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URBAN TRANSFORMATION IN THE NORTHERN RANDSTAD

How Institutions Structure Planning Practice

Jochem de Vries & Wil Zonneveld

Introduction

The opening chapter in this volume clarifies the tension between the time-honoured dominance of pragmatism in the field of planning and the need for institutional reflection. Its argument is based on the recognition that planning is a multi-faceted and complex social phenomenon, which requires a sound triangulation of perspectives in order to be understood completely. The acknowledgement that both pragmatism and institutionalism are equally important in shaping and evaluating planning interventions poses a challenge to both planning professionals and academic researchers. The main challenge is to strike a balance between the goal-oriented problem solving of pragmatism and the need for reflection on societal norms. Chapter 1 also provides an overview of the existing institutional approaches relevant for planning and the frictions between these approaches and pragmatism. It comprehensively lays out the way institutions ‘work’ and describes the frictions between institutional and pragmatic reasoning, but the analysis is predominantly theoretical. In this chapter, we aim to establish the empirical value of looking at planning practice through the institution/pragmatism lenses. Our main objective is to show the added value of putting planning in its institutional context, without losing sight of its problem-solving ambitions.

The concept of institutions – or ‘normative patterns’ – is very broad: it ranges from fundamental values and norms to widely accepted beliefs about ‘how things are done’. This chapter focuses on a specific set of institutions: the law and, more precisely, the legal rules aimed at securing sustainable urban development. The case of environmental regulation and urban development highlights the abovementioned tension between institutional demands and the search for pragmatic problem solving. On the one hand, a broad array of European and national environmental legislation has been put into effect over the past few decades. Much of national legislation directly emanates from regulation made by the European Union as it sets frameworks and goals that national legislators need to meet, which results in a complex multilevel institutional context (Van Tatenhove et al., 2000). Importantly, European and national legislation consists of both specific rules (e.g. air quality standards) as well as general rules such as the ‘polluter-pays principle’.

Environmental regulations possess many properties generally associated with institutions. They create a certain degree of predictability, create legitimacy, engender and reinforce certain

practices, create meaning, impose constraints that are difficult to negotiate or are even non-negotiable and facilitate interaction between stakeholders. Meanwhile, the planning and management of urban development has become a different ball game in the Netherlands altogether. The post-war greenfield urban extensions based on generic cookie-cutter blueprints has given way to brownfield redevelopments exploiting unique local characteristics. The strict modernist separation of functions has given way to mixed land-use planning. Heavily regulated and subsidised government programmes have been replaced by public-private partnerships and more reliance on market mechanisms. Masterplans are out, public participation is in. While these tendencies have not completely supplanted traditional Dutch planning practice, it has led to more complex planning processes, more variety between projects and more local and regional customisation. In other words, contemporary urban development increasingly resembles the pragmatist approach. Pragmatism is adept at dealing with non-standard or even unique situations where many conflicts have to be resolved simultaneously, where the interests of stakeholders are taken seriously and knowledge and values have become completely intertwined (Campbell et al., 2014; Flyvbjerg, 2005; Hajer & Wagenaar, 2003; Healey, 1993, 1997; Innes & Booher, 1999).

With the above in mind, we pose the main question of this chapter as follows: *how do environmental rules, as institutional conditions, structure the pragmatic search for solutions in communicative planning processes?* By rules as institutional conditions we mean environmental legislation and its associated rules – referred to as legal norms in the remainder of this chapter – and their properties from an institutional perspective. The ‘pragmatic search for solutions’ refers to the characteristics of planning as a pragmatist endeavour. This is as much about the substantive dimension – what physical interventions are proposed – as the procedural dimension – how are these interventions organised – of planning. Below we will elaborate on the properties of environmental legislation as institutions and the characteristics of planning as a pragmatist endeavour. The emphasis on structuring (Giddens, 1984) implies that we consider institutions both limiting as enabling conditions for practices like planning. As a limiting factor, they may create tensions between the demands of institutions and the ambitions of a planning project. Furthermore, we assume that institutions obtain and maintain their meaning and influence as part of social processes (Dembski & Salet, 2010). In other words, institutions are interpreted in particular instances in social interactions between actors (Van Rijswijk & Salet, 2012). Therefore our search to better understand the relationship between institutional conditions and urban planning and development is focussed on enablement, limitations/tensions and dynamics between actors.

The remainder of this chapter is structured as follows. In the following two sections, we will explore and elaborate on the concepts of institutionalism and pragmatism in more detail. Next, we present some of the highlights of a number of case studies undertaken in a large international research project on the contextualisation of environmental norms in planning projects.¹ This is followed by a section that discusses the empirical findings in light of the theoretical discussion. We round off with a short concluding section. The cases we discuss are all located in the Netherlands – the northern part of the Randstad which includes the Amsterdam and Utrecht regions – as we do not seek to compare between countries. Our main interest is to bring forward particular issues about the relationship between institutionalism and pragmatism in ‘real life’ which hopefully inspires others to study other cases from a similar perspective.

An Institutional Perspective on Environmental Regulation

What does it mean to take an institutional perspective? The concept of institutions is notoriously abstract, multi-interpretable and wide-ranging (Hall & Taylor, 1996). To guide our exploration,

we will focus on the properties that are particularly relevant for our view of environmental rules as institutions.

Institutions provide actors with a logic of appropriateness as opposed to a logic of consequence.

The logic of appropriateness is a perspective on how human action is to be interpreted. Action, policy making included, is seen as driven by rules of appropriate or exemplary behavior, organized into institutions. The appropriateness of rules includes both cognitive and normative components. Rules are followed because they are seen as natural, rightful, expected, and legitimate. Actors seek to fulfill the obligations encapsulated in a role, an identity, a membership in a political community or group, and the ethos, practices, and expectations of its institutions. Embedded in a social collectivity, they do what they see as appropriate for themselves in a specific type of situation.

(March & Olsen, 2013, p. 1)

March and Olsen's notion of the logic of appropriateness is quoted at length here because it eloquently and concisely outlines the various properties associated with institutions. It should be emphasised that this abstraction and classification is done purely for analytical purposes; in reality, these properties are closely intertwined. Norms and meaning are often two sides of the same coin. Similarly, it is also often impossible to determine whether actors deem particular behaviour as 'appropriate' for reasons of legitimacy or out of fear of sanctions (Giddens, 1984).

As stated in the quote above, institutions have a *behavioural* component. The 'logic of appropriateness' offers a perspective in which policy actors are not solely driven by calculated self-interest. Legal norms are institutions that, at their best, posit that certain rules will and must be followed irrespective of the particular interest actors may have within a specific situation. An obvious and necessary precondition is that these norms are known and, preferably, internalised. Given the proliferation of environmental legislation, such knowledge and internalisation cannot simply be taken for granted; over the past 30 years, the number of legal rules in the Netherlands has grown steadily by about 2% per year (De Jong & Zijlstra, 2009). This is, at least in part, a logical consequence of the legitimate desire to control risks within an increasingly complex society (Van Tatenhove et al., 2000). However, it has also produced a labyrinthine legal framework, which can frustrate the ambitions and aspirations of actors engaged in societal problem solving. To explore this, Van Rijswijk and Salet argue that a distinction should be made between instrumental and institutional uses of legislation (Van Rijswijk & Salet, 2012). The latter is usually expressed as general principles, rules and material and procedural norms (see also Buijze et al., Chapter 13, in this volume; Evers, 2015).

Contextualisation is crucial in this regard: it should be possible to adapt institutional norms to very different local situations to grant actors the leeway to achieve their objectives as they see fit. It does not require openness but generalisation and abstraction of the institutional conditions. Institutional norms may be articulated in precise ways, but they always act at a general level of abstraction: they set standards under which social interaction occurs rather than dictating individual behaviour. A case in point is the use of general principles such as the precautionary principle or the non-shift principle within the sustainability principle: these two norms indicate *what* should be achieved but not *how* it should be done. Consequently, they allow actors to devise solutions that fit their particular context. The same applies to substantive norms and procedural norms (Van Rijswijk & Salet, 2012; Buijze et al., Chapter 13, this volume). More generally, it has been suggested that the present era of late-modernity requires a fundamental rethinking of the relationship between centralised governing through, for example, national and supra-national environmental regulations, and decentralised decision-making in areas such

as urban planning. In essence, globalisation and individualisation have led to a situation of 'extreme pluralism', which, among other things, have made nation states increasingly incapable of controlling the behaviour of their subjects. An alternative to micromanaging the behaviour of actors in order to solve environmental problems is to set up institutions that require the same actors to engage in 'self-confrontation' with the environmental risks stemming from their actions (without prescribing how they should be addressed) (Van Tatenhove et al., 2000).

As a second property, institutions provide legitimation. They ascribe legitimacy, and define what is expected of individuals within a particular community. With regard to environmental norms, this function manifests itself in different ways. Of course, abiding to the appropriate legal standards grants an actor the legitimacy to develop. Respecting established safety distances to hazardous materials or observing the principle of good neighbourliness (Van Rijswijk & Salet, 2012) contributes to the societal acceptance of a development. However, the legitimating property of environmental norms goes beyond this behaviour-influencing characteristic as institutions define "the role, the identity, a membership in a political community or group" (March & Olsen, 2013; Scharpf, 1997). Environmental norms therefore are also about who is allowed to participate, in what form and in what stage of decision-making. The Environmental Impact Assessment procedure, for example, defines who should take the initiative and who should be consulted. The idea of self-confrontation could be promoted by the formation of ad hoc coalitions of opposing interests where environmental interests are well represented (Van Tatenhove et al., 2000). Hence, legal institutions have a role to play in constructing such 'coalitions of opposites'. A complicating factor is that role-defining institutions bestow different identities on actors at the same time.

A third property of institutions is their cognitive component. Cognitive templates such as symbols, paradigms and assumptions about causal relationships provide actors with meaning and introduce – systemic – biases (see Healey, Chapter 2, in this volume). These frames are used both consciously and unconsciously (Giddens, 1984). They structure the policy belief systems of actors on fundamental issues such as climate change and more instrumental issues such as promoting dense urban development to reduce environmental footprints (Sabatier, 1988). In accordance with the logic of appropriateness, cognitive templates are often taken for granted and unquestioned. Norms obtain their precise meaning through actions in particular contexts. With regard to environmental norms, one can consider how the compensation principle works in practice. As a cognitive frame, it assumes that the loss of a certain environmental quality (e.g. the loss of surface water as a result of housing development) in one place can be offset by developing the same quality (e.g. a new pond) somewhere else. The forms compensation may take in a particular case depends highly on geographical characteristics such as scale and terrain features. Furthermore, because the physical world plays a key role in environmental problems, the cognitive frames within the natural sciences are strongly reproduced by institutions in this field. The ontological and epistemological features of the natural sciences frequently clash with the prevailing cognitive frames within political processes such as planning.

Giddens (1984) adds two important characteristics of institutions that were not explicitly treated so far. First, he emphasises that institutional conditions do not solely constrain action but also shape conditions for action, collective action in particular. If a logic of appropriateness is shared among actors, expectations are stabilised (Healey, 1997; Scharpf, 1997). Furthermore, institutions as patterns of actions should not only be studied in light of the intended consequences but also with regard to unintended consequences (Giddens, 1984). If policy is evaluated solely on the basis of goal-achievement, many relevant effects would be neglected. The Natura 2000 policy, for example, intended to protect endangered species, inadvertently caused some land-owners to take measures – such as ploughing and removing surface water – in order to make

their land uninhabitable for protected species and, in this way, evaded regulation (Van Dijk & Beunen, 2009).

Using the idea of a logic of appropriateness to identify relevant properties of environmental norms as institutions leads us to the following premises and questions.

1. Environmental norms are at the heart of the tension between, on the one hand, the practice of developing national and supra-national institutions to control risks in an increasingly complex society and on the other hand an increasing pluralism in which local actors demand and require the freedom to come up with tailor-made solutions. Norms that provide a way to force actors to actively consider the environmental consequences of their actions without prescribing how they should act could alleviate this tension.
2. Environmental norms provide legitimation to decisions in at least two ways. As behaviour-influencing rules, they provide a framework for spatial interventions. In addition, environmental norms provide actors with roles, duties and rights.
3. Environmental norms reinforce certain cognitive templates. Institutional rules obtain their specific meaning in practice, which takes place in very different contexts, with, for example, very different scalar and physical characteristics. How do these cognitive templates play out in concrete instances of spatial development?
4. Environmental norms provide constraints for actors and enable them at the same time. How do these norms shape the solution space, or “the conceptual space in which possible solutions might be found” (Forester, 1989, 123)?
5. Environmental norms have both intended and unintended consequences. How do they affect urban development projects?

The Pragmatic Face of Planning

Acknowledging that institutionalism and pragmatism are both important in shaping and evaluating planning interventions creates challenges. Some characteristics of planning as a pragmatic endeavour may be at odds with the logic of appropriateness as structured by institutions. For example, pragmatic-oriented planning implies experimenting with possible local solutions whereas the logic of appropriateness wishes to impose universal norms. Contemporary approaches to planning find inspiration in the conceptual roots of pragmatism. Under banners such as communicative planning (Healey, 1993), collaborative planning (Healey, 1997), deliberative planning (Hajer & Wagenaar, 2003), consensus building (Innes & Booher, 1999) and network governance (Hajer, 2009), planning and policy theory has developed an impressive body of knowledge and theory (hereafter referred to as communicative planning theory), which despite different accents and internal debates shows a remarkable coherence (Campbell et al., 2014). A key characteristic is that it focuses on solving identifiable and often unique – ‘wicked’ – problems. These problems should be solved through interactive commitment building that takes into account the specific power imbalances and interests of different stakeholders (Healey, 1997). This also implies that the framing of problems and solutions is an interactive process (Schön & Rein, 1995). This process of constructing and re-constructing problems and solutions has been aptly described as a “drifting cloud that continuously changes its shape during the planning process” (Friend & Hickling, 2005). Stakeholders come together and, sometimes by means of trial-and-error, find pragmatic solutions to complex collective action problems (Klijn & Koppenjan, 2000). What Hajer (2009) calls the loss of territorial synchrony – namely the mismatch between scale of territorial government and the scale of societal problems resulting in an ‘institutional void’ – is overcome by taking the geographical

scope of the problem at hand as the point of departure. Since the acceptance of a solution by the stakeholders is the main criterion for success (Teisman, 2000), this adheres to the logic of consequence.

In the Netherlands these views on planning found – explicitly and implicitly – fertile ground. The Dutch practice of consensus building with its ‘politics of accommodation’ to appease social conflicts (Lijphart, 1975) fits within communicative planning theory. With regard to urban planning in the Netherlands, the practice of urban development or *gebiedsontwikkeling* (literally ‘area development’) closely resembles many of the characteristics that communicative planning theory expects from planning. Within an urban development project, public and private actors plan and develop an area together on the basis of an integrated vision and in doing so they cross territorial borders and sector boundaries (Needham, 2014). Scope for negotiation and barter is central to this process.

From an institutional perspective, communicative planning theory in general and the Dutch practice of urban development in particular, are not unproblematic. The question of which actors should be involved (and which excluded), the emphasis on equality, particularly between public and private actors, and the ease with which territorial borders are made auxiliary to problem solving, all make it difficult for institutions to perform their legitimising function. For example, environmental norms are meant to connect interests residing at different scales, while interactive planning projects have a tendency to limit themselves to a particular planning site. Not only is there a tendency to downplay or even ignore the institutional conditions in promoting communicative planning, in planning practice environmental norms are not infrequently blamed for producing red tape and thereby obstructing collaborative planning (OECD, 2007). According to Jones (2013) interactive governance,

constrained by an underlying commitment to Habermasian ideals, according to which, for instance, the state and other external actors should facilitate and support deliberations amongst local actors and assist in enforcing decisions, but they should not instrumentally interfere with or undermine such deliberations.

(Jones, 2013, p. 47)

Furthermore, communicative planning emphasises the importance of negotiated agreements and thereby puts into perspective the role of science in societal decision-making. Science should not have the upper hand in decision-making and, in the case of social science, should provide “input for public deliberation and decision-making, i.e. democratic due diligence” through “reflexive analysis of values and interests and how they affect different groups in society” (Flyvbjerg, 2005, p. 39). This may obviously create tensions due to the importance that environmental norms attach to scientific knowledge as a basis for interventions (spatial or otherwise), especially with regard to health and safety. The cognitive frames that are reinforced by environmental norms clearly set scientific knowledge apart from other sorts of knowledge such as the local experiences of inhabitants. One of the reasons to give science a privileged position is to counteract the problem of ‘negotiated non-sense’ (De Bruijn & Ten Heuvelhof, 2004). This problem arises when negotiations between stakeholders lead to an agreement that serves the interests of the stakeholders directly involved, but makes little sense for society at large.

What expectations are raised by this discussion of communicative planning theory and the practice of *gebiedsontwikkeling* (‘area development’)? Contemporary institutions, such as environmental norms, experience difficulties in performing their legitimating function in contemporary planning practices. On the other hand, these same institutions frustrate the ambitions

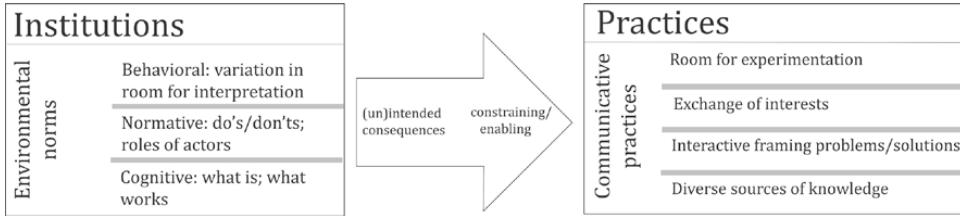


Figure 24.1 Conceptual framework of how environmental norms as institutions structure communicative planning practices

Source: authors' own

of current planning practices because they limit room for experimentation and the exchange of interests. Figure 24.1 lists a number of preliminary findings which may help us to better understand the way environmental norms as institutions structure practices of communicative planning. As stated, institutions have different – partially overlapping – characteristics. As behavioural rules, they vary in the extent to which they structure behaviour. While institutions-as-rules never exercise full control over actors, some form of interpretation and acceptance always exists (cf. Giddens, 1984). Obviously the room for interpretation and to manoeuvre varies considerably. When actors behave according to roles and rules indicated by institutional norms, they gain legitimacy for their actions. As cognitive frames, institutions provide information both about 'what is' and 'what works'. In structuring the behaviour of actors, they generate intended as well as unintended consequences and constrain and enable certain practices. With regard to the tension between environmental norms and communicative planning as a pragmatic practice, it is particularly interesting to look at the effect of institutions on the room for experimentation and give-and-take, the way problems and solutions are framed and which sources of knowledge are deemed acceptable in the process.

Findings: Three Dutch Cases

Amsterdam-Flevoland-North Holland: Markermeer-IJmeer²

The Markermeer-IJmeer is a large lake of about 700 km² in the centre of the Netherlands bordering an urban area known as the northern wing of the Randstad. From an ecological point of view the lake is in bad shape. According to European law – specifically Natura 2000 and the Water Framework Directive – the situation needs to be improved until 'a good status' is reached. This has become all the more urgent as there are plans for development at several locations on the edge of the lake (e.g. marinas). There are even plans of late for the construction of 40,000 houses (approximately 100,000 inhabitants) outside the dykes near the new town of Almere. This massive urban development would mean that a new bridge or tunnel would be needed to cross the lake.

An intricate strategy has been drawn up to enable this urban and infrastructural development while still complying with the legal requirement of maintaining 'a good ecological status'. It took nearly ten years before this strategy was laid down in a statutory planning document: the 2013 Structure Vision (*Structuurvisie*) Amsterdam-Almere-Markermeer. This strategy contains a number of ecological projects intended to clean the water – and will hopefully lead to 'good status' as demanded by the Water Framework Directive – as well as offering foraging sites for several protected bird species as stipulated in the Birds and Habitat Directives (which together comprise Natura 2000). The plan even seeks to create a so-called

‘ecological surplus’ to offset the anticipated negative effects of future development plans in and around the lake.

A strategy called the ‘programmatic approach’ was employed to overcome tensions between spatial planning practice and environmental legislation. It is set at the level of the entire Markermeer-IJmeer and treats the lake as a single integrated ecosystem. The prevailing cognitive frame used to address ecological issues such as the loss of ecological values due to urban or infrastructural development is to compensate for losses in the vicinity of the development project. The large-scale approach for the Markermeer-IJmeer can be regarded as an innovation in multiple ways. First, it underscores the realisation that the ecological status of a lake like this could not be adequately addressed through stand-alone projects. For this reason, a package of interrelated projects based on the principle ‘building with nature’ are being realised, including a system of islands with foliage intended to filter silt. The approach is monitored through what is called ecological bookkeeping which synthesizes all kinds of data on the ecological quality of the water. As this approach is unprecedented, it is highly experimental. It was for this reason that the province of Flevoland, as the most involved public stakeholder (almost the entire lake is located within its borders), sent a letter to the European Commission explaining the essence of the ecosystem strategy. The letter asked for an opinion as to whether this strategy adheres to Natura 2000. April 2009, the Commission responded positively but also made clear that this answer in no way bears any legal status as the Commission cannot bind Dutch courts.

The second innovation lies in the process architecture leading to the programmatic approach. This was not designed beforehand but came about in the form of an ad hoc coalition over a period of almost ten years, culminating in the 2013 Structure Vision mentioned above. All in all about 80 different actors were involved, including a number of crucial non-governmental actors, particularly Natuurmonumenten (the Dutch Society for Nature Conservation). The Markermeer-IJmeer case shows that a ‘good’ process – ‘good’ in the sense of inclusive based on a willingness on the side of government to include non-governmental actors – can turn potential opponents, who could challenge the project in court, into allies. The approach had been developed a few years earlier on a smaller scale. In the 1990s, the municipality of Amsterdam drew up plans for a major new housing development in the southeast corner of the IJmeer known as IJburg. The project led to massive opposition from environmental groups including Natuurmonumenten. A referendum (in 1997) to stop the plans was unsuccessful, and Natuurmonumenten switched sides and began to lobby for a highly ambitious approach for nature conservation (for an account, see Kinder, 2011).

An important condition for such an outcome was that the project goes beyond minimum requirements (and since the enforcement of minimum requirements can be decided by a simple court decision, more needs to be offered to ensure cooperation).

Amsterdam: Buiksloterham³

Buiksloterham is an area of about 100 hectares on the northern bank of the IJ, the waterway that separates Amsterdam’s city centre from the northern district. Part of the area consists of vacant land and part is still in use by various types of industry. Because it is so close to the city centre – just a few hundred meters over water – the municipality opted for redevelopment and transformation into a mixed-use urban neighbourhood. The zoning strategy allows for residential development without removing all industrial functions. This was done as follows: sites were first selected for noisy companies that needed a location on an industrial estate. The remainder (and largest part of Buiksloterham) was zoned as mixed-use, but excluding functions that required an environmental (i.e. nuisance) permit since this would enable housing to be

built in high densities. The strategy thus enabled new residential development while protecting existing 'pollution' rights and gained the support of industrial interests in the area. It is currently being applied at other locations in Amsterdam. In this sense, it can be called innovative: both in terms of land-use and in terms of governance. At the outset, the companies were wary of residential development because they expected complaints from future residents. The municipality successfully convinced them that the zoning would be designed to avoid this, and even paid for a second-opinion study from an acoustic consultancy and a legal advisor to double-check the effects. In the end, only one company took legal action but withdrew its complaint after negotiations proved successful (Dembski, 2013, p. 8).

We can identify at least two fundamental issues in relation to how Amsterdam dealt with environmental norms and its 'pragmatic' choice to enable new housing. Buiksloterham demonstrates how environmental 'space' can be created through intricate zoning. It allows for compact and dense development while minimising the risk of residents taking legal action against companies renewing their environmental permit. Nevertheless the approach basically means that the minimum standards, which in this case are set by noise regulations, become maximum standards. This is obviously stimulated by the desire to realise a large housing development in the area.

This brings us to a second issue: the different roles played by the municipality. During the making of the Buiksloterham zoning plan, the municipality was also in charge of enforcing relevant environmental regulations (this is now carried out by a regional environmental agency). The municipality obviously also defined the spatial strategy for the area. The third role played by the municipality, and arguably the most problematic, is that of a property developer: the municipality owns land in Buiksloterham and has a financial stake in the lease of land. Following Dembski (2013), we feel these roles have not been sufficiently disentangled in the Buiksloterham case.

Utrecht Central Station Area⁴

The third case deals with a project known as Utrecht Central Station Area. This project seeks to redevelop 90 hectares in the city centre, including the rail station and an adjacent shopping mall. The project is being led by the municipality of Utrecht in close cooperation with private partners who own the bulk of property in the area. The development includes new shopping and leisure facilities, housing, parking as well as a canal, and is expected to be completed in 2030. We can only highlight a few of the challenges which this project faced (and still has) to face.

The first one regards the desire of the municipality to maintain flexibility with respect to the content of the development over time. However, this also made it rather difficult to draft a zoning plan for the area. The reason for this is that the Administrative Court of the Council of State, which rules on objections to land-use and zoning plans, places great value on legal certainty and therefore often demands detailed planning (this also was an issue in Buiksloterham). Obviously, this requirement is very difficult to deal with when redeveloping or transforming large urban areas over the course of many years. This is a clear example where pragmatism (especially the pragmatic redevelopment of a complex area) is at odds with a legal norm.

The Utrecht case was complicated further by the presence of soil contamination. Normally this would require expensive studies and massive decontamination. The problem was ameliorated by the introduction of an innovative area-oriented approach. The first innovation was technical, namely the installation of a 'bio-washing machine' which uses geothermal pumps to accelerate the natural breakdown of liquid hydrocarbon in the soil on site. However, the law at that particular moment of time – around roughly 2010 – did not allow for this. This is where the second

innovation was introduced (a nice example of a synthesis between institutionalism and pragmatism): the bio-washing machine was redubbed a 'pilot project' for a new law dealing with soil contamination and thus was allowed to go forward under these auspices.

Another issue the Utrecht project faced is the fact that many legal norms are defined in relation to the status quo. Many regulations stipulate that the existing situation may not deteriorate – a direct consequence of the stand-still principle – but do not require improvements either. One of the many ambitions of the Utrecht Central Station project was to realise at least 10% surface water on the site, but this ambition initially fell on deaf ears as it was not encouraged by law. Obviously this situation is far from ideal. In fact, it actually encourages environmental concerns to be viewed as an obstacle rather than a goal. In this case, it produced some unexpected consequences. For example, an underground car park was designed close to the restoration of a canal, which had been drained in the 1960s. When the zoning plan for the car park was drafted, the canal was not included because, legally speaking, it was irrelevant as the new canal did not yet exist. However, from a common sense point of view, it would be wise to take the future canal into account when designing the garage in order to prevent potential water damage in the future. The issue was resolved through the water test procedure, which requires developers to consult the water board – in the Netherlands the authority with statutory competences related to water quantity and quality – and seriously consider its advice. As a result, the developer adapted the plans to include the canal. So, in the end, a procedural requirement resolved a rather odd conflict between environmental norms and pragmatism in planning.

Discussion: Dialogue Bridges the Divide

From the above we can draw some tentative conclusions about how environmental norms as institutions structure (i.e. enable and constrain) the pragmatic search for solutions in communicative planning processes. The conceptual difference between the enabling and constraining effects of institutions enables us to observe a clear difference between two kinds of impacts environmental norms can have. On the one hand, environmental norms clearly set boundaries – literally and figuratively – to development and therefore can constrain actors in their search for solutions. In many cases, environmental norms become a precondition to be met at the lowest cost and with minimal consequences for other ambitions in the project. On the other hand, we see instances where norms encourage innovative and creative solutions for environmental problems. In such instances, resolving environmental concerns can become an important goal in itself instead of just an obligation.

Several effects can be observed with respect to environmental norms-as-constraints on ambitions of urban development. First, they can block development (often after a legal ruling), as illustrated by the first plans for housing in the Markermeer-IJmeer. One explanation for this effect is that the emphasis on informality during communicative planning processes, in combination with a particular set of stakeholders, can result in a situation where legal conditions are ignored in the early stages of the process. In the later stages, when the room for developing alternative courses of action has vanished, opponents resort to the courts to protect their interests (see Glasbergen, 2005). If they are successful, the development must be abandoned or started anew.

Another effect is that environmental norms that were meant to function as minimum norms can become maximum norms. The development in Buiksloterham is a case in point: the noise pollution threshold provided a bottom-line for maximising the number of homes; the actual nuisance suffered by future residents was not duly considered. This can be seen as an unintended consequence; the law was never meant to suggest that everything is fine with regard to desirable

environmental quality as long as the minimum standards were observed. In this particular case, the triple role played by the municipality seemed to be a driving force behind the transformation of minimums into maximums. As a public authority, it should enforce noise regulations. As a critical planning actor it adopted ambitious goals on housing development. As a landowner, it will benefit from the revenues generated by this housing development.

Another effect of norms-as-constraints results from a principle that is often applied in environmental law, the so-called stand-still principle, which entails that interventions may not lead to a worsening of environmental conditions (Macrory, 2004). As a result, in areas where environmental quality is poor and environmental norms are viewed as constraints, no incentive exists to improve quality. In the case of Utrecht, in order to avoid a reduction in the water storage capacity of the area, the plan should not lead to a reduction in surface water and impervious cover. In the existing situation the water storage capacity was rather poor, and it took an energetic private initiative to restore old waterways to make the area more climate proof. The latter relates to a similar phenomenon with regard to the application of generic norms in a specific case with its own time-space dynamics. In the Utrecht case, we highlighted the situation where a developer wanted to build an underground parking garage next to a proposed new waterway. Only when the procedure of the so-called 'water test'⁵ was followed, which requires developers to consult the water authority, was the developer motivated to adapt the design. This water test is in fact an example of an environmental standard that actively, and in an early stage, brings together the actors in a planning project and the agency that is supposed to uphold environmental norms. In so doing, it creates a setting in which environmental norms can be interactively integrated into projects. Therefore procedural norms – which are distinct from the debate on open versus detailed norms – could be seen as a way to overcome tensions between institutionalism and pragmatism.

In addition to examples of norms as restrictions, the case studies also provide examples of how norms enable innovative approaches to environmental problems and sustainable development. In Markermeer-IJmeer, an antagonistic process which led to legal battles between the local authority and environmental groups was transformed into a collaborative process containing a very innovative approach that combined development with environmental quality improvement. Two key factors played a role in turning the process towards larger ambitions. First, the existing norms gave environmental interest groups a foothold because they could frustrate development by going to court. In this way, the norms contributed to the formation of an 'ad hoc coalition of opposites'. The municipality of Amsterdam took an important environmental interest group on board when making the IJburg plans and convinced them to constructively participate by promising to promote a more ambitious environmental agenda. Second, the innovative approach put in practice after consultation with the European Commission convinced the stakeholders that this approach would probably be held up in court. This was particularly important to resolve two issues. The scientific evidence required by environmental regulations to ensure that the environmental effects will not be negative in the long term is difficult to deliver in such a complex area with so much development going on. The system of monitoring – environmental bookkeeping – bridged the gap between the demand for future legal certainty and the uncertainty of the situation. In addition, the innovative approach required a longer timeframe and geographical scope for compensation of environmental impacts than European guidelines seemed to grant. These doubts disappeared after the consultation with the European Commission. In Utrecht, the idea of a 'bio-washing machine' was an innovation triggered by environmental norms but at the same time also required a renegotiation. After intense debate, the national government allowed actors in the Utrecht case to deviate from existing norms and apply norms in a law under development.

If we consider that situations in which norms contribute to innovation and ambitious environmental goals are more successful than situations in which these norms function only as constraints, then the cases also indicate an important success factor. Our cases clearly show that where the relationship between institutions and communicative planning projects is mediated by interaction between actors that are responsible for upholding norms and stakeholders within the project, this increases the chance of constructively integrating norms into pragmatic problem solving. This process has been aptly described as ‘negotiated compliance’ (Jones, 2013). This concept also posits that environmental norms are a necessary precondition for safeguarding environmental objectives. Our cases of course provide clear examples of behaviour-influencing rules and, in particular, examples of how the definitions of roles contribute to creating coalitions of opposites. However, the existence of norms is not a sufficient condition for the successful use of these norms in practice. In other words, the goals of environmental norms are better served when, in addition to the existence of a norm, a dialogue can take place between the standard-setting or enforcing authority – often the European Commission or the national government – and the regional or local authorities promoting an urban development project. Such dialogue is needed to overcome the tensions between the properties of institutions and the characteristics of communicative planning processes. However, one should be wary of unintended consequences when planning a new project and adapt the norms to a particular timeframe and geographical scope to bridge the gap between scientific evidence and the uncertainty of complex communicative planning projects.

Conclusions

The main objective of this chapter was to show the added value of institutional reflection with regard to the practice of communicative planning projects and, in so doing, engage a theoretical debate with empirical evidence. This must be seen as a first empirical exploration into the frictions between communicative planning practices and institutional demands and how these can be overcome. Tentatively, the following conclusions can be drawn. Environmental norms are powerful institutions: they clearly ensure that environmental interests are taken seriously in planning processes, either as behavioural norms or by providing actors with a role in the process. Both stand at the basis of constructing coalitions of opposites, where they emerge. It is doubtful that pure bottom-up communicative processes would take environmental concerns as seriously if no environmental norms existed. This might sound a truism, but it is important to note for at least two reasons: It provides a counterweight against the discourse that norms unnecessarily frustrate societal progress. Furthermore, it also shows that communicative planning processes do not take place in a complete institutional void and that norms can still perform their legitimating function.

Our analysis also indicates that under certain conditions a better fit can be achieved between the objectives behind environmental norms and the ambitions of urban development projects. Fitting norms to the specific time-space characteristics of the project provides a powerful example. The possibility of a dialogue between the standard-setting or enforcing authority and the project is important in this respect. In addition, one could argue that environmental norms that encourage such a dialogue might provide a way to overcome tensions between norms as institutions on the one hand and pragmatic problem solving in communicative planning projects on the other.

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Notes

- 1 The 'Context project' was funded by the Netherlands Organisation for Scientific Research (NWO) and carried out by an international research consortium led by Willem Salet and Jochem de Vries. The study examined the Randstad, Paris and Manchester regions. This chapter draws from the Dutch case.
- 2 This sub-section is based on: Waterhout, B., Zonneveld, W., Louw, E., (2013) and (2014).
- 3 This sub-section is based on Dembski (2013).
- 4 This section is based on Buijze (2013).
- 5 The water test has a legal basis in a Dutch national government decree and is a protocol that has to be followed when a development might have an impact on the water system. It is a procedural norm that indicates who should be consulted and how decisions affecting the water system should be accounted for. It doesn't contain substantive norms. In terms of our paper, actors are forces in an act of 'self-confrontation' with regard to the water-related consequences of their plans.

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