

Participation is a Right

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Abstract

The Vancouver Declaration arising out of the first UN-Habitat conference stated that ‘participation is a right.’ What is meant by that statement? How has that term evolved in the legal context governing the built environment? It means more than simply the act of voting for a representative government.

There is evidence that the architectural profession has yet to recognize this right. The process of public hearings for development projects is seen as a manipulative process geared towards insuring public approval of a project. However, examples abound of the failure of the development process in the conflict between developers of property and the citizens who must live with that development.

While there are now many legal requirements for participation, these conflicts continue to grow in cities around the world. Architects are often caught in the middle of these conflicts. This paper argues for the embrace of the right of participation by the profession.

1. INTRODUCTION

The first UN Habitat conference in 1976 yielded the Vancouver Declaration.¹ Among its statements was the following:

“All persons have the right and the duty to participate, individually and collectively in the elaboration and implementation of policies and programmes of their human settlements.” ([Section II.13 – p.5](#))

As a student at the UBC at that time, I found this statement intriguing. What does it mean and how

does the implementation of that right change how I would practice architecture? While I’m still working on that question, I also see that the profession seems to have resisted acting on that right or, at least, is moving in that direction with great reluctance.

A case in point: the Royal Architectural Institute of Canada (RAIC) opened a competition for its 2019 annual conference. The competition was entitled ‘Architecture and public engagement.’ A good start? Not quite. They meant something quite different by the term ‘public engagement.’

“Public engagement ... is also crucial in educating the public on the role of architects and the importance of design; much of the public—and even policymakers—are often unaware of what architects do, and the implications of design on our everyday lives. With mounting concerns about sustainability, budget cuts to publicly-funded projects, and an increase in the cost of construction, it is particularly important to engage the public and help them understand the vital role architecture and architects play in the development of our built spaces and in addressing these concerns.”¹

What they meant is that the public must be educated about the importance of the profession of architecture. This suggests that the problem is with the public and their ignorance of the importance of the profession rather than the failure of the profession to respond directly to the needs of a particular community. It is understandable that a community might suspect the value of the



Figure 1. 'Je participe' poster (From <https://www.akg-images.com/archive/I-participate--you-participate---they-profit-2UMDHU78VBLK.html>).

profession when its response about 'engagement' is that the public must be 'educated' on the value of the profession. Why should the public care to be so 'educated'? The onus, surely, is on the profession to be responsive to society. That can only happen through active engagement of the profession in the community and the broad participation of the community in the development of their built environment, their 'habitat.'

At present there is a conflict between the view taken by architects about public engagement and the view taken by communities about participation. While this is not part of an architect's current education, practicing professionals have the responsibility of educating themselves about the 'right to participate' and about the means by which we can promote and protect that right. This is a brief introduction to some of the evolution of the right to participate, some of the legal protections, and problems arising from overlooking the issue.

2. EVOLUTION

There has been a significant development in the understanding and acceptance of participation in urban governance since the drafting of the Universal Declaration of Human Rights (UDHR).

In the period following WWII, many cities in the West were undergoing what was termed 'urban

renewal' or 'urban regeneration.' In the UK, for example, the Town and Country Planning Act of 1944 created powers for national authorities to re-plan and rebuild areas damaged by war as well as areas considered to be badly laid out or 'obsolete.' The Housing Act 1949 (UK) allowed authorities to acquire property that had been classified as a 'slum' by the Public Health Inspectors (Blackhall, 2005:8). In the US similar legislation was passed at the national level as well as the municipal level. The "Blighted Areas Redevelopment Act" of 1947 in Chicago was a typical example in which, along with health factors, a 'slum or blighted area' was defined as 'deleterious land use', 'obsolescence' and 'faulty arrangement or design.' With more and more communities being torn apart throughout the 1950s, questions were raised about the meaning of such terms as faulty design or blighted area. Who was making such judgements? It certainly wasn't happening at the community level itself.

In 1961 Jane Jacobs published her book, *The Death and Life of Great American Cities* in which these questions were vigorously argued. With a background as a journalist, her strength was in her observations of people living in and using city spaces. She railed against the 'rationalism' of modernist planning and their narrow definitions of what was 'obsolete' or 'badly designed.' Where the professional planners and financiers saw blight and slums, she saw vibrant communities. Her

descriptions of these communities changed the way people thought about planning. Her timing for the book was fortunate as well since it was being read by many activists in these communities—activists like those in the Free Speech Movement, the civil rights movement and the growing anti-war movement. This expanded, beginning in Paris in May of 1968 with a student/unionist uprising which, in itself, gave rise to the ‘right to the city.’ along with the memorable ‘je participe’ poster. (See Figure 1 above.)

In 1969 a number of these ideas were presented concisely and clearly in a short article by Sherry Arnstein called ‘A Ladder of Citizen Participation.’ In it was a diagram (Figure 2 below) that clearly indicated to many of these community activists that there was no meaningful participation in the determination of their own futures. There was little here but tokenism and they had a right to much more than that. It was ‘Citizen Power’ they were seeking—an expansion of democracy beyond the act of voting for representatives. They needed that power to keep their communities from being destroyed by the rationalist urban renewal schemes of the modernist urban planners and by the inner-city expressways of the equally rationalist transportation engineers. If this destruction was to stop, they had to wrest control of the city from the hands of the ‘democratically elected’ politicians and bring it back under local control of the people who were defining ‘beauty’ and ‘blight’ in quite different ways from the professionals. Urban governance had to be far more direct.

3. LEGAL SUPPORT

In human rights, the term ‘participation’ is most often associated with political participation. This is the case in the UDHR. Article 21 refers to the right ‘to take part’ in government either directly or through ‘freely chosen representatives.’ While direct participation is an ambiguous prospect, choosing representatives is much more clearly defined as elections in 21.3. The process of electing a government is far more constricted than the broader concept of governance. As important as voting rights are, in the day-to-day lives of citizens there are other participatory rights that should receive greater attention. This is certainly true in an increasingly urbanized world. Rapid urbanization and the dramatic increase in slums and illegal settlements creates a fundamental problem for governance—one that won’t be solved by elections, particularly given the fact that most illegal settlers in these cities would have no right

to vote in any case. It is in the city, though, where we will better define the meaning and value of participation in governance. In so doing, it is important to outline the context set by international documents on human rights.

a) International Documents

In addition to the UDHR, the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Declaration on the Right to Development (DRD), and the Convention on the Rights of the Child (CRC) all raise issues relating to participation. Much of the participatory focus is on ‘self-determination’ and, while this is typically directed at the state level, defining a state often involves cultural identity and who gets to define that group right. This necessarily involves participation.

b) Participation at the national and municipal level

In major cities in the West through the 1970s and 80s legislation began to follow the demands for greater participation. For example, in 1973 the Environmental Protection Agency in the United States issued what were some of the first regulations concerning participation. The Federal Water Pollution Control Act of 1972 required “agencies to encourage and assist public participation in the development of standards, regulations, effluent limitations, plans, and programs being established under the Act.” The Housing and Community Development Act of 1974 in the US also required applicants for the Community Development Block Grants to certify community participation in their project proposals. A similar legacy of citizen demand is reflected in legislation governing the planning process in the United Kingdom. The Planning and Compensation Act 2004, for example, requires a Statement of Community Involvement (Blackhall, 2005:377).

In these documents there are a number of points that expand the meaning of participation beyond elections. While there is a tested methodology for participation in elections, determining the destiny of one’s community is a much more difficult prospect. The rules are few and the variables much more unruly, however, the implementation of the right is critical, particularly to the thousands of urban communities facing eviction in cities around the world. Their poverty, their tenure and legal status render them invisible to authorities. It

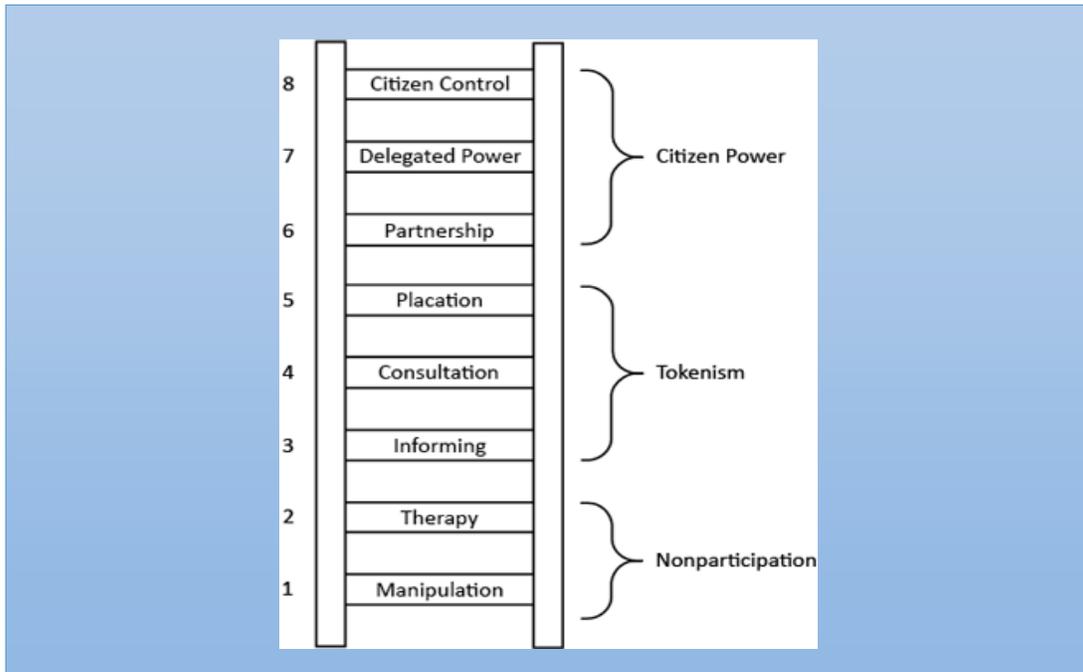


Figure 2. Ladder of Citizen Participation. Available online at <https://lithgow-schmidt.dk/sherry-arnstein/ladder-of-citizen-participation.html>.

is impossible to participate in directing the future of your community when you are not seen. Having some level of control over the future of one's community requires some level of self-determination. In turn, that requires active participation in decision-making processes (very few of which involve elections).

4. ADDRESSING PARTICIPATION IN THE FIELD

Two examples indicate the difficulties and repercussions arising from our professional inaction on this broadened definition of citizen participation.

a) Latin Village, Tottenham UK (Pueblito Paisa) – Plans for the redevelopment of this Latin market have been under consideration for a number of years but things began to heat up when the London Borough of Haringey issued a Compulsory Purchase Order for this unique market catering to the Latin diaspora in London. The market vendors and the local population have been fighting this CPO since 2016. Their resistance to their eviction and the redevelopment of the land included the UN in 2017. The Working Group on Business and Human Rights issued a report in July of that year pointing out that the CPO “would have a deleterious impact on the dynamic cultural life of the diverse people in the area.” Much of the resistance to this gentrification of the area is also concerned with cultural rights. Its supporters also included Minority Rights Group International. In their statement at the Haringey Council meeting in July 2017, they stated their concern about “the disproportional impact the redevelopment project would have on the Latin American traders’ rights to enjoy and practice their culture freely as minorities.” Grainger, the developer, has been working on this project since 2003. Despite the Secretary of State order approving the CPO in January 2019, the community resistance continues. Obviously, this has implications for Grainger, their architects, the Haringey Council and all other stakeholders. How is it that the Council, the developer and the architects were unaware of the potential for such resistance? Global resistance at that.

b) 105 Keefer, Vancouver, Canada³ – While this conflict has not yet escalated to the point of UN involvement, it is somewhat similar in that the conflict involves cultural rights and gentrification. The Beebie Development Group initiated the project in 2014 in Vancouver's Chinatown. They went through a number of iterations of the

proposal over the years and the planning department rejected them in part because the proposals did not fit into the heritage of the area (in large part an aesthetic consideration). They largely elderly population of the area also objected to the project on other grounds. Their resistance focused on the expectation that “it would gentrify the working-class neighbourhood, and was more like the modern highrises in downtown south than the historic buildings in Chinatown.” They also objected on cultural grounds (not unlike the Latin Market). The developer and architect continued to revise the plans and downsize in order to meet the requirements stated by the planning department. They managed to meet all the stated requirements but when it came to Council approval of the plan, there was such vociferous resistance from local residents at the meeting that the Council, under citizen pressure, rejected the proposal that had been approved by the extensive negotiations between the developer, the architect and the city planners. Beebie Development Group is now suing the city, for “overreaching beyond their jurisdiction — contravening the city's own bylaws and protocols — in its refusal to grant the project a development permit, effectively acting in bad faith and violating private property rights.” It would appear that Vancouver's planning department, the developer and the architect were blindsided by this community resistance. A failure to understand the community's needs continues to have important implications for development.

5. CONCLUSION

As a profession, it is in our best interest to recognize and act upon the right of citizens to participate in the development of their own habitat. In urban development decisions will always have a strong focus on economics. That is certainly understandable. However, over the last 50 years there has been a growing trend towards resistance to development that fails to meet the basic principles of human rights. This applies not only to the examples above but to broader human rights issues concerning cultural rights, housing rights, rights of access, environmental rights and the rights of construction workers and their families. There is much work to be done, not so much in educating the public about the ‘vital role of architecture,’ but in educating architectural students and practicing professionals about a rights-based approach to development. There are many architects, NGOs and institutes working on improving the implementation of the right to participate and a long history of engagement from

which we can learn. Among them are the Association of Community Design, Architecture Sans Frontières Indonesia, Pacific Rim Community Design Network, and many others. They are working within the framework of rights-based development, a framework the mainstream profession, judging by the two examples (of many) above, has yet to embrace. Professionals, architecture schools and the institutions governing architecture and architectural education would do well to engage with the public, to listen to communities rather than relying on that age-old response that the public ‘must be educated.’ As a profession it is much more our obligation to be educated on the right to participate and the means by which we can promote and protect that right.

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Endnotes

- 1, See https://mirror.unhabitat.org/downloads/docs/The_Vancouver_Declaration.pdf
2. See [https://raic.org/sites/raic.org/files/civicrm/persist/contribute/files/RAIC%20EP%202019%20Design%20Competition\(3\).pdf](https://raic.org/sites/raic.org/files/civicrm/persist/contribute/files/RAIC%20EP%202019%20Design%20Competition(3).pdf)
3. See, for example, Lizzie Dearden, "London market demolition triggers UN investigation into area's gentrification". *Independent*, 27 OCT 17 (<https://www.independent.co.uk/news/uk/home-news/london-un-gentrification-investigation-seven-sisters-market-demolition-pueblito-paisa-latin-village-a8023811.html>) and Richard Sudan, "Closing Tottenham's 'Latin Village' market is essentially social cleansing - it must be stopped". *Independent*, 12 OCT 19 (<https://www.independent.co.uk/voices/london-gentrification-latin-village-market-seven-sisters-closure-social-cleansing-tottenham-a9153641.html>)
4. See, for example, Belle Cheung, "Opinion: 105 Keefer is a bigger conversation about culture in Vancouver", *Vancouver Sun*, 31 OCT 17 (<https://vancouversun.com/opinion/op-ed/opinion-105-keefe-is-a-bigger-conversation-about-culture-in-vancouver>) and Jessica Kerr, "Vancouver developer takes city to court over rejected Chinatown proposal", *Vancouver Courier*, 27 AUG 19 (<https://www.vancourier.com/real-estate/vancouver-developer-takes-city-to-court-over-rejected-chinatown-proposal-1.23928991>)