

PUBLIC PARTICIPATION LAWS IN ACTION: EMPIRICAL INSIGHTS FROM THE ENERGY TRANSITIONS IN THE NETHERLANDS AND NIGERIA

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In recent years, the transition towards sustainable energy systems has brought to the forefront questions of how decisions affecting the environment should be made – and by whom. Central to this discourse is the concept of public participation, which is defined as the process through which members of the public are able to engage in decision-making related to policies, plans and actions that shape their living environment (Stern & Dietz, 2008). This participatory process plays a pivotal role in the energy transition, where the implications of decisions are far-reaching and deeply interwoven with societal values and concerns.

Legal frameworks increasingly mandate public participation in the development of energy-related policies and plans (Squintani & Perlaviciute, 2020). In the European context, the Aarhus Convention (1998) has been instrumental in shaping these rights, framing public participation as a subjective right designed to empower individuals – present and future – to live in an environment adequate for their health and well-being (e.g. Kingston et al., 2021).

As in other fields of governance, it is essential to conduct impact assessments of participatory regimes to evaluate their practical significance and effectiveness (Miller, 1965). Public participation is often expected to result in more substantively sound, democratically legitimate and broadly accepted decisions – referred to, respectively, as the substantive, normative and functional goals of participation (Fiorino, 1990). The central question, however, remains, do regulatory frameworks governing public participation actually facilitate the realisation of these goals?

In 2021, Perlaviciute has categorised many scholarly works on public participation by focusing on the criteria influencing the effectiveness of participatory procedure in achieving the participatory goals into dialogue, diversity, deliberation and decision-making power (Perlaviciute, 2021). Yet legal scholars only recently started looking at the implication of social sciences findings

on public participation for (the drafting of) “law, legal norms and the legal system” (Bijleveld, 2023, p. 12). Dokubo et al. have refined each category from a normative perspective and analysed three main regulatory approaches to public participation, highlighting the mismatch between social sciences insights on effective public participation and the regulatory standards in place today (Dokubo et al., 2024). Yet no studies have examined how and whether this mismatch is experienced (and potentially shaped) by those actors actually responsible for implementing public participation laws in practice, i.e. public officials, and how this influences public participation processes on the ground.

In line with the concept of a ‘jurisprudence of consequences’, we address this lacuna by empirically assessing the consequences of public participation laws. In addition, we push scholarship in the study of jurisprudential consequences by shedding new light on the scientific assumptions underlying participatory frameworks and its impacts in practice. As an overarching research question, we assess how civil servants responsible for participatory process view public participation, especially as regards the relevance of the criteria shaping the effectiveness of participatory processes (dialogue, diversity, deliberation and decision-making power). We present the findings from two qualitative studies, each conducted in a different jurisdiction, in the Global North and in the Global South, both playing a central role in the development of renewables in their respective continents: The Netherlands will play a central role via the development of renewables in the North, whereas Nigeria is one of the main energy producing countries in Africa. We bring to the foreground public officials’ perspectives on and experiences with public participation. Section 2 provides the analytical framework shaping the case studies, i.e. the scientific insights on public participation, the regulatory frameworks on the energy transition in the Netherlands and Nigeria, with a focus on public participation requirements. Section 3 explains the methodology used in the case studies, and Section 4 presents the findings. The discussion in Section 5 is aimed at advising legal scholarship and practitioners about the “effectiveness in general of measures such as may be chosen from” (Bijleveld, 2023, p. 10).

2 ANALYTICAL FRAMEWORK: PUBLIC PARTICIPATION AND THE ENERGY TRANSITION IN THE NETHERLANDS AND NIGERIA

2.1 *Scientific Insights on Public Participation: The 4Ds Framework*

As indicated previously, Perlaviciute has synthesised and grouped social science insights on the criteria for effective public participation into four categories: a) dialogue, b) deliberation, c) diversity and d) decision-making power – together referred to as the 4D normative standards (Perlaviciute, 2021).

Dialogue is understood as the exchange of information or opinions between at least two parties (e.g. Swidler & Swidler, 2014), typically in the form of a so-called two-way dialogue (Hamilton & Wills-Toker, 2006). In this regard, the literature indicates that early engagement – i.e. when all options are still open – is critical to the success of public participation processes (Hindmarsh, 2010).

Diversity should be ensured in terms of age, race, beliefs, values, sex and education – even within a single community. This not only builds credibility for developers, both public and private, but also enhances opportunities to integrate diverse local insights and values into the decision-making process (e.g. Dietz, 2013; Ellemers & Rink, 2016; Franklin, 2022; Rădulescu et al., 2022).

Deliberation considers the attitude of participants towards participatory processes and asserts that diverse values should be highlighted, aligned and managed by facilitators (Rădulescu et al., 2020). Moreover, those responsible for the process should recognise and address participants' perspectives (Blacksher et al., 2012). In general, participatory processes should allow for understanding differences and similarities, and discussions should focus on reaching agreement on a course of action (Hamilton & Wills-Toker, 2006).

Decision-making power refers to the influence that public perspectives, expressed during participation, have on final outcomes. Arnstein's 'ladder of citizen participation' suggests that the more dominant the public's role in decision-making, the more effective the participation process is likely to be (Arnstein, 1969). Furthermore, participants are more likely to be actively engaged if they believe their input can influence the outcome (McCool & Guthrie, 2001). If this is not the case, participation may be seen as 'tokenistic' or even 'fake', potentially fuelling societal unrest (Perlaviciute, 2021).

2.2 *The Dutch Regulatory Framework on Public Participation in the Energy Transition and the 4Ds Framework*

Under the European Green Deal,¹ the European Union (EU) has set the targets of lowering emissions by 55% by 2030 compared to 1990, while also ensuring a just transition (Jendrośka et al., 2021). The Netherlands is bound by these EU targets. The Dutch Climate Law establishes the overarching framework in the context of tackling climate change, which is further implemented in a wealth of other regulatory instruments.² Local authorities play a central role in the implementation of the Dutch Climate law, with the Regional Energy Strategies

1. *European Commission 'The European Green Deal' (Communication) COM(2019) 640 final.*
 2. *Klimaatwet, OJ 2019, 253.*

indicating how 30 regions in the Netherlands (at times overlapping with a single (large) municipality, others with multiple municipalities or a whole province) aim to contribute to the national goals on renewable energy.³

Public participation is considered a key factor for achieving the climate goals in the Netherlands.⁴ Its regulatory framework governing public participation is composed of two main acts, the General Administrative Law Act (GALA)⁵ and the Environmental and Planning Act.⁶ Content-wise, the Dutch regulatory framework follows the substance of the Aarhus Convention and EU law, which can therefore best be used to explain the approach to public participation adopted in the Netherlands.

Under this Convention, Article 6 sets participatory standards for decision-making on specific activities with potentially significant adverse environmental effects, such as the authorisation of renewable energy sources. Article 7 applies to environmental policies, plans and programmes, while Article 8 focuses on generally binding rules, such as subsidy schemes for solar panels on household rooftops (Squintani & Perlaviciute, 2020).

Although an exact study on the Dutch participatory framework in light of the 4Ds framework is not found in the literature, considering its substantive resemblance to the provisions of the Aarhus Convention, a recent study focused on the Aarhus Convention from the perspective of the 4Ds framework. Dokubo et al. established that the Convention copes best with dialogue and decision-making power insights (Dokubo et al., 2024). From a diversity perspective, the Convention only follows a non-discrimination-based approach, which is based on a one-size fits all set of participatory rights, with no attention paid to the inclusiveness of vulnerable and/or marginalised groups. It is thus based on a homogeneous understanding of society. A non-binding recommendation issued under the umbrella of the Convention, the Maastricht Recommendations 2015,⁷ provides a set of suggestions on the inclusiveness of vulnerable and/or marginalised groups, but the impact of such recommendations seems limited (Forns & Rehage, 2024). The Convention is also silent on deliberation, leaving responsible parties without guidance on how to fulfil social sciences insights on this criterion.

3. For an overview of the Regional Energy Strategies, see <https://regionale-energiestrategie.nl/default.aspx> (accessed September 2024).

4. *Klimaatplan*, Section 3, November 2019 | Publicatie-nr. 1019-15

5. *Algemene wet bestuursrecht*, Stb. 1992, 315.

6. *Omgevingswet*, Stb. 2016, 156.

7. UN ECE Maastricht Recommendations on Promoting Effective Public Participation in Decision-Making in Environmental Matters, prepared under the Aarhus Convention (2015).

2.3 *The Nigerian Regulatory Framework on Public Participation in the Energy Transition and the 4Ds Framework*

Notable steps have been made towards renewable energy development in Nigeria. For example, renewable energy policies and regulatory frameworks such as the Electricity Act,⁸ and the Nigerian Climate Change Act,⁹ are being enacted to regulate the development of renewable energy projects.

In Nigeria provisions for public participation are contained in the various energy and environmental laws and policies. First, Section 30 of the Climate Change Act mandates the Secretariat of the National Council on Climate Change to prepare and publish its public engagement strategy for the upcoming year. Besides, the Electricity Act of 2023 prohibits the issuance of any licence for the production, transmission and distribution of (renewable) electricity until the objections and representations from the public have been received, considered and determined. Moreover, it mandates companies that have applied for a licence under the Act to publish, within 30 days after the application, a notice of the application in both in a local and a national newspaper, stating the period within which the public can make their voice heard. Third, the Environmental Impact Assessment (EIA) Act encourages the development of procedures for information exchange, notification and consultation between organs and persons when proposed activities are likely to have significant environmental effects.

When looked at from the perspective of the 4D framework, Dokubo established that while Nigeria's laws mostly comply with the standards on decision-making power, the Electricity Act fails to require that adequate information about the intended project be provided. In addition, Dokubo argues, the Nigerian Climate Change Law and the EIA Act fail to prescribe suitable methods of communication to be adopted (Dokubo, 2024). From a diversity perspective, Nigerian law is based on the idea of a homogeneous society, whereas the country is, in fact, made up of persons who speak different languages, are of various races and genders, belong to different classes and have a different educational status. Yet a one-size-fits-all approach is followed under the analysed Acts. Besides, the Nigerian energy and environmental laws and policies fail to fulfil most of the requirements on deliberation, save the EIA Act, which creates a semblance of deliberation by way of mediation when the public raises concerns about the project during the dialogue stage (Dokubo, 2024).

8. The Electricity Act 2023, <https://placng.org/i/wp-content/uploads/2023/06/Electricity-Act-2023.pdf> (accessed 19 September 2024).

9. Nigerian Climate Change Act 2021, <https://faolex.fao.org/docs/pdf/NIG208055.pdf> (accessed 19 September 2024).

3

METHODOLOGY FOR THE CASE STUDIES

Both case studies used semi-structured interviews modelled on the 4Ds framework, with public officials responsible for public participation. These officials were selected by means of purposive and referral sampling. In the Netherlands, the case study focused on public servants working in the Province of South Holland, as the Climate Law makes the Regional Energy Strategies (RES) the central instrument for shaping the energy transition. The Province of South Holland provided a useful case study as its territory is divided into seven RES regions, varying from low-density population regions to high-density ones, thus resembling the diversity occurring throughout the Netherlands. In total, 36 interviews were held with public officials working on public participation processes in different capacities (e.g. policy advisor or communication officer) between December 2021 and February 2022. In total, 40 representatives were interviewed, 7 from the RES regions boards, 25 from municipalities (out of 47 municipalities in the region), 5 Provincial Council Members, 1 representative of the Province of South Holland, 1 representative of the Environmental Service Office and 1 representative of a local Water Board. In Nigeria, the case study focused on the federal and state representatives. Between March 2024 and April 2024, we interviewed 13 participants who were officials working with the Federal Ministry of Environment (5) and State Ministry of Environment (3), the Rivers State Ministry of Power (1), the Rural Electrification Agency (3) and the Nigerian Environmental Standards and Regulation Enforcement Agency (NESREA) (1). The participants were all officials who have been involved directly in public participation in the development of energy projects at the state and federal levels in Nigeria.

The studies began with the formulation of an interview guide, designed to collect data on the perception of public officials working on public participation in the two countries when looking at the 4Ds framework and the extent to which this framework is reflected in the respective regulatory and political frameworks, and related implementation practice, on public participation in the energy transition. Ethical approval was provided by the University of Groningen. The data was derived from online, semi-structured interviews using Google Meet or Teams. After obtaining explicit consent, participants were asked about their position in their various ministries, their personal experience with public participation, their opinions on the advantages and disadvantages of each of the 4D elements of public participation, their assumption on the opinions of the colleagues on their views, their awareness of the laws and policies for public participation, particularly relating to the 4Ds, the possible advantages and disadvantages of the legal provisions, and possible areas for improvement in the laws from the perspective of public participation. The interviews were transcribed and

anonymised in accordance with data protection guidelines.¹⁰ The transcripts were further analysed using inductive approaches for coding based on applied thematic analysis (Guest, 2012) via the ATLAS.ti software. The emerging codes were further categorised into various code groups.¹¹

4 FINDINGS

4.1 *Public Officials' Perceptions in the Netherlands*

4.1.1 *Dialogue and Deliberation*

During the interviews, it quickly became apparent that Dutch public officials do not see a distinction between dialogue, i.e. the organisation of a two-way communication setting, and deliberation, i.e. the willingness to listen to opposing arguments and discuss different options. Accordingly, in the findings from the Netherlands, we report these two categories together.

As regards dialogue and deliberation, a certain commitment is expected from both the organising party and citizens in order to ensure a two-way communication setting: municipalities are committed to *"ensuring proper participation, carried out in accordance with certain guidelines"* (Interview G8), and citizens are expected to have an open attitude and participate in a constructive manner (Interview R2b). It was considered important to avoid yes-no contradictions, because they are *"too static"*: *"if you, as a government, shout 'yes' six times louder, then the other person will not at some point also say: 'no, okay'"* (Interview G12). The challenge mentioned here is that participants in a participation process regularly evaluate the participation process based purely on the outcome of the process. As one of the respondents stated,

I have often heard: 'you are not listening'. While I have already had the most long, extensive discussions with those people. Then I thought we were really listening, but in the end a different decision was made.
(Interview G2)

Such criticisms of the process can subsequently have major consequences; for example, one respondent shared that village consultations criticised *"the participation that has been done"*, after which *"the council did not dare"* to adopt a decision (Interview G1).

10. General Data Protection Regulation 2018; The Nigerian Data Protection Act 2023.

11. We cannot ensure that today's views are the same as those emerging from the interviews. Moreover, despite the similar interview guide, the interviews were conducted in the native languages by native speakers, and we cannot ensure that the interviewers followed the same behaviour during the interviews. We account for these limitations by avoiding a one-on-one comparison and focus on the general impression that can be derived by the interviews.

Several respondents, largely based on previous (negative) experiences, had ideas and best practices about how the dialogue could be improved in the future. According to the respondents, it starts with facilitating a constructive dialogue with the starting attitude: explaining *“why you come to do what you come to do”* (Interview G5), and make it clear which phase of the process is currently taking place (Interview R4b). The latter also serves to prevent people from dropping out because, for example, it is not (yet) concrete enough (Interview R4b). To ensure that a constructive, reasoned conversation can be initiated, it was further emphasised that it is important to ensure that the conversation is small-scale (Interview G15a). The different working methods looked at how to ensure that everyone has the opportunity to give his or her input. For example, during digital meetings *“we invite people to ask questions and we answer them all. We have turned all conversations and all questions into Q&As. That was really a huge job at times”* (Interview G14). Another example mentioned here is to offer people the opportunity to provide input after meetings. This mainly serves to allow people who *“would normally keep their mouths shut to participate in the discussion in a very accessible and easy way”* (Interview G18a).

It is clear that facilitating dialogue can be quite a challenge, especially when emotions run high (Interview G5). As one of the respondents admitted, *“I personally find dealing with resistance to be one of the most difficult things”* (Interview G5). Various methods were shared to de-escalate tension when emotions are running high and to see *“what’s bothering you, what’s bothering me”* (Interview G18a). First of all, it was stated that it is important to start the conversation with *“the people with the emotions”* and *“not with everything and everyone involved”* (Interview R4a). If emotions are really high, a possible solution seems to be to focus on personal, one-on-one contact with *“people they trust”* (Interview G3). However, this *“requires a lot of time and attention”* (Interview G3). What was emphasised here was that just ‘rationalising’ top-down decisions during participation processes is in any case ‘disastrous’ (Interview G17).

The importance of the discussion leader was emphasised several times, as the need was felt for one who can *“make things successful by really taking people seriously and letting them have their say”* (Interview G11). A discussion leader can also help in the background, for example, to ‘remove irritations’ (Interview G11). According to the respondents, it is important that the moderator is not only knowledgeable about the content (Interview G11) but also socially strong (Interview G24a). Some municipalities have already started actively working on this (Interview R7b).

4.1.2 *Diversity*

With regard to diversity, respondents were asked whom they would, ideally, like to have ‘at the table’ in public participation processes. The answers were

‘everyone’, or at least every interested party (Interviews G2-4; G16a; O3; S3). It is also important that you *“make a very sincere and careful effort, at every step, to inform people”* (Interviews R4b; R4a). In a general sense, representativeness was mentioned as an indicator: involving a broad representation of different groups in society, not only looking at demographic data such as age or gender, but also at whether someone is a homeowner or renter, for example (Interview G3). An underlying theme is to ensure that a variety of interests can be addressed in a participation process. For example, respondents thought about ‘affordability’ (Interview G8), ‘health of the people living nearby’ (Interviews S4 and S5), and the ‘quality of life of people’ (Interview S5).

Still, getting a representative group of residents around the table is a challenge for many municipalities, partly because some groups are difficult to reach (Interview G4). According to the respondents, it is always the same type of people who join public participation processes; mainly older men with a strong knowledge base and a lot of affinity with the theme. The pattern that can be deduced from this is that supporters and opponents of energy projects are overrepresented, while the middle group is missing. In addition to the pool of perspectives and ideas becoming smaller, a risk was also regularly mentioned, namely that *‘loud shouters’ often receive much more attention than the ‘silent majority’* (Interviews R3a; R7b; G10a). For each underrepresented group, this group has a knowledge disadvantage compared to the ‘usual suspects’ (Interview G18a). This also brings challenges in getting everyone to the same level of knowledge during participation processes (Interview G10).

Respondents were then asked whether they had ideas and working methods in mind, or perhaps had already used them, to get and keep a representative group of people ‘around the table’. An approach used here is to start broadly using various resources and online and offline channels (Interviews G16a; G24a) and then supplement this with strategies specifically aimed at the target groups that still appear to be missing after measurements (Interview R3a). Regarding working methods for specific target groups, the switch to digital working methods seems to have played a positive role, especially among (young) families, where people could *‘just watch and log in from home’* (Interviews R7b; G10b). Various resources are used for young people, including learning programs at secondary schools, where young people are given the opportunity to participate in discussions and be involved within their study programme (Interview R7a). Finally, a ‘Tinder’-based app was also mentioned, on which young people can indicate their preferences for certain energy strategies by ‘swiping’ (‘Swipocratie’) (Interview G5). Various other means are used to ensure that other difficult-to-reach target groups are still reached, such as visual communication without spoken text, to make messages

accessible to people who are poorly literate or non-Dutch speaking (Interview G15a).

Some respondents proposed a results-oriented approach, in which quantitative targets are set in advance for each target group that can be tested afterwards (Interview S2). In this context, many respondents were cautious about a possible obligation to achieve a predetermined result about how many people must participate in the process. At the same time, the importance of being clear about what efforts have been made, and what the results have been, has been recognised. For example, if during the process it turns out that groups are missing, the organiser can show based on an obligation to make an effort that adjustments have been made in order to ultimately obtain a representative picture of the groups and their interests in a certain area (Interview S3).

4.1.3 *Decision-making Power*

Respondents were asked to what extent there is currently any influence that citizens can exert on the outcomes of a decision-making process. Several respondents pointed to a difference between influence 'on paper' and in practice. For example, a municipal official shared that, although it had been communicated to residents in a participation process that a lot of influence could be exerted: *"It is actually not very clear to me to what extent that really happened"* (Interview G2). In other cases, that influence was seen much more clearly. An example mentioned is a wind farm, where the council already had doubts about the location, and the residents' opinion was ultimately *"accepted as decisive not to do it either"* (Interview G24a). At the same time, various examples of participation processes were also mentioned in which citizens were in practice unable to play a meaningful role in the realisation of the final decision. Such processes, according to one of the respondents, only serve to give residents the *"feeling that they can contribute ideas"* (Interview G6). This is disastrous not only for your own trajectory, according to another respondent, *"but also for all future colleagues who also want to participate somewhere"* (Interview G12; similarly interviews G4 and G24a).

As to the question of how much influence the public would have in an ideal world, respondents first stated that the degree of influence *"depends very much on the trajectory and how much room there is in it"* (Interview G18a). More concretely, the perspectives on influence appeared to differ greatly among the participants. For example, some respondents stated that the influence of citizens should be very great, even when this conflicts with *"the pace at which we roll out the energy transition"* (Interviews G8; G13). At the same time, it was also noted that the general interest, and the importance of the energy transition, must remain in view, even if this means that unpopular decisions must be taken (Interview G1). Other respondents stated that, while in public participation the extent to which a

representative group participates may sometimes be questionable, the democratic process of elections in the Netherlands already provides a ‘representative medium’ (Interview G2). The government was said to then be the appropriate body to weigh up interests (Interview O2). One of the respondents expressed the importance of realising that although public participation is *“very important and your policy will be better if you enter into collaborations and have the conversation”*, public input is only one of the inputs required in decision-making (Interview G6).

4.2 *Public Officials’ Perceptions in Nigeria*

The interviews revealed four major stages of the public participation process, namely (a) scoping exercise, (b) EIA display stage, (c) town hall meetings or public review, and (d) post project commencement engagement. For the presentation and analysis of the findings from the interviews, the four stages of public participation identified by the participants, as outlined previously, can and will be further grouped under the 4Ds of public participation.

4.2.1 *Dialogue*

Public participation usually begins with dialogue, initiated by way of a scoping exercise, which is the

first phase by which the public gets aware about the project ... Initially, it will just be the proponent and the regulator. But at the scoping stage, which is the first stage by which public participation is introduced into the project. (Interview N1)

Here, they ‘call a few people from the community’ (Interview N4) to ‘sit down and discuss’ (Interview N9). They discuss *“the type of environmental impacts, what is the magnitude, what are the environmental parameters that should be considered”* (Interview N1). In the case of dialogue, participants highlighted a plethora of advantages of dialogue. Information sharing between the proponents and the communities was said to be a major advantage to the process. Respondent N1 noted that *“the first advantage is that it gets the citizen the required information”*. On the other hand, the communities also pass valuable information to the project proponents. This information can be cultural, informing them that *“we have sacred places outsiders are not supposed to encroach... Women are not supposed to be there”*. They can also give information on *“other renewable energy companies that might have even come into their community to sample their community”* (Interview N4). Dialogue was also said to build trust in the project (Interview N8), increase the confidence of the community towards the proponents (Interview N1), bring forth diverse opinions in the project development (Interview N11), broaden the scope of the project beyond what the proponent envisaged (Interview N4), and serve as a tool to know the community’s level of exposure to solar technology or renewable

energy technologies (Interview N10). Nevertheless, a few disadvantages were also highlighted by some participants, one of which was exploitation. The participants stated that there were instances where the *“people want to take advantage of proponents”* (Interview N1) and that dialogue gives room for *“the government or community to demand more things”* from the proponents (Interview N2). Selfishness was also highlighted as a disadvantage as the main question asked by members of the communities is *“what am I going to gain from this?”* (Interview N3). Further, resistance against projects (Interview N8) and receiving ignorant feedback (Interview N11) were also stated to be disadvantages of dialogue.

4.2.2 *Deliberation*

Deliberation comes next by way of public review or town hall meetings. During the meetings or public review, the citizens, project proponents, consultants and officials of the relevant agencies will be present. Here *“the assessors will be evaluating the reports, and the consultants with the proponents will be making presentations, and there will be counter-questions”* (Interview N1). Objections are also raised during this stage. For example, in a situation where *“they want to site a project in a place that is sacred, community people will say, no, don’t do it here”* (Interview N2). Basically, *“the essence of this review is to know more about the project, then get the community feedback”* (Interview N11). During the deliberation with stakeholders, proponents can inform the stakeholders about the advantages and disadvantages of the projects (Interview N12) and create awareness (Interview N9). Deliberation also helps to avoid conflict (Interview N6), foster community development through economic benefits, streamline feedback for easier decision-making (Interview N10) and tackle project concerns (Interview N8). Nevertheless, conflict was also cited as a disadvantage of deliberation. The conflict is mainly internal between the elders, youth and other members of the community (Interview N13). Aggrieved persons can claim that *“the persons that put in place will speak for them, have sub-charged them”*, which can lead to conflict (Interview N5). Other disadvantages of deliberation include selfishness, spreading of false information due to lack of understanding (Interview N4), exploitation (Interview N1) and delay of project due to ‘repetition of thoughts’ (Interview N9). Furthermore, participants pointed out that it does not end at deliberation before the project commencement, as the process is *“continuous throughout the lifecycle and the lifespan of the project and there’s always stakeholder understanding and participation”* (Interview N4).

4.2.3 *Diversity*

When asked about the extent of diversity and inclusion at the various stages of the process, participants stated that the law needs to *“do more in terms of engaging the stakeholders and making sure they participate”* (Interview N8); similar statements were made in Interview N9, stating that the law *“should ensure that*

people, the vulnerable, the most affected community are well represented". During another interview it was stated that a minimum number of participants should be required and not left to the 'discretion of the officers' (Interview N1). Moreover, two main concepts emerged, (1) representative participation and (2) individual/direct participation. These two types of participation alternated at the different stages of the process. For representative participation, persons who are considered *"the mouthpiece of the communities they represent, like I mentioned, the CDC, the women group, the youth group ... Like the chiefs as well."* (Interview N12) are involved in the decision-making process. As regards individual/direct participation, it could be noticed that the display stage is open to the entire public, and anyone can submit their comments and questions about the project. Eleven (11) out of thirteen (13) participants confirmed positive actions are taken to ensure that vulnerable persons are adequately represented. Two participants suggested that *"that environmental impact affects women, children, and old people more"* (Interview N4), as *"clean cooking affects them ... so we engage them"* (Interview N6).

The steps taken to include vulnerable persons in the process are as follows: (1) writing to their organisations to invite them, (2) enquiring about their absence in meetings, (3) setting the meeting in a close location, (4) including female officials to have separate discussions with women who are not culturally allowed to mix with the opposite gender, (5) conducting a "train-the-trainers type workshop" to sensitise the officials about the advantages of actually having women in a separate room.

Diversity and inclusion in the public participation processes also has its advantages. Bringing diverse groups to the process *"enlightens the people"* (Interview N4). Three (3) participants stated that it also brings different points of view to the process, as the economic interests, tribes and functionality are different. Another advantage of diversity is that it brings diverse expertise and solutions to the process (Interview N9), as *"what the women may know, men may not know or the youth may not know"* (Interview N2). Most times, there are already set designs for the projects, *"but there are other people who have been trained in different parts of the world who have this knowledge that can help you to contribute to it"* (Interview N1). Three (3) participants suggested that diversity also makes room for innovative ideas and recommendations for the project. Diversity and inclusion also create a sense of belonging (Interview N2), as *"everyone feels represented"* in the process (Interview N5). It also exposes the knowledge gap between the proponents and the public (Interview N3), causes happiness (Interview N13), and makes for easy replication of similar projects in other communities (Interview N4).

Diversity and inclusion in the process also has its disadvantages. Among these are power tussles (Interview N2), project delays (Interview N9), chaos (Interview

N5), exploitation of the proponents by the public (Interview N1), feeling of bias by members of other communities who witnessed the process (Interview N4), selfishness (Interview N6), withholding of vital information by members of the community who do not wish to share their views in public (Interview N3), and dissenting views (Interview N6).

4.2.4 *Decision-making Power*

Concerning decision-making power, all participants confirmed that the inputs and comments from the public during the public participation process were considered during the decision-making process. The feedback and comments from the engagement process are considered *“important and they are also tailored into decision-making”* (Interview N10).

On the extent of influence given to the public, two participants stated that the communities have the power to stop a project from being approved and halted, while two other participants stated that there was limited influence. Interviews N6 and N8 stated the following:

[T]he influence is more in shaping the best practice and shaping how we go into the community, not that there's so much influence that they can change the trajectory of what the strategy was in the first place [Interview N6] and [W]e filter, we don't take everything into account ... sometimes they might not even know what is good for them ... You consider, not interfere. (Interview N8)

A major advantage of decision-making power as highlighted by the participants is that the community will *‘take ownership of the project’* (Interview N2). Taking ownership of the project will, in turn, ensure security of the proponents' assets as it will make the public protect and guard the project *‘with their whole mind and heart’* (Interview N10). In addition, when the community takes ownership of a project, *“there will be no conflict, there will be no issue”* (Interview N1). The participants mentioned three disadvantages of decision-making power. In Interview N10 was indicated that giving the public decision-making power can *“delay decision-making because you want to get everyone's feedback”* and that the public can also give uninformed feedback *“because they might not have the kind of exposure or technical expertise that you require”*. Furthermore, Participants 1 and 4 pointed out that the public tends to exploit the proponents by making excessive demands, threatening that if they are not met, they *‘will not support the project’*.

5 DISCUSSION

In general terms, in both countries, participants recognised the importance of the scientific insights on public participation. Moreover, a propensity to integrate the existing regulatory and policy standards on public participation in the energy

transition, in particular as regards the diversity criterion, emerged from the interviews. Yet respondents also highlighted practical limitations and potential drawbacks in pursuing the normative standards on effective public participation, as highlighted in social science research.

When we focus on the specific aspects of the 4Ds framework, the following emerges.

As regards dialogue, the interviews showed that offering opportunities for organisational parties and the public to discuss and listen to each other is an important factor within the participation culture in the Netherlands and Nigeria. This corresponds with scientific insights into public participation. It has also become apparent that an overly strict distinction between the concepts of dialogue and deliberation appears to be a somewhat overly distinction from a practical point of view. Furthermore, it appears that facilitating a constructive dialogue is strongly associated with providing sound procedures, whereby offering transparency and professionalising the procedures were found to be very important. This more procedural approach to dialogue and deliberation is clearly reflected in the working methods provided to ensure dialogue. The need for offering sufficient time frames, and the challenge to do so in practice, was evident in both countries. In Nigeria, this was underlined by the suggestion of allowing more time for public comments than the prescribed 21 days.

As the participation plans and interviews have shown, diversity ranks high on the agenda of respondents. There is also a clear idea about which social groups and opinions are over- or under-represented in participatory processes. In addition, several ideas have emerged with regard to how to better reach and engage underrepresented groups. In both countries, responsible parties are willing to go beyond the regulatory requirements in order to engage with vulnerable and/or marginalised groups during participatory processes. Particularly in Nigeria, the strong positive convictions held by public officials regarding diversity and inclusion have proven to be a key factor in overcoming the challenges posed by stakeholders' discriminatory and exclusionary attitudes, despite any perceived disadvantages (Maznevski & Di Stefano, 2000). These convictions have driven officials to take numerous steps and initiatives to ensure that all individuals are adequately represented in the process. This approach is likely to yield the well-documented benefits that diversity and inclusion bring to participatory efforts (Ellemers & Rink, 2016). Nevertheless, this proactive approach is not guaranteed across all areas and cases, and the lack of enforcement standards on the matter decreases the accountability of responsible parties as regards the level of inclusiveness of participatory processes.

In the Netherlands, it was interesting to see that in addition to demographic characteristics and human values, specific attention was paid to involving the 'silent middle ground'. It therefore appears that in the experience of the respondents, treating this category as a separate group is very important for promoting diversity. This was not the case in the Nigerian interviews. It is unknown why this difference has been observed. We cannot exclude a difference in attention on this aspect during the interviews. Nor could such a finding be linked to the increased attention given to the importance of creating public support for renewable energy in the Netherlands (Perlaviciute et al., 2023). The lack of support is indeed at times associated with the lack of participation of moderate members of the public (Liu et al., 2022).

As regards deliberation, the interviews in both countries highlighted the importance of stimulating open-minded discussions. In Nigeria, the attitudes and actions of the officials towards the importance of deliberation align with studies suggesting that sense-making discourse is crucial for the success of projects (Hamilton & Wills-Toker, 2006) and that proactive measures should be taken to address potential challenges during the process (e.g. Hamilton & Wills-Toker, 2006). In this context, the officials highlight that the public often prioritises egoistic values – focusing on financial and personal gains – over biospheric values, such as environmental protection and also the common interest of the community. To counter this, they make efforts to educate the public about potential environmental impacts and take steps to ensure that the views and interests of all groups are safeguarded. They achieve this through focus group discussions and segmentation. In the Netherlands, it is especially interesting to note, in this context, that in addition to involving the rational arguments of the public, it was also found very important to take into account the emotions of participants in participation processes and also use these as a 'catalyst' to ascertain the motivations of residents and the reasons which lie behind certain emotions.

Concerning decision-making power, it turned out that the degree of influence that the public can have in South Holland and Nigeria varies greatly from one process to another. However, the existing scientific literature on public participation indicates mainly that the influence of the public should go to the highest rungs of Arnstein's ladder ('decide for yourself'). There is therefore a certain discrepancy between academic literature and administrative practice in South Holland and Nigeria. We noted a clear awareness of the importance of empowering the public in decision-making. However, the respondents held divergent views on the degree of influence the public should have. The concept of 'giving the public as much influence as possible' then takes on a relative character: as much as possible within a chosen framework that determines the scope of decision-making power.

The question is, of course, what the chosen level of influence means for the possibility of achieving the desired goals of public participation. In the Netherlands, the interviews did reveal a strong awareness of the possible impact of a low level of influence on creating support, especially when it has previously been communicated that citizens will be able to influence, but this is ultimately not the case. Frequent reference was also made here to 'expectation management', whereby the scope of influence is communicated clearly and transparently to the participants.

Furthermore, studies have linked lack of influence in decision-making processes to the reluctance to participate (Fox, 2009; McCool & Guthrie, 2001), which is one of the issues and challenges the officials pointed out in Nigeria. The low turnout rate in participation processes in Nigeria was further acknowledged as one of the major issues, and respondents suggested that legislation should establish a minimum number of required participants. While this suggestion may be worthwhile, it may not guarantee active participation within the process itself. However, setting a minimum number of participants does not address how much influence these individuals will actually have over the project. It is therefore unclear if a minimum number requirement will help in gaining the public's trust and active interest in the process.

6 CONCLUSIONS: THE CLOSING OF THE GAP IS A TWO-WAY STREET

For the first time in the literature, this chapter has shown public officials' perceptions on public participation accounting for social sciences insights and existing regulatory and policy frameworks in the analysed jurisdictions, the Netherlands and Nigeria. The mismatch between the law in the books and the law in action highlighted in earlier literature is recognised by public officials, at least in the analysed jurisdictions. In both countries, public officials recognise the relevance of social sciences insights and have shown the willingness, supported by factual evidence based on real-life cases, to implement the social sciences insights, despite specific regulatory or policy requirements on the subject matter. In both countries, officials highlighted the positive and negative experiences with integrating the social sciences insights into participatory practices and frameworks.

In particular, a too scholarly distinction between dialogue and deliberation does not seem to be of practical use to guide public officials in how to improve public participation processes. Moreover, a strict approach to the decision-making power criterion does not seem to align with the mandate of public officials, at least in certain procedures. In both jurisdictions there is also evidence of willingness to go beyond the regulatory and policy requirements in order to close the gap and related possible difficulties.

In conclusion, the empirical findings shows that the *closing of the gap is a two-way street*. On the right side of the road, the findings reinforce the importance of reconsidering existing regulatory and policy frameworks on public participation in the energy transition, especially as regards diversity. On the other side of the road, the findings show the importance of (re-) discussing the conceptualisation of public participation, to make it less scholarly and more practice oriented.

REFERENCES

- Arnstein, S. R. (1969). A ladder of citizen participation. *Journal of the American Institute of Planners*, 35(4), 216-224.
- Bijleveld, C. (2023). *Research methods for empirical legal studies: An introduction*. Eleven.
- Blacksher, E., Diebel, A., Forest, P.-G., Goold, S. D., & Abelson, J. (2012). What is public deliberation. *Hastings Center Report*, 42(2), 14-17.
- Dietz, T. (2013). Bringing values and deliberation to science communication. *Proceedings of the National Academy of Sciences*, 110(supplement_3), 14081-14087.
- Dokubo, O. I. (2024). Assessing public participation in energy policy: A normative framework approach in Nigeria. *Global Energy Law and Sustainability*, 5(1), 17-42. <https://doi.org/10.3366/gels.2024.0109>.
- Dokubo, O. I., Radulescu, M. A., & Squintani, L. (2024). What law does not understand about Public Participation. *Heliyon*. 10(11), e32001, <https://doi.org/10.1016/j.heliyon.2024.e32001>
- Ellemers, N., & Rink, F. (2016). Diversity in work groups. *Current Opinion in Psychology*, 11, 49-53.
- Fiorino, D. J. (1990). Citizen participation and environmental risk: A survey of institutional mechanisms. *Science, Technology, & Human Values*, 15(2), 226-243.
- Forns Gómez, A., & Rehage, R. (2024). Is public participation in hydrogen matters (Un)just? Evaluating the ex-/inclusion of the vulnerable and marginalised individuals in the hydrogen decision-chains of the EU, Spain and Germany. *Journal for European Environmental & Planning Law*, 21(3-4), 318-342. <https://doi.org/10.1163/18760104-21030006>.
- Fox, R. (2009). Engagement and participation: What the public want and how our politicians need to respond. *Parliamentary Affairs*, 62(4), 673-685. <https://doi.org/10.1093/pa/gsp027>.
- Franklin, A. (2022). *Co-creativity and engaged scholarship: Transformative methods in social sustainability research*. Springer Nature.
- Guest, G. (2012). *Applied thematic analysis*. Sage.
- Hamilton, J. D., & Wills-Toker, C. (2006). Reconceptualizing dialogue in environmental public participation. *Policy Studies Journal*, 34(4), 755-775. <https://doi.org/10.1111/j.1541-0072.2006.00200.x>.
- Hindmarsh, R. (2010). Wind farms and community engagement in Australia: A critical analysis for policy learning. *East Asian Science, Technology and Society: An International Journal*, 4(4), 541-563. <https://doi.org/10.1215/s12280-010-9155-9>.
- Jendrośka, J., Reese, M., & Squintani, L. (2021). Towards a new legal framework for sustainability under the European Green Deal. *Opolskie Studia Administracyjno-Prawne*, 19(2), 87-116.
- Kingston, S., Wang, Z., Alblas, E. et al. The democratisation of European nature governance 1992–2015: introducing the comparative nature governance index. *Int Environ Agreements* 22, 27–48 (2022). <https://doi.org/10.1007/s10784-021-09552-5>
- Liu, L., Perlaviciute, G., & Squintani, L. (2022). Opposing out loud versus supporting in silence: Who wants to participate in decision-making about energy projects? *Environmental Research Letters*, 17(11), 114053.

- Maznevski, J., & Di Stefano, J. (2000). Creating value with diverse teams in global management. *Organizational Dynamics*, 29(1), 45-63.
- McCool, S. F., & Guthrie, K. (2001). Mapping the dimensions of successful public participation in messy natural resources management situations. *Society & Natural Resources*, 14(4), 309-323.
- Miller, A. (1965). On the need for impact analysis of Supreme Court decisions. *Georgetown Law Journal*, 53(2), 365-402.
- Perlaviciute, G. (2021). Contested climate policies and the four Ds of public participation: From normative standards to what people want. *WIREs Climate Change*, 13(1), 1.
- Perlaviciute, G., Squintani, L., & Liu, L. (2023). Contested climate policies and public participation: An equal-opportunities-and values-based approach (EVA). In *Handbook on pro-environmental behaviour change* (pp. 335-351). Edward Elgar Publishing.
- Rădulescu, M. A., Leendertse, W., & Arts, J. (2020). Conditions for co-creation in infrastructure projects: Experiences from the overdiepse polder project (The Netherlands). *Sustainability*, 12(18). <https://doi.org/10.3390/su12187736>.
- Rădulescu, M. A., Leendertse, W., & Arts, J. (2022). Living Labs: A creative and collaborative planning approach. In A. Franklin (Ed.), *Co-Creativity and engaged scholarship: Transformative methods in social sustainability research* (pp. 457-491). Springer International Publishing. https://doi.org/10.1007/978-3-030-84248-2_15.
- Squintani, L., & Perlaviciute, G. (2020). Access to public participation: Unveiling the mismatch between what law prescribes and what the public wants. In Peters M. & Eliantonio N. (eds.), *Research handbook on EU environmental law* (pp. 133-147). Edward Elgar Publishing.
- Stern, P. C., & Dietz, T. (2008). *Public participation in environmental assessment and decision making*. National Academies Press.
- Swidler, L., & Swidler, L. (2014). What is dialogue? In Swidler, L., *Dialogue for interreligious understanding: Strategies for the transformation of culture-shaping institutions* (pp. 19-34).