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Public participation and environmental integration in transport decision-making

Maria J. Figueroa

This paper is concerned with the issue of whether deliberation over the environmental consequences of transport can be improved in institutionally arranged and non-institutional forms of public participation and the ways in which this deliberation can in turn propitiate changes in transport policy and decision-making towards consideration of more sustainable transport options. The paper argues that there exists a potential for enhancing the level and effectiveness of public discussion and deliberation of environmental issues related to transport development and that this potential could profitably be channelled and better coordinated with the implementation of the EU Directive on Strategic Environmental Assessment in the interests of advancing democracy and sustainability in transport. The first point to be made concerns the existence of a potential for improving the general level of deliberation as regards transport issues. The potential is perceptible at the local level in the voluntary work of individuals and in different forms of public involvement in matters of transport through direct or indirect involvement at the local level, for example local initiatives, environmental groups and local Agenda 21. However, the results, in respect of the proposals and ideas emerging from these efforts lack the institutional link to actually affect transport policy or its decision-making processes. More concrete possibilities exist within institutionalized forms of public involvement

such as EIA, as will be discussed below with regard to the empirical case in this paper, however, the strength to change 'core decisions in transport' of this participation is also minimal due to the fact that, consultation in transport EIA begins too late in the decision-making process, and that it offers little space for deliberation of more sustainable alternatives. Additionally, participation is further restricted by hindrances that are specific to decisionmaking and policy processes within the transport sector. In its final section the paper proposes that effective participation in transport should promote an enhanced debate of the alternatives for sustainable transport options that can have a progressive impact in changing transport policy and decision-making. With the implementation of the EU Directive on Strategic Environmental Assessment there will be some opportunities for addressing the mismatch between the intended goals of participation in planning and the real framework for decision-making, as well as the possibility to address the issue of the late stage at which participation in transport occurs in the policy process, however, in the Danish case it is not yet clear how, and if, the SEA directive applies to transport sector projects, plans and programmes since the planning law in Denmark do not require a separate system of transport sector plans. A review of some of the SEA directive objectives thus helps to make the point that the implementation of the directive for transport sector planning is an important and indeed very necessary to achieving the overall goal of sustainability. SEA could become the tool for enhancing democratic participation in transport through the early public consultation and

consideration of alternative transport developments, and in this way it could thus facilitate the integration of environmental concerns into transport decision-making.

Methodology

An empirical case of public participation as regards road transport in Denmark forms the basis for the analysis here presented. The case has been selected because it represents a special process of public involvement in transport where considerations for alternative transport development and its environmental implications formed an important part of the public debate. The case has been initiated during the last ten years. An extensive number of publications regarding the case are available. A good part of the research for this paper consisted of a desk-bound review of the existing documentation. The systematic analysis of the scope of the public debate was based on criteria inspired by the work of Smith (1984), looking at relevant criteria to evaluate the process and the outcome of the process. For the process the criteria was: institutional, non-institutionally arranged participation, the breadth of public actors that were involved in the process, the type of resources available for participation, time and cost. In evaluating the outcome the research focus concentrated on: environmental issues; the representativeness of participants, the degree of discussion of transport alternatives with a concern for the environment, the impact on decision and concrete results of the effort.

Public participation in EIA: the case of the Herning-Århus motorway

This case reviews the results of a process of

public participation that has as its core the activities surrounding the Environmental Impact Assessment (EIA) of the proposed extension of a motorway that, if built, would cut through one of Denmark's most beautiful landscape and nature protected areas, namely, the valley of the Gudenå river (Vejdirektoratet 2002), located in and around Silkeborg, a small town in central Jutland, which is the continental part of Denmark. The decision to build the road was taken around 1993, after the confluence of strong regional interest on the expectation that a high class road or motorway would attract some of the activities and economic growth that were already set to take place after the building of the Great Belt bridge connecting East and West Denmark and the decision to build the Øresund bridge, connecting Sweden and Denmark. In this same spirit, it was thought important to facilitate a fast connection between the cities of Århus and Herning to bring some of the potential economic benefit of these fast connections to the overall region (Nielsen, Anderson 1994). Since 1993, the budget and approval for the road had to be submitted for consideration to the yearly finance law that takes place at the Danish Parliament. Also, an analysis of the environmental impacts of this project had to be undertaken in accordance with EIA directive 85/337 (Nielsen, Anderson 1994). The case for the need to build the road through the Silkeborg area has proven to be very difficult to argue to the public who initially did not support the idea of building through a protected nature area. To attenuate the effect of the public opposition to the road an infrastructure act was passed in Parliament in

1993 to construct both ends of the road, the section from Århus to Låsby and from Herning to Bodolt, which had in any case created much less public opposition. For the section through Silkeborg, a new EIA assessment for additional alternatives was requested by the Ministry of Transport from the Road Directorate who subsequently presented, in 1998, an additional 10 proposals (Vejdirektoratet 2002). By then however the grassroots organisation 'People from Jutland against superfluous highways', had been established which had 130-180 paying members, among other actions they collected around 1.000 signatures against the latest road proposals. After no decision had been taken, the Road Directorate presented later in 2002 its two most 'viable' alternatives, to which some of the organized public groups through 'People of Jutland' responded that neither proposition should go ahead. This group, subsequently resorted to civil disobedience, painting a bridge's foundation and climbing trees that needed to be felled for the road to pass. At this point public support against the road soared and a collection of signatures in one of the affected communities Gjern, showed that 75% of households were against the road. However signature collection and support from households in Silkeborg soon showed signs of weakening as regards the levels achieved at the beginning of the process. While the government still proceeds with its original plans, it nevertheless sustained a considerable loss of legitimacy leading ultimately to the project's stalled status. While the government still proceeds with its original plans, it nevertheless sustained a considerable loss of

legitimacy leading ultimately to the project's stalled status. Other public constituencies emerged in this case. For instance, an individual, Jacob Løchte (engineer), presented an option of his own design 'the combiline' that received attention from the media and from some political parties. In a later move the Ministry of Transport instructed the Road Directorate to produce an EIA of this 'comline' in what constitutes an unprecedented decision in Denmark. One of the largest NGO's in Denmark, the Danish Society for Nature Protection, has also played a role in this case and has informally said that it could even take the case to the European Union court for violation of the Habitat Directive, if the decision was made to go ahead with the road. From the State-side other actors involved in the decision and EIA process have been the Municipalities of Silkeborg and Gjern, as well as neighbouring municipalities, Aarhus County, The Ministry of the Environment, the Railroad authorities and some private nature and industrial organisations. The Government though represented by several actors is thus still only one of many influencing this event. The Road Directorate is the technical body that presents its views as highly technical and non-political formulations, and thus it tries to adhere strictly to the rules. It acts only upon request from the Ministry of Transport to conduct an EIA. The Road Directorate registers all inputs from the public hearings, as well as individual comments and inputs from interest groups and carefully keeps records of who and what has been said in the process. They claim this makes for a more transparent process. However, the reasoning of why the final number of

alternatives was restricted to two is not a matter open to public debate. Neither are its recommendations for the most viable option presented by the Road Directorate to the Ministry of Transport. On the 1st of July 2003 the ministry of Transport announced that it is likely that the construction of the westernmost section of the motorway from Bording to Funder will be given the go-ahead, as there is only one alignment proposal for this section in the EIA report. The section from Funder to Låsby, the most controversial section however remains under consideration. Overall, until now it can be argued that the public opposition to the road has succeeded, as no political decision has been taken on this case by the transport authorities, creating a lag time of some ten years. The EIA process has served as the centre of attention since it is about the different alternatives produced and subjected to EIA that the public and environmental groups have concentrated their efforts to voice their demands. Thus this case presents an interesting test of some of the virtues and limitations of public participation in transport planning and at the project level stage in EIA. In the first place, the case has proved that a significant and consistent demonstration of public dissatisfaction with a project may leave the pertinent authorities in a difficult position as to how to proceed with the project, without losing legitimacy. The end result being, as in this case, that no decision is taken. The long delay in the decision may be perceived as both creating and restraining opportunities. On the one hand it limits the economic opportunities of the potentially affected areas for selling properties and land, on the other, the

delay may create an opportunity to change the decision if new elected authorities were prepared to reconsider alternatives and potentially incorporate some of the public's demands into the new alternatives. This case exemplifies the existing model for public participation in land use planning and in transport EIA where attempts are made to elicit public participation via the exercise of some of the principles of collaborative planning which involved the use of methods for public education, involvement and shared decision-making (Lawrence 2000). In Denmark, the EIA directive has been integrated into the planning system and environmental permit system, which have existed since the beginning of the 1970s. As such, the EIA system in Denmark has two tracks: one integrated into the environmental permit system and the other integrated into the planning system. In Denmark the EIA process is carried out by the regional authority, in this case it corresponded to the Road Directorate because of the classification of the proposed road as a national motorway. The Road Directorate initiates public information at an early stage of the EIA process by making available to the public pamphlets with information of intent of a project's implementation. Later the EIA process establishes an 8-week period of public consultation where people can make objections to the proposals during public hearings. Public participation during EIA's public hearings is oriented towards the goals of facilitating efficient project management, information provision, conflict resolution, the development of confidence and trust in the project and the implementing office, and depolarisation of interest (Bjarnadottir 2001). The

Road Directorate maintains a detailed account of the opinions expressed during public meetings. It also keeps records and compiles all of the letters and other forms of public communication (i.e. signature collection, alternative routes proposals) people may present and respond to each individual claim with an acknowledgment letter on behalf of the authorities. The documentation produced from the public hearings is kept for the records of each specific project. The Road Directorate produces a summary of this process and passes it along with its own recommendation to the Ministry of Transport where the final 'political' decision is taken. This decision then needs to be validated, in the case of roads under national jurisdiction in Parliament, where a transport commission within Parliament and the general assembly will have the final say on the approval of the projected road. A national road project needs to be approved by law. A decision that reaches Parliament has little chance of being either totally rejected or changed. It is interesting to note though that the State, by furthering the decision-making procedure from the Ministry of Transport to the Parliamentary level, may have intended to regain a certain lost legitimacy particularly on road building decisions. This process was not in place twenty years ago when road infrastructure decisions were not as contested politically or environmentally as they are today. Public participation in the EIA process is structured in a similar vein as that of participation in spatial planning, and shares a lot of its principles and central features. However, there is a mismatch between the

principles and goals that guide the theory and practice of participation in EIA and planning procedures in general, and a reality where transport decision-making occurs within a technical-rational planning model (Nielsen, Anderson 1994) and the world of *realpolitik* (Flyvbjerg 1998) where corporative-entrepreneurial decision-making prevails at the national-regional and local levels (Sehested 2001). A decision to build a road such as the one through Silkeborg, Jutland, has more to do with economic rationality and the interests of different economic pressure groups and the desire of the local and regional authorities to grow economically than with expressions of a collectively formulated vision of how to develop the region in a sustainable manner. The production of new alternatives or the evaluation of new possibilities arising from consultation do not form a part of the participation model in transport planning and EIA. In the case of Silkeborg, as it was presented before, this did not stop members of the general public from formulating additional alternatives and presenting them to the Road Directorate. The case of Silkeborg thus presents an interesting case of active public participation that has succeeded in stopping the road administration from taking a decision over many years. The question arises then at what cost can the debate be maintained and the number of alternative proposals subject to EIA be evaluated and presented again? How long can this process go without a political decision? Public hearings focus most commonly around changes in road alignment and so it has been the case in Silkeborg that the most

fundamental question that needed to be addressed before initiating the process, whether this road was necessary or not cannot be addressed in the public hearing any more. It is also the case for other issues such as whether other alternatives to road transportation could be more suitable (train, bicycles, public modes or no road). The political decision to initiate the building of both ends of the road makes the process even more closed around the necessity to build this last stretch of road. One of the reasons why the discussion of integrated modal transport solutions is rather difficult at the project level has to do with the typical segmentation of transport authorities into road, train, air, and water that makes it rather difficult for a single institution such as the Road Directorate to present and discuss integrated modal solutions to particular problems (Sørensen 2003). Other factors hampering the effect of participation in the planning and EIA of transport projects are, first the fact that public involvement comes at a later stage in the policy process, which means that deliberations pertain mostly to how a de facto decision would be implemented. Second that the real arena for decision-making in transport continues to be the back stage corporatist type of bargaining between major interest players. This will be discussed below under the mismatch of theory and practices of planning and EIA. Third, the mismatch between the type of claims that the public bring to the planning and EIA process and the rationales that are brought to the process by the authorities in charge of conducting the public hearing and the other economic actors affecting

the decision-making process acting under the rationality of regional economic growth. Public participation is also further complicated by the number of public versus private bargaining issues that arise. Some of the participants may be of the NIMBY type. In Silkeborg, individual actors with particular private issues have been more successful in articulating their concerns in connection with larger public concerns such as the environment. This is how a number of the pressure groups came to be involved in the case of Silkeborg (Nielsen, Anderson 1994). What could easily have been an incoherent group of disapproving NIMBY voices against the project at the beginning thus turned into an articulate group raising larger public concerns about the environmental implications of the project. As such, opposition became more effective. The joint efforts of private and other actors in such a case had the effect of creating more significant levels of pressure than would have been the case where a single private concern, or even a number of unrelated private concerns, were raised at a public hearing. The fact that private 'civic society' actors can exercise greater pressure in the public hearing through the expression of public concerns may therefore favour further inclusion of general issues such as the environment over issues of a 'nimby' nature and this may favour a fuller consideration of the environment and its attached issues in future debates.

Problems and perspectives

In a study comparing European experiences with public participation and sustainable development, Jamison and Østby (1997)

pointed to the existence of a gap between rhetoric and practice in participation. According to them this gap is in part explained by cultural tensions between different policy domains, namely, the bureaucratic, economic, academic and civic and their often-incompatible policy cultures. Each of the different policy domains has different 'rationales' or principles, steering mechanisms and types of ethos. Whereas democracy is the main principle within the civic domain, the principle of growth prevails in the economic domain and the principle of order in the bureaucratic domain. From this Jamison concludes that what is necessary for public participation is a process of social innovation that creates spaces for interaction across social domains, processes of communication or translation across discourses or domains (knowledge brokers), change agents and political entrepreneurs, enlightened civil servants, political support from above and mobilisation from below (Jamison, as cited in Lund 2003). Applying Jamison and Østby's analytical interpretation to understand our case of participation in transport decision-making it is possible to see that the spaces for interaction across the economic-bureaucratic-academic-civic domains that exist are indeed currently very limited. Moreover, the opportunities for translation and communication across discourses are also limited or non-existent, for instance in the case of the EIA report there was no intention on the part of the authorities to negotiate the technical and economic rational motivating the decisions that were taken in respect of the building of the proposed road. The second important

mismatch existing in transport decision-making occurs between intended actions to implement participatory processes within the context of the principles of communicative planning and the dominance of corporative-rationalistic-elitist frameworks for decision-making that dominate certain urban policy areas of national or international interest and large physical constructions (Andersen 2002; Sehested 2002). In Denmark the dominance of corporative-rationalistic-elitist frameworks for decisions are to be found in recent examples such as the large physical construction of shopping malls or new towns as the case in Ørestad suggests (Andersen 2002), or in the case of new transport infrastructure like the Øresund and Great Belt bridges and smaller examples such as the road between Århus and Herning considered in this paper. Communicative planning or planning that is about collaborative consensus building (Lawrence 2000) is mostly to be found in Denmark in policy areas related to housing and in local urban planning processes (Sehested 2002). In Denmark, the system of Land use planning is regulated through the Planning Act, which establishes the framework planning ensuring that provisions in local planning are in correspondence with regional and national goals for urban development (Miljøministeriet 2002). A separate system of transport plans is not required in this Act. Because of this system, SEA may not be directly applicable to transport sector decisions in Denmark. However, there are good reasons why transport decision-making processes may benefit from SEA implementation. SEA

will permit early opportunity to be given for the participation of those members of the general public, environmental authorities and others affected by the plan (EU-Directive 2001/42/EC, Art. 5). This prescription of the directive alone will potentially eliminate cases like those of Silkeborg where long and expensive EIA processes are needed. SEA will allow for early consultation of the different constituencies and sufficient formulation of alternative development. An SEA report at an early stage of decision-making will take care of limiting the scope of what needs to be assessed at the project EIA level. It is also conceivable that two of the main hurdles to participation that have been discussed in this paper, namely, participation during the earlier stages of the policy process, and the mismatch between communicative planning goals and reality dominated by rational-technical and corporatist-elitist decision-making, will be challenged by implementation of this Directive in transport. This will happen if some of its principles are implemented, such as the considerations of different alternatives, the transparency and intended openness of the process of plan making and the intention of achieving significant protection of the environment with a view to promoting sustainable development (EU-Directive 2001/42/EC, Art. 1). To conclude, it is fair to say that participatory forums are plentiful in Denmark, which is a society that values consensus, public enlightenment and democratic participation. However, authentic political deliberation on transport policy decisions and the environment still remains a goal to be accomplished in practice. The examples discussed here show how

public efforts can encourage the wider discussion of environmental issues into the public debate even when the actual pattern of decision-making in transport remains unchallenged. The presence of a multitude of actors and interests in the transport policy realm creates a need for more open deliberation on the issues surrounding transport and the environment. The Danish State will thus need to show readiness in providing economic support, openness to experimentation and a stable scene for the participation of these policy actors as part of the coming demands for the full implementation of the Strategic Environmental Assessment directive in transport. Deeper democracy in the transport realm, and the fuller inclusion of environmental concerns in decision-making will depend both on the opportunities made available for new debates to 'gain space' within the State via institutional instruments such as EIA/SEA, and on the quality and enhancement of the debate that civil society maintains over the types of transport development they are ready to accept and live with. This is a complex process and also one that is in constant evolution.

Notes

1. Interview with Bente Fluglsbjerg, 24-2-04.
2. Interview with Kaj Tårslund, Road Directorate, Telephone, February 2004.
3. Interview with Leif Thomsen, Local Danish Nature Protection, 25-2-04.
4. Interview with Kaj Tårslund, Road

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