

Chapter 9

Exploring Environmental Justice: Meaningful Participation and Turkey's Small-Scale Hydroelectricity Power Plants Practices



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Abstract This chapter explores the emerging concept of meaningful participation within the framework of environmental justice, with specific reference to Turkey's recent experience of building several small-scale hydroelectricity power plants (HEPP). The paper scrutinizes the HEPP process, including its entrenched legal framework, and attempts to come up with suggestions to elaborate further on the concept of meaningful participation.

Keywords Environmental justice · Meaningful participation · Small-scale hydroelectricity power plants · Turkey

9.1 Introduction

Turkey has traditionally identified its hydroelectricity potential as one of its key national energy sources and has been constructing dams and reservoirs to harness this potential. Throughout its history, constructions of mega-dams, particularly on the Tigris and Euphrates rivers as a part of the South-eastern Anatolia Project (Turkish acronym: GAP) enabled Turkey to generate electricity and implement a regional development programme based on hydro-constructions; however, they were also criticized due to their social, cultural and environmental impacts on local communities, cultural and historical heritage and local habitats in south-east Turkey. Such criticisms are still arising, particularly in the case of the construction of Ilısu Dam in the same region (Ilhan, 2009).

Since the 1980s, when neoliberal policies started to dominate world politics, Turkey has introduced neoliberal notions to its economy (Boratav, 2012). Water management and the energy sector emerged as the first sectors which have been

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reformed in accordance with neoliberal notions (see Başkan, 2011; Kibaroglu et al., 2009; Harris/Isilar, 2013). This has led Turkey to experience a paradigm shift in its water management and energy sector from state-led constructions of mega-dams to the private sector-led constructions of small-scale hydroelectricity power plants (HEPP, hereafter), particularly in the 2000s (see Sayan/Kibaroglu, 2016). Currently, it is estimated that Turkey has authorized and/or constructed around 1500 HEPPs throughout the country to maximize its utilization of its hydropower potential. Although these small-scale HEPPs have fewer social and environmental impacts than mega-dams, these constructions are widely associated with local opposition movements due to their social, economic, cultural and environmental impacts, such as loss of livelihoods, decrease in water availability, deforestation and loss of water use rights. Local communities also opposed to HEPPs, as they perceive the process of planning and construction to be non-transparent and non-democratic (Hamsici, 2010). This chapter therefore focuses on the process of small-scale HEPP construction, as it represents the most recent paradigm in Turkey's water management and energy sector, and explores why local communities perceive it as non-transparent and non-democratic.

We explore the emerging concept of “meaningful participation” within the framework of environmental justice, with specific reference to Turkey's recent experience of building several small-scale HEPPs. We scrutinize this process, including its entrenched legal framework, and come up with suggestion to elaborate further on the concept of meaningful participation by delineating its four components. We mainly adopt a qualitative methodology with discourse and legal document analysis as well as mass and social media analysis of Turkey's HEPP policies. Additionally, we have conducted a field-study in south-western Turkey to strengthen our empirical analysis. To enrich our analysis we scale up our study to include observations and remarks on the social and environmental impacts of Turkey's small-scale HEPP venture.

9.2 Procedural Environmental Justice: Meaningful Participation

Since the late 1970s, the concept of environmental justice has become an integral part of environmental social sciences. As a contested concept, it “address[es] questions of inequality, fairness, and rights with respect to environmental conditions and decision-making processes” (Holifield, 2012: 592).

With the evolution of the concept, its theoretical focus has shifted from the redistribution of environmental burdens and benefits across society towards other dimensions of justice, such as recognition and participation (see Schlosberg, 2007, 2013). Procedural environmental justice refers to people's participation in environmental governance (Schlosberg, 2004). It also suggests that more democratic and more participatory decision-making processes on environmental issues can tackle the recognitional and distributive environmental injustices within society

which occur because of undemocratic and non-participatory processes (Holifield et al., 2009). This body of literature also places issues like the enforcement of environmental laws, access to information, transparency, accountability and access to legal processes on the agenda. Authors like Hunold/Young (1998) and Shrader-Frechette (2002) highlight the deliberative democracy in addressing procedural inequalities experienced in environmental decision-making processes. Additionally, the Aarhus Convention is utilized by Mason (2010), De Santo (2011), and Walker/Day (2012) as the key way to pursue procedural justice in similar processes.

Within these discussions, one concept emerges as “the central concern of procedural environmental justice”: *meaningful participation* (Holifield, 2012: 592). Accordingly, environmental justice literature identifies meaningful participation as a prerequisite for attaining justice in environmental governance (Schlosberg, 2004; Paavola/Adger, 2006; Holifield, 2009). Although the concept can be defined in different ways, Solitare’s (2005: 921) approach to the concept as ‘successful communicative planning requir[ing] conditions that allow all citizens to participate freely and equally’ is seen as one of the broadest and most open-ended definitions of the concept.

The prerequisites of meaningful participation have been seen in two ways. In the first, Solitare (2005: 921) lists the conditions of meaningful participation as follows:

For citizens to want to participate: (1) there must be a commitment to their involvement from all ...; (2) they must be aware of the opportunities to participate; (3) they must have time, as a resource, to commit to the process; (4) they must trust that other[s] are fair and honest; and (5) the issue under consideration must be one they perceive to be a problem.

The United States Environmental Protection Agency (US EPA, 2013), on the other hand, defines them as follows:

Meaningful involvement means that: (1) people have an opportunity to participate in decisions about activities that may affect their environment and/or health; (2) the public’s contribution can influence the regulatory agency’s decision; (3) their concerns will be considered in the decision-making process; and (4) the decision-makers seek out and facilitate the involvement of those potentially affected.

The prerequisites of meaningful participation are not radically different in either of these approaches. The delineation of such prerequisites indicates that meaningful participation should be guaranteed in environmental governance. This makes the process fairer, and ultimately the decision is more likely to be widely accepted by the community. This is because the representation of the affected population can be ensured and decisions taken as a result of such an inclusive process can be regarded as legitimate, since it gives the affected population a chance to influence the decision-making process (see Solitare, 2005; Paavola/Adger, 2006; Holifield, 2012). Although there are similarities with deliberation, this concept is more open-ended and more applicable to the contextual studies.

The concept of meaningful participation inherently carries the main assumption of procedural (environmental) justice, asserting that fair processes are likely to lead to fair outcomes. Despite the concept’s relation to deliberative models, it is not too

idealistic or Western-centric, since each country or community may have an understanding of meaningful participation which is not necessarily centred on deliberative democracy or the principles of the Aarhus Convention. Instead, as seen in environmental justice literature, meaningful participation may provide a more contextual outlook on socio-environmental injustices. For instance, Solitare (2005) highlights that her implementation of the concept stays within the limits allowed by US legislation and the legislation of individual states. A similar approach can be taken for this research. Accordingly, the field-study findings and comprehensive analysis of the legal framework of Turkey's HEPP process demonstrates that local populations expected a degree of meaningful participation, as indicated by Solitare (2005) and the US EPA (2013), within the limits of Turkey's legislative framework. For this research, as a result of findings from our field-study (i.e. interviews, narratives, videos) about the HEPP process in south-western Turkey, the conditions of meaningful participation can be defined as follows:

1. Consideration and inclusion of locals in the policy process;
2. Representation of the concerns and recommendations of locals in the policy process;
3. Ability of locals to influence the policy process;
4. The efforts of state institutions and administration to ensure public participation.

When the general HEPP process of Turkey and the relevant legal framework are uncovered, it is possible to see instances of these four components of meaningful participation. For example, the Environmental Impact Assessment (EIA) by-laws (2003, 2008, 2013, 2014) underline that companies whose projects fall under Annex I of the by-laws are required to conduct public participation meetings and reflect the locals' concerns and recommendations in their final project files to obtain EIA clearance before they initiate HEPP constructions. This clause straightforwardly implies that the by-laws urge companies to include local communities into the HEPP process and encourage them to raise their voices. In doing so, the by-laws explicitly aim to achieve the representation of locals' concerns and recommendations in the HEPP process, and pave the way for the locals to influence the policy process. The same by-laws also require the state agencies to monitor the conduct of those public participation processes, which suggests that the State has to ensure their proper conduct. Above all, as revealed further in the following sections, an understanding of 'meaningful participation' is not too distant or idealistic in the Turkish context. In fact, the notion was frequently referred to in the narratives of interviewees, and was detected in the relevant legal, official and organizational documents.

9.3 Methods and Case Study Selection

We applied a qualitative methodology. Discourse analysis, document analysis (i.e. legal documents) and mass media/social media analysis were adopted to analyse Turkey's HEPP policies. In order to achieve an empirical depth in this work, fieldwork was conducted in Saklıkent (south-western Turkey), Istanbul and Ankara in 2014. State Hydraulic Works (DSI, Devlet Su Isleri) engineers, NGO representatives, local communities, local administrators and lawyers were among the participants in individual semi-structured interviews conducted during the field study. Additionally, for deeper analysis of the Saklıkent HEPP case, four focus group meetings were conducted with the local communities in the basin.

Each HEPP results in a unique set of socio-spatial transformations, shaped by its historical, geographical, and technical particularities. Consequently, each case study revealed different forms, levels, and patterns of socio-environmental relations and public participation. This chapter seeks to illustrate how hydropower development disregards the meaningful participation of local communities by focusing on a particular case study from Turkey – the Saklıkent HEPP in south-western Turkey, one of nearly 1500 HEPPs under development in the country. Saklıkent was mainly chosen because HEPP cases in south-western Turkey are relatively under-represented in the newly emerging literature on HEPPs in Turkey. Furthermore, the Saklıkent case represents a completed process: all pending court processes were completed; public opposition was over; and the HEPP construction was withdrawn. This enabled us to track the entire process and see how legal and administrative processes at national level were reflected in a real-life case.

Saklıkent Valley is located in south-western Turkey, parts of which have been recognized as a national park for its renowned natural beauty. Strolling through Saklıkent Valley, scenic views intertwine with ancient ruins, easily grabbing attention. Amid this tremendous natural beauty are the main water sources supporting the basin: the Esen Stream and its tributaries. Following the stream away from the national park and approaching the Valley's borders by following the stream, small settlements begin to appear, completing the scene. When visiting these settlements, it becomes apparent that the stream and natural beauty are seen as the main livelihoods of the local communities. This is not just apparent from conversations held in the basin; the greenhouses, fruit gardens, fish-farms, agricultural plots, small touristic businesses, tourists wandering around and trout restaurants speak for themselves.

In December 2008 two HEPPs were licensed to the same company for construction towards the borders of the Valley (Demir, 2011). These HEPPs were expected to generate 9.67 MW of electricity. They would also include a reservoir, covering 230,000 m² within the basin. Local communities did not welcome these HEPPs, however, and they organized a series of opposition movements and initiated court cases between 2010 and 2013. Due to this public opposition, the construction company inquired as to the possibility of withdrawal by applying to the

Electricity Market Regulatory Authority (EPDK) [Enerji Piyasasi Duzenleme Kurumu] on 30 April 2013. This was approved by EPDK on 26 May 2013, meaning that the company withdrew from the process (Evrensel, 2013).

9.4 Meaningful Participation and Saklıkent HEPP

To analyse the HEPP process of Saklıkent, it is first necessary to look at the planning and tendering and licensing processes to make an initial analysis of the meaningful participation of local communities and nature. The proposed HEPP was licensed in December 2008, and the licensed company convened the two EIA-bound meetings in the villages neighbouring the construction site in April 2010 (see Demir, 2011). This shows that this HEPP had already been planned, implemented, evaluated, approved, and licensed before December 2008, since these steps need to be completed prior to licensing (see the 2003 By-Law). A water use rights agreement between the state and company had also been signed before this date, according to the By-Law (2003). This implies that the majority of the processes required for the above steps were undertaken without public participation. Accordingly, it can be stated that the state institutions and company were the only participants in the majority of this HEPP process.

It can be claimed that the local community was, in theory, included into the HEPP process during the EIA phase. In the Saklıkent basin, there were two EIA-bound meetings conducted by the company before it attempted to initiate the construction, since this HEPP fell under Annex I of the EIA by-laws (2008, 2013, 2014), requiring the company to obtain EIA clearance by going through an EIA process. As previously stated, the first element of meaningful participation is considering local communities and including them in the policy processes. To evaluate whether the locals were included to the HEPP process or not, and the degree of representation of their concerns and recommendations, it is essential to analyse how they were informed about the process and the EIA meetings.

The participants of Focus Group Interview 1 at Demirler Village claimed that it was their *mukhtar* (village head) who mentioned the potential HEPP construction around the village. They maintained that the *mukhtar* had immediately communicated with the volunteers in Fethiye, as a result of which the legal struggle was initiated. These participants reported that locals came across the company employees when they were reportedly conducting feasibility measurements in the area prior to the construction process (Focus Group Interview 1). One environmental activist from Fethiye added that the *mukhtar* coincidentally encountered the company representatives, whom he knew from the EIA meeting (the first meeting detailed below), and they had a confrontation there, after which *mukhtar* took a proactive role against HEPPs in his village.

In Focus Group Interview 2, conducted in the neighbouring village, Esen, the EIA-related meeting was indicated as the first occasion when locals were officially informed about the potential HEPP construction. This meeting was mentioned

particularly in Esen, which may be because the first EIA meeting was convened in this village, the participation of which was ‘high’ according to Group Interview 2. The Group 2 participants additionally maintained that people from neighbouring villages also showed interest in this first meeting, as corroborated by, for example, the participants of Group Interview 1. The participants of Group Interview 2 claimed that the meeting was ‘tense’. In their contention, the informants were nervous, and the locals became nervous when the informants refrained from disclosing the potential harms of the HEPP construction. One of the participants of Group Interview 2 also stated that the DSI and EPDK officials present at that meeting sided with the company, which further annoyed the locals.¹

The second EIA meeting was conducted one day after the previous one in April 2010 in Palamut Village, where Group Interview 4 was conducted. The participants of Group Interview 3 stated that they (and other people from that village) attended this meeting, and the informants constantly told them that the village would not be damaged, and that the minimum water flow, i.e. 10% as determined by the water use rights agreements, would always be assured by the company. No reference was made to the potential harmful impacts of the project. The participants of Group Interview 4 emphasized that the company promised to repair their irrigation canals, which had not been repaired and activated by the state for over 60 years. The participants also highlighted that the landowners, whose lands would be expropriated and inundated by the small reservoir associated with HEPP, were not offered any alternatives.

These two meetings were not the only ones conducted for the potential HEPP construction in Saklikent, however. One local administrator in the stream’s basin mentioned another meeting undertaken in Kas, which is around 50 km away from the basin. He said that a state institution conducted this meeting in November 2011, when the benefits of the potential HEPP constructions were described. Videos of that meeting (see Facebook page of Fethiye Saklikent Koruma Platformu [Fethiye Saklikent Conservation Platform, FSKP]) confirm his account. It is important to note that this meeting was not undertaken within the EIA process. According to this local administrator, at this meeting, the recommendations of the local people were immediately “opposed and repelled” by the officials. He maintained that the entire meeting was based on notions of the “commercial benefits of HEPPs” and “their contributions to the villages”, while these benefits were “not persuasive”, “quite rhetorical”, and “not bound to any protocol”. Like the majority of the participants of the group interviews cited above, he also highlighted that it was the volunteers who actually tried to inform the locals about these projects and provided a more convincing account of the whole HEPP process. As a result, the locals committed themselves to conducting protests and initiating the legal fight against the HEPP.

¹According to the EIA by-law, state institutions should monitor the meetings, which is the reason why these officials were present at that meeting. Here the participant notes that, instead of observing the meeting impartially, the state representatives were backing the company’s arguments during the meeting, which contravened their remit and consequently annoyed the locals.

All of the empirical data presented up to this point has demonstrated that the HEPP process and the relevant legal framework did ostensibly include locals during the EIA process, after the completion of planning and licensing. However, from the narratives of these interviewees, it appears that the locals were informed late and improperly. The potential negatives of the HEPP were concealed from them, and no alternatives were offered to the villagers apart from the limited expropriation fee. Most importantly, as indicated by a local administrator, the informants undermined the comments and recommendations of the locals during this process. This was confirmed by the other group interviews when they described the EIA process. Accordingly, it could be said that the locals' inclusion and recognition in the Saklikent HEPP process was limited, consisting only of the EIA meetings. Furthermore, the representation of their concerns was not ensured in this process, as indicated by the interviews cited above.

From this point, the analysis can move on to the third element of meaningful participation, which is whether the local community was able to influence the HEPP process. It can be purported that locals were able to assert their concerns during the HEPP process, but not through the EIA meetings and legal framework of HEPPs which were supposed to ensure their participation. Instead their participation in the pre-construction process of the HEPP was made meaningful through alternative ways. As corroborated by the local interviewees, they unilaterally organized a series of activities to raise awareness of the potential HEPP issue of Saklikent at local level, which were also publicized at national level. Interviewees narrated these activities. They recounted that demonstrations were initiated after the scientists and volunteers from Fethiye informed them of the potential harms of the HEPPs. The *mukhtars* of the basin then collaborated with each other and let each other know about every single development regarding the HEPP issue, while also using their contacts in the local branches of the ruling party to transmit their concerns about the HEPP process to the high-level officials in Ankara. Their actions were confirmed by the participants of Group Interview 4, in which one of them stated that they even attended a national protest in Ankara on HEPP issues as the representatives of the Saklikent HEPP resistance, to make their cause visible at national scale.

Meanwhile, at local scale, marches, protests, informal public information meetings, and picnics were organized by FSKP.² In addition, the concerned villages also managed to collect the necessary amount of petitions, and initiated court cases to stop the construction of the Saklikent HEPP. The EIA clearance, granted in 2012, was cancelled by a court decision in April 2015.³ Other cases were never concluded since the company officially stepped back from the HEPP project in December 2013 due to the public opposition (Evrensel, 2013). All these attempts demonstrated that the official EIA process, which is supposed to lead to meaningful participation of the locals to the HEPP process by including them to the process, representing their comments and recommendations about the HEPPs, and providing them with the

²The copies of the calls of these activities are filed with the author.

³The court decision is filed with the author.

necessary conditions to participate in the process, failed. Hence the locals adopted alternative methods such as protests and legal struggles to influence the HEPP process.

By analysing these protests and legal struggles, the fourth element of meaningful participation, which examines the State's efforts to ensure the participation of locals, can be assessed. Instances of this component can be found in the pre-construction and construction stages of the HEPP. It can be seen here that the locals did not face pressure or obstructions by the state institutions. However, state institutions did not make much effort to ensure their participation either. At least, by examining locals' claims about the EIA meetings, it can be seen that the participation of locals was not achieved in practice, and the process was not managed properly. Concerning this HEPP case, there is not much to say about the State's efforts to ensure public participation, which is implied in the process itself, but the situation can be clarified by the anecdotes provided by two volunteers from Fethiye, who took part in this HEPP process and attended these EIA meetings. Accordingly, one NGO representative describes the EIA-bound meetings convened in this basin as follows:

They announced the meeting there [referring to the first meeting conducted in Esen] in a newspaper distributed in Muğla [referring to the fact that the locals may not have access to that newspaper since it is distributed in a limited area], so it is obvious that they tried to conceal something. Once we went there, we slowly understood. The man in front of us was an engineer, the company employee. [He was] very annoyed, very nervous. He was chewing gum, was talking slowly. [We asked] how many trees will be cut down? He does not know. How much excavation will be carried out? He does not know. How long will the construction continue? He does not know. So, there is a trick there...He said like we will do this, nothing is going to happen, in fact, the water will rise a little bit, nothing else will happen etc.

An independent activist also describes these meetings:

We attended [those meetings]. At the beginning we thought that these meetings may be beneficial. We were thinking that the signatures collected there and discussions held would lead to the right outcome. We then learnt through experience that EIA meetings were used by the companies during the legal processes to prove that they had actually informed the local people. The public consultation process is superficial. We learnt how these reports and discussions held there were just token as follows: Many of these meetings are conducted under the supervision of the Ministry of Forestry [and Water Affairs]. We saw that the official reports did not reflect the complaints made there; on the contrary, we saw that the language of these reports was quite positive [about the project]. In fact, in one of those meetings, I asked for a copy of the official record, which NGO representatives and/or *mukhtars* may request on behalf of the participants, but the guy did not want to give it...For this reason, we witnessed that at many places, public servants act maliciously in favour of the companies. We realized that these meetings are not useful.

The anecdotal accounts and group interviews reviewed above affirmed that the processes supposed to ensure public participation were not adequate to convince people. On the contrary, they led to further suspicion about the HEPP project in the local people's minds. In addition to this information, local activists and NGO representatives also praised the efforts of the *mukhtars* of this basin in the HEPP

process. They highlighted that all of the *mukhtars* stuck together, even when the company tried to approach them individually to negotiate about the process, and mobilized their subjects in all these processes. Since all of them shared the same cause, their stance was solid against construction of the HEPP. This is important, because, in traditional Turkish rural life, if you want to do anything in a village, or if you want access to any village, you should first talk to the *mukhtar*. For this reason, companies generally try to persuade the *mukhtar* before they initiate constructions, as indicated in a series of interviews conducted with the DSI officials.

In the context of the Saklıkent HEPP case, the company and the state did not do much to reflect the locals' concerns in their projects, and did not disclose the potential harm to the locals throughout the entire process. The full participation of the local people in this process was not attained, which led to the neglect of their concerns and recommendations in this process, hindering their meaningful participation. The administration or state institutions did not provide the necessary conditions for meaningful participation, rather the local people and volunteers sought for alternative ways to influence this HEPP process. It could be concluded that the meaningful participation of locals (by the legal framework) was quite limited in the HEPP case of Saklıkent, but participation became meaningful when locals established their own ways to raise their concerns, which eventually led to the withdrawal of the company from the HEPP process.

9.5 Scaling up the Debate: Meaningful Participation in Turkey's HEPP Process

The problems revealed so far are mainly peculiar to the case study area; however, similar issues are widely seen in Turkey's HEPP processes. Representatives of two prominent national-level environmental NGOs respectively argue that:

It [referring to the HEPP process] is fundamentally a 'rights' issue...The hydrological cycle has to be recognised and it has to serve to [provide] water, to [support] fish living and feeding from that basin, to [produce] rain conceived through evaporation from that source, needed by the basin's farmer. Water is the right of humans and all living organisms of that cycle. And the process that Turkey's water politics and HEPPs have brought us does not recognise that right. In fact, they operate in the worst possible way. It is okay if you [referring to the state] consult people and get their opinions [in the HEPP process] and then make a bad decision, but even that is not the case. They seek neither public nor expert opinion. In fact, [even] EIA Reports are full of lies. All EIA Reports [in Turkey] are approved...They are copies of each other. Thus, the intention [of the State] is not to have equitable water management and there is no political commitment to ensure it. Even worse, the Ministry [of Forestry and Water Affairs] does not advocate such a[n equitable and participative] policy[-making process].

There are sensitive issues about HEPPs...like the existence of national parks, wetlands, forestry areas which represent actual HEPP sites. I need to inform you that every single river [stream] of Turkey is projected for HEPP development! It raises the question: Do we not have any wetlands or nature protection area or forestry? It is easy to infer that HEPPs do

not consider what needs to be considered in the process... [For example, the] EIA process has...to be conducted prior to constructions... [but] it remains superficial...We see cases in which constructions began without completing the EIA process...In addition, there are people using that water for their livelihoods. They are disregarded too in the HEPP process.

These extracts imply that Turkey’s HEPP processes are not conducive to the components of meaningful participation. The roots of these missing elements in Turkish politics lie in the focus on modernization and modernist legacies. This, in turn, illustrates how the Turkish state perceives meaningful participation in the HEPP process.

As clearly indicated in Bozdogan/Kasaba (1997) and Adaman/Arsel (2005), policy-making processes are inherently centralized and operated with a top-down perspective. This can be seen in Turkey’s HEPP process, as its operation is introduced at administrative level, shown in Fig. 9.1 (see also Ozerol et al., 2013). The operation of the process and the roles of the relevant actors are explained in this section, based on the By-law on Principles and Practices on Signing the Water Use Right Agreements for Electricity Production in the Electricity Market (2003). These operations and roles are also corroborated by the NGO representatives, DSI officials and private sector representatives interviewed for this study.

The DSI, operating under the Ministry of Forestry and Water Affairs, and EPDK under the Ministry of Energy and Natural Resources, can be thought of as the key

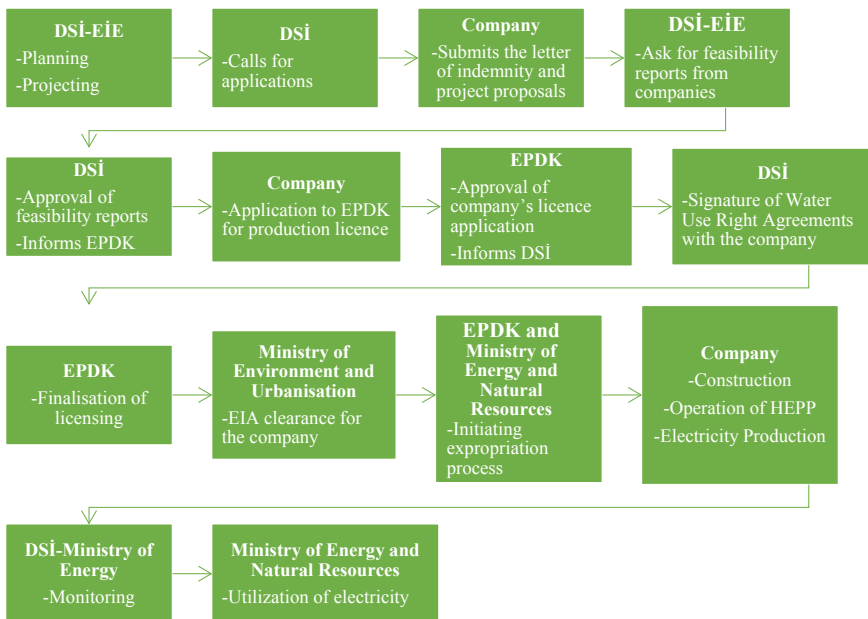


Fig. 9.1 Overview of the HEPP process in Turkey. The author’s own illustration heavily based on 2003 By-law, also described by the interviewees. Same figure appears in the author’s publication (Sayan, 2019)

institutions governing the HEPP process. According to the 2003 By-law and its amendments in the years of 2008, 2013 and 2014, the DSI and/or the General Directorate of Electrical Power Resources Survey and Development Organization (EIE) under the Ministry of Energy and Natural Resources [Elektrik Isleri Etüd Idaresi⁴] initially develop the available projects, and DSI then announces them on its website, where the application process for the companies are detailed (see Clause 5). In these initial steps, companies apply to the projects they are interested in by submitting a letter of indemnity and proving their capacity to undertake the advertised projects (see Clause 6). When completing the applications, the DSI and EIE require applicants to submit a feasibility report for the projects (see Chap. 3 of the by-law, particularly Clause 8). If these feasibility reports are approved, successful applicants are informed that they are qualified to sign a water use rights agreement, and the EPDK is simultaneously informed of this decision (see Chap. 4, Clause 10 of the By-Law). Once this decision is made, companies have to apply to the EPDK to get an electricity generation licence. If the EPDK decides that it is appropriate to issue an electricity generation licence to a company, it then allows the DSI to sign the water use right agreement with the company. Then, the company and DSI sign the agreement, and the EPDK is informed; this finalizes the licensing process (see Chap. 4 of the 2003 By-law).

The application and licensing are not the only elements of the HEPP process. Companies which sign water use rights agreements with the DSI also have to receive EIA clearance (see Clause 12 of the 2003 by-law). The most recent by-law, issued in November 2014, indicates that each project has to receive EIA clearance from the Ministry of Environment and Urbanization before investments and constructions of relevant projects can be initiated. This clearance may be in the form of approval of the EIA Report submitted by the companies or state institutions to the Ministry, which is required for a list of projects named in Annex I of the By-law, including run-of-the-river HEPP constructions with capacities above 10 MW. The ultimate decision is either the “EIA is positive” or the “EIA is negative”. Clearance may also be in the form of the approval of a file introducing the project to the Ministry, which is evaluated by a method of selection and elimination. Here, when a project falls under Annex II of the By-law including small-scale HEPPs (with capacities between 1 and 10 MW), a commission within the Ministry of Environment and Urbanization gives the ultimate decision. This commission may either decide on “EIA required”, meaning that the company has to go through the process implemented for Annex I projects, or “EIA not required”, which authorizes the companies to operate. Projects not mentioned in Annex I and II are not required to go through an EIA process. Other annexes of the By-law refer to the environmental legislation of Turkey, detailing the legal framework regarding the environment that must be taken into consideration by applicants in their EIA process.

⁴The EIE was abolished in 2011, and its duties were transferred to the General Directorate of Renewable Energy, operating under the Ministry of Energy and Natural Resources. This Directorate was later transferred to the General Directorate of Electricity Works in July 2018.

Annex I and Annex II are important, as they define which projects have to go through an EIA process, or a selection and elimination process, while unnamed projects are exempted from an EIA process since their environmental impacts are considered to be minor. In the case of small-scale HEPP developments, according to the 2003 By-law on EIA, projects should go through an EIA process if their capacities are above 50 MW, while those with capacities between 10 and 50 MW fall under selection and elimination criteria. This implies that HEPPs below 10 MW are not required to follow any of these procedures. According to the 2008 By-law, the HEPPs with capacities above 25 MW are required to follow an EIA process, while those between 0.5 and 25 MW have to follow the selection and elimination criteria; the rest are exempted from the EIA. Each by-law overrules the previous one and does not include the projects initiated before its issue, leading to complications in implementation.

These by-laws require compulsory public participation meetings for projects going through the EIA process (Clause 9, 2014 By-law). In fact, the EIA process is the only time when the public can participate in the policy process (including HEPPs). According to the by-laws, the meeting content, date and place should be announced at least ten days before the meeting in a local (or national) newspaper. In addition, the meeting is supposed to be convened in the most convenient place for the local people. The purpose of those meetings is indicated to be ‘receiving the public’s opinions and recommendations regarding the projects’ (Clause 9, Section 1). Accordingly, the recommendations and opinions of the public represented at the public participation meetings is one of the criteria through which the Ministry evaluates the EIA process. If the company fails to provide evidence of the meeting, the EIA process will end negatively, leading them to lose their license and invalidating water use rights agreements, as stated in the template water use rights agreements (2003 By-law).

However, when examining its implementation, it is seen that the framework fails to achieve meaningful participation, confirming the claims of Interviewee 1 and the participants of Group Interview 8. According to a statistical sheet published by the Ministry of Environment and Urbanization (2015b), in the years between 1993 and 2014, 3736 projects under Annex I (not just HEPPs) were given “EIA is positive” status (24% of which were energy projects), while only 33 were indicated as “EIA is negative”. 47,314 projects analysed under Annex II resulted in the decision “EIA not required” (6% of which were energy projects), and 638 were designated “EIA required” for the same period. Another official source, a parliamentary inquiry replied to in 2013 (Bayraktar, 2013), clearly indicates that out of 655 energy projects (general), 274 HEPPs were given “EIA is positive” status, while out of 2588 energy projects (general), 1082 HEPPs were designated “EIA not required”. This response, and other relevant sources, do not clearly indicate how many of the HEPPs are granted the status of “EIA required” or “EIA is negative”. However, the Union of Chambers of Turkish Engineers and Architects (TMMOB) [Türkiye Mühendis ve Mimar Odaları Birliği] report (2011) indicated that ‘none’ of the HEPPs were given “EIA is negative” status. This suggests that the number of

projects subjected to a proper EIA process is relatively small, which makes meaningful participation debatable in Turkey's HEPP process.

Additionally, before companies start to construct power plants, the expropriation process has to be conducted in the cases which require it. This process is governed by the EPDK, while expenses and expropriation fees also have to be afforded by the companies (interview with a company representative; see also Law No. 2942, 1983). To complete this process, the relevant permits for the HEPP construction have to be issued by the governorates and local branches of the relevant state institutions at local scale. Expropriation decisions do not particularly seek the consent of landowners, especially when undertaken under "urgent expropriation" (interview with a lawyer; see also Law No. 2942, 1983). According to Law No. 2942 (1983), landowners do not have the right to challenge an expropriation decision; they are only allowed to challenge the value of their property predetermined by the state/courts. Furthermore, if the lands or properties belong to the State, the company can appropriate it without seeking public consent (see Leblebici, 2012).

After the completion of these bureaucratic steps and during construction of the HEPP, the DSI or private companies assigned by the DSI conduct the monitoring process. The DSI and the Ministry of Energy and Natural Resources are also supposed to undertake routine controls during HEPP operation, as indicated by a DSI official. When it comes to the trading of the electricity produced in those power plants, the Ministry of Energy and Natural Resources offers incentives to companies and purchases their electricity (EIE, 2014). This entire process is depicted in Fig. 9.1, which also briefly demonstrates the responsibilities of the actors involved in this process.

The examination of this general HEPP process (and Fig. 9.1) may reveal that Turkey's administrative traditions have been shaped by modernist notions. The general HEPP process (Fig. 9.1) itself is governed in a highly centralized way, as shown by the case study. For example, potential HEPP projects are prepared and planned in the headquarters of the DSI and Ministry of Energy and Natural Resources (and its affiliated institutions) in Ankara, where companies apply to them and their applications are evaluated and approved (interview with a DSI official). It is obvious that only a few actors are included actively in this process, namely the DSI, the Ministry of Energy and Natural Resources (EPDK and Directorate General of Renewable Energy), Ministry of Environment and Urbanization, and the companies (corroborated by the interviewees cited above). Public participation only becomes part of the process (after the completion of planning and tendering of the projects) during the later stages of the process via the EIA process. However, as demonstrated by the above cases, not every HEPP is subject to an EIA process, which would ensure meaningful public participation. As the capacities of most of Turkey's HEPPs are below legal limits, companies can submit their project files to the Ministry to get "EIA not required" status without engaging with locals, implying the system is operated centrally, minimizing public participation.

DSI officials interviewed for this study confirmed these points in their narratives, and reinforced the above-pictured HEPP process as being the norm. DSI officials

and also the company representative interviewed highlighted the necessity for more involvement of the DSI in the entire process, demanding more centralization. DSI officials, as argued throughout this research, based their claims on the notion that DSI has the best knowledge of water, reflecting modernist notions of rationality and technocratic governance. In these interviews, public participation and bottom-up approaches in water management are ignored, while the knowledge of local people has been criticized; they are not seen as being capable of making meaningful contributions to the HEPP process, since it does not correspond to the technocratic understanding of water management. A long-term employee of the local branch of DSI in Fethiye, for instance, confirmed that HEPPs are actually ‘state projects’, where it is only DSI preparing and calling for companies’ applications. He tacitly admitted there were deficiencies in the way public participation is handled in the HEPP process, but put the blame for this on the companies. He and his colleague said that “if DSI approves a project, it means that it is appropriate”, and implied that DSI officials are biased against public participation, since the projects planned and approved by DSI are considered to be ‘appropriate’. It appears that the meaningful participation of locals is inherently not welcomed in water management in Turkey, and centralized and rationalized technocratic water management is perceived as being necessary. Based on such evaluations introduced by DSI bureaucrats, this also implies the State’s expertise in water management, all of which are consistent with the notions hitherto discussed under the banner of modernization.

Furthermore, these narratives show that these discussions are centred on other modernist legacies, namely national pride and developmentalism (see Adaman et al., 2016). For example, two DSI officials, both of whom currently hold key positions in the DSI, frequently referred to developmentalist and nationalist elements when they justified the operation of the HEPP process in Turkey. They emphasized that the HEPPs and water are our “national resources”, which are “very important” and should be utilized. When they further advocated the HEPP process and its centralized nature, they approximately meant that “if you want electricity, there is a price for that and you have to pay this price”, emphasizing the prioritization of the developmentalist approach in the HEPP process.⁵ Furthermore, another DSI official underlines the importance of ‘national resources’ in electricity generation; he proposes to “obtain the maximum energy we can get out of that”, which holds both nationalist and developmentalist elements. The company representative also implied similar issues by highlighting the necessity to “dam every single brook” to “afford energy needs of Turkey” for economic development. He demanded that state institutions show greater initiative and take more financial responsibility for further planning. These examples and analyses show that the modernist legacies of nationalism, and particularly developmentalism, still prevail in the recent HEPP processes, when their operation is viewed at national scale.

⁵Due to the positions of the participants in this group interview, the interview was not recorded. However, they let me make notes when they were responding, so the quotation is not the exact wording.

They are used to justify the centralized and top-down nature of the HEPP process by these key actors. However, most importantly, this understanding paves the way for the creation of controversial legal frameworks which permit HEPP constructions in sensitive environments and non-inclusive HEPPs. Any action boosting development is justified under these circumstances, in which public consent and participation are not necessarily required to be sought – see key legislation, including but not limited to the Law on Expropriation (No. 2942, 1983), the Law on Resettlement (No. 5543, 2006), the 2003 By-law on Water Use Right Agreements and the 2005 Law on Renewables as well as environmental acts including the Law on Forestry (No. 6831, 1956), providing numerous exceptions which allow construction on ecologically and socially sensitive and vulnerable areas.

9.6 Concluding Remarks

It could be claimed that the non-participative approaches present in HEPP processes come from the modernist legacies of nationalism and developmentalism in Turkish politics. Analyses of the local HEPP process showed that the locals did not accept these modernist legacies, or the non-inclusive HEPP process itself. The Saklıkent case and some others analysed by Hamsici (2010), Islar (2012a, b), and Aksu et al. (2016) also display the fact that locals were against the non-inclusive operation of the HEPP process. The local interviewees demonstrated that they wanted to meaningfully participate in HEPP processes, as these might significantly impact their lives. However, due to the modernist legacies embedded in Turkish politics, a degree of meaningful participation has not been achieved within the official process. This is despite the existence of a relevant legal framework in the Turkish legal system, especially within the EIA by-laws. Instead, in the case studies, meaningful participation was obtained through the locals' own efforts (see Hamsici, 2010 for numerous similar cases in Turkey). This malfunction of the meaningful participation element in HEPP processes can be concluded through an independent local activist's explanation, in which he criticized the entire HEPP process and the administration's reluctance to include local people in HEPP processes, while underlining the will and role of the locals in the achievement of their meaningful participation:

The official part of the story [referring to the State] does not make any effort to protect [people and the nature]. Everything is lumbered on the people who will be affected by those projects. They become their own engineers, their own academics, their own peasants, their own farmers, their own protesters and their own environmentalists.

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