



Between Public Participation and Energy Transition: The Case of Wind Farms
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A summary

This thesis researches the role of the public in wind farm decision-making procedures. This concerns an interdisciplinary study into the concept of public participation on the basis of fundamental legal and political science theories. Subsequently we describe and analyse the implementation of the concept of public participation in the Netherlands in general and wind farm specific legal frameworks. This implementation is analysed on the basis of an evaluation framework derived from the theoretical framework and a thorough analysis is made of the public participation opportunities in the wind farm policy and decision-making in the Netherlands.

This thesis is divided in three parts, which all have a different focus and aim. The first part concerns the theoretical framework on public participation. This concerns an interdisciplinary theoretical study based on legal and political sciences theories on public participation. Both disciplines have studied the concept of public participation in detail and both lead to different analysis and conclusions. However, at the same time, both are influential for the actual legal implementation of public participation. We therefore chose to develop a theoretical framework with a dual approach; in which legal and political theories are readily combined. There is a growing body of literature emphasizing the value of this combination and therefore we chose to apply it in this thesis.

The theoretical framework results in an evaluation framework that will be continuously applied throughout the thesis. This evaluation framework aims at assessing public participation opportunities on the norm of 'the deliberative ideal'. The deliberative ideal stimulates dialogue focusing on the common good and underlying values or ideas of a decision. Technical details, such as the number and height of wind turbines, are often disputed by the public and less attention is paid to underlying reasons why these installations are necessary. If a proper understanding can be achieved on why a decision has to be taken, perhaps concerns can be mitigated even if the choice for production-installation is less popular. This focus on underlying values and ideas of a decision is how the deliberative ideal can be pursued. In the thesis this criterion is applied as our 'evaluative yardstick'. The second part introduces the case study, namely wind farms decision-making. An evaluation of the legal implementation of public participation opportunities is most effective on the basis of a certain legal framework, before running the risk of writing extensive overviews of legal frameworks in general. For this reason, we chose to apply our theoretical framework to a case study. As a case study we chose wind farms. Empirical research suggests an increasing societal resistance against such projects, and whilst initially this was explained by the self-interest oriented Not In My Backyard (NIMBY) phenomenon, more recent research suggests that the planning phase and the relationship between government and society is of fundamental importance. Therefore further research into this phase is justified.

For this reason we provide an overview of the relevant Dutch legal frameworks, which are all decisive for which wind projects are realised and how they are realised. These three legal frameworks concern: an overview of the renewable energy law and policy, the general law on governmental decision-making and the specific law on spatial planning decision-making. Together, these legal frameworks shape the right and obligations of government, citizens and project initiators with respect to public interests, involvement of the public and proper decision-making. Each of these three frameworks is essential for our evaluation of the role of public participation in the realisation of large-scale wind energy projects.

Our evaluation takes place in the third part; here we assess when and how the public was involved in the process towards the legal framework on renewable energy projects. These opportunities show the process between the policy and the realisation of a wind project: Noordoostpolder. This way, the entire planning process, from first idea to policy to realisation, is mapped in two chapters.

From this, and the application of the theoretical framework on our case-study, we finally arrive at the conclusion that public participation is important and inherent to democratic rule of law, that public participation needs to meet certain criteria and that in many instances in the formulation of renewable energy policy in the Netherlands up to the realisation of a specific farm, the public participation opportunities do not meet our evaluative yardstick of the deliberative ideal.

Part I – Theoretical framework on public participation

This part investigates the theoretical framework on public participation and consists of several themes, namely an introduction about the concept, the fundamental underlying concepts and the ways the public can participate. In the introduction to the concept we focus on several disputed elements, such as the timing of participation and what (should) happen with the results of the participation. Based on this overview we conclude that public participation is an essentially contested concept, leaving us without a universal definition. This renders the application of public participation open to various interpretations.

The interpretation is highly dependent on four underlying fundamental theories: democracy, rule of law, fundamental rights and good governance. These theories are analysed in the second chapter of this part. For each theory we describe how it relates and shapes the concept of public participation. After the analysis of the role of the public in these theories relating to the government, we conclude that participation is inherently part of the democratic rule of law. Any implementation of public participation largely depends on which theories are important to a state and how these theories have shaped constitutional and administrative government.

The third and last chapter of this part investigates empirical evaluative frameworks for public participation on the basis of which we derive our own evaluative framework. Our own evaluative framework is based on the deliberative ideal. Elements of the deliberative ideal are communication, reciprocity, respect and focus on the common interests, rather than the individuals' interests. Stakeholders have different and sometimes opposing views. If a participation process would focus on these interests instead of the common interest it can lead to clear 'winner' and 'loser'. As this is from both a societal and governmental perspective undesirable, a process can foster respect and communication whilst focusing on the public's interests. Whilst this may not be in line with certain personal interests, all participants, including the governmental body, are forced to redefine what the subject of participation is and what the best solution for all could be. The deliberative ideal as an evaluative yardstick is applied throughout the thesis.

The analysis of these chapters in this part led to the conclusion that a) participation is inherently part of democratic states; b) that the scope and definition of that participation may differ per state due to the individual interpretations and c) there are empirical lessons about participation that may provide direction to public processes and the role of the public herein. Most importantly, while we drew the conclusion that the efforts of participation may lead to different outcomes, the participation and way it takes places can be more important than succeeding (fully) in protecting personal interests.

Part II – Environmental decision-making and the role of public participation

In this part we analyse the existing Dutch legal and policy framework on wind farms and the ways the public can participate in these processes. The application of public participation to a specific case study is important because we can analyse the actual implementation of the concept into Dutch regulatory and policy processes.

Wind farm decision-making is a good example to study the role of the public in decision-making processes because it is often leads to societal resistance. Such decision-making is often complex and of a technical nature, concerning the number and height of wind turbines, whilst the public is more often concerned with the way they experience the realisation of these projects. This perspective can only be expressed if the public participates. In empirical research it has been found that the Not-In-My-Backyard (NIMBY) phenomenon is not as strongly based in egocentric considerations as initially assumed, but a strong link to the decision-making processes has been found. Especially in the case of wind farms, public resistance – if any – is strongest during the planning phase and significantly decreases once the farm has been realised. This planning process therefore deserves additional research.

This part starts with the reasons to implement large-scale wind farms. The Netherlands voluntarily set targets and policy to mitigate global climate change. The Netherlands is also bound by binding European policy and targets for the mitigation of global climate change. Subsequently we therefore provide an overview of European and Dutch legislation and policy on global climate change and renewable energy, in order to explain the governmental choice for large-scale wind farms.

Furthermore we describe the Dutch legal framework on public participation opportunities as provided by the general administrative law and the case specific administrative law for wind farm planning. Regarding the general administrative law we conclude that public participation is fundamental to the Dutch democratic rechtsstaat, but that the most important implementation of public participation, the public preparatory procedure and the opportunities to submit views, are but the start of public participation in comparison to our deliberative ideal.

The wind farm specific administrative law depicts what powers the government has to realise wind projects and what instruments they can use. In addition to the legal opportunities, we will also discuss the "acceptance of and participation in on shore wind energy" which is a specific code of behaviour. This instrument was drafted and concluded after the Energy Accord, and includes guidelines for (financial) participation. On the basis of the analysis of more case specific public participation opportunities, we remain with the conclusion that the opportunities are limited in terms of processes, as submitting views does not meet our deliberative ideal.

Part III – Application of the theoretical framework on wind-energy decision-making

In this part of the thesis we make the connection between the theoretical evaluative framework and the opportunities for the public to participate in wind farm decision-making. Now the important question arises if and how public

participation took place upon setting the wind farm policy, what that public participation has led to and whether it meets our deliberative ideal.

Therefore we choose one case, a specific wind farm in the Netherlands, Noordoostpolder and investigate how the public has participated in the decision-making leading to this wind farm, at all levels of decision-making. We will do so by analysing the existing renewable energy policy, both at the European and Dutch level, on the basis of the public participation opportunities. We do so for the existing renewable energy directives and for the new directive under proposal and review at the European level. We explain how member states participate but also if and how the public has put forward views. Moreover, we look at the Dutch policy processes and describe how the public participated.

Finally we analyse the last stage of the decision-making process leading to the wind farm Noordoostpolder, during which societal resistance arose. We describe this process from the beginning till the end. We find that, from a perspective of the ideal behaviour of the government, that more care could have been taken with respect to the response to the public, the earlier inclusion of people with interests and an overall lack of communication.

Conclusions – wind farms and public participation

On the basis of the three parts and its interim conclusions, we draw main conclusions. One important conclusion concerns the fact that renewable energy policy is set increasingly at the international level, whilst the implementation and realisation sets place at the local level. Traditionally and practically, participation is stronger at the local level but the increased transnational level of sustainable policy is rendering it more and more difficult for stakeholders to protect ones interests at the level that matters. Participation at the local level is focused on the technical details, such as height and number of wind turbines, whereas the public *also* would like to discuss the reasons for the project itself. Sometimes implicit and sometimes explicit, the public expresses this concern. From the fundamental democratic point of view, this may be disconcerting as the national level and especially the local level become places of realisation rather than communication and deliberation.

Wind energy is controversial. Society does not always support the realisation of wind farms because of the consequences, such different land use, landscape differences and potential harmful consequences such as wind shadow and noise pollution. Theory suggests that organising public participation in the planning phase of wind farms contributes to societal acceptance thereof because the incorporation of local views can lead to changes in the design of the wind farms and thus meet the desires and wishes of the public but also because the public feels heard and taken seriously.

On the other hand, it is becoming increasingly clear that global climate change is not only real; the consequences of it can be quite severe. We therefore need to mitigate global climate change as fast as possible, which necessitates major changes and thus major challenges in our energy production and consumption. Given the natural characteristics of the Netherlands, it is highly dependent on wind energy as an alternative to fossil fuels for the production of energy. Thus a pressure to successfully develop and realise wind farms has increased significantly. This pressure is noticeable, also to the public. It has therefore become apparent that these wind farms are necessary which, in a way, has limited the possibility to discuss wind farms as a solution. This, in turn, limits public participation opportunities, as the object of that participation is practically limited to the specific design of the farm, neither the location nor the wind farm itself. Today, this has led to the situation in which societal unrest is immediately triggered in case the government suggests a specific location for a wind farm. In many instances, the local population facing wind farm plans petition against it, without even knowing the specific plans.

This leads to an overall conclusion that the limited options for public participation do not meet the idea of public participation as presented by democratic theories or good governance resulting in the deliberative ideal. No government is obliged to incorporate the public's specific views, and the way the participation takes place now almost feels as "ticking a box". Although admittedly, public participation is a difficult concept, this is perhaps not the way to go about it. And because sufficient societal resistance is essential to successfully realise the energy transition this problems deserves more attention.