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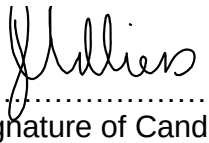
An exploration of possibilities for information and communications technologies in pursuit of enhanced public participation in lawmaking post Covid-19

By Ina Cilliers

A research report submitted to the Wits School of Governance, University of the Witwatersrand, in partial fulfilment of the requirements for the degree of Master of Management: Governance

Declaration

I declare that this research report is my own unaided work. It is being submitted for the Degree of Master of Management: Governance to the University of the Witwatersrand, Johannesburg. It has not been submitted before for any degree or examination to any other University.



……
(Signature of Candidate)

On this 11th day of January 2022

Plagiarism declaration

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Abstract

The purpose of this project was to explore the nature and impact of public participation practice in the legislative processes of the Gauteng Provincial Legislature (GPL) during and after the Covid -19 pandemic. The disruption to social interaction brought about by the Covid-19 pandemic had an impact on the design, implementation, and evaluation of public participation (PP) in the province. The scope and extent of this disruption was uncertain, yet rapidly evolving and scaling globally. For the GPL to fulfil its constitutional mandate and its commitments citizens, new opportunities for PP had to be explored and threats to PP had to be ameliorated in the context of a “new normal”.

The research question is: “How can the information and communications technology revolution be leveraged to enhance public participation in legislative processes.”

The study examined historic practice of the institution as well as virtual public hearings and portfolio committee business conducted during the Covid-19 pandemic in 2020 and 2021.The sample population for this study was public participation specialists and participants in the legislative sphere in Gauteng Province, South Africa. A purposive sample was drawn from the GPL community, specifically PP Unit staff, researchers and committee support staff. Focus group discussions were conducted with 18 participants. The public participation events observed included 3 public hearings, 3 sector parliaments, 2 round table events and 1 legislative workshop. The document analysis focused on reports that was tabled for the legislation under scrutiny in the relevant portfolio committees.

The study identified threats and opportunities for PP, spaces of disruption and contestation that would require new areas of practice and new skills to be learnt by PP practitioners. The institutions’ journey from traditional PP practice to fully virtual and the resultant pivot to digital innovation was explored. Recommendations were structured around the design, implementation and evaluation of PP in the post-pandemic future. The paradigms of digital marketing and traditional PP practice was assimilated to suggest new ways of conducting the PP mandate that advance deliberation, inclusivity, and quality of lawmaking

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Acronyms

AI	Artificial Intelligence
BDA	Big Data Analysis
CAI	Content Authenticity Initiative
CCF	Confidential Consortium Framework
COGTA	Cooperative Governance and Traditional Affairs
CORD19	Covid 19 Open Research Dataset
CSSL	Committee for the Scrutiny of Subordinate Legislation
CX	Customer experience
DLT	Distributed Ledger Technology
DM	Digital Marketing
GAN	Generative Adversarial Network
GDEARD	Gauteng Department of Economic Development, Agriculture and Rural Development
GPG	Gauteng Provincial Government
GPL	Gauteng Provincial Legislature
ICT	Information and Communications Technology
MEC	Member of the Executive Council
ML	Machine Learning
MPL	Member of the Provincial Legislature
NCOP	National Council of Provinces
NEMA	National Environmental Management Act
NFA	National Forests Act
PAIA	Promotion of Access to Information Act
PAJA	Promotion of Administrative Justice Act
PEPUDA	Promotion of Equality and Prevention of Unfair Discrimination Act
POPIA	Protection of Personal Information Act
PP	Public Participation
SCM	Supply Chain Management
SCOPA	Standing Committee on Public Accounts
SOM	Sector Oversight Model
TED	Township Economic Development
ULTRA	Upgrade of Land Tenure Act
URL	Universal Resource Locator
UX	User Experience
WHO	World Health Organisation

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Chapter 1: Introduction

1.1 Introduction

The Coronavirus Pandemic broke out in Wuhan City, China in December 2019. At the time, the event of the outbreak appeared to be far away from South Africa and on the periphery of the daily struggles of poverty, high levels of unemployment and economic decline the country was facing. However, as the virus spread rapidly across the globe, humanity would look back on that day as the defining moment that would alter the very fabric of society. The World Health Organization's strategic response to the outbreak was to interrupt transmission, isolate and care for the infected whilst addressing the unknown clinical presentations of the disease and simultaneously minimize the social and economic impact of the pandemic (World Health Organisation, 2020).

Acting upon the guidelines laid down by the WHO, governments across the globe imposed economic and social restrictions on the movement of their citizens. These restrictions would expose the paradoxical nature of the task at hand: balancing the need to preserve life with the need to preserve livelihoods. The pandemic would also be the first in human history to be militated against by the use of information and communications technology (Eze, Agwah, Aririguzoh, Ugoh, & Inaibo, 2020). Indeed, as countries around the world continued to experience successive waves and new variants of Corona virus infections, the Covid 19 pandemic may be described as millenarian.

On the 5th of March 2020 the first suspected Coronavirus case in South Africa tested positive. The patient was a 35 year old man from Gauteng province who had recently returned from a trip to Italy with his wife (First case of Cornonavirus Covid-19 reported in South Africa, 2020). Three weeks later, on the 26th of March, the South African government declared a State of Disaster and the country entered a "hard lockdown". The initial 3-week disaster declaration was made in order to prepare the health sector for a potential influx of patients. At the time of finalizing this report in 2021, the state of disaster was still in force although some restrictions to economic activity had been lifted. South Africa was experiencing high infection rates in what was popularly termed "the fourth wave" and vaccination drives had commenced.

From a phenomenological perspective the Coronavirus Pandemic had a global effect on every aspect of humanity. The social and economic effects of lockdown restrictions modified the way society communicated in general.This modification, disrupted and amplified by technological innovation, was of interest to this study. In particular, this study examined how citizens engaged and participated in law-making processes with legislatures during the first 18 months after the State of Disaster declaration in South Africa.Thefocus of this report is on institutionalized public participation (PP) in Gauteng Province.

More than 50% of the population of South Africa reside in three provinces namely, Gauteng, the Western Cape and Kwazulu Natal. Although Gauteng is a small province comprising only 1.5% of the land area of the country, 26% of the population, or 15.6 million people reside in the province (Ansara, 2021). In considering the ability of the Gauteng population to participate meaningfully in e-participation it is worth observing that 6.1 million residents are economically active, and 4.5 million are in formal employment. As of 2019, a scant 1.3% of residents above the age of 20 have no education and 97.9% of the same cohort are functionally literate (Ansara, 2021).

Considering the changes in the mediums of PP delivery during the lockdown period, the Centre for Risk Analysis noted in its macro review that only 1.2% of households have no access to a mobile device in South Africa (Ansara, 2021). The high rate of mobile device penetration is echoed by Jones et al. By 2011, internet penetration was at 13% of the South African population while mobile penetration was at 100% (Jones, Malczyk, & Beneke, 2018). The implication for legislatures attempting e-participation is that interventions would have to be designed with the mobile web in mind as most public participants would access PP from a mobile device such as a tablet or smartphone.

In South Africa, the National Assembly is tasked with national legislation whilst the provinces have their own lawmaking mandates as conferred by the Constitution of the Republic of South Africa. The Gauteng Provincial Legislature is one of the nine provincial legislatures in South Africa tasked with processing legislation and exercising oversight over the Gauteng Provincial Government on behalf of the people of Gauteng Province. An important part of the role of its members is to facilitate public participation so that Gauteng residents are involved and have a say in the way they are governed.

The researcher is a sitting member of the Legislature and have been able to observe how Gauteng residents interact with the legislature on various platforms. These included “Bua Le Sechaba” public meetings, public hearing on Bills before the House, sector parliaments, oversight visits and focused intervention studies which were all conducted in traditional physical meeting formats before Covid-19. The frustration and desperation of public participants was prominent in their inputs and there appeared to be an invisible barrier between the people and the institution that represented them. Of concern was that public participation was not a reciprocal process. The GPL as an institution appeared to be overlooking opportunities to actively listen to participants and take on board their inputs when making policy, or amending legislation or making recommendations to the House. A study conducted by GPL Researchers during the level 4 lockdown in April 2020 gauged that around 50% of respondents felt the GPL improved the lives of residents whilst awareness of the work of the legislature hovered just above the 70% mark. Only 3% of respondents were unaware that the legislature is tasked with public participation (GPL Research Unit, 2020)

Nobody could have predicted the disruption that the pandemic would have not only on lives and livelihoods but on whole industries and sectors (Talkwalker for Hubspot, 2021), including the legislative sector. During the first months of the lockdown legislative work in Gauteng came to a standstill as constituency priorities changed and the pandemic took center stage. MPLs thus turned to their own constituencies as Gauteng residents contested for food parcels, social grants and other basic resources and lawmakers became exercised with the writing of disaster regulations. The nature of the oversight function shifted away from normative practice and focused initially on the disaster relief process and the administration of government relief efforts and later, vaccination drives.

The research undertaken here attempted to examine developments and innovation in the information and communications technology (ICT) field that was accelerated by the pandemic to become part of a “new normal” way of life. According to James Bidwell, co-founder of Springwise and Re-set, the acceleration in adoption of new digital technology showed no signs of slowing down. In fact he stated that “This year we have moved forward ten years in 9 months and that is not slowing down anytime soon” (Springwise editorial team, 2020). Before Covid-19, scholars from various philosophical disciplines predicted that the millenarian event of the “Technological

Singularity" (a state of fusion between man and technology where human frailty would be overcome) would become possible between 2030 and 2050 (Alves, 2012). Alves and Bidwell, although approaching the disruption paradigm from different vantage points, appear to agree on the spectrum of possibilities occasioned by the timing of the pandemic.

This study undertook a critical review to elucidate upon both the positive and negative developments that took place with an emphasis on disruption and within the context of mankind's historic utopian desire to achieve better forms of existence (Alves, 2012)

To achieve successful public participation (PP) it was necessary to explore how legislative processes may evolve into the future and specifically how public participation in lawmaking may be enhanced by leveraging the ICT-related disruption brought about and accelerated by the Covid-19 Pandemic. The study was initiated by visiting some theoretical concepts about PP and its positionality within governance regimes globally. However, more emphasis is placed on liberal democracies due to the locality of the research in Gauteng, South Africa.

Many scholars have reflected over the years that democracy is more than the periodic expression of the will of citizens through the ballot box. In order for a government to have legitimacy and the trust of its citizens, efforts must be made to give effect to meaningful public participation (Curato, Sass, Ercan, & Niemeyer, 2020). In general terms, for public participation to be meaningful, it should expand democracy, improve citizens' experiences of governance and lead to citizen empowerment. Effective deliberation must lead to policy reform that improves service delivery (Cornwall & Colhoe, 2007). The International Association for Public Participation lays out a spectrum of public participation that commences with information sharing and then advances in linear fashion to consultation, involvement and collaboration with citizens. The final step in the spectrum is to empower citizens by placing the final decision in their hands (IAP, 2018).

In this context, "meaningful" is also commensurate with the concepts of participatory and deliberative democracy. While both types of democracy have a long history, participatory democracy is aimed at involving the greatest possible number and range of public participants. Deliberative democracy is exercised with the quality of the discourse amongst smaller groups of specifically selected experts and opinion

influencers (Carson & Elstub, 2019).The outcomes of public participation as described above have implications for the design and evaluation of public participation processes and by extension impacts the decisions of PP practitioners along the design journey (Bryson, Quick, Schively Slotterback, & Crosby, 2012).

The Gauteng Provincial Legislature (GPL) derives its legislative and public participation mandates from the Constitution of the Republic of South Africa (Williams, 2006). Section 114 of the Constitution empowers a provincial legislature to consider, pass, reject or amend any Bill before it, initiate and prepare legislation, and to consider money Bills tabled by the member of the executive council (MEC) responsible for the finance portfolio. Section 118 is explicit in its instruction to include the public in all its processes and to conduct its business in an open and transparent manner. Subsection 118(2) directs that the public may not be excluded unless it is reasonable and justifiable to do so in an open democratic society (GPL Research Unit, 2020).

The process of lawmaking in South Africa therefore follows a set of progressive steps. The first of these are informal introduction that entails a certified copy of a bill to be delivered to the portfolio committee that will be processing the draft legislation. This is then followed by formal introduction whereupon the bill is officially introduced and published to the Order Paper of the GPL. Thereafter the committee processes commence. A portfolio committee would agree on a time-action plan with deadlines in the first instance to set the agenda for the process. Thereafter actions include consideration of the constitutionality of a bill and its regulatory and socio-economic impacts, public participation to receive submissions.The process concludes with the drafting of negotiating mandates and final mandates. When provincial legislatures consider national legislation that have an impact on provinces (also referred to as section 76 legislation) mandates are prepared and conferred in accordance with the provisions of the Mandating Procedures of Provinces Act 52 of 2008. This is enacted to ensure that the 9 provinces follow a uniform procedure and standard reporting format for the avoidance of doubt in the National Council of Provinces.

To give further effect to this mandate the legislature addresses the parameters of participation in Chapter 5 of its Standing Rules. These provide that any member of the public in a personal capacity or as a representative of an institution or organization including the media, may attend any and all sittings and meetings of the legislature

and may make oral and written representations on any matter under the purview of the legislature to any of its committees (Gauteng Provincial Legislature, 2018). To facilitate participation for those citizens unable to attend sittings at the legislature, the rules provide for any venue in the province to be used for legislature business to enable “taking parliament to the people”. In the event that a citizen lacks the capacity to make a representation, the rules empower the Secretary to the Legislature to provide assistance that give effect to public participation (Gauteng Provincial Legislature, 2018). Chapter 11 of the Standing Rules prescribes lawmaking. New bills may be introduced to the House by a Member of the Executive Council (MEC), by a portfolio committee, or by any member of the Legislature (known as an Ordinary Members’ Bill). Bills that appropriate money may only be introduced by the MEC for Finance (Gauteng Provincial Legislature, 2018). Thereafter the Rules require that when a Bill is introduced it must be accompanied by an explanatory memorandum that must be written in “simple, clear and non-technical” language. This memorandum sets out the original “mischief” the bill is trying to redress (Malherbe & Meyer, 2018), the policy position that informed the bill, the impacts of the Bill on society, the environment, the fiscus of the province and possible impacts for Gauteng municipalities. The memorandum must also include a section on the public participation processes followed prior to introduction and during the development of the bill.These typicallyinclude comments received from public stakeholders and the evaluation of those comments (Gauteng Provincial Legislature, 2018).

The GPL deviates from normative practice in comparison to other legislatures in South Africa in one salient respect. Its standing rules make provision for a special portfolio committee that deals only with sub-ordinate legislation. The Committee for the Scrutiny of Sub-ordinate Legislation (CSSL) have powers to veto any regulations made by the Executive that are deemed contrary to the spirit and intent of the Constitution (Gauteng Provincial Legislature, 2018). Enabling statutes that give effect to the Bill of Rights as enshrined in the Constitution are ventilated upon in the literature review chapter of this report. The purpose of such elucidation is to facilitate an understanding of the legislative environment in South Africa and the human rights forward approach to law making that was heralded by the 1996 Constitution.

The GPL Standing Rules are operationalized through portfolio committee budgets that appropriate funds for committee business including administrative services, transport and catering, translation services, travel, and accommodation.

On a practical level, the Legislature engages citizens when making laws, in holding the executive to account and in conducting oversight. Before the lockdown period these engagements mostly took the form of public hearings, announced and unannounced oversight visits to identified problem areas or vulnerable communities where citizens were engaged directly. Written submissions and petitions were received and referred to appropriate portfolio committees, and stakeholders and organized civil society frequently approached committees to make representations on matters that affected them.

Since the declaration of the Covid-19 pandemic all these processes have been disrupted. Parliaments across the globe temporarily suspended or cancelled their activities (Upton, 2020). In South Africa, a national state of Disaster was declared on the 15th of March 2020 invoking the provisions of the Disaster Management Act. Members of Parliament (MP) and Members of Provincial Legislatures (MPL) were declared essential services in order to continue their work in keeping the executive accountable to citizens (Runji, 2020). The Premier of Gauteng instituted a provincial Coronavirus Command Council which initially included consultations and briefings with all the political parties represented in the GPL.

On the 15th of April 2020 the Gauteng Legislature officially adopted new rules for conducting business online to launch a “Digital Legislature” (Gauteng Provincial Legislature, 2020). Whilst regular committee engagements and sittings of the House commenced immediately, including the tabling of the adjustment budget, oversight functions and public participation in lawmaking were initially slow to recommence. During the latter half of 2020 there were several Bills on the Order Paper that required processing. These included amendments to the National Environmental Management Act (NEMA), the National Forest Act (NFA) and the Upgrading of Land Tenure Rights Act (ULTRA). A new provincial bill, The Township Economic Development Bill was also tabled as well as a money bill to appropriate funds for the re-imbursement of families affected by the Life Esidimeni tragedy that shook the Department of Health in

2016. All the abovementioned legislation was referred to the Portfolio Committee for Economic Development, Agriculture, Rural Development and the Environment (GDEARD) except for the money bill which was referred to the Standing Committee on Public Accounts (SCOPA).

As the Gauteng Provincial Government's (GPG) response to the pandemic unfolded, allegations of corruption in the procurement of personal protective equipment and other instances of executive overreach emerged. The corruption allegations were linked to a relaxation of Treasury regulations relating to emergency procurement. The Disaster Management Act makes no provisions for parliamentary oversight over the executive during a state of disaster, therefore no oversight or public participation was conducted over emergency procurement (Runji, 2020). This lack of parliamentary superintendence presents a risk to citizens. When executive decisions are taken that curb civil liberties and appropriate public funds without the possibility of oversight, the opportunities to facilitate irregular, fruitless and wasteful expenditure escalates. In order for the legislature to counter-balance the power of the executive and be a credible and relevant representative to Gauteng citizens, the legislature will have to adapt its public participation practices (Ndlovu, 2020).

Digitization had already begun to change the way society interacted at work, in social settings and in commercial transactions prior to the Pandemic (Alwani & Urban, 2019). It is reasonable to expect that legislative processes will need to evolve and adapt accordingly.

The generic spectrum of arguments advocating for lawmakers engaging in public participation have remained the same. Best practice benchmarks include markers such as to ensure fairness and inclusion, to solicit opinions from stakeholders, to ensure governance legitimacy and to facilitate an educated and informed polity (Quick & Bryson, 2016). At the other end of the spectrum PP is employed to create an illusion of agreement or, as a means to nefarious ends or to disrupt and distort legitimate processes. However, the "new normal" of virtual gathering and working as the world emerges from the pandemic presents both constraints and opportunities for the design, implementation and evaluation of public participation that requires further exploration.

1.2 Problem Statement

Public participation in legislative processes has traditionally been hampered by the demands of daily life (King, Feltey, & O'Neill Susel, 1998). The physical and financial ability to travel to and attend a public hearing during working hours often acted as a first barrier to participation by affected citizens. The GPL commissioned several research projects over the last decade to assess how effective the institution was in engaging Gauteng residents. One particular study conducted in 2017 found that both professional staff as well as MPL's over-estimated the success of PP outreach efforts (Brugge, 2017). Survey respondents further lamented that their inputs were not taken into account when house recommendations were formulated at the committee stage, that their concerns and recommendations were largely ignored and that the institution rarely provided any resultative feedback to the public after the conclusion of a PP process (Brugge, 2017). These findings were consistent with the researchers own personal anecdotal experience.

Accordingly, in August 2020 the GPL's own research unit recommended that PP in the institution required extensive reengineering. Researchers recommended that several aspects be reviewed including the time allocated to public engagements, the platforms used, the quality and adequacy of information provided and the languages used in communication (GPL Research Unit, 2020).

The outbreak of the Covid-19 pandemic, coupled with the technological advances of the fourth industrial revolution, significantly impacted the way in which individuals interacted with one another in contemporary society (Fisher, Languialaire, Lawthorn, Niewenhyus, & Runswick-Cole, 2020, vol 3). Social distancing and lockdown regulations altered the status quo of public participation through public hearings and all other forms of social gathering to solicit input from citizens. Disaster regulations prohibited public gatherings and rendered traditional committee processes impossible to implement.

As the global population adjusted to working from home and using electronic communications media to replace physical events, the demand for increased functionality, convenience and connectivity increased commensurately (Runji, 2020). This accelerated the rate of innovation and added another dimension to the problem

statement. This research was conducted between March and August 2021 and the increased rate of adoption and response to ICT was observable during the research phase as the GPL pivoted towards new approaches to PP.

1.3 Research Purpose

Public participation is a feature of good governance. The purpose of this qualitative study is to explore the nature and impact of public participation in the legislative processes of the Gauteng Provincial Legislature during and after the Covid -19 pandemic. The disruption to social interaction brought about by the Covid-19 Pandemic will impact the design, implementation, and evaluation of public participation (PP) in the province in the future. The scope and extent of this disruption is uncertain and rapidly evolving on a global scale. In order for the GPL to fulfil its constitutional mandate and its commitments to the people of Gauteng, new opportunities for PP must be explored and threats to PP must be ameliorated in the context of a “new normal”.

1.4 Research Question

How can the information and communications technology revolution be leveraged to enhance public participation in legislative processes?

1.5 Scope and limitations

This study was conducted during a legally mandated lockdown. In order to fulfill the requirements of this degree and keep the scope of the report manageable, certain limitations were introduced to ensure that participants and the researcher would be enabled to interact safely and in a manner commensurate with lockdown regulations. The study is therefore limited to Gauteng Province and the GPL. PP in Gauteng municipal processes are not included. The study further limits itself to PP in lawmaking and specifically those Bills that were dealt with by three committees, namely Economic development, Agriculture, Environment and Rural Development (GDEARD), Cooperative Governance and Traditional Affairs (COGTA) and the Standing

Committee for Public Accounts (SCOPA) mainly because these were the only committees dealing with lawmaking during the time when GPL shifted their work processes online and explored PP on digital platforms. These limitations limited the requirement for travel and in-person interaction in a wide variety of informal PP settings.

1.6 Research Approach

The study was conducted within the constructivist/interpretivist paradigm and explored human experiences within the unique and nascent phenomenon of the Covid-19 pandemic. The study assumed that societal and governmental responses to the pandemic were socially constructed and value-laden (Wagner, Kawulich, & Garner, 2012). An enduring feature of life during the pandemic was the disruption experienced in human interaction and the revolution of digital innovation that occurred to ameliorate the impact of this disruption. Within this context of disruption, the research then focused on public participation in legislative processes during the management of the pandemic.

Specifically, this study was focused on institutionalized forms of democratic public participation that is mandated by South African legislation in the provincial sphere, and the ways in which the human experience was either enhanced or diluted by the migration to digital communication platforms.

The research began by identifying portfolio committees within the Gauteng Provincial Legislature for whom bills were published to the order paper for processing as well as identifying specific bills for which virtual public hearings were scheduled. Data was generated from several sources including observation of virtual events, focus group discussions with experts in the GPL and analyzing documents and reports tabled in committee.

By studying how digital innovation impacted human behaviour the research was able to offer recommendations for the future of public participation practice while drawing knowledge, taxonomy and praxis from digitally native communications and marketing practice.

1.7 Research tools and application

The study attempted to understand the world as it was experienced by a diverse group of stakeholders comprised of many different cultures, levels of education, socio-economic backgrounds and interests. The constructivist/interpretivist paradigm is employed as heuristic lense to make meaning of the human experience during the Covid 19 phenomenon. Deductive analysis assists this approach as the meta concepts of public participation, ICT innovation, the pandemic and disruption were initially examined from the normative vantage points of experts (Wagner, Kawulich, & Garner, 2012). What followed was an observation of the specific data emerging from the public events themselves using an observation guide constructed from the theoretical lexicon of Loukis and Charalabides but augmented with new taxological concepts emerging from the digital world. In order to broaden an understanding of emerging trends in communications technology the researcher embarked on studies of digital marketing where new terms and concepts emerged that is entirely native to the world of digital communication. These were incorporated into the observation guide and find additional expression in the recommendations for future PP in Gauteng.

The study was undertaken in three parts. Firstly, baseline information was gathered via focus group interviews with members of the public participation, research and support units of the GPL. To facilitate this process, permission was obtained from the Secretary to the Legislature. The focus groups were conducted via MS Teams due to the legislature being familiar with the medium and as a cost containment measure. Focus groups were relevant for this study because the format allowed participants to be focused on the phenomenon under study. The format stimulated learning and shared meaning by assimilating the responses from colleagues and sharing lived experiences (Wagner, Kawulich, & Garner, 2012).

Secondly, a document analysis was conducted to determine the extent to which public opinion was expressed in committee recommendation and to follow the planning processes of the various GPL units and the portfolio committees involved.

Lastly, virtual public participation events were observed to assess the implementation of operational plans from the perspectives of process, systems and outcomes. Public hearings held to solicit inputs on Bills on the Order Paper at the time included provincial legislation as well as Bills referred to provinces from the National Council of Provinces

in terms of section 76 of the Constitution. The public hearings were undertaken on a virtual platform for participants and simultaneous livestream on social media channels of the GPL for public viewing. Because all of these recordings could be accessed afterwards, this provided an opportunity to revisit each recording without having to rely on field notes as if the event occurred as a once-off. The analysis focused on how public participants, legislators and support staff interacted with technology and how their perception of participation was informed and altered in the process. The study was focused on facilitating an interactive experience from conception to evaluation irrespective of the topic under discussion, and that the research tools may be applied to any event where PP occurs. For this reason, observation was expanded after the initial public hearings to include sector parliaments and round table discussions hosted virtually.

As the research progressed the researcher became aware of additional methodological and ethical tensions relating specifically to online studies. As online events increased it became prudent to determine whether the observed events included the observation of a new digitally native “culture”. If this was the case, would the researcher’s positionality pivot between participant and observer and were there ethical implications to such a pivot? R M Miller experienced similar tensions and further expanded on the warnings of other scholars that when studying or observing online events, researchers must always consider that sentient beings are behind every text, sound, icon or reaction on an online platform (Milner, 2011). For this reason the consideration of meta themes around the technological singularity, cybercultural ecocriticism and transhumanism was superimposed on the study in an effort to advance and enrich the interpretivist lens. These considerations find expression in the reflections and recommendations of this report.

1.8 Sampling

The sample population for this study was specific- public participation specialists in the legislative sphere in Gauteng Province, South Africa. For this reason, a purposive or judgment sample was drawn from the GPL community, specifically PP Unit staff, Hansard Unit, Communications Unit, and researchers and committee support staff. Focus group discussions were conducted with 18 participants. The Public participation events observed included 3 public hearings on Bills before the House, 3 sector

parliaments, 2 round table events and 1 legislative workshop. The document analysis focused on all the relevant reports that was tabled for the legislation under scrutiny in the portfolio committees it was referred to. Consequently the researcher gained access to the Economic Development, Agriculture, Environment and Rural Development Committee, the Committee for Cooperative Governance and Traditional Affairs and the Standing Committee on Public Accounts

1.9 Ethics

Ethical clearance was obtained from the WSG Ethics Committee prior to the commencement of the study. Formal consent was obtained from both the Legislature as an institution as well as each expert participant. Although participants in the focus groups knew one another, the participants responses were de-identified in the research report and complete confidentiality was maintained.

Members of the public and interested stakeholders were observed by the researcher during a variety of virtual public events. Video-conferencing platforms required users to consent to events being recorded prior to connection. The topics under discussion were not controversial, and the study was not concerned with the content of public submissions but rather with how participants engaged with the electronic platform. All data gathered during this process was de-identified and confidentiality was maintained in the research report.

All documents related to the study was stored on a password protected computer linked to a cloud service and the security protocols of the Legislature was observed at all times.

An important aspect of the research was to ensure that participants perceive the research space as a safe environment, especially for the focus group discussions. The researcher took steps to ensure that a professional, respectful and collegial atmosphere was created and maintained. Formal consent was obtained from focus group participants and a briefing was done prior to each engagement so that participants were fully empowered. The interview guide was shared beforehand to allow participants to prepare their inputs. Focus group participants were informed of their rights, including the right to opt out of the study at any time as per the University UHREC and the WSG HREC guidelines.

1.10 Validity, reliability and dependability

The research design incorporated multiple angles of data collection- data collected from focus groups with experts in public participation as well as data collected from observing the public participating in virtual public hearings and conducting a document analysis of planning reports and portfolio committee report and meeting minutes to determine how public inputs made during hearings found expression in committee decisions

The virtual nature of the public platform assisted the researcher to employ unobtrusive measures to observe the interactions between public participants and government officials. The researcher obtained access to the official recordings of public hearings on the MS Teams and the official social media channels of the GPL allowing for repeated observation to achieve data density and “thick descriptions” (Wagner, Kawulich, & Garner, 2012).

During focus group discussions the researcher established a conducive environment that allowed participants to speak freely and from their respective areas of expertise.

Data analysis, themes and findings were validated with participants from the GPL to further enhance dependability and reliability and to ensure that any biases and value laden claims were checked and mitigated. The positionality of the researcher within the GPL community facilitated access to documents generated by the GPL professional staff components as well as the portfolio committees who processed legislation.

This research was conducted from March to August 2021 during the height of the Coronavirus pandemic. During the write-up the researcher became aware of the impact of the speed of ICT disruption on the relevance and prescience of findings made during observations as well as recommendations for the future. It became apparent that the pace of accelerating innovation may have leap-frogged some recommendations in this report rendering their effects diminished or altered in terms of technical implementability (Alves, 2012)

Chapter 2: Literature Review

The literature review is organized around key themes and sub-themes arising from the research question namely public participation, lawmaking, technological innovation and disruption. Firstly, theories of public participation are reviewed and organized chronologically and thematically and placed within praxis before the outbreak of Covid-19. This is followed by a brief overview of over-arching South African legislation that provide the framework for value propositions for the bills under scrutiny in this research. This is followed by the possible impacts of the pandemic on the design, implementation and evaluation of public participation processes, as well as ICT innovation resulting from the onset of the pandemic. The review then examines threats and opportunities that have emerged as a result of the exponential acceleration in technological applications that have wrought turbulent and possibly permanent changes to the way in which societies live and work as the world emerges post pandemic.

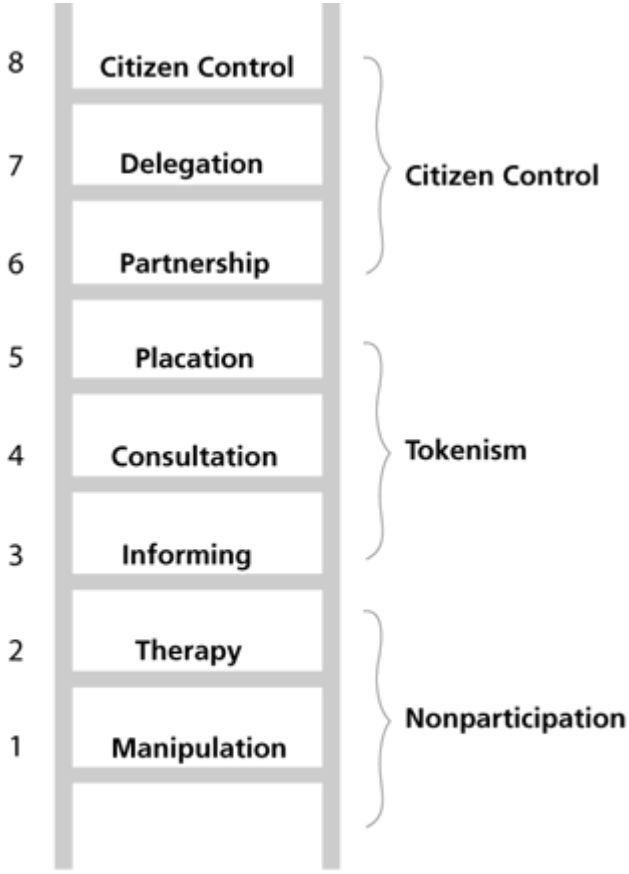
Finally, a few meta concepts are introduced including the “technological singularity” to situate the phenomenon of virtuality within humanistic axiology. This approach serves to corroborate and interpret the rapid adoption of virtuality observed in the study.

2.1 Theory and praxis in public participation pre Covid-19

Public participation has been part of the good governance debate since the early 1960s (Quick & Bryson, 2016). In 1969 Sherry Arnstein published an article in the Journal of the American Institute of Planners that proposed a “Ladder of Citizen Participation” reminiscent of the “hierarchy of needs” model of Abraham Maslow in terms of its linear progression. Arnstein acknowledged that the PP debate against the backdrop of the civil rights movement at the time was filled with hyperbole and manufactured outrage and that this necessitated a more tutored discussion at the hand of a typological approach (Arnstein, 1969). The basic premise of the typology was that the most vulnerable citizens engage at the bottom of the ladder and the most empowered citizens engage at the top. As can be seen from Figure 1 below, the premise was that the poorest and most vulnerable citizens have the least power of

participation and act only as “information takers”. They experienced participation in the context of government advocacy where authorities knew “best”. Citizens were subjects to be manipulated or somehow improved upon. As one progressed up the ladder, the power balance altered in favour of citizens whereby a dialogical mechanism is employed in the form of consultation. At the top of the ladder, citizens had the most power and government authority the least.

Figure 1: *Arnstein’s Ladder of Citizen Participation*



(Source: The Citizens Handbook)

Arnstein’s work is still considered amongst the most influential in the field of PP for her advocacy to demolish elitist barriers to PP (Quick & Bryson, 2016) and has since been re-published so copiously that a simple Google search reveals several online results and Wiki mentions for the “Ladder of Citizen Participation”.

In 1998, King et al conducted interviews and focus groups with administrators and public participants in Ohio to examine ways to improve public participation. They theorized that conventional practice at the time placed the policy problem or issue at the center of the discussion with the administrator playing the role of expert and mediator between the issue at hand, and the public participant (King, Feltey, & O'Neill Susel, 1998). For public participation to evolve from conventional approaches to more authentic approaches, this model needed to be adapted so that citizens are at the center of the issue being deliberated upon. This entailed a change in the way each participant in the stakeholder circle viewed their role, their power, and their sphere of influence (King, Feltey, & O'Neill Susel, 1998). The study further emphasized authenticity in PP by juxtaposing characteristics of unauthentic versus authentic participation and presented the unauthentic characteristics as barriers to effective PP. The remedy to overcome these barriers were structured around 3 themes namely empowering and educating citizens, re-educating administrators and putting systems in place that allow for procedural integrity in the administration of PP (King, Feltey, & O'Neill Susel, 1998). It is serendipitous that the researchers cast their research question as a quest for authenticity. 23 years later, in a world of digital marketing, authenticity would again become the gold standard by which citizens as consumers evaluate the brands they support (Jones, Malczyk, & Beneke, 2018)

A 1999 study conducted in South Africa found that citizens had very limited knowledge of lawmaking and policy formulation practice and how it affected their daily lives (Liebenberg & Roefs, 1999). The report made various recommendations similar to studies conducted in other countries but most notably that community participation was a requirement throughout the policy making cycle and not only when policymakers required a “rubber stamp” from the public in pursuit of an instrumentalist goal (Liebenberg & Roefs, 1999). The study encouraged the use of radio as a medium to inform and educate the public, broadcast parliamentary debates and hosting phone-in debates (Liebenberg & Roefs, 1999). Employing Arnstein’s typology, the South African population were viewed as “information takers” at the bottom of the Ladder of Citizen Participation.

Drawing on Liebenberg and Roefs’ theory that community participation was a requirement for effective policy, the question arose around the composition of such a community. In attempting to frame “the public” a British study conducted in 2003 found

that the perceptions of public officials often determined who were included or excluded from PP events (Barnes, Newman, Knops, & Sullivan, 2003). The authors went beyond the individual motivation behind each participants' contribution to take into consideration differences related to gender, race, age, sexuality and other forms of diversity when selecting participants to ensure inclusivity or exclusivity. Acknowledging that the selection criteria employed by public officials have consequences for the quality of deliberation, the authors recommended that officials should adopt a constantly evolving and iterative process of co-optation to ensure a diversity of views in public deliberations (Barnes, Newman, Knops, & Sullivan, 2003). The study further introduced the notion of social justice to legitimize the inclusion of opposing views and marginalized voices in PP (Barnes, Newman, Knops, & Sullivan, 2003) . These findings and recommendation resonated with Liebenberg and Roefs in the South African context of historic and persistent intersectionality.

Even though only a nascent reference to the use of electronic communications were made by researchers during the 80's and 90's the barriers to authentic participation were correctly identified and their possible remedies remain relevant today. A logical question now emerges: how can lawmakers evaluate their processes and interactions for effectiveness, relevance, authenticity and any number of additional values?

In 2003 Steenbergen et al developed a discourse quality index (DQI) to measure political deliberation. This quantitative tool was applied to a parliamentary debate to determine the quality of discourse using a detailed coding scheme and completing an analysis of the transcripts. Working from the theoretically supported claim that better deliberation leads to better decisions, the authors devised an indexing tool that is theoretically grounded, scalable, portable, reliable and able to interface with other relevant bodies of theory, such as political science (Steenbergen, Bachtiger, Sporndli, & Steiner, 2003). Coding scheme parameters were drawn around participation, relevance and respect related statements made in the speeches observed (Steenbergen, Bachtiger, Sporndli, & Steiner, 2003) The inclusion of a paper on a quantitative instrument in this literature review is deliberate for the opportunities it presents in the ICT domain as elucidated upon later in this study.

Concurrent with the emergence of the "web 2.0" in the early years of the millennium was the development of digital tools to facilitate PP. The next iteration of the World

Wide Web was characterized by user-centric collaboration and increasingly personalized social interaction on digital media, including commercialized offerings (Jones, Malczyk, & Beneke, 2018).

Academic research reflected this trajectory of ICT adoption. In the same year (2005) that the internet welcomed its one billionth user (Jones, Malczyk, & Beneke, 2018), Hudson-Smith, Evans and Batty devised a serious of technologies they termed “the Virtual City”. As a technical work within the field of e-participation or e-democracy, its purpose was to inform and consult London-based citizens on proposed city planning schemes that would affect them, using multi-media applications delivered via the internet Their article contained extensive details of the 2D and 3D applications that would be integrated with gaming technology to entice users to participate in upcoming planning discussions (Hudson-Smith & Evans, 2005). Although the technology they discuss were rudimentary by 2021 standards it was interesting to note similarities to current concerns in acceptance barriers by users. In 2005, these authors listed the availability of bandwidth, the use of avatars, internet connectivity issues, and the human ability to assimilate various forms of virtuality as possible factors that could influence the adoption of e-participation by users (Hudson-Smith & Evans, 2005). Sixteen years later these perceived barriers are still of concern even though the scale of measurement and level of detail is completely supplanted by advances in web analytics (Jones, Malczyk, & Beneke, 2018).

Williamson expanded on the discussion around e-participation in 2007 when the author conducted research in New-Zealand around ICT innovation in local government PP. The study echoed previous studies lamenting a decline in community participation in governance processes due to frustrations emanating from the one-way nature of information flow, the slow response rates of local Councils and the perception that progress can only occur as a result of contestation (Williamson, 2007). Against this backdrop the study situated e-democracy as an incipient field capable of disrupting existing power relations and accelerating the emergence of new ways of PP. Williamson asserted that his findings differ from the majority position taken in literature up to that point in various ways (Williamson, 2007)Firstly, ICT has the ability to place citizens at the center of innovation in delivering results for local issues that affect them. This finding is significant in its backward linkage to the King et al study conducted in 1998 that similarly found swopping the positionality of officials and citizens proximity

to an issue enhances PP uptake (King, Feltey, & O'Neill Susel, 1998). Secondly, that for e-democracy to be widely adopted required “grounded leadership” which is described as an activist lead process of adopting new ICT by moving through the stages of pre-contemplation, contemplation, preparation, action and maintenance (Williamson, 2007). Citing the Transtheoretical Model of Change (Prochaska & DiClemente, 1984; Prochaska & Velicer, 1997), Williamson emphasized the transformational power of ICT to disrupt power structures in PP. Similarities are observed with the work of Arnstein in 1969 whose “Ladder” model moves through similar progressives steps whereby citizens become increasingly empowered by advancing up the progression and government officials follow an inversely proportionate curve. Additionally these same findings are consistent with how the adoption of ICT has evolved organically since the early years of the internet (Jones, Malczyk, & Beneke, 2018).

Circling back to theoretical concepts and away from technology for a moment, Cornwall and Colhoe noted in their 2007 book that “power courses through every dimension of the participatory sphere” (Cornwall & Colhoe, 2007). This research explored various country case studies on participative forums and specifically the meaningful inclusion of marginalized individuals and groups. The authors observed the same power dynamics and progressive realization of participation intersecting again with resources as Arnstein did in 1969, although scaled beyond the US to include diverse PP examples from countries such as Bangladesh, Canada, Brazil, India, Angola, Argentina, UK and South Africa. As one of the country case studies took place in South Africa, it merits reference that Cornwall and Colhoe made findings related to power dynamics in the South African context. Specifically that in South African case studies they observed intersectionality linked to the country’s racialized past and its paternalistic tendencies to implicitly exclude vulnerable groups, women and black citizens from public participation (Cornwall & Colhoe, 2007).

Another local study conducted in 2007 for the Gauteng Department of Cooperative Governance and Traditional Affairs (COGTA) identified public perceptions around public consultation. These included mistrust, incompetence and indifference on the part of officials, poor capacity and knowledge of local councilors and poorly designed processes (Marais, Everatt, & Dube, 2007). The report concluded that public participation was not transformative and that officials often focused on outputs rather

than outcomes and impacts (Marais, Everatt, & Dube, 2007). These themes will be expanded upon in subsequent sections of this literature review that deal with research commissioned by the GPL or conducted in-house as it becomes apparent that they re-occur.

This research report utilizes data collection through observation which merits dwelling briefly on evaluation of e-participation methodology in parliaments. In 2010, Loukis and Charalabides devised a theoretical framework for the evaluation of participation. The authors commenced by correctly asserting that many governments across the globe invest heavily in e-participation however evaluating these efforts for quality and progressive realization of freedoms remained lacking (Loukis & Charalabidis, 2010). The framework thus presented was based on a project implemented for legislators across Greece, Lithuania and Austria. Foundational principles across the fields of information technology, public participation theory, legislation formation processes and evaluation theory are unified in a single framework (Loukis & Charalabidis, 2010). This approach is very useful in developing an observation guide for the evaluation of public hearings in Gauteng that were conducted using MS Teams. Three main evaluation perspectives, namely process, system and outcome were selected whereupon further sub-criteria was developed for each perspective. The observation guide developed for the Gauteng public hearings rely on selected sub-criteria from this research.

In the intervening years since 2010, the mandate and scope of participation in governance has continued to evolve to include concepts such as diversity, inclusion and elitism and how these intersect in the public arena (Quick & Bryson, 2016).Piper specifically studied PP in Southern Africa including Angola, Botswana, Lesotho, Mozambique, Namibia, South Africa, Swaziland, Tanzania and Zimbabwe. He identified the need to focus on both “invited spaces” and “invented spaces” (Piper, 2011) where the former refers to platforms that are owned and driven by government and the latter by civil society. He agreed with both Cornwall and Gavaze that stable and effective governance is a pre-requisite for meaningful public participation, however not sufficient to guarantee it (Piper, 2011).

Piper's findings related to a lack of political will to facilitate meaningful transformation in PP echoes those former studies of Cornwall and Colhoe as well as Liebenberg and Roest.

He and Warren noted at the same time that even authoritarian regimes experiment with controlled forms of PP (He & Warren, 2011). The authors introduced the concept of "authoritarian deliberation" as a dichotomy that China had been progressively implementing over the preceding 2 decades to preserve the legitimacy of the rule of the Communist Party and create some perception of public participation (He & Warren, 2011). By introducing public forums for deliberation at local government level and limiting the discussions carefully to local budgets or a single policy question, the Chinese government managed to satisfy citizens' expectations to be heard and dialogically engaged without the risk of wholesale regime change or even progressive democritisation. In this way the seemingly incompatible concepts of authoritarian rule and deliberative participation were conjoined in a governance paradigm (He & Warren, 2011). Critics of authoritarian deliberation theory typically question the authenticity of such endeavours in an undemocratic regime (He & Wagenaar, 2018)

However, this is a useful addition to the literature as the researcher and the reader may be liberated from the mental model that couples deliberation with democracy and to consider public participation in expanded contexts beyond the ideals of Western democratic practice and ideals of good governance.

Venturi and Monzami contributed to the debate by introducing the potential for peacebuilding brought about by facilitated PP (Venturi & Monzami, 2015). The authors critically reviewed public participation interventions carried out by Conciliation Resources in conflict-ridden communities in the Philippines. The report highlighted that success was achieved in awareness raising across cultural and conflictual boundaries to the extent that peacebuilding initiatives were universally accepted by all community members. The PP interventions were also designed to be specifically gendered. Women's organisations were actively involved from the outset and their influence on the lawmaking process found expression in the final provisions of promulgated legislation (Venturi & Monzami, 2015). This purposefully gendered approach resonates with feminist critiques of PP as raised by Afsahi elsewhere in this review. Afsahi noted that under facilitated conditions, women expressed high levels of appetite

and ability for deliberation (Afsahi, 2020). Venturi and Monzami also noted design flaws that included not recruiting the optimal number of “key people” that could act as influencers within the peace process, and a lacking communications and branding strategy that excluded the use of mass electronic media. The authors concluded by recommending that PP work should be continued and expanded to become a comprehensive and ongoing civic education program (Venturi & Monzami, 2015).

By 2016 the need for public participation was more ubiquitously recognized and new areas of inquiry had emerged including theories about optimization of participation. The ideal was to determine exactly the data threshold and desirability of public input within each context, and secondly the emergence of design science thinking such as “the Big Society” in Ireland, the” co-production” movement in Europe and networked production systems in the US (Quick & Bryson, 2016). Here the authors introduced a design science approach to overcome the limitations of hypothesis testing and to establish causality by rather testing conjectures in a problem solving context and adapting it to the real-world conditions in which the solutions would operate (Piper, 2011). The design science approach is observable in how communications platforms currently in use are constantly evolving in functionality in response to feedback from users.

Challenging these assumptions of the instrumentalist nature of public participation, Wilken and Boudeau (2015) provided a critique based on the work of the British anarchist, Colin Ward. Ward argued that throughout history individuals and communities have naturally struggled to achieve optimal personal and economic freedom without any stimulus from an authority, such as a government (Wilken & Boudeau, 2015). The authors examined the libertarian values of mutual aid and voluntary charity as an alternative to public participation that is induced by the State or the market. This is an important observation in that the very possibility that citizens will and have the ability to organize for themselves the services and forums they need to lead a fulfilled and peaceful existence does not feature in debates about public participation (Wilken & Boudeau, 2015). There are practical examples contextualizing Ward’s observations to the study of public participation in the Gauteng Province. These include the escalating civil disobedience around E-tolling, and the unprecedented rise in charitable giving as a response to food insecurity brought about by pandemic induced lockdowns in 2020. More recently during July 2021, the

unprecedented civic reaction to the looting of shopping malls and supply chains following the incarceration of former President Jacob Zuma is illustrative of Ward's Anarchy. South African society affected by the insurrection especially in Gauteng and KZN reacted swiftly as community policing forums, taxi associations, civil society groups and individuals united to protect their local infrastructure such as shopping malls, roads and distribution warehouses from damage and looting. Both the destruction witnessed and the civil reaction to protect and re-build was planned and orchestrated on social media platforms (Mokoka, 2021)

This presents a challenge to the view that "the public" is a homogenous mass to be acted upon through instrumentalist, State -led and State-owned PP when in fact ordinary citizens engage daily in seeking opportunities from networked ICT platforms.

Butt, McQuire and Papastergiadis (2016) described networked communications platforms such as Facebook, Zoom and MS Teams as four-dimentional metaphors capable of usurping individual agency. Some of the reasons they cited for this phenomenon was that the brand identities of these companies enjoyed high levels of public trust and an entrenched perception of neutrality (Butt, McQuire, & Papastergiadis, 2016). They described the evolution of a citizen belonging to a nation state to a user identified by a user profile and belonging to a particular networked platform. In such a scenario, the power of agency is shifted from the policy maker to the search algorithm with the algorism supplanting human agency to select and de-select the content that the user is exposed to (Butt, McQuire, & Papastergiadis, 2016). Because these platforms enjoy high levels of public trust and perceptions of neutrality, users are spurred to action based on the information carefully selected for them by an algorithm. Participation therefore becomes "co-presencing" with users moving about in an echo-chamber with invasive capacity to influence the subjective experiences and beliefs of individual users (Butt, McQuire, & Papastergiadis, 2016). The advent of voice search functionality further supports this claim as users no longer have to read through a search engine results page to select for themselves the resources they click on. Instead it is more convenient to visit the URL suggested by the search algorithm (Jones, Malczyk, & Beneke, 2018)

Many researchers from academia and business have noted that in recent years that the world polity is characterized by increased polarization, irresponsible digital citizenry and fake news. This polarization is amplified by an increasing trend towards populist ideals as well as widespread corruption (Curato, Sass, Ercan, & Niemeyer, 2020). These trends are observable in South Africa and Gauteng and may have an impact on PP uptake .Examples include the violent disruptions at public hearings conducted in 2018 regarding the amendment of the property clause (Section 25) of the Constitution to allow for expropriation without compensation, the revelations broadcast from the Zondo Commission of Inquiry into State Capture, and most recently allegations of misappropriation of Covid-19 relief funds, and the so called "insurrection" referred to earlier that were orchestrated by individuals on social media platforms (Mokoka, 2021).

Events such as these may have an influence on citizens' willingness and goodwill when they engage with Legislatures ranging from disengagement and disillusionment on one end of the spectrum, to increased critical review and civic action at the other.

Curato et al (2020) observed that the world is currently lurching from crisis to crisis (Curato, Sass, Ercan, & Niemeyer, 2020) bringing into sharp relief once more the urgent requirement for deliberative democratic practice. They provided empirical evidence that deliberative democracy is now globally recognized as a field of study and practice. Deep cogitation however faced threats emanating from the diminishing importance of consensus and external demands of profit driven media, competing victimhood and the breakdown of relationships between civil society and traditional political parties (Curato, Sass, Ercan, & Niemeyer, 2020). A credible body of empirical findings are emerging that give credence to the transformative power of deliberation in public discourse. (Curato, Sass, Ercan, & Niemeyer, 2020).

The term "meaningful public participation" was raised in the introduction to this study and is meant to encompass both deliberative and participatory democracy because they cannot be used interchangeably for the purposes of this study. Participatory democratic practice involves large numbers of participants, in a non-sectarian fashion in order to achieve a wide range of inputs (Carson & Elstub, 2019). In contrast, deliberative practice typically involves carefully selected groups of smaller numbers in order to achieve skillful dialogue around the topics of concern (Carson & Elstub, 2019).

As theoretical constructs, deliberation and inclusion in PP, although ubiquitous, is also critically reviewed from feminist vantage points. Afsoun Afsahi studied the gender differences in willingness to participate and capacity to participate among university students (Afsahi, 2020). Afsahi cited various sources to assert that women and men differ in their approaches to public deliberation. Most notably, men tended to be more confrontational and strongly opinionated whilst women tended to exhibit a balanced approach between enquiry and advocacy (Afsahi, 2020). These observations have lead to assumptions within the academic literature that women have a lower capacity and willingness to engage in public debate and more often are silenced or ignored when they do make contributions. However, when techniques such as skilled facilitation is employed during the PP the findings pivot from the mainstream, indicating that the gender gap in deliberative participation may be greatly reduced, even entirely ameliorated in an environment where equality of opportunity is established through facilitation techniques (Afsahi, 2020) These findings have traction when viewed within the context of online meeting platforms.

Apart from the functionalities such as being able to use “raise hand” functions to receive a position on a speaking list, skilled facilitation by the Chairperson may enhance perceptions of equality among participants and allow equal opportunity for all participants to contribute.

As with feminist critique, PP theory would also benefit from cultural perspectivism. He and Wagenaar revisit the previously mentioned theory on authoritarian deliberation from a cultural perspective to examine the role that culture plays in the praxis of PP (He & Wagenaar, 2018). Returning to the Chinese example the article reiterated the unwelcome presence of authoritarian deliberation in the PP literature due to its paradoxical nature and the linear tendency of researchers to be unable to reconcile authoritarian rule with public deliberation (He & Wagenaar, 2018). The authors then offered reasons for its apparent resilience from within aspects of Chinese culture. The “manufactured consent” that arose from deliberation in China was made possible by the Confucian moral code that undergirds Chinese society. Chinese citizens accepted and understood the requirements that morality presides over politics, harmony presides over conflict, and gentlemanly conduct presides over discommodious behaviour (He & Wagenaar, 2018). Interestingly, they found that Chinese officials supported the ideals of public deliberation out of faith in Confucion peoplehood and

the values of fairness and social justice (He & Wagenaar, 2018) and not for reasons in support of liberal democratic ideals.

In South Africa any propositions around the influence of culture on PP is complex. South African society is culturally diverse and emerging from a deeply divisive and wounded past. Garcia-Rivero, Kotze and du Toit attempted to contribute to this debate by conducting a quantitative study to examine political culture in South Africa by measuring levels of trust and political tolerance among different race groups (Garcia-Rivero, Kotze, & Du Toit, 2002). The authors observe that in the early years of democracy South Africans held deeply instrumentalist views of democracy. A 1995 survey found that over 90% of respondents viewed democracy as equal access to employment, shelter and financial resources (Garcia-Rivero, Kotze, & Du Toit, 2002). Whilst dividing South African society simply by race is over-simplistic, the study did find that while political tolerance amongst citizens seemed to be increasing, trust in the institutions of government was declining, and that as long as economic growth remained imperiled this trend would consolidate (Garcia-Rivero, Kotze, & Du Toit, 2002).

South Africa is not unique in terms of cultural diversity (Kapai, 2012). Observing the polarizing “culture wars” among different social groupings in the United States since the 2016 presidential elections, Moayerian observed that finding innovate approaches to PP is vital to reach agreement on political and economic issues across cultures (Moayerian, 2018). The article then investigated case studies where techniques of skillful dialogue in safe private spaces are utilized to break down barriers between adversarial groups. Facilitated dialogue allow for the revelation of motive and agenda and permits participants to uncover shared meaning (Moayerian, 2018). Many South African examples exist of similar techniques such as work done by the Institute for the Healing of Memories (Institute for the Healing of Memories, 2019) to bridge cultural divides among South Africans in the interests of reconciliation, healing of woundedness and future societal resilience. However, the employment of these dialogical methods in the context of PP in lawmaking in Gauteng is beyond the scope of this research report.

The review of theoretical concepts concludes here with the introduction of a meta concept namely the “attention economy”. In March 2020, an article in the Berkeley

Economic Review boldly asserted that “we are in the age of the attention economy” (Mintzer, 2020). The author problematizes the current “infodemic” within the paradigm of economic rationalism. If economics is the study of scarcity and the allocation of scarce resources, Mintzer argued that human attention in the age of information overload is the scarcest resource of them all (Mintzer, 2020). Quoting Herbert A. Simon that “a wealth of information creates a poverty of attention”, Mintzer warned that human cognition although unquantifiable is also finite. As with the opportunity frontier, paying attention to a chosen field of interest comes with the cost of not being able to pay attention to anything else during the same time (Mintzer, 2020). The online consumer is described as being captured in a contest for attention. This contestation is further complicated by the materialization of attention inequality.Often the inconsequential attributes such as fame and stardom receive the most attention at the cost of serious and immediate threats to humanity including climate change and violent conflict which receive the least (Mintzer, 2020). Mintzer concluded correctly that corporations are increasingly understanding this phenomenon and are designing their digital marketing efforts to effect habit formation in their consumers. Attention becomes a new form of capital (Mintzer, 2020)

The theoretical concept of the attention economy warranted further scrutiny as this is the environment in which governments also compete for the attention of citizens as voters. Patrick Crogan and Samuel Kinsley (2012) conducted a review of the literature around the attention economy and constructed a useful critique of the commodification of human attention.Noting that the idea of the attention economy was first developed by authors including Beller, Goldhaber and Franck in the 1990’s, the authors called for a critical evaluation of the politics, ethics and aesthetics of the attention economy. They described the commodification of human attention as a disruptor of normative culture and identity formation in the web-native generation (Crogan & Kinsley, 2012). As such, these “web natives” suffer a loss of criticality and individual agency as they participate in the wholesale adoption of digital social media. The consequences specifically for young people is that they develop an incapacity to care for their community and society and material “truths” become negotiated commodities in a new techno-cultural world. Crogan and Kinsley’s editorial, written in 2012, may have been an accurate albeit cynical conceptualization of cognitive capitalism as described by Marxian authors including Beller. It is however itself disrupted by post pandemic trends

that indicate a pivot towards caring, community, and authenticity as being the most valued attributes and influencers of agency by younger consumers (Hubspot, 2021). These trends are further ventilated in the penultimate section of the literature review.

2.2 The South African Legislative context, legislative drafting and Public Participation

Having established a theoretical foundation for PP and because this study is concerned with lawmaking, it is sagacious to review overarching legislation currently on the statute books in South Africa that may have an impact on the way citizens engage in participation. This section is not intended to be an exhaustive review of any and all legislation that regulate communication in South Africa. It provides a value-laden context that legislators should always be mindful of.

As alluded to in the introduction, the Constitution of the Republic of South Africa is the single and supreme source of law setting out the foundational values and principles of South Africa as a nation state, including the Bill of Rights.

There are four key pieces of overarching legislation that give effect to the Bill of Rights in so far as the flow of information is concerned. They are The Promotion of Equality and the Prevention of Unfair Discrimination Act, 2000 (PEPUDA), The Promotion of Administrative Justice Act, 2000 (PAJA), The Promotion of Access to Information Act, 2000 (PAIA) and the Protection of Personal Information Act, 2013 (POPIA).

In light of the recent rise in cybercrimes and the threat this phenomenon poses to PP, this review will also briefly examine the Cyber Crimes Act of 2020.

It is consequential to observe how PEPUDA, PAJA, PAIA and POPIA in tandem strive to establish in law a balance between the free flow of information in the context of freedom whilst simultaneously providing barriers to the flow of information for the protection of privacy as enshrined in the Bill of Rights.

PEPUDA was enacted to give effect to the right to equality in the Bill of Rights. The Act places prohibitions on unfair discrimination on a wide range of grounds including race, gender and disability and further prohibits hate speech, harassment and dissemination and publication of unfair discriminatory information (Promotion of Equality and Prevention of Unfair Discrimination Act, 2000, 2000)

PEPUDA places a general responsibility on the State and every person to actively advance equality in a variety of measures and in the context of the country's Apartheid induced past. It also sets out parameters for the handling of disputes in such a way that a balance is established between the need for facilitative participation in dispute resolution and the need for corrective or restorative action (Promotion of Equality and Prevention of Unfair Discrimination Act, 2000, 2000)

When executing PP, the GPL is therefore required to give effect to PEPUDA by ensuring that diversity and the inclusion of women, persons with disability and vulnerable or marginalized groups is inculcated in the planning, execution and evaluation phases of the process. In addition, and perhaps increasingly salient is the need for GPL to safeguard its electronic or e-participation platforms so that hate speech or the publication of discriminatory information by public participants is militated against.

At the heart of PAJA is the obligation to promote the capable State (Malherbe R. , 2001). The Act specifically refers to good governance and efficient administration. Citizens are entitled by section 33 of the Bill of Rights to be governed in a way that is lawful, fair and reasonable (Promotion of Administrative Justice Act, 2000). Under PAJA, lawmaking is defined as "administrative action" which places a direct responsibility on legislatures to adhere to PAJA when passing legislation. For PP the Act provides that adequate notice must be given, opportunities to engage the administrative action must be made available. Thisincludes providing assistance where complex matters are scrutinized and the need to provide adequate feedback to citizens materially affected by the administrative action upon such a request. PP should thus be designed to demonstrate just administrative action (Promotion of Administrative Justice Act, 2000). PAJA further enables the judicial review of any administrative action taken by the State and sets out the procedures for such a review and the remedies available to Citizens.

PAIA is established to give effect to the rights of all citizens to have access to information held by the State and information held by private persons if that information is required to protect another right (Promotion of Access to information Act, 2000)

Even though all GPL processes are already open to the public there may be instances where interested or affected parties may require access to additional public records

such as forensic investigation reports (GPL Research Unit, 2020). An illustrative example would be the forensic reports into the Gauteng Enterprise Propellor in preparation for the consideration of the Gauteng Township Economic Development Bill, 2020.

PAIA sets out the procedures to follow to gain access to records, the grounds for refusal of a request and the remedies available to requesters. It merits indication that in praxis, applications in terms of PAIA are onerous and time consuming which may lead to requesters losing their appetite for pursuit, especially in the Courts. In 2001 a similar observation was made by Professor Rassie Malherbe in relation to the education sector. He opined that the Act was complicated and its expediency would be tested as it imposes duties and responsibilities on various actors in differing capacities across the public and private sectors (Malherbe R. , 2001)

In summary, all three the above pieces of legislation provide a substantial departure from the ethos of governance in South Africa before 1994 and seeks to make meaningful and practical the spirit of the South African Constitution (Malherbe R. , 2001).

POPIA was promulgated in 2013 but came into full effect on the 30th of June 2021. The Act gives effect to the Constitutional right to privacy and goes further than PEPUDA, PAJA and PAIA in introducing concepts and taxonomy that is commensurate with the technological advancements that occurred in the intervening 13 years between the first three Acts being promulgated and POPIA.

In its objective statement the Act specifically references the balance between access to information and the rights to privacy thereby reinforcing its close relationship to PEPUDA in contrast to PAJA and PAIA. The legislation sets out conditions for the lawful processing of personal information, the rights and remedies of persons (referred to in the Act as "data subjects”), establishment of the Information Regulator and imposes duties on public and private bodies to be set out in subordinate legislation (Protection of Personal Information Act, 2013)

The effects of the full implementation of POPIA require practical ventilation. For instance, the Act prohibits a company selling insurance products from sharing the personal contact information it gathers from potential clients to also sell fashion or hobby products without having obtained the specific permission of the data subject. A

data subject is conferred overarching rights regarding the level and details of personal information held by a responsible party including the withdrawal of permission to process personal information. The Act goes further than the “opt out” right. It creates a special category of information the same as PEPUDA that relates closely to the grounds of unfair discrimination but extended to include direct marketing activity and automated solicitation where a data subject is required to “opt in” before personal information may be processed.

For PP processes, the implications of POPIA require careful scrutiny. Public participation usually requires the completion of an attendance register. This basic requirement establishes the relationship envisaged in the Act whereby participants are “data subjects” and the legislature is deemed a “responsible party”. The legislature is therefore required to inform participants of the content and scope of personal information that will be processed in order to obtain consent and must also undertake to process that information in a way that is commensurate with the Act. This includes measures for safekeeping and de-identification in certain instances such as where public comments are published in committee reports.

In instances such as e-participation on Zoom or MS Teams, the processing of personal information is largely automated. Attendance registers are created by the functionality of the platform and the record obtained includes images and voice recordings that may be accessed after the fact. It remains to be seen what challenges legislatures will face if and when complaints are lodged with the Information Regulator for any alleged transgressions during a virtual public event.

Finally, the Cyber Crimes Act of 2020 was assented to in June 2021. The Act criminalizes certain categories of online behaviour that includes any acts that seek to misrepresent, commit fraud, forgery, uttering and extortion. When such acts also seek to cause harm, civil unrest, or a public emergency, it is regarded as aggravating circumstances (Cyber Crimes Act, 2020). In terms of PP, the Act strengthens the provisions of PEPUDA and POPIA and provides for the criminal prosecution of persons whose online behaviour amounts to unfair discrimination. As a vehicle for the development of praxis, the timing of this Act was prodigious and simultaneous with an unprecedented increase in cyberattacks during the pandemic (Chigada & Madsinga,

2021). Cybercrime and cyberattacks pose a significant threat to PP and is dealt with in a separate section of this literature review.

Legislative drafting in South Africa

A few notes on legislative drafting practice are indicated for inclusion in this review for three main reasons: Firstly because drafting practice is operationalized in the recommendations of this report, secondly, the GPL specifically enjoins legislators in its Standing Rules to draft in clear and simple language that is non-technical in nature (Gauteng Provincial Legislature, 2018) and lastly because of the significant potential for disruption that exists within the drafting discipline due to ICT innovation.

Drafting always originates from political will or political agency (Tucciarelli, 2009). Tucciarelli problematized the tendency of political actors to minimize the practice of drafting for technical implementability to achieve political will. He also stated that in Europe, parliamentarians learnt about drafting by “doing”, so implying that a knowledge gap existed between the original drafter and the legislator that lead to poor quality legislation. Such laws are open to interpretation difficulties and court challenges (Tucciarelli, 2009)

Currently no standard drafting practice exists in South Africa, and the conflicts expounded upon by Tucciarelli are also evident within the drafting practice in South Africa. Legislators are seldom consumed by desires for elegant drafting practice and by the time a bill reaches the committee stages the errors committed by drafters are tantamount to being set in stone. One of the direct consequences of poor drafting are adverse court findings such as those from the Constitutional Court that sent the ULTRA Bill back to the drafting table for corrective measures.

The significance of legislative drafting skills are fore fronted against the backdrop of new disaster regulations that became a feature of the South African reality during the pandemic. These regulation were hastily drafted at every change in the “adjusted lockdown level” and released on a hapless public shortly after every televised Presidential address colloquially named “family meetings” that periodically took place on Sunday nights throughout the lockdown periods in 2020 and 2021. Revised

lockdown regulation so hastily drafted were often conflicting, difficult to interpret and implement or simply non-sensical.

A drafting standard based on modern drafting practice and a recognized skill set is therefore crucial not only for the drafter but also for the legislator (Malherbe & Meyer, 2018) During the process of making new laws or amending existing laws, legislators should always be mindful of the original societal “mischief” that the legislation is attempting to remedy. Malherbe and Meyer also advocates that the law should be easily understandable and applicable to the citizen it is going to affect, that any new legislation never exists in a vacuum as it affects already existing legislation and is situated within a hierarchy of laws as set out in the Constitution (Malherbe & Meyer, 2018).

Finally, using language as the main medium of communication, the drafter now enjoys a wide range of innovation in the form of applications specifically developed to aid the drafting process. A simple internet search reveals many different options for downloadable applications or MS Word-Plugins. These tools assist the drafter by eliminating repetitive language grammar and punctuation mistakes, introducing consistency in style and allowing the drafter to focus on the substantive provisions of the draft. Since many different stakeholders work on and influence an original draft, such a software assistant keeps track of the evolution of the draft throughout the policy lifecycle (Open Law Library, 2018)

2.3 Research conducted for the Gauteng Provincial Legislature

The Gauteng Provincial Legislature commissioned several studies into its own operational practice and this literature review would be served by the inclusion of the most recent reports. To provide context, the GPL conducted studies during the 4th and 5th Parliaments in an attempt to assess how successful the institution was in carrying out its Constitutional mandate. A 2012 study was conducted to assess the impact of legislation on the residents of the province which found that for the most part, the general public was unaware of the legislation that formed part of the research scope. Perception surveys conducted in 2014 and 2018 indicated that the majority of

respondents did not understand the mandate of the legislature (GPL Research Unit, 2020)

In 2017 the Speakers Forum appointed a panel to review post-apartheid legislation. The Speakers forum was responding to several warning signs on the effective implementation of post-apartheid laws. These included warnings from experts that a piecemeal and uncoordinated approach to lawmaking was evident and that these laws failed to address the progressive realization of rights as envisaged in the South African Constitution and Bill of Rights. Further to this the Constitutional Court handed down a series of judgments arising out of poor and inadequate public participation thereby re-affirming the priority placed on PP in the Constitution (GPL Research Unit, 2020)

A study, conducted by Brugge in 2017 attempted to determine the extent to which public participation may be regarded as effective and relevant (Brugge, 2017). Utilizing a mixed methodology, the study found that a gap existed between perceptions of the GPL staff and members, and the empirical findings to the extent that the GPL community was overstating the effectiveness of PP in the province at the time. In fact, the author concluded from an analysis of committee reports that committees acted upon public inputs by taking them into consideration when formulating resolutions to the House in only 2% of reports surveyed (Brugge, 2017).

In respect of lawmaking specifically the same dichotomy emerged whereby MPLs themselves believed that the public is adequately consulted however only 40% of members and 33% of staff believe that PP has any impact on the eventual wording or intent of a Bill (Brugge, 2017). Further to this, no evidence was produced of any deliberative attempt to establish feedback mechanisms with public participants or engage in dialogue either with the institution or between participants themselves. Specific mention is made of social media platforms that are not utilized strategically or effectively (Brugge, 2017).Due to record keeping challenges within the institution the study was limited to oversight reports of the Education Committee, the author correctly concluding that the study cannot be deemed representative of law-making across the GPL (Brugge, 2017).

Finally the study recommended that GPL databases of public participants be cleaned and verified to ensure diversity, that a process be instituted that would enable the GPL to plan pro-actively for upcoming legislation so as to avoid time constraints that dilute

the PP process, that a policy approved and adopted by the institution to entrench deliberative practice and that an ambassadorship program be embarked upon to foster a demand-driven approach to PP (Brugge, 2017).

The most current report was compiled in-house by GPL researchers, 6 months into the pandemic. The objectives were to document the lawmaking process, explore possibilities for improvement, assess monitoring and evaluation of the implementation of new laws, establish benchmarks, and set out effective monitoring and evaluation of laws promulgated going forward (GPL Research Unit, 2020).

The study employed a combination of methods namely in-depth interviews and focus groups with participants that included expert stakeholders and GPL staff as well as a survey conducted telephonically with 500 public participants. The survey instrument was not optimized in this researchers view, to answer only the research questions. This is evident in the public responses which produced a litany of broad themes including crime, corruption, health and safety and other general concerns of citizens. When asked about the effectiveness of the GPL specifically, the emphasis was not on the efficacy of laws but rather the public's perception of the legislature in general. Respondents were asked whether they thought Gauteng province was "moving in the right direction" and how they felt about the lockdown regulations and government's handling of the pandemic (GPL Research Unit, 2020)

Quantitative findings regarding the overall satisfaction of respondents with the law-making mandate of the GPL contradicted the qualitative findings from the focus group discussions. From the survey 52% of respondents were either extremely satisfied or satisfied with the GPL law-making mandate while 17% were dissatisfied. However, the qualitative responses indicated that a "handful" of stakeholders were satisfied with the GPL law-making mandate (GPL Research Unit, 2020). It is not clear whether the survey instrument attached the same empirical value to "satisfaction" as the focus group discussions.

The study recommended that the entire process of law-making be re-engineered. The re-engineered strategy needed to allow more time for PP and the deliberate implementation of monitoring and evaluation, (GPL Research Unit, 2020)

2.4 The impacts of the pandemic on public participation

Shortly before the first case of Covid-19 was reported, Le Blanc conducted a literature review to assess global qualitative trends in e-participation over the last two decades. The author concluded that e-participation has had uneven results across the globe with Africa and Oceania lagging far behind amid a proliferation of e-participation tools and technologies in Europe, America, Russia and Asia (Le Blanc, 2020). Le Blanc sited the major drivers of these mixed results as including uneven access to technology and connectivity, a poor appreciation for the underlying motivation of citizens to participate and a lack of political will by governments to share power (Le Blanc, 2020).

In many communities around the world the most immediate forms of Covid-19 related social relief did not emanate from government or the market. Circumstances changed so rapidly that older forms of community mutual aid re-emerged (Fisher, Languialaire, Lawthorn, Niewenhyus, & Runswick-Cole, 2020, vol 3). Societies exhibited behavior reminiscent of Victorian era community participation where civil action took precedence over monetized aid or government aid (Wilken & Boudeau, 2015). In keeping with Ward's theory regarding voluntary participation and charitable giving, empirical evidence emerged regarding an organic surge in community self-help activities. According to the Lancet, in the UK over 1 million people volunteered to assist in the pandemic response (Marston, Renedo, & Miles, 2020). The same response was observable at constituency level in Gauteng and assisted to militate against food shortages in the context of a slow and uncoordinated response from social development authorities. The paper correctly concluded that grassroots movements therefore have a role to play in collaboration with authorities when responding to crises in civil society (Marston, Renedo, & Miles, 2020).

In evaluating toolkits and literature from the Commonwealth Parliamentary Association, the Inter-parliamentary union, and other parliaments around the globe, the main drivers of enquiry at the start of the pandemic were around the rationale for protecting people's health at the expense of a normative view of human rights (Chungong, 2020). Covid-19 related lockdowns resulted in parliaments throughout the world unable to meet physically to conduct traditional parliamentary practice. Without parliaments representing citizens interests, certain risks arose for the expenditure of

the public purse and the trust relationship between government and citizens. The most prominent threat identified was a lack of oversight over the Executive with a specific emphasis on emergency procurement for pandemic related goods such as personal protective equipment for health personnel (Ndlovu, 2020).The passing of emergency legislation, adjusted treasury regulations allowing emergency procurement, and technological innovation allowing virtual meeting rooms were foremost concerns in the delivery of parliamentary democracy (CPA, 2020).

Whilst traditional public participation appeared to have receded as a priority during the lockdown, a new form of participation emerged via direct interaction with constituencies (Ndlovu, 2020). In Gauteng province constituency duties escalated exponentially during lockdown as citizens competed for income grants and food relief. MPLs spent much more time mediating situations where tensions could flare over food insecurity and the unavailability of resources in the midst of an economic slowdown. MPLs now became a source of information for Covid related relief access. Residents demanded information sharing down to ward level and WhatsApp, local and social media and radio appeared the most effective media for reaching constituents in their homes (Ndlovu, 2020).

During the height of global lockdowns when people were forced to self-isolate a bridge was needed to connect humanity when physical distancing became the norm. Onah et al proposed from a Nigerian perspective that innovative communications technology became that bridge (Onah, Ozioko, Enema, & Ude, 2021). Although their study is conducted in the education sector it is specifically included in this literature review to include a glimpse of a possible future; if teachers and children adopted the use of ICT platforms during the pandemic, the possibilities for its expanded use when these children become adults are facilitated (Onah, Ozioko, Enema, & Ude, 2021). The study was concerned with the dissemination of Covid-19 related information on Whatsapp, Facebook and Zoom in the Enuku district of Nigeria during 2020. The opinions of educators were sought because in Nigeria communities regard principals as representatives of government and a positive source for the greater good of the country (Onah, Ozioko, Enema, & Ude, 2021). The researchers reported awareness levels on the use of these platforms as 100% for Whatsapp, 99.7% for Facebook and 65% for Zoom. Among the significant challenges in using these platforms, those that also impact in the PP field included the high cost of data, difficulties in discerning

credible information from “fake news”, low levels of knowledge of the use and capabilities of video conferencing platforms, and erratic electricity supply which impacted on quality connectivity (Onah, Ozioko, Enema, & Ude, 2021). There is a correlation between these challenges in Nigeria and those identified in South African studies by both Brugge and the GPL internal research unit.

Another Nigerian research paper published in a research and engineering journal evaluated disruption related research and development in the broader ICT field. The authors aspired to motivate African policy makers and politicians to develop economies that support the rise in demand for ICT across the continent (Eze, Agwah, Aririguzoh, Ugoh, & Inaibo, 2020) The paper presented an interesting dichotomy that reminds of previous anarchistic references in this review. In contrast to the purported aim of the research and the underlying assumption that an instrumentalist government-driven approach is required to embrace ICT disruption in Africa, the paper proceeded to unpack examples of entrepreneurs across the globe employing big data analysis (BDA), artificial intelligence (AI) and machine learning (ML) technologies to meet the ever evolving needs of consumers, quite independently of government intervention or investment. What follows is a snapshot of examples that present possibilities for PP.

The first and most obvious is the now ubiquitous adoption of meeting platforms including Zoom, Google Meet, Google Teams, Skype any many others to keep human actors across government, business and private sectors connected and able to continue communicating, working, purchasing resources and seeking entertainment and education (Eze, Agwah, Aririguzoh, Ugoh, & Inaibo, 2020).

A Vietnamese developer recognized the need to address food insecurity as a result of lockdown and set about solving the problem of providing emergency rations whiles maintaining social distancing by inventing a “rice ATM” (Eze, Agwah, Aririguzoh, Ugoh, & Inaibo, 2020) (Harper, 2020). The device stores and dispenses 1.5kgs of rice at a time to hungry citizens. When a person presses the dispense button an alert is transmitted to a volunteer’s smartphone who then releases the ration. The invention proved so popular that 5 tons of rice was distributed in the first 2 days of operation (Harper, 2020). It follows that a large range of goods could be distributed in this way, for instance at public hearings, including face masks, hand sanitizers, bottled water

etc. Participants could be required to enter their personal identification details in order to receive a ration, thereby taking care of the need to administer contact tracing, keep an attendance register, and obtaining consent from participants.

One of the most impactful and poorly understood aspects of digital disruption is the ability of new technologies to analyse “big data” (Eze, Agwah, Aririguzoh, Ugoh, & Inaibo, 2020). Before big data analysis (BDA), collaboration among researchers was limited to human interactions and actions. BDA enabled an environment where instant global collaboration is facilitated and billions of datasets are assimilated on any topic. Platforms such as Kaggle and CORD19 (Covid 19 Open Research Dataset) may be used by researchers to answer any research questions. (Eze, Agwah, Aririguzoh, Ugoh, & Inaibo, 2020) Because these platforms are machine learning (ML) enabled they can mine unstructured text and interpret variances in human speech and voice queries rapidly accelerating the rate of discovery of the phenomenon under study (Eze, Agwah, Aririguzoh, Ugoh, & Inaibo, 2020). This innovation potentiates a reality where public participation may rapidly evolve to co-governance and beyond, albeit also beyond the scope of this research project.

One of the enduring real problems currently encountered in the GPL is facilitating translation services in both online and physical settings using MS Teams integrated with Hansard services. A Japanese start-up called Donut invented a face mask that translates Japanese into 8 languages by connecting to a translation service via Bluetooth. As long as the user is connected to the internet, such as participating in a Zoom session, the “c-mask” translates speech and controls volume while protecting against Covid-19 (Eze, Agwah, Aririguzoh, Ugoh, & Inaibo, 2020), (Kasana, 2020).

This review would be incomplete without pondering the resilient impact of social media platforms during the pandemic. Brindha et al conducted a phenomenological study on the power of social media platforms to inform and disinform. The authors acknowledged that ICT innovation have opened channels of communication to billions of online users. This phenomenon presented a unique challenge amidst the pandemic which they termed an “infodemic” (Brindha, Jayaseelan, & Kadeswara, 2020). The volume and abundance of information freely available on social media presented threats to the management of real crises. This is due to the fact that misinformation travels faster and is shared more readily around the globe, especially when content is

optimized for sensationalism or entertainment (Brindha, Jayaseelan, & Kadeswara, 2020). The problem was further compounded when commercial imperatives are linked to misinformation such as the need to drive a particular narrative in order to entice social media users to take certain actions including buying products to ameliorate the effects of the misinformation (Brindha, Jayaseelan, & Kadeswara, 2020).

The authors suggested that regulators and owners of communication platforms need to collaborate to ensure that credible sources of information are readily available and that individual users are educated to be able to discern information from misinformation (Brindha, Jayaseelan, & Kadeswara, 2020). They correctly asserted that individual agency remained at the heart of responsible online behaviour.

Another trend that emerged during the pandemic was a rise in cybercrime. Chigada and Madsinga conducted an extensive literature review between December 2019 and June 2020 in order to determine the trajectory of cybercrime events as they intersected with the Pandemic (Chigada & Madsinga, 2021). The authors presented documented evidence that the global response to the pandemic facilitated unique opportunities for cybercriminals and led to an unprecedented acceleration in the prevalence of cyberattacks specifically targeting the healthcare sector, government agencies and large corporations including financial institutions (Chigada & Madsinga, 2021). As a result of the adoption of remote working millions of people connected to their company servers from unsecured devices using public wi-fi hotspots or other unsecured connections. These actions rendered vulnerable the incorporeal property located on company servers to malware and ransomware (Chigada & Madsinga, 2021).

The study further asserted that physical and mental healthcare concerns related to Covid-19 rendered individual internet users vulnerable to malicious universal resource locators (URLs) such as fake news sites, email phishing scams, and malicious domains. Economic hardship and healthcare concerns became fertile ground because cyber criminals have identified Covid-19 misinformation as an opportunity to extract resources from poorly informed and vulnerable users (Chigada & Madsinga, 2021) These findings have implications for PP as the situation described by Chigada finds operationalization in the public hearings observed for this report. Indeed, public participants logged into GPL Teams meetings from unsecured hotspots using

unsecured devices. It is not known to what extent even registered participants could have shared meeting links with potential perpetrators of cyberattacks.

2.5 Future threats and opportunities post pandemic

In the introduction to this research report reference was made to the accelerating impact that the pandemic has had on innovation and disruption. During 2020 ICT innovation accelerated exponentially as people and businesses adjusted to new realities associated with Covid (Runji, 2020). This part of the literature review therefore commences by briefly scaling global to identify the forces that underlie this disruption. The rationale for this approach is that governance processes will be affected and acted upon by the public commensurate with what individuals are experiencing in their normative existence. Outside of organized civil society individuals do not engage in public participation with government as part of their normal daily activities. However, the nature of the public consumer is evolving along with the forces of disruption and this evolution cannot be ignored by policy makers. According to James Bidwell disruption is to be championed as a force for good (Springwise editorial team, 2020). In their report, researchers at Springwise identify five forces of disruption that will shape the world post-pandemic. The first is the changing nature of the consumer. The price of loyalty is no longer connected to economic rationalism but has been supplanted by a demonstration of values. Stated differently, 87% of “Generation Z” consumers support brands who demonstrate values over price and product. The next most prominent arena for disruption is digital acceleration, followed by sustainability and biodiversity as the green agenda continues to dominate public discourse and activism (Springwise editorial team, 2020). The last 2 arenas of contestation represents a pivot in workplace culture that favours an emphasis on inclusivity and holistic wellbeing. These concepts are coupled with an appreciation for the need to build resilient organisations, communities, societies and polities that will be able to withstand shocks such as Covid-19 (Springwise editorial team, 2020) It is useful to engage the remainder of this review with these forces in mind.

The implications for Africa are further enunciated by the State of Internet Freedom in Africa 2019 report which is based on research conducted for the e Collaboration on International ICT Policy for East and Southern Africa (CIPESA). The authors ventilated

several concerning trends in 13 African countries included in the study. These include the weaponization of legislation in order to sanction government actions that undermine human rights and entrench unfreedoms and the disruption of SMS, social media and internet networks. The report further recognized the development of an appetite for censoring online behaviour commensurate with countries such as China and Russia. The deployment of bots, malware and data taxation and the weaponization of disinformation to advance particular political agendas are some of the most popular strategies (CIPESA, 2019). The CIPESA study cited numerous examples from Uganda, Kenya, Ethiopia, Tanzania, Botswana and Zimbabwe amongst others that indicate a decline in internet freedom. Positive findings were also made. These included civil society reactions to “unfreedoms” being most successful in countries with a vibrant and strong civil society. Countries where law making is aimed at repealing oppressive legislation and enacting laws that broaden freedom whilst protecting privacy also exhibited positive findings (CIPESA, 2019)

Internet freedom in South Africa, although on the decline due to disaster regulations, appear to be more free than the countries in the CIPESA study (Freedom House, 2020). A report published in the US indicated a score of 72 out of 100 for internet freedom in South Africa. The report listed barriers to a higher score to include major outages of undersea cables leading to slow connectivity in early 2020, the prohibitive costs of prepaid data bundles in South Africa, uneven infrastructure development especially in rural areas, and a slow roll-out of free public wifi (Freedom House, 2020). The report noted that South Africa had not yet displayed the same proclivity for internet throttling and censorship as seen in other African countries as no such incidents had been reported. Of significance here is that the South African government do not exercise any direct control over the country’s connection to the international internet or to its internet “backbone” infrastructure. All 5 undersea cables (SAT-3, SAFE, WACS, EASSy, and SEACOM) are privately owned by consortiums. The country’s fibre networks are overseen by a handful of private operators and one state-owned operator. All internet exchange points in the country are operated by non-profit organisations and hosted by data neutral private entities (Freedom House, 2020).

Fisher et al theorised that the pandemic is not an equalizer and that inequality will deepen due to economic opportunities being most affected in poor communities around the world (Fisher, Languialaire, Lawthorn, Niewenhyus, & Runswick-Cole,

2020, vol 3). This theory finds operationalization in the South African context when assimilated with the Freedom House findings related to the high cost of data bundles and the slow roll-out of free public wi-fi. Poor connectivity affects the ability of vulnerable citizens to engage government in the participatory sphere.

It is widely recognized in the literature that ICT innovation has recently accelerated exponentially in the commercial sector, but that governments and e-governance has lagged somewhat behind in embracing this innovation and keeping pace with accelerating forces (Le Blanc, 2020). In his book Smith discusses the various public online forums, chat rooms and e-governance platforms available in 2009. At the time governments utilized the internet as single direction information channels to provide service delivery alerts to citizens, or to receive and log complaints (Smith, 2009). Discussion forums were emerging as spaces of contestation and domination with little attempts observable to achieve skillful discussion, learning and changing of viewpoints. The author identified the need for trained moderators and well-designed innovation that will address specific needs such as participation in lawmaking (Smith, 2009).

Commensurate with the exponential adoption of electronic communication platforms, new threats are arising as criminally intentioned hackers target communications platforms in order to destroy or appropriate intellectual property, invade privacy or cause financial harm (North Dakota Joint Information Centre, 2020). An example is the use of ransomware to gain access to electronic files and lock them from use by the owner. A ransom is then extracted to return to the owner the use of their files. These applications use innovative encryption algorithms that are usually downloaded when users open suspicious email attachments or visit untrustworthy websites (Shah & Farik, 2017)

Concerns are arising around the protection of personal information, “surveillance capitalism”, and the manipulation of “big data” (Alwani & Urban, 2019). Recognised as the most important resource of the 21st century, Alwani and Urban problematized big data analysis in the context of rapid technological advancements against lagging and uneven regulatory responses from governments across the globe. Surveillance capitalism refers to a business model that monetizes the personal data of individuals within societies for profit (Alwani & Urban, 2019). Alwani and Urban identified three

key challenges facing governments in 2019 namely the unauthorised use of personal information, a lack of data standards both from the perspective of the industry as well as individual users who often agree to data use terms and conditions of which they have little understandingastly, limited liability (Alwani & Urban, 2019). The authors described the long and convoluted path that a set of personal data travels from source to destination, across the servers of several service providers and many country borders. This begs questions such as who is responsible for a data breach, how can individuals take adequate and informed responsibility for the protection of their own data, and how can regimes across the world regulate big data. The aim of such regulation would be to ensure the protection of individual freedoms such as privacy, in a digital world they themselves are struggling to understand (Alwani & Urban, 2019).

As stated previously the legislatures around the world reacted unevenly in their approach to legislation for responsible online behaviour and resource utilization (Le Blanc, 2020). An example of a legislative attempt to protect personal information in South Africa, would be the promulgation of the Protection of Personal Information Act (POPIA) in 2014 and the Cyber Crimes Act of 2020. These Acts are ventilated under a separate heading in this review and have yet to be extensively tested in an operationalized context.

Taking further stock of development in PP and e-participation in particular, a position paper by the UN(Department of Economic and Social Affairs) reflected on global uptake of electronic communication tools over the last 2 decades. The report concluded that Africa in general lags behind the rest of the World (Le Blanc, 2020) in the uptake of e-participation tools. The report further sets out the spectrum of e-participation and distinguishes between digitization of existing communication platforms and innovation leading to brand new tools for PP (Le Blanc, 2020).New forms of collaboration include user panels, sector-forums (Youth, Women, people with disabilities et al), e-petitions, virtual town-halls and ward based virtual committees (Newman, Barnes, & Sullivan, 2004).

Alsina and Marti(2018) introduced the inception of the CrowdLaw movement- a form of institutionalized direct public participation leveraging off new technologies and enabling the reach of vast numbers of information sources and specialists at every stage of the lawmaking process The term CrowdLaw was first used in 2014 by

researchers at the Governance Lab of New York University. The authors linked public participation to quality lawmaking and reiterated the role that deliberation and justice play in the PP process (Alsina & Marti, 2018). CrowdLaw was differentiated from traditional PP in significant ways. These included the ability to disrupt traditional power relations between government and civil society by enabling institutionalized direct participation by individual citizens without the need for organized mediation and the ability of technology enabled participation to not only include exponentially more voices in a debate but to also advance the quality of the discourse towards evidentiary deliberations instead of competing opinions (Alsina & Marti, 2018). It merits pause here to appreciate the potential global and collaborative impact of movements such as CrowdLaw when amplified by BDA, AI and ML.

CrowdLaw therefore ceded authority to a richly diverse group of participants in an entirely transparent, democratic and organic way that engages in deliberation and contemplation at every stage of the lawmaking or policy formulation process (Alsina & Marti, 2018).Moreover , CrowdLaw is accommodative of the 3 primary demands of the digital citizen namely, immediacy, relevance and personalisation (Jones, Malczyk, & Beneke, 2018).

Alsina and Marti (2018)sets out the main tenets of a “Manifesto” devised at the NYU for the CrowdLaw movement that’s seeks to disrupt and militate against current global trends of increasing mistrust in governments, rising populism and the erosion of democratic institutions that have been acknowledged by various other authors in this review. The manifesto however assumes that governments value trust, deliberation, participation, and learnability at least as highly as the digital citizen does. This is an assumption that may be entirely at odds with reality as legislatures across the world are attempting to regulate cyberspace while government actions during the pandemic realized high levels of corruption, maladministration and looting of Covid-19 related budgets.

Another innovation with disruptive potential that lawmakers might be confronted with in the immediate future is distributed ledger technology (DLT). Also known as blockchain technology, DLT was thrust to the forefront of collective intelligence by the advent of cryptocurrencies such as Bitcoin. Urban and Pineda attempt to close a gap in the literature on DLT specifically aimed at policy makers by posing the question of

whether DLT is the most important innovation since the internet, or an “over-inflated hype bubble” that have no lasting impact (Urban & Pineda, 2018).

The authors problematized DLT as a mystery for policy makers around the world that is being ignored at their peril. Zahawi holds a different view that early testing has been ongoing since the inception of DLT by both government and private sector actors and that the innovation holds a key to unlocking civic engagement in an unprecedented manner (Zahawi, 2018). The author further contended that DLT if seen as a generator of value beyond currency and cryptocurrency, have the potential to resolve challenges of participatory democracy in practical and compelling fashion. He cites an example of incentivizing PP by awarding redeemable tokens or “digital coins” to participants who by virtue of their participation strengthen the incorruptibility of the ledger in the same fashion that bitcoin miners are compensated in cryptocurrency (Zahawi, 2018).

This review will be deficient without briefly dwelling on an explanation of what a blockchain is. Urban et al describes a blockchain as fundamentally a digital asset register that is maintained by a tamper proof system of checks and balances that protects the integrity of the ledger (Urban & Pineda, 2018). To qualify as a blockchain a distributed ledger must conform to certain conditions. These are the ability of multiple collaborators to add to the blockchain using a design that only allow additions and prohibits deletions, hosting of the ledger on a distributed peer to peer network, the use of a distributed consensus mechanism, an incentive structure to ensure collaboration and cooperation and lastly, the use of cryptography to place beyond contestation the security and integrity of the data as well as the systems maintaining the ledger (Urban & Pineda, 2018).

A blockchain can therefore be likened to a supply chain management system of a City government (as an example) that is completely transparent to all its citizens. Transactions may only be added, never altered in any way, and every transaction is immediately visible simultaneously at every node in the chain. Citizens are incentivized to maintain the integrity of the ledger through a network of peers that compete for rewards that seal every new section of the blockchain, rendering it permanent and incorruptible.

It becomes clear that the adoption of DLT for good governance fundamentally disrupts the power dynamics of the government official and extends far beyond blockchains for

cryptocurrencies. Significantly, as recognized by the CrowdLaw movement, this disruption is amplified when DLT interacts with AI, ML and the IoT.

Urban and Pineda explored the use of DLT for keeping the personal records of citizens across a spectrum that include health records, professional qualifications, licenses and permits, all forms of accreditation, financial records, democratic participation and voting in elections with a fundamental departure from current regulatory frameworks whereby citizens are placed in charge of where, how and to what extent their personal records are available to others, including elected governments (Urban & Pineda, 2018).

The rapid evolution of DLT do pose risks that include the active undermining of regulatory frameworks designed to achieve policy outcomes, novel legal questions around the regulation of “smart contracts” and the nascent emergence of nation states competing for citizens by offering attractive opportunities using DLT (Urban & Pineda, 2018), such as the Estonia example which will be further explored.

Estonia is a small Baltic country with a population of 1.3 million. Every Estonian is in possession of a smart ID card linked with a personal identification number. Since 2015, Estonia extended their digital identity system to non-residents (Garner, 2018). E-residency entitles the holder to open a bank account in Estonia and run a business in the European Union from anywhere in the world. E-citizens maintain complete control over all their personal information. All the government information services of Estonia are maintained on a blockchain (Garner, 2018). The Estonian government led the adoption of DLT in lockstep with the private sector and have recently launched the Estcoin, a national cryptocurrency that can be used in smart contracts. The government aims to use the Estcoin to attract more e-residents to even surpass the number of actual residents (Garner, 2018). The Estonia example is potentially transformative. It enables a scenario where a citizen of South Africa, disillusioned with the quality of governance, can opt to become an e-resident of Estonia for the cost of a single flight. The South African gains economic opportunities and excellent government information services not available locally. As more and more countries explore the Estonia model, governments could compete for global citizens to join their e-residency programs based on the same criteria for which any commercial enterprise competes for customers (Garner, 2018). Given the digital marketing trends identified

by Springwise and other marketing technology firms such as Hubspot and Trendwatch, governments will face very different paradigms of “good governance” in future.

Criticisms also abound around uneven regulatory responses by governments, security breaches that call into question the resilience of a blockchain and whether the vast energy resources required to mine cryptocurrencies are a morally acceptable use of energy (Zahawi, 2018).

On the question of energy efficiency in maintaining DLTs, Rybarczik, Armstrong and Fabiano argues that it would be disingenuous to excoriate Bitcoin mining for its use of energy without comparing the activity to the energy efficiency of the legacy systems it is most often compared to namely the banking and mining sectors (Rybarczic, Armstrong, & Fabiano, 2021). Using a quantitative methodology they concluded that mining blockchain utilizes less that 50% of the energy used in comparative sectors of traditional banking and gold mining and that the amount of energy lost in transmission and distribution globally each year is 19.4 times more than the energy used in Bitcoin mining (Rybarczic, Armstrong, & Fabiano, 2021).

As AI and ML technologies evolve, the potential risks associated with weaponizing these technologies have become ubiquitous. Malicious synthetic media, more commonly known as “deepfakes” have become a well-known example of AI based technology that aims to distort online discourse to inflict harm (Jaiman, 2020). In a 2019 report from the Brookings Institution “deepfakes” are problematized as a constant game of cat and mouse that is likely to escalate in the future (Engler, 2019). Policy makers and threat actors are engaged in a constant battle to outwit one another. With each successful attempt to identify malicious deepfakes there is a commensurate attempt at improving the AI employed to manufacture deepfakes in order to render moot the previously successful detection mechanism (Engler, 2019).

According to Jaiman current countermeasure approaches arise from 4 broad sources. These arelegislation and regulation, governance policies and strategies of communication platforms, technology based measures and users’ increased media literacy (Jaiman, 2020). The author contended that a collaborative approach from all the above sources will be required to counter synthetic media and that it is incorrect to classify the problem as technological in nature therefore requiring a purely

technological solution (Jaiman, 2020). The Brookings report agreed and recommended that additional funding will be required to support collaborative efforts that may include enhanced detection using reverse video search, blockchain based verification and big data analyses and to train policy makers and journalists in the use of these tools (Engler, 2019).

Some technological tools and strategies that are currently being developed merits brief mention to operationalize their use in normative online transactions. Both Google and Bing currently offer a reverse image search tool that is able to identify the original images used to manufacture fake media. You tube offers a system named “ContentID” to copywrite owners who meet specific criteria. The system is used to authenticate content and the platform constantly monitors its content for disputes. When false or erroneous copyright claims are detected the consequences include a revocation of the use of ContentID and even termination of the relationship with You tube (Jaiman, 2020).

Adobe is the development stages of a tool called Content Authenticity Initiative (CAI) and Microsoft has developed AETHER Media Provenance(AMP). The aim of these interventions is to allow creators to authenticate published media by creating signed manifests. Various custody solutions are already in play to protect manifests including DLT based platforms such as Azure Confidential Consortium Framework (CCF) (Jaiman, 2020)

In 2018 Fujo Provenance announced its project, worth 2.4 million Euro to improve the way information is shared on social media platforms. Social media users themselves will be empowered with advanced tools including semantic uplift, cascade analysis and image forensics to verify content before it is shared (Jaiman, 2020)

Many additional detection solutions continue to evolve with AI and ML, however a deep delve into tools such as generative adversarial networks (GAN), convolutional neural networks and temporal awareness pipelines are beyond the scope of this research project save to illustrate the cat and mouse analogy coined by both Jaiman and Engler.

The ultimate expression of democracy is when a citizen marks a ballot paper in an election. Even though this research is not concerned with democratic elections, instances of cybercrime that seek to interfere with election processes have consequences for all democratic processes including PP and may lead to a crisis of

legitimacy (Siman-Tov, Siboni, & Arelle, 2017). The authors assessed examples of interference by Russia in the French and American presidential elections. This was facilitated by undermining the public image of candidates on social media channels and installing spyware on campaign computers. They termed such actions “strategic cyberpolitical subversion” and correctly listed the potential consequences for those democracies vulnerable to subversive online tactics (Siman-Tov, Siboni, & Arelle, 2017).The report recommended that countries should enhance the protection of their election infrastructure to safeguard public discourse around the elections and election candidates but does not provide technical recommendations for implementation.

PP is essentially concerned with the flow of information. Attempts to evaluate the success of PP events is well documented in academic literature and find expression in the recommendations from the various research projects commissioned by the institution itself. Contingent upon the strategic intent of policy makers, it has become possible to evaluate PP very accurately by utilizing web analytics.

Although web analytics was formally defined in 2006 (Jones, Malczyk, & Beneke, 2018), its positionality in the review here is deliberate due to its nascent and somewhat discommodious potential to lay bare every aspect of success or failure of a PP event. Itis therefore a rather mysterious tool for policymakers. Web analytics is defined by the Web Analytics Association as the “the measurement, collection, analysis and reporting of Internet data for the purpose of understanding and optimizing web usage” (Jones, Malczyk, & Beneke, 2018)

Web analytics have several advantages for PP including the ability to track and study key metrics of online behaviour such as the number of visitors to a website, how long they remain on a page, how they click through to other pages, and which pages are the most popular or frequently visited. Analytics tools are also constantly evolving and can assist with optimizing website content and ensuring that the return on investment for public funds spent on advertising, for example, is accurately tracked (Jones, Malczyk, & Beneke, 2018)

Bain and Co. conducted a study for Google to determine the factors that distinguish the most successful digital marketing leaders. The study found that these leaders refreshed their marketing metrics weekly, they made use of integration to study the

performance of all their social channels on a single platform and they were more willing to take risks with varying touchpoints and messaging (Beaudin, 2018). Most notably, data analytics enabled marketers to determine the most opportune timing to land their messages so that open rates, click rates and conversion rates increased commensurately (Beaudin, 2018).

Many commercial platforms already exist that integrate tracking tools across social media platforms and web-based applications to provide a consolidated representation of usage statistics (Jones, Malczyk, & Beneke, 2018). The critical decisions for PP would be to design with the participant in mind and to design in the context of the “user experience” (UX). Additionally toselect metrics for their conversion potential, not their vanity potential, and to interpret the data such that future trends may be identified (Peterson, 2004). Effective interpretation of analytics data has the potential to facilitate a virtuous cycle that enables PP to progressively realize its goals of inclusion, deliberation, equity, education and ultimately quality legislation.

Casting into the future, it is prudent to conclude this section with an overview of consumer trends that shape the social media landscape. The use of the word “consumer” is deliberate and interchangeable with “public participant” in this context due to the convergence of the citizen as a consumer of digital media and a participant in governance. A report by trend forecasters Talkwalker identify key trends, tools and applications in 2021 to assist businesses with commercial conversion on social media platforms. As these are the same platforms currently used by governments around the world to engage with citizens and their continued dominance and growth is expected (Talkwalker for Hubspot, 2021), the observations are regarded as portable to the governance sphere. The report situated consumer behaviour within pandemic conditions and framed the pandemic as a catalyst that altered normative assumptions about marketing communication. The findings introduced a new paradigm centered around community awareness, cleanliness, contactless socialization and a need to conduct all forms of interaction with demonstrable compassion (Talkwalker for Hubspot, 2021).

User generated content will enter a new era with many new applications being made available that allow online citizens to alter existing forms of content using memetic media (such as internet memes) to personalize online communication in creative ways

allowing new opportunities for position taking on topics of interest, including governance and lawmaking (Talkwalker for Hubspot, 2021). In the PP arena this could be illustrated employing an infographic explaining an aspect of the TED Bill. One of the ways a “tech-savvy” citizen may disagree with the provisions explained in the infographic could be to download the content, alter it memetically to register their opposition, and publish the altered content on the platforms of their choice. Depending on their social media following, the altered content could enjoy widespread support.

A significant trend for lawmakers to note is the rise of a socially conscious audience in Generation Z and the new Generation Alpha. 50% of Generation Z members globally have either become unemployed as a result of the pandemic or reside in a household where a member became unemployed. These factors illustrate a fundamental shift in the worldview of younger generations who have become far more critical and demand greater cogitation not only from governments but also from the commercial brands they choose to support (Talkwalker for Hubspot, 2021) These citizens are recognized to be the most well educated and have strong opinions regarding social justice, wellness, food sustainability, climate change and related environmental concerns, all forms of intersectionality, educational and professional equality (Talkwalker for Hubspot, 2021). They are paving the way for enhanced deliberation whilst simultaneously problematizing instrumentalist approaches to PP. The extent to which these findings are generalizable to the South African population requires further exploration.

2.6 Meta themes related to online research

Meta themes related to research where the internet is an integral part of the research site is included in this literature review to militate against assumptions about the ubiquitous nature of the internet and its positionality in the “new normal” online workplace post pandemic.

Dr Delia Dumitrica calls for enhanced reflexivity on the part of researchers working on online research sites. The study of virtual environments have implications for the positionality of the researcher, methodological agency as well as for the fusion of the social and the technological (Dumitrica, 2012)

Milner raised a similar concern regarding reflexivity emanating from his own research into the discourses online between the producers and the fans of the video game Fallout. The author problematized his own approach to online discourse analysis through the realization that discourse in a chat forum or social media platform occupies a multiplicity of statuses over and above both text and place. Before a researcher commences with a study that takes place online, there must be a realization that the researcher is a participant in the cultures being observed. Additionally that it is indeed wholly nascent and digitally native cultures being observed due to the sheer diversity of social interaction made possible by the internet (Milner, 2011).

Although a video game is slightly tangential to a study on political public participation the generic similarities were observable during fieldwork for this study. The implications for the topic of this research report is that public participants are sentient beings from a wide variety of socio-cultural influences. All are capable of taking away a diverse range of social capital from an online PP event. Researchers in these online spaces are both observers and participants. Reflexivity and “pivotability” are not only essential skills for the researcher but also collaborates well with qualitative methodologies including naturalistic observation and critical distancing (Milner, 2011)

Another way of viewing online research was to compare the virtual environment with the physical built environment. Jonahs posits that design choices made by software developers and code writers impact the universality of the virtual world in the same way the choices of the architect may make a physical building difficult to access or use if one is in a wheelchair, for example (Jonahs, 2012). The author asserted that the user interface of a virtual space hides the multitude of technical design choices that make up the infrastructural architecture of the space. By gathering empirical evidence from online dating websites, Jonahs presented findings that race discrimination took place as a result of the classification coding of dating websites. These findings resonate with the positionality of this study and the legacy of Apartheid in South Africa.

It is worth noting that methodological approaches to digital or online studies have evolved along with the development of the web (Raynauld, Giasson, & Darisse, 2012). The authors unpack the instrumentalist and utopian approaches

commensurate with web.1.0 and the evolution to discourse analyses and ethnographic studies made possible by web.2.0 social media platforms. Whilst these observations are useful for positionality, this PP study is firmly rooted in web.3.0 and a commensurate methodological pivot brought about by Covid-19.

This reflection on meta themes concludes with a profound yet enduring concept in an attempt at grand assimilation: The Technological Singularity. During the data gathering and observation events of this project, the researcher observed again and again an ethereal desire from all participants to improve all aspects of their present situation irrespective of whether their concerns were technological, social or biological. It is unexplored in this report how much of this vague desire had to do with the Pandemic. The drive towards an undefined post-humanism was observed during fieldwork. According to Alves, the quest for singularity is as old as humanity itself (Alves, 2012) Before the technological revolution of the 20th century, utopian and eschatological thinkers pondered singularity to envision a future where humans could escape the fleshy bonds of their frail and ageing bodies. With the invention of technologies such as artificial intelligence, notions of a singularity of old find new expression in a future where AI fuse with humanity in a post humanist era. Alves recognized that the technological singularity was contingent upon an accelerating pace of development in ICT, biotechnology and nanotechnology. The phrase used was “the problem of acceleration” (Alves, 2012)

Before the Covid-19 pandemic, scholars of the technological singularity argued that the event horizon for such a rapture was between 2030 and 2050 based on the pace of ICT acceleration up to 2019 (Alves, 2012).

The inclusion of this meta theme in the literature review is thus disclosed: the PP events observed during this research already featured many of the variables described in the singulatarian’s taxonomy. These include the use of avatars on Zoom meetings to replace an actual representation of oneself. Others features such as the rapid and forced transition to online meeting platforms reference back to the fusion of man and technology. Alves further problematizes the moral nature of such a transition. Researchers of modern cyberculture often adopt a stance that such a posthuman intelligence will be by its very nature benevolent and morally “upright”. However, the author warned back in 2012 that these assumptions are dangerous

and expose an urgent need for social scientists to adopt a much more critical approach to the moral character of technological singularity and its impact on humanity (Alves, 2012).

2.7 Conclusion

The literature review explored theoretical constructs of the ideal attributes of public participation processes since the 1960's and the barriers that had to be ameliorated to give effect to deliberation, public education, quality lawmaking and any number of aspirations that policy makers have held as a gold standard. Before the pandemic public participation in South Africa was still conducted using much of the same processes over the last 2 decades (Liebenberg & Roefs, 1999) with various degrees of success and failure.

The Covid-19 Pandemic have forced the adoption of new ways of conducting public participation (CPA, 2020) and the review dealt with a snapshot of global examples of innovative ICT related solutions to a series of challenges brought about by lock-downs.

It provided empirical examples that many opportunities exist to enhance the design of PP, and evaluate the outcomes and impacts for society post Covid-19 (Le Blanc, 2020)but that there are also many threats that exist not only for the process of PP but also for the techno-cultural formation and evolution of a web-native generation.

The review concluded by highlighting overarching backdrops against which this research project in its totality may be viewed. This was expedited by exploring methodological challenges when conducting research in virtual built environments. The overarching framework on which to hook all of the elements in this review and to make meaning of the humanistic agency observed during the study was presented as the headlong pursuit of the "technological singularity" and how the Covid-19 Pandemic may have provided the acceleration required for its realization.

Chapter 3: Research design and methodology

The researcher engaged with the study as an elected member of the 6thLegislature and is within close proximity to the research topic. As a member of the Standing Committee on Public Accounts(SCOPA) as well as Economic Development, Environment, Agriculture and Rural Development (GDEARD) committee, the researcher has developed a professional and cordial relationship with committee staff, researchers and various other specialists within the GPL community.However no hierarchical reporting structure exists between MPLs and GPL staff. Re-stated for the avoidance of doubt: GPL staff do not report to elected politicians and their work performance are not assessed by elected politicians. Any potential biases that could have resulted from a hierarchical reporting relationship is therefore mitigated.

The researcher is a member of an opposition political party with a classical liberal ideology. As such the researcher studies the topic from an ideological bias towards individual agency and economic and personal freedom. If such a bias were used as a vantage point for the observation of public participation, the most desirable outcome would be participation that leads to co-governance and true empowerment of public participants to take decisions and have them implemented by government officials.

A mixed-method approach is adopted to optimize the credibility of findings. Since the study observes communication between Gauteng residents and the provincial legislature, two distinct participant groupings emerged. These werepublic participants who engage in communication over bills on the one hand, and GPL officials responsible for the design and implementation of PP on the other hand.

The study is initially designed to be undertaken in three steps. For the avoidance of doubt GPL experts who participated in focus group discussions are referred to as stakeholders while members of the public who attended any of the public hearings observed is referred to as participants.

Firstly, focus group discussions were undertaken on a virtual platform with GPL officials. A total of 18 stakeholders engaged around a broad-based question of how public participation was conducted by the GPL. The next step was to observe a series of virtual public meetings on bills before the GPL during lockdown. An observation

guide was developed to assess each event. A document analysis was also undertaken to assess the extent to which public inputs found expression in committee reports as well as to assess how the institution adapted its approach to PP since the adoption of the "Digital Legislature" in April 2020 (Gauteng Provincial Legislature, 2020).

3.1 Focus Group Discussions

Breen suggests that the first question to be pondered upon planning a focus group is "What do I expect to get out of this experience?" (Breen, 2007). The answer was to gain insight into not only the lived experience of GPL stakeholders in terms of planning and carrying out public participation activities but also developing an understanding and empathy for the disruption these professionals have also had to deal with during the various lockdowns. Additionally, the extent to which there is appreciation and appraisal of the accelerating nature of ICT disruption looking into the immediate future and the possibilities and threats that are arising.

The following guide was employed during discussions with expert stakeholders

Figure 2: Focus Group Discussion Guideline

Introductory Question	What is your impression of our public participation levels and quality before the Pandemic?
Transitional Question	How has your own work in public participation been impacted during the pandemic?
Key Questions	Reflecting on the virtual public hearings we conducted what do you think are threats and opportunities for effective PP going forward? How do you think our processes will change in terms of how we design them, implement them and evaluate them?
Concluding questions	Are there any important aspects of PP that we have not discussed that will become salient in future? Thank you for your participation.

3.2 Field notes from the focus group

The first debate arose around an apparently frequently pondered question namely; "who is the stakeholder" with stakeholders being defined in this context as public

participants. Committee staff normatively used existing databases of members of the public from particular communities and portfolio specific interest groups that are invited to attend sector parliaments, Bua le Sechaba sessions and public hearings. In addition any interested parties may respond to public advertisements published ahead of hearings on a Bill. It was consensually recognized that in many instances participants who attended hearings were not selected with the intent of the legislation in mind. This would manifest in hearings with participants raising local service delivery issues instead of providing commentary on the draft legislation. In some instances, interest groups would be invited that would not be affected by the Bill. For example, inviting livestock farmers to a hearing on the Plant Breeders Rights Bill. Stakeholders developed a taxonomy for “primary stakeholders” and “secondary stakeholders”, recognizing that the sampling of an interested and affected population required reconfiguration and refinement to ensure that the principles of deliberation and meaningful participation found expression in public hearings.

The next discussion arose around the basal shift in resourcing brought about by the pandemic. Before Covid-19 the GPL appropriated funds for transporting participants to hearings and providing printed materials and meals. The new currency of this realm would become data required to attend a virtual meeting. Initially for the hearings conducted during 2020, participants would be asked if they required data to attend the hearing and this would be procured and supplied to each individual participant according to the cellphone number they supplied. Focus group participants lamented the low turnout to hearings and the reality that without any accountability on the side of participants, the investment in data vouchers would show a poor return.Stakeholders remarked that public participants would use the data for other personal necessities instead of attending the hearing. Connectivity challenges and delays in connecting speakers competed for the attention of virtual attendees who could easily click away from the session while waiting for a connection to be restored.

By March 2021 the institution started exploring a concept that stakeholders termed “reverse billing”. Participants would be able to gain access to public hearings via an MS Teams link as well as all social media platforms that broadcast the hearings. They would be able to react, leave comments, and share content without the need for a data voucher. Instead, the GPL would be billed by service providers after the event for the data used by participants. One stakeholder remarked that innovation would ease

constitutional compliance for the legislature and provide a tangible return of investment for costs incurred.

The focus of the discussion then shifted to skills resourcing of all who took part in the planning and execution of public hearings. Three areas of concern arose. Firstly, that public participants and to some extent MPLs lacked the technical ability to engage efficiently on a communications platform such as MS Teams. The situation was complicated by the fact that participants connected from a range of devices from laptop computers to tablets to smartphones, each having slightly different haptic functionality. The question was raised that GPL should pay particular attention to the mobile friendliness of all its public touchpoints as most vulnerable members of society would connect using a mobile device and with limited connectivity.

Secondly, participants displayed a wide range of knowledgeability and learnability regarding the topic and intent of the Bill under review. At one end of the spectrum some participants had no technical knowledge of the subject matter of a Bill even though they would be deeply affected by the eventual legislation. At the other end of the continuum, highly skilled interested parties would submit comments that would require deep deliberation and operationalization so that the broad spectrum of participants would be able to engage with these detailed submissions. One stakeholder commented that even though their job was to design specific educational programs to overcome this problem there was often no input from portfolio committees regarding optimized training content at the planning stages of a public hearing. A stakeholder who is a researcher for SCOPA illustrated the point using the Unauthorized Expenditure Bill as an example. The stakeholder stated that the public inputs received on the Bill (the Bill is tabled to authorize payment to families of the Life Esidimeni tragedy) was so poor that it was very challenging to complete the committee report. Public participants did not have any prior understanding of the purpose of the Bill. This rendered the procedural integrity of the process questionable and proved to be “an embarrassment to the committee and the institution”.

Thirdly, stakeholders opined that planning and executing public hearings in a hybrid environment was “thrust upon the institution and its staff”. During level 5 and 4 lockdowns public engagement was conducted in a fully virtual modality. However, as the lockdown eased and pandemic fatigue set in after the first wave of infections

eased, a need was identified to conduct committee business and House sittings in a hybrid environment allowing for both virtual and physical attendance. This presented the institution with new challenges that needed to be rapidly overcome. One stakeholder replied that the hybrid modality was “forced on us” implying that IT and Hansard Unit staff were initially caught off guard. As at March 2021 House sittings were technically adapted for the virtual modality, except that virtual attendees did not have access to translation services. Committee rooms were yet to be adapted.

Similarly, the discussion resonated with researchers from the Petitions Committee. By March 2021 the committee had over 600 outstanding petitions from residents. The institution intended to move to an e-petitions system whereby petitions could be formally lodged and tracked electronically. It was expected that a specialized training tool would accompany the system to ensure that public users would engage optimally. By May 2021, the system was not yet functional. Additionally, stakeholders expressed a desire to “resuscitate” the online policy portal to submit comments on Bills. The portal would greatly enhance accountability on the part of the legislature as each comment would have to be acknowledged, acted upon and responded to by the institution. It would also ease the burden of having to track comments from various social media platforms where countless instances of anonymous flaming would have to be waded through to distil the essence of public sentiment on a particular piece of draft legislation. Information from the portal would also be available for sentiment analysis.

A manager from the social transformation cluster remarked that the shift to the digital work environment was beneficial for several reasons. These included that several nascent opportunities now presented themselves to track the performance of staff and provide real-time skills enhancement and quality assurance. It became possible to track the progress of more processes simultaneously and to intervene instantly where guidance or assistance was required.

A committee assistant from COGTA remarked that the digital environment enabled the committee to engage directly with the constituencies of MPLs. This was an interesting vantage point as members’ constituency matters were not discussed in committee as part of the Sector Oversight Model (SOM). Such engagement shortened the time between problem identification and intervention and allowed the committee to do oversight whilst the needs of the community were greatest.

It was widely acknowledged that the SOM itself was disrupted by the digital work environment and that this presented opportunities to re-design the oversight model for the benefit of the people of Gauteng and in the interests of progressive good governance.

A stakeholder from supply chain management (SCM) highlighted several difficulties in the procurement of a new set of resources required for online engagement. The timelines for the processing of Section 76 legislation is set down by programming in the NCOP. By the time a Bill is formally introduced in the legislature there is often only a matter of weeks to receive committee briefings, conduct socio-economic and regulatory impact assessments, hold public hearings, write up and adopt committee reports and confer a negotiation mandate via the House to an NCOP delegate. This provided a challenge for supply chain and a mechanism needed to be developed whereby procurement could be carried out in a more stable and predictable manner.

A practical example illustrates the real-world problem: during the planning phases for the ULTRA bill public hearings the committee members raised a concern that only one public hearing was scheduled which would afford only a single opportunity to provide and solicit meaningful input from the public. Citing reasons of lockdown constraints and very short timeframes afforded for procurement due to the NCOP program, the portfolio committee sought a legal opinion to determine the reasonableness of having only one hearing. Perhaps ironically, the legal advisors opined that given the circumstances and the substantive leeway afforded to legislatures by the Constitution, a single hearing was deemed to be reasonable (Ngubane, 2021). This example illustrates the conflict that exists between expediency and notions of deliberative PP especially when viewed in the context of the intersectionality that the ULTRA bill is attempting to resolve.

3.3 Standard meeting procedures for public hearings in the GPL

To facilitate procedural integrity, public hearings in Gauteng are conducted utilizing a standard agenda which may be expanded upon depending on the nature and complexity of the legislation under review. Apart from the standard agenda items such

as opening, welcoming and acknowledgement of participants and interest groups, the chairperson also makes a declaration to declare the venue of the hearing as a precinct of parliament. This declaration is made in terms of the Powers, Privileges and Immunities of Parliaments and Provincial Legislatures Act of 2003. The purpose of the declaration is to extend the conditions of privileges and immunities normally applicable in the legislature building to the venue where the public hearing is held. In practice, the declaration establishes the security arrangements and decorum of the session as well as the freedom of speech of participants. It confers certain rights and responsibilities to all persons in the hearing and sets the tone for the legitimacy of the meeting (Powers, Privileges and Immunities of Parliaments and Provincial Legislatures Act, 2003).

Thereafter the standard format of such hearings follow a linear procedure. The first step is to receive a presentation on the legislation under review from distinct sources usually including in the following order: the national or provincial government department responsible for initiating the legislation followed by the provincial department in the concurrent portfolio to elicit their stance on the desirability, applicability and implementation onus of the legislation on the Gauteng Provincial Government. This is then followed by a legal opinion of the constitutionality of the bill, as well as its regulatory and economic impact on the public, delivered by the GPL legal advisors. After the presentations, the chairperson will open the meeting to public plenary for questions and comments and officials or the NCOP delegate will answer questions as far as practically possible. The members of the portfolio committee receive an opportunity to make comments and ask questions on the details of the bill after public participants, for officials to provide answers. The hearing is recorded by the Hansard Unit and translation services is normally provided. The meeting concludes after an explanation of how and by when public comments will be received. Since the advent of the digital legislature, virtual platforms forums are also used for comments over and above written email submissions.

Public hearings are normally concluded within 3 hours. The implication of the time constraints is that often public debate cannot be accommodated beyond 30 to 60 minutes.

Upon the conclusion of all public hearings, the committee will meet to consider its negotiating mandate and its report to be tabled in the Legislature. Members may make recommendations on amendments or additions and deletions based on public comments received and its own deliberations. The extent to which the final committee report will recommend amendments from the current draft is, in the South African context, contingent upon several factors. These include the political will of the initiators, the skills, capacity and appetite of a portfolio committee to deal with a particular bill and the hegemony and power balances within the ruling party, coalition arrangements and civil society groupings.

3.4 Observation of Public Hearings

Public hearings that took place were observed on Zoom, MS Teams or You tube and utilized an observation guide adapted from the work of Loukis and Charalabides . The guide was organized around three evaluation perspectives namely process, systems and outcomes (Loukis & Charalabidis, 2010). The observation guide closely corroborated with the theoretical perspectives elucidated upon by Quick and Bryson. Legitimacy was tested in terms of the quality of discourse, the quality and rationality of processes followed and participants perceptions of trust that the PP event will lead to rational lawmaking that have a positive impact on society (Quick & Bryson, 2016)

The following parameters were selected to observe public participation events for this study:

Figure 3: Observation guide for process parameters

PRO1: Objectives of the hearing are clearly articulated and understood.
PRO2: Participants understand their different roles and responsibilities.
PRO3: Time allocated to receive public inputs
PRO4: Resources allocated (human, technical, financial)
PRO5: Methods used to promote and recruit potential participants
PRO6: Compliance with POPIA (Personal Protection of Information Act)

PRO7: Quantity and quality of background information provided to the participants

PRO8: How well was the hearing chaired

PRO9: Quantity and quality of contributions of participants

PRO10: quality and extent of feedback to the participants concerning how their contributions will be (or have been) used

PRO11: Quantity and quality of presentations and committee members' contributions

PRO12: Adequacy of the whole e-participation project design –

PRO13: The multiplicity of channels for participation provided to stakeholders

Figure 4: Observation guide for system parameters

SYS1: Appropriateness of the ICT systems used for the public hearing

SYS2: General ease of use of the ICT system by all participants

SYS3: General ease of use of ICT system by presenters

SYS4: Simple error handling

SYS5: Quality of connectivity

SYS6: Accessibility by people with disabilities

SYS7: How is background information provided to the participants

SYS8 : How feedback is obtained from participants

SYS9 : How is deliberation and public dialogue facilitated –

SYS10: Technical quality (response time, downtime, etc.)

Figure 5: Observation guide for outcome parameters

OUT 1:Extent of participation of affected citizens

OUT2: Extent of participation of the main interest groups
OUT3: Extent of participation by youth, women and persons with disability
OUT4: Extent of participation of Members of Portfolio Committee
OUT5: Relevance of contributions
OUT6: Extent of conflicts management and consensus building
OUT7: Impact of participants contributions
OUT8: Impact on perceived transparency and trust towards government

Table 3: Evaluation Criteria for the Outcomes Perspective

The following events were included in the sample for observation:

Virtual public hearings were conducted for both the National Forests Amendment Bill and the National Environmental Management Amendment Bill on the 19th and 22nd of September 2020. The amendments were technical in nature and required contributions from expert stakeholders, interest groups and industry.

The virtual public hearing on the Upgrade of Land Tenure Amendment Bill was convened on 20 March 2021 on the MS Teams platform with livestreams on the GPL facebook page and You tube channels. The original Act was found to be unconstitutional by a court of law in that it discriminated against the rights of women to own property. The amendments required was to bring the legislation in line with the South African Bill of Rights.

The virtual Youth Sector Parliament was convened on the 23rd of June 2021 on MS Teams with livestreams on GPL social media channels. In preparation for the event, regional workshops were conducted whereafter 45 young people were selected to form the youth parliament and to engage directly with members of the Executive. A further 150 participants were selected to be part of the audience, who joined via social media channels. The topics on the order paper revolved around youth employment in the province, gender-based violence, skills development and the impact of the Covid-19 pandemic on the healthcare systems in the province. The event was marketed as an opportunity for young people to debate and recommend their own solutions to the challenges listed above.

Observation relating to Process Parameters

Without exception every event observed could not commence on the scheduled or advertised time due to connectivity issues and related technical difficulty.

Chairpersons followed the standard format developed within the institution when physical hearings were normative. The objectives of each hearing were clearly articulated however the extent to which participants understood the objectives could not be gauged at this stage. During the public hearings for legislation as well as the sector parliaments transitions from one speaker to the next were often delayed or interrupted with some delays lasting minutes. Presentations by various departments consumed a large amount of the time allocated leaving attendees with little time to engage on the presentations.

The methods mostly used to engage and recruit participants were email invitations to already registered stakeholder databases, advertisements in print media publications and radio interviews. The Communication Unit of the GPL would email the links to the various platforms on internal channels in the days leading up to each event. Background information links were provided to participants however the extent of uptake could not be assessed. Background information consisted of copies of the Bills and the MS Power Point presentations made by various officials.

Oral submissions made by participants during hearings were relevant but scant. Written submissions were relevant and more specific. Committee minutes and reports and final mandates were not made available to public participants, including feedback on events that transpired at the Select Committee in the National Council of Provinces and the final outcomes on the Bill.

The ULTRA hearing was impacted by poor connectivity compounded by load shedding and started 30 minutes later than advertised to allow invitees to connect to the platform The national department could not join the call to present due to connectivity issues. The Gauteng Department for Agriculture and Rural Development HOD could not present, stakeholders reported connectivity issues. The GPL legal advisor presented on behalf of the national department and experienced issues with haptic functionality

The following are examples of messages that were posted by the institution to inform participants:

Figure 6: Examples from live chat during public hearings

Gauteng Provincial Legislature · 0:00 We apologise for the delayed start. Between connectivity issues and load shedding, we are making sure stakeholders are able to participate. The meeting will start by 10:30.

Gauteng Provincial Legislature · 0:00 The Bill and supporting documents are available at http://gpl.gov.za/upgrading-of-land-tenure-rights.../

2 participants posted to the livestream Facebook forum: (Participants have been de-identified)

· 1:10:30 The bill looks progressive and its vital that it ensures that women are not prejudiced in the process to bring an application, what is being done by the department to ensure that the application process is not too onerous on the women it seeks to assist?

Why is the bill at hand so narrow and only speaking to the exact clauses the constitutional court dealt with?

Wasn't this an opportunity to fully address land Tenure Rights in these situations

Participants engaged with forums across channels including YouTube and the Chairperson posted an introductory video on her personal social media channels. This enabled an opportunity for constituents to also make contributions.

During the ULTRA hearing, the Chairperson also shared content on her personal social media pages which added another source for comments and questions. This is a channel that could democratize which stakeholders are heard- specifically persons from an MPLs own constituency.

Observations relating to system parameters:

The MS Teams platform functionalities did not provide any significant challenges. Participants used the “raise hand” function to appear on the speaking list and presenters flighted presentations through the screen sharing functionality.

Poor connectivity remained as an enduring feature during all the events including public hearings, round tables discussions and committee meetings. As a result, video functionality was limited because of low bandwidth. In some instances, the Chairperson would request that video functionality is enabled only during introductions

of speakers and thereafter disabled again. During most events start times were delayed due to connectivity challenges

Electricity interruptions posed a technical challenge. South Africa experienced sporadic rotational load shedding throughout 2020 and 2021 as the national energy supplier ESKOM experienced severe challenges to supply the national distribution grid amid maintenance backlogs and periods of high demand during winter months. These interruptions complicated the planning and execution of PP events as it had an uneven effect across the province and proved difficult to predict which geographical locations would be affected. Load shedding schedules were constantly updated as stages of load shedding moved up or down according to the stability of the grid. Electricity interruptions not only affected participants in their homes but also reception towers of cellphone providers. In some instances, Chairpersons were so affected that alternative arrangements would have to be made to ensure that a hearing remains chaired. In order to maintain a presence in the hearing to answer questions, officials would join the meeting from their motor vehicles so that mobility is ensured. Should an electricity outage occur officials could quickly move to a location with better connectivity.

It could not be established to what extent efforts were made to include people with disabilities. However, translation services were not made available nor were any devices employed for hearing impaired or visually impaired participants to receive or make contributions. Written contributions were submitted electronically via email to the committee coordinator.Therefore no opportunity was provided for persons who made written submissions to view all submissions made or to engage in dialogue. Oral submissions were received and answers were provided by officials where required but no deliberation took place. Participants who posted to forums were acknowledged but no answers to questions were posted on forums.

For the NEMA and NFA Bill hearings, information workshops were conducted before the actual hearings to inform participants of the proposed amendments. This was not done for the ULTRA Bill. During the hearings some presenters flighted the actual text of the bill while others presented the information as a Power Point presentation. During the ULTRA Bill hearing the Chairperson provided a background explanation in simple, clear and non-legal terms that received favourable feedback in contrast to the other hearings.

Deliberation and dialogue among participants were not facilitated or enabled during public hearings, however committee members did engage in extensive deliberations during hearings and in subsequent committee meetings.

Overall technical quality was poor mainly due to connectivity and electricity challenges as mentioned before. It could not be established to what extent downtime caused observers to click away from the hearings. However, public participation stakeholders did report in committee that public observers found the hearings “boring”.

After having observed the public hearings for the three Bills, the researcher identified a possible design flaw that required intervention. Observation of a public hearing on You tube did not allow for a complete observation that would yield the required data density for the “outcome” parameters. In particular, the extent of participation, relevance of contributions, consensus building and the impact of participant contributions could not be accurately observed. Comparative findings could not be made. The researcher made two design choices to secure the validity and integrity of findings. Firstly, it was decided to expand observation beyond public hearings on bills. A round table discussion on the pending new cannabis legislation was included in the sample. The event was organised by the Department of Economic Development and was very well attended with over 400 participants registered on the Teams platform. Participants self-recruited on the basis of their interest in the commercialisation of cannabis either as growers or downstream beneficiators. A preliminary workshop event on the pending Gauteng Township Economic Development Bill was also included in the sample. This event was organised for local government councillors in the economic development portfolios across municipalities in Gauteng. The aim of the workshop was to present the TED Bill specifically to councillors as the draft legislation contains provisions that will have wide-ranging implications for local government. Public hearings from two sector parliaments, the Workers Sector Parliament and the Youth Sector Parliament as well as the round table discussion of the Youth Sector Parliament were also included to widen the scope of application of the evaluation criteria and to observe differences. The inclusion of these event proved illuminating in how the discourse differed from the ULTRA and NEMA hearings.

On the 25th of June 2021, GPL hosted a round-table discussion on the Youth Sector Parliament. The session was professionally facilitated and livestreamed on social media channels and live radio broadcast on Kaya FM.

The virtual Workers Sector Parliament was convened on the 28th of June 2021. The session was marketed to labour organisations as an opportunity to discuss the impact of the pandemic on work opportunities in Gauteng as well as the rollout of provincial financial relief aid during the lockdown periods

In marked contrast, round table discussions were dialogical, presenters and speakers were well prepared and presentations were well delivered within time constraints. Transitions between presenters were seamless and well facilitated. Discussion forums were also lively, especially during the cannabis legislation round table event. It merits mention that the same speeches that were delivered during the Youth Sector Parliament was also delivered at the round table. However, the facilitator at the round table event asked incisive questions, engaging each speaker in skillful dialogue.

Secondly, the researcher also decided to include secondary data in the form of committee meeting minutes and committee report regarding PP events tabled in the House. By including secondary data in the study, a more complete picture emerged about the outcome parameters of the observation guide.

The following example illustrates this point: Gauteng conferred a negotiating mandate regarding the NEMA bill to its NCOP delegate and a report was duly tabled in the select committee. However, participants from the Gauteng public hearings accessed the minutes of the NCOP select committee meetings via the Parliamentary Monitoring Group and raised an alarm that their comments and submissions were not contained in the Gauteng mandate. This prompted the committee chairperson to rescind the report and reconvene the portfolio committee in Gauteng to revise its report and mandate to ensure that all public submissions are accurately reflected. A new negotiating mandate was duly adopted by the committee and conferred. During the committee meeting the researcher raised the question of whose duty and responsibility it falls on to provide feedback to these public stakeholders as the Bill originated in Parliament. The committee resolved that irrespective of the origins of a Bill, public stakeholders recruited by GPL remains the stakeholders of Gauteng and therefore the Gauteng portfolio committee remains responsible to provide adequate feedback to

stakeholders. Without the observation of this secondary data, the impact of stakeholder agency in terms of NEMA at least, would have been lost to this research.

3.5 Data from the Documents Analyzed

On the 20th of August 2021 SCOPA convened a virtual meeting to devise an operational plan to complete its workload for the year ahead. The committee received two briefings on how the Communications Unit and the Public Participation Unit respectively would support the operational plans of the committee for the remainder of the term and the following financial year period. It is pertinent to mention that a period of 6 months separated the focus group work of this study which was conducted in March 2021. The reports that SCOPA received illuminated starkly the extent to which the GPL as an institution had pivoted in their response to ICT innovation in both the design and implementation of PP. Most notably, the reversed billing concept first mooted in the focus group study had been implemented via an application named Veedo (Bodman, 2021). The practical implication is that the institution had already overcome the risk associated with procuring data for public participation that would not be ultimately utilized to attend virtual hearings. Furthermore, the institutions approach to PP design had expanded. Public notices for PP events would now be advertised on social media and web channels over and above standard newspaper paid media. Stakeholders would now be reached individually using bulk SMS, Whatsapp, paid social media advertising and bulk email (Bodman, 2021). As SCOPA would potentially be processing a new unauthorized expenditure bill, the PPP Unit now included pre-hearing educational workshops to prepare participants and empower them with the required knowledge before the public hearings. Special educational materials would be specifically designed and tailored to educate the public about the role of SCOPA and the reasons for processing the money bill, to enhance the potential for improved deliberation (Bodman, 2021).

Additionally, new opportunities would be included for direct deliberation between SCOPA members and the public. These would include Whatsapp groups created where SCOPA members could engage directly with stakeholders and interest groups on a more ongoing basis and the creation of a brand strategy specifically for SCOPA

(Bodman, 2021). Finally, the report also highlighted risks such as poor connectivity, load shedding and a lack of access to smart devices as possible barriers to participation. These risks are consistent with the literature reviewed earlier in this report. An interesting finding that was discussed in committee was that GPL researchers were told by participants that they found virtual hearings to be “boring” to watch, especially when participants could not be seen. Public attendees found it tempting to click away from PP events that were not “interesting and exciting”. The portfolio committee members were encouraged to follow the GPL social media channels, to become active participants in forum discussions, to involve their own constituents by sharing meeting and group links and by taking an active role in creating and optimizing digital content.

The Communications Unit report indicated a similar integrated approach that focused on a targeted media strategy and expanded digital marketing (Bulasigobo, 2021). The GPL would seek to build an online community comprising of mainstream media, interest groups, stakeholders, supporters and constituents. Each segment would be invited to participate utilizing targeted digital strategies. For mainstream media these would include advertorials, radio jingles, print advertisement and bulk buying. A media monitoring component would be added to the marketing plan to actively engage the committee in dealing with media queries and to monitor media engagement for reputational risk mitigation (Bulasigobo, 2021). All SCOPA engagements would be livestreamed on GPL channels to allow for the expansion of the digital “footprint” of the committee and provide for real-time engagement where committee members could respond to forum-posted queries during a PP event without participants having to wait for a speaking turn.

Both reports tabled on the 20th of August acknowledges the rapid evolution of normative business procedures within GPL due to Covid-restrictions including cautioning against the creep of “autocratic technocracy” (Bulasigobo, 2021). The implication here is that legislators should evolve at the same pace as the institution and embrace disruption as a catalyst to become more effective in executive oversight, law-making and deliberative participatory practice. The following quote from the report is enlightening:

“The effects of the technocracy are not entirely negative, as it’ll result in the participation in governance processes being more accessible, fast-paced,

and dialogue centred well beyond the pandemic – should GPL overcome related

connectivity challenges”

This pivoted approach taken by the institution will have implications for the ideal future forward knowledge, skills and attributes profile of legislators that will be elucidated upon in the recommendations section of this report.

Chapter 4: Discussion of the findings from field work

4.1 Disrupted spaces

An enduring feature of this research is disruption at an unprecedented scale. The Covid-19 pandemic and the global response disrupted every aspect of daily life. To answer the research questions for this study, disrupted spaces are identified and described across a range of concepts from GPL specific operational processes to ICT-related innovation and disruption related to personal learnability. Some instances of disruption relate to power relations and support theoretical positions taken by various authors in the field of PP.

Before the Covid-19 pandemic the most popular tool in the PP practitioners' toolkit was the public hearing. The flow of information at these events were controlled by the Hansard Unit of the GPL. Any participant, whether external to the institution or not and including Members who required a rendition of a public hearing either in writing, as a sound recording or the video record were required to make a formal request to the Hansard Unit for such a record and the execution of the request usually took weeks. In this scenario time and public records were objects of power and authority held by the GPL. With the advent of virtual public hearings held on commercial communications platforms this power dynamic has pivoted. The pivot represents a significant disruption to the balance of power between ordinary citizens and government policy makers. Any ordinary person on the globe now has on demand access to any virtual public record on any device, utilizing the platform of their choice. This includes the ability to distort or weaponize the record for any purpose with software applications that are easily available for free on the internet (Talkwalker for Hubspot, 2021).

Standard practice before the pandemic was that copies of all speeches and statements made in the House by members would be transcribed and delivered to members a few days after the relevant Sitting. This would afford members the opportunity to peruse the transcript of their speech for accuracy, and to make corrections where recordings were incorrectly transcribed. With the advent of virtual

meetings, recorded and broadcasted in real-time, this practice is not only redundant, but subject to distortion and interpretation challenges

Transitioning to operational disruption, every year the GPL undertakes its annual strategic planning process where every portfolio committee is required to document their work plans and budgets for the year ahead. Activities such as sector parliaments, study tours, focused intervention studies, oversight visits and public engagements are plotted and costed accordingly. Travel, accommodation and catering constituted a large percentage of the budget. In 2020 committees noted an inability to spend budgets due to lockdown regulations. By 2021 the situation had exacerbated to the point where some committees recorded an underspend upwards of 90%. Zero based budgeting was introduced as the institution realized that normal budgeting and planning had become fundamentally disrupted. Certain work processes may experience permanent changes and the GPL community is coming to terms with the consequences of these changes for the operationalization of oversight, lawmaking and PP processes. The realization that budgets would have to be spent differently is evident from meeting minutes even though the particulars of what new line items would look like was not yet clear.

An alternative vantage point regarding disruption relates back to the scenes that emerged from the physical public hearings that were conducted in 2018 over the constitutional amendments to the property clause that would allow for expropriation of property without compensation. The concept of expropriation had been effectively racialised and weaponized to bring into direct conflict citizens who held title and those dispossessed or “landless”. The tinderbox thus created played itself out in the public hearings which were volatile and traumatic experiences. Certain participants representing a particular ideology were inserted into hearings and tasked with making incendiary contributions or just generally disrupting proceedings with behaviour designed to incite violence. The discourse observed did not engender any of the theoretical aspirations of PP. Indeed, the potential for violence struck fear in the hearts of ordinary citizens. Such rebarbative situations may be effectively militated against through the use of virtual or hybrid hearing formats. Not only are participants now safely ensconced at home or in any venue of their choice, a certain orderliness arises from the use of the “raise hand” function that no longer requires a loud voice or a commanding demeanor. Every person on a virtual platform enjoys equal status as long

as connectivity holds. Unruly behaviour becomes unusually problematic to perpetrate on a virtual platform and is easily ameliorated. Disruptors would have to employ technology to achieve the same ends as in a physical meeting, but without any guarantees for the same level of spectacle.

As recent as 2019, Carson and Elstub wrote about the apparent trade-off that exists between deliberative and participatory democratic practice (Carson & Elstub, 2019). They described a creative tension whereby advocates for participatory democracy call for an all-inclusive approach seeking as many voices as possible, ideally even the entire citizenry but at the cost of cogitation whilst deliberative democracy practitioners value deep rumination from carefully selected representative groups at the cost of universality (Carson & Elstub, 2019). This trade-off may have been disrupted by technology innovation such as BDA that enable deep, multi-pronged analyses irrespective of the number of participants or submissions received. Careful development of expanded PP tools such as surveys, quizzes and questionnaires that are content optimized may allow for multi-dimensional data analyses, including sentiment analysis involving an infinite number of participants. Quick and Bryson asked this question in 2016: “How much participation is desirable and workable?” The post-pandemic answer requires careful consideration. In the new context where collaborative BDA, ML and AI amplify one another, most if not all, of the previous limitations either don’t exist anymore or may be ameliorated to the extent that PP aspirations are met.

Turning to the issue of convenience, new applications are constantly designed to resolve an identified “pain-point” whether it be a purchasing decision, administrative action or matters of personal mastery in the context of increased self-isolation. Citizens as customers are increasingly seeking convenience in the activities they engage in. Restaurants, fast food chains, banks, insurers and grocers all have custom applications that facilitate convenience for customers. It follows that matters considered inconvenient such as standing in a queue to cast a ballot or physically attending a crowded hearing to register an opinion will come to be viewed as “pain-points” and may be avoided as can be seen in the dwindling vaccination rates.

Observations from the public hearings and sector parliaments identified that the most pervasive barrier to participation remains poor connectivity and an unstable electricity

supply affecting connectivity. Even though electronic communications platforms are designed to simulate a physical meeting room, poor connectivity imposes certain dictates in terms of meeting procedures. Speakers are not required to activate their cameras in order to preserve bandwidth, with most participants remaining unseen or concealed behind their chosen avatars. Frequent and sometimes lengthy interruptions occur affecting the smooth progression of meetings and leaving Chairpersons dangling as the meeting waits for speakers to rejoin the call. In extreme cases such as the Workers Sector Parliament held during August 2020 and the Youth Sector Parliament in July 2020, sound was lost for protracted periods whilst technical support was slow in resolving the issue.

Poor connectivity may have tangential consequences for decorum and meeting procedures. Participants no longer need to observe a specific dress code or code of conduct. Participants were frequently observed multi-tasking such as driving while attending a hearing, or attending a physical event whilst also being in a virtual meeting. During the Womens' Sector Parliament a keynote speaker was attending an oversight visit whilst delivering her speech in the House. During Sittings MPL's would actually state on the Hansard that they were attending a Sitting whilst being in a class, or attending to a constituency or political matter. Such instances may erode the legitimacy of a legislative process as citizens and legislators are not required to focus their full attention to the matters under discussion.

Translation services remain limited or absent for most of the observed events. This presents a significant barrier to effective deliberation. Before the pandemic standard practice in Gauteng was to deploy Hansard Unit to every public participation event. Participants were able to communicate in the language of their choice as live translations services were available. This greatly facilitated the ability of participants to get their message across in a language they were comfortable speaking. Without translation services, many participants whose first language is not English may feel that their contributions will not be understood, or they may experience anxiety to speak in a language that they are not proficient in. The same challenges apply to persons with disabilities, especially the hearing-impaired participant who will not be able to follow proceedings if the speaker's video feed is switched off.

The Protection of Personal Information Act was promulgated in full, with effect from July 2021. As a result, an additional duty is placed on the GPL regarding the protection of the personal information of its public stakeholders, both as individual and as organisations. Before the pandemic stakeholders were required to sign an attendance register containing at least a name, contact details and significantly, a unique identifier- the South African identification number. In a virtual or hybrid setting, the GPL would have to assure all its participants that their personal data records would be safeguarded in line with POPIA. The content of record for each data subject will have to be carefully considered for authentication and safekeeping as it is now enhanced with an online identity, a public video and audio record, and a identifier linked to the device used to connect to a meeting.

Disruption appears to entrench itself as a permanent feature of PP and by extension of all the markers of good governance .

4.2 Contested Spaces

In the age of the attention economy, governments compete for the attention of citizens in the online world. The attention economy is the opposite of the information economy – information is abundant, subject to rebarbative manipulation and weaponization and over-commodified. Human attention is scarce, tentative and increasingly cynical (Crogan & Kinsley, 2012). Public participants, stakeholders and legislators experienced this contestation in the form of on-screen distractions such a pay-per-click advertising, relational link building or simply notifications that pop up regarding new inbox items or whatsapp messages. The temptation was always to click away to a more interesting or engaging URL, or multiple open browser windows especially when public hearings were interrupted by technical issues or connectivity failures.

Contestation also exists in the off-screen environment. Mobile technology enables multi-tasking in a myriad of ways. During the public hearings and sector parliament participants were distracted by off-screen occurrences in their immediate physical locality, from dogs barking to babies crying to traffic accidents. The most ubiquitous phrases of the pandemic years will be “you’re on mute”, or “mute yourself” and remote

meetings have led to the invention of a distinct lexicon of terms and phrases that are used on Zoom calls. (Amador de san Jose, 2020)

Remote work is compounding cognitive overload. Researchers at Stanford have identified four causes of “Zoom fatigue” that supports the empirical findings in this study. Videoconferencing platforms such as Zoom require participants to remain relatively immobile in front of their screens to optimize how they appear on video in terms of lighting and audibility (Ramachandran, 2021). Participants see each other’s faces or avatars all the time, unlike in a traditional meeting setting where attendees look at the speaker. In “speaker mode” the image of the person is larger than in a normal interaction, suggesting intimacy or conflict and during video chats it is much harder to perceive and respond to subtle non-verbal cues that are taken for granted in face to face settings (Ramachandran, 2021).

Bailenson, (the Stanford researcher) concludes that these factors increase the cognitive load of a video conference call that leads to fatigue and cognitive overload in a directly proportional relationship to the length of time spent videoconferencing. Participants have to work much harder to see and respond to subtle non-verbal cues on Zoom. Suggested remedies fall into categories that users themselves can implement or development solutions for platforms developers. (Ramachandran, 2021).

Bailenson suggests that users should use the “hide self-view” function and designate periodic “audio only” times during a call until developers react to the effects of fatigue by changing the default settings of their platforms. Stanford is also working on the development of a Zoom exhaustion and fatigue scale (ZEF scale) to measure the amount of cognitive overload people experience on these platforms (Ramachandran, 2021).

Observations from this study also indicate that the constant toggling between the participants list to check for raised hands, the chat function, and the video platform leads to cognitive overload, especially when an event is livestreamed on various social media channels each with their own chat forums.

Bailenson

Chapter 5: Recommendations based on the findings of this study and Frontiers in a rapidly evolving digital society

In 1998 King et al pondered the question of how to make PP authentic. The authors suggested three steps to overcoming the barriers to authenticity in PP – empowering and educating citizens, training of administrators and enabling the necessary systems and processes . Whilst the generic emphasis of their suggested remedies remains relevant today, the nature and content of such a re-tooling will be nascent, digitally native and rapidly evolving. The data gathered for this study illustrated an organic, intuitive re-tooling in the way that observed participants improved their own outcomes as familiarity with communications platforms increased.

Law-making is always accompanied by perceptions of complexity. The challenge for legislators is to disaggregate complex and sometimes highly technical legislation in such a way that the broad public can engage meaningfully and with confidence that their contributions will make a difference. Observations from the data showed how vastly the lived experiences of user differ. , the young township entrepreneur who joins a public hearing from his mobile phone while sitting on a dusty pavement must enjoy the same level of content optimization as the business executive who sits in front of an expensive laptop in an air-conditioned office. Both citizens must want to engage in the lawmaking process because it will impact their future business opportunities and financial well-being. However, they will have very different experiences in doing so. The young entrepreneur is a member of Generation Z, has an 8 second attention span and is used to instant gratification (Jones, Malczyk, & Beneke, 2018). His attention and curiosity will be aroused by a call to action that reads “what am I missing out on?” in the form of a URL link on his phone. He will click on the link and receive a 30 second video of an equally young legislator explaining the main provisions of a new law to promote the township economy. At the end of the video, another link is displayed that is the URL of a comments portal where the young man can register his interest in the new proposed bill.

The business executive on the other hand will receive a formal email from the committee coordinator. The full text of the new bill and an explanatory memorandum will be attached to the email. As an interested and affected party, the businessman

gathers his team to compile a comprehensive response to the bill delivered via return email. He will attend the public hearing virtually to register his response. In this example, both citizens participated in the legislative process however they had very different “user experiences” of the Gauteng Provincial Legislature. By following the principles of digital marketing the following recommendations are made for the design, implementation and evaluation of public participation in Gauteng.

5.1 Recommendations for the design of public participation

The GPL already uses its website and various social media platforms to inform, instruct and interact with Gauteng Residents. It is understood and accepted that a large percentage of Gauteng residents are already spending time and money online whether for shopping, entertainment or scholarly pursuits. This online community therefore expects the GPL to be present and active online as well. This expectation has implications for PP. In terms of design, PP must be designed with the user experience in mind. Careful consideration must be given to the optimal user journey through various digital touchpoints to ensure that visitors complete the desired conversion action. The institution should therefore set out clear goals of what is expected for each PP campaign. For example, in the planning stages for the TED Bill PP, the institution may decide to offer an online comments portal, a survey, and an infographic representation of the main provisions of the bill over an above the usual hybrid public hearing. Each of these offers may be described as “touchpoints” or points of entry whereby Gauteng citizens engage with the bill online. During the design phase goals should be set for each of these touchpoints in terms of the optimal number of persons the institutions would like to reach. These goals may then be measured and tracked to determine which touchpoints are most successful and which are not. The reason for measuring each of these goals is that online users each have their own journey to conversion (Hubspot, 2021). Some citizens enjoy quizzes and surveys to test their knowledge on a particular subject and they may start their journey by completing the survey. Others, whose learning modality are visual may want to commence by studying the infographic to understand how the TED bill may serve them, before clicking away to the comments portal. The journey of each individual user

is unique to them and closely correlated with their personal learning preferences (Hubspot, 2021)

Since the declaration of the State of Disaster in March 2020, South Africans have been at the receiving end of a seemingly incessant stream of sub-ordinate legislation in the form of “lockdown” regulations. These were often hastily drafted and released as government attempted to regulate the pandemic response. The need for a standard drafting format for legislation and subordinate legislation is therefore required to assist drafters and legislators who engage in this space. A drafting manual amplified with academic instruction on legislative drafting practice will assist drafters, policy makers and legislators to draft quality legislation that stand up to interpretation challenges and is easily understood by citizens. By empowering legislators to draft with the user of the intended legislation in mind, effective drafting can be completed before the PP phase, allowing for the time spent in an actual hearing to be utilized on the substantive provisions of bills instead of on drafting errors.

Drafting practice is not the only gap identified in the skills profile of the legislator. The GPL institutional pivot must ensure that MPLs are not left behind. Digital and cyber literacies will become mandatory skills for members to reach their constituencies and future publics going forward. In operationalizing the strategic intent of the PP and Communications Units, members of the legislature would require skills in video marketing, blogging, vlogging, and social media marketing. Each platform has a different type of content optimization strategy and members will need to find their ideal medium that blends with their unique communications and conversational style in order to communicate with authenticity. The latest trend reports indicate a desire to return to more human interaction at least at hybrid formats. It is important to be alive to the fact that citizens cannot function in a web-native environment exclusively. MPLs often interact with vulnerable citizens who experience hardship and need social assistance. MPLs are often approached by whistleblowers who require protection from the consequences of exposing the corrupt. At some point, and it varies from situation to situation, direct human interaction will be desirable (Hubspot, 2021)

As the world begins to contemplate post-pandemic possibilities it would be useful for GPL to consider how citizens perceive their lives after lockdown. Survey research conducted by Hubspot in August 2021 found that 44% of survey respondents were

looking forward to returning to pre-pandemic habits of socialisation (Hubspot, 2021) and 72% of Customer experience (CX) professional surveyed responded that they would invest more in “human” customer interaction going forward, concluding that hybrid solutions would be the optimal format in the future (Hubspot, 2021). Applying these findings to PP design the implication is that hybrid formats need to be inculcated in the design phase. Hybrid meetings expand citizens’ choice so that those who wish to attend physical events are able to do so while participants who wish to attend virtually are equally accommodated.

A word of caution is indicated. Online communications platforms may be likened to the physical built environment. Similarly to an architect and a team of artisans that collaborate on a new multi-purpose high-rise building, a software developer make decisions regarding every aspect of an online environment in tandem with a team. In the case of PP, the team includes policy makers. Andrea Jonahs (2012) introduced the concept of “infrastructural strangeness in virtual environments”. She problematized the methods employed by software developers in classifying collected data and warns that bias in the coding process may lead to discrimination of data subjects based on arbitrary variables such as location or living standard. In South Africa, given the country’s troubled legacy around classification based on race, Jonahs warning attains significant implications for PP practitioners in the design phase of campaigns. The gold standard, even adopted for physical built environments, is to design for universality. Irrespective of the physical or virtual attributes of the public participant, the design must advance freedom, fairness and opportunity. In the case of South Africa in particular however not exclusively, technical design choices such as CTA’s used, UX and CX design as well as the use of survey tools are critical and care must be taken to design for inclusivity and the reconciliation of ideas and cultures.

5.2 Recommendations for the implementation of public participation

Empirical observations including tha data gathered for this study have indicated that participants do not always engage in PP for the reasons indicated on a meeting

agenda (Brugge, 2017). In every PP event the researcher attended prior to the pandemic, some participants raised service delivery issues of a local nature. The institution could break the silos between lawmaking and service delivery complaints by developing its social listening skills and providing an electronic platform for service delivery complaints, similar to the e-petitions platform. The links to these platforms could be shared in all marketing materials for PP events so that citizens who wanted to engage the institution to register a complaint did not feel compelled to attend a public hearing in the first instance. In this way citizens' perceptions of a caring legislature may be enhanced as the institution expands the functional methods available to Gauteng residents to register their pain-points irrespective of the locality or the nature thereof. Regular feedback will be critical to strengthen perceptions of trust and legitimacy.

Administrators need to reconcile the need for patient deliberation on the one end of the spectrum with a programming schedule that requires rigid adherence to parliamentary deadlines. One way of achieving this balance would be to carefully segment participatory approaches to isolate those that truly impact the deadlines of a bill from those that seek to engage an online community for other mandates such as oversight.

Previous research has shown that skilled facilitation is instrumental in ensuring that vulnerable or historically disadvantaged participants are effectively included in PP (Afsahi, 2020).This phenomenon was observed in this study as well. The facilitation skills of a Chairperson has a proportional relationship with quality of the user experience.The GPL should invest in facilitation techniques training for chairpersons and ideally all members in an effort to overcoming intersectionality in PP practices.

Tangential to overcoming discrimination is the issue of "position taking". No "position taking" is required on online platforms as participants are often only required to attend such session by being present. Such practice is exacerbated when it becomes acceptable practice to "multitask" by attending more than one session at once, or by "attending" an online meeting whilst also conducting an oversight visit. Such instances dilute the deliberate and inclusive nature of PP that the institution is striving for. This may be overcome in two ways. Firstly, included in enhanced facilitation skills, chairpersons should encourage or even mandate "position taking" by requiring of

participants to use the haptic functionality of the platform to indicate their stance on a particular point either by voting yes or no, or by using emoticons to indicate sentiment. Depending on the deliberate and dialogical nature of the discussion, chairpersons may even advance position taking further by calling on participants directly without prior placement on a speaking list. During the workshop session with local government councillors on the TED Bill, this technique was employed fruitfully. Participants did not know beforehand when they would be called upon to speak and so would remain fully engaged in order to avoid being exposed as non-attentive. Secondly, the GPL as an institution could expand it Standing Orders to make explicit that exclusive attendance at online or hybrid gatherings is no different from physical meetings. By enhancing the rules around meeting procedures, members would be enjoined to maintain decorum in online and hybrid settings.

South Africa and by implication Gauteng enjoy relatively high levels of internet freedom, especially when compared to other counterparts in Africa such as Uganda, Kenya, Tanzania (Freedom House, 2020). This differential may be explained by the nature and prevalence of civil society in South Africa, the ownership structure of the country's internet backbone and the relative independence of the Judiciary. However, internet freedom, like all other forms of freedom, need to be approached in the spirit of the South African Constitution and Bill of Rights. Every sector of society and government have responsibilities akin to a social compact to ensure that online conduct by any actor is balanced and responsible. As such Government and for the purpose of this study the GPG and the GPL must adopt a human rights-based approach to PP design, implementation and evaluation. When legislating for internet freedom, legislators should always ensure clear definitions and limitations for the acceptable circumstances when access controls may be applied. Legislators mustensure that judicial oversight is provided for and draft for the most appropriate collaboration and transparency when engaging stakeholders and ensure that sufficient safeguards exist in law and in policy to protect personal freedom, in this case the right to privacy (Malherbe R. , 2001)

The tendency recently to make commissions of enquiry such as the Zondo Commission available to the public in several livestream environments including live television news channels may have some restorative effect on the erosion of trust in the branches of government. GPL should continue to collaborate widely with

institutions such as the Parliamentary Monitoring Group and websites including Dear South Africa to entrench the ideals of transparency in PP. Over and above the use of its own channels, open collaboration with civil society might have the same enhancing effect as affiliate marketing techniques employed in the DM space. Positive reviews by third parties will strengthen the legitimacy of the GPL as an institution that represents Gauteng residents.

5.3 Recommendations for the evaluation of public participation

Evaluation of PP processes is highlighted in previous research commissioned by the institution as lacking. This is also corroborated by the data gathered for this study. Evaluation processes is revolutionized by ICT innovation such as the Google Analytics platform. By setting up goals on a measuring instrument such as Google Analytics, Whoopra or Crazy Egg, the institution will have inculcated the outcomes and impact of its PP already at the design stage of PP. Linking Google Analytics with Google Ads unlocks powerful machine learning such as “Smart Lists” that will allow the institution to find the optimal public audience for each PP event. “Smart Lists” employs a variety of metrics such as location, length of session, page depth and type of device to determine the optimal user profile. If the GPL wanted to attract an audience for the TED Bill for instance, it could use an application such as “Smart Lists” to find business owners in townships in Gauteng and spend advertising budget exclusively on these individuals.

The return of investment of funds spent for marketing and advertising TED Bill events may thus be accurately measured throughout the implementation phase of the PP campaign. By applying the principles of “just in time” quality assurance, any ambiguity regarding the effectiveness of a particular PP campaign is removed. Touchpoints that perform well in terms of web analytics may be further developed while those that do not get traction may be dropped quickly and without any, or minimal cost implications for the institution. According to Jones et al, web analytics are no longer optional, they have become an essential element in measuring the commercial success of a

business (Jones, Malczyk, & Beneke, 2018). This does not preclude them from being employed in equal measure to evaluate governance processes such as PP.

To push the envelope further, the GPL could enhance the authenticity and credibility of its brand by publishing the results of its PP campaign analytics. In a scenario where the TED Bill PP campaign was well executed and measured, the institution could claim that for example, 40 000 citizens completed the survey and 78 000 viewed the infographic while the comments portal received 12500 inputs from citizens. These figures constitute X percentage of the goals the institution wanted to achieve and establishes that the TED Bill is welcomed by Gauteng citizens and enjoys widespread support. In the event that metrics show a very poor uptake on the Bill, web analytics becomes an insightful medium of instruction. However this imaginary scenario should suffice to argue that GPL as an institution could enhance the credibility and relevance of its work and by extension its brand and that of governance in Gauteng whilst building an online community that is engaged, informed and educated about processes that influence their own lives.

By amalgamating the evaluation criteria previously employed and emanating from the PP literature with a new lexicon appropriated from the nascent and digitally native field of digital marketing, a new set of parameters for the evaluation of PP may be developed. This new field of study present opportunities for future research.

5.4 Conclusion

Public participation is one of the features of good governance. The purpose of this qualitative study was to explore the nature and impact of public participation in the legislative processes of the Gauteng Provincial Legislature during and after the Covid -19 pandemic

This study attempted to systematically unpack and take stock of public participation in the midst of an unprecedented global crisis. The data gathered identified several variables of interest that influence the user experience of participants and stakeholders. This feature space is multi-dimensional and organized around theoretical constructs of what good PP looks like.

The pandemic occurred at a unique point in human history and may yet prove to be the catalytic mechanism that brought the event horizon of a technological singularity

forward by decades. Technological innovation was already developing at pace to facilitate the capitalization of the attention economy. Citizens were spending more time than ever before staring at screens. The arrival of Covid-19 accelerated the adoption of digitization and amplified the innovation of communication platforms.

The research question may be answered as follows:information and technology was not the catalyst that enabled e-participation. Human agency was the catalyst. ICT innovation can indeed be leveraged to enhance not only PP but governance as a whole. The data gathered in the study entrenches theoretical concepts, even those identified decades ago.

However, without the pandemic, it would have taken humanity another 10 years to reach the levels of web-nativity observed in 2021. The GPL has pivoted its public participation strategy in line with digital trends on most process and system parameters. On outcome parameters the adoption of web analytics and digital marketing plans will assist the organization to accurately evaluate every aspect of its PP strategy. The GPL secretariat and professional staff component are on track to embrace the disruption as a force for good. However, the political component of the legislature is at risk of being left behind unless definitive time critical steps are taken to instill learnability in the elected members of the legislature.

The recommendations contained in this report may have positive repercussions not only for PP, but also for the broader concept of “good governance”. Citizens that are presented with a wide range of digital options when engaging government are more likely to find a touchpoint that resonate with their personal needs. A citizen who receives timely and personalized feedback from government is more likely to change their perception of the legitimacy of that government. A citizen who sees how their inputs to a legislative process changed the drafting or the content of a law is more likely to feel like part of the solution that was co-designed by the piece of legislation.

Technology may enable all of the above by automating the standard and repetitive tasks. Instrumentality may be handled by the chosen design of a technology stack. This will allow elective representatives and government officials to turn their attention to citizens much more authentically, focusing on the humanistic aspects of interaction.

A word of caution is indicated in conclusion: ICT innovation may be employed to either enhance democratic practice or to subvert it. The value of governance processes such

as public participation lie in the expansion of human freedom. The role and value of personal experiences and agency are only enhanced by technology and is not meant to supplant it.

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