Developing Global Public Participation (1)
Global Public Participation at The United Nations

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Abstract

In this first article, we will analyse the actuality and potential of participation at the international level, or more specifically: at the level of the United Nations (UN). Is there a demand for public participation in the work of the United Nations, and if so, who has such demands? And how should the UN meet these demands? A subsequent article will apply the theory presented in this article to a case study. In this second article, global public participation in the drafting process, at the UN, of the Sustainable Development Goals will be examined and assessed against the findings uncovered here.

Keywords

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1   Introduction

People in various parts of the world have become more and more assertive, and increasingly demand more of a say in domestic public policy-making which directly affects their interests. Governments notice this trend, and provide more and more possibilities for ordinary citizens to participate. By means of an example, reference can be made to the *Speech from the Throne*, delivered by the King of the Netherlands on 17 September 2013:

> It is an undeniable reality that in today's network and information society people are both more assertive and more independent than in the past. This […] means that the classical welfare state is slowly but surely evolving into a participation society. Everyone who is able will be asked to take responsibility for their own lives and immediate surroundings. When people shape their own futures, they add value not only to their own lives but to society as a whole. In this way, the Dutch people can continue building a strong nation of confident citizens.[1]

It is not always enough to give citizens an opportunity every four years or so to give a vote of approval or disapproval by means of general elections. In some States, people take to the streets in great numbers.[2] But even in States without such public protest, citizens do demand more possibilities to participate in politics and policy-making that concerns them. Increasingly such possibilities are provided to them.

   Is the international community also slowly but surely evolving into a global participation society? In other words, can we also expect a demand for public participation at the international level? There are signs that various international institutions have indeed recognized such a demand, and some even try hard to encourage ordinary citizens to participate. The European Union baptized 2013 as the "European year of citizens".[3] The idea behind the initiative was to convince European citizens that they have a stake – an interest – in the European project, and that the success or failure of the project depends, not on how well the European politicians and bureaucrats do their job, but

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1   An English translation of the Speech from the Throne can be found on the official website of the Royal House of the Netherlands: http://www.koninklijkhuis.nl.

2   There are plenty of examples e.g. the protests in Istanbul (Turkey) in the summer of 2013, which were an attempt to influence the urban development plan for a public park in Istanbul, or the protests in Brazil meant to influence the policy on public transport ticket prices.

3   See: http://europa.eu/citizens-2013/.

on how effectively and enthusiastically the European citizens themselves use the opportunities provided by the Union. More concretely, the European Union recently created a European citizens initiative, through which "not less than one million citizens who are nationals of a significant number of Member States may take the initiative of inviting the European Commission [...] to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required".[4] The initiative is explicitly meant for citizens; it is not meant to facilitate the participation of organised groups or non-governmental organisations (NGOs).[5] Quite a few European citizens' initiatives have been launched, including a suggestion to regard ecocide as a crime against humanity.[6] This example shows the originality and unorthodoxy of such initiatives. Once again, as is the case at the domestic level, participation at EU level means more than expressing one's (dis)approval of the European Union's policies by voting in European elections. Participation means making use of one's rights as a citizen of the Union, "taking part in debates about the obstacles to using these rights and generate specific proposals for addressing them".[7] European citizens are given an opportunity to contribute to the project, but this also makes them partly responsible for its success or failure.

Both the national and the regional situations referred to above are examples of demands for public participation. Public participation provides people, individually or organised, an opportunity to directly or indirectly influence the development, implementation and/or evaluation of public policy. It refers to different ways through which individuals can contribute ideas to and have their say on policy-making that affects their interests.

Does this trend of increasing demands for public participation, followed by possibilities provided by the authorities to participate, also exist in relation to the work of the most important international organisation we have: the United Nations (UN)? And if it does, what should the UN do to meet such demands?

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4   Article 11(4), Consolidated version of the Treaty on European Union, Official Journal of the European Union, 26 October 2012, C 326/13. See http://ec.europa.eu/citizens-initiative/.

5   See also Justin Greenwood, "The European Citizens' Initiative and EU Civil Society Organisations", 13: 3 *Perspectives On European Politics And Society* (2012), 325–336. The entire issue is dedicated to a scholarly assessment of the initiative.

6   Ecocide is defined as "the extensive damage to, destruction of or loss of ecosystem(s) of a given territory, whether by human agency or by other causes, to such an extent that peaceful enjoyment by the inhabitants has been severely diminished; and or peaceful enjoyment by the inhabitants of another territory has been severely diminished." See: http://www.endeco cide.eu/.

7   "The vision: European Year of Citizens", *Europa*, http://europa.eu/citizens-2013/en/about/ presentation.

In this article, the focus is not on public participation at the national or regional level, but on *global* public participation. We will analyse the actuality and potential of participation at the international level, or more specifically: at the level of the United Nations. Is there a demand for public participation in the work of the United Nations, and if so, who has such demands? And how should the UN meet these demands? That is essentially the question we wish to address. In this article, some relevant lessons that have been learned from experiences in public participation at the national level will be identified, and these lessons will then be applied – to the extent possible – to assess the exercises of global public participation in the work of the UN.

A subsequent article will apply the theory presented in this article to a case study.[8] In this second article, global public participation in the drafting process, at the UN, of the Sustainable Development Goals will be examined and assessed against the findings uncovered here.

The issue of global public participation in the work of the UN is not new. It was discussed in San Francisco in 1945, when the UN Charter was drafted.[9] But recent calls for citizen participation at the local, national, regional and global level have given a sense of urgency to the *problématique* of public participation. The idea is that public institutions at all levels *must* allow citizens to participate, not because it is the right thing to do, but because otherwise terrible things might happen: mass protests, various expressions of civil disobedience, hostility towards politicians, hostility towards civil servants, hostility towards bureaucrats, perhaps ultimately resulting in civil war or other forms of violent uprisings. This is not to suggest that public participation is principally intended to be a pre-emptive defence mechanism against civil society hostility. There are many other reasons to allow public participation, which will be introduced below.[10] But the violent calls for public participation in many parts of the world might serve as a wake-up call, both for nations and international organisations (including the UN).

This also raises the question as to who must be allowed to participate. Is it those that would otherwise take to the streets? Is it everybody? Or must there

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8   "Developing Global Public Participation (2): Shaping The Sustainable Development Goals".

9   See e.g. Otto Spijkers, "Global Values in the United Nations Charter", 59: 3 *Netherlands International Law Review* (2012), pp. 376–380; Barbara K. Woodward, *Global Civil Society In International Lawmaking And Global Governance: Theory And Practice*, Martinus Nijhoff, 2010, pp. 168–174 [hereinafter Woodward, *Global Civil Society*]; David Gartner, "Beyond the Monopoly of States", 32: 2 *University Of Pennsylvania Journal Of International Law* (2010), p. 609.

10   See esp. sections 2.2. and 3.2.

be some objective way to select and invite a specific group of individuals? In relation to the latter question, a new catchword has emerged in UN-parlance: stakeholders. The challenge is to avoid ending up with a process, in which only those with the loudest voices, or those already engaged, participate. Any policy-making process involving public participation must thus include a procedure to identify and approach those with an interest or a "stake" in the policymaking. It could be that literally everybody has a "stake", but most of the time there are reasonable justifications to select a particular category, if only for practical or financial reasons.

In section 2 of this article, we will look at what public participation in general entails. Since the concept has been developed mostly at the national level, this section primarily examines theories developed for and at that level. In the next section (3), we will see in what way the definition, principles, criteria, conditions and "lessons learned" in relation to public participation at the national level can be transposed *mutatis mutandis* onto the international or UN-level. It is thus hoped a clear enough list of criteria and conditions will be produced which provide the yardstick to test the meaningfulness of public participation in the formation of policy at the United Nations. Such a test can then be applied to current and future projects undertaken by the United Nations that aim to include some form of public participation. Our subsequent article, which will apply the test to the meaningfulness of public participation in the formation of the Sustainable Development Goals, provides just one example of why an understanding of public participation at the global level will become increasingly important, as it is increasingly referenced. We will end this article with a conclusion and look into this global public future (Section 4).

2   Public Participation

In this section, the aim is to familiarise the idea of public participation in general. We will first propose a few definitions and see what they all have in common (2.1.). Various answers to the question "why do it?" are proposed (2.2.), and many different ways in which public participation can be put in practice are presented (2.3.). We will also look at the selection of the participants in public participation (2.4.), and at the question as to when it is the best time to participate (2.5.), before concluding (2.6.).

2.1   *Definitions of Public Participation*
Different people have defined public participation in different ways. It has been defined as "the practice of consulting and involving members of the

public in the agenda-setting, decision-making, and policy-forming activities of organisations or institutions responsible for policy development".[11] Or as "a process by which interested and affected individuals, organisations, and government entities are consulted and included in the decision-making process".[12] Bottriell and Segger suggest public participation is a process intended "to ensure that people are accorded a role in the activities and decision-making processes that directly impact on their lives and well-being".[13] According to the International Association of Public Participation (IAP2), public participation is a process in which "those who are affected by a decision have a right to be involved in the decision-making process".[14] There are many more definitions.[15] Definitions of public participation all express the same basic idea: that people with an interest in a decision-making process of a public institution ought to be involved some way in that process.

2.2 *Purposes of Public Participation*

Why must people with an interest in a decision-making process of a public institution be permitted or perhaps even encouraged by that public institution to get involved in that process? There are different answers to that question. Indeed, it is a truism that "different people have different beliefs about what public participation should accomplish", and that different exercises of public participation serve different purposes.[16] Nonetheless, it is important to be clear about the purposes of public participation. Without a clear statement

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11   Gene Rowe & Lynn J. Frewer, "Evaluating Public-Participation Exercises: A Research Agenda", 29: 4 *Science, Technology, & Human Values* (Autumn, 2004), p. 512, [hereinafter Rowe & Frewer, *Evaluation Public-Participation Exercises*].

12   Rajendra Ramlogan, *Sustainable Development: Towards A Judicial Interpretation*, Martinus Nijhoff Publishers (2010), p. 163, [hereinafter Ramlogan, *Sustainable Development*].

13   Bottriell & Segger, "The Principle of Public Participation and Access to Information and Justice", a Legal Working Paper in the Centre for International Sustainable Development Law (CISDL)'s *Recent Developments in International Law Related to Sustainable Development* Series, p. 3.

14   *Core Values*, IAP2, http://www.iap2.org/. The International Association of Public Participation (IAP2) is a non-governmental organisation founded in 1990, based in Australia, with the mission to promote public participation at the domestic level in all States.

15   For other definitions, *See* Rowe & Frewer, *Evaluation Public-Participation Exercises, supra* note 11, p. 521.

16   Thomas Webler & Seth Tuler, "Unlocking the Puzzle of Public Participation", 22 *Bulletin Of Science Technology & Society* (2002), p. 180, [hereinafter Webler & Tuler, *Unlocking the Puzzle*].

of "why we do it", it is difficult to evaluate the success or effectiveness of any exercise of public participation put in practice.

Public participation can be considered (1) inherently valuable; or (2) useful as a suitable means to achieve some external purpose. In the former case the emphasis is on the procedural requirements: what makes an exercise of public participation inherently valuable?[17] In the latter the emphasis is on the outcome of the process: does involving the public lead to "better" decisions? Does it make it easier for decisions to be implemented once adopted through public participation? Etc. To put it bluntly: if public participation is considered to be inherently valuable, it is not problematic if an excellently organised exercise of public participation leads to a terrible decision; and if public participation is considered a suitable means to achieve a certain result, then a terribly organised public participation process can be qualified as a success if it nonetheless achieves that result.[18]

If we evaluate the success of any exercise of public participation, it is important to be clear about the perspective. Do we look at success in an objective sense, or from a particular perspective? There are essentially four different perspectives to choose from: "the sponsors of the exercise, the organisers that run it, the participants that take part, and the uninvolved-yet-potentially affected public".[19] The public institution organises public participation, so we might be inclined to look at success from the organising institution's perspective. If the sponsor is not the same as the organiser, we could also look at the sponsor's reasons to finance the exercise in public participation. But we could just as well measure success by the degree of satisfaction of the citizens that participated. It has been pointed out that public participation, if done well, "creates feelings of self-confidence and shared control of government or a greater sense of control over one's life".[20] It is not at all certain that this is what the public institution is after: does it really organise public participation as "feel good therapy" for its citizens?[21] Or do we look at the success of public participation

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17   When scholars adopt such an approach, they usually list certain procedural criteria that have to be meet in order to qualify an exercise of public participation as "effective." *See e.g.* Ramlogan, *Sustainable Development, supra* note 12, p. 164.

18   Rowe & Frewer, *Evaluation Public-Participation Exercises, supra* note 11, pp. 520–521.

19   Ibid., p. 516.

20   Ramlogan, *Sustainable Development, supra* note 12, p. 165.

21   *See also* Paul Burton, "Conceptual, Theoretical and Practical Issues in Measuring the Benefits of Public Participation", 15: 3 *Evaluation* (2009), who explored these ideas in more detail. According to him, public participation might enhance the sense of self-esteem of the participants, it might make them feel more self-confident and in control. It also forces the participants to rethink their preferences, priorities, values and beliefs,

from the perspective of the uninvolved onlooker, mostly the taxpayer?[22] The uninvolved onlooker is easily overlooked, and this can have far-reaching consequences. After all, their apparent disinterest in the process can quickly change into anger and frustration when they feel ignored or when the outcome clearly goes against their interests.[23] Although other perspectives will also be considered whenever relevant, in what follows the emphasis will primarily be on the perspective of the public institution.

After these preliminary remarks, it is time to look at proposed purposes of public participation. Let us begin by examining the first category of purposes: the idea that public participation has an intrinsic value. According to this view, public participation is organised "in recognition of a need to involve the public in some way, assuming that involvement is an end in itself, rather than a means to an end".[24] The word "legitimacy" is often used in this context: it is claimed that a legitimate decision-making process has to include public participation.[25] As Wisor noted, it is;

> because individuals are the best (though not sole) representatives of their own interests and preferences [that] a new global development framework will gain legitimacy in so far as it is produced through procedures that allow citizens to represent those interests and preferences directly.[26]

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and it makes them aware of what public institutions do and "stimulates community development." Burton, pp. 265–266, and pp. 275–279, [hereinafter Burton, *Conceptual, Theoretical and Practical Issues*].

22   *See also* Rowe & Frewer, *Evaluation Public-Participation Exercises, supra* note 11, pp. 519–520.

23   This also raises the question of who to invite as participants in any exercise of public participation.

24   Gene Rowe & Lynn J. Frewer, "Public Participation Methods: A Framework for Evaluation", 25: 3 *Science, Technology & Human Values* (2000), p. 10, [hereinafter Rowe & Frewer, *Public Participation Methods*].

25   Karin Bäckstrand, "Democratizing Global Environmental Governance? Stakeholder Democracy after the World Summit on Sustainable Development", 12: 4 *European Journal Of International Relations*, pp. 476–478, [hereinafter Bäckstrand, *Democratizing Global Environmental Governance*]. Bäckstrand distinguishes input legitimacy from output legitimacy; the latter has more to do with the instrumental purposes.

26   Scott Wisor, "After the MDGs: Citizen Deliberation and the Post-2015 Development Framework", 26: 1 *Ethics & International Affairs* (2012), p. 123, [hereinafter Wisor, *After the MDGs*].

According to this view, the process must meet all sorts of procedural criteria in order for the participation to be meaningful and not merely symbolic. Such criteria are often labelled under the heading of "legitimacy": a legitimate exercise of public participation requires representation of all participating groups, with cooperation between the citizens and the institution based on equality, transparency, sharing of information, and accountability – both to the particular group or interest the participants claim to represent, and to the community as a whole.[27] The organisers of the exercise also have to be – and be seen to be – independent from the administration of the public institution.[28] Similarly, Webler and Tuler refer to the need for *fair* public participation.[29] They describe fair public participation as a process in which participants have the opportunity to:

- Be present at all relevant times,
- Make statements,
- Ask for clarification,
- Challenge, answer, and argue with the public institution,
- Participate in the decision-making process by resolving disagreements and bringing about closure to the debate.[30]

In this view, the output of the process, and the way the process affects the outside world, is less important.[31] And that is exactly the danger of such an approach: it does not really motivate the institution to look critically at the outcome of the process, and assess whether the process has been worth all the effort and costs.[32]

Engaging public participation might also be a means to an end. One type of such an instrumental justification for organising public participation is to curtail popular unrest. Public participation satisfies strongly felt demands of people to have a say on policies directly affecting their interests. In this sense, public participation is based on "a practical recognition that implementing unpopular policies may result in widespread protest and reduced trust in governing bodies", and that involving the public can prevent such a scenario.[33]

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27   Bäckstrand, *Democratizing Global Environmental Governance, supra* note 25, p. 477.

28   Cf. Rowe & Frewer, *Public Participation Methods, supra* note 24, p. 13.

29   Webler & Tuler, *Unlocking the Puzzle, supra* note 16.

30   Ibid., p. 182.

31   *See also* Burton, *Conceptual, Theoretical and Practical Issues, supra* note 21, p. 264.

32   *See also* Rowe & Frewer, *Public Participation Methods, supra* note 24, p. 10.

33   Ibid., p. 5.

Whether these demands are justifiable or not according to some philosophical or political theory is not always the big question for the public institution. The reason for the institution to permit the public to participate is much more down-to-earth or pragmatic: if demands for public participation are not satisfied, people take to the streets, go on strike, turn their back on the institution, or express their frustration in some other way. Instead of suppressing such urges of the public, the public institution might just as well control and channel them, by providing public participation. Public participation is thus not a luxury; it is a necessity, to avoid civil uproar. As Rowe and Frewer put it, "a non-consulted public is often an angry one and [..] involving the public may be one step toward mollifying it".[34] It is of course unclear to what extent such urges are suppressed if the outcome of the process goes against the interests of some of the participants in the process, no matter how meaningful their involvement has been. It is indeed a truism that "people often feel dissatisfied with the process in cases where the outcome is one with which they disagree;" but the same could be said of elections.[35] It also works the other way: if people generally agree with the outcome of a process of decision-making, they might not care so much about a lack of opportunities for citizen participation in that process.

Another instrumental justification for organizing public participation is that treating citizens as partners might improve the quality of policies and plans. Interested individuals might have specific practical experiences, or knowledge and ideas, which complement those of the public institution and its own experts. If this is the justification for involving the public, it has the added benefit that participants feel they are taken seriously, as partners. Healy stressed this important effect of recognizing the participants as contributors of valuable ideas and insights. Without such recognition, public participation does not really "empower" people. As Healy suggested, if participants are invited only to improve the legitimacy of the process, then public participation would be "more [..] about legitimating conventional expert-determined decisions and the status quo they reflect".[36] According to Healy, "a key challenge for public participation is to ensure the equitable integration of lay and expert perspectives".[37] The institution shows it is taking its citizens seriously: it genuinely values their input whilst ensuring decisions are based on the evidence

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34   Rowe & Frewer, *Evaluation Public-Participation Exercises, supra* note 11, p. 514.

35   Burton, *Conceptual, Theoretical and Practical Issues, supra* note 21, p. 274.

36   Stephen Healy, "Toward an Epistemology of Public Participation", 90: 4 *Journal Of Environmental Management* (2009), pp. 1644–1654, p. 1653.

37   Ibid.

of experts. Similarly, Marsden believed public participation could "empower those often ignored in decision-making processes", by taking their experiences seriously.[38]

A third instrumental justification is that public participation leads to more support for the plans and policies once adopted. Those citizens that participated feel that the plan is partly "theirs", they feel responsible for its success, and this motivates them to facilitate its realization. The term "public ownership" can be used here. If the policy is theirs, they are less likely to criticize it afterwards, or obstruct its implementation.[39]

Public participation also helps give a positive image of the institution that facilitates such participation. Citizens personally experience that it is possible to work well together with the institution, as equals or "colleagues", and this increases their confidence in the institution. It further encourages people to familiarize themselves with the workings of the public institution, and it makes them more aware of the institution and the tasks it was created to fulfil. In short: public participation can be seen as publicity for the institution.

A final instrumental justification to do participation is that it helps create a sense of community, with the institution at the centre of it. After all, "participation stimulates community development".[40] It stimulates the citizen's "inclination to be and feel part of a social group, whether a geographically based neighbourhood or one rooted in a shared interest or identity like a community of interest".[41]

So far, we have looked mainly at the value of global public participation from the perspective of the institution. But why would participants themselves *want* to participate? What are their motives and incentives? It could be that the public institution considers the participation of certain people so important that they are required, by law, to play a role in the decision-making process. In such a case the incentive to participate is clear. But most of the time the potential participants have a choice. So why do people *voluntarily* sacrifice their valuable time and energy to assist the public institution in its policymaking?

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38   Simon Marsden, "Public Participation in Transboundary Environmental Impact Assessment: Closing the Gap between International and Public Law?", in Brad Jessup and Kim Rubenstein (eds.), *Environmental Discourses In Public And International Law* (Cambridge University Press, 2012), p. 245.

39   *See also* Burton, *Conceptual, Theoretical and Practical Issues, supra* note 21, p. 267.

40   Ibid., p. 266. Burton saw this as a benefit attached to the individuals participating, but it may very well be a purpose of the public institution: the institution often has an interest in the establishment of a sense of community.

41   Ibid., p. 278.

One can think of many reasons. People might feel responsible for the state of affairs in the world, and this might give them an incentive to participate. Social pressure could also be a reason: the sense that you are not seen to be a good citizen if you do not play your part in society. Especially when participation is facilitated and subsidized by the public institution, people might feel it is their responsibility to accept this offer to play a part in the process of decision-making. Some professions also come with a sense of responsibility. For example, University professors – whose principal task it is to teach and do research – might believe it is part of their job to also participate in public debates and assist in policy-making on something that falls within their expertise. Citizens might also want to participate for the fun of it, because they find it an enjoyable pastime. There is no reason to assume that such citizens do not take their role seriously. A lot of people take their hobby – collecting stamps – very seriously, without having an objective justification to do so.

2.3   *Different Types of Public Participation*
One might ask oneself what type of public participation is best suited to fulfil the purposes for which it was created. There are many different types of public participation to choose from. We will propose a few, ranging from passive participation to active participation.[42]

Participants might be asked to approve or reject a specific plan proposed by the public institution. This can be facilitated through referenda, surveys, citizen panels and other types of consultations.[43] An important question here is whether the public institution is obligated to follow the results of the consultation. At the domestic level, this is not always the case. Such method of participation does not really involve the public in the process. It is more an exercise of political control, like elections are: the participants are only asked *at the end* whether they think a particular policy is a good idea or not. The public is basically asked to "rubber stamp" a particular policy, or to reject it. It is for this reason that some scholars are highly critical of this type, sometimes not even considering it public participation at all. For example, Wisor believed consultations treated the public as "passive informants" rather than "active agents".[44] One more imaginative example, besides the more traditional examples of (online) consultations or surveys, could be citizen juries, *i.e.* "small groups of

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42   *See* Rowe & Frewer, *Evaluation Public-Participation Exercises, supra* note 11, p. 515.

43   For citizen panels, *See* Lawrence Pratchett, "New Fashions in Public Participation: Towards Greater Democracy?", 52: 4 *Parliamentary Affairs* (1999), pp. 621–623, [hereinafter Pratchett, *New Fashions in Public Participation*].

44   Wisor, *After the MDGs, supra* note 26, p. 122.

citizens who are brought together to hear evidence on a particular issue and to deliberate on policy options".[45] In such case, a representative group of citizens is presented with two or more alternatives, and it is up to them to deliver the "verdict", *i.e.* to decide which of the alternatives is the better one.[46]

Participants might also be invited to give their input *before* the policymakers start their work, instead of at the end. This means that policymaker can develop their plans taking the participants' input into account. In this scenario, in which participants are consulted mainly about what they perceive to be the problem, the participants are viewed as partners rather than judges. After all, identifying the problem as specifically and clearly as possible often already leads one to a particular solution. The development of the policy is still largely determined by the institution, and the institution need not always be bound by the definition of the problem resulting from the consultation, but the influence of the public in this scenario is already much more substantial and meaningful. Panels, (online) surveys and other consultations can be used also to facilitate this type of public participation. Especially for those participants that just want to speak their mind and are not too much interested in how their contribution affects the policymaking, this type of participation might already be enough. One can equally imagine a more free flowing type of participation, in which participants are asked to produce "broad statements of community preferences for the long-term", or "ideals for the future without particular concern for existing constraints".[47] This ought to give the institution "a greater understanding of commonly held problems across the community and [provide it with] a shared vision of how those should be tackled".[48] This can also be done by dividing the community into various smaller groups representing a subsection of that community, e.g. women, farmers, business representatives, poor people, etc. The focus is often on collecting the views of the more marginalized sections of the community. Taken together, the results of such meetings can help to define the problem from various angles.

When participants are given an advisory role, the institution still sets the agenda, but the participants have the opportunity to come up with new problems and formulate solutions to these problems *during* the policymaking process. These ideas then play a meaningful role in the development and further elaboration of policy. The institution is again not always bound to follow the

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45   Pratchett, *New Fashions in Public Participation, supra* note 43, p. 623.

46   A similar idea is to organise citizen assemblies. *See* Wisor, *After the MDGs, supra* note 26, pp. 124–128.

47   Pratchett, *New Fashions in Public Participation, supra* note 43, p. 627.

48   Ibid., p. 628.

participants' suggestions; but it should explain why a certain suggestion was rejected, modified, or how exactly the public has influenced the decision-making. Examples are public hearings or inquiries, or conferences where a selection of citizens can question the experts. Advisory committees comprised of citizens, which may be consulted regularly by the public institution during the policy-making process, is another example.

In the most far-reaching type of participation, the institution does not ask participants for input or approval of a particular policy, but the citizens present themselves as participants and from then on take the initiative, and come up with a problem and their own plan to solve it, which is then developed *with the assistance of* the institution. When citizens are co-producers in this way, the institution and the citizens jointly set the agenda, and also jointly look for solutions. The institution is bound to implement the results, provided they fall within certain pre-set parameters.

One of the most important differences between the passive and active types of public participation presented above, is that the passive types "simply offer an opportunity to express views", whilst the active types "actively seek to encourage participation".[49] In the more passive types, the participants act more like the watchdog of the institution (and this is comparable to elections); in the more active types, they literally participate in the process, acting as partner of the institution.

How to select the most appropriate type of participation? The simple answer is: that depends. It depends on what the institution seeks to achieve, and on the type of public policy that is being made. And although this is seldom mentioned in the literature, an important consideration in the selection of the best suitable type of public participation is the financial cost involved.[50] If public participation is organised as a means to achieve a certain result, then the public institution might look at successful examples of public participation in the past. At the same time, a failed exercise of public participation need not necessarily be due to a bad choice of the type of public participation selected. Perhaps the public institution has chosen the appropriate type, but is simply doing a terrible job at it.[51]

No matter the type of public participation eventually selected, after the process has completed and the policy-decision is made, participants should be informed of the influence their participation actually had on the outcome of

49   Ibid., p. 621.

50   Rowe & Frewer, *Public Participation Methods, supra* note 24, p. 17.

51   Rowe & Frewer, *Evaluation Public-Participation Exercises, supra* note 11, p. 551.

the process.[52] Indeed, it is crucial that "the output of the [public participation exercise] should have a genuine impact on policy *and be seen to do so*;" thus avoiding public perception that the exercise was only "used to legitimate decisions or to give an appearance of consultation without there being any intent of acting on recommendations".[53]

2.4   *Who Should be Invited to Participate?*

Who should be invited to participate?[54] One possible answer would be to say that those that demand to participate – especially the insistent ones – have a right to do so. Otherwise they take to the streets and cause all sorts of trouble. There are many stakeholders that have made it their occupation to claim a role in a particular decision-making process. Through experience, they have learned what the most effective strategies are. They speak the language of the policymaker, they know who exactly to approach, where to approach this person, and at what stage of the decision-making process. Policymakers might prefer to reserve participation rights only to such participants, because then the process will run most smoothly. At the same time, such participants might not represent a substantial part of the general population. The policymaker might not see this as a problem, and believe that the disinterested public should not be awoken from its slumber by encouraging it to participate. But if only the loudest and most experienced critics are invited, the community might find out about the process, feel ignored, become angry, and begin to protest. We all want to be invited to parties; especially to those we have no inclination to actually attend. And thus there are essentially two more serious possibilities:

1.   Invite every member of the community concerned – all citizens, all Europeans, all global citizens;
2.   Invite only those with a particular interest, a selection that can be objectively defined and justified.[55]

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52   *Core Values*, IAP2, http://www.iap2.org/.

53   Rowe & Frewer, *Public Participation Methods, supra* note 24, p. 14 (emphasis added).

54   It is generally believed that citizens cannot be forced or legally compelled to participate; they can only be invited. Burton, *Conceptual, Theoretical and Practical Issues, supra* note 21, p. 268.

55   Burton suggests a third alternative: random selection. Citizens will then be selected based on some lottery scheme, or something like it. Burton, *Conceptual, Theoretical and Practical Issues, supra* note 21, p. 268. *See also* Rowe & Frewer, *Public Participation Methods, supra* note 24, p. 13.

A combination is also possible, of course. One could invite literally everybody to fill in some questionnaire, which helps to identify the problem, and then invite a smaller group to actively co-produce policy together with the public institution.

It is often suggested that in principle everybody should be invited to participate; and that any restrictions have to be justified in such a way that the community as a whole is convinced.[56] At the same time, participation of literally everybody is in most cases only possible in some ideal world. In the real world, it is in most cases practically impossible to reach literally everyone. And even if it were possible, participation of literally everyone would make the process too costly and inefficient. True enough, some types of public participation do appear suitable for unrestricted participation at reasonable cost, such as online surveys. But in practice even such surveys reach only a limited group of people.[57] Thus invitations have to be sent out more selectively.

If only a specific group is invited to participate, such a group can be referred to as stakeholders. Stakeholders have been defined as "those individuals or groups who have a stake in a certain policy or decision – they are impacting the decision or policy and/or are affected by it".[58] The term "stakeholder" is borrowed from business management parlance, and adopted by the United Nations system in recent years. Anja and Bronik Matwijkiw have researched this "leap" from one field of application to the other in some detail.[59] In their view, in business management theory there is a narrow and a broad interpretation of the term. According to the narrow version, a stakeholder is "any individual or any group with financial interests at stake".[60] Such stakeholders can basically be equated with shareholders. According to the broad version,

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56   Burton, *Conceptual, Theoretical and Practical Issues, supra* note 21, p. 267 and p. 269. *See also* Rowe & Frewer, *Public Participation Methods, supra* note 24, p. 12.

57   Online surveys exclude those without access to the Internet, and those unaware of the existence of the relevant website. If the principle of inviting everybody is taken literally, the institution ought to send someone to knock on the door of each citizen in the world with a copy of the survey.

58   Minu Hemmati & Kerstin Seliger (eds.), *The Stakeholder Toolkit. A Resource for Women and NGOs*, 2001, p. 4. *See also* Minu Hemmati, *Multi-Stakeholder Processes For Governance And Sustainability – Beyond Deadlock And Conflict*, London, Earthscan 2001, p. 2, for a slightly different definition.

59   Anja Matwijkiw & Bronik Matwijkiw, "Stakeholder Theory and Justice Issues: the Leap from Business Management to Contemporary International Law", 10: 2 *International Criminal Law Review* (2010), pp. 143–180.

60   Ibid., p. 147.

stakeholders are "all groups or individuals who can substantially affect, or [are] substantially affected by, the achievement of [an] organization's mission".[61] In this sense, the group of stakeholders also includes – besides shareholders – individuals and entities not formally associated with the company. Matwijkiw and Matwijkiw believe the broad version of the term stakeholder is the one best suited to make the leap to UN parlance.

Applying the broader version of the term stakeholder to public participation, Matwijkiw and Matwijkiw suggest "stakeholders whose well-being is substantially affected by the decisions of [an] organization should participate, in some way or other, in the relevant decisions".[62] This they call the principle of stakeholder participation. The difference between stakeholder participation and universal participation is essentially the word "substantially": stakeholders can be singled out because the policy-making process "substantially" affects their interests.

A related issue is the degree of organisation that can be expected of the participants themselves. Can the policymaker expect of the participants that they organise themselves in a group of likeminded people, with a democratically elected representative, or at least that they appoint a spokesperson with some authority? Or should unorganised individuals, not part of any NGO or any other kind of institution, be allowed to participate as well? Of course, the policymaker can make use of existing institutions, like relevant NGOs, universities, lobby groups, think-tanks, churches, and so on and so forth. The policymaker can also take the initiative, facilitate and subsidize the creation of such formalized gatherings of participants. But can the policymaker require of non-affiliated individuals that they set up an *ad hoc* institution themselves, created just for the sake of participating in this particular decision-making process? Can this be a formal condition for participation? Individuals seem to have a natural tendency to organise themselves. So perhaps all the policymaker needs to do is be patient, and slowly the participants will get together and streamline and coordinate their involvement. It all depends on the circumstances.

2.5   *When Should They be Invited to Participate?*

Very briefly we need to say a few words about the "when" question. The answer to this question very much depends on the answer given to the previous questions. Participants can be asked to participate incidentally, at times or stages selected in advance by the policymaker. Or they can participate whenever

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61   Ibid., p. 154.
62   Ibid., p. 156.

they feel like it. In a more organised or formalized process, specific stages in the decision-making process might be selected, by the policymaker or the participants, when input is most effective and desirable, both from the perspective of the participant and the policymaker.

2.6   *Conclusion*

So what are the main "lessons learned" about public participation? First of all, it has become clear that there is not a single purpose for public participation, and thus not a single standard to measure its success. We noted that public participation is basically a way to allow those affected by a decision to be involved in the decision-making process. Increasingly, there is such a demand, and public participation is a way to satisfy this demand. Second, allowing individuals to participate also increases the quality of policies and plans; because of the practical experience and abilities – in terms of skills or expertise – the affected individuals bring to the table. Third, it also leads to a feeling of "ownership": the individuals that participate feel that the policy is partly theirs. And fourth, individuals that participate will have a positive view of the institution, and feel part of the community. These are some of the purposes, or *raisons d'être*, of public participation. An important lesson is thus that one ought to keep these purposes in mind when contemplating a particular process of public participation.

Since in most cases it is practically impossible to invite literally everybody to participate, the public institution will identify the *substantially* affected individuals and actively seek their involvement in the process. There is not one way of doing this, nor is there one set of criteria to apply. Inviting too many people to participate will lead to an inefficient process, and inviting too few will lead to complaints of exclusion. The lesson is that one must attempt to find a balance here.

The public institution must provide a process that meets some basic standards of legitimacy. This is true for all types of public participation. Essentially, there are four types:

1)   The "rubber stamp" type: participants are asked to approve or disapprove a particular policy after it is made but before it is put in practice.
2)   The "define the problem" type: participants are consulted before the policy-making process starts, to clearly define the problem or challenge, and this will help the institution in its policy-making.
3)   The "advisory" type: participants influence the policy-making during the process, as advisors to the institution.
4)   The "co-produce" type: participants take the initiative, define the problem themselves, and together with the institution develop a policy.

These types can be combined and form part of one and the same process. If this is the case, there is not necessarily a chronological order to these four types. Approval of a project can be followed-up by ongoing measurement, monitoring and evaluation. In other words, a policy might need a rubber stamp of approval each time it proceeds from one stage to the next. And the problem will need to be defined and redefined as the decision-making process continues. Advice can be provided at all stages of the decision-making process.

There is not a one-size-fits-all type of public participation. The public institution has to choose the best suitable type considering all relevant circumstances. This choice particularly depends on the kind of policy being made and the purpose of the public participation exercise.

3   Global Public Participation at the United Nations

The aim of this article is to examine the possibilities for public participation in the work of the United Nations Organization. The UN has until very recently not facilitated much participatory processes in its work, much to the chagrin of global civil society. In a report on the relationship between the UN and civil society, it was noted "many in civil society are becoming frustrated; they can speak in the United Nations but feel they are not heard and that their participation has little impact on outcomes".[63] This complaint came from a "privileged" group: the NGOs with consultative status, being the only kind of non-State actor with a constitutionally recognized possibility to participate in the UN's activities.[64] Unorganised citizens do not have such possibilities at all. This despite the fact that some UN decision-making processes of the recent past were particularly suited for public participation. One might think of the drafting of the Millennium Development Goals.[65] However, these goals were not the result of an inclusive and participatory process at all. As Wisor pointed

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63   "We The Peoples: Civil Society, The United Nations And Global Governance", *Report of the Panel of Eminent Persons on United Nations–Civil Society Relations*, distributed 11 June 2004, UNDoc. A/58/817, Executive Summary, p. 7.

64   In Article 71 of the constitutive document of the United Nations, the UN Charter, we read that "the Economic and Social Council may make suitable arrangements for consultation with non-governmental organizations which are concerned with matters within its competence," and that "such arrangements may be made with international organizations and, where appropriate, with national organizations after consultation with the Member of the United Nations concerned."

65   *United Nations Millennium Declaration*, G.A. Res. 55/2, U.N. Doc. A/RES/55/2 (Sept. 18, 2000). The term Millennium Development Goals is not used in this resolution.

out recently, "only a few key civil servants and development experts [were] involved in the process".[66]

But things can change, and appear to be changing. Before we look at the possibilities of public participation in the work of the UN, it is important to be more specific about what it is we will be looking for. In short, we are looking for possibilities of direct participation, by the world's citizens, in the conduct of United Nations affairs. An analysis of public participation can thus be distinguished from studying the role of NGOs, corporations, or other select non-State actors in the work of the United Nations, or in international law-making in general.[67] It can also be distinguished from *indirect* forms of public participation in UN affairs, which could be facilitated by the UN Member States, independently of the UN Organization. Member States could, for example, invite representatives of local non-governmental organisations to join official representations to the UN, or to allow them to provide input before an official statement is made. This was already done in San Francisco in 1945, for example by the delegation of the United Kingdom and the United States of America.[68]

In this section, some of the main insights or "lessons learned" about public participation of section 2 are reconsidered, in an effort to adapt them, to the extent necessary, to the world of the United Nations. In this way we hope to achieve the main aim of this research, namely to give some indications of how the "lessons learned" with regard to public participation at the domestic level can be applied, *mutatis mutandis*, to global public participation processes at the United Nations. Copying the structure of the previous section, we will look at a definition of global public participation (3.1.), the purposes of global public participation (3.2.), the types of global public participation available (3.3.), and the identification of the participants (3.4.). We will end with a conclusion and look to the future (section 4). In a subsequent article, we will apply the "lessons learned", after their adaptation to the UN level, to a case study: the drafting process of the Sustainable Development Goals.

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66   Wisor, *After the MDGs, supra* note 26, p. 120. *See als*o pp. 115–116, and pp. 119–120. The Advisory Council on International Affairs of the Netherlands was less critical. See their report: *The Post-2015 Development Agenda: the Millennium Development Goals in Perspective*, Report No. 74, published April 2011, p. 42.

67   For excellent theoretical reflections on the role of non-State actors in international law-making, *See* Chapter Four of Woodward, *Global Civil Society, supra* note 9.

68   For example, various "consultants" of the US delegation, representing church bodies and other non-governmental organisations, urged the US delegation to promote the inclusion of human rights language in the UN Charter. See e.g., Minutes of Twenty-sixth Meeting of the United States Delegation, May 2, 1945, in FRUS, 1945, General: Volume I, p. 532.

3.1   Definition of Global Public Participation

Global public participation can be defined as the practice of consulting and involving the world's citizens, especially those substantially interested and affected, in the decision-making and policy-forming activities of the United Nations.

3.2   Purposes of Global Public Participation at the United Nations

We will look at the purposes primarily from the perspective of the organising institution, the United Nations Organization. But the other perspectives should not be ignored entirely: there is the perspective of the UN Member States (the sponsors), the so-called major groups and other relevant stakeholders, as well as the citizens that volunteer to participate (the participants), and the rest of the world's population (the uninvolved public).

Turning to the purposes, let us begin by saying a few words about the demand to be involved in the decision-making process at the UN. Some scholars have identified a demand to participate also at the global level. According to Falk, for example;

> One crucial aspect of the rising disaffection with globalization is the lack of citizen participation in the global institutions that shape people's daily lives. [...] People who believe they possess a democratic entitlement to participate in decisions that affect their lives are now starting to demand their say in the international system.[69]

Besides examining the existence of a demand for public participation among the world's citizens that needs to be satisfied we might also look at some of the other instrumental purposes. Can we expect global public participation at the UN-level to improve the quality of policies and plans? Can we expect individuals to feel more connected to the UN after having participated? The interest in public participation is often stirred up by a lack of confidence in the formal institutions. Public participation is then seen as a viable alternative. In case of the UN, people in dysfunctional States might want to circumvent their State and participate in the work of the UN directly. Does the world's population have a more positive view of the UN after their experience? And does it help to create a sense of community? Considering the size of the community, the latter purpose appears to be much harder to achieve for the UN when compared to public participation at the national level. But this does not make the

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69   Richard Falk & Andrew Strauss, "Toward Global Parliament", 80: 1 *Foreign Affairs*, (Jan.–Feb., 2001).

purpose any less relevant. It appears that the identified purposes for public participation at the national level can without any difficulty be transposed onto the UN level, and be applied in any assessment of the success of global public participation in the work of the UN.

3.3   *Best Suitable Type of Global Public Participation at the United Nations*

How is global public participation realizable? Archibugi warned us that citizens are not easily fooled. In other words, the participation must not be a façade; it must be *meaningful.* In Archibugi's view, "the participation of the affected individuals in decision-making processes within [intergovernmental organizations], if not altogether absent, is often simply limited to a decorative function".[70] The UN has to do better than that, and organise meaningful global public participation.

But which types of public participation identified earlier lend themselves to *global* public participation? Whatever the type selected, the UN must, just like any national public institution, respect the conditions for legitimate public participation. In order for the world's citizens to be able to represent their own interests and preferences, the UN process must be transparent, the UN must make relevant information publicly available, and some accountability mechanism must be put in place. A question is whether Webler's criteria for fair public participation are not a bit too unrealistic to be transposed onto the UN-level: can we really require from the UN that citizens that choose to participate get an opportunity to be present at all consultation meetings, that they are allowed to make statements, that they are permitted to ask for clarification if needed, and that they have a chance to challenge, answer, and argue with the UN, as well as participate in the decision-making by resolving disagreements and bringing about closure to the debate?

What is the best suitable type of global public participation? Is it the "rubber stamp" type, the "define the problem" type, the "advisory" type, or the "co-produce" type, or perhaps a combination? The answer appears to be, once again: it depends. There does not seem to be any reason to exclude any of the four types. Of course, the answer to the question which type is likely to be most successful depends once again on the particular circumstances of each exercise of global public participation and on the purposes the UN set out to achieve. But there is no reason why the UN could not make use of referenda, surveys, citizen panels and other types of consultations, especially if done

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70   Daniele Archibugi, "Cosmopolitan Democracy and its Critics: A Review", 10: 3 *European Journal Of International Relations,* September 2004, p. 449.

online. And selected stakeholders could be invited to participate in juries, panels, public hearings, public inquiries, conferences, or advisory committees. The UN could even introduce a UN citizens' initiative comparable to that of the European Union, but this might require formal amendment of the UN Charter.

3.4   *Identifying the Participants in Global Public Participation*

The biggest difference between public participation at the national level and global public participation in the work of the UN is that, in the latter case, the potentially affected community consists of over 7,000,000,000 people. The UN often gives the impression that lots of people are involved in its work – at the conference in Rio de Janeiro in 2012, for example, the UN announced that 9,856 NGOs and major groups participated[71] – but no matter how impressive the figures are, in practice it always comes down to the direct involvement of only a tiny fraction of the world's population. Given the gigantic potential of participants, the UN has not resisted the temptation to focus on stakeholders. Particular groups are specifically selected and invited to participate.[72] In this section, this selection process is examined.

Let's look at an early example. In 1992, the UN identified certain major groups with a particular interest in sustainable development. These major groups were first identified in Agenda 21, the document adopted with the Rio Declaration.[73] According to Agenda 21, "one of the fundamental prerequisites for the achievement of sustainable development is broad public participation in decision-making".[74] Agenda 21 then went on to identify the following major groups: women, children and youth, indigenous people and their communities, non-governmental organisations, local authorities, workers and their trade unions, business and industry, the scientific and technological community, and farmers.[75] The list is somewhat unusual, in the sense that it involves very different kinds of groups. The Agenda does not really explain on what

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71   UN Department of Public Information, *Rio+20 in Numbers*, 22 June 2012, *available at* http://www.uncsd2012.org/.

72   As was the case at the national level, the use of a term from business management has been criticized, exactly because of this origin. For example, one scholar noted that "the continued use of 'stakeholders' language develops a corporatist policy within UN multilateral engagement," and this was not meant as a compliment. Woodward, *Global Civil Society, supra* note 9, p. 248. *See also* pp. 250–251.

73   *Agenda 21*, adopted at the United Nations Conference on Environment & Development, held at Rio de Janeiro, Brazil, between 3 and 14 June 1992. Published in UNDoc. A/CONF.151/26 (Vol. I, II and III), [hereinafter Agenda 21].

74   Ibid., Para. 23.2.

75   Ibid., Sections 24–32.

criteria the selection process for the major groups was based. Some groups appear to have been included based on their particular interest in sustainable development – such as indigenous peoples and children; others appear to have been included because of their particular expertise – such as the scientific and technological community – or because of their actual influence on development in practice – such as business, industry and farmers.[76] NGOs might have been included because many of them have a history in being involved in UN decision-making. The selection of the major groups was also motivated by an idea to give some marginalized peoples a voice.[77]

It is perhaps because of the arbitrariness of the selection process that major groups do not figure so promptly in the Johannesburg Declaration on Sustainable Development and the accompanying Plan of Implementation, despite the fact that representatives of the major groups were specifically invited to Johannesburg.[78] In the Plan of Implementation, only the very last 3 of the 170 paragraphs of the Plan were devoted to the participation of the major groups. And even there, the major groups were mentioned as examples of groups that could be involved in participatory schemes. In other words, other "non-governmental actors" and "volunteer groups" were equally invited to participate.[79] At the same time, a new word began to emerge: stakeholder. In Agenda 21, this word was barely used.[80] However, in the Johannesburg Plan of Implementation, it was omnipresent.

And in *The Future We Want* of 2012, the section on the major groups was entitled "engaging major groups and other stakeholders",[81] as if to formally welcome the latter category. In the sections specifically on public participation, the major groups were always referred to together with other relevant stakeholders. The most relevant paragraph for present purposes reads as follows:

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76   *See also* Karen Morrow, "Sustainable Development, Major Groups and Stakeholder Dialogue – Lessons from the UN", in Duncan French (ed.), *Global Justice And Sustainable Development*, (Martinus Nijhof), 2010, p. 93.

77   Bäckstrand, *Democratizing Global Environmental Governance, supra* note 25, p. 485.

78   Woodward, *Global Civil Society, supra* note 9, p. 224.

79   *Plan of Implementation of the World Summit on Sustainable Development*, UNDoc. A/CONF.199/20, (4 Sep. 2002), Paras. 168–170.

80   It was used only twice (paras. 7.20 and 7.23), in a section on Promoting sustainable human settlement development. Agenda 21, *supra* note 73.

81   United Nations, *The future we want: outcome document of the conference on sustainable development held in Rio de Janeiro, Brazil, between 20 and 22 June 2012*, Paras. 42–55, UNDoc. A/CONF.216/L.1 [hereinafter UN, *The future we want*]. The outcome document was also endorsed by the General Assembly and annexed to its resolution 66/288, adopted 27 July 2012.

> We underscore that broad public participation and access to information and judicial and administrative proceedings are essential to the promotion of sustainable development. Sustainable development requires the meaningful involvement and active participation of regional, national and sub-national legislatures and judiciaries, and all Major Groups: women, children and youth, indigenous peoples, non-governmental organizations, local authorities, workers and trade unions, business and industry, the scientific and technological community, and farmers, as well as other stakeholders, including local communities, volunteer groups and foundations, migrants, families as well as older persons and persons with disabilities. In this regard, we agree to work more closely with Major Groups and other stakeholders and encourage their active participation, as appropriate, in processes that contribute to decision making, planning and implementation of policies and programmes for sustainable development at all levels.[82]

It must be admitted that the representatives of the major groups were given some special access rights and had more possibilities to influence the proceedings in Rio de Janeiro.[83] This is continued after 2012.[84]

Although the word "stakeholder" is mainly used in the context of sustainable development, it has also been used in other contexts. For example, the Human Rights Council allows "relevant stakeholders" to play a role in the Universal Periodic Review. In that context, stakeholders, referred to for the first time in Human Rights Council resolution 5/1, include "NGOs, national human rights institutions, human rights defenders, academic institutions and research institutes, regional organisations, as well as civil society representatives".[85]

The UN provides little guidance as to who the stakeholders are. The UN's goal seems mainly not to offend anyone by excluding them. Importantly, there is no reason to exclude the private sector from the realm of stakeholders. It is true that business and industry are often regarded as the "bad guys", or as the guys "lurk[ing] in the shadows, acknowledged uneasily like a tattooed man at a

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82   Ibid., Para. 43.

83   "Major Groups", *UNCSD2012*, http://www.uncsd2012.org/rio20/majorgroups.html.

84   "Major Groups", *UN Sustainable Development Knowledge Platform*, http://sustainabledevelopment.un.org/majorgroups.html.

85   Office of the High Commissioner for Human Rights, "A Practical Guide for Civil Society: Universal Periodic Review", *OHCHR*, http://www.ohchr.org/EN/HRBodies/UPR/Documents/PracticalGuideCivilSociety.pdf, p. 11.

tea party".[86] But the UN has come to understand that they can – and do – play a constructive role, also in public policymaking. At the same time, if you exclude no one, the term stakeholder will lose much of its significance. Moreover, if you allow too many voices to be heard, it might lead to never-ending debates and chaos. Or as Johns remarked about the Fourth World Conference on Women in 1995, that by allowing over 300,000 NGO activists representing 2600 NGOs to participate, the UN created "not a policy-making forum [but] a bazaar".[87]

The focus on stakeholders is understandable and justified, in a world of over 7 billion people affected by most decision-making at the UN. The challenge is to find ways to distinguish the *substantially* affected from the rest of the world; and this is a selection process the UN appears to be struggling with. The trick is to ensure the effectiveness and affordability of the public participation process by not inviting too many people, but at the same time not to offend anyone by excluding them from the process.

3.5   *Conclusion*

This section was intended to explain how the "lessons learned" regarding public participation at the national level could be applied to assess the exercises of global public participation in the work of the UN, and to think of new such exercises.

So what are these "lessons learned"? Perhaps the most important lesson was that one ought to keep in mind that there are different purposes of public participation, *i.e.* different reasons for organising processes of public participation. When thinking of how exactly to organise a particular process of public participation, it is important to first sit down and think about *why* you want to invite the public in the first place. We have identified different purposes.

Another important lesson was that, when it comes to invitations, one must always attempt to find a balance between inviting too many, which will lead to inefficiency, and inviting too few, which will lead to undesired exclusions. A justified "door policy", which is acceptable also to those that are ultimately refused entry, *i.e.* excluded from participation, is thus crucial.

A final lesson is that we do not have a one-size-fits-all type of public participation. The public institution has to choose the best suitable type considering all relevant circumstances, and this choice particularly depends on the kind of policy being made and the purpose of the public participation exercise. Various types have been proposed, from which the institution can choose.

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86   John Sayer, "Do More Good, Do Less Harm: Development and the Private Sector", 15: 3/4 *Development In Practice* (Jun., 2005), p. 251.

87   Gary Johns, "Relations with Nongovernmental Organizations: Lessons for the UN", *Seton Hall Journal Of Diplomacy And International Relations*, Summer/Fall 2004, p. 54.

In the second part of the article, we started to apply these lessons to the functioning of the UN. First, we might ask why the UN would go through all the trouble to invite the public to get involved. Does the UN believe such popular participation might increase the quality of its policies? Or does it believe that the Organization can benefit from people's practical experience, skills and/or expertise? Is it to make the public at large feel more responsible for the future implementation of a particular policy, by giving them the impression that they "co-authored" it? Or is it to strengthen the link between the UN Organization and the world's citizens in a more general sense? Or all of the above? The answer can be different for different public participation processes.

If we look at the question of who to invite, we see that the potential number of participants in global participation processes is quite staggering: sometimes literally all the world's citizens have a stake in a UN decision-making process. If only for practical and financial reasons, involving the whole world is impossible. There are thus good reasons for the UN to single out only those "substantially affected", without giving the rest of the world the impression it is excluded somehow. That is a major challenge the UN has been faced with since 1945.

Earlier, we distinguished four types of public participation processes. All four seem applicable also on the global level, depending on the circumstances and the policy involved. People can be asked to approve or reject a particular UN policy after it has been made. The Internet is well suited for such an "online referendum". In many cases, it is appropriate to ask ordinary people to help define a particular problem, before a UN policy to respond to the problem is made. Here too, online consultations might be a good tool, but in some cases more traditional means might be needed to reach particularly vulnerable groups, which might not have access to the Internet. The UN could also use the public as advisors in the drafting of a global policy to meet a certain global challenge. One might expect the invitations to be a bit more "targeted" here: the UN might ask only people with proven skills or expertise or with relevant experience to advise the policymakers.

4   Conclusions and Looking to the Future

In this article, we have analysed the theory of public participation at the national level, with the aim of finding out whether this theory and the "lessons learned" at the domestic level can be applied to global public participation processes at the United Nations. We have given some indications as to how this might be done. In a subsequent article, we will use the theoretical findings of the present research to examine the global public participation process that

will lead to the formation of the Sustainable Development Goals. This process will not only be the basis of our case study, but represents the first extensive attempt by the United Nations at global public participation in policy formation. It will therefore play a defining role in the emergence of global public participation at the UN and how it will operate. Thus we will end this article with a brief introduction to the process and taster of what article (2) will examine.[88]

The Millennium Development Goals (MDGs), fast approaching their 2015 target date, have been a key point of reference for the global development agenda, focusing attention on eight "targets". They helped shape national priorities and mobilise stakeholders and resources towards achievement.[89] The international community thus began the process of developing a new post-2015 development agenda, with the 2012 Rio+20 Conference on Sustainable Development recognising such goals could also be useful in defining and furthering international action related to sustainable development.[90]

A number of concurrent work streams have been established; principally the Open Working Group on Sustainable Development Goals (OWG) and the work under the United Nations Secretary-General (UNSG). The UNSG is tasked with promoting sustainable development within the post-2015 agenda, reporting to the UN General Assembly prior to the first post-2015 special event in September 2013,[91] and again by the end of 2014.[92] The UNSG reports draw upon the recently concluded High-Level Panel of Eminent Persons on the Post-2015 Development Agenda (HLP) report, the UN Global Compact report, the Sustainable Development Solutions Network report, and the recommendations of the UN System Task Team on the Post-2015 UN Development Agenda. Various consultations at the national, regional and global level (known collectively as the "Global Conversation") that assisted the HLP also feed directly into the UNSG reports.[93]

The Open Working Group on SDGs was established as the principle UN forum for discussion on future SDGs. Exclusively States held the 30 membership seats, and they alone developed proposals for submission to the UN General Assembly in September 2014. States agreed the goals should however develop

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88   Developing Global Public Participation (2): Shaping The Sustainable Development Goals.

89   UN, *The future we want, supra* note 81, Para. 245.

90   Ibid., Para 246.

91   United Nations, "A Life of Dignity for All", *Report of the Secretary General 26th July 2013*, UNDoc. A/68/202.

92   United Nations, *Special Event 25 September: Outcome Document*, p. 3, *available* http://www.un.org/millenniumgoals/.

93   Alex Evans & David Steven, "What happens now? – The post-2015 agenda after the High-Level Panel", *New York University: Center On International Cooperation*, June 2013, p. 5, http://cic.nyu.edu/.

through an inclusive and transparent intergovernmental process, "open to all stakeholders".[94] The OWG was to develop modalities that "ensure the full involvement of relevant stakeholders and expertise from civil society, the scientific community and the United Nations system in its work, in order to provide a diversity of perspectives and experience".[95] Thus stakeholders should be consulted with the results used as a knowledge platform to shape such proposals.

The SDGs are to be "coherent with and integrated into the United Nations development agenda beyond 2015".[96] Whilst their structure remains unclear,[97] previously voiced calls for an integrated process[98] will be followed, bringing the workstreams into a single post-2015 development agenda applicable to all States.[99]

Thus these two currently separate processes will shape any future sustainable development framework. Whilst the SDGs formulation is on-going, sufficient practice exists to assess public participation. Through a critical look at the opportunities available we can assess UN claims on public participation, and provide possible areas of improvement. Lessons learnt from the MDGs are already being highlighted and addressed.[100] The same should apply to novel global public participation attempts – why wait until 2015 to act on lessons learnt so far?

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94   UN, *The future we want, supra* note 81, Para. 248.

95   Ibid., Para. 248.

96   Ibid., Para. 246.

97   FIELD, *Sustainable development goals and oceans-related issues 7 November 2012: Summary report of discussion*, p. 1, http://www.field.org.uk/.

98   E.g. The European Union – IISD Reporting Services, "Summary of the First Session of the UN General Assembly Open Working Group on Sustainable Development Goals: 14–15 March 2013", *Earth Negotiations Bulletin*, Vol. 32 No. 1, 18 March 2013, p. 4. Japan & Barbados on behalf of Caribbean Community – IISD Reporting Services, "Summary of the Second Session of the UN General Assembly Open Working Group on sustainable Development Goals: 17–19 April 2013", *Earth Negotiations Bulletin*, Vol. 32 No. 2, April 2013, pp. 5–7.

99   United Nations, *Special Event 25 September: Outcome Document*, p. 3, *available* http://www.un.org/millenniumgoals/.

100   E.g. the HLP explored lessons learnt from MDG 8 (develop a global partnership for development) and changes needed to produce a more successful 'global partnership'. High-Level Panel of Eminent Persons on the Post-2015 Development Agenda, *A New Global Partnership: Eradicate Poverty and Transform Economies Through Sustainable Development*, 30 May 2013, p. 15, *available* http://www.post2015hlp.org/. See the resulting HLP illustrative goal 12 (create a global enabling environment and catalyze long-term finance), HLP, *A New Global Partnership*, p. 32.