UNIVERSITY OF KWAZULU-NATAL

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PUBLIC PARTICIPATION IN THE FORMULATION OF PUBLIC POLICY. THE CASE OF THE LESOTHO NATIONAL DECENTRALISATION POLICY IN MASERU DISTRICT.

BY

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Submitted in partial fulfillment of the academic requirements for the degree of

MASTER OF SOCIAL SCIENCE

In the subject of

POLICY AND DEVELOPMENT STUDIES

At the

International and Public Affairs Cluster, School of Social Sciences, College of Humanities
University of KwaZulu – Natal

Pietermaritzburg Campus

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DECEMBER 2017

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ACKNOWLEDGEMENTS

DEDICATION

This dissertation is dedicated to my late parents; Teronko Alphonce Khiba and Masephieo Manthabiseng Khiba and my late brother Sephieo Khiba. Your lives were cut too short for all of you to see me become the person I am now. However, you will always have my respect and love.

May your souls rest in peace! Robalang ka Khotso Bataung!

ABSTRACT

This study analyses public participation in the formulation of public policy. The concept public participation has gained great attention over the decades with development scholars emphasising that it is an inevitable need for democratic governance. Generally public participation can be taken to mean that the citizens directly or through the associations and organisations that represent them take part in the processes of decision making together with their government. It is attributed to building effective, efficient, responsive, transparent, and accountable governance.

Public policy is defined as whatever pronouncement that government makes regarding a problem affecting the wider society. Public policy formulation refers to the process whereby different actors or role players come together to deliberate and exchange views on how a public problem can be addressed. These role players come from within and outside government. Actors from government have a legal mandate to formulate policy because of their legal duty to serve the public. Role players from outside government represent public interests; they bring diversity of expertise and experience to advise on possible alternative solutions to the prevailing problem.

Theory of participatory democracy which supports the idea of public participation in governance issues, including policy formulation has been adopted for this study. The main emphasis of this theory is that the people should have a chance to decide on the issues that affect them. Policies affect the people hence they must participate in their formulation. Mechanisms and processes of public participation, advantages, challenges, and criticisms linked to public participation in the formulation of public policy were explored.

Various legislation guiding public participation were outlined; from international agreements, African legislation, SADC legislation and domestic legislation from the country where the study took place.

The study used a qualitative research approach gathering primary data using in depth interviews and focus group discussions. Data was analysed by identifying major themes; democracy and good governance, empowerment, ownership and support, policy relevance and responsiveness and the mechanisms for public participation.

The findings of this study revealed that both the government officials and the public recognise the importance of public participation in policy formulation. However, there were shortcomings especially in the way that the public was engaged to participate. The mechanisms used to involve them did not offer them genuine chances to influence the policy decisions.

LIST OF ACRONYMS

ACDEG	African Charter on Democracy, Elections and Governance
ACHPR	African Charter on Human and People's Rights
ACPPDT	African Charter on Popular Participation in Development and Transformation
AU	African Union
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
CLGF	Commonwealth Local Government Forum
DCs	District Councils
DDCs	District Development Committees
DDCCs	District Development Coordinating Committees
DPE	Development for Peace Education
DPUs	District Planning Units
ECOSOC	Economic and Social Council
EUKN	European Urban Knowledge Network
ICCPR	International Covenant on Civil and Political rights
IDA	International Development Association
LCN	Lesotho Council of Non-Governmental Organisations
LGA	Local Government Act
MLGC	Ministry of Local Government and Chieftainship
OECD	Organisation of Economic Cooperation and Development
SADC	Southern African Development Committee
SALS	South African Legislative Sector
TRC	Transformation Resource Centre
VDCs	Village Development Committees
UDHR	United Nations Universal Declaration on Human Rights
UNDP	United Nations Development Programme
UNECE	United Nations Economic Commission for Europe
UNVDPA	United Nations Vienna Declaration and Programme of Action

TABLE OF CONTENTS

CHAPTER ONE- INTRODUCTION

1.1 BACKGROUND TO THE STUDY

This study analyses public participation in the formulation of public policy with reference to the Lesotho National Decentralisation Policy. Public policy is defined in different ways by different scholars, however only one definition will be outlined here for the purposes of introducing the study. Public policy as described by Birkland (2011:9) is a pronouncement by government at whatever level of governance of what it aims to do about a public problem. Public participation on the other hand as defined by Pandeya (2015:68) refers to the processes in which citizens can partake in governance issues so that the decisions taken by government undergo a substantial improvement through participation of the citizens.

Public participation has become a global phenomenon in development discourse; regarded as fundamental to democratisation of governance and sustainable development. First, this study will seek to understand what public policy is; what its formulation entails and then the importance of public participation in the formulation of policy to provide a basis on which the case study can be understood. The mechanisms, processes, advantages and challenges of engaging the public in the formulation of public policy are explored. Further, criticisms raised against public participation in policy making will also be covered.

The Lesotho National Decentralisation Policy came two years after the second term of local government elections held in 2012. The first ever local government elections in Lesotho were held in 2005. The country enacted the Local Government Act in 1997, however, there was no policy framework to guide the operations of the local councils over these years (Government of Lesotho 2014:x). In 2014, the Lesotho National Decentralisation Policy was finally adopted.

The United Nations Economic and Social Council (ECOSOC 2007:3) encourages governments to espouse public participation in public policy development because it is a way to attain their development goals. According to the ECOSOC (2007:4), the right for citizens to partake in public decision-making processes is recognised by the world community as a fundamental human right. With public participation endorsed as

a human right globally, this study therefore has been impelled by the desire to find out how the government of Lesotho views public participation by investigating how the public was engaged in the formulation of the Lesotho National Decentralisation Policy and if they had meaningful opportunities to influence the policy content. Theron and Davids (2014:119) mention that sometimes officials consider participation as just a compliance tick box; while the most important role player is and should be the public if such participation is authentic. The researcher therefore wanted to establish how participation occurred in the formulation of Lesotho National Decentralisation Policy and find out whether the mechanisms and processes used to engage with the public enabled them to truly inform the policy decisions.

The government of Lesotho made some efforts in trying to embrace citizen or public participation by establishing different structures at local levels. Before independence, District Councils (DCs) were founded as lower structures of governance but were abolished and replaced with District Development Committees (DDCs) and Village Development Committees (VDCs) established under the provision of the Local Government Act of 1969 enacted shortly after independence (Mofuoa 2005:4). According to Mapetla and Rembe (1989:30) these structures were to work as structures for public participation and to facilitate the development planning from lower or local levels. These structures, however were also abolished due to lack of capacity to carry out their mandates and as a result citizen participation was severely jeopardised resulting in a highly centralized government, (Mapetla and Rembe, 1989:31). The Local Government Act of 1997 was enacted to provide for the establishment of District, Urban and Community councils to allow the public to participate in local governance issues. The first local government elections through which the local or community councils were established were in 2005 and seven years later in 2012 other elections were held (Government of Lesotho 2014: viii).

Sperfeld (2006:1) mentions that decentralisation has become a vital part of reform processes for many developing countries across the world. Lesotho is no exception. Decentralisation according to Sperfeld (2006:1) is believed to be an important component of participative democratic development planning and good governance. Decentralisation has been the long-term vision for Lesotho (Government of Lesotho 2014: viii). However, decentralisation and local governance have been a great struggle

for the country for much of its colonial and post-colonial history (Government of Lesotho 2014: viii). This is because the country had no policy framework to guide decentralisation and this created the realisation that the process would only advance if there is a nationally owned vision (Government of Lesotho 2014: viii). The policy was formulated and adopted in 2014 with one of its principal objectives being to enhance the involvement of non-governmental organisations and the ordinary Basotho in governance issues and delivery of services (Government of Lesotho 2014:x).

The local councils have helped to close the gap between the central government and communities by fostering citizens' mobilisation and identifying development needs (Government of Lesotho 2014: viii). These councils have provided the government and development partners with a necessary means to encourage participatory democracy; that is, including the people at the lowest levels of the societal strata in issues of governance. However, they have not been effective enough, therefore, decentralisation policy has been formulated to deepen and sustain democratic governance by enhancing citizen participation (Government of Lesotho 2014: x). Through this policy the government also commits to enhancing active participation of all stakeholders in local development planning especially non-state actors like Civil Society organisations by establishing appropriate processes and mechanisms through which they participate (Government of Lesotho 2014:21).

1.2 STATEMENT OF THE PROBLEM

Section 20(1) of the Constitution of the Kingdom of Lesotho accords all the citizens a right to take part in governance processes either directly or through their freely chosen representatives (Constitution of Lesotho 1993:17). Although the Constitution enshrines citizen participation as a right, governance affairs like development planning, budgeting, and or policy making remain the preserve of political and bureaucratic elites in Lesotho (Kapa 2013:4). According to Kapa (2013:4) even the civil society organisations struggle for participation in the formulation of public policies and ordinary citizens remain mere spectators while decisions are being taken on issues affecting them. Governments should be open and accommodate citizens to participate in public policy-making processes to ensure that decisions taken reflect the needs of citizens, (Bishop and Davis 2002:15).

As noted earlier by Kapa (2013:4) governance affairs like policy making are elitist in Lesotho; it can be said that Lesotho is governed under a representative democracy where decisions are not made with the public. However, in the case of Lesotho National Decentralisation Policy, it is mentioned that the formulation of the policy took a highly participatory and consultative approach. "We have formulated this policy through a highly participative and consultative process" (Government of Lesotho 2014: viii). This study therefore seeks to ascertain whether indeed the process was participative. Importantly, it hopes to establish whether the citizens could exercise their democratic and Constitutional right to influence decision making in this policy.

1.2 RESEARCH QUESTIONS AND OBJECTIVES

The specific aim of this study is to explore the following questions about the involvement of the public in the formulation of Lesotho National Decentralisation Policy.

- What was the rationale to engage the public in the formulation of Lesotho National Decentralisation Policy?
- What were the mechanisms and processes used to engage the public in the formulation of Lesotho national decentralisation policy?
- What were the experiences of the public officials in engaging the public in the formulation of Lesotho national decentralisation policy?
- What were the experiences of the public in participating in the formulation of the Lesotho National Decentralisation Policy?

The objectives of the study are:

- To ascertain the reasons for public participation in the formulation of public policies.
- To critically examine the mechanisms and processes for public participation in policy making.
- To establish the government officials' conception of public participation in public policy formulation.
- To establish the public's conception of participation in formulation of public policies.

4

Key words: Public policy, Public participation, Policy Formulation, Public, Lesotho National Decentralisation Policy

1.3 RESEARCH DESIGN

1.3.1 Methodology

This study employs a qualitative research approach guided by the interpretivist paradigm. The study aims to gain an empirical understanding of the perceptions and experiences of different participants about public participation in the formulation of Lesotho National Decentralisation Policy. Interpretivism, according to Thanh and Thanh (2015:24), hold that qualitative research permits researchers to understand social phenomena through the participants' experiences and perceptions. Qualitative research allows the researcher to gather a wide view of the phenomenon since the nature of questions it asks does not limit or channel the participants towards specific responses but allows them to give detailed explanations or understandings on the issue (Du Plooy-Cilliers, Davis and Bezuidenhout 2014:173).

1.3.2 Case Study Approach

A case study approach was used for this study. Babbie and Mouton (2001: 288) define case studies as "intensive investigations of a single unit, with its context being a significant part of the investigation". The Lesotho National Decentralisation Policy is the case study. It has been selected because the researcher had an interest in finding out how the government of Lesotho envisages devolving governance to the local areas and what the people think about governance authority being brought to the lower structures. The study took place in Maseru district. The Lesotho Demographic Survey of 2011 states that Lesotho is made up of ten districts with Maseru being the largest district and the only city in the country. The Maseru district covers an area of 4279 kilometers squares and has an estimated population of 389,627 people, (Bureau of Statistics Lesotho 2013:21). There is one Municipal Council and 11 Community Councils. The district is located on the western border of Lesotho and the Free State province of South Africa. Being the seat of the central government namely the

legislature, executive and the judiciary, the study found it appropriate to use Maseru as the area of study.

1.3.3 Sampling

This study used a non-probability sampling method and purposive sampling technique. The sample consisted of the Ministry of Local Government and Chieftainship (MLGC), civil society organisations; Transformation Resource Centre (TRC), Development for Peace Education (DPE) and Lesotho Council of Non-Governmental Organisations- (LCN), the community councillors and members of the public from the two identified community councils, (Makhoarane and Mazenod).

Purposive sampling according to Teddlie and Yu (2007:80), is choosing the units of study depending on the specific goal of the study and focuses on certain features of the population of interest. Purposive sampling therefore has been used for this study to select four government officials from the Department of Decentralisation in the Ministry of Local Government and Chieftainship (MLGC), directors of the three civil society organisations, four councillors from each community council and five community members from each community council. The total number of respondents interviewed for this study was twenty-five.

The government officials were chosen from the Department of Decentralisation because the Department is directly responsible for the formulation of the National Decentralisation Policy. The three civil society organisations were selected because of their involvement in promoting democracy and human rights. These organisations also jointly run what they call 'Community Parliaments' whereby they engage with communities on governance issues. Councillors are the interface between the government and the people, so they are also relevant for this study. Lastly, the ordinary Basotho from the communities who would be affected by the decentralisation policy were included to find out about their experiences of participation in the formulation of the Lesotho National Decentralisation Policy. The five community members from each community council were selected purposively with the assistance of the community councilors. Participants/villages from each of the villages were selected to participate in the study.

1.3.4 Data Collection Methods

The data was collected using qualitative methods: in-depth interviews and focus group discussions. These methods allowed the researcher to gain a deeper understanding of the research phenomenon. In-depth interviews allowed for clarification of questions and probing for more details on the participants' responses. Du Plooy-Cilliers, Davis and Bezuidenhout (2014:188) mention that interviews allow room for probing and urging the participants to give more details on the point he or she is making. Focus group discussions on the other hand provide rich information because they allow participants to reflect on and make contrasts to or with what others are putting forward, thereby providing an opportunity for refinement of their perceptions, experiences, and understandings about a social phenomenon (Ritchie and Lewis 2003:3).

1.3.5 Data Analysis

To analyse the data, the study used qualitative data analysis, employing thematic content analysis. Vaismoradi, Turunen and Bondas (2013:400) describe thematic analysis as a qualitative data analysis method used to analyse, classify, and report patterns or themes emerging from the data. The themes were derived from the dominant concepts that emerged from the respondents' responses. The themes were: democracy and good governance, empowerment, ownership, support, policy relevance and responsiveness and were related to the conceptions of public participation in policy formulation. The mechanisms of public participation were also analysed.

1.4 STRUCTURE OF THE STUDY

Chapter One

Covers the following areas:

- The research background
- The research questions and objectives
- The research design.

Chapter Two- The Conceptual Framework

This chapter presents the conceptual framework upon which this study is based. It defines public policy, public policy formulation, identifies approaches to public policy formulation and the role players in policy formulation.   It defines the concept of public participation with support of case study illustrations and theory of participatory democracy as the basis for understanding the concept better. Then, it looks at the structures, mechanisms and processes used for public participation, advantages, and challenges of public participation in the policy formulation. Lastly, it looks at the criticisms of public participation in the policy formulation.

Chapter Three- The Legislative Framework for Public Participation in Lesotho

This chapter presents the legislative framework for public participation in Lesotho. First the researcher will present the country's profile and its type of government and then the legislation starting with the international, continental, and regional conventions, treaties, protocols, and declarations which Lesotho has ratified. Then the domestic legislations will be given.

Chapter Four- Findings and Analysis

This chapter presents the findings and analysis of the study. The findings are presented according to the identified themes.

Chapter Five- Conclusion

This chapter summarises the research findings and gives general conclusions of the study based on the findings of the study.

CHAPTER TWO- CONCEPTUAL FRAMEWORK

2.1 INTRODUCTION

The intention of this chapter is to define public policy and the process of policy making once a problem has been acknowledged as a policy issue. Definitions are acknowledged from different scholars to provide a wider understanding of the concept. The different stages of policy making will briefly be explained, and then focus is drawn to the policy formulation stage since the study seeks to explore public participation in the formulation of public policy. First, the analysis is on what policy formulation is and what it entails, who is involved in policy formulation and the different conceptions or approaches to policy formulation. Theory of participatory democracy is used to support the view of public participation in policy formulation. Then, the concept of public participation is incorporated and conceptualised; a brief description of international agreements on public participation is given. This is to acknowledge the prominence that the concept has gained as an aspect of democracy and good governance. Mechanisms and processes, advantages, challenges, and critiques of public participation are respectively outlined.

2.2 PUBLIC POLICY

Public policy as described by Anderson (1997:10) is a deliberate and intentional course of action pursued by the government in addressing a problem affecting the public. Public policy is a formally articulated course of action of what the government pursues to address a public problem, (Hanekom 1987:7). On a simpler note, public policy is defined as what governments choose to do or not to do about public problems, (Hanekom, 1987:8, Kraft and Furlong 2015:3). Generally, once a decision has been taken, the policy directs the performance, activities and practices and provides an outline for present and future decisions, (Popoola 2016:47).

The public policy making process involves various stages including agenda setting, policy formulation, decision making, implementation and evaluation, (Fischer, Miller and Sidney 2007:43, Anderson 1997:39-40). Different actors are involved and

participate in these various stages of the policy making process. Agenda setting, the first stage of policy making as defined by Fischer, Miller and Sidney (2007:63) is the stage where policy problems are identified and brought to the attention of government for intervention. The second stage of policy formulation is a pre-decision phase of policy making whereby a set of public policy alternatives to address the problems are identified and designed, (Kraft and Furlong 2015:93, Fischer, Miller and Sidney 2007: 79). The third stage, decision making is where the government decides and selects from the alternatives a strategy to address the prevailing problem or achieve a goal, (Hanekom 1987:13). At the fourth stage, implementation, the policy is put into action or effect, (Kraft and Furlong 2015:95, Hanekom 1987:55). The last stage, policy evaluation, is about assessing whether policies and programs are working well or not. Anderson (1997:272) defines evaluation as a valuation or review of a policy; including its content, implementation, goal achievement and other effects. It tries to identify factors that lead to the success or failure of a policy. This study however focuses on the policy formulation stage, looking at how the public was engaged in the formulation of Lesotho National Decentralisation Policy.

2.3 POLICY FORMULATION

Policy formulation stage deals with the questions of what should be addressed and why, who is involved in the process and how they get involved. Altman and Petkus (1994:38) define policy formulation as the phase where different actors from government departments or agencies and non-governmental organisations, such as civil society organisations, labour organisations, and other interest groups and the citizens come together to suggest solutions that address specific problems. Peterson (2003:3) mentions that public policy formulation involves a joint effort and inter-dependence between public and private actors referred to as policy networks. Policy formulation according to Popoola (2016:47) is a complex process. Policy-makers actively involve stakeholders in the policy formulation process to seek their specific interests, concerns, and information. By giving concerned groups more access to the policy formulation, better policy is formed based on wide-ranging information (Altman and Petkus 1994:43).

The policy formulation stage according to Fischer, Miller and Sidney (2007:48) involves defining of goals and objectives that is what should be accomplished by the policy. The government explores different options and alternatives and studies them to determine their economic costs, social and political acceptability and their probable efficacy in dealing with the problem, (Kraft and Furlong 2015:93). According to Cochran and Malone (1999:46) policy formulation addresses the "what" questions: "What is the proposal for addressing the problem? What are the aims and priorities? What possibilities are available to accomplish these aims or goals? What are the costs and benefits of each of the options? What externalities, positive or negative, are associated with each alternative? Policy formulation according to Kraft and Furlong (2015:93) is both a technical and political process; requiring policy makers to search for evidence and notions which will permit them to pursue their goals. "Before policies are set by politically voted actors, policy options are formed and refined in bargaining among various actors" (Peterson 2003:3).

The following section discusses the roles played by different actors in the formulation of public policy.

2.3.1 Role Players in Public Policy Formulation

Anderson (1997:59) and Hanekom (1987:21) categorise actors or role players in policy formulation into two groups: the official and unofficial actors. Official actors are those who hold the legal power to formulate public policy. They have the legitimacy to partake in policy formulation because of the powers vested in them by having been elected into the political positions and offices they hold (Hanekom 1987:21). Popoola (2016:47) describes them as being constitutionally empowered to engage in the formulation of policies. The official actors according to Kraft and Furlong (2015:94) and Lindblom and Woodhouse (1993:3) are the executive and legislators. They are the most perceptible actors in the policy making process.

The executive mainly determines the policy making agenda and formulation; that is, it assists the president in policy development and implementation. It advises and provides the president with important information and policy ideas in their respective areas. Kraft and Furlong (2015:54) mention that the president is informed about different policies being considered or implemented to give him the chance to influence

the policy direction. According to Lindblom and Woodhouse (1993:51) once the president or prime minister and senior cabinet ministers have deliberated a policy problem and agreed on a verdict, the actual parliamentary vote is usually close to a formality. The executive basically wields its power to make policy. The legislators as mentioned by Anderson (1997:61) initiate and formulate policies because they represent people from their different communities hence they must gather the views, interests, demands and problems affecting them. That is where they derive their mandate for policy formulation.

Anderson (1997:59) mentions that the actors he calls the supplementary policy makers, the bureaucrats, assist the executive and legislature in policy formulation. These officials receive their authority to act in policy formulation from the elected officials. They play a crucial role in shaping public policy. Their main mandate is the execution and or implementation of government decisions through provision and delivery of services meant to respond to the public needs. However, the executive and legislature usually depend on the bureaucrats because of their skills, experience, and competence to set goals and identify alternatives pertinent to addressing or tackling a policy issue (Anderson 1997:66-67). The information they have makes them to be indispensable in policy formulation. Roux (2002:429) also asserts that public officials perform their duties at grassroots levels on a daily basis hence provide valuable information for public policy formulation because they know much about the causes and effects of policy.

The official policy actors are joined by other participants, the unofficial actors, (Anderson 1997:70). Unofficial or non-government actors involved in policy formulation include the business sector, different interest groups, civil society organisations, political parties, voting public and or wealthy private individuals with high public status who use their resources and voices to sway policy in directions they want, and the think tanks (Kraft and Furlong 2015:95, Anderson 1997:70, Gerston 2004: 89, Lindblom and Woodhouse1993:59). Anderson (1997:70) mentions that they are referred to as unofficial actors because regardless of how significant or influential they may be, they have no legal position to make obligatory policy decisions. However, policy affects them; hence they provide information, exert pressure, and seek to convince official policy makers to consider their views in policy formulation, but they

do not decide (Anderson 1997:70). The involvement of these groups of actors in influencing public policy is vital to the improvement of transparency, quality and success of policies as well as engendering the acceptability of the public policy.

Interest groups according to John (2012:57) help to formulate policy by influencing the executive and legislative decisions by providing new policy ideas. These groups advocate and advance their demands and interests with a view to influencing policy. According to Anderson (1997:70) they perform an articulation function by voicing demands and suggesting alternatives for policy action. These groups of actors are very informed, often technically, concerning the nature and possible consequences of policy proposals; they are sources of expertise in formulating policy effectually and practically (John 2012: 57, Anderson 1997:70). Groups that are active, well organized and resourced usually have considerable influence on policy formulation as compared to less organized and inarticulate ones. Kraft and Furlong (2015:63) also mention that interest groups provide information and outlooks on public policy matters to gain the support of the public on their policy issue.

The role of interest groups in policy formulation especially those that deal with sustainable development and poverty reduction is increasingly becoming key (Ghaus-Pasha 2004:18). Civil society promotes and protects diverse issues within society. Unlike the interest groups, civil society seeks to affect public policy for the benefit of wider society not for specific constituencies. Kraft and Furlong (2015:63) mention that civil society influences, advocates, and lobbies for policy by giving the legislators information on their policy views. They do that by appearing in legislative committee hearings or by meeting with individual legislators; this activity is intended to promote or get a buy in of their policy proposals. According to Ghaus-Pasha (2004:18) parliamentarians depend on civil society organisations for policy information and advice because civil society has grassroots experience and knowledge of public issues and how they can appropriately be addressed. Ghaus-Pasha (2004:19) further indicates that civil society uses other strategies such as persuasion, collaboration, litigation, and confrontation to influence public policy formulation.

Political parties have evolved as an important force in public policy making. Their elections manifesto is a major determinant of public policy, they provide the means

through which the people can participate in public activities which are supposed to influence policy formulation (Goldman 2002). Lindberg, Rasmussen and Warntjen (2008:1108) mention that using their platforms, political parties aggregate different sets of public preferences into policy proposals. Furthermore, the leadership of different parties represented in the legislature engage in policy formulation by presenting the preferences and interests of their constituencies. On the other side, the public or the citizens themselves, according to Kraft and Furlong (2015:44) also contribute to policy formulation in several ways including voting, joining interest group petitions, and contacting government officials directly.

The think tanks however play a rather different role. According to Anderson (1997:75) this set of actors is also very important in policy formulation. Their role is to influence policy formulation by supplying fundamental information on policy issues, suggest alternatives as well as proposing possible solutions (Rich 2004:11). De Boer (2015) points out that policy makers struggle to develop effective responses to many of the key policy issues, therefore the think tanks play a crucial role by bringing practical, feasible and evidence-based options that can tackle these issues. The think tanks according to McGann (2005:3) are the independent voice in policy debates and their function is to offer professional advice for the discussion of ideas and evidence available for policy formulation. In so doing they help the policymakers to come up with well-informed policy decisions (Hussain 2016:4).

The definitions of policy formulation cited above provide an understanding of what that stage in policy making entails. The discussions reflect that public policy formulation involves diverse sets of actors engaging with differing levels of power and each influencing the process in a rather distinct manner from the other. One objective of the current study is to get a perspective on how the stakeholders involved in the formulation of Lesotho National Decentralisation Policy perceive or conceive of public participation in policy formulation because it is obvious policy formulation cannot be a preserve for the government alone. For the non-official actors, especially interest groups and non-governmental organisations, their chances to influence policy formulation are enhanced by their strength in terms of the resources they possess.

2.3.2 Approaches to Public Policy Formulation

Kraft and Furlong (2015:77) and Anderson (1997:26) suggest that there are different approaches to public policy formulation: the elitist approach, group approach, institutional approach, rational choice approach, and political systems approach. This implies that policy formulation can be viewed from varied perspectives, particularly because it involves different actors with differing interests and influences.

The elitist perspective is public policy that reflects the values and interests of the powerful; values and preferences of the public barely influence or shape public policy (Kraft and Furlong 2015:78, Cloete and De Coning 2011:39, Anderson 1997:29). The elites include the business people and those with political powers. The elites have a leverage to use their political and economic power to influence policy, hence the prevailing policies often echo the values of the elites and are devoted to upholding the status quo, (Cloete and De Coning 2011:39, Anderson 1997:29). Further, this approach undermines the ability of the mass public to influence policy formulation because as Cloete and De Coning (2011:39) put it, it assumes that the elites know best and that consensus about policy exists within the elites because they are in power. Cloete and De Coning (2011:39) critique this approach saying that it is oversimplified by assuming that the masses are ignorant and inert and cannot play a crucial role in policy making when they actually can act as an active catalyst for policy formulation. This approach depicts policy formulation as a downward flow of decisions from the elites to the masses.

The group approach depicts public policy as a product of interest group struggles whereby the groups need to have access and opportunity to express their views to decision makers (Anderson 1997:27-28). These groups lobby executive officials, legislators, and appeal to the broader public through issue advocacy campaigns. These groups are different in sizes and unequal in power and resources hence the groups with financial resources and recognition are the ones likely to access decision makers and influence policy (Kraft and Furlong 2015:79, Cloete and De Coning 2011:40). Failure or inability to communicate with those with power means that they cannot affect policy making (Anderson 1997:28).

The institutional approach suggests that the public institutions shape public policy because these institutions authoritatively determine and implement policy (Cloete and De Coning 2011:41, Anderson 1997:31). According to Cloete and De Coning (2011:41) public policy is authorised by government and only government policies are binding to all members of society; administrative institutions therefore have a critical influence on public policy content. These institutions have differing patterns of behavior; that is, rules and structures of individual public institutions affect public policy formulation (Anderson 1997:32). Once structure is altered, the behavior of that institution in policy formulation is also affected.

The rational choice approach, as postulated by Kraft and Furlong (2015:83), provides the understandings into political behavior that can impact the design of public policies. According to these scholars, actors involved in the policy formulation whether they are voters, legislators, interest groups or corporate lobbyists push for their self-interests. The rational choice approach presumes that in taking decisions, people are rational; they pursue to capitalize on accomplishment of personal preferences or further their self-interests. The preferences of political actors as policy makers therefore become paramount in policy making; their interests take priority over altruistic commitment to serving the national good (Anderson:32-33).

The political systems approach according to Anderson (1997:26), holds that governmental institutions and political processes make public policy by enforcing authoritative provisions of values or decisions that govern the society. According to Kraft and Furlong (2015:83), this theory puts emphasis on the social, economic, and cultural contexts in which political decisions and policies are made.

The approaches discussed above illustrate that policy formulation can be conceived in different ways. Other approaches depict policy formulation as reflecting the interests of certain groups of society while other groups should struggle to have their views represented or encapsulated into the policy formulation.

Having provided the above conceptions and approaches to policy formulation analysis, attention is turned to the focus of the study; public participation in the formulation of public policy. The theory of participatory democracy will be used to validate the

importance of public participation in government affairs, including policy formulation. Firstly, however, the concept democracy is defined.

Democracy as defined by Beetham and Boyle (1995:2) is a system of governance where all adults have an equal right to vote, to stand for election and where civil and political rights are legally assured. On the other side, Diamond (1999:3) defines democracy as a political system in which rights and freedom of individuals and groups are respected and recognised; and where civil society is independent and not controlled by the state. Diamond, (1999:3) further asserts that democracy enhances human development and the ways for people to defend and promote their interests. These interests can be secured if the public can participate through well-established processes and mechanisms that allow them power to influence decisions.

Democracy is classified into different types. Examples include direct democracy, representative democracy, participatory democracy (Beetham and Boyle 1995:1). Participatory democracy is adopted in this study to illustrate the importance of public participation because democracy as mentioned by Beetham and Boyle (1995:1) entails popular control over decision making and equality of rights in the exercise of that control. This study analyses public participation in the formulation of the Lesotho National Decentralisation policy which is a public issue hence requiring popular decision making as it affects the general populace of the country.

2.4 PARTICIPATORY DEMOCRACY

The theory of participatory democracy is adopted for this study to illustrate the importance of public participation in governance issues, including public policy formulation. This theory emerged and developed over the decades as its proponents upheld that government systems must afford the citizens the chances for political participation (Birch 1993:80). Southall (2010:10) mentions that this theory has been inspired by the ideas of Rousseau, a philosopher, who argued that decision making should be taken away from the bureaucratic state and decentralised to lower levels of governance to enable individuals, communities, and groups to come up with laws and policies that are directly related to their needs.

The theory centres on the idea that all citizens are legitimately entitled to participate in political decisions including policy making (Pateman 1970: 40). The relevance of this theory to the present study will be argued against the theory of representative democracy. In a representative democracy, a few individuals are chosen to represent and take decisions on behalf of the majority. This according Alonso, Keane and Mekel (2011:4) makes a mockery of the power principle of democracy, 'majority rule' because a few elected representatives decide things on behalf of and in the absence of those who are affected. Dobson (1996:127) points out that representative democracy negates human autonomy and freedom because once represented by someone, one's freedom and self-sufficiency is lost.

Representative democracy only gives the public the chance to participate by voting for or electing their representatives in periodic elections. According to Birch (1993:80) this only offers minimal participation which cannot be adequate for citizens to feel that they belong to their society and to make their needs known. Young (2000:124) is of the view that representation impedes the evolution of a participating public, and as such it violates the values of democracy.

While representative democracy simply offers the people chance to participate by electing legislators who make decisions on their behalf, participatory democracy proposes that citizens should initiate policy proposals in collaboration with those in power, (Aragonès and Sánchez-Pagés 2009:3). Politicians are usually self-interested hence neglect their duties as representatives of the people. This suggests that the public must have the influence to inform policy because it affects them, as proponents of participatory democracy maintain.

Participatory democracy theory holds that participation must be ongoing and not confined to voting to overcome the short comings of representative democracy. "Democratic legitimacy depends on authentic participation rather than on voting alone" (Cunningham 2002:126). Participatory democracy empowers citizens and gives them opportunity to monitor politicians and hold them accountable. As a result, the discretions of politicians are constrained because citizens are not passive recipients of decisions made on their behalf (Aragonès and Sánchez-Pagés 2009:1). Birch (1993:82) further asserts that government decisions are legitimized if people have the chance to voice their views on public issues and put pressure on decision makers. The

theory further undertakes that concentration of decision making powers only in the hands of an executive encourages dictatorship, elite rule, corruption, and state recklessness, (Southall 2010:11). According to Pateman (1970:43) the supposition about participatory democracy is that it abates state manipulation of power, and builds integrated and stronger societies which can stand for their rights.

Participatory democracy theory further holds that public participation has an educative function which allows individuals to acquire needed abilities and skills enabling them to judge the actions of the legislators to hold them accountable (Pateman 1970:32). Most importantly, participatory democracy increases the sense of political efficacy among ordinary citizens and so the confidence that their actions can have effect on public policy thus meeting their needs, demands and expectations from their government (Pateman 1970:46). Public participation enhances government's efficiency and effectiveness, responsiveness, transparency, and accountability thus promoting good governance and consolidating democracy.

Participatory democracy theory is based on empowering the people to take decisions about their own issues. Public participation as suggested by this theory is the core of democracy; people self-determining what is best for them. Government decisions or public policy mostly affect the public, who are the majority hence it makes sense as suggested by the theory of participatory democracy that decisions should be taken together with the people not for them.

2.5 PUBLIC PARTICIPATION IN THE FORMULATION OF PUBLIC POLICY

2.5.1 Conceptualisation of Public Participation

The European Urban Knowledge Network (EUKN), (2013:2) defines public participation as a process through which the citizenry, civil society organisations and government engage in policy-making before a political decision is taken. A similar definition is given by Hartay (2011:5) who says that public participation means an opportunity for the citizens, civil society organizations and other concerned parties to influence the creation of policies and laws which affect them. The African Union (1990) stipulates that public participation is the means of empowering people to effectively

get involved in building the structures and formulating policies and programmes that respond to their needs and to actively partake in development processes. Furthermore, while emphasising the role of popular participation, the African Union (1990) states that popular participation is a driving force for people based development processes as well as an essential right of the people to engage actively and effectively in taking decisions on issues which affect their lives at all levels.

The international development institutions like the World Bank and the United Nations highlight that espousing public participation advances good governance and sustains democracy (Abdellatif 2003:13, Cloete 1995:4). The argument is that people's involvement in the decisions affecting them increases government's transparency as well as legitimising the decisions that the government finally takes thus building trust in government institutions (Abdellatif 2003:13). Public participation brings the government closer to the people and promotes its responsiveness to their needs. Brinkerhoff (1999:128) notes that public participation in policy making is a means through which features of democratic governance are strengthened, such as accountability, transparency, and responsiveness.

The Organisation for Economic Cooperation and Development (OECD 2001:1) mentions that public participation in policy formulation, permits government to gain new information and policy-relevant ideas. Public participation according to Brinkerhoff (1999:127) is an important factor for democratic governance; it improves the quality of policy formulation and implementation. It results in improved policy targeting. More importantly, it enhances public trust in government and improves the quality of democracy while strengthening the public's capacity to engage with their governments, (OECD 2001:1). Brinkerhoff (1999:127) also asserts that public participation is imperative to democratic governance because of its potential to empower people. Southall (2010:9-10) asserts that public participation should be on-going and go beyond voting, it must be taken down to smaller communities to empower the people to take decisions on issues affecting them.

Irvin and Stansbury (2004:56) mention that public participation has become a vital part of public policy formulation and when properly done it can become very valuable to decision making. King, Feltey and Susel (1998:319) reiterate the importance of public participation by stating that it serves the community in several ways, including

permitting incorporation of public values into decisions about important societal issues. Therefore, public participation has become essential in changing the ways in which governments run public affairs; development planning, budgeting and policy making. Brinkerhoff and Crosby (2002:58) point to the fact that participation empowers the external groups to take ownership for policies.

Arnstein (1969:216) asserts that public or citizen participation is citizens' power. She illustrates citizen or public participation in a model of a ladder with eight levels ranging from non-participation to citizens' control where power and responsibilities are delegated to the people. Each stage resembles the degree to which citizens have the power to influence the end decision on a public issue (Arnstein 1969:217). In the first two levels, manipulation and therapy, public participation is essentially not taking place, rather those in power just educate the public. The public is made to participate as a way of legitimising decisions already taken by government. They have no power to influence the decisions. According to Theron and Davids (2014: 113) this is whereby officials use participation as a compliance tick box not to genuinely involve the people.

At the three succeeding levels, informing, consultation and placation; participation here happens as a means of tokenism or the pretence to involve the people, (Arnstein 1969:217). Informing means that the public is merely informed of government plans and decisions without providing any room for engagement, citizens cannot negotiate. Consultation; here the people are given the chance to voice their views, but they still do not have the supremacy to ensure that their views will be regarded and considered, (Arnstein 1969:217). Theron and Davids (2014:117) maintain that if officials are not necessarily obliged to consider the views of the public, that basically means that the public still does not have power to influence decision making supporting Arnstein's view that consultation is tokenism. Participation happening at these levels simply does not empower the people to emerge from their vulnerability and powerlessness to make their needs known. Their involvement does not lead to any policy changes as final decisions remain with those in power. This can lead to what Smith (2009:20) and King Feltey and Susel (1998:325) call 'public cynicism' towards participation because they are not sure if their participation will have any effect.

The last three levels give the citizens power with a growing degree of decision making. The citizens can engage and negotiate, power is delegated, and the citizens gain control and majority in decision making (Arnstein 1969:217). At these levels, the 'have nots' as noted by Arnstein (1969:217) obtain power for decision making. At the level of partnership, power is redistributed through negotiation between the citizens and powerholders; they plan together and take decisions collectively (Arnstein 1969:221).

Macia, (2016) in his study titled "The Voice of the People: Public Participation in the African Continent", analysed public participation in the drafting of the constitutions of seven countries including South Africa, Uganda, Kenya, Egypt, Zimbabwe, Rwanda and Eritrea. According to Macia (2016:3), South Africa set the best example of public participation, it was inclusive and effective, the process was based on a bottom up approach and appears to have genuinely sought to gather and include public views in the final document. Therefore, the case of South Africa is selected to illustrate what is called 'authentic participation', that is where the public have power to influence decisions through partnership with government, with power and control delegated to them (Arnstein 1969:217, King, Feltey and Susel 1998:321). The public, including the rural, disenfranchised, and underprivileged communities were consulted to give their views (Macia 2016:5-6). The government allowed the people to make submissions to inform the first draft of the constitution, and then later published it for the public and civil society organisations to give their comments.

More importantly, it is apparent that public participation in the drafting of the constitution was not tokenistic or just aiming to give a false appearance of government as open to public participation. It was authentic participation, the people were not merely presented with an already drafted document, to be educated about it, but rather were active participants throughout the whole drafting process (Macia 2016:7). The process was not an attempt to give a superficial legitimacy to an already pre-determined draft, the South African Constitution was not imposed on its citizens, but they were fully given a sense of ownership over it (Macia 2016:7).

2.5.2 Mechanisms, Processes, and Structures of Public Participation

According to Rowe and Frewer (2000:6), public participation in policy making include a number of processes intended for consulting, involving, and informing the public to empower those affected by a decision to partake in taking such a decision. Masango (2002:63) suggests that proper methods of participation should be used if participation is to be effective. He is of the view that mechanisms like public hearings for example, have little effect on planning and policy making. King, Feltey and Susel (1998:323) have the same view, "public hearings do not work". They do not work because there is no exchange of views between officials and the public but rather are a mechanism of convincing the people of the decisions already made. The following different mechanisms which are considered to have a positive contribution in this regard are public meetings, public inquiries, citizens representation in policy making bodies, referenda, questionnaire surveys, consensus conferences, (Rowe and Frewer 2000:8, Bishop and Davis 2002:15, Masango 2002:63).

Further, Masango (2002:62) advises that public participation requires organising and having established structures through which the public can interact with government authorities. He advises that ward committees be established because they will enable decentralisation of participation processes. "Such structures will guarantee that opportunities for public participation are brought down to the doorsteps of ordinary members of the public" (Masango (2002:62). Again, he acknowledges the importance of other community organisations and fora where he says policy makers can take advantage of their strengths and use them as other structures for facilitating public participation in local affairs.

Success of public participation, also according to Masango (2002:62), depends on the capacity of the public to participate. While structures may be available, insufficient knowledge of public affairs by the members of the public may be an obstacle to effective and meaningful participation (Masango 2002:62). Therefore, participation processes should include capacity building by way of educating the public about the nature and functions of the government, their constitutional rights, responsibilities, and duties as citizens. The acquired understanding of the issues and processes will empower and enhance the public's efficacy and confidence to participate. According

to King, Feltey and Susel (1998:324), educating people will make them realise that they can make a difference if they get involved.

Mechanisms, processes, and structures for public participation have been explored in this study because of the understanding that effective participation can only happen if it is well organised, planned and uses proper structures. Through the mechanisms and processes used, assumptions can be made as to whether participation has been authentic or not. This study aims to examine the mechanisms and processes that were used to involve the public in the formulation of Lesotho National Decentralisation policy to gauge whether the people really had power to influence the policy.

2.5.3 Advantages of Public Participation in the Formulation of Public Policy

King, Feltey and Susel (1998:319) quote one administrator as saying: "we need input, we do not make good decisions without it, it is essential". This statement points to one of the many reasons why public participation has become so popular and essential for democracy, making relevant decisions. According to Van Brabant (2015:2) there are numerous reasons why public participation is believed to be an important aspect of democratic governance, including policy making:

- Better prioritisation of people's needs,
- Understanding prevailing problems better,
- Giving diverse ideas about how to address the problem,
- Reduced risk of elite or special group interests dominating the policy priorities,
- Public support for implementation,
- Builds trust in the authorities and contributes to the formation of responsive and accountable states (Van Brabant 2015:2-3).

Hanekom (1987:34-35) adds that:

- Public participation helps for considering different interests or views so that balanced decisions can be made,
- A more representative, responsive, and thus democratic policy making,
- Better planning,
- Ensuring wide acceptance of the decisions by the public since they will have been involved,

- Education of the less privileged in political process,
- Puts the people in a better position to understand how government administration functions.
- Citizens can decide policy goals and priorities, watch the actions of the politicians and administrators, and hold them answerable.

Smith (2009) notes that:

- Participation increases citizens' political efficacy and understanding of their own interests and political responsibilities,
- Participation generates better informed decisions, increases legitimacy and trustworthiness of political decisions,
- Participation limits arbitrary use of power.

Hartay (2011:5) notes that public participation helps in:

- Creating fair policies and laws reflective of real needs,

- Facilitating cross-sector dialogue and reaching consensus,

- Adopting more forward and outward looking solutions,

- Increasing ownership and responsibility in policy implementation,

- Strengthening democracy.

The overall impression gathered from the outline of the above citations on the advantages of public participation is that public participation provides for better prioritisation of needs and produces relevant and responsive policies. And more importantly, it enhances the public's acceptance and ownership of the decisions adopted by the government.

2.5.4 Challenges of Public Participation in the Formulation of Public Policy

Smith (2009:22) points out that while public policy may acclaim the merits of public participation, evidence shows that there are several challenges facing public participation. Organisational or administrative structures and processes, public and

officials' cynicism and public's lack of knowledge and education are some of the challenges (Smith 2009:22, King, Feltey and Susel 1998:325). Marzuki (2015:24) mentions that different scholars argue that public participation can be administratively expensive especially in terms of time. "Public participation consumes time and slows down decision making because the public needs to be informed, or even educated first so that they can participate effectively in policy making" (Marzuki 2015:24).

There are institutionalised organisational habits and practices which pose great challenges to public participation according to King, Feltey and Susel (1998:325). The tendency to approach citizens at the very late stages of decision making jeopardises their chances to have any meaningful influence in decisions being taken. King, Feltey and Susel (1998:323) quote one activist as saying, "we have these hearings so that they can check off on their list that they have had their citizen participation, but there is no give and take, its simply window dressing". Public organisations must democratise their institutions and procedures to embed a culture of authentic participation. Without real change in the bureaucratic nature of government structures and how they function, greater cynicism on the part of the public and officials will remain (King, Feltey and Susel 1998:325).

Furthermore, public officials' attitudes are a challenge to public participation because according to Smith (2009:22) public officials believe that public participation is not relevant for high level decisions like policy formulation. The argument is that such decisions demand specialised knowledge, administrative power, and political representation not participation of ordinary citizens (Smith 2009:22). King, Feltey and Susel (1998:319) mention that numerous administrators are ambivalent about public participation because they believe that it is problematic even though there is notional and real acknowledgment that the public must be more engaged in public decision making to augment acceptability of government decisions. Public officials as noted by King, Feltey and Susel (1998:319) believe that greater participation increases inefficiencies, creates delays, and increases red tape. These attitudes alienate citizens and lead to feelings of powerlessness because they cannot have a say in issues directly affecting them. This further suggests that democracy is being undermined. King, Feltey and Susel (1998:325) advise that these habitual attitudes of officials must change, they must see citizens as partners and utilise authentic ways to engage with them.

A study steered by the European Institute for Public Participation, EIPP 2009 in the United Kingdom discovered that the public officials and politicians did not want to engage the citizens in the policy development processes because they believed that the matters of policy formulation were too intricate for non-specialists to comment on. However, the EIPP (2009:15) also established that there was a lack of understanding about the benefits of public participation amongst the officials and politicians because all they believed was that the process is costly and time wasting thus placing a weighty burden on public authorities. This resistance of public officials to public participation results in the exclusion and marginalisation of the poorest in society who need support for their voices to be heard (EIPP 2009:15). Moreover, lack of capacity and competence were also identified as barriers for public officials to facilitate or commission public participation.

This scepticism of political authorities and public officials according to Smith (2009:27) makes them to either ignore participation or use it to confirm decisions already made elsewhere. This comes as an act of tokenism where citizens are drawn into participation as a mechanism of accommodation with little or no genuine opportunity to contribute to decisions taken (Smith 2009:27).

Another issue is that the public or citizens are sceptical that public participation will have any effect on the political decisions, (Smith 2009:20). As a result, even when given the opportunity to participate, the public is cynical about the motives of being invited to participate and barely takes part. According to Smith (2009:20), that is because citizens' viewpoints are sometimes ignored, and the process and results of participation are manipulated by those with political power to satisfy their own interests. This public cynicism is understandable according to Smith (2009:20), arguing that political elites manipulate participation by merely drawing the public into participation as a mechanism to give an appearance of public participation while their inputs are not considered.

The problem is that citizens are not given any meaningful chance to influence decision making processes and transparency is not realised because citizens are not aware of the way, if at all, that their inputs will be included in the decisions (Smith 2009:20). However, if the public is engaged to give them power to decide as Arnstein (1969) suggests, the decisions taken will reflect their views hence become more responsive

to their needs. Effective participation should put the public at the centre of the process, closer to the issue.

Lack of knowledge and education on the side of the public is yet another challenge facing effective participation. A study conducted in the Phillipines by Marzuki (2015) that analysed public participation in a Metro Housing project revealed that the public's lack of knowledge and education posed huge difficulties for participation. Marzuki (2015:30) states that even though the government encouraged the public to get involved and the public were also willing to participate, the situation turned into a time-wasting process of adapting due to lack of understanding from the public. This is where civic education becomes important according to Macia (2016:11).

The public needs to be educated on governance issues to enable them to understand and make meaningful contributions where their input is sought. King, Feltey and Susel (1998:324) say democracy schools can be established in local communities to make people feel knowledgeable, confident, and empowered to participate. However, Smith (2009:23) mentions that effort and resources need to be expended if citizens, particularly from politically marginalised social groups, are to be attracted to participate because capacity   building takes time and commitment on the part of public authorities. Engaging citizens needs adequate resources for organising the engagement; reformation of organisational procedures and working practices to espouse participation (Smith 2009:23).

Macia (2016:11) mentions that during the drafting of the Constitution in Eritrea in 1997, the level of education across the nation was very low which made civic education an imperative to include the people to participate in the drafting process. Instructors were organised to conduct town meetings and public seminars in the villages to educate the people. As (Macia 2016:11) puts it, this was "an important initiative, given the low literacy rates among the population; non-printed means of education was widely used which included among other things; songs, poetry, short stories, mobile theatre groups, concerts, and radio programs dealing with the constitutional themes."

Civic education enlightens the citizens particularly those who are from deprived social backgrounds since they usually lack basic information concerning issues that critically impact on their lives. However, these constituents can be greatly empowered if efforts are taken to educate and inform them thus enabling them to take a meaningful part in

public decisions. This requires immense commitment on the side of government to make information available to the people via all means possible so that the people can learn.

Public officials' cynical attitudes towards public participation appear to be a major problem. Without their commitment to promote it, governments run the risk that some of their policies or development initiatives can be rejected or challenged by the citizens. Public scepticism is another issue, which however can be overcome if there is transparency and real commitment to facilitating authentic participation that gives the public real chances to inform decisions.

Challenges have been explored in this study and some of the key questions are to find out about the experiences of the different stakeholders who were involved in the formulation of the Lesotho National Decentralisation Policy. The assumption is that such experiences will include challenges encountered, and therefore can help the researcher to understand public participation broadly; that is in terms of the benefits and problems associated with it.

2.5.5 Criticisms of Public Participation in Formulation of Public Policy

Public participation has acquired notable importance in the pursuit of democratic governance. While its importance and the benefits it offers are acknowledged, there are criticisms raised against it. Hartay (2011:5) and Irvin and Stansbury (2004:58) share the view that participatory processes are costly especially in terms of time; they require time for preparing for meetings, writing comments, providing feedback. Citizen participation processes divert resources away from the agency's mission thus affecting on the ground results and demand substantial time commitments which delay decision making (Irvin and Stansbury 2004:58). According to Pandeya (2015:83) public participation is criticised because citizens often lack ability to give quality input and that bringing more people into decision-making delays decisions, increases costs, and makes the process of reaching consensus more complex. Nonetheless, this perception may not be correct, because participation is a fundamental right, and competence can be achieved through greater participation as Pateman (1970:32) mentions that participation plays an educative function.

Another criticism of public participation in the policy process is that it may underpin the current inequalities in society. According to Smith (2009:18), attempting to enhance citizen participation in political decision making may undermine the democratic ideal of inclusiveness. Inclusiveness cannot be achieved because of differential rates of participation across social groups. Participation tends to attract educated, high income and wealthy citizens, politically dominant and partisan individuals with engrained viewpoints (Pandeya 2015:91, Smith 2009:20). This domination of the participation process damages the efficiency of the processes and seriously undermines the legitimacy of decisions taken because the voices of those with different perspectives are hardly heard. Public participation sometimes encourages elite capture and promotes the quest of personal gains by these empowered individuals. And on occasions where diverse participants are involved, the meetings are usually very short hence limit the capacity to absorb, understand and reflect on the information and perspectives to further make meaningful contributions.

2.6 CONCLUSION

This chapter defined public policy as a deliberate course of action taken by government to address a problem affecting the society. It has been learnt that government may choose to do something or not do anything concerning a particular problem which thus becomes government policy according to Hanekom (1987:8). It looked at public policy formulation, learning that public policy formulation is a multifaceted process involving varied sets of actors, official and unofficial, representing different interests and contributing in different ways to the policy formulation. Official actors have a political obligation to formulate policies while the unofficial actors can participate and are important for policy formulation, but they have no legal power to make binding policy decisions. However, it is the involvement of these multiple actors which results in responsive policies as well as giving public policy legitimacy. Approaches to policy formulation have also been outlined and it appears that policy formulation can be viewed from different perspectives. Further, the concept of public participation is defined as the involvement of the people in taking governmental decisions on matters of public concern. The theory of participatory democracy is used to underpin the study and it holds that people should take part in decisions affecting

them. This theory acknowledges the right, autonomy, and freedom that individuals possess to determine decisions affecting their lives. Its premise is that everyone has a right to self-determination. Different aspects have been covered in the review of literature; mechanisms, advantages, challenges, and criticisms. Case studies to support different positive and negative claims made concerning public participation have been illustrated. More importantly, Arnstein's analysis of public participation is very important for the present study because it will help to assess whether the public really had power to influence policy decisions in the formulation of the Lesotho National Decentralisation policy or whether their engagement was tokenistic.

CHAPTER THREE- LEGISLATIVE FRAMEWORK

3.1 INTRODUCTION

This chapter provides an outline and description of the legislative framework guiding public participation in Lesotho. Various legal and official government documents are used to give the legislative framework for public participation as espoused in Lesotho. These are the National Constitution of 1993, the Local Government Act of 1997, the Programme for Implementation of Local Government 2003, the National Assembly Standing Orders, the National Assembly Act of 2011, and the Lesotho National Vision 2020. Lesotho is also a member state of various international, continental, and regional bodies on promotion of democracy, good governance, human rights, and public participation. They all have treaties, conventions, declarations, and protocols which Lesotho is signatory to.

The chapter will firstly give a profile of the country in terms of governance, ending with highlighting the purpose and objectives of the Lesotho National Decetralisation Policy. Then the outline of the legislations will be presented starting with International legislation followed by African, SADC and Lesotho's legislation.

3.2 COUNTRY PROFILE OF THE KINGDOM OF LESOTHO

Lesotho is a small country located at the southern part of Africa and totally surrounded by the Republic of South Africa. Lesotho is a constitutional monarchy with a bicameral parliament; the head of state is His Majesty King Letsie III whose role is predominantly ceremonial (Matlanyane 2013:33). Politically, the country is governed under the leadership of the Prime Minister. The current Prime Minister is the Right Honourable Motsoahae Thomas Thabane. The size of the country is 30, 355 square kilometres and the population as per the 2016 census is 2,204 million people, (Bureau of Statistics 2017). The country uses two languages. Sesotho is the native language while English is officially recognised as the second language.

The two houses that make up the parliament are the elected National Assembly (lower house) and the Senate (upper house), made up of 22 principal chiefs and 11

other appointed members. The National Assembly comprises 120 members elected through the mixed-member proportional (MMP) system; two-thirds are elected according to the first past-the-post electoral system (one member per constituency) and one-third by proportional representation (the 'party list' form of the system) (Matlanyane 2013:33).

The term of office for members of parliament is five years. The prime minister is the leader of the majority party in the national assembly and the King appoints ministers from either house to the cabinet, known as the Council of State, on the advice of the prime minister, (Matlanyane 2013:33).

The country has two spheres of government, central and local. Section 106 (1) of the Constitution of Lesotho mandates parliament to establish local government. It stipulates that, *"Parliament shall establish such local authorities as it deems necessary to enable urban and rural communities to determine their affairs and to develop themselves. Such authorities shall perform functions as may be conferred by an Act of Parliament"* (Constitution of Lesotho 1993:53).

The Local Government Act, No. 41 of 1997 established the local government councils as mandated by section 106(1) of the Constitution. Local government is mainly two-tier, with district councils as the upper level and community councils as the lower level but the capital Maseru has its own unique single-tier authority, the city council, (Commonwealth Local Government Forum 2015:90). Presently the law does not allow for councils to collect and spend their own revenue; hence, their annual income comes through central government transfers. Amongst their duties, local councils oversee environmental protection, the control of natural resources, agricultural services, public health, water supply, education, and the promotion of economic development (CLGF 2015:90) .

The Ministry of Local Government and Chieftainship (MLGC) is responsible for the administration of the Local Government Act 1997 which established the local government. The MLGC is made up of seven departments: administration; decentralisation; district administration; lands, survey and physical planning; chieftainship; engineering and infrastructure development; and housing, (CLGF 2015:90).

3.3 LESOTHO NATIONAL DECENTRALISATION POLICY

The Lesotho National Decentralisation Policy was formulated because, after two terms of local government elections, there was no noticeable progress in local governance. This was mainly because there was no common tool for the country to define and guide decentralisation hence the trigger to formulate the decentralisation policy (Government of Lesotho 2014: viii). This policy was formulated to be a guiding instrument for a common understanding of decentralisation in the context of Lesotho. The ministry realised that community councils could not carry their mandates clearly and that they provided services inconsistently therefore causing great dissatisfaction among the members of the communities. The policy was adopted by the Cabinet in February 2014.

The purpose and objectives of the Lesotho National Decentralisation Policy.

"The purpose of the decentralisation policy is to deepen and sustain grassroots based democratic governance and promote equitable local development by enhancing citizen participation and strengthening the local government system, while maintaining effective, functional and mutually accountable linkages between central and local government entities" (Government of Lesotho 2014:x).

The specific objectives of the policy are to:

i) *"Increase citizens' access to public services";*
ii) *"Ensure quality and accountable service delivery at local levels";*
iii) *"Increase participation of citizens and non-state organisations in governance and service delivery";*
iv) *"Promote equitable economic development";*
v) *"Promote livelihood and economic security";*
vi) *"Enhance local autonomy by ensuring that local government institutions are sustainably capacitated and organised with a strong collective voice";*
vii) *"Promote the preservation of national values, identity and unity by re-positioning and empowering the chieftainship and other traditional institutions",* (Government of Lesotho 2014:x).

3.4 INTERNATIONAL LEGISLATION AND FRAMEWORK FOR PUBLIC PARTICIPATION

The notion of public participation has become very popular and is globally acknowledged as an important aspect of people centered development. International and regional agreements, as well as widespread pressure to open governmental decision-making processes are urging national governments to take steps to improve transparency, participation, and accountability, (South African Legislative Sector (SALS) 2013:24). At the 1992 Earth Summit in Rio, countries adopted Principle 10 of the Rio Declaration, which underscores the significance of public access to information, involvement in the processes of decision-making and access to judicial procedures and remedies (SALS 2013:24). In the Agenda 21, the plan of action that supported the Rio Declaration, states vowed to promote broader public participation in decision-making processes and policy formulation for sustainable development.

In 1998, the United Nations Economic Commission for Europe, (UNECE) adopted the Convention on Access to Information, Public Participation in Decision-Making, and Access to Justice in Environmental Matters (known as the Aarhus Convention). The Aarhus Convention, besides being an environmental covenant, is also encouraging accountability, transparency, and responsiveness of governance (Hartay 2011:12). The Aarhus Convention grants the public rights and imposes on parties and public authorities the obligations regarding access to information, public participation, and access to justice. The International Association of Public Participation (IAP2) and The Manila Declaration (1982) are further examples of the international guiding tools supporting public participation.

The above examples clearly explain the global commitments towards increased public participation. The International Association of Public Participation (IAP2) developed the core values to guide public participation processes and to make the public more effective in official policy making:
1. The public should have a say in decisions about actions that affect their lives,
2. Public participation includes the promise that the public's contribution will influence the decision

3. The public participation process communicates the interest and meets the process needs of all participants,

4. The public participation process seeks out and facilitates the involvement of those potentially affected,

5. The public participation process involves the participants in defining how they participate,

6. The public participation process communicates to participants how their input affected the decision,

7. The public participation process provides participants with the information they need to participate in a meaningful way.

Looking at these values, if practically implemented, they can induce the confidence in people to participate since they would have a guarantee that their inputs will inform the decisions that are ultimately taken by the government.

The Manilla Declaration (1982) is another international instrument guiding public participation. According to Theron et al (2005:205) the Manilla Declaration formulates four principles of public participation. These are:

1. Sovereignty resides with the people, the real actors of positive change,

2. The legitimate role of government is to enable the people to set and pursue their own agenda,

3. To exercise their sovereignty and assume responsibility for development of themselves and communities, the people must control their own resources, have access to information and have the means to hold officials of government accountable,

4. Those that would assist the people with their development must recognise that it is they who are participating in support of the people's agenda, not the reverse. The value of the outsider's contribution will be measured in terms of the enhanced capacity of the people to determine their own future.

These principles say that public participation processes must be created in a way that they put the people at the core of participation. They should empower and capacitate the people to take control of their own development. Given these principles, the public owns power to influence and direct decisions towards meeting their real needs.

Lesotho is a member state of the United Nations and has ratified several major international conventions, declarations, and treaties relating to human rights, democracy and political participation.

3.4.1 United Nations Universal Declaration on Human Rights of 1948

The Universal Declaration on Human Rights promises to all the economic, social, political, cultural and civic rights that reinforce a life free from want and fear (UDHR 1948: v). It provides the basis for a just and decent future for all, and has provided the people everywhere a powerful instrument in the fight against domination, impunity, and other abuses to humanity .

Politically, Article 21(1) of the UDHR stipulates, *"Everyone has a right to take part in the government of his country, directly or through freely chosen representatives"*, United Nations (1948:44).

3.4.2 United Nations International Covenant on Civil and Political Rights of 1966, (ICCPR)

On the 9th December 1992, Lesotho ratified the United Nations International Covenant on Civil and Political Rights of 1966, (ICCPR). Article 25 of the ICCPR (1966) provides that all the citizens shall have the right and opportunity without any discrimination either based on sex, religion, political association, or any other restrictions:

(a) *"To take part in the conduct of public affairs, directly or through their freely chosen representatives";*
(b) *"To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors".*

Lesotho further endorsed the Protocol to the International Covenant on Civil and Political Rights on the 6th September 2006.

3.4.3 The 1993 United Nations Vienna Declaration and Programme of Action (UNVDPA)

The United Nations Vienna Declaration and Programme of Action which was agreed in 1993 at the World Conference on Human Rights is another piece of international legislation supporting the idea of public participation. *"The 1993 Vienna World Conference on Human Rights reaffirmed the solemn commitment of all States to fulfil their obligations to promote universal respect for, and observance and protection of, all human rights and fundamental freedoms for all in accordance with the Charter of the United Nations, other instruments relating to human rights, and international law",* (United Nations 1993:2). Fundamental freedoms and human rights are the birth right of all the people; their promotion and protection should be the primary responsibility of Governments (United Nations 1993:2).

Item (8) of the Vienna Declaration and Programme of Action states that, *"Democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing. Democracy is based on the freely expressed will of the people to determine their own political, economic, social and cultural systems and their full participation in all aspects of their lives"* (United Nations 1993:3).

3.4.4 United Nations Convention on the Elimination of all Forms of Discrimination Against Women, (CEDAW) of 1979

On the 22nd August 1995, Lesotho ratified the 1979 United Nations Convention on the Elimination of all Forms of Discrimination Against Women, (CEDAW). The country further adopted the Protocol to the Convention on the Elimination of all Forms of Discrimination Against Women on the 24th September 2004. This protocol reiterates the resolution of State parties to safeguard the full and equal enjoyment by women of all human rights and fundamental freedoms and to take active action to avert the abuses of these rights and freedoms.

The provision of CEDAW (1995) under Article 7 is that State parties shall take all necessary actions to eliminate discrimination of women in the political and civic life of their country and specifically shall guarantee to women, on equal terms with men, the right:

(a) *"To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies";*

(b) *"To participate in formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government";*
(c) *"To participate in non-governmental organizations and associations concerned with the public and political life of their country".*

3.5 AFRICAN LEGISLATION AND FRAMEWORK FOR PUBLIC PARTICIPATION

The African Union, (AU) is the supreme body of solidarity for African countries. In the Union's Constitutive Act of 2000, article 3(g) commits to the promotion of democratic principles and institutions, popular participation, and good governance, (The African Union 2000:5). The member states are bound to uphold and promote public participation. There are several legislations of the African Union which Lesotho has endorsed; they are outlined below.

3.5.1 The African Charter on Human and Peoples' Rights (ACHPR) of 1981

The ACHPR under article 1 mandates the member states to recognise the rights, duties and freedoms enshrined in the Charter and to take measures to adopt legislative and other ways to protect them. Under article 13 the ACHPR provides that, *"all the citizen shall have the right to participate freely in the government of his or her country, either directly or through freely elected representatives in accordance with the provisions of the law"*, (African Union 1981:3). Lesotho acceded to this Charter on the 10th of February 1992.

The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa was adopted in 2003. Article 9 of the Protocol provides as follows :

1. States Parties shall take specific positive action to encourage participatory governance and the equal involvement of women in the political life of their countries

through affirmative action, empowering national legislation and other measures to ensure that:

(a) *"Women participate without any discrimination in all elections";*

(b) *"Women are represented equally at all levels with men in all electoral processes";*

(c) *"Women are equal partners with men at all levels of development and implementation of State policies and development programmes".*

2.   States Parties shall take measures to increase active representation and participation of women at all levels of decision-making.

3.5.2 The African Charter on Popular Participation in Development and Transformation of 1990 (ACPPDT)

The ACPPDT was developed at the International Conference on Popular Participation in the Recovery and Development Process in Africa held in Arusha in the United Republic of Tanzania in February 1990 . "*The Conference was convened in search of a common understanding of the role of popular participation in the development and transformation of the African region. Also, it was an occasion to articulate and give renewed focus on the concepts of democratic development, people's solidarity and creativity and self-reliance and to formulate policy recommendations for national governments to strengthen participatory processes and patterns of development",* (African Union 1990:1).

ACPPDT compels the African states to promote public participation in policy making, planning, implementation, monitoring and evaluation of development programmes. *"Popular participation is the fundamental right of the people to participate fully and effectively in the determination of the decisions which affect their lives at all levels and at all times"*, (African Union 1990:6). According to the African Union (1990:4) political and socio-economic development in Africa has been hindered by concentration of power at the central level of governance and thus has been an obstacle to effective participation of most people in social, political, and economic development.

3.5.3 African Charter on Democracy, Elections, and Governance, (ACDEG) of 2007

On the 30th June 2010, Lesotho ratified the ACDEG. The ACDEG was inspired by the objectives and principles enshrined in the AU Constitutive Act which accentuate the significance of good governance, popular participation, the rule of law and human rights. Determined to promote and strengthen good governance through the institutionalisation of transparency, accountability, and participatory democracy; the AU resolved to develop ACDEG, (ACDEG 2007:1). Some of the objectives of this Charter relevant to this study are the following:

- *"To promote adherence, by each State Party, to the universal values and principles of democracy and respect for human rights";*
- *"To promote the establishment of the necessary conditions to foster citizen participation, transparency, access to information, freedom of the press and accountability in the management of public affairs";*
- *"To promote gender balance and equality in the governance and development processes" (*ACDEG 2007:3).

The Charter commits State Parties to its enactment according to the following principles, among others:
- *"Holding of regular, transparent, free, and fair elections";*
- *"Promotion of gender equality in public and private institutions";*
- *"Effective participation of citizens in democratic and development processes and in governance of public affairs";*
- *"Strengthening political pluralism and recognising the role, rights, and responsibilities of legally constituted political parties, including opposition political parties, which should be given a status under national law" (*ACDEG 2007:4).

Several Articles of this Charter commit the State Parties to ensuring observance of principles of democracy, including public participation and the protection of human rights.

Article 4 provides that:

1. *"State Parties shall commit themselves to promote democracy, the principle of the rule of law and human rights"*;

2. *"State Parties shall recognize popular participation through universal suffrage as the inalienable right of the people"*.

Article 8 mandates the removal of all forms of discrimination and obligates state parties to legislative and administrative corrective measures. It reads:

1. *"State Parties shall eliminate all forms of discrimination, especially those based on political opinion, gender, ethnic, religious, and racial grounds as well as any other form of intolerance"*;

2. *"State Parties shall adopt legislative and administrative measures to guarantee the rights of women, ethnic minorities, migrants, people with disabilities, refugees and displaced persons and other marginalised and vulnerable social groups"*;

3. *"State Parties shall respect ethnic, cultural, and religious diversity, which contributes to strengthening democracy and citizen participation"*.

Chapter nine of the ACDEG further requires state parties to commit to various actions for fostering public participation to advance political, economic and social governance.

Article 28 states that:

"State Parties shall ensure and promote strong partnerships and dialogue between government, civil society, and private sector".

Article 29 states that:

1. *"State Parties shall recognize the important role of women in development and consolidation of democracy"*;

2. *"State Parties shall provide the necessary conditions for full and active participation of women in the decision-making processes and structures at all levels as a central element in the advancement and exercise of a democratic culture"*;

3. *"State Parties shall take all possible actions to assure the full and active participation of women in the electoral process and ensure gender equality in representation at all levels, including legislatures"*.

Article 30 of the Charter urges that:

"State Parties shall promote citizen participation in the development process through appropriate structures".

Article 31 reaffirms article 30:

1. *"State Parties shall promote participation of social groups with special needs, including the Youth and people with disabilities, in the governance process"*;

2. *"State Parties shall ensure systematic and comprehensive civic education to encourage full participation of social groups with special needs in democracy and development processes"*.

3.6 THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY LEGISLATION AND FRAMEWORK FOR PUBLIC PARTICIPATION

The Southern African Development Community, (SADC) of which Lesotho is a member was established in 1992 through a treaty that was signed by the Southern African countries at a meeting in the Republic of Namibia. The treaty under article 4(c) provides that the member states will uphold the principle of observing human rights, democracy and the rule of law, (SADC 1992:5). The accord further contains that the constitutions of all SADC member states shall protect the principles of equal opportunities and full participation of the citizens in the political processes.

The SADC region has made significant efforts in the consolidation of citizens' participation in decision making processes and consolidation of democratic practice and institutions. The SADC principles and guidelines governing democratic elections is one of the pieces of legislation the region developed which encourages participation of citizens in political affairs.

3.6.1 The SADC principles and guidelines governing democratic elections

The SADC principles and guidelines governing democratic elections adopted in August 2004 and revised in 2015 include encouraging and ensuring that all citizens participate in the democratic and development processes (SADC 2015:4).

3.7 LESOTHO LEGISLATION AND FRAMEWORK FOR PUBLIC PARTICIPATION

3.7.1 The Constitution of the Kingdom of Lesotho 1993

At the country level, the Constitution of Lesotho empowers citizens to take part in the conduct of public affairs. The conduct of public affairs entails many things which in terms of this research is taken to include policy formulation. Section 20(1a) of the Constitution of Lesotho 1993 stipulates, "every citizen shall enjoy the right to take part in or participate in government affairs either directly or through their freely chosen representatives". Further on, Section 106(1) of the Constitution mandates the parliament to create local structures to allow urban and rural communities to determine their affairs and to advance themselves (Constitution of Lesotho 1993:53). This section of the Constitution acknowledges that citizens have a right to participate and that structures through which they can participate should be made available.

3.7.2 The Local Government Act No 41 of 1997

The Local Government Act, (LGA) of 1997 was enacted to facilitate the formation of local participation structures as ordered by section 106(1) of the Constitution of the Kingdom of Lesotho. The urban and community councils were first established in 2005 through the local government elections. According to the Programme for Implementation of Local Government (Government of Lesotho 2003:2) one of the objectives of local government in Lesotho is *"to promote people's participation in decision-making, planning and implementation of development programmes"*. The urban and community councils were therefore established to take governance and decision making to the people in local communities.

Section 28 of the Local Government Act of 1997 provides for the establishment of District Planning Units (DPUs) for each district. The composition of a district planning unit is provided for in section 29 of the act. It provides that *"a district planning unit shall consist of planning officers and such other public officers of any ministry, who are involved in execution their duties or carrying out any work within the administrative district in respect of their ministries"*. These officers continually interact with the communities in delivering the services of their different ministries and departments.

The District Planning Units as mandated by the Act are supposed to work with relevant stakeholders in the communities when designing the district development plans. These stakeholders include the community councils, non-governmental organisations, community based organisations and the citizens or members of the community as per the Local Government Act of Lesotho 1997. It is therefore expected that these units can encourage citizen or public involvement.

Furthermore, the Local Government Act 1997 under section 78 establishes District Development Coordinating Committees (DDCCs). These committees consist of a varied range of stakeholders. They are legal committees mandated with considering and approving district development plans from the DPUs. The structure of these committees is provided for in section 78(2). According to the section, these committees shall be composed of the:

- *Representatives of a rural or community council;*
- *Representatives of an urban council;*
- *Representatives nominated from the Non-Governmental Organizations operating in the district including community based organisations, nominees from the council of churches in the district.*

Section 81 of the Local Government Act of 1997 provides for the functions of these committees. These functions include:

- *To consider draft development plans for the district prepared by each council.*
- *To co-ordinate such plans into a composite district development plans and to approve such plans.*

In terms of the composition of these committees, public or citizen participation takes place because the non-governmental organisations and community-based organisations and the councils represent the citizens or the public. The presence of these non-governmental organisations ensures that the interests of the wider public are incorporated in the development plans.

3.7.3 The Programme for Implementation of Local Government 2003

The Programme for Implementation of Local Government specifies that government should take public participation seriously: *"people's participation in the decision-*

making and governance processes has the benefit of promoting accountable local governance in the development process. To advance people's involvement in the decision making, the public has to understand the decentralization system and what is expected of them as citizens. This demands awareness raising which can be attained partly through educating the people through the media and providing the pertinent documented information which they can understand" (Government of Lesotho 2003:15-16).

3.7.4 The Lesotho National Assembly Act No.61 of 2011

The Lesotho National Assembly Act, No.61 of 2011 under section 30 mandates participation of women, youth and disabled people. It orders that all political parties registered with the Independent Electoral Commission shall:

(a) *"Facilitate full participation of women, youth, and disabled people on the basis of equality";*
(b) *"Ensure free access by women, youth and disabled people to public political meetings, facilities, and venues";*
(c) *"Respect the rights of women, youth, and people with disabilities to communicate freely with political parties";*
(d) *"Generally, avoid forcing women, youth, and disabled people to participate or to refrain from participating in any political activity otherwise than in accordance their free choice".*

3.7.5 The Lesotho National Assembly Standing Orders

The Lesotho National Assembly Standing Orders also provide for public participation. Order no.76 commands facilitation of public participation by the National Assembly in its legislative and other processes.

Order 76(b) mandates the National Assembly to conduct public hearings as and when necessary.

Order 76(c) mandates the National Assembly to educate the public on their role in the parliament.

3.7.6 The Lesotho National Vision 2020

Public participation is further expressed in other official documents like the Lesotho National Vision 2020. Lesotho Vision 2020 is a policy document which supports the notion of public participation in governance affairs. According to the Lesotho Vision 2020 (2004:11) by the year 2020, Lesotho shall be a stable democracy with a well-established system of local government with full ownership and popular participation of all in decision making and local development (Government of Lesotho 2004:11). It commits to enabling and increasing participation by the ordinary citizens and the rural poor in the governance process. This will enable individual citizens and civil society in general to contribute to the development process.

3.8 CONCLUSION

The global community recognises public participation as a fundamental human right. There are several international agreements which aim to promote public participation. Lesotho is a signatory to several international, continental and regional legislation promoting public participation, hence it can be said the country recognises the importance of public participation. Domestic laws have been formulated to espouse the notion of citizen participation in governmental affairs. The most important one is the Local Government Act No.41 of 1997 which provides for the establishment of local government to promote citizen or public participation. The Local Government Act was enacted as per the Section 106(1) of the Constitution of Lesotho which sanctions parliament to create local structures which will permit local communities to determine their affairs and to advance themselves.

CHAPTER FOUR- FINDINGS AND ANALYSIS

4.1 INTRODUCTION

This chapter presents the findings and analysis of the study. The aim of this study is to analyse public participation in the formulation public policy with reference to the Lesotho National Decentralisation Policy.

The specific questions of the study are the following:

- What was the rationale to engage the public in the formulation of Lesotho National Decentralisation Policy?
- What were the mechanisms and processes used to engage the public in the formulation of Lesotho national decentralisation policy?
- What were the experiences of the public officials in engaging the public in the formulation of Lesotho national decentralisation policy?
- What were the experiences of the public in participating in the formulation of the Lesotho National Decentralisation Policy?

The study used a qualitative research approach whereby in-depth interviews were conducted with government officials from the Department of Decentralisation at the Ministry of Local government and the directors of three civil society organisations; TRC, DPE and LCN. Focus group discussions were held with the community councillors and the community members from Makhoarane and Mazenod community councils. The responses from the in-depth interviews with four government officials are coded as R1, R2, R3, R4. The directors of the three civil society organisations are coded as R5a, R5b and R5c. The focus group discussions with councillors and community members are coded FG1 and FG2 respectively.

The data was analysed using thematic content analysis. The themes that emerged from the responses interpreted and analysed and related to the conceptual framework in this study discussed in Chapter Two.

4.2 RATIONALE FOR PUBLIC PARTICIPATION IN POLICY FORMULATION

Irvin and Stansbury (2004:56) mention that public participation has become a vital part of public policy formulation and when properly done it can be very valuable to decision making. To understand the reasons behind the decision by Ministry of Local Government to involve the public in the formulation of the Lesotho National Decentralisation Policy, the following question was asked: *What were the main reasons for the ministry to engage or involve the public (stakeholders) to participate in the formulation of National Decentralisation Policy?* Another question which was asked of all the groups that participated in the study was: *What are the benefits of public participation in policy formulation?* Different themes emerged from the conceptions and experiences of the public officials' and the public's views on public participation in the formulation of the policy and are analysed below.

4.2.1 Democracy and Good Governance

The international development institutions like the World Bank and the United Nations highlight that espousing public participation advances good governance and sustains democracy (Abdellatif 2003:13, Cloete 1995:4). Good governance as explained by the International Development Association (IDA, 1998) is critical to human development; requires sound policies formulated through effective partnerships and organised inclusion of the poor, women, and other affected groups.

A government official noted that:

> *"Public participation is a principle of good governance, so whatever we do should embed public opinion, we should take into consideration the aspirations of our people",* (R1).

Democracy according to Diamond (1999:218) allows ways for the public to articulate their interests and preferences, through popular participation of the people as citizens in politics and to influence policy.

He further noted that:

> *"Public participation is an important aspect of democracy; it allows the people to identify and their needs and the remedial measures through which they can be addressed",* (R1)*.*

Public participation in policy formulation is important for survival of democracy because according to Diamond (1999:20) the people validate and legitimise the regime of governance if the government adopts proper policies which are responsive to their needs.

According to Buccus, Hemson, Hicks and Piper (2007: 6) the understanding about public participation is that it deepens democracy. The ECOSOC (2007:4) also points out that public participation in policy formulation deepens democracy because it promotes pro-poor policies.

A respondent from the civil society organisations remarked:

> *"Participation of the electorate in decision making enhances democracy because people can hold their leaders to account; corruption will come down and development becomes possible",* (R5b).

Participation of the electorate in government decision making processes including policy formulation mentioned by the respondent above enhances democracy because it permits transparency and accountability. Participatory democratic governments are accountable and counteract corruption which is a huge threat to good governance and consolidation of democracy (Van Vuuren 2013:26).

Democratic governments are accountable, transparent, responsive, efficient, and participatory (UNDP 1997:2).

(a) Accountability

Agere (2000:42) defines accountability as holding responsible the elected or appointed individuals and organisations with public duty to explain and justify their specific actions, activities, or decisions to the public from whom their authority arises.

A respondent from the civil society organisations said that:

> *"In Lesotho, public participation is taken as a key to democratic governance, development and accountability. When the public participates in formulation of*

policies, it means that those who are in power will commit to proper implementation and account to the people" (R5a).

He further noted that:

"Accountability improves human life because it promotes efficient use of public resources" (R5a)*.*

(b) Transparency

Abdellatif (2003:13) indicates that people's involvement in the decisions affecting them increases government's transparency as well as legitimising the decisions that the government finally takes.

A respondent from the public officials stated that:

"Public participation in policy formulation creates platform for trust, transparency which is a pillar of good governance, it helps government to be perceived as government of principle respecting people's rights" (R1).

A Respondent from the civil society organisation also indicated:

"When the government involves the people in issues of policy making, budgeting or development planning it means it has nothing to hide from the public and when the people know how their government operates it increases their trust in government institutions" (R5c).

One government official gave another reason:

"Nothing has to be done for the people without the people, the people should take part in issues affecting them, determine their own issues and how they can be addressed, it is their right" (R3).

Further on, respondents from the councillors' focus group discussions had a common view that it is important for the people to understand how governments run public affairs and it is through engaging them in taking decisions that they can understand. This refers to the principle of transparency.

They emphasised:

"It is important that government becomes open to the public and allow the people to participate in policy making because authority to govern stems from the public since they elect those who hold power, therefore they should listen to the people and know what the people want" (FG1).

Democracy also, according to Beetham and Boyle (1995:1) entails popular control over decision making and equality of rights in the exercise of that control. Several stakeholders were consulted and invited to participate in the formulation of the Lesotho National Decentralisation Policy. Relating to the notion of popular control over decision making, different methods were used to gather views from the public to inform the decisions on the policy content.

(c) Public Participation

The government of Lesotho espoused public participation as a principle of democracy by involving the public in the formulation of the Lesotho National Decentralisation Policy. *"We have formulated this policy through a highly participatory and consultative process. The policy statements and strategic actions contained in this policy therefore reflect the aspirations of Basotho, Government of Lesotho's priorities for decentralization and inputs from our development partners",* (Government of Lesotho 2014: viii).

One government official noted:

"When this policy was done, every Mosotho was involved, the ministry did not make it its own affair; the ministry went out to the public; community councils, non-governmental organisations, churches, youth in the villages to take part in its formulation" (R4).

A respondent from the civil society agreed:

"Ordinary people were consulted through public meetings, but government should have given us time to sensitise the people at the grassroots levels" (R5b).

Community members also confirmed:

"Yes, government officials came to us, were called to a public meeting, 'pitso' by our councillors and the people from Maseru were present. We talked of many things including issues of land allocation, management of grazing lands and developments that we would want in our areas" (FG2).

Beetham and Boyle (1995:2) mention that democracy entails the assurance of civil and political rights. Civil and political rights include participation of the people in taking decisions on matters that affect them.

A respondent from the civil society organization pointed out:

"Public participation is enshrined under section 20(1) of the Constitution of Lesotho, which means it is taken as key to democratic governance" (R5a).

This section reads, "Every citizen of Lesotho shall enjoy the right to take part in the conduct of public affairs, directly or through freely chosen representatives".

Democracy according to Southall (2010:10), requires that decision making should be taken away from the bureaucratic state and decentralised to lower levels of governance to enable individuals, communities, and groups to come up with laws and policies that are directly related to their needs.

One civil society participant asserted:

"Policies are meant for the people; so, they cannot be imposed on them, the people must understand them, and they will understand them if they are involved in shaping them", (R5b).

The involvement of various groups of people in the formulation of the Lesotho National Decentralisation Policy means that the people had a chance to voice their views for informing the policy. According to Pateman (1970:40) people are entitled to participate in policy making because policy affects them.

(d) Responsiveness

Public participation in policy formulation reflects democratic governance; it leads to efficient and responsive governments as mentioned by Abdellatif (2003:5) because policies formulated with the public incorporate the people's ambitions.

A public official made this statement:

"When people are involved in forming policies, it helps the government understand the people better, their needs even more better, to say this is how they think, this is what they perceive good governance to be, so the government get to know exactly the kind of populace it governs. Therefore, whatever programs it implements become responsive to the issues that need to be addressed" (R1).

Another public official asserted that:

"Involving the people in policy formulation helps government to find exactly what the people need, as a result we are able to grow as government, we get different ideas regarding planning, when we budget, we get ideas on focus areas and therefore spend effectively on things that are necessary for the people" (R3).

4.2.2 Empowerment, Ownership and Support

Democratic governments promote public participation to empower and build the capacity of their people to be politically efficacious. Empowering the public means educating and providing opportunities for people to partake and influence decisions affecting them because, according to Pateman (1970:32), public participation has an educative function which allows individuals to acquire needed abilities and skills enabling them to judge the actions of the legislatures to hold them accountable.

A respondent from civil society made this statement:

"Public participation is key to democratic and accountable governance because it generates knowledge, empowers people and once people are knowledgeable they can hold those in power accountable. People can advocate and demand their needs from their government thus improving government's responsiveness to their needs" (R5a).

Empowerment reinforces policy ownership and support according to Abdellatif (2003:13) because when people are empowered to participate and debate in policy decisions they gain a stronger sense of policy ownership and as a result, policies become more sustainable, and government is more legitimate to gain public support.

A respondent from the civil society organisation said:

"When citizens are empowered to participate they trust their government, legitimise its decisions, take ownership, and support implementation of its decisions" (R5c).

One public official mentioned that:

"The people in the communities were very assertive about the issues they want to see happening because they said local government has been there for almost ten years, but they were not seeing any developments in their areas" (R4).

Participation in policy formulation according to Brinkerhoff and Crosby (2002:58) also empowers the external groups to take ownership for policies. It was mentioned that citizens take ownership and support the implementation of government policies when they have been involved in taking such decisions.

A respondent from the government officials noted that:

"Successful implementation of policies depends on the involvement of the public in shaping them; ownership, the policy becomes public property", (R4).

All the respondents from civil society organisations indicated that the formulation of the Lesotho National Decentralisation Policy was better compared to other policies.

One of them remarked:

"This policy is better; we appreciate the little we had to contribute; at least we can be identified with it since some of its pronouncements and strategy actions are what we proposed, it is a good policy", (R5c).

Aragonès and Sánchez-Pagés (2009:1) mention that participation empowers the citizens; they do not become passive recipients of decisions made on their behalf and are able to hold their rulers accountable. The public participation is generally a means to allow people to have a say and make their voices heard in public affairs and governance.

One respondent from civil society made this assertion:

"It is highly important that the people participate in formulation of policies; laws and policies cannot be imposed on people. That is why we opposed the

promulgation of the Human Rights Commission Act because we feel that the views of the public should inform policies. Government wanted to pass that law, but we applied to court to withhold its endorsement because the people were not consulted; so, we want government to give audience to the public input first because that's the only way people can understand and support that Act", (R5a).

A public official also stated that:

"Policies and their programmes become successful and sustainable if the people have determined what they need, that is why the government wanted to formulate this policy with the people not for them, if government imposes things on the people; people do not accept them, they do not protect them because they do not need them", (R3)*.*

4.2.3 Policy Relevance and Responsiveness

The OECD (2001:1) mentions that public participation in policy formulation permits government to gain new information and policy-relevant ideas. Scholars indicate that policies that are formulated with public involvement tend to be relevant thus responsive to citizens' needs because the citizens themselves can articulate solutions that are pertinent to the problems they face.

According to Hartay (2015:5) public participation in policy formulation creates fair policies that are reflective of real needs. Irvin and Stansbury (2004:55) also mention that citizens' involvement tends to produce better policy decisions because policies formulated with citizen participation become realistically grounded in citizens' preferences.

One public official emphasised that:

"Policies that emanate from the public become relevant because the people know exactly what they need", (R2).

Further, the United Nations Economic and Social Council, (ECOSOC 2007:4) mentions that governments engage in public policy formulation dialogue with

stakeholders to incorporate information from a diversity of perspectives so that policies they adopt become well informed and relevant to the problems they must address.

Another public official mentioned:

> *"When we first had the idea to consult the populace on how decentralisation should be guided, we thought of stakeholders; that is who to consult for us to say whatever product we will come up with bears the inputs of varied concerned stakeholders, first we are talking of the people in the communities and then the civil society organisations because they play a pivotal role in the whole process since they work with these communities on daily basis, they know exactly what the concerns of the people are"* (R1).

He further argued that:

> *"Government cannot know exactly as per village or region what the needs of the people are, so through public participation local communities or citizens can articulate their needs and prioritise, therefore narrowing interventions to the exact needs of the people in those localities; so, involving the communities in the formulation of this policy was to let the people decide the kind of decentralisation they want"* (R1).

It is mentioned that the aim of the ministry was to come up with a well-informed policy which would be reflective of the views and aspirations of all Basotho.

> *"The government wanted to formulate this policy with the people not for them"* (R1).

The ECOSOC (2007:13) asserts that public participation leads to public policies which are better grounded in reality hence are more responsive. This suggests that the government made an appropriate decision by seeking the opinions of the stakeholders; the public when formulating the Lesotho National Decentralisation Policy because they are going to be affected by its implementation.

A respondent from the civil society organisations raised this view,

> *"Policies become relevant and responsive to public needs if they are informed by those who are affected; if policies emanate from civil servants, problems may be poorly analysed because their analysis may pick something that the*

community rates as third or fourth priority. Again, that naïve analysis is bound to produce generally weak and to a large degree irrelevant policy actions which will not be effective or direct to what needs to be done" (R5c)*.*

King, Feltey and Susel (1998:319) in their study on public participation quote one administrator, "we need input, we do not make good decisions without it, it is essential".

One public official acknowledged this statement:

"We as civil servants are trained and have professional experience, but this policy also needed the experiences of the ordinary Basotho because they know much more about issues affecting them in their communities than we do" (R1).

The people emphasised that they do not want the central government to decide on development projects they bring to their communities, they said they want to decide what they need with their local councillors.

"We understood that, it makes sense for local development planning to be bottom up because these people know what they need most, they will be able to prioritise to say they need may be water instead of electricity if it is their urgent need" (R1).

Another public official made this statement:

"Involving the public in the formulation of this policy made us realise most of the things we did not take cognisance of before" (R2).

The public stressed that they want full devolution of government services not the prevailing situation whereby the government ministries have only deconcentrated offices at district levels.

Brinkerhoff and Crosby (2002:55) mention that public participation in policy formulation guarantees more responsiveness to the policy problems resulting in a better fit between the needs and policy solutions and leading to the effective implementation of policy and better service delivery.

In this regard one respondent from civil society organisations remarked:

"Public participation in policy formulation gives policy makers vital information and correct baselines about what people need, policies become reflective of real needs of the people", (R5a).

4.3 MECHANISMS AND PROCESSES OF PUBLIC PARTICIPATION

Public participation in policy making according to Rowe and Frewer (2000:6), includes several processes and mechanisms intended for consulting, involving, and informing the public to empower those affected by a decision to partake in such a decision. Masango (2002:63) suggests that proper methods of participation should be used if participation is to be effective. Rowe and Frewer (2000:8), Bishop and Davis (2002:15) and Masango (2002:63) suggest the following different mechanisms which are considered to have a positive contribution to public participation: public meetings, public inquiries, citizens representation in policy making bodies, referenda, questionnaire surveys and consensus conferences.

In the formulation of the Lesotho Decentralisation Policy, the public participated through consultations by way of public meetings in the communities and formal meetings with the non-governmental organisations; civil society organisations, council of churches and community based organisations and workshops for community councillors. Focus group meetings were also used held with groups like the youth and the herd boys. The meetings with communities were organised through the chiefs working together with the community councillors in various places across the country.

4.3.1 Public Meetings with Community Members

Public meetings are the main means of communication with communities in Lesotho, especially in the remote areas.

A government official mentioned:

> *"Public meetings were mainly the mechanism used to gather the inputs from the communities, here the issue is tabled for the people to give their views concerning it".* (R4).

A respondent from the civil society organisations mentioned that they know that the government went out to the communities for public meetings on the issue.

He noted:

> *"Ordinary people were consulted through public meetings, but we do not think they were able to participate effectively because these were once off meetings; government should have given us time to disseminate information and talk to the communities about issues related to decentralisation first. The policy could have been richer"* (R5c).

In these fora the ordinary members of the communities had the chance to say what they would want to see happening as the government devolves governance functions to their local councils.

> *"Participation at the public gatherings was very effective because the people already had seen various challenges and failures of community councils, so they were eager to contribute because they were saying the things they were expecting from local government were not happening as they want them to happen, so most of policy statements embedded in the policy have been as per their influence"* (R1).

Community members indicated that they were happy that government came to them:

> *"We were very happy government came to us because there are a lot of things which do not satisfy us about the way community councillors work. It is like they do not know their job, so we hope things will change now that we gave government our views"* (FG2).

Nonetheless, the problem with public meetings is that they are simply a means of consultation; and public consultations according to Arnstein (1969:217) are not effective means of engaging the public or citizens in decision making. Consultation, according Arnstein (1969:217) is tokenistic, citizens can be heard but it does not assure them that the decision makers will heed their views. This means that it cannot be said with certainty that the views of the citizens gathered in this manner really influence the decisions that the policy makers ultimately take.

This can be confirmed from the statement made by one public official when responding to the question of how the public views were incorporated into the policy document;

> *"Once we wrote the policy document, we brought together all the information we gathered, looked at the opinions given, analysed them and selected those that we felt were pertinent or salient to inform the policy content"* (R1).

When powerholders confine the participation of citizens merely to this level, participation remains just a window-dressing practice (Arnstein 1969:219). Theron and Davids (2014:115) support Arnstein's view that consultations are tokenistic; officials are not necessarily obliged to consider the views of the public, thus basically meaning that the public does not have power to influence decision making.

Public participation according to Irvin and Stansbury (2004:56) has become a vital part of public policy formulation and when properly done it can become very valuable to decision making.

One respondent from the government officials acknowledged that they learnt a lot from engaging the ordinary citizens in the process of the formulation of the Lesotho National Decentralisation Policy.

> *"We were not aware of the full knowledge and depth of understanding of the concept of decentralisation that the ordinary Basotho have; we were not aware of the valuable inputs they could make to the whole process; we were surprised at some of the issues that they raised, we did not expect them to raise them; the contributions they made helped us understand the concept even better than we did before because some of the issues we had not taken cognizance of their importance"* (R1).

R1 referred to the issue of fiscal decentralization and how the people in the communities strongly maintained that government should allow the local councils to collect their own revenue and control their own budgets and not wait for money from central government because it delays and inhibits the local councils from delivering services that the communities expect from them.

However, the community members mentioned that their challenge was the fact that the public meetings were held once off hence there was no time for them to digest and understand some of the issues.

Most them shared this challenge:

"Some of the things we just agreed to without understanding them well", (FG2)*.*

This is a challenge according to Smith (2009:20), limiting the time for participation restricts citizens' capacity to engage, grasp and reflect on the new information and perspectives being shared with them.

They further shared another concern:

"Some of our views were opposed by the officials, so we were not convinced there will be considerable changes in local governance because some of our views were not well received" (FG2).

Van Brabant (2015:2) notes that one of the advantages of public participation is that it permits better understanding of prevailing problems and giving diverse ideas about how to address the problem.

A public official made this statement:

"This policy could have been compromised if the people were not consulted, the people were very assertive, and we realised that policies should not be decided around round tables but involve the citizens because they have vast knowledge of issues affecting them" (R3)*.*

Nonetheless there were challenges. Marzuki (2015:24) mentions that public participation in policy formulation consumes time and slows down decision making because the public needs to be informed, or even educated first so that they can participate effectively. The same challenge was identified in the formulation of the Lesotho National Decentralisation Policy.

A public official stated:

The level of understanding was an issue, it took considerable time at some areas to get the people to understand what the whole intention of calling them to public gatherings about the policy issue was all about", (R3).

Smith (2009:22) also acknowledges this challenge; citizens' lack of knowledge and education become an obstacle to effective participation because the people lack confidence to raise their issues. Moreover, it is also mentioned that it was not easy to

balance the public contributions since people had varied perceptions and views on different issues. The decision making was prolonged as deliberations were being made to try to reach consensus on such issues.

Another challenge was low attendance at the public meetings in some areas. This low attendance was attributed to the fact that Lesotho has a low economic status; people struggle to provide for themselves, so it is not easy for them to leave what they do for a living and attend a public meeting because it means one would forfeit an earning for that day. Low attendance was also linked to what Smith (2009:20) calls 'public cynicism'.

A government official made this statement regarding low attendance:

> *"It seemed that the people had also become cynic about participation because some mentioned that they did not believe their views will make any difference because they said there have been previous occasions that government invited them to public meetings, ''Lipitso'' to seek their views but they have not noticed any changes or improvements on issues they were engaged on"* (R1).

Smith (2009:20) asserts that the public or citizens become cynical about participation because they have no hope that their views will have any effect on the political decisions. As a result, even when given the opportunity to participate, the public becomes sceptical about the motives of being invited to participate and barely takes part. According to Smith (2009:20), this public cynicism is understandable because sometimes political elites manipulate participation by merely drawing the public into participation as a mechanism to give an appearance of public participation while their inputs are not considered.

4.3.2 Consultations with Civil Society Organisations

The consultations through formal meetings were further made with civil society organisations. Civil society organisations were invited to advise and provide input in the formulation of the Lesotho Decentralisation Policy.

One government official indicated that:

"Non-governmental organisations represent the people; they are important because they safeguard public interests and, they complement government, so it was important to involve them. Several meetings were held with them to share their views" (R4).

However, tokenism came to a higher level here, to what Arnstein (1969:217) calls placation. In this kind of participation, Arnstein (1969:217) mentions that the ground rules allow those without power to advise but the power to decide remains with the power holders.

This is evidenced in a statement made by one respondent from the civil society organisations:

"We were involved at a very late stage, to review the policy draft and some of our ideas were not taken because it was said that they would bring change to the whole content already developed" (R5b).

His colleague shared the similar view:

"We were invited late and restricted because the policy had already been developed, we felt that some issues could have been clarified, like the issue of setting standard about who can qualify to contest to be elected as a councillor. It is an issue for us because the calibre of councillors we have is not satisfactory" (R5a).

Arnstein (1969:216) points out that participation without sharing of power is an empty and unsatisfying process for the powerless. The directors of the civil society organisations consistently mentioned that their participation was not to their satisfaction; that they did not have as much influence as they would have wanted in the formulation of the Lesotho National Decentralisation Policy. Further on, they mentioned that they believe that the policy could have been richer if the government collaborated with them from its conceptualisation.

One of them maintained:

"Some parts of the draft of which we were invited to review were not satisfactorily articulated, for example, we felt that devolution component of decentralisation was not well defined, devolution is the cornerstone of

decentralisation, so we would have influenced the policy to be clear on how devolution is to be and to have the policy establish the qualifying standards for people who can compete to be elected as councillors but not all our contributions could be accommodated" (R5c)*.*

Civil society organisations belong to the policy actors whom Anderson (1997:70) classifies as unofficial actors hence having no legal position to make obligatory policy decisions regardless of how influential they may be. The civil society organisations participated in the formulation of Lesotho National Decentralisation Policy by reviewing the draft policy, but they mentioned that some of their opinions could not be accommodated*.* The government retained the power to decide what could be incorporated into the policy from the contributions they were making.

They all mentioned that they were not satisfied:

> *"We were not happy about the mode of involvement because it limited our chances to have real influence on the policy content, government must collaborate with us when formulating policies not consult us, especially not in the manner which they did"* (R5c)*.*

His colleague from another organisation argued in a similar way:

> *"Government must make us partners when formulating policies, not engage us through this tokenistic kind of consultations where they use us to somehow 'rubber stamp' their decisions"* (R5b).

Another respondent from the civil society organisation asserted that:

> "*Consultations are not a means for public participation because the people do not have the chance to demand; participation should allow people to demand, agree or disagree, unfortunately public participation is not yet seen as citizens' power, it is seen as charity, more of something that has to do with how the minister or public officials feel about the issue though it is supposed to be citizens' right"* (R5c).

There are institutionalised organisational habits and practices which pose great challenges to public participation, according to King, Feltey and Susel (1998:325). The common one is the tendency by government officials to approach citizens at the very

late stages of decision making; this jeopardises their chances to have any meaningful influence in decisions being taken, (King, Feltey and Susel 1998:325). This challenge has been identified from the notions made by the directors of civil society organisations on how they were invited to participate in the formulation of the Lesotho National Decentralisation Policy.

One respondent from the civil society organisations indicated:

"We were invited when there was already a lot of conceptualisation done, it seemed like government just invited us to avoid us criticising them because parameters were already set, and we were mostly discussing issues that were already there" (R5a).

This view was shared by his colleague from another civil society organisation:

"We were engaged at a very late stage, we were invited to review the draft policy, the policy had already been developed and this was a great challenge because coming in at that stage, some of our ideas were not taken noting that they would bring change to the whole content already developed. It was hard to crack that resistance" (R5b)*.*

King, Feltey and Susel (1998:320) mention that open and authentic participation is about making sure that the public is part of the deliberation process from issue framing to decision making.

A respondent from the civil society organisation made the same point that:

"Once the government contemplates formulating a policy they should engage stakeholders early because when they come late it is as though they are involving them just to give an appearance of participation" (R5b).

Diamond (1999:221) and Bratton (1994:9) point out that civil society does not solely exist to restrict or oppose state but also to supplement and complement government; improve and augment its democratic legitimacy and effectiveness.

One government official argued that:

"The civil society organisations were also engaged, but as government we were not comfortable because normally we see civil society organisations as always in opposition to government, digging for bad things and looking at the

government's weaker side. However, we learnt that if well collaborated with, civil society organisations can make very good partnerships; governments just need to share information with civil society organisations and make them understand how government works" (R1)*.*

Another public official commented that:

"Non-governmental organisations are different from ordinary Basotho, they have a background in terms of what is latest in development, they have experience which adds on the strength of policies. In terms of this policy, government benefited a lot from engaging the civil society organisations and other organisations that we interacted with" (R3).

4.3.3 Meetings and Workshops with Community Councillors

Government officials held meetings with community councillors to discuss issues related to the policy formulation to give them an opportunity to say what they think should guide local government.

A government official mentioned:

"We talked to councillors because they know the challenges they face as they interact with communities, some of them have been councillors since the inception of local government in 2005, they know a lot about things that communities want, so they informed the policy from their own experiences especially of the problems they face" (R1).

Community councillors were also engaged through workshop training to prepare them to engage with their communities regarding the policy formulation. They were expected to hold the public meetings in their local areas, seek people's views and submit the issues that the people raise to the ministry.

However, community councillors expressed that they encountered challenges in participating in the formulation of the Lesotho National Decentralisation Policy.

"It was very challenging to take part in the formulation of this policy and we were not fully satisfied with the way we were engaged because when the public

officials called us to meetings and workshops, not all of us were invited, only five or six people to represent the whole council" (FG1).

They mentioned that it was not easy for them to impart the information they got from the meetings to their colleagues and, they believe that lots of valuable inputs were lost from their colleagues who could not take part in the deliberations in those meetings. Further, it was difficult for them to engage with the public when they held public gatherings to get their opinions.

They affirmed:

> *"We were not well prepared and equipped to engage with our communities to talk about the formulation of this policy. The workshops which were meant for preparing us to engage with the public on the formulation of this policy were very short and not all of us took part; the people were also not sensitised and prepared for their participation in the formulation this policy; the people should have been educated before"* (FG1).

This assertion is similar to one made by the civil society organisations that there was no civic education given to the public concerning the formulation of this policy. The government just convened public meetings without sensitising the people first.

However, the councillors mentioned that the most important thing about decentralisation is that local councils must have authority and autonomy to make decisions. They mentioned that such is only possible if the councils have their own budgets.

One respondent mentioned that:

> *"Councils seem to fail to do their work because we do not have money. The central government controls the budget and we fail to deliver because sometimes the proposals we have for developments are rejected. It is difficult to do anything when there is no money"* (FG1).

Another one added:

> *"We are not even allowed to collect money from the natural resources that are available in our community councils. Again, even if we collect some little money*

from charging people who graze their animals on reserved grazing areas, we are bound to take such money to the district council" (FG1).

They emphasised that fiscal decentralisation is very important because without having their own budgets councils cannot deliver services, there will always be delays and or lack of service delivery. They further asserted failing to deliver services reflects bad on them as councillors because the people think they are not competent while there is not much they can do since the central government controls what they can and cannot do.

4.4 CONCLUSION

The government of Lesotho through the ministry of Local Government endeavoured to involve the public in the formulation of the Lesotho National Decentralisation Policy. It is gathered from themes that arose about why it was important to engage the public in the formulation of this policy that the respondents of this study understand and realise that public participation is invaluable for policy making. The respondents highlighted different aspects like accountability, transparency, responsiveness, and effectiveness as the significances of public participation. They attribute them to democracy and good governance. Empowerment, ownership, support, and policy relevance were other aspects emphasised. Public involvement in policy making empowers the people, makes them take ownership and support government decisions while also enhancing government responsiveness to public needs because policies formulated with the public tend to be relevant to the problems that need to be addressed.

Public officials have acknowledged that they have learnt a lot from the participation of the public in the formulation of this policy. This is a great advantage because it means their perceptions about public participation have changed especially about the civil society organisations. They mentioned they were sceptical about involving them since they believed that they always criticise government. They also admitted that the community members were not just passive at the public gatherings but made valuable inputs. One of them mentioned that the policy could have been greatly compromised

if the public was not invited to participate in its formulation. Apparently, government benefited significantly from involving the public in the formulation of the Lesotho National Decentralisation Policy. The public and community councillors raised issues like fiscal decentralisation because according to them the fact that councils still depend on central government for finances hinders them in delivering as expected.

However, the way in which the stakeholders were engaged to participate in the formulation of this policy did not give them enough influence over the policy content. This claim is drawn from the insistent statements by the civil society organisations that they were not satisfied with the way they were involved. This according to them was a serious problem which they felt government should address and give them genuine opportunities to participate.

Challenges were experienced, one of which the government will need to address to improve the quality of contributions the public especially the ordinary citizens, will bring when invited to participate. Low level of understanding from community members as mentioned by the public officials had an impact on the deliberation of issues. Lack of knowledge and understanding have been identified by Marzuki (2015:30) as a serious impediment to meaningful participation by the ordinary citizens. This necessitates that government develops civic education programs to educate the people on issues of governance.

The respondents also commented on the issue of public participation in the Decentralisation Policy. With regards to meeting the objectives of public participation in the Decentralisation Policy; the local councillors stated that they do not have financial capacity to deliver services at local level. They argued that this undermined one of the objectives of the Policy which is to enhance the autonomy of local government. The members of the community also stated that local government is of no use because they are not receiving the services they are supposed to receive from local community councils. However, they expressed satisfaction about being consulted by government in the formulation of the Decentralisation Policy. As increased participation of citizens and non-state organisations in governance is one of the Policy objectives.

CHAPTER FIVE- CONCLUSION

This study analysed public participation in the formulation of public policy with the case study of the Lesotho National Decentralisation Policy. The researcher wanted to investigate the reasons why the government of Lesotho involved the public in the formulation of the Lesotho National Decentralisation Policy. From this the researcher expected to establish government's view of public participation. The study also wanted to find out how the public conceive of public participation.

Different comprehensions about public participation have been articulated, with different scholars emphasising and reiterating the various merits of public participation in policy formulation. Public participation in policy formulation enhances democracy, fosters good governance; accountability, transparency, responsiveness. It has been gathered in this study that increased public participation is essential for consolidation and deepening of democracy. It has been indicated that the government wanted to formulate this policy with the people, not for them because democracy is about letting the people have a say in how they are governed.

Participatory democracy which takes citizens' right to participate beyond periodic elections; to critical activities of governance like policy making, empowers the citizenry to take interest in the political affairs of their countries. This further augments the legitimacy of government. Various participants in this study have alluded that when the people participate in the formulation of policies, they tend to trust their governments; they own and support the policy decisions that their government take because they had a say in shaping them. Public participation in policy formulation has further been acclaimed for producing policies that are well informed, relevant, and reflecting the real needs of the people.

Public consultations were made with various groups of the society including the community members, youth, shepherds, community based organisations, council of churches and the civil society organisations. At the meetings held with these groups they voiced their views on what they wanted the policy to encompass. However, it has been established that challenges were encountered during this process. Low levels of understanding amongst other groups that were consulted, insufficient time especially for the ordinary citizens to comprehend the issues that were being discussed with them, low attendance at public meetings in some areas. To address this issue of lack

of understanding; the government should institutionalise civic education, educate the ordinary citizens especially those who lack education to understand how government runs its affairs; because it is only when people are aware and understand governance issues that they can take an interest in participation and as well make meaningful inputs when invited to participate. The importance and benefits of public participation must be emphasised, and people urged to take participation as their duty and responsibility to foster democratic governance. Diamond (1999:242) has noted that citizens' passiveness poses a danger to democracy because those in power cannot be held accountable.

The government must also value the public's inputs and make sure they reflect in policy decisions and implementation. That will reduce public cynicism which was also identified as a problem, that people lack interest in participating because more often government decisions deviate from what the people contributed to inform decisions.

Dissatisfaction about the way in which the public was engaged was evident from the insistent reiterations by the civil society organisations that they were invited late and that the government did not give them chance to sensitise the community members about the formulation of this policy so that the people could bring meaningful contributions. The civil society organisations maintained that the consultations did not allow them to have substantial influence over the policy content; they want government to collaborate with them, make them partners not consult them. According to Arnstein (1969:216) participation is citizens' power hence should happen through the means that give the citizens power to influence decisions.

Civil society organisations possess extensive experience in policy formulation issues, therefore their participation in policy processes must be authentic. Only being invited to review the policy draft and having some of the issues they raised rejected was unacceptable to the civil society organisations. For them it appears government invited them just to placate them. They want genuine participation chances; and that is understandable because it is within the mandate of their existence that they actively engage in policy dialogues to represent and safeguard public interests. Arnstein (1969:216) asserts that participating in a way that does not give power to influence final decisions is a frustrating and unfulfilling exercise.

Government must open participation opportunities and not make civil society have organisations fight for participation. In his study on Lesotho Political Participation and Democracy, Kapa (2013:4) mentioned that even after over twenty years of plural politics, civil society in Lesotho still fights for participation in formulation of public policies. This has been confirmed by the civil society organisations which participated in this study. In their interviews the respondents from civil society organisations pointed to two examples whereby government recently failed to invite them and the public at large to get their opinions on two pieces of legislation. The civil society had to block their enactment through litigation. This shows that the issue of public participation is still not yet fully entrenched in Lesotho.

Despite the challenges, participants had positive impressions about the public participation in the formulation of the Lesotho National Decentralisation Policy. Among other things the community members mentioned they were impressed that the government sought their inputs on the formulation of the policy and for them it was a good decision because they had already seen a lot of shortcomings in the way community councils were carrying out their functions. As they mentioned, it seemed like there was no consistency in the way councils delivered services, but they believe that things will change because they had the chance to tell government how they want things to be done. Government officials have acknowledged the positive impact that public involvement brought to the content of the policy; making them realise that quality or good policies cannot emanate from discussions in the boardrooms but from engaging and understanding issues from the view of the people who are affected by the policy issue.

The civil society organisations also made positive comments despite their insistence that they were not fully satisfied. They acknowledged that the policy is good. One of them is quoted, "the policy is very rich in articulating issues especially what will be the role of the people in the formulation of development plans of councils and the powers and responsibilities of councils". He further indicates, "this policy will only be compromised by government's lack of commitment to implement it, otherwise it is very good".

The government tried to include the public in the formulation of the Lesotho National Decentralisation Policy; an act which is appreciated by the wider society because it is

not common for government to consult the people on such major government activities. However, as it has been indicated in some parts of the study a lot more still has to be done to embed public participation in Lesotho. Public participation is a principle of democracy and good governance and it is recognised by the country's supreme law; the Constitution, which means it is a right for people to participate and shape policies because they affect them.

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APPENDICES

Appendix 1:   Interview Guide for Ministry of Local Government and Chieftainship

1. Why was the National Decentralisation Policy formulated/ introduced?
2. How was it formulated?
3. Who did the ministry include to participate in formulation of National Decentralisation policy?
4. What were the main reasons for the ministry to engage/involve the public (stakeholders) to participate in the formulation of National Decentralisation Policy?/ What is the importance of the participation of public (stakeholders) in policy process?
5. Which mechanisms and processes did the ministry use to involve/engage the public in the formulation of National Decentralisation Policy?
6. How were the public views incorporated into the final policy paper?
7. How did you assure the public that their views had been included in the policy?
8. What were the issues (challenges/ problems) that confronted the ministry in engaging the public in the process of the policy formulation?
9. How were the problems addressed, if any were encountered?
10. What were experiences regarding public participation in the formulation of National decentralisation policy?
11. What are the benefits can you attribute to involving the public (stakeholders) to participate in policy making?
12. What limitations can you attribute to public participation in policy making?
13. What is your general perception about public participation in policy making within the ministry?

Appendix 2   Interview Guide for Civil Society organisations

1. Which public issues is your organisation working on?

2. What are your views on democracy in Lesotho?

3. Public participation is receiving a lot of attention in democracy discourse, what are your views on public participation in Lesotho?

4. What are the views of your organisation on public participation in governance issues especially in the formulation of policies?

5. The government adopted National decentralisation policy in 2014, was your organisation involved to participate in the formulation of the National Decentralisation Policy? How?

6. How much influence did your organisation have on informing the policy content?

7. What are your views about the way the government engaged your organisation in the formulation of this policy? What were the challenges?

8. Were the views of your organisation incorporated into the policy? How?

9. What are the general views/impressions of your organisation about this policy, especially the way in which your organisation was engaged to participate?

10. Which other ways do you think government could have used to include the public in making this policy?

11. What benefits can you attribute to public participation in policy making?

12. What limitations can you attribute to public participation in policy making?

Appendix 3   Focus Group Discussion Guide for Community Councillors

1. What is your understanding of public participation?
2. What is your conception of public participation in policy making?
3. The government recently formulated National decentralisation policy, how did the government involve you (councillors) in the making of this policy?
4. What were your roles as councillors in the formulation of this policy?
5. Which mechanisms and processes did the government use to engage the public?
6. What were your experiences in taking part in the formulation of the National decentralisation policy?
7. What were the challenges you encountered? Critiques, benefits?
8. Are other ways which could have been used to include the public in making this policy?

Appendix 4   Focus Group Discussion Guide for Community Members

1. What is your understanding about decentralisation?
2. The government adopted National decentralisation policy in 2014, how did the government involve you as the public in the formulation of this policy?
3. What were the issues that the government sought your views on?
4. Which mechanisms and processes did the government use to make you give your views?
5. What are your views about the way government engaged the public in the making of this policy?
6. What were your experiences in taking part in the process of informing this policy?
7. Are there other ways in which government could have used to include the public in making this policy?
8. What importance can you attribute to your participation in policy formulation?
9. What challenges did you find in participating in the formulation of the National decentralisation policy?
10. Were your views incorporated in the final policy paper?