The Public's Right to be Heard in Urban Planning Procedures: the Case of Israel from a Cross-National Perspective

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Who among us has not been concerned about a new building which blocks our view, a new highway that is likely to cause severe noise and pollution, or a new neighborhood with inadequate open space? This research addresses the rights of residents to influence statutory land use decisions. This research is the first systematic comparative research on this topic ever conducted anywhere in the world and constitutes a major contribution to understanding the relationship between the theory of urban planning, on the one hand, and land use law and practices on the other hand.

The Public's Right to be heard is part of most planning-law systems in democratic countries. In practice it is the major mechanisms whereby residents and citizen organizations can influence land use decisions. In Israel, the right to be heard is expressed in planning law by the "objections" procedure. This procedure gives interested parties the right to be heard by planning committees, and the committees are legally bound to listen to these objections. In recent years, the Knesset has tried repeatedly to limit the right to be heard, but the courts have protected this right. These contradictory trends raise many questions about how the right to be heard should be implemented and what the best policy is for protecting the public's rights in the planning process.

In this study we critically examine the legal provisions for the right to be heard in Israel’s planning process, as that right is manifested in practice. To conduct a critical examination, one must have standards; but no such standards exist, either in theory or in empirical knowledge. Therefore, we developed criteria for evaluating the provisions in planning law for the right to be heard. A critical examination also requires a standard for comparison. We have chosen to compare three countries, Israel, England, and the Netherlands, in order to pinpoint the best practices of those countries.

Our findings indicate that there are interesting dissimilarities between the countries. Contrary to common knowledge, Israel is not a "worst case" but rather, exhibits some good practices, alongside some that should be improved. The findings of this pioneering study identify the "best practices" and worst ones of each of these three countries. The strong theoretical basis in both planning and law will permit cross-national learning. It is expected that the publication of this research and its findings will be a path breaker for expansion of critical cross-national analysis of planning law in general and the right of the public to influence planning, in particular.