



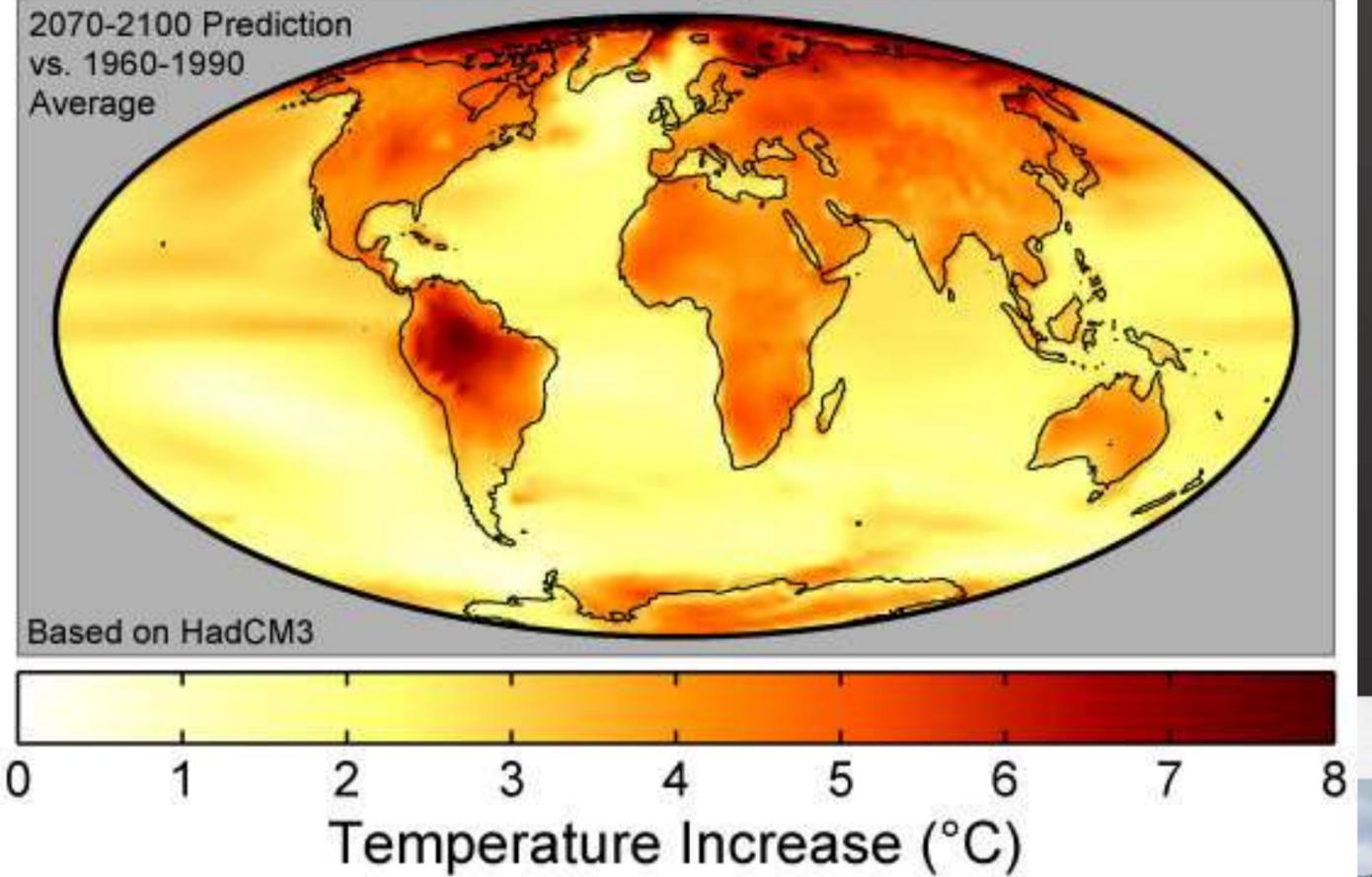
Conceptualising Public Participation - some key questions

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Why is it important?

Elevated sea-level rise in Dublin higher than predicted due to climate change, study finds

Global Warming Predictions



WATCH THE VIDEO



A single launch, Boris, and there is no England anymore



File:Coronavirus pandemic.png - Wikimedia Commons



Biodiversity Report Paints a Bleak Picture - Eos <https://eos.org/articles/biodiversity-report-paints-a-bleak-picture> - Wikimedia Commons

File:Global Warming Predictions Map.jpg - Wikimedia Commons

This figure was prepared by Robert A. Rohde from publicly available data, and is incorporated into the Global Warming Art project

01

**WHAT
DECISION
MAKING?**

02

RATIONALES?

03

**A Norm of
International
Law?**

04

**WHAT DOES
INTERNATIONAL
LAW HAVE TO
SAY ABOUT IT?**

05

**Who is the
Public?**

06

**WHO
PARTICIPATES?**

07

**HUMAN RIGHTS
DIMENSIONS**

08

**What is
participation?**

09

CONCLUSIONS?



PLANS AND
POLICIES
(SEA)

County Council
policy making
(PPN)

SPATIAL PLANNING
(EIA/AA)
&
LICENSING (IED)

LEGISLATION?

Participation
in
International
Fora?
(PIF)

• **What decision
making?**

2. Why public participation? Rationales:

Empowering
marginalised

Enhancing
democracy

Normative Rationale

Influencing
decisions

Social Learning

Input Legitimacy

Resolve conflict

Better Decision
Making

Instrumental Rationale

Public awareness

Resolving Conflict

Output legitimacy

Local knowledge

Testing robustness
of info from other
sources

Substantive Rationale

Experimental
knowledge

Value based
knowledge



Transparent Government & better Rule of Law

Better decision making

Environmental Justice

3. Public Participation as a "Norm"?

1

WHAT IS A
NORM?

2

HOW DO WE
IDENTIFY
NORMS?

3

WHAT
EVIDENCE IS
THERE FOR PP
AS A NORM?

4. What does International Law say about it?



Aarhus Convention

"Every citizen shall have the right to participate in the democratic life of the Union. Decisions shall be taken as openly and as closely as possible to the citizen."

Lisbon Treaty
Art 10

"Each Party shall ensure the public's right to participation and, for that purpose, commits to implement open and inclusive participation in environmental decision-making processes based on domestic and international normative frameworks."

Escazú
Art 7

e.g.

- **Stockholm Declaration 1972**
- **Rio Principle 10**
- **1991 Espoo Convention**
- **African Charter**
- **International Covenant of Civil and Political Rights**

Other Sources

6. Who participates? Representation and Inclusivity

ARNSTEIN

- Minorities
- Disadvantaged

RIO DECLARATION

- Women
- Youth
- Disadvantaged
- Indigenous
- Local Communities
- Oppressed

AARHUS

- Affected by
- Interest In
- NGOs with Env Obj

ESCAZÚ

- Persons or groups in vulnerable situations
- Indigenous
- Local Communities
- Public Directly Affected

PLANNING PRACTICE IN IRELAND

Lack of a nuanced approach to the "public"

Human Rights Dimension?

ADVANTAGES

**CATEGORICAL APPROACH
TO THOSE ENTITLED TO IT**

**MAKES PARTICIPATION A
FUNDAMENTAL RIGHT**

DISADVANTAGE

S

"MARGIN OF APPRECIATION"

ENFORCEMENT

Evidence for Human Rights Approach?

**INTERNATIONAL AGREEMENTS
& DECLARATIONS**

CASE LAW

ACADEMICS

A long, straight road stretching into the distance under a cloudy sky. The road is flanked by dry, brownish fields and a fence line on the right. The sky is overcast with grey clouds.

What is participation?

Aarhus Convention:

"...GIVE THE PUBLIC THE OPPORTUNITY TO EXPRESS ITS CONCERNS AND ENABLE PUBLIC AUTHORITIES TO TAKE DUE ACCOUNT OF SUCH CONCERNS..."

What is participation?

Escazú Agreement:

"THE PUBLIC'S RIGHT TO PARTICIPATE IN ENVIRONMENTAL DECISION MAKING PROCESSES SHALL INCLUDE THE OPPORTUNITY TO PRESENT OBSERVATIONS THROUGH APPROPRIATE MEANS AVAILABLE, ACCORDING TO THE CIRCUMSTANCES OF THE PROCESS. BEFORE ADOPTING THE DECISION, THE RELEVANT PUBLIC AUTHORITY SHALL GIVE DUE CONSIDERATION TO THE OUTCOME OF THE PARTICIPATION PROCESS."

Is this Participation?

01

"Taking due account"

02

Reason giving obligation

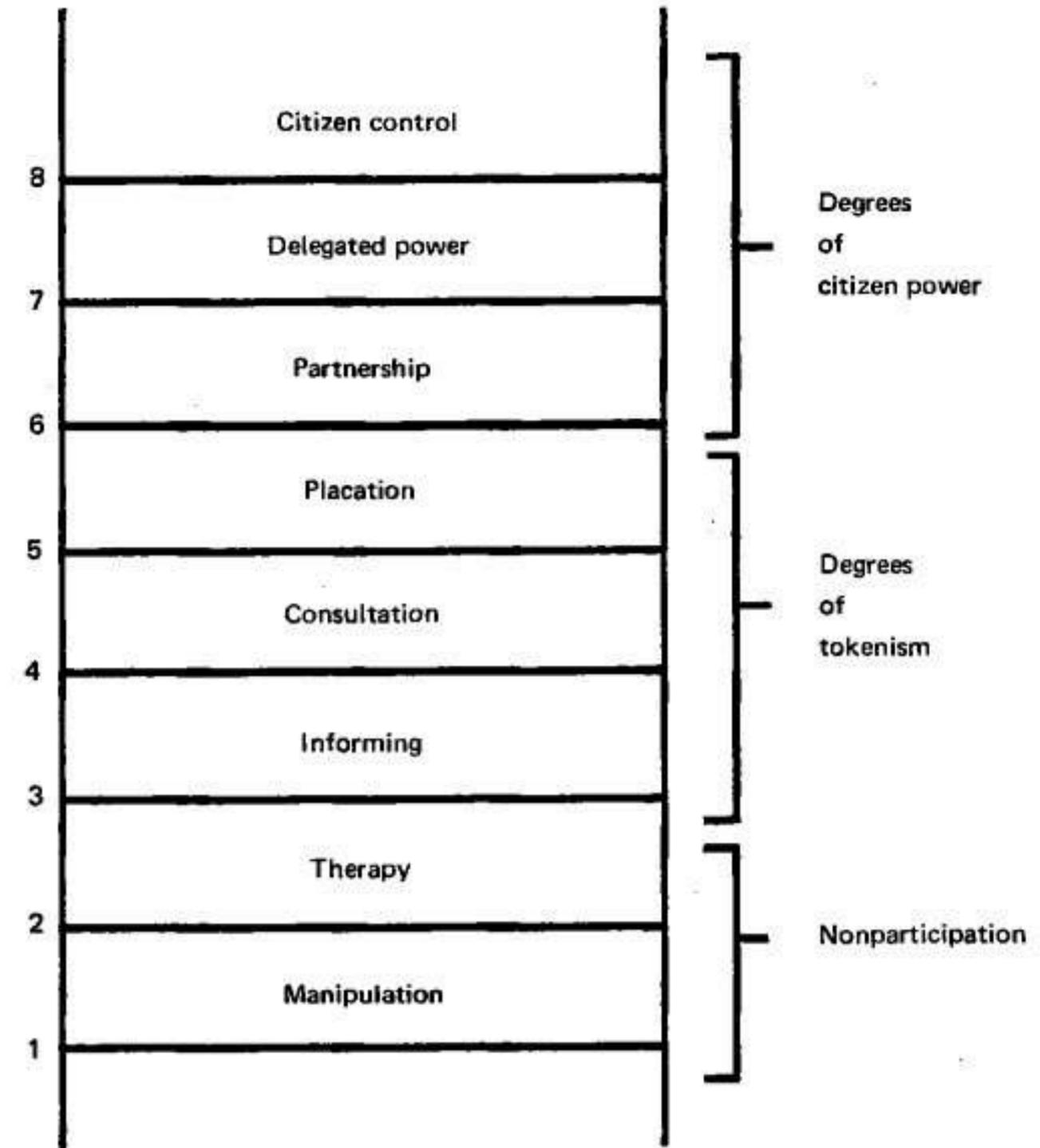
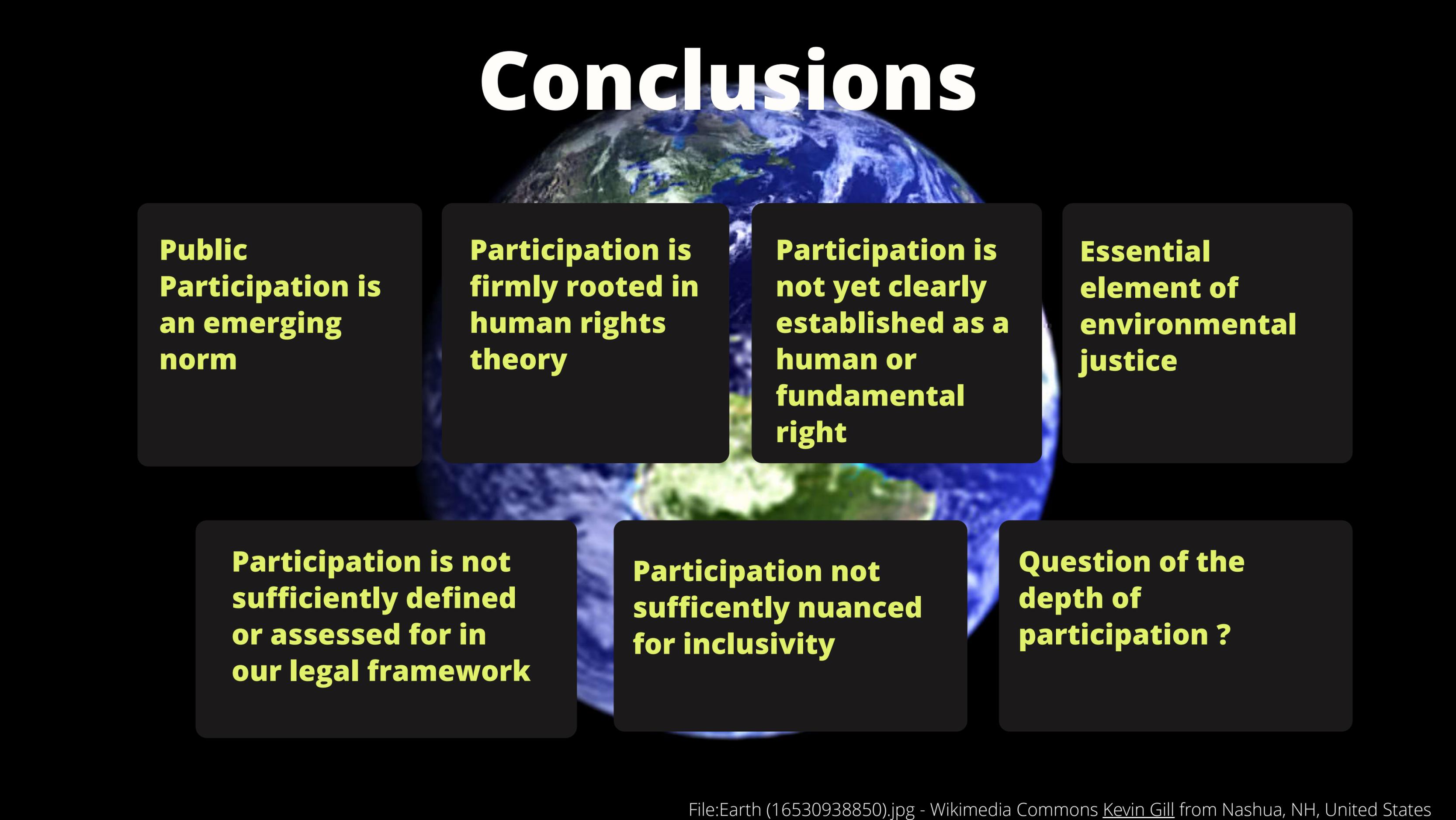


FIGURE 2 *Eight Rungs on a Ladder of Citizen Participation*

Conclusions



Public Participation is an emerging norm

Participation is firmly rooted in human rights theory

Participation is not yet clearly established as a human or fundamental right

Essential element of environmental justice

Participation is not sufficiently defined or assessed for in our legal framework

Participation not sufficiently nuanced for inclusivity

Question of the depth of participation ?

Thank You

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