The views expressed by the respondents paint a different picture from the responses provided by the KNZLA officials with regard to the public's commitment to participating. The will to commit to participating in the decisions affecting their communities with regard to the liquor regulations is clearly strong.



## 6.6 Theme 4: Capacity

The fourth variable in the 5C protocol relates to the capacity of government in relation to its systems, in particular the structural, functional and cultural ability to implement policy objectives. This relates to tangible (human, financial, technological) and intangible (leadership, motivation, willingness) resources and requirements to transform “rhetoric into action” (Brynard, 2005:661). According to Brynard (2005), this variable is a minimum condition in order to achieve successful implementation.

In trying to ascertain the human resource capacity of the KZNLA, a documentary analysis of the KZNA Strategic Plan 2015 to 2020 highlighted that there are five business units in the KZNLA, three of which are tasked with the operational aspects of the implementation of the Liquor Act. Those are Licensing and Administration, Compliance and Enforcement, and the Social Responsibility Business Unit. In terms of the organogram, the KZNLA has 105 employees in total.

### 6.6.1 Perspective of the KZNLA management

The KZNLA management offered various views on different aspects of capacity, in particular the human resource capacity, particularly that certain functions within their human resource capacity were adequate: *“We have eleven secretariats for public participation and I think that is sufficient. Ethekewini could do with one more secretary”* (KM\_04). It was also mentioned that other functions, like the liquor inspectors, do not have sufficient capacity: *“Considering that we have two inspectors per district, I would say we do not have adequate resources. The role of the inspectors is so paramount. There is a lot of resources that need to be put in place”* (KM\_01).

According to the respondents, the local committee, which is the main structure for public participation, does not have consistent capacity among its members, with some committees not functioning at all because of a lack of members. The responses received from the KZNLA officials point to these deficiencies:

*With CPFs, they normally change periodically. They are nominated almost every year. The new member will then be introduced and the issue of capacity is affected. The municipality as well, change almost every day, which affects capacity.* (KM\_01)

*Some of the local committee members have resigned and the process of replacing those members is dependent on the MEC'S office so it is out of our hands. Currently we have four non-functional local committees.* (KM\_04)

*We have eleven altogether. Five seem to be functional. Six dismally not functional. The reason is no interest in the public to be involved in the committees. Members are also resigning for different reasons and whenever there are adverts, the response is not good and as a result the committee does not make a quorum. It's not in a good state. (KM\_01)*

The shortage of capacity within the main public participation structure begs the question of how inclusive and effective public participation is in the liquor regulatory process if there is no capacity to implement it.

Regarding logistical capacity issues, the KZNLA officials believed that they have sufficient resources, noting, however, the deficiencies that existed during the initial stages of implementation:

*We still have issues here and there, like I do not have recorder, say if we are taken to court it is important. If I need one I have to ask from Head Office. They say use your phone. If it gets lost what happens? They have sorted laptops, before we used desktops. Those things are not all in order but we are surviving. (KM\_05)*

An intangible capacity requirement is that of training to enable implementation. The majority of the respondents were of a consistent view that sufficient effort had been made to capacitate the local committee in terms of its roles and responsibilities.

*The procedures are made available in the Act and the handbooks. We were trained about three-and-a-half years ago. New members are trained. (KM\_02)*

*The unit which is Licensing and Administration has information sharing sessions once a year. There were workshops when they were new but it has become information sharing sessions. They have peer coaching where the experiences are shared. (KM\_01)*

*Initially we did have our trainings as the Act was new. Since the Act has started we have the same people so the training will no longer take two days but just deal with issues that arise as the Local Committee undertakes their roles. (KM\_05)*

A deficiency was highlighted with regard to SAPS as a stakeholder as far as their role in the objection process is concerned:

*The SAPS are also unaware of their role in the objections process, they are lost. Almost all stakeholders aren't clear on their roles. We still have a lot of work to do*  
(KM\_01)

### **6.6.2 Perspectives of the local committee**

All the responses from the local committee were unanimous that the uMgungundlovu District had sufficient human and financial capacity, as they were one of the functional committees. However, there was a feeling that the role of the community representative to solicit the views of the community needed to be enhanced, as the current member was from a faith-based organisation.

*There is someone who represents the community at large but there is no one who will represent schools because in terms of the public participation, we need to look at the proposed licence and the proximity to places of worship, to learning institutions. We do have someone who represents the religious sector but not someone to represent the learning sector who will then be in a position to say, 'look, this proposed licence is very close proximity to a school and this is how it is going negatively impact the school and learners'. So on that, a community member needs to be informed clearly about their role when representing and question the proposal regarding its proximity to SASSA offices and clinics whether the bottle store/tavern will be operating during the same times of those particular institutions.* (LC\_01)

It is apparent from the responses of the local committee in the uMgungundlovu District that they have sufficient capacity to implement their mandate. However, from a provincial overview provided by the KZNLA officials, this is not consistent throughout the province. It is noted that, in order for the local committee to function or convene a meeting, it is required in terms of Section 36(7) of the Act to have a quorum for a meeting of a local committee, which is a simple majority of its members. This could mean that the committee has sufficient members to be quorate, but not necessarily capacity from all sectors, so some inputs into the process would not be considered.

### **6.6.3 Perspectives of the community members**

A common response from community members related to education and information as a means of capacitation to enable public participation in the regulations and their role as

community members. When asked what they felt needed to be done to get the public involved, there was a feeling that the KZNLA was not capacitating communities.

*I think that it boils down to education about such with community leaders who can take these applications to the community and get feedback and a feel as to how they feel about it in meetings with SAPS and use statistics to solidify our responses to liquor licence applications. (FG\_01)*

*I think that there should be more workshops to educate CPFs about the Act and give us information, even councillors need to attend. (FG\_04)*

*The Liquor Board should have dialogues with the traders and the community and we can pass on the information. The Act should be translated into English and Zulu so we can all understand. (FG\_09)*

A similar view regarding the capacity in terms of education of the public by the KZNLA was echoed by the KZNLA management and the local committee members. When asked whether the KZNLA has empowered the public sufficiently to participate in the public participation processes, a common view was that not enough had been done.

*I don't know how the public are notified. If that is being done, I have never heard of it. That part has not been taken care of by the KZNLA. (KM\_05)*

*I am aware that there is a unit within the authority that is going out there to educate the communities about the act of the applications and how it affects them but in my personal opinion not much has been to empower the communities. There still needs to be a lot more done to educate the community. (LC\_01)*

The responses provided by all three stakeholder groups point to a lack in education and capacitation of the policy beneficiaries. This does not seem to be due to a lack of resources in this regard, as this was not mentioned as a factor. In terms of public participation, King et al. (1998:323) adopted a three-pronged model and approach to achieving what they also term “authentic participation”. One of the elements of the approach involves the (1) empowerment and education of citizens, where citizens have access to participate in processes and know that their participation has the potential to make an impact. Clearly, in its current state this is not yet being achieved.

## 6.7 Theme 5: Clients and coalitions

Brynard (2005:661) emphasises the importance of the support of coalitions and clients as a critical variable in supporting a particular implementation process. These coalitions would be the interest groups, opinion leaders and other actors who are directly or indirectly affected by the policy implementation. However, it is paramount to identify the key stakeholders whose interests are affected by the policy implementation process and who would have the desire or ability to influence the implementation process.

Documentary analysis of the KZNLA Operational Manual outlined the following process, which gives a picture of the stakeholders and their roles in the public participation process (see Table 8).

Table 8: Processes and responsibilities in the public participation process

<b>PROCESS</b>	<b>RESPONSIBILITY</b>	<b>TIMEFRAME AS PER THE ACT</b>
Notice to the applicant to give notice to the public regarding the application	Local committee secretariat	14 days from receipt of the application from Head Office
Public consultation in terms of Section 42 of the Act	The applicant	For 21 days from receipt from the local committee secretariat
Application available to view at the local SAPS	SAPS	For 21 days
Request for inspection of the premises	Local committee secretariat	One day after the notice has expired
Inspection of premises	District inspector	Within 14 days after requested by the local committee secretariat
Local committee sitting preparation	Local committee secretariat	No time specified
Local committee sitting	Local committee	No time specified

Furthermore, Chapter Five of the Act outlines the various sectors that form part of the local committee. These are as follows:

- One person in possession of a legal qualification

- One person representing an organised commerce body but who has no vested interest in the liquor industry
- An employee of the municipality within which the local committee is established who has experience in or is in charge of business licensing
- Two representatives appointed from the community based on their knowledge in the field of welfare or socio-economic development, social services or health
- One member of the community policing forum
- A councillor elected by the district of the metropolitan municipality concerned
- One member of the South African Police Service from the SAPS cluster in the district of the local committee concerned

### 6.7.1 Perspective of the KZNLA management

Based on the frequency of responses received from the KZNLA officials, the following stakeholders are considered to be the main role players (see Figure 13 below).

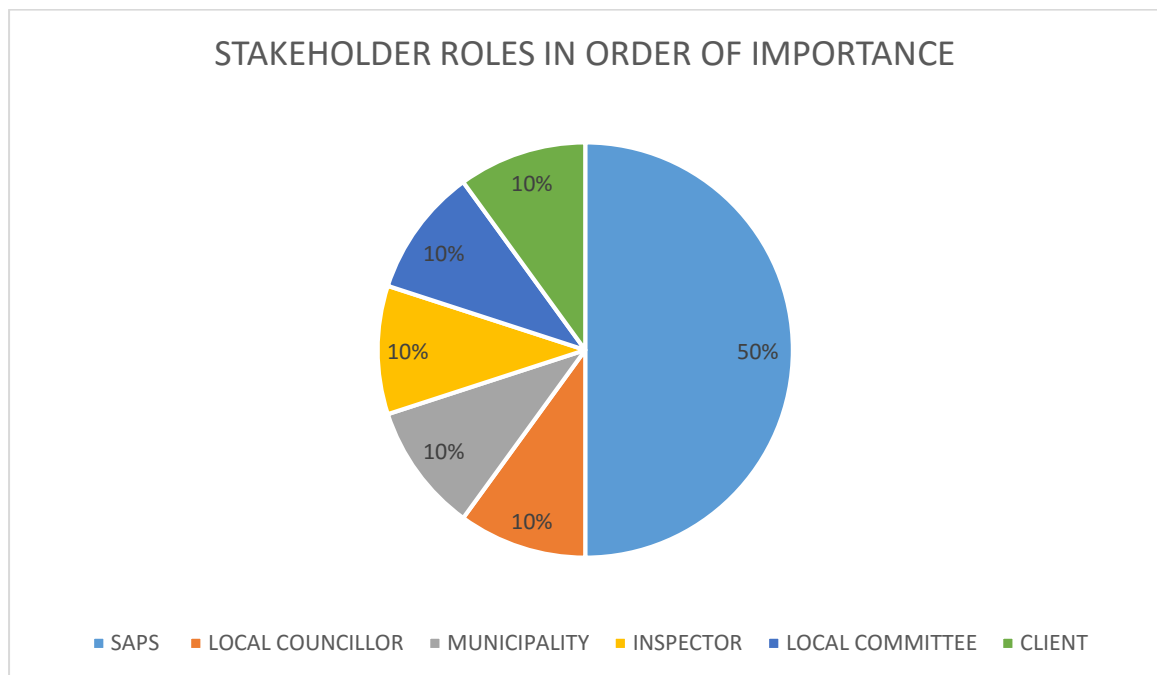


Figure 13: Stakeholder roles in order of importance

From the pie graph above, it is evident that the SAPS are considered to be the main client.

Respondents had the following to say on the value of the local committees:

*The local committee is not the best idea, people are unnecessarily delayed. People just come there for their stipend, I have sat in some meetings without active participation from members. (KM\_04)*

*I don't think the local committee is adding any value. The inspector does an inspection report, goes to the premises and interviews the neighbours and views the premises. Why then do you need the local committee? (KM\_02)*

Whilst the views of the KZNLA officials regarding the local committees as public participation tool are pertinent, one also has to be mindful of what King et al. (1998:319) have found, namely that some administrators view the public participation process as further red tape and delays in administrative decision-making, and that the inclusion of the public in decision-making creates a new set of problems. Turner (2014:888) refers to this phenomenon as conventional public participation.

#### **6.7.2 The local committee and the community perspective**

The views of the local committee and the community members were very similar in that they viewed the community and law enforcement as the main coalitions. The liquor traders and local councillors were also mentioned. This can be seen in the views below:

*It is very important for the community to be a part of the process. In terms of crime in a later stage we will not have an issue because they were a part of the process. (LC\_02)*

*The Liquor Board should have their own policing in place and it should supersede the SAPS. (FG\_05)*

*The Liquor Board should have dialogues with the traders and the community. (FG\_09)*

*We would like to know how to object, how can the community also support. (FG\_09)*

*When they apply for a licence the SAPS should notify the community that there is going to be a liquor outlet that is going to be open and councillors should get involved in it and most of the councillors don't know the Act. (FG\_04)*

The responses of the community and the local committee members allude to a shared responsibility in the regulation of liquor outlets between law enforcement and citizens. The

responses of the KZNLA officials notably do not consider the public a formidable client or coalition.

## **6.8 Theme 6: Communication**

Communication is described by Brynard (2005:662) as critical and important for policy implementation, particularly in a country such as South Africa, which has eleven official languages.

There was a common thread across all stakeholders interviewed that communication is lacking in the implementation of public participation in the liquor policy – firstly, through the communication of how the policy is implemented; secondly, in the language utilised given the context of the province; and thirdly, in engagement on how decisions are taken. These responses are highlighted below.

### **6.8.1 Perspective of the KZNLA management**

Regarding the language used to communicate, as well as the understanding of how to implement the policy, the following quotes were extracted from the KZNLA officials:

*The most dominating language is English. Which steals the communities' ability to participate.* (KM\_01)

*It is all currently done in English. Online platforms would be so much easier. Zulu would assist.* (KM\_02)

*The notices are in English and we are in the process of translating forms.* (KM\_03)

*Everything is just in English.* (KM\_04)

*The issue of language can be improved. Some people can't even read English.* (KM\_02)

*Most of our notices are in English and most of our demographics speak isiZulu. The objectors are mostly people who are able to read and write English.* (KM\_03)

The researcher confirmed through a documentary analysis of the notices on the KZNLA website, as well as the frequently asked questions, that these are all published in English.

Furthermore, in regard to communication, the majority of responses from the KZNLA officials were that the policy itself is contradictory and not easy to understand with regard to the public participation process, and that the forms contained in the regulations do not assist:



*It's still a challenge even after six years. The staff are still challenged, we have just discovered on the annexures there are mistakes which can be misleading to the applicant and the members of the public. (KM\_01)*

*The objections are too complex in nature. There is no prescribed application form for the objection process. I have tried to create diagrams to explain it to them. It's a block diagram, creating a grid to assist the objector and have a format to follow in a simple way. There is no specific format for the objection application in the Act. (KM\_02)*

*The format of Annexure D in the regulations for the advertisement. At the bottom of the form there is no detail as to how to properly lodge an application for objection. There is no wording for who to object to, where? (KM\_02)*

*It is difficult for people to understand. It is not absolutely clear on how to object either, they would have to contact the district to explain how to apply. (KM\_04)*

*It would be an opportunity missed if the message does not get to the public. And it has occurred where the message has been unclear or not filtered to the public. (KM\_01)*

*We are given the tools, it is for the client who has to get the explanation that it is difficult. (KM\_04)*

*But what do people understand public participation to be? And certain words within the public participation process they are not clear. (KM\_05)*

*You can imagine an old lady or man from uMkhanyakhude. Even an English-speaking person does not understand and needs an explanation so imagine someone that speaks Zulu. It gets way too much. My colleagues in rural areas complain about the problems they encounter. You explain for like thirty minutes and the person still does something else. (KM\_05)*

*Overall we do not have the capacity or means to go out and educate people on the things to lookout for. So no, people do not know how to get properly engaged. (LC\_02)*

The overwhelming number of responses on a similar issue is a clear indication of the challenges with regard to communication in the liquor policy. An element of King et al.'s (1998:323) three-pronged model and approach to achieving what they term "authentic participation" includes the empowerment and education of citizens, where citizens have access to participate in processes and know that their participation has the potential to make

an impact. The importance of communication, especially in a country like South Africa, which has eleven official languages, cannot be emphasised enough, hence it as a critical variable of the 7C protocol.

Still related to communication is the concern raised by respondents that decisions regarding applications are not filtered timeously to stakeholder groups in the local committee. The concerns raised by the KZNLA officials when asked how is feedback facilitated between the sector representative on the Local Committee, were as follows:

*As Liquor Authority there is nothing in place that tracks if there is feedback by the sectors. We just hope that the annual publication will inform. (KM\_01)*

*We should advise SAPS but we don't. That is a huge gap and this is incorrect from the Liquor Authority side. (KM\_04)*

*They do not consult after seeing the application. The community rep is from one area how will they consult if there an application from another area? It has never happened where the local committee co-opts someone to get different views. (KM\_05)*

*Communication sharing to the local committees, they never received feedback regarding their recommendations. The committee has refused some applications and then see the outlet is operating. There is no communication with the committee when decisions are overturned. (KM\_02)*

Furthermore, with regard to decisions being communicated that affect stakeholders, it was established through the documentary analysis that the CEO of the KZNLA, in respect of licence applications, is compelled through Section 23(2)(c) of the Act to:

- Within 60 days after the end of each calendar year, publish the record of licences or permits, setting out the names of all persons –
  - (i) who have been issued with licences or permits on the last day of the relevant year
  - (ii) whose licences or permits were cancelled during the relevant year

The KZNLA website was also visited on 6 August 2020 to check what details are being provided to the public on liquor licence applications granted or a database of existing licences. Under the tab, “Status of Liquor Licences”, the total number of licences in a district are provided up until April 2019. No further details were provided of those licences with regard to geographical location.

### 6.8.2 The local committee perspective

Concerning the language used in the liquor policy the local committee members noted the following:

*I have not come across a notice that has been in isiZulu for the people in the rural areas. So they might not become aware of what is going on, but they see the notice and they might not know the importance of the notice and how it will affect them. They only become aware when a licensed premises starts operating and that is when they become aware and by then it is too late. (LC\_01)*

The challenge of capacity was also linked to communication in that members do not have the capacity to engage communities,

*Overall we do not have the capacity or means to go out and educate people on the things to lookout for. So no, people do not know how to get properly engaged. (LC\_02)*

Another cause for concern was regarding the feedback on the recommendations made by the local committee:

*That is the challenge. We are never are told about our previous recommendations. Previously, I think, when we used to have meeting about the chairperson's forum, the chairperson would request feedback in terms of how many applications have we recommended that have been approved by the adjudication committee but it has never happened actually. We have requested but no feedback so we are unaware to whether our work has been to the authority and how much value it adds. (LC\_01)*

*In most of the instances they either accept it and do not discuss reasons why they do not accept it unless we pursue it. (LC\_02)*

*We put our recommendations with regard to the repercussions or consequences, we will find that despite what happens is that a licence can be granted. So, there is a higher authority that will take the decision. There should be a mechanism in place to state that they have heard the voices. The objection might be strong and legit, but what type of leverage do those who are objecting have because they don't have a recourse as such, they will be heard and that is it, so there is no other avenue to pursue besides objecting. We go through the process but at the end of the day they don't have voice. (LC\_02)*

*We feel as though we don't receive the feedback that we need from the board whether it was declined. (LC\_04)*

The responses from both the KZNLA officials and the local committee members is worrisome, because it brings into question the value or impact that is derived by participating in the public participation processes, which would affect the commitment of local committee members to the process.

### **6.8.3 The community perspective**

The majority of the focus group respondents affirmed that they had not received communication on decisions made in their communities regarding liquor licence applications. Some mentioned:

*When they apply for a licence the SAPS should notify the community that there is going to be a liquor outlet that is going to be open and councillors should get involved in it and most of the councillors don't know the Act. (FG\_04)*

*It now looks like government is very flexible on granting liquor licences. You go to town and see liquor outlets where churches used to be, especially the bigger ones like Pick n Pay, without us being asked if we are for it. (FG\_09)*

A participant who had participated in an objection process regarding a liquor licence application reflected the following regarding the communication of that process:

*We had to serve the objection to the applicant. However, I feel as though those rules need to be changed as well. It is not fair for us to serve the objection notice to the applicant. The channels in which we had to go through was extensive and tedious as well intimidating as a procedure on the whole. We also had no help from our councillor. The applicant had a magistrate defending him who actually used to work at the liquor board. I couldn't understand how she was allowed to represent him. You don't know what is in store for you as an objector but we learnt from it. (FG\_04)*

From the above responses it is apparent that there are gaps in the current methods of communication. As was stated previously, liquor is a complex societal issue and the involvement of various stakeholders and methods of decision-making is paramount in the policy implementation processes.

Furthermore, citizens' trust and tolerance towards government agencies' decisions in relation to which there are conflicting citizen expectations require high-quality public participation, as

alluded to by Halvorsen (2003:541). High-quality public participation includes the following factors: representation of various and diverse viewpoints, which encourages fairness and understanding of the problem, and deliberative discussion characterised by open, reasoned and thorough discourse (Halvorsen, 2003:536).

## **6.9 Theme 7: Co-ordination**

The seventh variable in the 7C protocol which is critical to successful policy implementation is co-ordination. Co-ordination, Cloete et. al (2018:213) explains, relates to intra- and inter-organisational co-ordination and co-operation towards the implementation of policies. Inter-organisational co-ordination is defined by organisations co-operating together, whilst intra-organisational co-ordination refers to working relations amongst department or units within an organisation. Co-ordination is particularly important in bringing together all the variables within the protocol, because without the co-ordination of variables, such as content, commitment, capacity and communication, the intent of the policy will not be achieved.

### **6.9.1 Perspective of the KZNLA management**

There are significant gaps in the synergy and co-ordination of the liquor policy amongst its primary stakeholders. Sixty percent of the KZNLA officials responded to the question regarding the efficiency of the operational system between the different stakeholders as being disjunctured with different stakeholders not understanding their roles and the logic of the process. As the KZNLA officials noted:

*Somehow it is disjointed. The SAPS will receive a copy of a file but the only time that they can give feedback is when there is somebody who has objected to the application. Normally they receive a file but never make input. The KZNLA is satisfied that there is a note that the application did go to the SAPS as received but it would be more effective if the SAPS could be more involved. (KM\_01)*

*The part whereby there is a different view found by the inspectors, it is only considered after everything has done. So that view from the inspectors must be found before twenty-one days. Right now it is being done when the period of objections are complete. (KM\_01)*

*I don't think the local committee is adding any value. The inspector does an inspection report, goes to the premises and interviews the neighbours and views the premises. Why then do you need the local committee? (KM\_02)*

*There is too much red tape. The local municipalities on their own are not doing their business the same way. You will find that stakeholders deal with their processes in their own way, which goes against what we want and it is not efficient at all. We came after with the Liquor Act. We needed to adapt our processes to what was already there but we did not find out enough about what happens with their processes so it does not clash with ours. There is no synergy between. I do not know what the business licence should look like so I send the client back and the municipality tells them something else. (KM\_05)*

*The SAPS are also unaware of their role in the objections process, they are lost. Almost all stakeholders aren't clear on their roles. We still have a lot of work to do. (KM\_01)*

*We need to do due diligence when choosing the community reps for the purpose and function of the local committee to be realised. (KM\_02)*

## **6.9.2 The local committee perspective**

The local committee members made the following comments when asked do they seek advice from the relevant stakeholders on an application which alludes to their co-ordination mechanisms:

*Municipalities some of them being rural municipalities have not been within the system, in terms of still operating under a different name and with the application we require certain information. I don't think in that manner that the act covers sufficiently. (LC 04)*

*The disadvantage is that we are not aware of the matters that as a committee we have sit and deliberate on the outcome. To go back to the people to say 'okay, there is a particular application that the committee will be considering, would you like to have an input?' (LC\_01)*

*I do have good knowledge and information about crime and so forth as well as communication with Station Commanders and liquor offices. (LC\_02)*

The community members were not asked questions regarding co-ordination as it was evident from their responses regarding the knowledge of the liquor policy and their view regarding the communication of the policy that their role in the co-ordination of the public participation process is non-existent.

The sentiments of the local committee and the KZNLA officials point to similar aspects in the co-ordination of public participation processes and the confusion of various policies from different implementing agencies trying to meet one objective. This could be attributed to what Brynard (2010:200) refers to as “cognitive consensus”, whereby the success of policy implementation is determined by the consensus between various policy actors and their cognitive ability to conceptualise and implement the policy. This is especially difficult and can lead to policy implementation failure when a new policy requiring fundamental change is introduced, which is the case with the KZN Liquor Act.

## **6.10 Linking the fieldwork results to the research questions**

This section of the thesis attempts to analyse the fieldwork data against the research questions introduced in Chapter One. The research questions are as follows:

- What are the experiences and challenges of the beneficiaries with regard to public participation in the liquor policy?
- How is public participation in the liquor policy being implemented?

### **6.10.1 What are the experiences the beneficiaries regarding public participation in the liquor policy?**

The beneficiaries who are intended to be served by the inclusion of public participation in the liquor policy are the public. The sale of liquor is a complex issue, with a fine balance to be achieved between the social and economic benefits, so public interest issues have to be considered. The experiences of the community members, as well as of the local committee as the appointed representatives of various sectors within communities, therefore are highlighted.

The majority of the respondents from the community had not had any experience with public participation processes, either seeing the notice to the public or formally participating in the processes. The majority of respondents did not have any knowledge of the Liquor Act as a starting point, although all respondents showed a unanimously high level of commitment and offered suggestions on how the KZNLA can engaged with them better so they can participate more fully in the decisions affecting them: The “*Liquor Board should have dialogues with the traders and the community and we can pass on the information*” (FG\_09). The view reflected by the community is an opportunity for the KZNLA to partner with the community directly when making decisions.



Although they were not aware of the liquor policy or how to participate in the processes, the community members did mention their experience of and feelings towards liquor outlets and the sale of liquor in their areas. There were two equally balanced views, with some members being in agreement that the sale of liquor was economically viable, whilst others felt there was no need for liquor outlets, as they are problematic. This distinction is depicted in the pie chart in Figure 11. The community members lamented the location of liquor outlets: *“I think that there are too many liquor outlets in my community, there are too many outlets around the school areas”* (FG\_01), along with the growing number of liquor outlets in their areas, as well as the general experiences and challenges related to the sale of liquor in their communities: *“The first issue is that there too many of them, we want computer labs and things that can uplift our youth”* (FG\_09). More positive views were as follows: *“As a young entrepreneur it is a business venture, as long as they can adhere to the rules”* (FG\_09). The noticeable change in communities that was linked to the ban of the sale of liquor during the national lockdown was also reflected upon by many respondents. For example, *“there was less movement and less hassles in the community. As a ward committee member in security I stopped receiving so many calls”* (FG\_05).

Regarding direct experience of and involvement in the public participation process, one respondent described their experience of the objection hearing process as being intimidating, cautioning that *“you don’t know what is in store for you as an objector”* (FG\_04). The sentiments expressed also reflect the notions that were raised by the KZNLA officials regarding the complexity of the objections process.

As is clear from the majority of the responses, the experiences of the uMgungundlovu District local committee reflect the need for the representation of all sectors to make the required inputs on an application for an informed decision to be taken, in particular by the community representatives: *“The more authenticity, the better it is because we get proper views and we get better input about how the liquor is affecting the community”* (LC\_02). To this end, they did physical inspections to get a true sense of the community dynamics in an area. The challenge of insufficient representation is further exacerbated by the challenge of seeing the application for the first time during the meeting: *“We get the applications and deal with it on the day”* (LC\_01). This means there is no opportunity for consultation with the community or perhaps to invite other councillors from an area to assist when making a recommendations, as provided for by the legislation in Section 36(14).



Another challenge cited by the majority of local committee members is the lack of feedback on their recommendation made, which is worsened if the recommendation is overturned: “... *we put our recommendations with regard to the repercussions or consequences, we will find that despite that a licence can be granted. So there is a higher authority that will take the decision*” (LC\_02). From the responses above, it is clear that members can become despondent about participating in the liquor processes, as they cannot judge whether their existence adds any value.

The responses from the KZNLA management and officials, as the implementers of the public participation, echo that of the beneficiaries as they reflect a host of negatives experienced with the public participation process in its current format. The only positive sentiment that was consistently mentioned was the fact that the public is now allowed to participate. The following quote sums it up: “*It’s still a challenge even after six years*” (KM\_01). The challenges range from the complexity of the process and trying to explain the process to the applicant, a lack of commitment from the stakeholders, non-functional local committees, the perceived lack of value of the local committee as the public participation structure, and the inadequate feedback loop between the local committee structures and the sectors they represent. The KZNLA also acknowledges that they are not forthcoming in providing feedback to the local committee. There is also a severe and apparent lack of co-ordination between all the role players.

The responses from external stakeholders such as SAPS and the local municipality also allude to a misalignment of functions. These have been addressed extensively under the themes presented above.

The KZNLA officials also mentioned that the introduction of the public participation process has brought about an unintended consequence of another objective of the Act, and the recipients of the liquor policy, the liquor trader. That being, the entry of new participants into the liquor industry, because the timeframes are lengthy: “*I think it is more than enough time. In fact it may be too generous*” (KM\_02). Another disadvantage is that the applicant has to pay for the rental of the premises whilst the application goes through all its stages, with the public participation process taking almost one month. “*It is not promoting new entry, it’s good for the public to be given ample time but on the other side of the applicant who is already paying rentals for an outlet that is not in operation, it is not fair*” (KM\_01).

Whilst welcoming the introduction of public participation, the experiences of the KZNLA still allude to many challenges in its implementation that need to be addressed.

#### **6.10.2 How is public participation in the liquor policy being implemented?**

A documentary analysis of the KZN Liquor Act 06 of 2010 and its objectives, contained in Section 2, outlines the objectives of the Act to be:

- (a) to provide for the regulation of the micro-manufacturing and the retail sale of liquor;
- (b) to provide for mechanisms aimed at reducing the socio-economic and other effects of alcohol abuse;
- (c) to provide for public participation in the consideration of applications for registration;
- (d) to promote the development of a responsible and sustainable retail and micro-manufacturing liquor industry in a manner that facilitates –
  - (i) the entry of new participants into the industry
  - (ii) diversity of ownership in the industry and
  - (iii) an ethos of social responsibility in the industry.

The objective contained in 2(c) is an improvement on the previous National Liquor Act, No. 27 of 1989, which, when analysed, was found not to have any provision for the inclusion of public participation in the process of liquor licence registration.

Based on the responses of the KZNLA officials, the inclusion of public participation was to ensure more citizen inclusivity in decision-making regarding liquor licence applications, which did not exist previously. In the documentary analysis of the new Liquor Act and its Regulations, it was found that provision is made for the applicant to notify the public as outlined in Table 3 above.

Furthermore, the preamble to the Act alludes to the “establishment of the KwaZulu-Natal Liquor Authority and local committees of the Liquor Authority”. The local committee is a key structure to enable the representation of various sectors within a municipal district in recommending liquor licence applications. The respondents from the uMgungundlovu Local Committee structure were also in agreement that the provision regarding public participation was to ensure an increase in community representation in the decisions made about liquor licence applications that would most affect them so that problems are not encountered later. As one local committee member mentioned: *“They are becoming more flexible with regard to the public being heard and voicing their opinions regarding any liquor outlet”* (LC\_02).

From the perspective of the community, there was unanimous agreement regarding the need to be involved in decisions regarding liquor licence applications that ultimately affect them:

*When they apply for a licence the SAPS should notify the community that there is going to be a liquor outlet that is going to be open and councillors should get involved in it. (FG\_04)*

*Yes, I think that it should be the community's decision as to whether there should be an outlet or not. (FG\_02)*

Community members also offered insight into some of the issues they experience with liquor outlets in their communities, for example: *“there is concern factor because of the location of the bottle stores and trading times”* (FG\_03), and *“I think that there are too many liquor outlets in my community, there are too many outlets around the school areas and too many bottle stores in the same area of each other and too much abuse within the area of where I stay because of liquor”* (FG\_01).

Some community members acknowledged the economic factors regarding liquor outlets: *“I don't have a problem with places that are registered because they are trying their best to make a living”* (FG\_08).

Based on the responses received, there seems to be a common understanding about the need to have community members involved in the liquor regulatory process. The insights from the community members themselves also further corroborate this need. The main question, however, is whether this is actually happening as intended. This issue is discussed further in relation to the research questions below.

The documentary analysis of the Liquor Act, its Regulations and the KZN Liquor Authority manuals provides a comprehensive overview of the implementation process, with specific time frames and role players. It is notable that there are many stakeholders who are required to collaborate in the process, as shown in Table 4. The implementation of the liquor policy has already been examined extensively through the use of the 7C protocol, and has been dealt with already, but a few aspects are outlined below.

The responses from the interviews with KZNLA management and officials point to many deficiencies in the implementation of the process outlined in the legislation, ranging from discrepancies within the Act, its comprehension and the complexity of the annexures to be utilised. *“It's still a challenge even after six years. The staff are still challenged, we have just*

*discovered on the annexures there are mistakes which can be misleading to the applicant and the members of the public*” (KM\_01). There also are problems with the language that does not enable a clear articulation and understanding of how the public can get involved: *“Most of our notices are in English and most of our demographics in the province speak isiZulu”* (KM\_03).

The implementation of public participation cannot take place without the necessary resources, and the issue of capacity due to non-functional local committees was highlighted. This issue leads to the objective of public participation not being fully met. As stated by the KZNLA management, *“It’s not in a good state”* (KM\_01).

The two predominant reasons provided by the KZNLA for the non-functionality of the local committees were a lack of interest from the public to be involved in the committees and participation being linked to self-interest and whether or not the member was being paid a stipend to attend the meetings: *“The ones who are paid a lot more supportive than those who are not paid”* (KM\_04). It also seems apparent that the KZNLA have resigned themselves to the current status quo, *“because of the systems in place to appoint these people there is a blockage somewhere there. Red tape bureaucracies get in the way”* (KM\_02). Brynard (2005:178) highlights that capacity is a critical aspect of policy implementation and that, without the necessary resources, policy implementation will fail. The lack of commitment from and participation by stakeholders, and having the correct representative from the various sectors, also prevent the views of various sectors representing the public being included. However, the responses from the KZNLA officials were that, where a local committee is non-functional within a municipal district, the KZNLA Board Adjudication Committee steps in to adjudicate the application. *“So the Board doesn’t wait for the reports from the non-functional committees, they just take over”* (KM\_01). This contingency method of the Board stepping in prevents the views of the sectors of that district from being heard, so in effect no public participation would have taken place, save for the notice by the applicant to inform the public.

There were also common responses regarding the synergy of the role players and their understanding of their roles within the process. *“Almost all stakeholders aren’t clear on their roles. We still have a lot of work to do”* (KM\_01). Brynard (2010:200) highlights the need for all stakeholders to have knowledge of policy implementation, particularly a new policy, otherwise implementation will fail.

The implementation of the objection process was also highlighted as being onerous, from knowing how to object: *“The objections are too complex in nature”* (KM\_02), to the actual hearing stage: *“The objections have all been in favour of the applicant. Because the Act is so legalese, the applicant will get a lawyer. The applicant will cite the technical aspects of how the application was done and not the actual merits of the matter”* (KM\_02). This was confirmed by a community member who had participated in the objection process: *“The channels which we had to go through was extensive and tedious as well intimidating as a procedure on the whole”* (FG\_04). The view of the KZNLA officials therefore was that the objections were being used by business competitors for the wrong reasons: *“I don’t recall one objection that has been raised as a concern from the community due to an interest from the public; it has only been about competition”* (KM\_03).

The responses of the uMgungundlovu local committee members show commitment to ensuring that their role as a committee is fulfilled as per the liquor policy, and they try to bridge the known divide between the local community and knowledge of the public participation process, particularly within rural communities, by doing physical inspections and interviewing community members. *“We do go on inspections on our side to see ... We ask them questions like ‘are they aware that applications for this kind of licence’ just to find out if it has come to their attention because, as I indicated, in the rural areas most people are unaware”* (LC\_01). This shows their real interest in ensuring that public interest issues regarding an application are considered and that they are not making decisions on their own as a committee.

A majority concern of all the respondents was the issue of the language used, which is English, and the barrier this poses to public participation in the context of a province in which the majority of citizens speak isiZulu. *“All the notices that go out for public participation, what I have noticed, they are written in English”* (LC\_01).

The majority of responses received from the community members revealed that they were not aware of the public participation processes, nor of the KZN Liquor Act, or how these are being implemented. This, despite there being resources to educate members of public, as seen in the documentary analysis of the KZNLA strategic plan and organogram.

From all viewpoints described above, it is clear that public participation is being implemented partially. In particular, the elements that are legislated are being adhered to, but whether the

objective of public participation is being fully realised is unpacked further in the findings of this study.

## **6.11 Conclusion**

This chapter on the fieldwork results provides a presentation of the data collected through the semi-structured interviews and focus group interviews conducted with the primary stakeholders, namely the KZNLA officials, regulatory partners, the local committee members and the citizens represented by community-based organisations. Further to this, documentary analysis was also conducted as part of the mixed-methods approach to the research study.

Policy can be set as predetermined goals; however, when implemented, the results can be very different. The 7C protocol was used as the main lens to highlight the implementation of the policy in terms of different variables. It should be noted that the variables of the 7C protocol often act together, and are interconnected with one variable having an influence on another, which could be viewed as an opportunity or a challenge. Brynard (2005: 662) emphasises that the opportunity is to utilise the variables in their interconnectedness strategically to synergise implementation.

In this research study the variables influencing one another have led to more challenges as evident in the linkage between the variable of capacity, affecting the variable of communication whereby due to a lack of capacity the local committee members cannot sufficiently engage communities regarding a liquor licence application. Similarly, the lack of communication between the Board Adjudication Committee and the local committee regarding the final decision on a liquor licence application effects the member's commitment to the process, as their efforts are felt to be futile.

The elements of public participation discussed by various scholars were also reflected upon when linking the research questions to the fieldwork results. The chapter has thus provided an extensive view of the implementation of the liquor policy, whilst also focusing on the elements of public participation, so the two aspects can be considered collectively.

## **CHAPTER SEVEN**

### **RESEARCH FINDINGS**

#### **7.1 Introduction**

This chapter presents the findings of the case study based on the results of the fieldwork relating to the implementation of public participation as a key objective of the KZN Liquor Act, No. 06 of 2010. In the previous chapter, the results of the fieldwork were presented based on the semi-structured interviews and focus group interviews conducted with the primary stakeholders, namely the KZNLA officials, the local committee members and the citizens represented through community-based organisations. Further to this, documentary analysis was conducted as part of the mixed-methods approach to the research study.

This chapter references the findings against the goals of the study, and a conclusion will then be drawn from the fieldwork results presented.

The data was collected in line with the themes of the 7C protocol regarding public policy implementation, and therefore is presented in this format, before reflecting on the best practices of public participation methods. The 7C protocol was utilised as the framework for themes, because they assist in identifying critical policy implementation variables and their implementation across various localities. The purpose of the study was to derive the value attained from the inclusion of public participation as a key objective of the implementation of the KZN Liquor Licensing Act, No. 06 of 2010, especially since the Act has been in implementation for more than five years.

#### **7.2 Case result findings**

The findings are presented according to the themes of the 7C protocol, as well as a reflection on the research question and the linkage to broader debates regarding public participation.

##### **7.2.1 Content of the policy**

It was found in the documentary analysis, which included perusing the KZN Liquor Act and its respective Regulations that public participation with regard to the notice given to the public and the allowance for the public to object or support the liquor licence application are provided for extensively through four different means. This is also in sharp contrast to the previous National Liquor Act, No. 27 of 1989, as this was not provided for except in the Regulations, which made reference to publishing in the Government Gazette.



The findings from the KZNLA officials and the local committee members were that the content of the policy has been improved greatly in the new Liquor Act, and definitely allows for more public inclusivity. However, what was highlighted in the responses of interviews was that the content is difficult to understand, even by the KZNLA officials as implementers, and that there is contradictory information when actually trying to implement the content of the policy. This was also evident in the documentary analysis of the forms in the Regulations, which are not clear on what is expected and where objection forms should be dropped off or even an enquiry made.

The local committee members also noted that the content of the policy was more inclusive for public participation, but the outcomes are not evident. The community groups were not aware of the content of the Liquor Act at all, let alone of public participation, except in circumstances where they were forced to engage with the content of the legislation through involvement in the liquor trade or being part of an objection process, which were far and few between.

Brynard (2005:659) highlights that the content of the policy is not only about how to get to a particular end, but the means to achieve the end. The conclusion of the study is that, as much as the end (public participation) is catered for, the means are not clear and not accessible to the public, for whom it is intended.

### **7.2.2 Context of the policy**

The common theme with regard to the context within which the liquor policy is implemented was that, geographically, the province has vast rural areas and a society whose demographics include that they speak isiZulu. In this respect, the study found from the majority of responses that the manner in which the policy is implemented does not take cognisance of these factors. There is a clear disjuncture between the liquor policy and the beneficiaries for whom the provision of public participation is intended.

The notices are all in English and cater to a segment of society that would have access to lawyers and consultants to simplify the processes on behalf of the applicants. This was also confirmed in the documentary analysis. It was noted that the KZNLA officials have used their own initiatives to try to assist the applicants, but this is also difficult and is not done consistently by all the officials. The study further found that the local committee in uMgungundlovu District go beyond the actual filing and application to do inspections at the location of the liquor outlet, where they also interview community members. However, this



may not be feasible for all applications, and where the district local committees are non-functional in certain districts it will not happen and these inputs will not be solicited.

The study also found that the community members seem to have become resigned to the fact that liquor establishments need to exist because it is legal and for economic reasons, but the vast majority believe that there are too many outlets, which gives rise to increased access and contributes to the alcohol abuse that is prevalent in communities. Some of the incidents that were relayed of the effect of alcohol abuse on individuals, families and communities, as well as the community leaders who assist in these situations, were very disturbing. In the midst of the current pandemic, perspectives also emerged on the effect of the ban of liquor due to the COVID-19 pandemic and the national lockdown on communities. The general feeling was that of peacefulness in communities and a reduction in crime and nuisance, although there were a few pockets of responses that, although access to liquor was more difficult and expensive, it was not eradicated entirely due to the ban.

Given the picture provided by the public themselves of the effect of liquor on communities, as well as the geographical and demographic context within which the policy is implemented in KZN, it can be concluded that more needs to be done to link the policy with the context of the society affected by it. This can be done by using appropriate language, having greater awareness of and simplifying processes, and ensuring due diligence with regard to public interest issues, such as crime and the saturation of liquor outlets in areas, to uphold the ethos and social responsibility that are required by the industry. As Brynard (2005:660) points out, “bureaucratic contexts favorable to implementation more often grow out of human interaction than hierarchical regulation”.

### **7.2.3 Commitment from stakeholders**

What emerged from the study is that although the uMgungundlovu District local committee was committed and functional, based on the responses of the KZNLA management from a provincial point of view, the commitment of the local committees is dismal and is largely based on incentives or particular interests. It was also found that the ward councillors were not active as key representatives of the community in the local committees, as they are not paid a stipend. It was also evident to the researcher, as the councillor did not want to participate in the study, despite several attempts to involve him. This view was also shared by the members of the local committee, who emphasised that the role and responsibility of the

community representative was a necessity that was not forthcoming in providing the necessary information when considering licence applications.

The trend that emerged during the research study from the responses from the community focus group interviews was that they are strongly committed to being involved in the liquor regulatory processes as community members and organisation, and to be involved in decisions regarding their communities, if they are empowered with information. As parents, community members and community leadership, they have a strong will and commitment to uplift communities through greater involvement in decisions affecting them. Although the responses of the KZNLA officials indicated that the community was not interested, this was in contrast to the community's views. This may be indicative of the top-down approach to policy implementation, which sees commitment as being linked to the content and capacity of policy that can be controlled from the top down. The bottom-up approach would tend to focus more on clients and coalitions and the institutional context. In this study, it was determined that the content of the policy was not known by communities and did not take into account their context, which could explain why communities that are showing commitment to participate are in fact not currently participating as coalitions in the implementation of the policy.

#### **7.2.4 Capacity to implement the policy**

Whilst the issue of capacity in terms of the functionality of the local committees generally was found to be lacking, there was a contingency plan in place according to which the KZNLA sent the applications to the centralised Board Adjudication Committee for approval. However, this does not achieve the objective of having a local committee representing a particular area to recommend an application. It was also found that the nominations for and appointment of local committees were a function outside of the KZNLA and reliant on the MEC, and as per the provisions in the Liquor Act is not enabling for the KZNLA to improve the functionality of the local committees.

Another element of capacity that was a common trend in the responses was capacity in terms of providing education and empowerment to the public regarding the Liquor Act and the public's role in it. It seems in this regard that not all "available resources are being mobilised to achieve policy objectives", which Brynard (2017:661) emphasises is critical for successful policy implementation. Although it was acknowledged by the KZNLA and the local committee that there is a unit in the Authority to fulfil this function, the responses of the

community members make it evident that not enough is being done in this regard. This was further corroborated by the documentary analysis of the KZNLA Strategic Plan 2015 to 2020, which shows that there is not a fully functional business unit for awareness creation and education. The KZNLA Annual Report 2018 to 2019 was also analysed and showed that education is indeed being done through the Social Responsibility Business Unit under the key performance indicator: Number of KZNLA public awareness programmes implemented, but it is necessary to further investigate who are the targets of these programmes and what communication media are being utilised to reach them.

### **7.2.5 Clients and coalitions**

The study found that the important clients and coalitions differed in their responses from the various groupings of stakeholders interviewed.

For the KZNLA officials, the main coalitions were those directly involved in the administration of the application process, notably the SAPS and the local committees. With regard to the SAPS, their role needs to be more pronounced in the Act and their capacitation regarding their role should be enhanced, as most of them do not know their role. The documentary analysis of the previous National Liquor Act found that the SAPS played a significant role. Although identified as an important coalition, the local committee was indicated in a lot of responses as adding no value, as most were not functional or, where they were functional, the members were not committed, so the intended objective of the local committee is not being realised. None of the responses from the KZNLA identified the public as an important client or coalition.

The local committee and the community responses identified the community and community leadership as being paramount. Again, it was stressed that these clients require capacitation.

### **7.2.6 Communication of the policy**

In comparison to the other themes, the study found that communication was consistently seen to be integral to the implementation of the policy. The responses from the KZNLA management and officials and the local committee were consistent that communication was lacking regarding decisions made by the KZNLA on the outcomes of the applications. This lack was both internally, from the KZNLA to the local committee, but also between the committee and the sectors that they represent. The study could not ascertain whether there was any communication between the local committee and their sectors. The study also found, based on the responses of the local committee members, that there was no co-ordination or

feedback on recommendations that they make on applications, which leaves them questioning their value in the process. Another shortfall was the lack of communication between the KZNLA and the SAPS on the outcomes of applications, which is an opportunity lost to build coalitions with an important stakeholder, as recognised by the KZNLA officials. Since the SAPS are required to assist with the enforcement of the legislation, how would they be able to fulfil this mandate without the information regarding which outlets are legal? As much as the documentary analysis revealed that the KZNLA does publish the new licences granted, this is only done on an annual basis. No timeous information is provided on the outcomes of decisions, even on the KZNLA website; all that is provided are the statistics on the number of licences.

The terminology is also not accessible to the general public, and the KZNLA acknowledge that this is a huge hindrance and that it is difficult for lay people to understand. It was found that, even after the explanation provided by officials, the public still do not understand what is required. Clearly communicated directives are required for policy implementers and beneficiaries to understand the process and for the policy to be implemented successfully (Brynard 2010:190). The information on the forms to be utilised is also contradictory, which worsens the situation. This was confirmed through the documentary analysis. Another aspect of communication was the use of English on all notices to the public. As much as English is the administrative language, South Africa does have eleven official languages and isiZulu is the predominant language in KwaZulu-Natal. For public participation to be effective, this needs to be taken into consideration. This was also noted during the documentary analysis of the information on the website, which was all in English and not simplified. As much as the legislation has to be crafted in legalese, the KZNLA needs to simplify the information to make the processes accessible to the general public and to cater for the languages of the province.

Another problematic aspect that was the communication regarding the objection process itself, and the inability of lay people to participate effectively in the hearing process without legal representation due to the nature of the process. Furthermore, it was found that the objector has to notify the applicant of the objection that has been lodged, which could expose the applicant to intimidation by the applicant.

### **7.2.7 Co-ordination of the policy**

The Liquor Act relies on many external stakeholders to enable the flow of a liquor licence application, including the process of public participation, as was evident from the documentary analysis of the procedure and requirements contained in Act. The responses in the study show that the co-ordination between the various stakeholders internally and externally is disjointed.

The respondents gave examples of aspects that lack co-ordination and synergy amongst stakeholders in the implementation of the Liquor Act concerning the public participation process. The role of the liquor inspectors and the timing of their inputs was found to be of more value if this was done during the 21-day period when the notice to the public at the proposed premises was still in place. There also was a significant disjuncture in the role of the SAPS; one respondent said they are “lost” and seem to be more of a “post office”, where the application lies at the police station for public scrutiny and comment. The SAPS themselves do not provide input at this stage. This is an opportunity lost to gain insight into issues of crime, safety and nuisance in the area of the proposed premises. The documentary analysis of the National Liquor Act, No. 27 of 1989 and the role of the SAPS at that time, shows that their role has been notably minimised in the new Act. Other aspects related to co-ordination are with the local municipalities in the process of issuing the business licence. Each local municipality processes business licences in their own manner, so it cannot be certain whether the same aspects are considered in each application.

It was also found that there is uncertainty about how the local committee members co-ordinate and receive inputs or provide feedback to the respective sectors they represent, or whether this is even considered. It therefore is uncertain whether the local committee members are fully conversant with the issues regarding the area of the application for which they have to provide input. If the local committee in principle represents the views of a particular area, and if no consultations are done, one would have to circumspect regarding whose views the local committee members are representing.

### **7.3 Linking the findings to the research questions**

This paper aimed to respond to the following primary research question:

- What are the experiences of the beneficiaries with regard to public participation in the liquor policy?

The study found that there is a lack of education on and knowledge of the liquor policy, the public participation processes and the local committee among the beneficiaries. The latter committee is the body that should be representing the community within the district. This has given rise to decisions being made on the number and location of liquor outlets not being supported by the community. Beierle (1998) has articulated six social values that could also be measured from public participation efforts. These are: (1) educating the public, (2) incorporating public values into policy-making, (3) improving the substantive quality of public policy, (4) increasing public trust, (5) reducing conflict and (6) achieving cost-effective public policy. In this respect, the study found that none of these six values have been attained by the introduction of public participation in the liquor policy. Instead, due to the failure to educate the public, the result has been less trust from the public and conflicting views regarding the perception of the sale of liquor by community members.

On a positive note, the study found that there is willingness by community members to work with government as a partner in decision-making. This would be a move toward more substantive public participation, described by (Turner, 2014:888) as involving the following four processes to allow for maximum opportunities for citizen involvement and input: (1) allowing for the direct participation of citizens or non-experts in the decision-making process, (2) citizens having shared authority with administrators, (3) extended periods of time of participation and face-to-face interaction between administrators and the public, and (4) the opportunity for the public to participate as equals with officials and experts.

The local committee as an appointed representative of the community is also considered a beneficiary, and the study found that their challenges include a lack of appropriate community representatives to provide the necessary input when making recommendations on issues such as the foreseeable impact liquor outlets may have on schools and social services, for example.

The study also found a common challenge cited by the local committee to be the lack of feedback on recommendations made and the final outcome of decisions made by the KZN Liquor Authority. This indicates a failure of “substantive public participation” (Turner, 2014:888), as there is no deep and continuous involvement by the public in administrative and developmental processes. Substantive participation requires a focus on the process of participation and also on the outcome, so that citizens feel they are key actors in a dynamic relationship and that their participation adds value. The involvement of the local committee

could be viewed as mere placation; in other words, the views of the local committee are only a means to satisfy an end.

A secondary research question which this paper aimed to respond to is:

- How is public participation in the liquor policy being implemented?

It is evident that public participation was virtually non-existent in the previous National Liquor Act, except by a certain segment of society who may have had access to the Government Gazette. The need for more public inclusivity in the decisions made by the KZN Liquor Authority and the processes they follow when considering a liquor licence application was consistently agreed upon by the KZNLA officials.

The documentary analysis of the new Liquor Act, as well as the responses of the KZNLA officials and the appointed public participation structure, namely the local committees, corroborates that the Act allows for public participation. As Turner (2014:888) highlights, the first requirement of substantive participation is allowing for the direct participation of citizens or non-experts in the decision-making process. In this way, one success factor of public participation has been realised through the promulgation of the new legislation and the establishment of the local committees. The study found that as much as the implementers all acknowledged the necessity for and welcomed the inclusion of public participation in the liquor processes, the challenges experienced in implementing them were extensive, from frustration with the process itself and trying to explain it to applicants, to the delay caused by the process and the “dismal” state of the local committees. There also was reference to the process not being used for its purpose, but rather being abused for malicious intent by business competitors. King et al. (1998:317) refer to authentic public participation, which is a concept of participation that stimulates interest and investment in both administrators and citizens alike. In its current state, participation is not authentic. King et al. (1998: 321) say authentic participation involves citizens in the making of decisions, instead of just judging a decision, which is what citizens need to be part of.

The community was found to have a hunger to participate in the liquor policy processes; this was cited unanimously by members of the community based on their lived experiences of having liquor outlets in their areas. Besides just mere participation, it was also found that communities were keen for dialogue with liquor traders in their community so as to realise



more social cohesion. Therefore, it can be concluded that public participation in the liquor policy is a need that resonates with the public for whom it is intended.

The study found that, because it is legislated in Section 42 of the liquor policy, notices to inform the public of a proposed liquor licence takes place via four modes of communication. These modes are all in English, as the administrative language, although in terms of public participation models this is still an infant stage. The current status of public participation, measured against Sherry Arnstein's (1969) "ladder of citizen participation" (a ladder with eight rungs, each representing the extent of a citizen's power in determining the end product of a participatory process), the current public participation process is at level three of the ladder, which is the informing stage. The informing stage links to citizen power as tokenism, which is defined by Arnstein (1969) as the practice or policy of making a symbolic effort to do a particular thing. This study therefore finds that the legislation has improved to allow the public to be informed, but it is still at a level of being symbolic rather than having any real impact.

In addition, the appointment of local committees, who represent various sectors within communities or, as termed by Fung (2006:67), the "mini-public", has taken place successfully and is a positive method of selection for public participation. According to Fung's Democracy Cube, this method is a blend of exclusive and inclusive public participation selection methods. However, six years down the line there are only four functional local committees, which means this very important structure to solicit the views of the public is only being used in a third of the districts in the province. Other avenues therefore need to be explored to consider the views of the public when making decisions.

The study also found that there are various stakeholders with varied roles in the process and that they require understanding of these roles and proper co-ordination. The study found gaps in the synergy between stakeholders understanding their roles in the process and whether the correct representatives are sought to provide their input. However, it does appear that the KZN Liquor Authority has abdicated its leadership role of co-ordinating the stakeholders. For example, there is "hope" that the annual register of licences granted will serve as means of providing stakeholders with feedback on decisions taken. It was also found that the KZNLA is unaware of whether the local committee members have a method of communicating with the sectors they represent. The education of community members was cited time and again as a need, but again no responsibility is taken to activate the resources that are acknowledged to



exist. Another indication of the abdication of their responsibility by the KZNLA is the “it’s out of our hands” comment regarding the appointment of the local committee members.

A success factor of public participation is not only to solicit the views of the community, but to ensure that the views are representative and correct. With this in mind, a discerning finding was the lack of ward councillor support in the local committees.

The study also found that the majority of the community are not involved and in fact are not even aware of the liquor policy, let alone the public participation aspect of it. The study found that the education and empowerment of communities is lacking, although the KZNLA has the human, technological and financial resources to perform this function. The officials had tried to make understanding the process easier by developing their own methods to help applicants. In most instances, however, the applicant resorted to paying a consultant or lawyer to act on their behalf. This had an unintended consequence of creating new problems for the administrators and a significant use of their time. These insights show that the implementers are still at a stage of conventional public participation, where the process is perceived to be creating new sets of problems for administrators and therefore is not meaningful, but rather symbolic. In the context of conventional public participation, the citizens’ power is aimed at redirecting or “blocking” administrative actions, rather than being a partner in assisting administrators to define the issues and find possible solutions (Turner, 2014:888).

Another factor that could attribute to the lack of information experienced in communities is that the ward councillors, who are critical role players and community representatives, are not present in the local committee structure, both in uMgungundlovu and generally in the province. It could be for this reason that communities might not be aware of or educated on the decisions related to the liquor policy being made in their communities, as the role of ward councillor would be to ensure the community interests are represented and recognised.

The study further found that the citizens’ views of the level of public participation is from their lived experiences within their communities. The perspective of the community is that the KZN Liquor Authority is “flexible” in the way its grants liquor licences, as there are too many liquor outlets in close proximity to each other and that are located close to schools and community facilities. Based on these aspects, the study therefore found that the current level of implementation of public participation from the citizens’ point of view is what would be termed from Arnstein’s (1969) ladder as “non-participation”, as the public participation does not translate into change or meaningfulness in the lives of the citizenry.

## 7.4 Conclusion

The findings of the fieldwork have been presented in this chapter based on the 7C protocol as well as the research questions. Of the seven variables, the findings have highlighted that the content of the liquor policy has improved greatly with the inclusion of public participation; however, the new content has not taken into consideration the full context of the social environment in which the policy is to be implemented. Regarding the commitment of local committees, this was found to be inconsistent, with a glaring underrepresentation of and lack of commitment by ward councillors, whilst the commitment from key stakeholders could be affected by the lack of co-ordination and understanding of their roles in the processes. The community, however, reflects a strong will to be empowered and participate with government in the processes of the liquor policy, particularly as these affect their daily lives. One aspect that has the potential to be corrected almost immediately and that would see important gains for the KZNLA is the element of communication.

Reflecting on the public participation models, the current level of public participation was found to be in an infant stage, and being more symbolic than having actual outcomes or meeting the objectives they are intended to serve. The element of the local committees as “mini-publics” is tokenism more than anything else, as it was found that there is no feedback on their recommendations, hence their influence on decision-making is mere placation of the requirements of the liquor policy.

Much improvement needs to take place, and these recommendations are proposed in the next chapter.

## **CHAPTER EIGHT**

### **CONCLUSIONS AND RECOMMENDATIONS**

#### **8.1 Introduction**

This chapter aims to match the goals of the study with the findings and to draw a conclusion based on the empirical research. For each conclusion, a recommendation is made for consideration by the stakeholders involved in the implementation of public participation in the liquor policy. The recommendations are provided to strengthen current public participation practices at the KZN Liquor Authority. The conclusion and recommendations are drawn in the light of the limitations and challenges, but with the aim to provide possible improvements.

The research aim was to determine the value derived by the public from the introduction of public participation processes in the implementation of liquor policy in the uMgungundlovu District in KwaZulu-Natal. The study analysed the implementation of the liquor policy from the point of view of public participation through the lens of the 7C protocol. The linkage to public participation frameworks offered by various scholars, as introduced in the literature review, show how these policy provisions are being implemented and the opinions of the public on the public value obtained, if any, from the new processes.

It is against this background that the following conclusions and recommendations are presented.

#### **8.2 Conclusions and recommendations**

The first finding relates to the implementation of public participation as an objective of the liquor policy. In this regard, the 7C protocol was used to delve extensively into seven aspects of the implementation of the policy. It can be concluded that, against the seven principles, the policy is partially implemented. This is due to a lack of understanding of the content of the policy and challenges with communication between the KZNLA and its stakeholders and beneficiaries. There is also a lack of co-ordination between key stakeholders, hence it was said by a KZNLA official that some stakeholders “are lost”. Lastly, the local committee, which is established by legislation, is not optimally functional. The only element of policy implementation that is consistent is the applicant informing the public via public notice. The processes thereafter are all challenging, and the policy is therefore not achieving any tangible output.

Whilst the issues may seem to be too overwhelming to address at the same time, it is recommended that the KZNLA take lessons from the current state and identify critical variables that can be used to achieve better outcomes. Brynard (2005:663) calls this “rewriting the music in the act of playing it”. Further recommendations on the variables that can be improved are provided below.

Communication is another consistent challenge found in the study, especially the current state of communication with stakeholders. This ranges from the methods of communication to the language of communication, as well as discourse with and feedback to stakeholders. The study can therefore conclude that, at its current level, communication between the KZNLA and the public and its stakeholders is minimal. The only aspects of communication are those that are legislated for, such as the annual register and the notice provided to the public by the applicant. In addition, the language and the comprehensibility of the annexures used for communication could render the process ineffective, as they are not understandable. Two of eight key aspects for public participation to add value are (1) that communication modes should be deliberative in nature and structured toward problem-solving and (2) that informational materials be developed to allow the public to engage in an effective and informed way (Nabatchi, 2012:701). In their evaluation of three public participation tools, namely focus groups, Q method and surveys has been noted by Danielson, Tuler, Santos, Webler and Chess (2012:101) noted that each tool works well depending on the context. However, these authors (Danielson et al., (2012:107) also note that focus groups tend to be more useful and trustworthy as a representation of a situation. Focus group interviews would therefore be recommended as a means of deliberative communication with community members.

It is recommended that the KZNLA review the current function of its human resources responsible for communication, education and awareness, and that these resources are activated to focus more on community dialogue and awareness. It is recommended that informational material be developed to simplify the processes in a language fitting to the demographics of the province, and that communication platforms such as the website be refreshed with these materials.

Secondly, it was found that there was no knowledge about how communication takes place by the local committee as the “mini-public” to its sectors. There is also no feedback by the KZNLA to the local committee and the stakeholders involved in the implementation of public participation. In this regard, it is recommended that the KZNLA takes responsibility for

communicating with stakeholders and the local committee, not only through feedback or one-way communication, but rather in discussions with a view to shared-making decision and authority. Quarterly review meetings should be held with the local committees, especially those that are active due to the number of applications received within their district, for training, monitoring and feedback purposes. This will allow for transparency and improve the level of trust and coherence between the KZNLA, its stakeholders and beneficiaries.

A third conclusion relates to the lack of capacity and commitment shown by the local committees, particularly the representatives of the community, namely the ward councillors. It was also alluded to by the KZNLA officials that the local committee is not the best model for public inclusion. On the other hand, the communities are eager to be part of the decision-making processes but do not know how or where to become more involved.

It therefore is recommended that the local committee be revisited to include a broader set of participants from the community and not only special interest groups or, alternatively, participant recruitment could be done through a mechanism of voluntary self-selection. In instances where the local committee is non-functional, participatory mechanisms such as a community dialogue with affected communities to promote collaboration and deliberation can be facilitated by professional facilitators to allow for all voices to be heard and considered equally. In this way, the element of participation is not compromised as it is currently, whereby the KZNLA Board steps in to adjudicate where a local committee is non-functional. This will certainly lead to more public inclusion and value in the public participation process (Nabatchi, 2012:701).

Lastly, it was also concluded from the responses that the public participation mechanism seems to be a “necessary evil” by those implementing it. It therefore is recommended that administrators re-educate themselves to change their roles and attitudes from being “expert managers” to co-operative participants or partners in the process.

Based on the findings and the different models of meaningful public participation that were explored and referenced against the public participation processes of the liquor policy, and also bearing in mind that there cannot be a one-size-fits-all approach to meaningful public participation, the following framework was developed by the researcher to improve public participation in the liquor policy and to summarise key aspects of meaningful public participation identified in this research.

Table 9: Summary of aspects of meaningful public participation in the implementation of liquor policy

ASPECTS OF MEANINGFUL PUBLIC PARTICIPATION
1) Inclusiveness and representation
2) Comprehensible and accessible information
3) Motivation to participate
4) Multiple, appropriate and simplified methods of participation
5) Open and honest dialogue
6) Equality and influence in decision-making
7) Feedback and follow-up

### 8.3 Future research

In conclusion, in the course of this research the researcher identified themes to be considered for future study. These are:

- The evaluation of the mechanisms developed by the KZNLA aimed at reducing the socio-economic and other effects of alcohol abuse.
- The evaluation of the transformation of the retail liquor industry with regard to diversity of ownership.
- The effect of the ban on the sale of liquor on the socio-economic and other effects of alcohol abuse.

The task of the study was to explore the meaningfulness of including public participation in the implementation of the new liquor policy in KwaZulu-Natal from a citizen-centric point of view.. It is evident from all the discussions that as much as certain aspects of public participation are being implemented, as set out in the policy, meaningful public participation is yet to be achieved. There is a gap between policy implementation and the outcomes due to issues of poor implementation, based mainly on the people-driven processes of co-ordination and communication.

The following statement by Warwick (cited in Brynard, 2005:12) resonates with the current level of implementation and offers a word of advice to policy implementers:

Implementation means transaction. To carry out a program, implementers must continually deal with tasks, environments, clients and each other. The formalities of organisation and the mechanics of administration are important as background, but the

key to success is continual coping with contexts, personalities, alliances and events. And crucial to such adaptation is the willingness to acknowledge and correct mistakes, to shift directions and learn from doing. Nothing is more vital to implementation than self-correction, nothing more lethal than blind perseveration.

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## **APPENDICES**

### **Appendix A: Interview schedule for KZNLA**

## **INTERVIEW SCHEDULE**

### **DO COMMUNITIES REALLY HAVE A SAY? IMPLEMENTATION OF PUBLIC PARTICIPATION IN THE LIQUOR POLICY REGULATORY PROCESS: A CASE STUDY OF UMGUNGUNDLOVU DISTRICT**

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#### **GENERAL**

This interview schedule has been designed for the purposes of consulting the KZN Liquor Authority management, staff and the Local Committee members regarding the public participation processes in the implementation of the new KwaZulu-Natal Liquor Licensing Act 06 (the Act) of 2010 in the uMgungundlovu District in KwaZulu-Natal. The interview schedule will be utilised to determine whether the implementation of public participation is achieving its envisioned objective as outlined in the Act. The findings will allow the element of public participation to be reflected upon, illuminate best practices and highlight challenges for recommendations to be considered. The interview schedule covers seven dimensions based on the 7c protocol, namely:

- **Content** of the KZN Liquor Licensing Act pertaining to public participation
- Cognisance of the **context** within which the public participation is being implemented
- **Capacity** regarding the implementation of public participation
- **Commitment** from key role players and the public
- Identification of the appropriate **clients and coalitions** to implement meaningful public participation
- **Communication** in the public participation process
- **Co-ordination** of processes in the public participation process

This interview schedule will be used as a framework for respondents during discussion with interviewees in an interview situation. Respondents should note that their confidentiality would be upheld. Therefore, the identity of interviewees will be protected and individual names or statements will not be used in the report. Responses will be consolidated and research findings will be presented in aggregated fashion.

NAME OF RESPONDENT: .....

NAME OF ORGANISATION: .....



POSITION IN THE ESTABLISHMENT: .....

DATE OF COMPLETION OF INTERVIEW SCHEDULE:

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## SECTION A: CONTENT OF THE POLICY

1. In your opinion, what was the main objective of including public participation in the new Liquor Act?

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2. In your opinion, is the objective efficiently clear in the Act?

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3. In your opinion, are the objectives regarding public participation as they are currently in the Act realistic?

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4. Are there performance indicators attached to measure the effectiveness of public participation as a policy objective?

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5. In implementing the policy, what have been some of the consequences, positive or negative, regarding public participation?

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## **SECTION B: CONTEXT OF THE POLICY**

6. Describe the socio-economic context of the liquor regulatory environment?

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7. Do you feel the objective of public participation within the liquor policy takes into cognisance the context of the regulatory environment?

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8. Do you feel the policy enables the public to participate based on the context of the province and the regulatory environment?

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9. Do you feel staff and the local committee are enabled to implement public participation?

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## **SECTION C: CAPACITY TO IMPLEMENT THE POLICY**

10. Does the KZNLA have the necessary resources (human, financial, material) to enable the fulfilment of public participation as a policy objective?

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11. Has KZNLA sufficiently empowered the public and stakeholders to execute and participate in the public participation processes?

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12. What criteria does the KZNLA have in place for the nomination of the local committee members?

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13. How are the local committee members and affected stakeholders such as SAPS capacitated to fulfil their role?

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14. How is the functionality of the local committee monitored?

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15. What are the contingency strategies to ensure public participation when a local committee is deemed to be not functioning optimally?

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#### **SECTION D: COMMITMENT TO IMPLEMENT THE POLICY**

16. What is the level of commitment from the various sectors in ensuring support and representation towards the local committee?

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17. What is the current level of commitment of the members of the local committee in terms of attendance of meetings?

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18. Does the leadership of the KZNLA help to facilitate the implementation of public participation?

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## **SECTION E: POLICY COALITIONS AND CLIENTS**

19. Who are the main supporters in assisting to meet the public participation objectives?

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20. Are the main supporters fully capacitated to assist in meeting the public participation objectives?

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## **SECTION F: COMMUNICATION OF THE POLICY**

21. What methods of communication and languages are used to sensitise the public regarding their rights to participate in the liquor policy?

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22. How are the outcomes of decisions, positive and negative, regarding applications made public?

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23. How is the feedback between the sector representative on the local committee and their organisation facilitated?

## **SECTION F: CO-ORDINATION OF THE POLICY**

24. Is the operational system between the different stakeholders involved in the public participation efficient?

25. The policy is very specific regarding the time frames for certain public participation activities; are these time-frames realistic?

26. What in your opinion could be improved regarding the co-ordination mechanisms of public participation?

## **Appendix B: Interview schedule for local committee**

# **FOCUS GROUP TEMPLATE**

## **DO COMMUNITIES REALLY HAVE A SAY? IMPLEMENTATION OF PUBLIC PARTICIPATION IN THE LIQUOR POLICY REGULATORY PROCESS: A CASE STUDY OF UMGUNGUNDLOVU DISTRICT**

Meryl-Lynne Colborne

0828894654

meryllynnec@gmail.com

JANUARY 2020

### **GENERAL**

This template has been designed as a guide for the purposes of the focus group discussions with the KZN Liquor Authority Local Committee members regarding the public participation processes in the implementation of the new KwaZulu-Natal Liquor Licensing Act 06 (the Act) of 2010 in the uMgungundlovu District in KwaZulu-Natal. The focus group discussions will be utilised to determine whether the implementation of public participation is achieving its envisioned objective as outlined in the Act. The findings will allow the element of public participation to be reflected upon, illuminate best practices and highlight challenges for recommendations to be considered. The discussion covers three dimensions based on Fung's (2006) public participation democracy cube, which is used to determine the meaningfulness of public participation across three dimensions:

- **Who** participates?
- **How** do they communicate and make decisions?
- **What** is the connection between their conclusions and opinions on one hand and public policy action and decision on the other?

### **Facilitator's welcome, introduction and instructions to participants**

**Welcome** and thank you for taking part in this focus group. You have been asked to participate as your experience and point of view of the public participation process is important. I realise you are busy and I appreciate your time.

**Introduction:** This focus group discussion is designed to assess your current thoughts and experience as a member of the Local Committee as a key instrument of facilitating public participation in the liquor policy. The focus group discussion will take no more than one hour. The proceedings will be recorded for analysis purposes.



**Anonymity:** Despite being taped, I would like to assure you that the discussion will be anonymous. The tapes will be kept safely in a locked facility until they are transcribed word for word, then they will be destroyed. The transcribed notes of the focus group will contain no information that would allow individual subjects to be linked to specific statements. You should try to answer and comment as accurately and truthfully as possible. If there are any questions or discussions that you do not wish to answer or participate in, you do not have to do so; however please try to answer and be as involved as possible.

### **Ground rules**

- The most important rule is that only one person speaks at a time. There may be a temptation to jump in when someone is talking but please wait until they have finished.
- There are no right or wrong answers
- You do not have to speak in any particular order
- When you do have something to say, please do so. It is important that I obtain the views of each of you
- You do not have to agree with the views of other people in the group
- Does anyone have any questions?
- OK, let's begin

### **Warm up**

First, I'd like everyone to introduce themselves. Can you tell us your name and the sector that you represent within the local committee?

### **SECTION A: WHO PARTICIPATES?**

1. Based on your knowledge as a member of the local committee, what do you think was the main objective of including public participation in the new Liquor Act?

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2. Do you feel the policy enables the public to participate as envisaged?

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3.Are the members within your sectors committed and provide the necessary inputs and information regarding liquor licence applications?

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4.Based on your experience has the KZNLA sufficiently empowered the public and stakeholders to execute and participate in the public participation processes?

## **SECTION B: HOW DO THEY COMMUNICATE AND MAKE DECISIONS?**

5. members of the local committee representing various sectors how do you facilitate communication with the sector you are representing before and after the consideration of a liquor licence application?

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6.If you are considering an application from an area not fully represented by the members of the committee, do you seek advice from the relevant stakeholders on that application?

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**SECTION C: WHAT IS THE CONNECTION BETWEEN THEIR CONCLUSIONS AND OPINIONS ON ONE HAND AND PUBLIC POLICY ACTION AND DECISION ON THE OTHER?**

7. In trying to implement the liquor policy regarding public participation as a local committee, what have been some of the consequences, positive or negative?

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8. If negative, what do you think needs to be rectified?

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In general, are the recommendations made by the committee upheld by the Board Adjudication Committee?

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9. Are these decisions communicated to you and the reason therefor?

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**Conclusion**

- Thank you for participating. This has been a very successful discussion
- Your opinions will be a valuable asset to the study
- We hope you have found the discussion interesting
- I would like to remind you that any comments featuring in this report will be anonymous
- Before you leave, please hand in your completed consent form

## **Appendix C: Interview schedule for community**

## **FOCUS GROUP TEMPLATE**

### **DO COMMUNITIES REALLY HAVE A SAY? IMPLEMENTATION OF PUBLIC PARTICIPATION IN THE LIQUOR POLICY REGULATORY PROCESS: A CASE STUDY OF UMGUNGUNDLOVU DISTRICT**

Meryl-Lynne Colborne

0828894654

meryllynnec@gmail.com

JANUARY 2020

#### **GENERAL:**

This template has been designed as a guide for the purposes of the focus group discussions with members of the public regarding their perceptions of the public participation processes in the implementation of the new KwaZulu-Natal Liquor Licensing Act 06 (the Act) of 2010 in the uMgungundlovu District in KwaZulu-Natal. The focus group discussions will be utilised to determine whether the implementation of public participation is achieving its envisioned objective as outlined in the Act. The findings will allow the element of public participation to be reflected upon, illuminate best practices and highlight challenges for recommendations to be considered.

#### **Facilitator's welcome, introduction and instructions to participants**

**Welcome** and thank you for taking part in this focus group. You have been asked to participate as your experience and point of view of the public participation process is important. I realise you are busy and I appreciate your time.

**Introduction:** This focus group discussion is designed to assess your current thoughts and experience as the beneficiaries for whom public participation was introduced in the new Liquor Act. The focus group discussion will take no more than one hour. The proceedings will be recorded for analysis purposes.

**Anonymity:** Despite being taped, I would like to assure you that the discussion will be anonymous. The tapes will be kept safely in a locked facility until they are transcribed word for word, then they will be destroyed. The transcribed notes of the focus group will contain no information that would allow individual subjects to be linked to specific statements. You should try to answer and comment as accurately and truthfully as possible. If there are any

questions or discussions that you do not wish to answer or participate in, you do not have to do so; however please try to answer and be as involved as possible.

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- There are no right or wrong answers
- You do not have to speak in any particular order
- When you do have something to say, please do so. It is important that I obtain the views of each of you
- You do not have to agree with the views of other people in the group
- Does anyone have any questions?
- OK, let's begin

### Warm up

First, I'd like everyone to introduce themselves.

### SECTION A: CONTENT OF THE POLICY

1.Are you aware of the new KZN Liquor Licensing Act?

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2.What is your feeling towards liquor outlets within your community?

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3.Are you aware, as a citizen, of the processes available to you should you want to enquire, object or complain about a liquor outlet in your area?

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4. Would you participate in the liquor licensing processes as a member of public?

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5. Do you feel that something more needs to be done to get the public involved in the control of liquor outlets? If yes, what do you think can be done?

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## Conclusion

- Thank you for participating. This has been a very successful discussion
- Your opinions will be a valuable asset to the study
- We hope you have found the discussion interesting
- I would like to remind you that any comments featuring in this report will be anonymous
- Before you leave, please hand in your completed consent form