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The Amsterdam-Paris High Speed Railway Line: A Critical Review of Public Participation and the Role of the Dutch State Administration

Joren Jacobs

Translated and revised from an essay written in 2006

1. Introduction

This article will review part of the decision-making processes for the Dutch stretch of the High Speed Railway Line between Amsterdam and Paris (henceforth, 'HSL-Zuid'). There are many dimensions to this case; political, concerning the European integration process, the fragmentation of agricultural or natural landscapes (e.g. the Dutch 'Green Heart'), car and air traffic reduction, and many more. This analysis focuses mostly on public participation, more specifically on public consultation which, in Dutch, is called 'inspraak'. Inspraak is seen as an essential part of the democratic ideal of legitimate decision-making, enhancing that legitimacy, and thereby increasing the 'democraticness' of the decision-making process.

With international prestige projects like the HSL-Zuid, it will however be important that decision-making is conducted in a somewhat progressive way. Moreover, being of great economic importance, delays may cost millions of guilders (and now euros). Involving citizens in the planning process will imply such risks. However, there is no alternative. The law prescribes public consultation, in addition to an environmental impact assessment, as part of procedures for planning and building so-called main infrastructure. To what extent is this a durable situation? This article will attempt to answer that question by analyzing how the Dutch administration has dealt with public consultation in the HSL-Zuid case.

In the course of the analysis, it will become clear that not only public consultation obstructs a quick project realization but also the parliamentary debate and plan approvals. Both the speed of public consultation as well as political debate and decision-making can be manipulated or influenced by the administration, in this case by the Ministry of Transport, Public Works and Water Management (Dutch: Ministerie van Verkeer en Waterstaat), which is the primary planning agency. These processes can be 'smoothened', for instance, by selective plan preparation or by keeping out certain aspects from the decision-making process whilst presenting politicians with a deliberately chosen set of options, suggesting a degree of exhaustiveness which does not actually exist. At this point, we touch upon the discussion about the tension between democracy and technocracy. When the power of initiative is granted to the administration (the Ministry of Transport, Public Works and Water Management)

because of its technical expertise, one might speak of technocratic governance. Such a situation may conflict with democratic ideals, which are inevitably present in people's expectations of public consultation (inspraak) as well.

Importantly, this is not to suggest that the HSL-Zuid is a bad idea or that politicians have dealt with it in an absolutely wrong way. The framing of this article in terms of democracy versus technocracy is deliberately chosen, firstly, to indicate a constant tension inherent in the way modern western states operate in major projects that are both partly technical (infrastructure) as well as social, affecting many citizens. Secondly, by highlighting this tension between democracy and technocracy, it is hoped that the analysis can avoid an all too factual list of chronological events. The analysis is intended to show two things, namely (1) the extent to which decision-making was very much framed and defined by the administration, rather than by the public and political debate, and (2) how the role of public consultation as a means of increasing public support and decision-making legitimacy was reduced to a mere legal formality.

In order to do so, the article will first discuss the historical background of the HSL-Zuid project (section 2) and then describe the historical and legal role of public participation in such projects (section 3). We may then proceed to call into question some of the problems resulting from practical application of participation procedures (section 4), which exactly revolves around this tension between democratic and technocratic tendencies inherent in present-day decision-making. In the discussion (section 5), the two statements in the above paragraph will be revisited and considerations will be offered as to how one could reconsider the role of public participation in major infrastructural projects.

2. Historical background

When the first European high speed railway line was opened, in 1981 between Paris and Lyon, there had already, at least for ten years, been a lot of fantasizing within circles of the Dutch ministries for spatial planning and for transport, as well as among train and railway enthusiasts, regarding the possibilities for high speed solutions to mobility within the Netherlands. Witness is, among others, the 1977 report 'AmRoBel', on the possible high speed railway line between Amsterdam, Rotterdam and the Belgian border. The 1979 National Plan for Traffic and Transport indicates continued interest among different officials in the administration and within the government. This report, which sets out the official government policy is therefore juridically important, contains a foresightful paragraph: "The possibility for construction of a high speed railway link between Amsterdam-Rotterdam-Belgian border and onwards and

between Amsterdam/Rotterdam Utrecht-German border and onwards, should be held open for the period after 1990.”¹

The procedure

Daydreaming came to an end when, among others, the Paris-Lyon connection proved its success and the Dutch government had started working on concrete proposals for the trajectory of Amsterdam-Rotterdam-Antwerp. The decision to realize a high speed railway line had been taken in the 'Second Structure Scheme for Traffic and Transport'. The nature of this strategic decision is not straightforwardly identified but some important considerations were the European integration process, the economic importance, environmental interests, and the accessibility of the 'Randstad' area. Furthermore, the government indicated that: "During public consultation and deliberation it appeared that the realization of a high speed railway line in the Netherlands was commonly seen as evident and was hardly made point of discussion as such." ²

As a result of the newly gained status of the 'dream project' and the changing ideas since the nineteen-eighties, a procedure was started in 1992 to issue a so-called 'Spatial Planning Core Decision' (Planologische Kernbeslissing, PKB). This opened up the need to decide upon the exact trajectory of the railway line and, therefore, the different options for adapting it to local conditions along that trajectory. Now that the project became more concrete, and the consequences became more visible on regional and local levels, a bigger role was given to deliberation with local governments and for public consultation with local and interested citizens. Along the proposed trajectory, the ministerial project organization set up 26 information meetings. The project operated under the responsibility of the two ministries of Spatial Planning and of Transport, Public Works and Water Management.

One of the results of public consultation, was that additional trajectory alternatives needed to be considered and designed, which, in its turn, demanded new rounds of public consultation. The negotiations with local governments also complicated because of the new situation, frustrating the whole planning process. The Dutch government had to step in and decide which of the different trajectory options would be realized. The decision was made in 1997, resulting in the so-called 'Draft Trajectory Decision', which was again subject to appeal but could finally be ratified in 1998, after rulings by the Dutch Supreme Court. The final 'Trajectory Decision' thereby gained the juridical status of Spatial Planning Core Decision and physical construction of the railway line could steadily be commenced.

After and outside decision-making

From the year 2000 until now, work on the concrete realization and exploitation of the high speed railway line has been underway. Even though the ratification of the Trajectory Decision in 1998 represented the official launch of the project, there were still many obstacles to tackle; budget overruns, exploitation problems, and lower profit expectations being some of the most problematic ones. Because of this, the government later issued a parliamentary investigation, by the Temporary Committee for Infrastructural Projects, which still offers food for debate. However, what happened after the final decision-making on the Trajectory Decision is not part of this article's object. It deals mostly with the democratic processes that result in the final decision. As such, it focuses on decision-making and not on the implementation of policy.

What is interesting, is that most of the above information is derived from the website of the project organization as well as from the different reports included in the Spatial Planning Core Decision. These sources report how the authorities have accurately followed the procedures, where the official project started and where it finished. Parliamentary debates are depicted as logical steps but mostly as formalities. Although the decisions on such a large project affect many, the way in which these sources cover the decision-making processes, aptly illustrates the primacy of administrative officials, most notably at the Ministry of Transport, Public Works and Water Management, behind the back of the minister, in setting the agenda for the project. The strong position of the ministry nevertheless leads to complications with public consultation and debate in the Dutch parliament. This is what will be illustrated in the next section.

3. Public participation

'Inspraak' at the HSL-Zuid

Within the procedures of a Spatial Planning Core Decision there legally exist two points at which public consultation takes place, the latter of these not actually representing a possibility for public influence but a possibility for appeal. It has to be mentioned, however, that in case substantial modifications are made to the draft plan or new alternatives are added after the first round of public consultation, it is required by law that a new round of actual public consultation is held.

The draft plan , or PKB1, was published in March of 1994 and was presented at a series of information meetings along the projected trajectory. From May to September of the same year, interested and affected citizens or organizations could compose reactions and send them to the Dutch Central Point for Public

Consultation (Dutch, Centraal Punt Inspraak) by letter. This agency registers all reactions, bundles, summarizes, and analyzes them and, finally, distributes them among public officials involved in the project. Inspraak is open to all Dutch citizens as well as to public and private organizations. In practice, the nature of the reactions registered by the Central Point for Public Consultation shows much variation. Respondents may send in notes of disapproval, they might send in entire reports with proposals for new railway trajectories, or even symbolic objects such as the goat that was send in at [date] (of which noone has yet deciphered the meaning).

Following treatment of the reactions by the Central Point for Public Consultation, ten public hearings were organized along the trajectory of the projected railway line. Here, respondents were given the opportunity to explain their reaction or ask for any kind of clarification from the project organization. The result of these events between PKB1 and PKB2 was that, besides modifications to the government's preferred trajectory, an alternative trajectory was added, suggested by one of the respondents in the first round of public consultation. The subsequent need to undertake a new environmental impact assessment, now for both alternatives, and a new round of public consultation, made sure that only in 1996 the government was able to make a final decision.

Even though the government, in the end, again decided in favour of the alternative that it had preferred from the start, it becomes clear that 'inspraak', next to a project delay of at least two years, has had major impact. First, there was the serious consideration and working out of new alternative trajectories and, second, perhaps even more profound, the addition of a tunnel of 7 kilometres underneath the Green Heart area between Amsterdam and Rotterdam, which, besides being a result of inspraak, also appeared to have entered the picture because of political bickering.³ Unfortunately, the scope of this article does not permit to elaborate further on this matter, as it is of limited relevance to the central argument concerning the tension between democracy and technocracy.

The scope of inspraak

Inspraak is not an instrument that citizens have at their disposal to change government policies. Rather, it is an instrument of the government that enables it to ask its citizens for advice. The law demands that each inspraak reaction is dealt with 'in a reasonable way' but it seldom is the case that a reaction of inspraak has profound implications or leads to further research. In most cases, a short reply towards the respondent will suffice. PKB3 is a report that covers all reactions from inspraak as well as the connected replies by the authorities. Below is an example of such a 'dialogue' following

an inspraak reaction about the necessity of the HSL-Zuid.

Respondent objects to HSL. HSL doesn't fit a durable policy on traffic and transport. It damages ecology, landscape and the environment, mainly of the Green Heart and the province of Noord-Brabant. Respondent prefers use of existing railway line north of Rotterdam and a bundling of HSL with highway A16 south of Rotterdam. [...]

In [the national plan for traffic and transport] the cabinet has devised a strategy aiming at keeping the country accessible within the constraints of a durable society. HSL-Zuid is an integral part of this national policy on traffic and transport. Furthermore the cabinet chose for a new railway line, after study had revealed that making use of existing lines could not yield the desired level of quality. [...] As far as bundling HSL and A16 is concerned, preference of the respondent is acknowledged by the cabinet. [...]⁴

Except for inspraak, there are many more forms of public participation, because the concept is as broad as it appears. With the HSL-Oost (a similar project, albeit cancelled for the time-being, intended to link Amsterdam, Utrecht and the Rhine-Ruhr area in Germany by high speed rail), one can find examples of participation in planning where local governments very early on in the process were invited to put forward their own ideas and recommendations. Whilst this was generally seen as good practice, there is no legal directive which requires this kind of participation. Legally, it suffices to include public participation in the way it has been done in the HSL-Zuid case, described above. In short, it means that inspraak is merely a form of public consultation which lacks any strong obligations on the side of the authorities. For this reason, we should not have too many expectations from inspraak events. In its most basic form, it is not remotely akin to interactive planning or citizen participation. Often, inspraak does come with such expectations on the side of citizens, who view it as a sort of referendum that enables them even to halt a project, would they succeed in gathering enough signatures. From a democratic point of view, arguably, it makes sense.

Question marks at the HSL-Zuid case

Considering the fact that inspraak (in the sense of public consultation) is legally prescribed in certain cases of decision-making, whilst true public participation is not, practices of the authorities, in reality, often lead to disappointment, discontent, and feelings of being powerless. The case of the HSL-Zuid provides some clear illustrations for this. Almost from the start of the planning process it has been apparent that the government, for some reason, held on to a preferred trajectory, where other trajectories would seem viable as well. From the interviews conducted by the Temporary Committee for Infrastructural Projects with members of the government as well as with respondents in the inspraak

arrangements, it appears that another consideration was implicitly limiting the room for discussion. A small group of officials in the government and in the administration stuck to the idea that the train should be able to operate at 300 kilometres an hour. This would only be possible with a fairly straight trajectory, without too many stops and bends.

In addition, the trajectory that was preferred by the government had been designed and calculated through in much more detail than the alternative trajectories, making an honest comparison difficult if not impossible. Arguably, this may be seen as a missed opportunity because some of the other options were popular for apparent reasons. The trajectory with a stop in The Hague is serious because the city is the nation's capital and hosts the Dutch houses of parliament as well as other international agencies, employing diplomats travelling regularly between The Hague, Brussels, and even Paris. Another trajectory was the one which was bundled with an existing motorway and was, for that reason, attractive because it would avoid any further fragmentation of the Green Heart natural and agricultural area.

Discussion about trajectories other than the one that enabled 300 km/h train rides seemed to have been scrupulously avoided. The impression is created that, within the Ministry of Transport, Public Works and Water Management, a decision had already been made, and that inspraak was purely used as a means of legitimizing that decision ex post; as a means of creating public support for a politicians' prestige project. Mrs. Wolvers, a member of the National Platform High Speed Train The Netherlands (Dutch, Landelijk Platform Hogesnelheidstrein Nederland), an action group which "united groups [all across the affected areas] to give the high speed train a decent place in the Netherlands", reports about these issues in her interview with the Temporary Committee for Infrastructural Projects:

In 1991, we heard that the TGV [the high speed railway line] would come here [in Hoogmade]. I didn't know anything about it. My first response was: if that's a good thing for the Netherlands, you cannot stop it; you should not even want to stop it. Anyway, when the TGV runs by your doorstep, you need to find out what's going on. Thus, we went to the first information meeting in Leiderdorp. There, we got a wonderful presentation which, however, was mostly about the TGV [the train, not the railway line]. It even had a baby room in which you could change the baby's diapers. At the same time, of course, there was the story that it would be beneficial for the Netherlands and that many a businessman would find his fortune in Paris, as if that businessman would take his baby and change its diapers on board the train because the Pampers [a brand of diapers] are so bad these days. That was a bullshit story. They wanted the high speed railway line from the beginning, and they didn't look at the advantages of the TGV or the HST.⁵

So exactly that part which was already beyond discussion, i.e. that there would be a high speed train, was presented at the information meeting. The story seemed more or less finished, and all that respondents still wanted to say, would be 'taken

into consideration' (Dutch, 'meegenomen worden') by the project organization.

At the inspraak meeting you would hand in information to which you would expect an answer, even though there was also some expert knowledge there. But it was merely: give it to us, and it will be fine. However, you could see that nothing happened with our information.⁶

A further problem in the HSL-Zuid case seemed to have been the distribution of participation opportunities across a number of different government reports. In section 2 the Second Structure Scheme for Traffic and Transport was already mentioned. Most of the strategic aspects (the demand and necessity of a high speed railway line) were already covered in that report, back in 1990. Being a Spatial Planning Core Decision, also that report offered an opportunity for inspraak, thus also, at that moment, opportunity to object to the need of building a high speed railway line at all. The difficulty, however, is that for citizens, it was hardly clear that the Second Structure Scheme for Traffic and Transport could someday affect them to such degree that a railway line would cross their backyards. In that sense, people were not alarmed by and, in general, not opposed to the construction of a high speed railway between Amsterdam, Rotterdam and the Belgian border. They did become alarmed, however, when in 1994 they were confronted with 'wonderful presentations' of a train which would run through their backyards. When citizens, at this moment, would want to argue about the general need for a high speed railway line, they would be simply dismissed by the authorities, referring to an earlier opportunity where they could have taken the effort to object. Looking at it from this perspective, the quotes shown above sketch a slightly different picture of the situation.

4. Politics and the administration

This brings us to the political dimension for officially it is still the Dutch government who is responsible for what happens within the project organization of the HSL-Zuid. Moreover, in a series of parliamentary debates, eventually, a decision has to be made about what will happen between Amsterdam and the Belgian border. The Temporary Committee Infrastructural Projects investigated precisely this issue, the role of the House of Commons in the HSL-Zuid decision-making process. As part of that investigation, not only involved actors were interviewed but also academics with relevant expertise, such as the well-known Dutch professor in economics, Arnold Heertje, and professor of spatial planning Bent Flyvbjerg from Aalborg, Denmark. The investigation process received a lot of media attention. Gradually, the investigations yielded a better picture of the role of the House of Commons in the planning and decision-making process, of the nature of the political debate,

and of the extensiveness of the information that was provided to politicians as a knowledge base for making the decisions.

Provision of information

The ultimately usable report by the Temporary Committee presents the following quote from an interview with the former minister of Transport, Public Works and Water Management, Mrs. Jorritsma.

The chairman: In the end, you are the expert and politically responsible for the decision.

Mrs. Jorritsma-Lebbink: I am not the expert but I had myself informed by many experts. From there I eventually make a choice. Isn't that what the assignment of a politician is. You don't have to know everything yourself, but you do have to gather a lot of expertise around you. I really based my choice on expertise. Rationally.⁷

If this quote expresses the position of politicians, this will have profound consequences for the provision of information to these politicians. This information will then (preferably) show the whole spectrum of possibilities or at least a broad spectrum. If politicians trust so much on the provision of information from their own administration, then the practices within the ministry of Transport, Public Works and Water Management deserve extra inspection. Different sources suggest that the information provided to the minister by the ministry was one-sided, and that criticism against the ministry's preferences was systematically censored from letters and briefs sent to the House of Commons. One of the discussions revolves around the railway line's 'design speed' of 300 kilometres an hour. By maintaining this criterium, the number of trajectory alternatives is severely limited. More decision space, which, according to critics, was necessary, was effectively undermined. Mrs. Wolvers reports the following:

[...] There were only 300 km/h alternatives. In the meantime it was already known that such a goal would be nonsensical for the short stretch of 52 kilometers that we are talking about. If you want to gain insight about what your choices are, you should list a number of alternatives next to each other, in different places if need be, but all with different design speeds. Only then you can choose the best one. If the House of Commons can only choose for alternatives of 300 km/h, you know the answer: it will be the new line through the Green Heart. There were so many other options but [the ministry] just refused to make them.⁸

At the same time, the Ministry of Transport, Public Works and Water Management does state that the House of Commons should be able to define its positions with regards to the 300 km/h issue. At least, if this is how we can interpret the next quote.

Mrs. Wolvers: At one of these evenings [the public hearings], one of

the project leaders said that it was the House of Commons who should judge whether that 300 km/h was true or not. I told him that the House of Commons should get that information from them and that they should simply make sure that this information and these alternatives are there. Otherwise, the House of Commons would not be able to choose.⁹

In *Technocracy and the Politics of Expertise* Frank Fischer discusses this problem. He describes, among other things, how political choices narrowed down more and more by the way in which the administration prepares them.¹⁰ This is due to a general technocratic attitude found within modern western administrations. According to Fischer, technocrats share a particular view on how to solve governance problems, namely preferably through technical-objective methods rather than a public debate. *Inspiraak*, particularly, represents the moment at which the public gets close to the planning and decision-making process. A democratic attitude would warmly welcome such an occasion but in the case of HSL-Zuid, there has seemed to be little enthusiasm nor much effort to meet any of the respondents concerns, as witnessed by Mrs. Wolvers and others. It is the technical-objective methods adhered to by the ministry itself which have caused this situation.

Technocracy versus democracy

Modern decision-making poses a fundamental issue, that of the governance ideology. Fischer distinguishes a technocratic ideology from a democratic one. Even though the Western world preaches democracy, Fischer argues, there has been a steady rise of technocratic practices. Technocrats believe that traditional politics do not fit with a highly technological and highly complex society such as ours to date. The complexity we face, in that view, can only be tackled by instruments designed on the basis of technical expertise and objective considerations. We can no longer afford normative discussions or subjective argumentation. From that perspective, we can understand the realization of a high speed railway line coming about through rational methods, by experts within the ministry, who are the holders of technical knowledge, rather than through a more transparent process that involves lively public debate, including normative discussion about the need and necessity of such a thing. Perhaps we can also see now how the ministry was unable to accommodate for creative turns and flexibility demanded by the public participation process, as it held on to its 300 km/h set of trajectory options, all products of objective calculation.

A technocratic approach, in itself, is not necessarily a bad approach. In this case, however, one sees how it can get into conflict with certain democratic values politicians preach and citizens cherish. A better way seems to be to decide beforehand which approach is suited to a certain issue. Public

participation procedures, such as inspraak, bring across the impression to citizens that they are dealing with democratic decision-making, whilst this is only true in a very restricted sense (political debate by elected officials). In case a project, such as the HSL-Zuid, is run in predominantly technocratic manner, it will be inevitable that inspraak turns into an anecdote, a formality prescribed by law, but not much more.

5. Discussion

The case study on the HSL-Zuid offers great materials for discussing a wide array of issues, not in the least because of the parliamentary investigations undertaken and made publicly available by the Temporary Committee for Infrastructural Projects. Nonetheless, the scope of this article is necessarily limited to aspects of public participation. What was not discussed, for example, is the 'trajectory' of the series of political debates, nor the negotiations between the Dutch and the Flemish government, nor the reasons behind the ministry's attitude and narrow provision of information to the minister and the House of Commons. Possibly, therefore, some of the conclusions of this article are only partly substantiated by evidence. Nonetheless, it does intend to have pinpointed a number of main concerns.

Hopefully, the article raises attention for the role of public participation, most notably 'inspraak', in major (supra-regional) projects. Most importantly, the question should be raised whether inspraak makes sense in such high-level projects and how it relates to the characteristics of the planning process. In conclusion, one thing is clear, which is how procedures like inspraak, as democratic elements, cloak a project as a whole as something debatable, flexible, and, in short, democratic. At this level of scale, however, it might be utopic. The planning and decision-making process should do justice to all components that it carries with it and, therefore, in the case of inspraak, to the citizens participating in the process. If this is impossible, inspraak makes no point and can only lead to discontent.

A more fundamental issue was also raised, namely the rise of technocracy in the face of a complex society. Even though this topic has not been treated extensively, it is part of a discussion on the problems of public participation. Public participation is grounded in democratic ideals and such grounding is undermined by what has been called earlier the 'technocratic ideology'. The danger of a more or less silent revolution of the technocratic ideology, as Fischer describes it, is precisely that it comes about silently and, therefore, never offers itself as a political choice to be made in the democratic debate, for which citizens through their elected

representatives can be held responsible. Decision-making is increasingly characterized by technocratic tendencies, and this should be a signal to politicians to not only rely on their own administration but to open eyes and ears for alternative sources.

The article started out from statements rather than questions. Therefore, it will not end with a conclusion in the traditional sense. Rather, it briefly revisits the two statements, 1) decision-making largely takes place outside the public sphere and, 2) inspraak is an a-functional formality in large projects.

In critically reviewing inspraak in the HSL-Zuid planning and decision-making process, we saw that, on the one hand, the provision of information to the House of Commons was limited and, on the other hand, there was little room for accommodating input from inspraak into the planning process within the Ministry of Transport, Public Works and Water Management. The planning process followed an almost autonomous course and was very intransparent. There is still a lot of disappointment about that.

Inspraak has not received the serious attention in the case of the HSL-Zuid. Crucial criticisms were put aside and never reached the politicians who had to decide about the project. Would the project organization have taken inspraak responses more seriously, there would certainly have been longer delays and possibly different decisions by politicians. However, the priority which the Ministry of Transport, Public Works and Water Management gave to its prestige project, made that impossible. Planning at the (inter)national level and public participation at the local level; how do they relate to each other?

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