

# **Participatory Democracy and the Governance of Urban Planning in Portugal.**

## **From Regulations to Action**

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# **Participatory Democracy and the Governance of Urban Planning in Portugal. From Regulations to Action**

## **Summary**

'Public participation' has become a common term nowadays when discussing territorial planning administration, but in the majority of the cases it is no more than a vague figure of speech. With this work we analyse the meaning of 'public participation', through an exploration of the concept of democracy, in its different guises and via its reflexes on the present Portuguese land use planning. Confining the analysis to territorial planning, we start from a confrontation of the theories with the processes of land management through the analysis of present legislation and effective practices. We will show that the degree of democracy existing in the present land use planning is insufficient, dominated by rigid and passive normative speeches in face of an increasing citizen demand for action. Three cases will be presented, and two of them will deal with community groups overtaking existing legal system barriers, and achieving higher levels of participative democracy in the Planning process. The inhabitants of these neighbourhoods organized in local associations, and some actors within the central and local governments achieved unique results in the context of Urban Planning in Portugal, and in the process created expectations for real and sustained changes in the future to come.

**Keywords:** Public Participation, Participatory Planning Theories, Urban Planning, Governance, Empowerment

**JEL classification:** O21, R52, D71

*This paper follows the writings and discussion of the author's MSc dissertation at ISCTE [University Institute of Management, Social Sciences and Technology in Lisbon].*

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# Participatory democracy and the governance of Urban Planning in Portugal. From regulations to action.<sup>1</sup>

## Introduction

'Public participation' is a term increasingly common when discussing territorial management, but in most cases it is no more than a vague figure of style.

Is there an effective citizen participation? Who can participate? When? Where? And how? Is that the desirable participation?

This article presents as central theme the concept of 'participatory democracy' in the process of municipal planning, and with it aims to discuss actual (and potential) forms of democracy in the process of planning the territory. Though there are many methods institutionally defined as participatory, most do not allow (or encourage) the involvement of the population in these processes.

Therefore, the analysis made here attempts to 'measure' the degree of participatory democracy in the Portuguese case.

This work is structured on two assumptions: that the term 'public participation' presents different contours depending on its approach being more theoretical, legal (administrative), technical or operational (practice); that 'public participation' in Portugal is a legal figure, common in the general legislative body but when regarding the existing planning system or its practice, it reflects a weak involvement of the population and low levels of participatory democracy.

Confining the analysis to a specific object as territorial planning, and countering the majority of studies made on that theme, which usually analyse separately the theoretical, legal, technical or practical dimensions, we start from a confrontation of the theories with the processes of land use management (through the analysis of present legislation) and effective practices (through a case study of three processes of land management).

How do legal mechanisms work in practice? Do the existing legal instruments allow a true participatory democracy? Or do they have limitations exceeded only by the practical needs and by civil society?

We will try to demonstrate that today's degree of democracy in territorial planning is insufficient, dominated by a closed and passive normative speech, and facing an increasing pressure from citizens.

Three cases will be presented, and two of them will deal with marginalized groups overtaking existing legal system barriers, achieving high levels of participative democracy in the Planning process: one in a qualification and reintegration operational plan for Cova da Moura; the other in a project for building a new

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<sup>1</sup> This text follows the writings and discussion of the author's MSc dissertation "Participatory Democracy and Territorial Planning. Analysis of 'public participation' in the Portuguese case"; under the supervision of Professor Maria João Freitas (ISCTE Lisbon / Portugal) in November 2007.

section of an urban highway, intersecting a high density residential area (CRIL - IC 17). The inhabitants of these neighbourhoods organized in local associations, and some actors within the central and local governments achieved unique results in the context of Urban Planning in Portugal, and in the process created expectations for real and sustained changes in the future to come.

## The planning process

In order to analyse 'participatory democracy'<sup>2</sup> in planning it is essential to have a sense of the functioning Portuguese system.<sup>3</sup>

The subject of planning has been perceived as the act of knowing, understanding and influencing changes in form and content of a humanized environment, particularly with regard to changes in the urban landscape, in urban design and in the organization of urban life in space, according to objectives defined by the community and implemented by public entities.

Currently, the responsibility for the process of changing urban space, from a regulatory or legal framework, has belonged to municipalities, holders of the power of planning. With the central government lies the right and duty of process supervision and of decision on regional or national level issues.

The lowest local government level corresponds to the '*freguesias*'. These only take some minor initiatives but may be the ones (in the future) dialoguing with the municipalities in order to improve levels of citizen participation. Private developers or individuals may also promote territorial changes but these will be always submitted to the municipality's approval. Sometimes there are agreements on joint developments between public and private entities through protocols or even associations, which counter's the sum of isolated initiatives outside the scope of general planning.

Consent is in general given by the municipality, depending on particular circumstances of the approval of central government, such as in cases of new developments outside the limits of a municipal plan, or in case of developments within specific protected areas (environmental, or others).

Public sector agencies (with specific competencies) and local populations affected by the amendments may oppose the change, as well as the general public which may object to plans that propose changes (or no changes) to the environment.

Objections may be based on legal dispositions, in assessments or in considerations defined by personal criteria. Citizens are only allowed to make suggestions or present any objections during the first drafting

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<sup>2</sup> To a better comprehension of the Democracy concept see Tocqueville (1835), Lincoln (1863), Bobbio (1989), Dahl (1989), Friedman (1996), Dahl (2000), Sánchez (2000) and Zambrano (2003). For Direct Democracy see Madison (1788), Aristóteles (1969), Dahl (1989), Bobbio (1995), Budge (1996), Orr (1999), Canadians for Direct Democracy (n.d.). For Deliberative democracy see Sirianni (s.d), Elster (1997), Habermas (2000), Smith (2003) and Barber (2004). For Participatory Democracy see Arnstein (1969), Barbalet (1989), Friedman (1996), Oswald (1999), Santos (1998), Guerra (2000), Dienel et al (2000), Sánchez (2000), Santos (2002a, 2002b), Fernández (2003), Ferreira (2004) and Martins (2004).

<sup>3</sup> We will follow Lobo (2001) in explaining the planning process considering its subject, the responsibility on the process, who has the last word (consent) and the possible forms of participation of citizens in the process. It is an analysis that carries behind the combination between regulations and practices, but which remains on a generic scale of analysis.

phase of the plan or after its conclusion (even if before approval). Populations also have the right to hold petitions and promote popular actions or even to appeal to the Ombudsman to act against governmental actions (although his decisions have no binding power over the actions of the administration).

After this brief introduction to the process, and considering that planning legislation is one of the most important instruments of decision making in the national planning environment, it is fundamental a quick analysis of a set of these regulations<sup>4</sup>.

The set reviewed included the [CRP] Constitution of the Portuguese Republic (1982 revision), the [CPA] Administrative Procedure Code, the [DPPAP] Right of Procedural Participation and Popular Action (*Law n°83/95, August 31*)<sup>5</sup>, the [LBPOTU] Urbanism and Planning Policy Framework Law (*Law n°48/98, August 11*), the [EC] Expropriation Code, the [RJIGT] Legal Regime of the Instruments of Territorial Management (*Decree-Law n°380/99, September 22*), the [RJUE] Legal Regime of Urbanization and Construction (*Decree-Law n°177/2001, June 4*), and finally the [EIA] Environmental Impact Assessment Studies (*Decree-law n°69/2000, May 3*). We have tried to assess them in terms of their degree of 'participatory democracy'. The analysis was based on a set of criteria that allowed an analysis and criticism, of each regulation in an isolated way or as group, in what concerns the question of 'public participation'. The chosen criteria were: the scope, areas of action, the definition of holders of the procedural law, definition of rights, forms of publicity, advertised information, procedure for questioning, procedure for response and other applicable laws<sup>7</sup>.

### **The planning legislation**

Despite the fact that in all of these legal instruments, we could verify that there is a clear opening to the involvement of anonymous citizens or specific interests representative associations in planning procedures, the number of holders of that right, the right to participate, varies.

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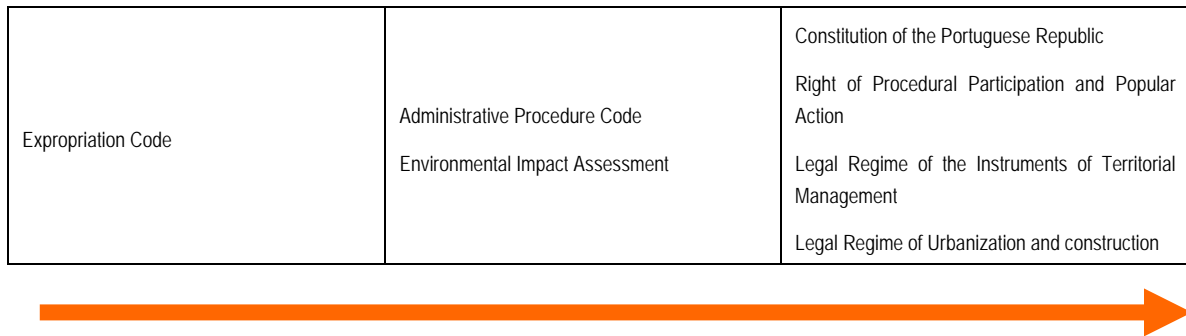
<sup>4</sup> To a better understanding of the weight of planning legislation in the planning process in Portugal see Correia (1993), Craveiro (1996), Maior (1998), Oliveira (2000), Craveiro (2000), Correia (2001), Alves (2001), Schmidt (2003) and Pinto (2004).

<sup>5</sup> The current analysis considered the latest version (*up to September 2007*) of the set of laws and regulations mentioned above.

<sup>6</sup> From the Portuguese 'Decreto-Lei'.

<sup>7</sup> A detailed analysis was made on chapter 3 of the author's MSc dissertation (Gomes, 2007).

In Figure 1 is presented a scheme showing the change in the scope of the right to participate.



**Figure 1: Inclusiveness of the legislation in what concerns the holders**

While the Expropriation Code considers the right holders as the ones who are expropriated, the Administrative Procedure Code enlarges the concept to include any disadvantaged citizens or holders of subjective rights, the DL.nº69/00 (EIA) limits participation to those who inhabit a particular area and the remaining legislation allows citizens in general to participate, whether they are individuals or collectives, or the ones concerned with the proposals and without any limitations.

The current law on Environmental Impact Assessment which once, especially since DL.nº186/90, June 6 was considered the law with greater openness to citizen participation, can be situated in this scheme in a position below the Legal Regime of Instruments of Territorial Management. The Portuguese Constitution appears in a position of prominence not only for its general framework and role as a basis for all the other legislation, but also by the fact that this is a constitution that, although enduring several revisions (the last one being in 2005), had its foundations set in revolutionary period, just after the fall of a long lasting dictatorship (April 74), and in which the scope of democratic participation was exceptionally enlarged<sup>8</sup> (see chronology in Figure 2).

<sup>8</sup> For more detailed information about this historical period and its impact in planning processes see Vieira (1976), Bessa (1978), Dows et al (1978), Costa et al (1979), Rodrigues (1999) and Alves (2001).

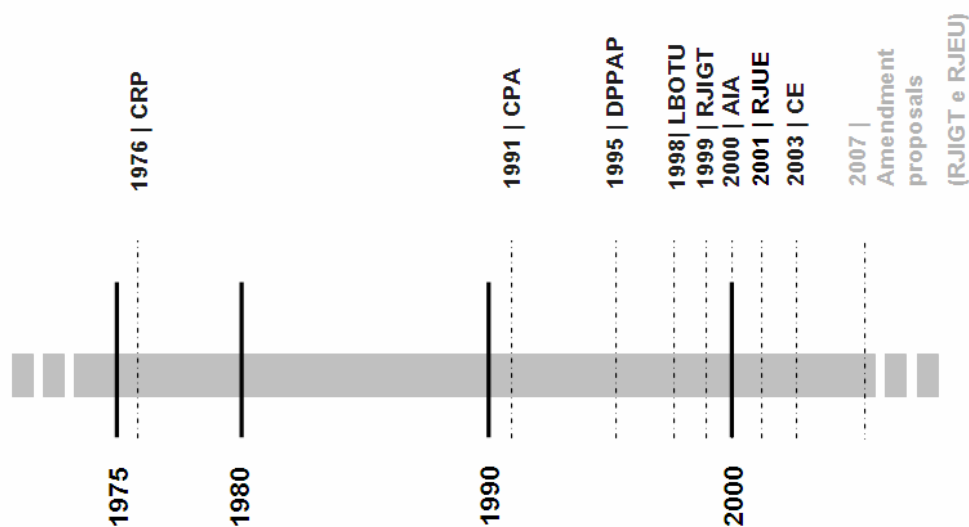


Figure 2: Chronology of the considered legislation

In what concerns the right to participate, the set of regulations gives us clear definitions of what is defined by law as the right to participate, however these definitions diverge from regulation to regulation.

We can divide these acts into two distinct groups: the right to information and the right to participation.

The right to information is clearly essential for a growing and more proper involvement of citizens, since they must have the widest range of information for a larger and better involvement. This right can be translated into a bundle of instrumental rights such as: the process consultation; the right to documents transcription; the certification; the direct information, and the right to be informed on the decision, or to be informed of any administrative decisions related to the recipient(s) of the information.

For the Urbanism and Planning Policy Framework Law the term participation means the act of civic consciousness strengthened through access to information and to intervention procedures in the elaboration, implementation, evaluation and revision of territorial management instruments (art.5, point f). The Administrative Procedure Code presents participation as information, collection of suggestions and provision of information (art.7). In the DL.nº380/99 (RJIGT) participation involves the formulation of suggestions, request of clarification and intervention at the public discussion phase (art.6). The DL.nº177/01 presents the same provisions as the DL.nº380/99. Finally, in the Environmental Impact Assessment legislation the definition of the term 'participation' can be translated into consultation that may include the organization of public hearings or any appropriate form of listening to the concerned parties (art.14, paragraph 4). The Constitution is again the most comprehensive instrument, when it regulates through its paragraph 5 of its art.65, the right to participate in the elaboration of territorial physical planning instruments by the 'people' or by the Portuguese citizens.

Once again, upon defining the scope of the legislation we are narrowing the scope of the term participation, limiting it to concepts as to inform, give suggestions, provide information, consulting, listening and intervention only at the phase of public discussion.

Accordingly, we present a scheme in Figure 3 that illustrates the analysis of the legislation in order to obtain a comparative scale of the allowed 'citizen power'.

Expropriation Code	Administrative Procedure Code Legal Regime of the Instruments of Territorial Management Environmental Impact Assessment Right of Procedural Participation and Popular Action Urbanism and Planning Policy Framework Law	Constitution of the Portuguese Republic
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Figure 3: Scale reflecting the scope of citizen's power within the Portuguese legislation

It seems clear that the relationship of the power extent with the scope of the law i.e. the more specific the scope of the law the smaller the power of citizen participation.

The Expropriation Code is clearly the more restrictive law of the group, allowing only legal appeal or complaint to the procedural action, while all the other laws are open to some of the diverse forms of participation described above (information, consultation, listening, etc.).

It is important to notice that even though the Portuguese Constitution is the most comprehensive regulatory instrument in the definition of "participation of stakeholders in the drafting of the instruments of Urban Planning and any other instruments of physical planning of the territory", it is not known the legislators understanding on the practical significance of participation in this context. Therefore, given the historic framework on the elaboration of this Constitution, we assumed in this case the highest level in the degree of 'citizen power'.

### Judging the laws

In order to 'measure' the 'participatory democracy' degree<sup>9</sup> of the Portuguese legal environment we recurred to Arnstein's (1969) scale of citizen's participation (Arnstein's Ladder).

The author defined the bottom rungs of the ladder as (1) Manipulation and (2) Therapy. For her, these two rungs describe levels of "non-participation" that have been contrived by some to substitute for genuine participation. Their real objective is not to enable people to participate in planning or conducting programs, but to enable powerholders to "educate" or "cure" the participants. Rungs 3 and 4 progress to levels of "tokenism" that allow the have-nots to hear and to have a voice: (3) Informing and (4) Consultation. When they are proffered by powerholders as the total extent of participation, citizens may indeed hear and be heard. But under these conditions they lack the power to insure that their views will be heeded by the

<sup>9</sup> On the meaning of participatory democracy and its levels see Arnstein (1969), Lamas (1996), Friedman (1996), Silva (1998), Sánchez (2000) and Dienel (2000).

powerful. When participation is restricted to these levels, there is no follow-through, no "muscle," hence no assurance of changing the status quo. Rung (5) Placation is simply a higher level tokenism because the ground rules allow have-nots to advise, but retain for the powerholders the continued right to decide.

Further up the ladder she presents the levels of citizen power with increasing degrees of decision-making clout. Citizens can enter into a (6) Partnership that enables them to negotiate and engage in trade-offs with traditional power holders. At the topmost rungs, (7) Delegated Power and (8) Citizen Control, have-not citizens obtain the majority of decision-making seats, or full managerial power.

The author considered the eight-rung ladder as a simplification, but created it to help illustrate the point missed by many, that there are significant gradations of citizen participation. For her, the knowledge of these gradations makes it possible to cut through the hyperbole to understand the increasingly strident demands for participation from the have-nots as well as the gamut of confusing responses from the powerholders.

Let us then consider the definitions of 'public participation' from these regulations and combine them in order to compare these concepts with the actions corresponding to Arnstein's ladder in Table 1.

Table 1: Analysis of the Portuguese legislation through Arnstein's ladder

Legislation	Designation	Forms of participation	Arnstein's Ladder
Constitution of the Portuguese Republic	<i>Participation of those interested</i>	Collecting suggestions Give information/Inform Receiving requests for clarification Permission to intervene at the public discussion stage Intervention in the procedures of elaboration, implementation, evaluation and process revision of management instruments	Informing
Administrative Procedure Code	<i>Private individuals participation</i>		
Urbanism and Planning Policy Framework Law	<i>Citizens participation</i>		
Legal Regime of the Instruments of Territorial Management and Legal Regime of Urbanization and construction	<i>Right to participate (public discussion)</i>		Consultation
Right of Procedural Participation and Popular Action	<i>Popular participation</i>		
Environmental Impact Assessment	<i>Public participation</i>		

Looking at the table it is possible to perceive that the Portuguese legislation presents various concepts associated with 'participation'. Although all going in the same direction of action they vary in the subject (e.g. citizens, popular, public, etc.). This characteristic doesn't seem to indicate any similarity, difference,

size or degree in the treatment of 'participation' among these different regulations, but shows some lack of objectivity within the legal planning environment and when considering the 'public participation' thematics.

It also seems to be clear the identification of two of the rungs: informing and consultation.

The fact that there is no translation of technical documentation to common language, that the media are often the first to present to the public specific proposals and that the administration is not legally obliged to answer directly to citizens, allow us to identify the Portuguese legal practice with the levels 3 and 4 of Arnstein's ladder.

The control of public involvement by the State, mirrored in the main planning legislation and visible for example in the choice of the limited spaces and times of participation, presents itself outset as a strong constraint to a more effective democratization of planning. The participation phase is often too late or too soon, subverting the democratic nature of decision-making and tailored to fit central and local institutional authorities' interests (Craveiro, 1996). The periods set for that 'participation', phased and sporadic, hinder the possibility of transformative dialogue (Healey, 1997) and citizens 'empowerment' which would be encouraged only through a continuous 'participation' over time.

Consequently, we can confirm the existence of a legal 'public participation' in Portugal, which is, well below the higher levels of 'citizen power'.

## **The 'participatory planning' theoretical models**

After the description of the planning process in Portugal, either through the brief summary presented with the support of Lobo's (2001) work or seen through the Portuguese legal framework analysis, it is now time to frame the planning system considering the various theoretical models of 'participatory planning'.

After all what is a desirable participation? How can we reach a genuine public or communitarian participation in the preparation and evaluation of urban development projects?

The issues addressed above present different and conflicting answers, since there are different interests among the most varied actors with a stake in any decision-making process.

The gaps at the administrative systems of urban management level in the resolution of problems and conflicts and in the achievement of the best solutions in projects of urban development when considering the environmental and social factors can not be corrected with only a simple increase in 'participation'. When we add forms of participation in to an existing structure, we are only masking the need for a deeper institutional reform.

In order to study and criticise the 'participatory planning' practice in Portugal it is fundamental to understand the existing and possible relations between the administration and the population (see Figure 4).

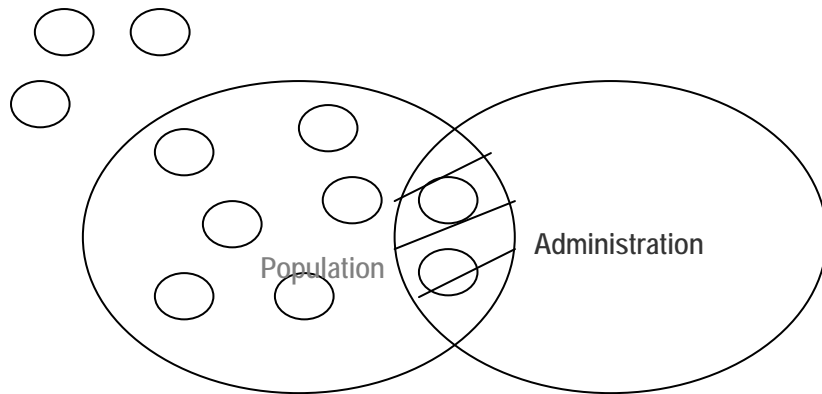


Figure 4: Levels of interaction between different actors

We will begin by presenting the theoretical models of participatory planning that will then help us to analyse the Portuguese current planning situation.

There are generically three types of 'participatory planning' models reflecting stronger or weaker interaction between the two identities (population and administration).

First we have the Traditional Models which are based on society abstractions that artificially segregate the 'experts' from the 'ordinary people' through the polarization and focus on their differences, acting as a form of marginalization of the interests of the community and leading it to a constant loss in face of the increasing power of special interests.

Secondly models 'top-down' and 'bottom-up'<sup>10</sup> expose a social order, hierarchical and dualistic, hidden in the idea of an inexistent pluralism and in which participation is generally legitimized. In these cases, there is usually a difference between expressed democratic values and the conceptual and dual structure through which these values should be put into practice. If the decision making structure is based on vague ideas or preconceived ways and wisdoms, this often leads to conflicting processes and will place the various parties in active or reactive roles.

Finally, and in contrast, a 'team' intervention seems to facilitate the recognition and resolution of multi-dimensional issues that arise at the environmental and social level of urban development issues. Collaborative Models are therefore interdisciplinary models, supported in basic design strategies with the participant's involvement as innovative actors (producers / creators).

These are the models that will provide a basis for the critique of the practice of territorial planning, and through them we will try to reach a more consistent model of what would be a 'desirable participation'.

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<sup>10</sup> On of these models see Turner (1977), Birkeland (1999) and Mäntysalo (2005).

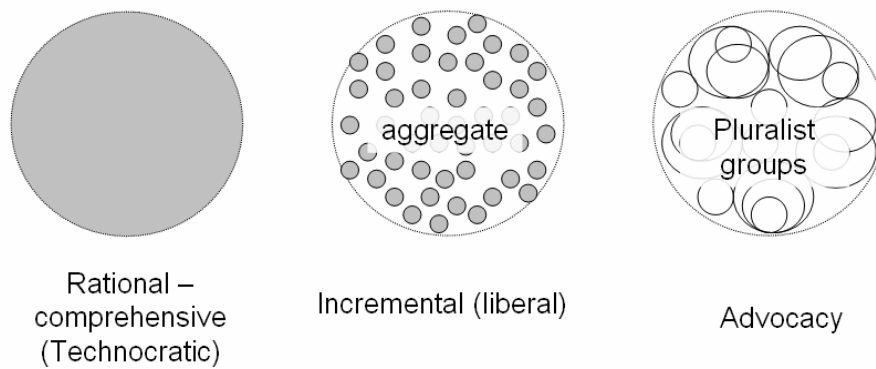


Figure 5: Different models of participatory planning (inspired in Birkeland, 1999)

The analysis of differences and similarities between the different models will be based on a group of indicators such as the 'concept of community', the 'form of participation', the 'planner's key role', the 'process', the 'favoured methods', the 'ethical basis', the 'key role of community', the 'governments ideal role', the 'project initiator', the 'philosophical aim', the 'competing values' and the 'preferred reforms' of such processes.

This analysis will be organized in a Hierarchical way, with the citizen power degree increasing from the rational-comprehensive model to the ecofeminist-bioregional. From top-down 'and' bottom-up ' models' to collaborative ones; allowing simultaneously the enhancement of differences and similarities between the cases and the creation of a 'participatory democracy' comparison scale between them.

Have chosen three empirical cases that we consider that may illustrate different (more common or more alternative) planning processes and allow the characterization of the planning environment. For that, we adopted the summary table prepared by Birkeland (1999), which sets out the schematic of each ideal type model (Rational/Comprehensive (Technocratic), Incremental, Advocacy and Ecofeminist-Bioregional)<sup>11</sup> based on the three theoretical models presented above (see Figure 5).

We will begin with a brief introduction of each case in order to a better understanding of the whole process under review, and then present the main conclusions on the detailed analysis of the planning practices degree of 'participatory democracy' based on the ideal type models (and using the above described group of indicators).

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<sup>11</sup> For a detailed analysis of these models see Davidoff (1965), Lindblom (1965), Hudson (1979), Pickering (1993), Healey (1997), Buckingham (2004) and Mäntysalo (2005).

## The planning practices

### Case 1: Lisbon's PDM

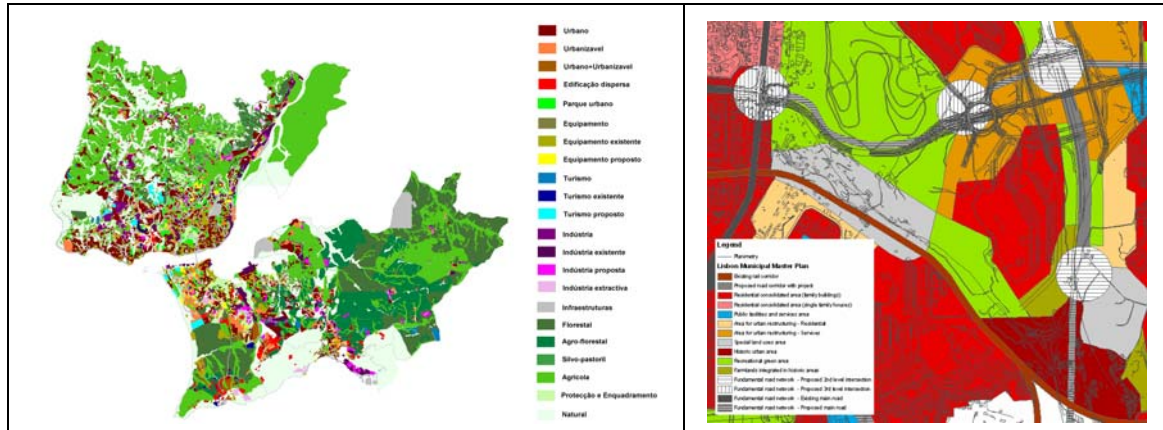


Figure 6: Instruments of territorial management (Lisbon's Metropolitan Area and Municipality)

The Lisbon's current Municipal Director Plan (PDM - Master Plan)<sup>12</sup> was drawn up between 1990 and 1993 and became effective in September 29, 1994 after its publication in the '*Diário da República*' daily legal paper. The Municipal Plan came to frame the Spatial Planning project derived from the Strategic Plan of Lisbon in an ordered instrument, but also with legislative content. The existing legal framework, DL.nº69/90, March 2 now repealed<sup>13</sup>, allowed the definition of minimum contents in a conceptual framework with greater process flexibility. Finally, with the goal of introducing a strategic planning attitude in the municipality's everyday practice, the simultaneous development of local development plans (urban and detail plans) was established as well as priority intervention projects, along with the formal development of the PDM<sup>14</sup>.

This allowed the simultaneous intensification of measures and proposals at various scales. This plan is still in force, although it is ongoing a revision process.

This case is presented here as an example of a common process within the Portuguese planning environment. With the Lisbon's municipality as the project initiator and the forms of participation complying with the forms defined by the legislation, there were some attempts for intensifying the 'participatory democracy' degree but the results did not go beyond the usual.<sup>15</sup>

<sup>12</sup> The Portuguese instruments of territorial management are divided into three levels, according to their hierarchy: national, regional and municipal. The instruments for the municipal extent include the Intermunicipal Plan of Territorial Management and Municipal Director Plan (PDM-Master Plan). This last instrument is mandatory to all Portuguese municipalities. It defines land management and land use rules for the municipal area. (<http://pdm.cm-lisboa.pt/>)

<sup>13</sup> DL.nº69/90, March 2 was replaced by DL.nº380/99, September 22 (analysed before).

<sup>14</sup> "Strategic Plan of Lisbon" (CML, 1992) and "The Strategy and practice of urban planning in Lisbon 1990-1995" (CML, 1995).

<sup>15</sup> For a more detailed analysis of this case see also CML (2002), Craveiro (1997).

## Case 2: Critical Neighbourhoods

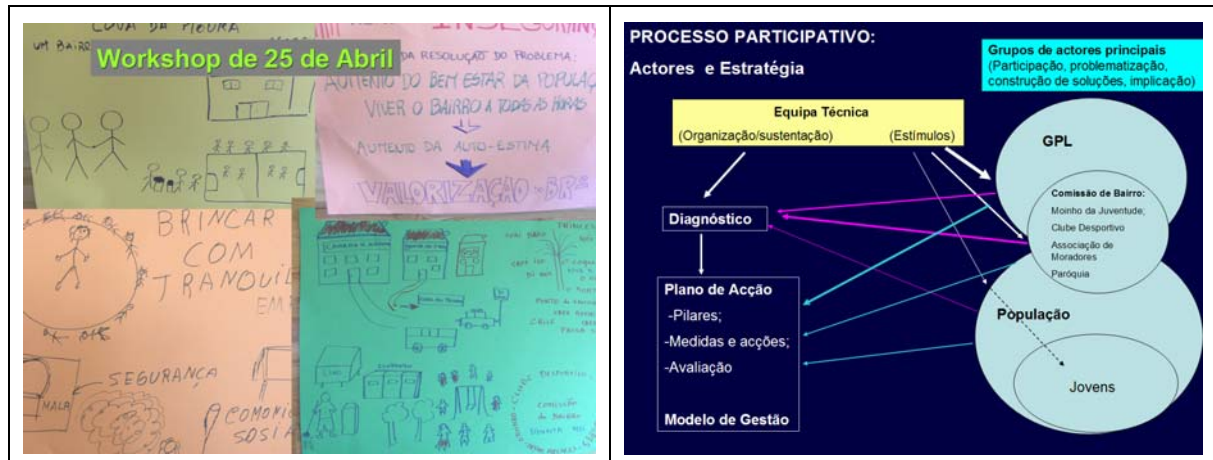


Figure 7: Cova da Moura critical neighbourhood's initiative (Freitas et al, 2006)

The Cova da Moura neighbourhood was born out of the self-construction movement of the second half of the 70's and beginning of the 80's in a context of decolonization associated with immigrant's social networks effect.

Currently the neighbourhood presents a socially negative image associated with crime phenomena, a weakened population, and great land property irregularity with about 126 commercial shops for a total of about 7000 residents.

The initiative Critical Neighbourhoods<sup>16</sup> starts<sup>17</sup> within the competences of the Planning and the cities Secretariat of State (SEOTC) in order to operationalize a strategic line of the cities policy, focused on socio-urban integration of areas presenting critical factors of vulnerability. This is an experimental operation to promote the social inclusion of vulnerable areas, which seeks to capitalise previous experiences and develop innovative models of intervention.

This initiative comprehends two more neighbourhoods besides Cova da Moura: the Vale da Amoreira neighbourhood in Moita and Lagarteiro in Porto. In the Cova da Moura case the first phase has been completed and had 11 months of duration<sup>18</sup>.

This case is presented here as an example of an un-common process within the Portuguese planning environment. With the Portuguese Government as the project initiator, within a more collaborative participatory process (going beyond the forms defined by the legislation) and including not only the institutional actors and experts, but also local actors and the residents. This process was designed specifically for 'critical neighbourhoods', allowing and intending the intensification of the 'participatory democracy' degree and an outcome where all actors are involved and share responsibilities.

<sup>16</sup> Critical neighbourhoods are "neighbourhoods with a considerable dimension, segregated from the urban environment and socially vulnerable." (according to the interview with the Minister Nunes Correia to *'Correio da Manhã'* newspaper, 03.10.2006 – available at [www.correiodamanha.pt](http://www.correiodamanha.pt))

<sup>17</sup> Resolution of the Council of Ministers (RCM) n°143/2005, September 7.

<sup>18</sup> For a more detailed analysis of this case see also Freitas (2006).

### Case 3: CRIL



Figure 8: CRIL-IC17 sub-section Buraca / Pontinha proposal and counter proposal (CMSCB et al, s.d.)

The sub-section Buraca / Pontinha project of CRIL-IC17 (Internal Regional Circular Highway of Lisbon), initiative of '*Estradas de Portugal*' (EP) (National Road Governmental Authority), given its characteristics concerning the construction and location project, did not meet the necessary consensus that would allow the finishing of the project phase and the beginning of the works construction phase. Therefore, it is still not possible to ensure the integration of this important road axis in the peripheral urban structure of the municipality of Lisbon which assumes central importance in the context of the urban network links and of these with the metropolitan area.

The EP presented proposal was subject to an environmental impact assessment<sup>19</sup> in 2003, and the public consultation process and environmental impact statement led to some project changes. However, this process is not yet finished<sup>20</sup>.

This case is presented here as another example of an un-common process within the Portuguese planning environment. With the Portuguese Government as the project initiator and the forms of participation complying with the forms defined by the legislation, the intensification of the 'participatory democracy' degree in this case is due to the actions of a minority (local population in a fight against the project), going beyond every regulation<sup>21</sup> and preventing the development of the project until now.

<sup>19</sup> Decree-Law nº69/2000, May 3

















































<sup>20</sup> For a more detailed analysis of this case see also ACMA (n.d.), EP (n.d.), n.a. (2003), COBA (2006), Reis (2006), CMSCB et al (2007)

<sup>21</sup> Residents Meetings, Public Demonstrations, a Petition with more than 12000 signatures delivered in the Assembly of the Portuguese Republic, a Motion signed by all parties of the Republic Assembly, a Popular Action in favour of the CRIL completion but against the '*Estradas de Portugal*' project, Press Releases, Street Actions, participation in

## The cases in the light of participatory planning models

The analysis conducted on each case<sup>22</sup>, based on Birkeland's (1999) group of indicators, allowed the assessment of the 3 cases against the theoretical models of participatory planning and to conclude on the comparative position of the Portuguese planning system over the existing and possible systems. Consequently, Birkeland's table was recreated presenting the considered indicators and the positioning of each case, allowing the visualization and understanding of its occupation trends.

Table 2: Case analysis considering the participatory planning models (inspired in Birkeland, 1999)<sup>23</sup>

	RATIONAL – COMPREHENSIVE (TECHNOCRATIC)	INCREMENTAL	ADVOCACY	ECOFEMINIST - BIOREGIONAL
CONCEPT OF COMMUNITY	A generalised public interest determined by experts 	A market of individual interests and preferences	Under-represented groups threatened by development  	Humans in complex social and ecological systems
FORM OF PARTICIPATION	Public consultation by experts 	Consumer choice	Development of counter-plans and offers  	Team design process
PLANNER'S KEY ROLE	Determine optimal solutions  	Determine public preferences 	Ensure equal access to decision making 	Facilitate bio regional / global perspective
PROCESS	Scientific evaluation 	Democratic representation 	Law-based, adversarial 	Collaborative
FAVOURER METHODS	Cost-benefit based methods, EIA, etc.  	Voting analogues e.g. survey, participation  	Educational and adversarial strategies  	Self-help and empowerment
ETHICAL BASIS	Utilitarianism	Liberalism	Critical theory	Feminist / biocentric
KEY ROLE OF COMMUNITY	Input into scientific process 	Input into pluralist process 	Counter-plans, protest, obstruction  	Self-determination
GOVERNMENT'S IDEAL ROLE	Weigh expertise and other policies 	Balance competing interests  	Distribute wealth; arbitrate  	Meet basic needs; facilitate
PROJECT INITIATOR	Private or public developer   	Private or public developer   	Private or public developer   	Community self-reliance
PHILOSOPHICAL AIM	Rationality 	Procedural justice  	Distributive justice  	Justice; well-being
COMPETING VALUES	Majority wins	Balance of interests; trade-offs	Equal opportunity; fair game rules	Design for many parameters
PREFERRED REFORMS	Transparency of decision making  	Deregulation and less government  	More community power and autonomy  	Systems change



'Freguesias' Assemblies, Internet Sites and Blogs creation, Meetings with parties and politicians, with transports experts, participation in TV shows and others. (ACMA, n.d. and CMSCB et al, n.d.)

<sup>22</sup> A detailed analysis was made on chapter 4 of the author's MSc dissertation (Gomes, 2007).

<sup>23</sup> For some of the table indicators we have decided to locate a case in more than one column. Considering that this kind of evaluation is not always easy and that these cases were not designed to fit in the models, there were sometimes difficulties in the correspondence of a case with only one of the models.

Case 1, illustrative of a more common and normative participation process, in which the procedures were not limited to the compliance to the law but weren't also able to open to a more 'advocacy' participation, allowing the 'empowerment' of the population, This case comes clearly under the technocratic model aligned to the left side of Table 2, near the models that have lower levels of citizen involvement.

Cases 2 and 3 are both placed in the table's central zone, between the incrementalist and advocacy models and therefore with greater degree of 'participatory democracy'.

However, in the latter two cases there is a crucial procedural difference. While the citizen involvement process that frames Case 2 was legislated in advance, thought and designed to achieve a higher degree of 'participatory democracy' and assuming an early educational perspective in its procedures, Case 3 is the result of a re-action to a low degree of 'participatory democracy', based on a citizen's movement, and a reflex of a normative EIA process. While in Case 2 citizen's involvement is not only a duty but also a right of the local population, in Case 3 it presents itself as a right associated to freedom of expression, outside any standard or rule of the EIA process and beyond the limits of what the government, which controls the process, would expect.

Given that Birkeland's analysis seeks to illustrate different models with increasing degree of 'participatory planning', and although Cases 2 and 3 present themselves in almost all indicators with similar values, it is considered that the 'Critical Neighbourhoods' initiative is of these three projects the one that most closely approximates to the 'advocacy' model and therefore presents a higher degree of participatory democracy. The adopted system in this project is thought to be participatory from its early phases<sup>24</sup> unlike Case 3 in which participation and citizen involvement would be more limited from the start. Case 1, within the three, by the fact that it provides a "much more passive [participation] considering that it has a presence, but it is not fundamentally propositive" (Craveiro, 2002) comes as an example of a rational-comprehensive (technocratic) model that by its characteristics (responsibility, and consent role of the community) turns out to be more representative model of the Portuguese system.

The ecofeminist-bioregional model, placing the initiative responsibility and consent in the community instead of on local or central government, as well as changing the role of that same community going beyond the mere objection by formal or legal means to a shared design, a process of 'empowerment' and self-determination, comes somewhat as a utopia when faced with the realities of the Portuguese planning system. A future approach to the ecofeminist-bioregional model could represent a strong push for a higher participatory democracy degree, and in that sense projects as 'Critical Neighbourhoods' in Cova da Moura are good places to start.

## Conclusion

If in the beginning of our research we had two assumptions on the form, context and effectiveness of public participation, we can now present some ideas, conclusions and even suggestion to improve State/Citizens relationship in the Portuguese planning process.

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<sup>24</sup> "Methodology, with strong emphasis on strategic coordination and to the convergence of action between different actors and assuming clearly civic participation as a condition for the success of the intervention" (according to point b of paragraph 3 of RCM n°143/2005, September 7).

With this work we tried to contextualise 'public participation' through some concepts and major problematic areas, to define the actual contours of 'public participation' within territorial planning, either in its legalistic, operational strands, and to clarify the opportunities and constraints of the Portuguese planning practice through the analysis of the diverse expressions and degrees of the participation principle contained in it.

With the use of theoretical frames (based on classical models) we enhanced the analysis of consonances and dissonances in the application of the 'participation' term and within its practice. In addition to clarifying the contours of the participation principle within territorial planning, the use of Birkeland's grids and of the selected indicators allowed not only the process monitoring but also the preparation for its future practice.

Therefore, and more than the simple discussion around the meaning of the term 'public participation' what is fundamental is the discussion of the concept of 'participatory democracy' and its intensity in territorial planning processes.

In the end, based on the normative and empirical analysis, we can say that the democratic practice of the Portuguese planning system has a very low degree, by any measure, of participatory democracy. It promotes a weak involvement of the public and doesn't satisfy the ones that try to 'be heard'. The methods used (hearings, inquiries, etc.) are passive and antagonize the citizens involved, discouraging increasingly skeptical individuals to waste their time on a process that seems no more than a ritual designed for the satisfaction of empty legal requisites.

The planning practice can and should be reconsidered in the light of the results here presented. Cases as 'Critical Neighbourhoods' achieve higher levels of planning 'participatory democracy' and can be seen as an example to follow.

If in the near future there will be no doubts on the need for a promotion of 'public participation', some questions as who can participate, how and in which circumstances, will remain open.

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