

INTRODUCTION TO PUBLIC PARTICIPATION AND OUTREACH IN THE ENERGY SECTOR

Taking Power: Social Dynamics of the Energy Sector

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This paper has two purposes. The first is to draw attention to the multiple ways in which the term “public participation” is used in development discourse, and to the cross-purpose sorts of discussions that so often ensue. The second is to exhume the functions that this ambiguity has played, and suggest that its usefulness has reached a limit.

Almost everybody in the energy sector agrees that public participation is important. Whether the private sector, the government, development agencies or NGOs, it is not difficult to gain consensus on this point. But how much agreement – or even clarity -- is there about the definition of either of those terms – “public” or “participation”? Usage of these terms, both separately and as a single term is bound up with disparate meanings and motivations, and ultimately is derived from quite discordant political-economic discourses and governance philosophies.

The term “public participation” is embedded in the discourse of “good governance”. Together with “rule of law,” “transparency” and “accountability,” “public participation” is an aspect of a broader project to create governance structures that are “sustainable”. That is, that articulate the interests of multiple “stakeholders” and that enable functioning “markets.”

I want to argue that that both “public” and “participation” are multivalent terms. For the NGO community, the public is conceived as a citizenry that would have a role in shaping the policies and laws of their states, including those that guide reform, restructuring and development projects having social and environmental impacts. In this sense, civil society is a component of a political structure in which citizens have both power and access to power. These governance principles have been most clearly articulated in Principle 10 of the Rio Declaration, in terms of access to information, decision-making, and justice. Since Rio, civil society organizations working to implement Principle 10 have expanded their work to include international financial flows, infrastructure, and development more generally. For these organizations, public participation means participation in decision-making processes and the power to ensure that the law is enforced. Both of these forms of participation depend on transparency in governance institutions and in the private sector.

Meanwhile, in the thinking of many energy sector institutions, including ministries and utilities, governance is shorthand for corporate governance: the system by which business corporations

are directed and controlled. It spells out the rules and procedures for making decisions on corporate affairs, and the participants are corporate participants: usually, the board, managers, and shareholders. Good governance is considered necessary for the running of the sector according to commercial practices, and it is with the aim of increasing investor confidence that these practices are instituted. Corporate governance also includes principles of transparency and accountability, but in this context the accountability is to primarily shareholders, not the general public. To the extent these principles apply to the general public, it is to the public as recipients of a service -- as consumers, or even more narrowly, as customers. If the public is important, it is because it is they are ultimately the source of revenue. The involvement of the public is thus understood to be, first, the need for customers to acquiesce to the higher tariffs that have been integral to restructuring, and second, the right of customers to receive adequate service. In this construction, then, participation implies the payment of bills in exchange for service. For utilities, the relevant mechanisms that make this type of relationship work are not decision-making processes, but channels for communicating customer dissatisfaction.

To a certain extent, this model of the public as customer base has been adopted, even promoted, by the development community. Assistance from donor organizations like USAID have focused their efforts to improve public awareness and participation on social marketing campaigns to educate the public about the necessity of the reform program, and training managers in the principles of customer service and doing “outreach” to educate the public about customer rights and legal channels of complaint. Many of the speakers here will share with you their approaches to customer education, from conceptual frameworks to case-studies, to practical tools.¹

But are these efforts sufficient? Are the complaints of “the public” in developing countries actually the complaints of consumers? Led by World Bank efforts to restructure the energy sector, developers have had to confront serious civil society opposition, including street riots, the burning of utility offices, and even assassination of utility managers. Can these protests be addressed by improving customer service? And is this resistance simply a resistance to paying the higher tariffs associated with commercialization or privatization?

Looking at what critics of restructuring in particular countries have to say, the answer to these questions seems to be “no”. Going far beyond protests about price-hikes, we find charges of unsustainable power purchase agreements between the governments of developing countries and foreign energy companies (e.g. Enron in India), of revenues that disappear in a web of corruption (e.g. Georgia), and of inflated mark-ups and technical inefficiencies whose costs get passed on to the consumer (e.g. Indonesia). I would argue that in cases such as these, acts of resistance are not instances of facile protests of higher tariffs, but rather critiques of governance problems that need to be addressed before rates can be raised and subsidies phased out. What is being demanded here is accountability to the public, and a space for political inclusion.

NGOs are demanding to be a part of the solution – to have access to decision-making processes and an oversight or watchdog role over the way the sector is run. They argue that civil society has an intrinsic role in a well governed sector. To play this role, however, requires an

¹ Bill Smith: “Social Marketing, Communication, Education and Public Participation”; Brian McCotter: “Communication and Customer Service for Successful Energy Sector Reform”; Y.G. Muralidharan: “Customer Service and NGO Capacity Building in Karnataka, India” (paper delivered by Omar Hopkins).

organization of the sector that is democratic as well as commercial, transparent to the public as well as within the corporation. The sector must be able to make available data and documents for civil society to develop independent analyses; it must open its decision making processes to public input; and the judicial system must offer a form of redress for violation or failure to implement the law.² Good governance in this sense is more than corporate governance – it is democratic governance, and the principles of transparency, accountability, and rule of law have relevance for the participation of citizen stakeholders as well as corporate stockholders. That is, the sector as a whole needs to be accountable to its citizens, just as private companies need to be accountable to their shareholders. So in this sense, the terms “accountability” and “transparency” also are being used in different ways by different stakeholders. The question is, where is the nexus of these terms? Do they converge at all? Is there a way for the private sector to be accountable to the public?

In fact, there are energy sector institutions which offer a potential nexus for consumer and citizen concerns. U.S. regulatory commissions offer an example of an institution that provides space either for direct public participation or through representation of the public interest. In a 2003 publication entitled “Democracy and Regulation”, Oppenheim, MacGregor and Palast argue that it is this space for public input and oversight that accounts for the relative health of the power sector in the U.S., which offers excellent service for low prices.³ But, the authors point out, this approach to regulation is neglected in the type of TA we offer to other countries. Assistance has favored the technical aspects of building an enabling environment for investment, downplaying the role that public input and political legitimacy play in providing such an environment.

In another paper, Peter Bradford has outlined a continuum of roles the public should play within a regulatory body. These range from representing individual customers complaints, to advocating for the collective interests of consumers, to citizen participation in making and enforcing decisions. We could do more, then, in terms providing assistance to build public participation in regulatory bodies.

For this potential to be fulfilled, however, the legislation defining the mandate of the regulator and the way it will function (including funding) needs to provide for public involvement. This suggests that public input be sought even before the regulator is set up. In a sector beset with structural problems, and in which major decisions about restructuring need to take place, the role of civil society could expand beyond consumer advocacy to a more thorough involvement in sector governance. In this symposium we will hear about experiences with trying to access information about and participate in the development of legislation, and with using the legal system to enforce that legislation.⁴ These are areas where civil society organizations are pushing the envelope with their governments, private investors, and donor agencies, and where we need to develop better frameworks for how to address these claims.

How then, do we go about developing multi-stakeholder forums to make progress on this issue?

² See: Panel 1: Public Participation as a Matter of Access; Divaldo Rezende: “Public Engagement in Hydropower Development in Brazil.”

³ Democracy and Regulation, Pluto Press, London, 1993

⁴ Panel 3: Public Participation and Regulation.

Until now, it has been possible for different stakeholders to talk about public participation without feeling that they are buying into a discourse at odds with their goals. In this sense, ambiguity has been useful. The result is that different approaches to public participation have been elaborated, and to the extent that these approaches have addressed different but real problems, this multiplicity has been welcome. But the use of one term to talk about different concepts has also side-stepped important differences in political philosophy. And this gap has provoked a talking at cross-purposes that has not been productive, and that on the contrary has made constructive multi-stakeholder forums all but impossible.

Let me be clear: different positions and different interests are inevitable. But we need to be speaking the same language in order to negotiate. I'd like to give two examples how this plays out. The first collision has to do with discordant understandings of democracy itself. The second has to do with how much citizens want to be involved anyway.

So first, democracy. For those who understand democracy to be primarily about elections and voting rights, the democratization of energy sector institutions seems absurd. It supposes that each citizen should have the right to vote on each energy decision – an unworkable position which nobody would advocate. This straw man nevertheless precludes a discussion of how a democratically run sector should function. That is, it precludes a discussion about which types of decisions need public input and at what stage, what sort of data is public information and what is legally confidential, the role of civil society in advocating and enforcing laws. From a development perspective, it also precludes discussion of how to build the capacities of decision-making institutions to accept input and the capacities of the public to develop informed positions. So, if there is one thing I would like to come out of this symposium, it is a grounded understanding of what is meant by democratic governance of the energy sector. Confusing democratic governance with voting should simply be unacceptable.

If not voting, then what? A major issue here is the inability to imagine how power-sharing might work. There is a fear that opening up the decision-making process to the public would hand power to a citizenry that lacks the appropriate technical expertise. The technical complexity of the sector is an oft cited reason for not including civil society in decision making. This is a real issue that several speakers in this symposium will address.⁵

The second gap in assumptions I would like to talk about concerns assumptions about how much citizens want to be involved anyway. When really pushed as to why the sector is so slow to involve the public, some energy sector practitioners will say something like: the public has no interest in participating in energy decisions – they just want the lights to come on. Some will point to public hearings in the U.S. – “be real”, they say – “how many people go to those anyway”? Well when the sector functions well, it makes sense that there would be little relatively limited interest in getting involved. But what if the lights aren't coming on? More to the point, it has been argued that the proper functioning of the sector is due in part to a governance structure that includes public interest representation. And when the U.S. system does break down – as in the California power crisis, or in the more recent black out in New York, or the even more recent Hurricane Isabel in the DC metro area the public is astonishingly quick to mobilize. And, people

⁵ Doug Sarno and Tisha Greyling: “The IAP2 Spectrum”; Crescencia Maurer: “The WRI Access Initiative Toolkit.” Bodhi Datta: “Building Capacity with NGOs and Consumer Groups”.

do not flock to customer service with their complaints. Yes, they will call that number to report their outage and to get their service restored, but they intuitively know that the underlying problem has to do with policies and governance (in the case of California and New York, the underlying issues were the politics of deregulation and the way decisions about deregulation were made), and the press and all manner of political groupings (not only consumer organizations) are quick to weigh in with analyses and critiques. Had service not been restored as soon as it did, I am sure nobody would doubt that energy would become a major political topic which could easily mobilize the average person whose lifestyle and business depends on electricity. In these examples, then, we can see how the public slides along the continuum of customer – consumer – citizen activist, as the crisis grows. These are shifting constructions of “public” and “participation” that come into play at particular political-economic moments as “publics” actively redefine themselves.

In the developing world, then, where the power system has not reached or is failing large amounts of people, there is a heightened interest in the power sector. In this context, the subject of electricity is a constant one, and the continuum of political involvement is much more vibrant than one would imagine. And in fact, even those citizens least interested in, or having the least time, to participate in public debates or advocacy movements, even those become involved in addressing their power problems in a subaltern sort of way. These are people who literally take power by hooking themselves up to the grid, or affiliating themselves with pirate resellers, tampering with their meters or paying off the meter reader to do so. Either way, when policy fails, and the system does not work, people get involved in finding a solution, whether through legal channels or those of their own devising.

The need to acknowledge this vitality is made pointedly manifest in the case of slum electrification. Slums are avoided by electric utilities. They are not attractive investments – people who live there generally cannot afford the connection charges and the neighborhoods are considered dangerous for meter readers and maintenance technicians. When programs have been devised to bring services to slum areas, it is traditionally the utilities that have worked out special tariff rates, subsidies for connections charges, and prepayment smart cards and other technologies to safeguard against non-payment, vandalism, theft. But slum and shack dwellers are not passive consumers waiting to receive service. They have taken power for themselves in all sorts of creative ways, including underground bypasses and blackmarket distributors, and in fact most slums ARE electrified, just not by way of the utility. That is in fact one of the motivators for utilities to find a solution for providing service to slums, in order to limit “non-technical losses” – that is, losses incurred by electricity that is consumed but not paid for, or at least not paid to them. Other slum and shack dwellers are taking a civic approach. They are active in community organizations that are pressuring municipal officials for infrastructure upgrading projects. But their approach has been one that is committed to retaining control over projects and resources, including providing their own physical installations, taking charge of collections, and slowly negotiating with municipalities to regularize ownership of their dwellings. This is a different vision of governance and governmentality, in which a population has resisted traditional forms of “payment discipline” and is instead working out new strategies of cooperation and pressure tactics.

USAID has recognized these initiatives, and is in the midst of a study that will document innovative approaches to slum electrification in which people are not merely recipients of services but are an integral part of devising solutions. Several presentations in the symposium will deal with this issue.⁶ The same is true for citizen engagement in privatization and restructuring of the sector. AID is grappling with developing conceptual frameworks that encompass the full range of public involvement – from communication to advocacy -- and to develop programs that bring together the practices of multiple stakeholders. In order to do this, though, we need to pin down the words that keep moving around: “public”, “participation”, “accountability”, transparency” (and so on) and tie them to particular institutions and decision-making mechanisms. We need to be clear about which stakeholders we are talking about and what type of participation each can expect. Until we do so, we will continue talking at cross-purposes with each other.

Our vision of public participation is transforming from a development strategy into an issue in its own right. This symposium brings together most of the participants in this effort so far, and our hope is to make everybody aware of the full elephant. This is a sort of watershed moment in our evolving program, and we are looking forward to everybody contributing to move it forward.

⁶ Panel 4: Grassroots Efforts and Top-Down Inclusion: papers on slum electrification in India and Brazil, and forthcoming USAID study on Slum Electrification.