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Participation and territorial planning. Some reflection on five years of an institutional experiment in Tuscany

Abstract

Five years ago the Tuscan regional council approved a law titled "Rules on the promotion of participation in the formulation of regional and local policies". This law has several peculiarities including the self-abolishment in five years, if not explicitly re-voted and so the 31 of december 2012 the law come to its end, waiting for an eventual re-approval.

From 2011 to 2012 several activities of evaluation of the results went on and this paper, taking advantage of this process, tries to reflect on some relevant examples where citizens participation questions choices related to physical planning. I argue that, at least in the Italian context, the public administration (mainly politicians, but also technicians) accepts the idea of promoting participation if and to the extent this does not become an instrument for conflict resolution. The management of this planning/political processes becomes immediately irrational and contradictory at the moment participation, from a standard debate, shifts in a process of mediation (open and public) between different interests or in a process aimed to build alternative proposals.

1   Introduction

Five years ago the Tuscan Regional Council approved a law titled "rules on the promotion of participation in the formulation of regional and local policies" (R.L. 69/07)[1]. This law has several peculiarities including the self-abolishment in five years, if not explicitly re-voted. So the 31 of december 2012 the law came to its end, waiting for an eventual modification, re-approval or definitive abolishment.

This text will take advantage of the process of evaluation of the five years of law enforcement that took place at the end of 2012, of which the autor was part as consultant for the Regional Council. In particular the Regional Institute of Economic Planning (IRPET), a research centre active since forty years in Florence, was requested twice (in 2011and 2012) to prepare a comprehensive report about the result of this legislative instrument (Zetti 2011 and 2012). We assume this research as an important background for a reflection over the impact of an institutional attempt to promote participation in public policies. However the main aim of this text it is not to consider public policies in the round, but the specific relationship between citizens participation and the decision making process regarding relevant choices of physical planning. The central idea is to take advantage of the territory as a key factor in showing the contradiction between a traditional decision making process, developed through representative democracy, and the need of a paradigm shift in the decision making. A paradigm shift which has to respond to the quest for an "inter-related development of planning and democracy" (Bäcklund, Mäntysalo 2010, p.348) strongly visible in many Italian (but probably also European) contexts.

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1   Available in several languages: http://www.consiglio.regione.toscana.it/partecipazione/default.aspx?
nome=normativa

2   The context

A specific law regarding the "promotion of participation" is certainly not common in Italy and in Europe. The Italian administrative system is characterised as an imperfect federal State, where the regional governments and councils have an important administrative and legislative power regarding many field and policies. In this frame Tuscany have been the first region to promulgate a specific law on the topic of participation (up to now followed only by Emilia Romagna). At the same time also the planning law of Tuscan Region (physical planning is under the legislative control of the regional level) strongly asserts the imperativeness of citizens participation in the planning activity of the Region, the Provinces and the Municipalities. So it is evident that the legal framework is peculiarly attentive to the topic.

The analysis of the details of the R.L. 69/07 is out of the purpose of this text, but it is important for our topic to underline some of the main points of the law. First of all, as written in the introduction, this was conceived as an experiment and this is the reason why one article clearly says that the law is abolished after five years of experimentation, if not explicitly re-voted by the regional assembly[2].

Secondly the law proposes two instruments to pursue his main goal: local participatory processes and the regional public debate. The local participatory processes are funded for a relevant percentage by the Region. They have been more than one hundred, directed to face local conflict about new buildings, infrastructure etc., to develop local policies in several fields, to develop the sense of citizenship in schools, etc. (to have an idea of this huge activity see Lewansky 2013 or http://www.consiglio.regione.toscana.it/partecipazione/default.aspx?nome=relazioni). The public debate, inspired to the french model of débat publique, was intended as an instrument to call citizens to discuss, share and eventually change (or better to propose to change) choices that could have a significant impact at regional level. This instrument has not been used in this five years of experimentation (we will go back to this point).

Many other contents of the law are notable and have been deeply studied by scholars, but considering we are analysing how physical planning interacts with citizens participation is more important to spend a few words regarding the relationship between this law and the Tuscan system of physical planning, than to go on with a description of R.L 69 itself. In the Tuscan planning act is clearly written that our planning system must consider participation as a central point of every land use plan (the actual planning act was voted in 2005, updating a previous one voted in 1995, so many years before the law about participation). This is relevant per se, but also because the Tuscan planning system is built around the idea that the different levels of public administration have to work in a collaborative way through a coordinate co-planning activity. One level of the local administration has not the right to control the subordinate level, but just to pretend to be part of the planning choices. In practice the regional planning office has no right to control municipal planning.

The biggest part of physical planning decisions are therefore locally taken and evidently the main part of the control about the choices of politicians regarding the land use plan must be guaranteed by local population. In this sense the Tuscan planning system tries to strictly connect local choices and local communities, or at least to give to communities a strong power of control in a bottom up perspective. The law 69/07 reinforces this point giving to citizens the opportunity to apply for a participatory project funded by the Region and supervised by an authority of control[3].

This two legal tools are evidently strictly connected and the planning activity is apparently well inscribed in a bottom-up democratic decision making process. But things are not so simple and the

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2   The Regional Assembly voted in December 2012 a document that express some guidelines for changes and adjustments of several clauses (Risoluzione n.168 – 19/12/2012), but we are still waiting for a decision about the law.

3   Another specific point of the law is the creation of an independent authority for participation which has to help in organising local participatory processes, has to control that the processes remain in the framework provided by R.L 69 and has to manage the regional public debate.

practise shows several contradictions that we are going to analyse.

Considering that local election can not be assumed as a complete delegation of power and that planning is an on-going process which needs to respond not only to technical accuracy, but to a democratic shared vision for the future of a city and of a territory, a good functioning of the tools for citizens participation is essential, especially in a system where a bottom-up activity of supervision is the main guarantee for a planning respectful of local community and not just of biased interests.

3 Some questions

The dimension of this paper does not allow a complete report of local processes, neither a catalogue of more than hundred participatory projects[4]. But it is possible to use some elements of practical experiences in order to raise some significant questions about consensus and contestation in the planning processes.

The local processes that have been carried out have included many different topics (environment, participatory budgeting, health and education policies, etc.), but obviously here we will concentrate on decisions and conflicts which have at the centre the physical transformation of a site. Sometimes a general land use plan, some other a specific decision regarding an infrastructure, a building etc.

3.1 Wide angle strategic design or clearly bounded decisions?

As explained before, the planning system and its legal framework say clearly that a general land use plan can not be design without a specific phase of citizens participation. Many master plans develop this phase outside the R.L. 69/07, but in some cases the opportunity (including financial) offered by the law has been used to organise a specific local process. A well known case is the municipality of Montespertoli[5], where a new master-plan was in the process of being produced in 2008 when a group of citizens started to press the administration to open the already planned participatory process to a very intense series of workshops, leaded by a group of planners. The proposal was accepted and the activities went on for some months in 2008 (see Zetti 2010). The result of the workshops has shown a solid strategic vision of the citizens about the enhancement of the local built heritage and has been included in the official documents of the master-plan. A good practice which can help to individuate some critical key points. First of all how the process started: not planned from the beginning but inserted in the making of the plan by a push from the inhabitants, while the participation conceived by the local administration was a more classical activity of informing with feedback through an on-line forum. Secondly the time and space left to participation. As some of the planners have noticed in an interview, the time for the workshops had been very limited because of the way the participation was nested in the decision making process. A very limited time for participation normally corresponds with the idea that many politicians and technicians have, that citizens participation must be inserted in a previously defined framework.

In that vision, planning must deal with the important decisions, participation can help as source of information. However the development of this experience shows that inhabitants need, want, pretend to tackle the problem from a very wide and strategic angle. This is one of the contradictions that the Tuscan experience shows, the top-down push to frame participatory projects inside a precise boundary and the continuos bottom-up overflow towards a wider strategic vision.

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4   A report about part of the local processes is available on Zetti 2011, and all the official reports of concluded processes are published on-line: http://www.consiglio.regione.toscana.it/partecipazione/default.aspx?nome=relazioni

5   The final report about Montespertoli is missing in the web site of Regione Toscana. To have more informations regarding this case: Magnaghi, A. (2010), *Montespertoli: le mappe di comunità per lo statuto del territorio*, Alinea, Firenze. Or https://www.facebook.com/pages/Montespertoli-partecipa-Osserviamo-il-Piano-Strutturale/148088768562799

The same question is raised also by more specific case of negotiation over big infrastructures. As an example we can use the case of the participatory process connected with a big development project (around 25 million of euro) of the harbour of Marina di Carrara[6]. The case can be considered a classical example of conflict and negotiation (but about the question of conflict we will comment later). The management of the harbour had planned many changes of the docks and of the connections between the city and the harbour, strongly contested by a substantial number of citizens, initially individually, later as an association. The association applied for funding in 2009, proposing a participatory process. The regional authority for participation led a negotiation with the stakeholders (the association, the harbour management and municipality, which have the power of the final decision over the project) and then assigned to the association the resources to organise a participatory process, providing the organisers with a well established workflow.

This is not the context to analyse how the process went on (see Zetti 2011, Givone and Imbergamo 2013), but it is noticeable that after a very interesting experience the practical result has been considered not satisfactory by the same proponent of the process, with respect to the proposals accepted. In part this happens because the city council and the mayor have rejected part of the outcome of the participation, but this is not the point. What has happened in fact is that the entire story has started from the contestation of a planning choice, but a simple opposition has been transformed in a productive workshop able to change the development proposal. The association itself proposed in 2009 a process aimed primarily to stop the harbour transformation, the municipality accepted the gamble and the harbour managers were in some way forced to play the game. Both, administrators and managers, were strongly convinced that the participatory process had to be maintained in a well-defined path, however facilitators know perfectly that a participatory process always has the ability and need to open up a broad strategic scenario more than insert small corrective in already taken decisions, especially if on the table the question is a development strategy with a strong territorial impact. The capability to understand this strategic significance of the debate is more important than the opportunity to take detailed decisions over precise questions. In Marina di Carrara the inhabitants have shown the capacity to produce a long lasting strategic planning and a good planner knows that, while facing wicked problems[7], a minor adjustment of the proposal of one single subject is unfrequently resolutory. It is better to answer to the wickedness of the problem giving to the players the power to change the problem setting; this shift can originate innovative solutions in a positive-sum game (Forester 2009).

This is one of the contradiction contained in the R.L 69, probably inborn in the promotion of the participation by law. The participatory processes tend to be forced inside precise and strict, limits, considering that the power to decide at the end is in the hands of an elected political body. An open-minded political class can break this limit, being conscious that an open and inclusive debate can produce good solutions for public policies. Certainly this imply a management of power trough trustworthiness and not trough established hierarchical relationships, as happens in the normal functioning of representative democracy. It is the political power sensitive to the question?

3.2 Who is taking decisions?

The answer about who is really taking decisions is not always clear, also in the cases where good practices of participation have been developed. In this sense we can use again the example of the harbour of Marina di Carrara, questioning the role played during the participatory process by the different stakeholders. As described by some of the persons involved in the process (see Zetti 2012 and Albanese 2011) the harbour management participated in the process, but with distrust regarding its possible results. Nevertheless many experiences clearly show when all the players accept to stay around the table, in a reliable mood, normally the final solution shifts the initial conflict towards a productive confrontation. In Italy the most known school case is the highway around Genova (see Bobbio, 2010), but also in Tuscany, in the context of law 69/07, the case of the project of the water

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6   http://www.consiglio.regione.toscana.it/partecipazione/documenti/Relazione%20FinaleAmaremarina.doc
7   This expression is used exactly with the meaning of Rittel and Webber 1973

purifier in Ponte Buggianese[8] is a very good example of success.

At the same time if we look at the normal physical planning activity we have to notice that a masterplan is normally produced over a very long time (seven years as average – IRPET 2009) and if we use as example the master plan of Bagno a Ripoli (another master-plan that included a good participatory process framed in the context of law 69/07)[9] we notice that from the end of participatory process and the final approval of a first part of the plan nearly three years have passed and today the plan is not completely finished yet after five years.

This two examples are related because, starting from different questions, show something similar. In Marina di Carrara the developer was in some way forced to take part in the participatory process, but at the end the main table where he plays his power was not a public debate, but a private concertative negotiation. The Tuscan planning system is very directed to this kind of negotiation, in effects imply an explicit concertation between well individuated stakeholders. The case of Carrara shows that an influential stakeholder normally prefers a negotiation in a black-box instead a public transparent debate. Formally this is perfectly correct, but it affects very negatively the reliability of powerful actors sited at the table of participation. In the case of master plans, according to some scholars, black-box concertation is the normal practice (Scattoni, Falco 2012). Bagno a Ripoli is just an example and we do not have any clue to say it is not simply inefficiency the very long time passed without still a conclusion. However the fact that participation can last no more than six months (the maximum envisaged by the law 69) and the making of a master plan more than six years needs to be explained. One explanation is the fact the agenda of planning is directed by private interest "on the basis of the dynamics associated with low trust societies and patron–client relationships" (Scattoni, Falco 2012 p.63). Those patron-client relationships are also inserted in the official concertative framework, but can not (want not) openly be played in a participatory game. The long time with no clear activity in a master-plan is worth to adjust decisions.

Participation is evidently insurgent against an opaque power relationship management.

3.3 Who are the main actors on the stage and what role they play?

The quoted local processes bring us to the next, more general, question about the role played in this participatory experiment by the main actors of territorial transformations and about the role of the law inside the conflict.

One of the most contested decision which was at the centre of a local process give us a good example. In Castelfranco di Sotto the municipal administration in 2010 proposed a participatory process in order to take a final decision over a new pyro-gasifier. The project was promoted by a private enterprise which requested the proper permits in order to build and run this equipment aimed to process the waste of the production of leather, a businesses very important for the area. A group of inhabitants, worried for its possible impact on health, started to oppose the decision, and in a very classical way a conflict emerged. After the request for a local participatory process a negotiation phase have been managed by the regional authority for participation and at the end the process has started. This is not the context for a complete description of what has happened (see Pillon and Romano 2012), but it is interesting to notice that the final product of the process is a series of precise recommendations for the question of waste treatment that constitute a very reasonable, well defined and solidly based planning document. The process have brought the citizens to transform their position from a generic opposition to a conscious assumption of the problem of waste treatment, even in connection with the fact that this waste production is the result of their own work and economic prosperity. In this sense a good result, but the recommendations

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8   http://www.consiglio.regione.toscana.it/partecipazione/documenti/RelazioniFinali-Progetti/RelFin_PonteBuggianese.pdf

9   http://www.consiglio.regione.toscana.it/partecipazione/documenti/RelazioniFinali-Progetti/BagnoaRipoli-RF-IlNostroPianoStrutturale.pdf

have also pushed the municipality to refuse the permission for the plant.

This is the first part of the story, but a second more uncertain part has started just after the end of the participatory process. Some main actors in effect were missing during the game: labour unions, association of manufacturers and the regional administration (competent for some of the permits to open and run the plant and also interested in the question of economic strategy development at regional level). Why this kind of players are frequently not present in such a kind of processes? In some case because they think this is just a lose of time, important decisions are taken inside a relationship between political and economic power in a concertative setting (as the case of the harbour). In others because they consider correct that politicians stay out local participation (also the regional authority of participation seems to agree). Finally because when more than one level of the administration takes part in a decision some level tends to consider irrelevant to be part of a participatory process.

However the practical result of this attitude is not very good. The experience of Castelfranco narrates that, after the municipality and province denied the permit to open the plant, in accordance with the conclusion of the participatory process, the regional government has reversed the decision. Efficiency and the respect of the regional development strategy have been at the origin of an action disrespectful of a participatory process. But efficiency has not been attained considering that the conflict have re-appeared strongest and that, at the moment, a court have to take the decision regarding who is wrong in this story.

The question of decision making process is evidently essential. The power to decide at the end has to remain in the hands of the elected political administration, but if we want to give importance to a shared, participated, decision making process this has to be a real decision making process. This means that all the relevant players, especially when they are public elected bodies, have to participate to the game and to put on the table their power inside a deliberative decision making process, or they have to preventively give to the players a guaranty they will delegate part of their power, respecting the decisions.

3.3 The missing case. Public debate, information and distrust

The history of an experimentation is composed by a certain amount of successes and some defeat. The second ones are relevant to analyse what kind of reaction can produce a well established system of power relations.

Here we can outline the question starting from two stories. The first one is connected to the pyro-gassifier in Castelfranco and to the fact that the final decision will be in the end of a judge. In another case something similar happened. At the beginning of the five years of life of the law a group of citizens collected the number of signature needed to ask for a participatory process about the enlargement of the airport of Siena. They were not asking a debate over the conditions for the transformation, but they were expressing a strong opposition to the entire project. The regional authority had to put in practice a quite complex mediation in order to reach the consensus of the main players to sit at the table of participation, reaching an agreement with the municipality of Sovicille (the airport is not in the territory of Siena municipality) and with the committee of the inhabitants which had to accept some rules in order how to managed the process. When everything was ready the committee decided to exit from the participatory process and to apply directly to the court to stop the project. From the point of view of the airport opponents it was a very succesful decision because they won the trial, from the point of view of conflict mediation obviously not.

Also in Florence a very big new infrastructure has been at the centre of a discussion inside a variegated group of opponents, regarding the option of promoting a public debate according to R.L 69/07. The new high speed train line in fact, has been planned under the city centre, and it is very contested since years. The story is very long and it is not possible to sum it up here (see Albanese 2011), but just to notice that at the end the opponent decided not to ask for a participated process under the law to discuss about the project. This has happened for several reasons, but primarily

because they have not considered reliable the political power, they have not considered possible to open a deliberative process with unreliable actors and they have judged a better option to contest the entire project and the power relations behind it.

Are this two stories not as an insuccess? Probably yes, because we have to keep in mind that an official way of organising participation is not exclusive and does not imply that a more radical form of opposition must have space in our cities and territories, as a normal democratic procedures and as a normal component of planning. The way insurgent citizenship grows up is not established once and for all, and a radical agenda of opposition fits perfectly in the urban rights.

This means also a participatory process, especially if framed by a law, can be a good opportunity to insert a local point of view in a planning decision, but it is not the place to make a general opposition to a model of political power relationship. In effect to question an established order inside a framework of rules controled by this power is obviously senseless, especially if there are administrative procedures and property relations on the table (Kirsten, Shahadat 2012).

Something different suggests the case of high speed train in Florence, where also the political power had not want a public debate and more in general the fact that a regional public debate, as framed by the law 69, did not take place in five years, even if in some case it would have been reasonable to expect such a kind of participatory process. Probably it is not possible to explain this failure with one single reason, but at least a reason is visible starting from our examples.

In an interview an official who managed some participative processes in a municipality told us: "even the politicians who appear more convinced about participation cool down at the moment they understand citizens want to matter". This is in some way obvious or, a least, easily predictable, but the subject of our analysis is the antibody produced in order not to share power. In a public debate an independent authority controls the process and one of his main duties is the setting of a complete, openly available set of information regarding the issue (according to the R.L 69/07). If we analyse the case of high speed train, this level of information have never been available even for some body of the public administration. The idea expressed by many politicians and technicians is that technical issues must remain outside citizens participation, however wicked problems have no neutral technical solutions and, more important, this does not imply that information about tecnique are not relevant for decision making. A value-free knowledge does not exist.

At the same time the political power, the more consolidated it is, more suffers because of fears related to circulation of information and loss of control. So local governments "continuously innovate their governmental and technological techniques and systems to create productive citizens, controlled spaces, and profitable corporations" (Uitermark et al. 2012 p. 2550). The law 69 has not been implemented in the part regarding public debate (also) because breaks a tactic of selective diffusion of scraps of informations.

4   Short conclusion

In the previous text is already possible to find many considerations regarding opportunity and contradictions highlighted by the five years of experimentation which are at the centre of this paper and it does not worth to sum it up here. To comes to an end we underline just some questions.

Social actors, activists, proactive citizens play their dynamic role in territories and cities and so when a planning decision take ground as a visible object this imply frequently, if not always, a certain amount of contrast with stakeholders and with the political power. The planning frequently does not consider that the difference between real territories (real communities) and their formal political representation is always an unresolved question.

In this sense the opening of a decision making process to participation, especially in the domain of physical planning, means also the insertion of the point of view of inhabitants in a radical planning agenda of the territory (Shaw 2012), where radical implies to put on the game table a certain amount of real power to decide, all the available informations, the so called zero option (not

to go on with a decision, something that is always criminalised by the political power) and a real deliberative attitude shared by all the players.

This agenda arouses a form of resistance on the part of established decision making procedures and decision makers. A legislative power that proposes citizens participation as a common procedure "in the formulation of regional and local policies" (from the title of the R.L. 69/07) must be conscious of this resistance. An innovative strategy must be able to take advantage of the behaviour of local actors, considering the opportunity they provide to the government of territory (Palestino 2013). The planners have to remember that the collective process of space commoning (Stavrides 2011) is the main result of this innovation and this is a valuable result for communities.

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