



Introduction to the Special Issue: Public participation in environmental and land use policy in East Asia



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1. Context

This Special Issue constitutes the extended outcome of two related events organized in March 2013 at the United Nations University Institute of Advanced Study (UNU-IAS) in Yokohama, Japan.¹ Their implementation was supported by this Institute.

'Public Participation in Environmental Matters' in the sense of this Special Issue covers public participation in environmental decision-making procedures as well as access to environmental information, and to justice (the "three pillars"). In the particular context of this Special Issue, it stands for the legally binding institutionalization of rights in terms of opportunities for individuals and non-governmental organizations.

Public Participation was prominently expressed for the first time in Principle 10 of the Rio Declaration in 1992 (UN, 1992a) and further reiterated in Chapter 23 of Agenda 21 (UN, 1992b). Also the United Nations Convention to Combat Desertification (UNCCD) concluded in 1994 emphasized the need for public participation in degradation assessment and rehabilitation of land (UN, 1994; Stringer et al., 2007).

Since then, Public Participation in Environmental Matters has increasingly been discussed and implemented worldwide. Notable landmarks include the Aarhus Convention in 1998 that was

concluded under the auspices of the United Nations Economic Commission for Europe - UNECE (UNECE, 1998; Wates, 2005; Toth, 2010) as well as in Paragraphs 43–44 of the 2012 Rio + 20 Outcome Document "The Future We Want" (UN, 2012).

Today many regions in the world still look in particular towards the better implementation of these international political documents on the ground. This is especially valid for East Asia due to its huge environmental pressures and the vast number of people and NGOs often to be seen as the concerned public in procedures dealing with environmental matters. In particular, the continued legal transposition and practical application of these international political instruments through and within the European Union (EU) since 2005 can globally provide a blueprint for other regions to enhance Public Participation in Environmental Matters. The use of the Aarhus Convention for the creation of guidelines for the three above-mentioned pillars with a global instead of a regional application as well as for an initial input for the development of general accountability principles in international organizations such as the World Bank has been proposed by Benjamin (2006) and the Principle 10 Guidelines (UNEP, 2010). The increased interest in Public Participation in general and in the Aarhus Convention in particular has been explained in manifold ways. First, is its potential to reduce the incidence of social conflicts caused by environmental change or modifications to the environment in the sense of more rationalization in politics (Abram and Cowell, 2004; Jones, 2008). Second, it functions as a sign for increased transparency and transition towards "modern democracies" as seen in the case of the Aarhus Convention in light of the break-down of the former Soviet Union (Walek, 2000; Cherp, 2001); third, is its non-confrontational role within an increased complexity and uncertainty of environmental issues during recent decades (Poncelet, 2001; Ferreyra, 2006) and, fourth, its function has been pointed out as a vehicle to introduce those without voice (future generations, non-humans) into the environmental discourse through non-elected but selected repre-

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¹ These were an international workshop named 'Public Participation in Environmental Matters in East Asia: multifaceted perspectives' on 18th March 2013 and a public seminar titled 'Public Participation in Environmental Matters in East Asia: information, procedures and justice access' on 19th March 2013; the Institute has since been restructured as it is now part of UNU Institute for the Advanced Study of Sustainability (UNU-IAS), located in Tokyo, Japan.

sentatives and as an expression of 'equality of weapons' in a mainly procedural sense (Hubacek and Mauerhofer, 2008). Public Participation has also some crucial limitations, such as time limitations (Scott, 1999), a lack of funding (Mauerhofer, 2010), the manipulative influence of technical expertise (Calland and Nakhouda, 2012) and conflicts of interest among those who hold the power to give more influence to participatory approaches (Heritier, 2010). Finally, increased Public Participation does not per se stand for improved environmental quality; it depends in particular on the geographical, thematic and institutional contexts (see e.g. Newig, 2007; Ernoul 2010).

2. The content of the special issue

The special issue commences with a paper that intends to present a global and comparative overview of 'Public Participation in Environmental Matters in the sense of the Aarhus Convention' (Mauerhofer, 2015 Mauerhofer, this issue). In this way, a summary and a baseline of common knowledge should be provided for the following supranational and national insights in their global context. The overview shows that access to information is legally established within all regions on all continents. In comparison, access to justice is the one pillar of the three mentioned in Principle 10 of the Rio Declaration which has obtained the least reflection in legislation and implementation so far. East Asia also shows according to this author a quite diversified picture with regard to the three pillars of Public Participation. This appears to be valid among this region's countries, but also in comparison to regions on other continents where the status of economic development does not necessarily correlate in a positive way with Public Participation. Mauerhofer (this issue) concludes that even a high extent of Public Participation in Environmental Matters within a certain region or country cannot be automatically associated with a high level of environmental quality and protection.

Okubo (2015) Okubo (this issue) provides an overview of the development of the Japanese legal system for public participation. Her analysis first shows a situation in an economically well-developed country with a long democratic tradition that for a long time effectively practiced a voluntary approach of public participation without the legal guarantee of a right to participate in decision-making. Traditionally, there have been many good practices for effective voluntary approaches in Japan. Furthermore, Okubo shows that since the 1990's various original legal measures for public participation have been introduced in Japanese land use and environmental laws, mostly aiming at the collection of environmental information for better decision-making or promoting voluntary activities. But as environmental issues have become more complicated due to more intense conflicts of interest, she argues that a transparent and fair decision-making procedure and the guarantee of the right to participation are essential. These changes should, according to Okubo, meet global standards, the three pillars of the Aarhus Convention, as well as the preservation of the historical and original achievements of the leading environmental court cases in Japan.

Gera (this issue) then provides an overview and outlook of 'Public Participation in Environmental Matters in the Philippines'. In terms of legislation, this is perhaps the country with most advanced system of environmental rights supporting public participation currently established in East Asia. But in contrast to this apparently strong institutional design for public participation, Gera indicates a significantly low level of institutionalization of actual participatory procedures that could not achieve substantive autonomy from power structures. This is due to the interplay of institutional-legal structures within the country's political economy constraints (Gera, this issue). She concludes that while the country's civil

society groups have made significant advances in shaping environmental policy and practice, weakness in their deliberations amid complexities in aggregating public interest constrain legitimacy of representation, coherence and necessary consolidation in engagements with government institutions.

Kabiri (this issue) then provides insights into 'Public Participation, Land Use and Climate Change Governance in Thailand'. Particularly, he inquires into the conditions under which effective public participation in the governance process can be achieved. This is done through an examination of the preferences of the actors involved, the incentive and institutional structures for public participation, the difficulty of implementing effective public participation, and the potential ways of mitigating all these challenges. Kabiri indicates that a successful incorporation of public participation in a highly problematic arena such as climate change governance could provide a blueprint for other sectors of environmental governance.

In her contribution, Li (this issue) turns back the attention to the governmental side. Based on the national land use regulations and policies enacted between 1947 and 2012, she analyses whether and to what extent public participation has been institutionalized in land use decision-making in China. Therein her focus lies on the purposes, actors, architecture, and mechanisms of public participation and government accountability. Li finds that the central government introduced policy changes for revealing its preferences and regulating local governments over land deeds. But these top-down approaches remain ineffective and land use was mainly left for local manipulation. Yet there is a lack of institutionalized input and surveillance at this local level. This institutionalized lack of public participation in land use decision-making in combination with the rural-urban dichotomy have compromised equal economic and social opportunity for farmers, eroded public trust in the government, and led to social unrest (Li, this issue).

Gu's contribution (this issue) then focuses more on urban China and on concrete case studies. Her assessment is based on three practical examples of how the Chinese government at different levels has responded to not-in-my-backyard (NIMBY) protests in urban China in recent years. Her case studies cover controversies over three paraxylene (PX) chemical plant projects, which are considered as growth engines by local governments but as health and environmental threats by local residents. Gu examines the power arrangement that enables or constrains public participation in facility siting in China. Her study finds that local governments made concessions to the public's demands in order to uphold social stability, which is one of the most essential responsibilities assigned by the central government. Furthermore she points out that both central and local governments have come to realize the limitations of non-legal approaches to conflict resolution and have begun to introduce legislative changes, but their effects on public participation remain to be seen.

Ogihara, Shimaoka and Roppongi (this issue) focus again on a higher geographical level in terms of Public Participation and the assessment of activities' effects on the environment. Thereby, they concentrate on East Asia and different types of impact assessment, namely Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (SEA). Their contribution provides an overview on the extent and the challenges regarding the implementation and enforcement of impact assessments in eight countries (China, the Republic of Korea, Indonesia, Philippines, Thailand, Cambodia, Vietnam and Laos PDR). The results show a scattered but detailed and structured picture among the countries with regard to the different levels and dimensions of implementation. Concerning Public Participation in environmental assessments, Ogihara et al. (this issue) argue that Vietnam, Cambodia and Lao PDR either have no legislative reference or only mildly recognize it, while the other five countries clearly address it in leg-

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