Fostering Effective Public Participation when Navigating Infrastructure Projects

By:

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The emergence of town planning control in Nigeria predates independence and draws largely upon the institutional configuration of early town planning in England and Wales with strategic developments being allocated through a system of schemes and plans. As Aka (1993, p.53) notes, post-independence, planning was characterised by limited public participation in the formulation of development plans which may have contributed historically to limited direct foreign investment. Subsequent development plans were prepared and implemented by Nigerians using Nigerian resources to little better effect. Their preparation has been subject to criticism in terms of not only cursory preparation but as with the system overall, a lack of public participation (Adedeji and Ademiluyi, 2009). Even where public participation has been mandated by law (as with the Environmental Impact Assessment Act 1992), participation has been characterised as captured and tokenistic (Ingelson and

Nwapi, 2014).

Although recognised in the constitution since 1988, town planning has remained dogged by institutional and organisational failures, which in combination with a lack of commitment at federal and state levels to the funding of coherent and integrated development planning policy has, of necessity, led to greater reliance upon external resources (Ramon, 2017). Hence funding infrastructure development, in the given context presents difficulty as in many jurisdictions, whether developed or developing, given the multiple claims for funding that governments find they have to resource. The fact that the institutional structure exists rarely translates into founding the architecture and climate welcoming to external resourcing and foreign direct investment for large-scale projects in particular. This in combination with a multiplicity of land interests ranging from the legal to the customary can lead to reticent on the part of investors, which can only be overcome if all parties (both state and non-state actors) signal a willingness to work together to achieve the desired outcome.

The existence of a wealth of natural resources makes Nigeria a country ripe for consolidating and enhancing a sustainable renewable energy sector and, indeed, becoming a world leader in generating more innovative strategies towards ameliorating climate emergency. In theory, if not in practice, foreign direct investment (FDI) should be high on the priorities of most energy and indeed private companies keen to harness such a rich resource for both self-interested and prudential reasons. Their reticence to do so may derive as much from their experiences within Western developed countries as much as with regard to the risks associated with funding projects elsewhere. One key aspect relates to making the project viable in the sense of eliminating, as far as possible, local opposition. Governments, although aware of this, at times overlook the significance of local culture and community. Comparative study of land-use development control in England and Wales illuminates some of the broader concerns and suggests why the risks associated with the funding of infrastructure become so problematic.

Infrastructure development in England and Wales generates many concerns and is fraught with contestability. The structure of the planning system, which

while providing for statutory public participation, opens up the prospect of competition between the interests of the public(s), whether special interest groups or individuals and indeed developers and landowners in the fight to be heard. Ensuring that the public are supportive and sufficiently engaged in the project proposed is integral to fostering a stable investment environment and to securing the requisite permissions necessary to proceed smoothly towards implementation. This arguably is somewhat different to the body of literature identifying the importance of public acceptability often found in Development literatures. I say this for two reasons; acceptability may be suggestive of imposition and deficiencies in participation in the decision-making process (focusing primarily upon trust enhancing strategies, with communities having a passive role that may result ultimately in subversion (Walker, Devine-Wright et al. 2010)) exposing funders to unnecessary risks, which could and should be avoided if the participation was taken seriously. Further, it is the process of participation that requires deeper consideration if the pitfalls of cursory and formulaic decision is to be avoided (Buchy and Hoverman 2000). A more constructive way of situating the question may be to look at the participatory rather than acceptability aspects, as the authors referred to above have done. This syncs neatly with the notion of risk; risk to the community concerned and risk to the funder.

The World Bank in its report, Strategic Framework for Mainstreaming Citizen Engagement in World Bank Group, identified that citizens play a critical role in advocating and helping to make public institutions more transparent, accountable and effective, and in contributing innovative solutions to complex development challenges. It noted also that the allocation of place impacts significantly upon the credibility of a system affecting private land interests and community goals (2019) by “empowering citizens to accelerate results” and so improving outcomes. Public participation is thus integral to the development ambitions of Government and funders alike and it is only through harnessing this capacity that arguably an effective way forward can be achieved. Thus ‘spatial placement’ and the associated public participation that goes with it are vital to promoting FDI and function to give assurance to funders and credibility to Governments (central and local) in addition to garnering local support. It is only in combination that success can be hoped to be achieved. Many note however that in environmental contexts in particular, corporatist bargaining can

result in trade-offs detrimental to local communities and in doing so incorporate not just environmental injustice (Gauna 1998) which can hamper investment given the risk of dissent. These risks range from apathy, the alienation of local communities through to protest and even the deploying of guerrilla tactics to undermine projects, which in turn can impact upon the confidence of funders.

The land-use planning literature (which has subsequently been co-opted in development studies, see Choguill 1996) has long made distinctions in the nature of participation ranging from Arnstein's ladder, with participation being seen as a function of power distribution and thus informs the extent to which citizen power determines the final outcomes to the "inclusive and interactive" (Healey's Communicative paradigm). One thing is certain, community engagement and its participatory forms require timely application, consultation, shared decision-making (supporting one another in reflexive manner) and collaborative effort to secure local goals in a meaningful way (Hanna (2018)).

This demands an appreciation that all comers are not equal and an understanding of the configuration of the community (including the identities of "movers and shakers" and those who lack voice within the given cultural context). It may demand a high level of interaction on the ground to seek out the voices of those not usually heard who may have (knowingly or otherwise) the capacity to disrupt projects. This is not an easy strategy to deploy but balancing the risk of failure may be one that governments both central and local must be willing to undertake to give assurances to their funders.

A reliance on formalistic law (such as bland statements regarding the existence of the rule of law) may be insufficient. Thought needs to be given to not only the process but the qualitative value of consultation and participation. It is not just about consultation – fostering real and meaningful participation is the key. This requires a clear articulation of the culture of the communities concerned in the widest sense. The process substance dichotomy that public lawyers are familiar with takes us some way to appreciating why acceptance or acceptability per se might be insufficient. Better outcomes are likely to arise when due care is given to process. The more significant the project the more important participation becomes. The cultural backdrop to the development proposal can inform how viable ultimately a project is.

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