Chapter 4
What Institutions Do: Grasping Participatory Practices in the Water Framework Directive

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4.1 Introduction

Under the Water Framework Directive (WFD), which came into force in 2000, EU member states are required to adapt the institutions that organise their water management in accordance with the model of integrated river basin management (Biswas 2004; Rauschmayer et al. 2009). The WFD introduces river basins as the primary unit of management through a number of formal requirements, such as the drafting and reporting of River Basin Management Plans (RBMPs). In the process in which these RBMPs are drafted, informing and consulting the general public is legally required; whereas active involvement of interested parties is to be encouraged. The WFD—in preamble 14—states that public participation is a key factor for successful implementation:

> The success of this Directive relies on close cooperation and coherent action at Community, Member State and local level as well as on information, consultation and involvement of the public, including users. (EC 2000, preamble 14.)

Consequently, article 14 of the directive calls for the active participation of societal groups:

> Member States shall encourage the active involvement of all interested parties in the implementation of this Directive, in particular in the production, review and updating of the river basin management plans. (EC 2000, article 14.)

Although this is not a *de jure* requirement to organise participation—one can imagine ways of encouraging participation without actually organising it—it is so *de facto* (Rauschmayer et al. 2009), specifically in combination with the reporting requirements stipulated by the WFD. Indeed, in common with most member states, the Netherlands have taken article 14 of the WFD as a strong incentive to design and organise participation: In the years leading up to the publication of the RBMPs in 2010, Dutch government officials have created or modified a considerable

number of participatory institutions in order that they might play a key role in the process of implementing the WFD. During an interview conducted by the authors, the national coordinator of the implementation of the WFD in the Netherlands at the time commented on his own role as follows:

> Every year we have made governmental notes built up by following the line: first, societal groups, then the bureaucratic considerations, and then the political arena. We have organised everything: [the national consultation body], three times a year the sounding boards in the [sub-river basins], and below that the area based processes.
>
> This structure has been fully directed so that it has become unavoidable […] for all the groups to be confronted with [public participation]. We fully staged that in order to drag everyone into the process.

The quote shows that participation had been deliberatively designed to actively involve all societal groups and that considerable effort was made to organise formal participatory processes.

Even so, the organisation of public participation in the WFD has not been viewed as particularly successful by everyone in the Netherlands. An evaluation of the implementation of the WFD in the Netherlands carried out by Delft University of Technology (Ten Heuvelhof et al. 2010) revealed that officials and civil servants were generally positive and believed that societal groups had been listened to sufficiently, whereas most societal groups did not (Ten Heuvelhof et al. 2010, p. 78). Several societal groups (e.g. those for nature conservation, recreation, and drinking water) have felt frustrated with what the participatory institutions offered and sometimes dropped out of participatory processes. This divergence of opinion and experience is remarkable given the effort invested in organising participation. Other than being remarkable, it also raises the issue of legitimacy. When societal groups become frustrated with participatory institutions and do not feel listened to, this can have detrimental effects on democratic legitimacy (Abelson et al. 2003). Furthermore, when societal groups pursue venues outside of formally organized participatory institutions to accomplish their goals, it can undermine the authority of these institutions (Lowndes et al. 2001).

The diverging valuations of processes of participation led us to question to what extent it is possible to design and organise participation that is not only successful in the eyes of organisers, but is also legitimate in the eyes of participants. Research on participation in water management by Cleaver and Franks (2005) has shown that designers and organisers alike often have an unrealistically high level of trust in the efficacy of participatory institutions (see also De Koning and Benneker, this volume). Moreover, institutional approaches to participation can be criticised for a failure to understand the social, cultural and political contexts in which participation takes place (Cleaver and Franks 2005; Fischer 2006). Accordingly, we set out to find out how the design and organisation of participation in response to the requirements set by the WFD affected participatory practices in water management in the Netherlands. To this end, we apply a practice based approach to the design and organisation of participation. We will focus on what participatory institutions do and how the established practices of participants resist being shaped. By drawing on practice theory, we conceptualise the introduction of new (participatory) institutions as more or less deliberate attempts to change different fields of

practice. The disparity that we encounter between the considerable effort invested in organising participation and the negative evaluation of a number of aspects of the resulting participatory processes by societal groups will be fleshed out by showing the tension that unfolds between purposefully designed participatory institutions and the established fields of practice in which participants are situated. We identify three fields of practice, which are (1) the public sphere, (2) the governance network, and (3) the economic sphere, and analyse how or to what extent practices were changed with the introduction of participatory institutions.

The chapter offers a reading of participatory institutions and practices in the context of the implementation of the WFD in the Netherlands at the levels of the nation, river basin, and region. In the following section, we will describe how we understand the linkages between institutions and practices in a practice based approach. Next, we apply this understanding to shed light on the case study that we carried out. The case study is confined to the Netherlands and spans the period from the adoption of the WFD in 2000 up until the publication of the RBMPs in 2010. It addresses both national and regional levels of public participation and was carried out with specific attention to participatory practices. That is to say that we did not follow formal events only, but also examined informal forms of participation. The case study draws on 23 qualitative open interviews conducted in 2008 and 2009, approximately one year after most regional processes had concluded and at the time when the RBMPs were drafted, of which some are cited in the text (see Annex 1). During the interviews the interviewees were asked to give their own historical account of the implementation of the WFD, occasionally being prompted with key events by the interviewer. In addition, the interviewees were asked to give their personal opinion on the implementation process. The interviewees were selected on the basis of their participation in organised participatory processes, presence in governance networks, and snowball sampling. The final section discusses the limits of institutional design. It does so both in terms of the possibility of achieving democratic and governance ambitions by deliberately introducing institutions, and in terms of the extent to which participants view participatory institutions as legitimate. We conclude by offering an answer to the question of whether it possible to 'grasp' participatory practices.

4.2   What Participatory Institutions Do

According to Goodin (1996), institutions serve as collective constraints for individual agents and groups who pursue their respective projects. In addition, institutions shape the patterns of human interactions and the results that individuals achieve (Ostrom 1992). Ostrom (idem) defines an institution as the set of rules that is followed by a set of individuals. These rules impact on incentives, which means that institutions operate in an indirect manner to achieve or frustrate outcomes. In other words, institutions are simultaneously enabling and constraining and are never directly concerned with the output of a project or a policy process, but rather with the practices in which these outputs come about. They work on these

practices by creating spaces where interactions take place and by setting the norms and rules of the game.

Designing new institutions for public participation entails the creation of new spaces where governmental and societal actors can meet (Cornwall and Coelho 2007) and the introduction of new roles (Rowe and Frewer 2005) that imply certain norms and rules of conduct. Thus, designing institutions for public participation entails two major elements: first, creating a participatory meeting place in space and time and establishing its boundaries (for instance, a series of workshops in a community centre); and second, setting up formal, generally accepted roles, norms, and rules of conduct within these boundaries (e.g. an independent chair, unanimous decision-making procedures, the type of stakeholders invited, certain methods for conflict resolution, etc.). However, as in liberal democracies governmental and societal actors usually already have spaces where they interact, and do so according to established norms and rules, participatory institutions do not so much create practices where formerly there were none, but instead can be considered to be an attempt to change existing practices. In order to understand what these attempts imply, we now describe in some detail how we conceptualise practice.

We understand a practice to be an ensemble of doings, sayings and things, situated in, and performative of, a specific field of activity. Such an ensemble has a logic of practice. When we use the term logic, we do not mean to say that such a practice fully conforms to a set of rules, but rather that 'practice has a logic which is not that of logic' (Bourdieu 1977, p. 109). A logic of practice is able to organise the doings and sayings of actors by means of a few generative principles (Bourdieu 1977). Such principles provide a common sense of how interactions take place (Blackmore 2010). As a logic of practice is defined by its practical relation to a situation, it is most often implicit. The situations that define a logic of practice do not occur at random, but are constituted in a field of practice. A field of practice, on an abstract level, is a system of positions and relationships among positions (Costa 2006). Concretely, actors and institutions occupy these positions by creating spaces, assuming roles, setting norms, and following rules. A logic of practice is implied in the relationships between these positions and cannot be reduced to one of them.

A field of practice and its logic unfold in time and space. In other words, actors and institutions are *entwined* in practice (Sandberg and Tsoukas 2011); they do not come into being separately, but emerge and become real in their mutual relationships (Giddens 1984). This gives practice a certain materiality or embodiment which 'tends to guarantee the "correctness" of practices and their constancy over time, more reliably than all formal rules and explicit norms' (Bourdieu 1990, p. 54, cited in Sandberg and Tsoukas 2011, p. 344). In other words, the spaces, roles, norms, and rules that make up a field of practice tend to fit the principles or logic of practice that govern the doing and sayings that make up a practice as such. What is correct in a practice is therefore not so much an issue of truth or the following of formal rules as it is the fit of a practical logic with the field of practice.

Given our understanding of practice, we view participatory institutions as a deliberate attempt to change the structure of positions in the field of practice with

the aim of introducing new principles or a logic of practice. By designing a space where participation take place, new situations are created that reorder the field of practice by creating new relationships between established positions (e.g. of state and civil society, or between business groups and NGOs). Moreover, the devising of roles, norms, and rules of conduct causes positions to shift or new positions to be created. When a field is reordered according to these new situations and positions, the result can be the emergence of new generative principles in the logic of practice. For example, some deliberative democrats seek to create 'ideal speech situations' through discursive designs that create the role of a facilitator who can mediate between actors and thereby change their relationships to one another (Dryzek 1987).

The field of practice in which actors are situated constitutes a meaningful, unfolding totality, and not a set of isolated and abstractly linked variables such as interests, rules, resources, incentives, or goals (Bourdieu 1990; Sandberg and Tsoukas 2011). That is to say that organisers and participants cannot be fully detached from the roles they play outside of participatory processes, nor can participatory institutions provide isolation from the wider fields of practice in which officials, civil servants, and participants are situated. Such fields of practice inevitably entail an uneven distribution of resources and a diversity of interests that are at odds with each other (Costa 2006). As such, a field of practice in which a logic of practice takes shape will necessarily be characterised by different and probably conflicting principles of action, as well as by power inequalities. Therefore, the idea of a universally applicable model of design is challenged by a practice based approach. The variability and dynamics of the fields of practice in which the design is introduced, and the inevitable shaping of this design in the field of practice make each participatory institution unique. Moreover, we see participatory institutions at work in different fields of practice simultaneously, as they cater for different goals.

We identify two main groups of goals of participatory institutions: democratic and instrumental. Democratic goals that are often ascribed to participation include public acceptance, empowerment, inclusion, consensus building, and deliberation (e.g. Beierle 1999; Rowe and Frewer 2000; Webler et al. 2001; Cooke and Cothari 2001; Innes and Booher 2004, amongst others). These goals are often linked to a specific field and logic of practice. They are aimed at extending and improving the public sphere. When we consider goals such as public acceptance and empowerment, then these can be understood to seek to extend the public sphere in the direction of (and sometimes at the cost of) government. Democratisation of the workplace, neighbourhoods, or the educational system are goals long held by participatory democrats (Arnstein 1969). Goals such as consensus building and deliberation are more aimed at improving or transforming the public sphere, by improving the quality of engagement and deliberation by the public (Fung 2003) and by having arguments take precedence over the positions of actors (Calhoun 1993). As such, democratic goals can be seen to direct the design of participatory institutions towards attempts to change the field and logic of practice in the public sphere.

The instrumental goals we identify entail the improvement of decisions and policies, policy efficiency and efficacy, and goal achievement (Lowndes et al. 2001;

Woltjer 2002). These goals direct participatory institutions more towards the role that they can play in strengthening or creating governance networks (Sørensen and Torfing 2005), in the wake of the shift from government to governance (Pierre 2000; Arts and Leroy 2006). They are thus aimed at extending and strengthening governance networks that take on functions that the state is no longer willing or able to take on by itself. The aim of instrumental goals of participation then is to change the role of societal actors from bystanders to active participants in policy making, and from those that are demanding action by the state to partners in implementation. Instrumental goals also include the goals of the participants: to promote their stakes and values given a limited amount of time and energy (van der Arend and Behagel 2011). Participants engage in participatory processes to achieve things that would be difficult or impossible to achieve through their private efforts (Fischer 2006). So they operate in an economic sphere, in addition to a public sphere and governance networks. We will describe the field and logic of practice of the public sphere, the governance network, and the economic sphere in more detail in the following section, and let them structure our subsequent analysis.

4.3 Fields and Logics of Practice

The first field of practice that participatory institutions can be seen to work in is the public sphere—the open, visible space of deliberation and meaning-making where interests and perspectives are articulated, exchanged and confronted, issues are put on the agenda, and public opinion somehow emerges. As a field of practice, the public sphere is characterised by voluntary relations based on shared convictions and habits. The fully established organisations and less organised movements in civil society are a crucial element in the ongoing process of group formation, association, and dissociation that is the public sphere. They often articulate interests, values, and viewpoints before these are explicitly expressed or consciously felt by those they seek to represent. Between stakeholder organisations a continuous game of relative positioning may be observed: an ongoing movement of associating and dissociating. Representative organisations engage in public opinion formation, disagreement, taking sides, forging coalitions without ever coalescing permanently with another organization, seeking centre stage for the interests represented, expanding the group they speak for, etc. All this is led by voluntary association, goal achievement, and public visibility as a key logic of practice.

A second field of practice in which participatory institutions are at work is that of the governance network. Unlike the relationships in the public sphere, relationships in policy networks are characterised by mutual dependencies, by sustained direct interaction between actors, and by a certain level of professionalism (van der Arend 2007). These relationships include lobbying, partnerships, and the pursuit of legal options. A central notion in governance thinking is to conceive of governance networks as foci for a new form of public management: network

management (Kickert et al. 1997). This managerial perspective is closely related to the notion of institutional design of participation. Both work from the assumption that it is possible and desirable to externally design and organise other people's practices. To design institutions for public participation means to create new formal places where governmental and societal actors can meet and where new principles of action (including implicit rules and norms) can be introduced.

A third field of practice is the economic sphere in which participants are situated. Societal groups are organisations that need to efficiently convert resources into results (Mayer 1991, p. 62). Accordingly, participants act according to economic principles of efficiency and scarcity. Participants have to negotiate salaries with their staff, hire affordable office space, choose strategically between their own multiple goals and possible courses of action, and secure their income. Different types of participants have diverging ways to acquire and reproduce the means necessary to represent and pursue their goals. Some stakeholder organisations are operated on the basis of voluntary or obligatory membership, others get the bulk of their income from government funding. In some organisations, most of the work is done by volunteers; others are mainly run by a professional staff. Such differences relate to diverging positions in the economic field, with specific advantages and flaws under specific circumstances.

4.4 The Practice of Participation in the WFD in the Netherlands

Below, we will show how the introduction of participatory institutions during the implementation of the WFD in the Netherlands worked on each of three fields and logics of practice described above. Our aim is not only to ascertain how successful participatory institutions were in changing the logic of practice according to one or more of the goals stated above, but also to provide insight into why participants often undervalued the legitimacy of these institutions. In Sect. 4.4.1 we describe how public participation was designed and organised for the implementation of the WFD in the Netherlands. We then move on to the practices of those who were expected to make use of the newly designed institutions as participants: the employees of NGOs and interest organisations with a stake in river basin management. We will show what the participatory institutions did in the three fields of practice in which these participants were situated. Section 4.4.2 describes how the participants are positioned in the public sphere as representatives of social interests, values, and groups. Section 4.4.3 shows that participants are situated in a governance network in which they engage into the practice of governance. Section 4.4.4 situates the participating organisations in an economic sphere. In each of these sections, the field of practice is described as an ensemble of spaces, roles, norms, and rules with an operational logic of practice. The impact of the participatory institutions on the order of the field and the logic of practice is analysed as it occurred during the implementation of the WFD up until the publication of the RBMPs in 2010.

4.4.1 The Design and Organisation of Public Participation in the WFD

Although the WFD encourages participation, it does not offer a set of prescribed measures to achieve or promote public participation, but only offers a limited set of design choices (Ker Rault and Jeffrey 2008). That is to say that there is no blueprint for the implementation of public participation. In general, the lack of detailed guidelines is inherent to the nature of framework directives, as it is the responsibility of EU member states to implement them. To stimulate active involvement, a number of official participatory institutions have been created in the Netherlands over the years. In 2004, a new structure for intergovernmental cooperation between different levels of government in the Netherlands on water policies was introduced, that mirrored the division of the sub-river basins.[1] It became the primary institutional context for the implementation of the WFD, with the similarly newly created 'Coordination Office of Dutch River Basins' (CSN) as its organisational hub. At this point, the department of Water Works at the ministry of Transport, Public Works and Water Management (V&W) began to put in place the formal organisation of active involvement in the implementation process at the national level. The main participatory institute at the national level was a deliberative body of societal groups (*Overlegorgaan Water en Noordzeeaangelegenheden* (OWN)), which was linked to the junior minister of V&W. The status of this body was to advise on general issues, based on consensus. The same societal groups were also invited to contribute their knowledge in thematic clusters within the structure for intergovernmental cooperation. The civil servants at the ministry did not design public participation at the regional level, as they had no wish to interfere in what they called 'the bottom–up process' of the WFD and the responsibilities and decisions of the lower tiers of government in the country (municipalities, provinces and regional water boards[2]).

Most local and regional governments at the sub-river basin level in the Netherlands began implementing the WFD in about 2005. The officials responsible in each of the seven sub-river basins devised similar structures. The main regional societal groups in a sub-river basin participated in the deliberative body of a sounding board that offered advice on general managerial issues. One level lower, and slightly later, the water boards all set up their own sounding boards, which consisted of societal groups. In 2006 and 2007, the water boards also organised so-called 'regional processes', to discuss and decide upon the regional goals and measures to be reported to the EC in the RBMPs. In total, there were around a 140 of these regional processes in the Netherlands. In most sub-river basins, the main actors to participate were the municipalities. In some cases, local and regional stakeholders were in the same committee as representatives of the lower tiers

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[1] In the Netherlands, there are sub-river basins of four international river basins, the Rhine, the Meuse, the Scheldt, and the Ems. In total, seven sub-river basins exist in the Netherlands.

[2] Water boards (*waterschappen*) are sector-specific regional authorities that manage water quality and quantity. These authorities have the right to levy tax and have an elected board.

of government; other water boards organised separate sounding boards for societal groups.

The three levels at which formal public participation took place showed differences, as well as similarities. The differences between national, river basin, and regional level bodies are mainly in the topics discussed during meetings. At national level, there was scope to discuss a general view on the implementation of the WFD. OWN dealt with the overall progress of the implementation of the WFD and the associated legislation, general measures (such as the appointment of water bodies and the setting of ecological standards), and economic and societal costs. In turn, the sounding boards at sub-river basin level dealt with managerial issues, decisions, and reports. At the regional level of the water boards and the regional processes, participants were mostly involved in the planning of measures. At this level, measures for attaining water quality goals were discussed in terms of their feasibility, cost, desirability, and efficiency. The style of the design of the participatory processes was similar in the three levels of participation, but differed in the issues that were discussed. At all levels, the participants were generally 'the usual suspects': those societal groups that were mostly already taking part in water policy issues. Furthermore, all participatory bodies had an 'advisory' status, which is to say that decision-making power remained in hands of the respective water governors, such as the water boards, the provinces, and the junior minister of V&W. Advice from the national body (OWN) to the junior minister had to be consensual, which meant that all the parties represented in OWN had to agree. The sounding boards at the river basin level were mostly consultative. They were primarily designed to reflect and comment on management plans, and not so much to develop policy. At the regional level, the sounding boards and working groups at the level of the water boards and the 'regional processes' were strongly involved in the selection of water quality measures, although they had no formal decision-making power. The selection of measures was sometimes set up as a joint process, in which societal parties together with civil servants from the water boards and municipalities would identify a set of measures during a number of meetings. At other times, societal parties would work in separate sounding boards. Both types of meeting were usually heavily directed by civil servants from the water boards—who would be present in considerable numbers—or by independent consultancies, depending on the water board in question. Participation at all levels worked on the fields of practice in which the participants were situated, as we will now discuss.

4.4.2 Extending and Improving the Public Sphere?

Organised public participation requires the establishment and design of new public spaces, where new roles (including implicit rules and norms) can be introduced. In the spirit of Article 14 of the WFD, a new public sphere would help stakeholders to do their representational work: to promote the goals of their constituencies in the implementation of the WFD and the drawing up of RBMPs. This spirit may be interpreted in

several ways, such as to empower stakeholders and be inclusive, to promote cooperation between stakeholders, or to foster public deliberation on water quality and integrated river basin management. In the various sounding boards and workshops that formally took place in the process of implementing the WFD in the Netherlands according to these interpretations, a number of issues came up. In terms of empowerment, decision-making power was kept firmly in the hands of the formal authorities in the existing institutional structure: the national designers of participatory processes and their organisers were reluctant to give up their decision-making power. The organisation of participation led to a greater inclusion of societal groups in water policy, but the general public remained all but absent. Accordingly, when we conducted our interviews in 2008 and 2009, many respondents stated that in their view there was no real active involvement of interested parties (let alone of the public).

> Yes, participation in the WFD is threefold, isn't it? Informing the public takes place and so does consultation. But if you consider active involvement, then I still have to say: [Government officials] are not fulfilling that requirement. They do not give body to …the active involvement. (R1)

This representative of an environmental group did not feel empowered to influence decision-making. Interestingly, not all groups that participated considered this to be a problem: the agricultural and business groups in particular stated that they were content with an advisory role. In general, they were satisfied with how governmental authorities were handling the implementation of the WFD and considered themselves to be monitors of the process, rather than active participants. As such, they were comfortable with the position created for them. At regional level, greater participation was possible. The joint search for a programme of water quality measures that was organised by most water boards gave some power to societal organisations initially, albeit informally. Interviewees characterised some of these processes as a good way to secure their interests: they made sure that their interests were mentioned in management reports, and in some cases even wrote text for inclusion in reports. In addition, societal groups (the organisation for water recreation, HISWA, for instance) contributed actively and creatively to the selection of measures. However in most cases, the submitted texts and creative measures did not make it to the final documents:

> And then what happens? Then in the final documents that issue has been moved to the appendix. The whole recreational boating sector is no longer mentioned in the main document; it has been completely removed. (R2)

There were several reasons why the input of some interest groups did not make it to the final documents. In this specific example, it was a result of institutional boundaries between ministries. The ministry of V&W, which handled the WFD, was not allowed to make judgments about boating, as this was the domain of the Ministry of Agriculture, Nature and Food Safety. Other reasons to exclude measures at a higher level were costs and the fear of committing to measures vis-à-vis Brussels. This shows that not only participants but also officials were sometimes uneasy about the reordering of the field of practice by the organisation of

participation. Positions were held tight and leadership of decision-making processes was not relinquished. In such instances, the lack of formal decision-making power led to disappointment among societal groups and eventually reduced their involvement in the organised participatory processes. The principles of empowerment and decision-making based on arguments rather than positions were not shared by all the actors involved and meant different things to those who did adhere to these principles. The possibility for the principle of empowerment of stakeholders to become part of a logic of practice in the public sphere was thwarted by the lack of uptake of the outcomes of participatory processes in formal decision-making.

The principle of cooperation has not been given great attention in the design and organisation of the participation in the WFD. Nonetheless, some design choices have led to more cooperation. For instance, the fact that OWN could only give consensual advice obliged its constituent parties to come to a common understanding. Similarly, the joint search for a programme of measures led to a reordering of the field, in so far that societal groups needed to deal with each other and work together. In the Netherlands, most societal groups are on speaking terms and uphold a certain ethics of 'professionalism' (see Sect. 4.4.3), which means, *inter alia*, that they are transparent about their interests and the actions they take to pursue them. As such, increased cooperation can be explained by the strong institutional constraint that the demand of offering advice unanimously poses and the already existing principle of professionalism. However, the principle of cooperation that was part of the participatory processes did not always transfer successfully to the public sphere. For instance, after a programme of measures had been selected in a regional process and had to be made official by the water board and the province, the following happened:

> After [the selection of a programme of measures] everyone starts to shout and yell and everybody gets mad: nothing should happen in that nature area, LTO[3] and the farmers who live there say. And subsequently the water board says 'there is no popular support' and the province says 'there is no popular support'. Well, nothing happens then in the end. (R3)

The quote shows how a logic of practice was successfully changed in the practice of participation, but that it disintegrated—so to speak—immediately after the participatory process was over, when actors reverted to established principles of representing the interests of their constituencies. These principles proved to be more reliable than the principles that a participatory process could bring.

The degree of empowerment that participants experienced, their positions in the public sphere, and the way in which participants are accustomed to pursue their interests largely determined how at ease they felt with the positions offered by the newly designed participatory process, and this also influenced how willing they were to be part of such a process. Differences between participants can be ascribed to diverging interpretations of the spirit of active involvement, and also to how well the spaces and roles that participation offers match the field of practice in

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[3] Dutch Federation for Agriculture and Horticulture (Land en Tuinbouw Organisatie).

which participants are situated. Sometimes, participants have the same expecta-
tions, and sufficient institutional restraints and incentives are put in place to reorder
a field of practice to such an extent that its logic changes, as was the case with
increased cooperation. But more often, the goal of extending and improving the
public sphere through principles of empowerment and deliberation failed, as both
governmental and societal actors felt more at ease interacting from their estab-
lished positions. Participatory venues could change the field of practice tempo-
rarily, but could not be said to successfully transform the public sphere. In the
entwinement of practice, the practices that constitute a public sphere depended not
so much on design choices but rather on the pre-existing logic of practice.

4.4.3 Changing the Logic of the Governance Network

As actors and institutions are constituted only in the entwinement of practice, the
very existence of stakeholders and representatives indicates that they already 'do
and say' according to a logic of practice. This section illustrates how a logic of
action in a governance network hindered the workings of the meeting places
organised in the WFD. Despite their already overwhelming number, the formally
designed participatory events were definitely not the only meeting places where
governments and stakeholders discussed the new EU water policies and plans. The
governance network in which decisions about the WFD are discussed and influ-
enced was not as clearly demarcated to a specific time, place and sector as the
institutional design of participation assumes. Although it had a certain unity, it was
made up out of nested and overlapping networks that spread through time and
place, and covered several policy fields. At regional level, the major, broader field
of practice for our interviewees was the regional network where civic and gov-
ernmental policy professionals discuss and negotiate planning issues in general;
i.e. the entire range of policies regarding water, environment, spatial planning,
nature, economic development, housing, agriculture, and so on. At national level,
the network seemed slightly more confined to the separate policy issue of water, as
water is more closely linked to a single ministry and field of expertise.

In the interviews on participatory practices, representatives of societal groups
mentioned many other places where they tried to exert their influence on the WFD
implementation. These places differed from the newly designed participatory
places in that they were either informal, not clearly demarcated or not newly
created, or all of the above. To most NGOs, some of these informal, blurred, and
pre-existing places for participation were more important and more effective to
further their goals than those formally designed for it. This employee of a regional
nature organisation told us:

> We focus specifically on the people who hold the pens, the people who write these WFD
> plans. […] For instance at the water boards, in the end it is they who write the River Basin
> Management Plans and the Programmes of Measures. Well, we succeeded to contribute a
> lot to the Programme of Measures for the WFD. […] Like Natura 2000, the WFD is an

enormous circus. [At the formal meetings] half the day is spent explaining the directive, because at each meeting there are always new people, time and again. So at one point we said: this is a waste of time, were not going there anymore. Because we just want to communicate our preferences directly. (R3)

In other words, the spaces for public participation and the roles such participation offered did not link up with the logic of practice in governance networks on how to influence policies and plans. Likewise, employees of societal groups used and expanded their contacts in the municipal councils, the water boards, and other groups, to influence the implementation of the WFD. Others worked directly with individual farmers to make covenants to carry out specific water quality measures on their own land. That is to say that these parties continued to perform the logic of practice that they were accustomed to.

The same set of key stakeholders and decision makers in a region or in a broad national policy field encountered each other and interacted frequently on many occasions, both formal and informal. One of our respondents related how people influence the political agenda informally and come to define formal policies:

They meet at a party and tell each other: I have this problem, I am annoyed by that issue. And they pull out their diaries, and plan an informal meeting, like: we should discuss that issue one day. […] A small group of three, four, five people, key figures, meet each other two, three times at a social gathering. And two or three times they hear: I'm working on this issue, or I've got a problem with that issue too. And then, at some point they have the same sense of urgency, and they find a moment. And then it takes place not at a party, but in a meeting room. In the corridors [at the social gatherings, parties, etc.] they test the water [to find out] what the problems are. And when several organisations have a shared problem, then they start with informal meetings. […] And then they give it a name, like: we'll call it a covenant meeting. And sooner or later this word shows up in a newsletter, and government gets to know about it, and they pull up a chair as well. And that's how it gets a life of its own. And then at some stage it is official. Then it is a policy. (R4)

Certainly, this description of the policy process is not new. Policies have come into being like this for ages. That does not mean that the informal institutions in such networks are universally agreed upon or invariable. For instance, this same respondent said how much she welcomed the fact that the relationships in the networks in her region were slowly becoming less personal and more professional. In the words of Bourdieu, they were becoming 'objectified' (Bourdieu 1977, p. 187). With this picture of governance networks in mind, one comes to understand the limited efficacy of designing spaces for participation. What can be designed is formal meetings, where decisions are made public and official. In many ways, however, these decisions have only a limited impact on the logic of practice by which things are said and done.

The main thrust of instrumental goals of improving decision-making, policy efficiency, and goal achievement is for participatory institutions to introduce new roles for participants to become active in policy formulation and partners in the implementation of measures, thereby changing the logic of practice in that field. Accordingly, preventing other participatory activities was not an aim of the ministry of V&W either, as it explicitly stated that, next to the officially organized meetings at

the national level, "the NGOs involved were free to use other channels available to them to advocate their interests" (Ovaa and Ottow 2006, p. 8). Societal groups did indeed often act as active partners in governance, but according our respondents this was not so much the result of participatory institutions. Much more, it was an existing practice that was made up of roles, rules, and norms that could not easily be practised in participatory processes because of the alternating composition of parties that participated in and the largely informative set-up of the meeting. Nonetheless, the spaces for participation were conducive to increased and professionalised interaction between societal groups themselves and between them and government (national, provincial, or local). They provided space for interaction and could formalise the input of participants. As such, the logic of practice of a governance network does not mainly consist of the rules and norms in the books of administrative law, or of the consensus-based roles in the formal participatory exercises. Rather, it is couched in a field of practice that has informal rules of engagement in the networks of people with relevant positions in administrative, political, public, and civil organisations.

4.4.4 The Economics of Participation

Goal achievement is a major issue for any stakeholder. If societal groups cannot publicly exhibit their activities directly, they should be able to present solid results of what they do to their constituencies. This is not only a matter of accountability or representation, but also of creating resources by securing funds or time from members or obtaining subsidies. These resources need to be spent economically. The great number of participatory processes surrounding the implementation of the WFD in the Netherlands did not match well with the capacities and resources available to participants. A frequently heard comment was that there were simply too many participatory processes. Most societal groups found it took too much time, effort, and knowledge to participate in all the participatory sessions organised. One of the respondents described this vividly:

> During the participatory processes a lot of parties dropped out […], also because it was all very technical—the information you receive—and it's all during working hours. And there is also no remuneration: you have to pay for it yourself. […] In the end it was only us larger parties. […] I asked VNO–NCW[4] to join, but they could not manage that in terms of staffing either, because there were so many regional processes happening simultaneously. (R4)

The WFD implementation process totalled over 150 distinct participatory bodies which met frequently and put great pressure on societal groups. Most groups were invited to participate at every level at which participation took place, and it was not uncommon for one individual to attend the national deliberative body as well as multiple sounding boards connected to the sub-river basins.

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[4] The Confederation of Netherlands Industry and Employers (VNO–NCW).

Similarly, some of the people who participated in the water board meetings and the regional processes also participated in the sounding boards of the sub-river basins. These overlaps can mainly be attributed to the fields of practice in which participants were situated before participation in the WFD was introduced: many societal groups engage with government at national level in order to further their goals and simply do not have many employees. Consequently, water policy is usually not the only issue that these individuals need to address:

> For those business organisations [to participate in all meetings] is just very difficult, because it is just a part of your workload. And, regrettably, a small part at that. There are so many different subjects about which you need to know something because there is no more capacity within your organisation. (R5)

Public participation started relatively late, especially at the lower level of water boards. As most participatory meetings at this level focused on programmes of measures, many events had to take place in a relatively short time period. The sounding boards of the sub-river basins were also pressurised by the high pace of the WFD implementation process. As a result, large amounts of information were circulated just days before sounding boards would meet, which meant that those who lacked the time or knowledge to process the information were unable to participate meaningfully. One respondent (R6) described this pace as 'killing'.

The complexity of the WFD exacerbated the difficulty for societal groups to participate in a meaningful way. According to the national coordinator:

> The inner circle, those who are directly involved in the implementation of the WFD, consists of about a hundred people, within the Netherlands. The next circle of people already has a lot of trouble following the process. (R7)

Indeed, the WFD is so complex in terms of ecological goals, monitoring requirements, and administrative demands, that it became very difficult to comprehend for people who are not involved with it daily. According to one respondent (R8), not even the governor of the water board could keep up, so how could stakeholders, let alone the public? In this sense, complexity issues had their effect on the capacity issues of societal groups as well. Although most groups have local departments or affiliations, these lower-tier organisations were mostly unable to cope with the level of knowledge required. What was more, discussions floundered in complex issues that no one could really make clear sense of. The question of whether the WFD set 'obligations of intent' or 'obligations of result' became extremely contentious in the Netherlands (see Behagel and Turnhout 2011). It occupied elected officials, civil servants, lawyers, and interest groups for years, without ever resulting in a common understanding. Fear of these 'obligations of result' resulted in many policy measures that had been proposed by interest groups being left out of programmes of measures. So, complexity not only led to unease among participants, but it also negatively reinforced the attempt to establish a new logic of practice in participatory processes. Ignoring the measures proposed during participation caused frustration, especially in environmental groups, and subsequently diminished their involvement.

This section shows that public participation in the Netherlands needed to draw on a highly skilled and thoroughly organised civil society in order to be meaningful. Such a civil society was not equally developed at all levels, and nor could it be, given the confines of the economics of representation. This is not surprising if we consider that the societal groups were shaped in the entwinement of the positions they already inhabited and the principles they were implicitly following. Groups accustomed to lobby at national level, such as VNO–NCW, could successfully participate in national venues, but did not have enough staff to send delegates to the regional meetings with the water boards. Groups more concerned with representing values and having a high public profile, such as the environmental groups, were present at many levels and thus had to deal with an enormous amount of work and complexity. Capacity issues overloaded civil society in general and reduced the impact that participatory processes could have had on the logic of practice of participants. As the participants realised that it was unlikely they would achieve their goals in the participatory institutions of the WFD, they did not wholeheartedly inhabit the spaces and roles that these venues offered.

4.5 Conclusion: Grasping Participatory Practices

Our analysis shows that fields of practice are not level surfaces, but are very uneven terrains with a diversity of positions and outlooks that cannot be smoothed out by participatory institutions to create a level playing field for all participants. Indeed, the impact of newly designed institutions in such terrains is uneven, and often reproduces or skews the existing positions and roles in a field of practice. Moreover, the way in which different spaces created by the design of participatory institutions were suitable for participants to pursue their goals depended highly on the different practices that participants were entwined in. Additionally, some positions created by the reordering of a field of practice were more acceptable to some participants than to others.

In general, we have seen how the design of participation can fail to take into account the existing field of practice in which participants are situated, and that this reduces the impact that the organisation of participation can have on the logic of practice that participants are engaged in. A failure to empower participants diminished the possibilities for participatory institutions to make a real impact on the principles that govern how actors interact in the public sphere. Furthermore, the roles offered by participatory institutions did not align well with the existing logic of practice of the governance network. Although the spaces created by participatory institutions were conducive to higher modes of interaction in the governance network, they mostly offered formalisation of interactions in the governance network *ex post*, thereby attracting attention away from the main forms of political action that societal actors engaged in (Fischer 2006). Like all formal, public meetings on policy, a public participation event is only the final act of an emergent, yet carefully nurtured process of informal 'decision making' constituted by a logic of practice that is

stronger than the incidental design of official places, norms, and rules that are enacted during a limited number of formal participation meetings. Another major factor contributing to the impact of the newly introduced participatory institutions was the huge strain they put on the resources of participants, making it difficult for them to meaningfully engage in the policy process. Consequently, many participants shunned the participatory venues and instead continued to influence policy making within the logic of practice they were accustomed to. As such, the institutional design and organisation of participation seemed to be no more than a semi-conscious effort to change the ordering of a field of practice and the logic of practice that participants follow.

The introduction of participatory institutions was convincingly incentivised by article 14 of the WFD and succeeded in that many occasions for participation were available for participants, and societal groups attended these events. But the democratic and governance ambitions that are often associated with the introduction of participation were less convincingly present in the design of the participatory institutions, and neither did they amount to a considerable change in the practices of participants. The various normative and instrumental goals proved partly contradictory and can be seen to require trade-offs. For instance, being inclusive of a wide range of societal actors was experienced as hindering decisive action in governance networks. But the informal lobbying strategies that are accepted ways of interacting in a governance network were equally considered to infringe on the democratically selected measures in regional processes. Moreover, by placing too much strain on the resources of participants, neither democratic nor instrumental goals were likely to be met. The result of all this was that participants became frustrated and disappointed in what participatory institutions had to offer.

The disappointment of many societal groups in the participatory institutions of the WFD has seriously harmed the legitimacy of the institutions, and possibly even the entire WFD implementation process in the Netherlands (Ten Heuvelhof et al. 2010). In academic literature, legitimacy is generally conceptualised as consisting of two dimensions: acceptance and justification (Bernstein 2011; Behagel and Turnhout 2011). Acceptance as legitimacy usually refers to the outcomes of policy making, but can equally be applied to the rules of policy making and the institutions that play a role in this process. In this respect, the participatory institutions of the WFD in the Netherlands do not score very high in terms of legitimacy. We can trace this low level of legitimacy to the mismatch between the spaces and roles that these institutions created and the field of practice that participants are situated in. Justification as legitimacy depends on the actors' goals and on whether actors see these as worthy of aspiring to. Here, the survey of Ten Heuvelhof et al. (2010) reveals a more mixed picture. Actors who were comfortable with the logic of practice in the governance network considered participation mostly from an instrumental perspective, and although there were some mismatches with their field of practice, did not judge it negatively. Those who sought empowerment and transformation of the public sphere were less satisfied, as on the one hand the design of the participatory institutions left them wanting in terms of empowerment, and on the other hand the limited impact of participatory institutions on the public sphere could not realistically bring about a

turn towards deliberation. Our focus on practices shows us that legitimacy cannot be achieved by design alone. For instance, participation that is more specifically tailored for a single purpose, such as strengthening democracy, is likely to erode the enthusiasm required for participation, policy making, and improving water quality, as it leaves less opportunities to engage in the accustomed and reliable interactions of the governance network.

Neither the designing of participatory institutions that specifically cater to a certain set of norms and goals, such as 'empowered participatory governance' (Fung and Wright 2001), nor the providing of 'recipes' for the public sphere (Fung 2003) is as interesting as discovering how an existing logic of practice is already available to build upon. Rather than trying to accomplish lofty democratic ideals by a standard recipe, or to pragmatically grasp all the potential of governance networks to further the instrumental goals of improving water quality, it would be more in line with our understanding of participatory practices to approach participation from a more open starting point. Allowing various actors to engage with each other in the ways they are accustomed to and building on and incrementally transforming established logics of practice promises to be a more productive way of actively involving societal groups in policy making. Like all meetings, any new event can be a breeding ground for new informal contacts and relations, producing new informal institutions and outcomes, and leading to new ways of doing and saying. As such, the democratic and instrumental value of direct, informal contacts between governments and civil society, however opaque, conflict-ridden and asymmetrical they may be, should not be underestimated. They can help us trace and understand participatory practices and the ways in which they are impacted by newly designed participatory institutions. Thus, the notion of participation as practice opens up a mode of research that to us seems much more interesting and challenging than a generic, criteria-based evaluation of formal participatory institutions (as for instance proposed by Chess and Purcell 1999 or Rowe and Frewer 2000). Those who ascribe all the outcomes, successes and failures of public policy making to institutional design and the formal spaces and roles of decision making, fundamentally misunderstand the nature of policy practices and will be groping at participation, not grasping it.

A.1 Annex 1: List and dates of interviewees cited in this chapter (all interviews were in Dutch and have been translated by the authors)

R1: A spokesperson for *Natuur & Milieu* (an environmental organisation), 31 June 2008.
R2: A spokesperson for *HISWA* (the organisation for the Dutch water sports industry and water sports enthusiasts), 17 July 2009.

R3: A spokesperson for *Stichting Het Zuid-Hollands Landschap* (a provincial landscape protection foundation), 8 April 2009.

R4: A spokesperson for *LTO Glaskracht* (the platform for greenhouse horticulturists), 17 April 2009.

R5: A spokesperson for *Bouwend Nederland* (an association for the construction industry), 9 April 2009.

R6: A spokesperson for *Stichting Reinwater* (a foundation fighting water pollution), 15 April 2009.

R7: National coordinator of the WFD in the Netherlands, 2 July 2008.

R8: A spokesperson for *Milieufederatie Zuid-Holland* (a provincial environmental organisation), 7 April 2009.

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