
Deliberative Democracy, Public Policy and Effective Citizens Participation

Abstract: Public participation is a given in a democratic society, but how is effective public consultation achieved and what level of participation is adequate? Following a discussion of Direct Democracy, Representative Democracy and the pitfalls of referenda, this article will describe and champion the innovative consultative process of Deliberative Democracy.

“Without public involvement in the process, democracy lacks both its legitimacy and its guiding force.” (Dalton 1996, p40)

It is popularly held that the proper role of the citizen in the devising of law and public policy is given by the conception of democracy. Literally speaking “democracy” means rule or government by the people. ‘Public policy and law’ equates to ‘governing’. Empirical studies suggest that the term *democracy* means different things to different people in different societies. (Thomassen 1995) However, the basic principles of democratic regimes are commonly understood to include the values of freedom, participation, tolerance and moderation, respect for legal-institutional rights and the rule of law. (Simon 1996) While democracy is more than majority rule, it is not the same thing as simple equality. Government can never be simply egalitarian. (Walzer 1983) At any one moment someone or some group must decide on a particular issue and then enforce the decision. Someone else or some other group must accept the decision and endure the enforcement. That is, within a democracy, laws and public policies may reflect a multitude of compromises – they will be closer to the wishes of some citizens than to those of others.

Democracy can take several forms. *Direct democracy* demonstrates total participation by citizens in the formulation of public policy and law. Historically, direct democracy was demonstrated by the ancient Athenians or by the New England town meeting. In ancient Athens every free adult male was entitled to address the Assembly. Similarly, the entire community would meet in the New England town hall to discuss and decide upon issues of public policy and concern.

Such direct and total involvement by the citizenry was suited to the small populations of these historical examples. It is difficult to envisage how this level of participation could be achieved in today’s nation-states which are considerably larger both in terms of geography and population.¹ Today’s ‘free’ adult population is not supported by a slave community to run the day to day activities that are necessary. As consultation slows down decision making, it is possible that full participation by all citizens would see law and policy making and the general business of government grind to a halt. If all citizens had literally the same amount of influence it would be difficult to see how any clear-cut decisions could ever be achieved. In addition, not everyone will wish to be involved. People are of different ages, stages, educational and socio-economic backgrounds within a community and political

¹ 1. There are a number of commentators who would argue that a form of direct democracy may be revisited via Electronic democracy

scientists show that this significantly affects who is willing to become involved (Parry et al. 1992, chapter 7).

Representative democracy, based on the election of representatives to do the governing is demonstrated in many countries including Australia and New Zealand. The most visible and widespread form of citizen participation in representative democracy is voting. Voting determines control of the government, but the policy content of voting is limited because an election involves many issues. Voting is also a reasonably simple act that does not require much initiative or co-operation with others. Partaking in the voting process at regular intervals defines a minimum level of citizen participation.

However, a level of participation beyond the mere voting for representatives is required to maintain a healthy democracy. Where voting is the only thing that people participate in, the experience is that voting turnouts fall, apathy and cynicism set in.

“It is widely believed that growing cynicism about government may deter conventional participation: discouraging electoral turnout, political activism and civic engagement.” (Norris 1999, p 257)

A possible reason for this is the way that politicians compete during elections by offering solutions to society’s problems. Over time citizens get into the mindset that politicians have the answers. The electorate begins to believe that it is up to the candidates/elected representatives to solve the problems. The citizens abdicate responsibility to the politicians. Ironically, the politicians can not solve the problems by themselves; they need the support of the public. Rising crime, environmental issues, unemployment, health and education concerns and other ‘wicked’ issues that require people’s involvement, become established. As the politicians have been unable to solve the problems – that is, there is a gap between the ideal perceived by the citizens and the reality delivered by the politicians – the citizenry becomes distrustful of the democratically elected government.

As citizen participation by the simple act of voting is inadequate, the question becomes one of how to involve the citizens more directly. Some proponents of greater citizen involvement in the formation of law and public policy argue for increased use of referenda. However, referenda are expensive to run and the question must be asked, where do you draw the line – that is, how many does a government have to do? Just as with representative voting, apathy must be overcome. Referenda are not binding in New Zealand, and distrust, cynicism and apathy would only increase if the will of the public was not adhered to. For a referendum to work effectively it needs to be a yes or no question – an either/or decision is required. Few propositions can be so simply put, as many issues are a matter of degree.

Further, referenda are open to manipulation. As already mentioned, in a democratic vote choices still have to be made: and these depend not on single votes but on the accumulation of votes – hence on influence, persuasion, pressure, bargaining, organisation and so on. (Walzer p 306) The side with the largest budget or the most charismatic leader is apt to win.

People cannot make an adequate decision without being informed. Too often citizens do not think things through, giving a 'knee jerk' or 'gut' reaction to an issue. For a referendum to be accurately representative an effective education programme around the issue is required prior to the vote. And while an education programme may be offered via various modes and media, the challenge is to get the public to engage with it and not to simply filter that which supports their initial gut or knee jerk reaction. It is clearly impractical to educate *all* citizens on *all* issues and then to seek their views via referendum.

Due to this impracticality and the perceived complexity and multifaceted nature of many policy and legislative issues one consultative method used in New Zealand is the formation of focus commissions and committees. Members of the public, either as individuals or as members of interested groups, may be permitted to make written and/or oral submissions to these bodies. While democracy is inclusive, allowing all citizens to have the opportunity to participate, the reality is that individual citizens share in decision making to differing degrees. Citizens are at different ages and stages and some are therefore able to give more time than others. Some citizens are more effective and have more influence than others. Further, people tend to participate in activities that match their motivations and goals. For some individuals, participation may be for a single specific reason that does not address broad policy questions. There is the problem that people who get involved may be the ones who have extremes of view.

Majority submissions to a commission may not be adhered to. For example, despite 98% of the submissions to the Royal Commission on Genetic Engineering held in New Zealand being against genetic modification of organisms, the commission recommended proceeding with caution. It can be assumed that people who feel strongly on this issue were the ones that responded. Therefore, just because the numbers of submissions stack up this way it does not mean that the commission's recommendation is an incorrect or necessarily undemocratic one. Expert committees have a legitimate role to play in democratic policy making.

Democracy is not just about translating public opinion into policy. As described, decision making by the majority can in fact be undemocratic when the majority of citizens are uninformed about particular issues and about the likely consequences of the policies or laws that they are supporting. Of course, it may not be simply due to ignorance that a majority may make an undemocratic decision. The majority may hold values that are highly repressive. Even if this is not the case, and even if the majority are well informed, making every legislative and policy decision in accordance with the will of the majority does not allow any weight at all to be given to the views of the minority. Minority views deserve to be heard rather than simply overridden.²

So, it is difficult to perform public consultation well.

² The historical 'first past the post' voting system in New Zealand is a case in point. The candidate who achieved the highest number of votes on election day was elected the representative for that electorate. The government was then duly decided according to which political party won the majority of electoral seats. It was entirely possible, and was in fact the case more often than not, that more votes in total were cast for the opposing political parties than for the winner. Thus a government could be elected which took no account of the substantial number of citizens who expressed their vote for different policies. The government could not be said to be representative of the majority of citizens. The current 'proportional representation' system offers the opportunity for those elected to political office to be a better representation of the actual distribution of votes overall.

“As I have said, community input is absolutely crucial, but the difficulty is to know where the ‘community’ is and how best to sound out the views of the general community.” (Charlesworth 1989, p102)

Innovative, creative and consultative processes are needed to involve people. Deliberative democracy would appear to be such a consultative process, engaging the public in an issue at deeper than a gut level.

“Whereas populist democracy assumes that the expression of popular will is an overriding good, deliberative democracy ... [involves] an ideal of politics where people routinely relate to one another not merely by asserting their wills or fighting for their predetermined interests, but by influencing each other through the publicly valued use of reasoned argument, evidence, evaluation and persuasion that enlists reasons in its cause. In a deliberative democracy, people collectively shape their own politics through persuasive argument.” (Gutmann 1993, p 417)

In his dissertation *Toward a New Democracy*, Fishkin (1991) suggests the “deliberative opinion poll” as a mechanism for combining political equality with deliberation. Whereas a common opinion poll models what the public thinks given how little they know, a deliberative opinion poll models what the public would think if they had a more adequate opportunity to think about the issue in question.

“A deliberative opinion poll gives to a microcosm of the entire nation the opportunities for thoughtful interaction and opinion formation that are normally restricted to small-group democracy. It brings the face-to-face democracy of the Athenian Assembly to the large-scale nation-state.” (Fishkin 1991, p 4)

For Fishkin the deliberative opinion poll overcomes the dilemmas of the rival traditional sample opinion poll or expert committee proposals, which represent a choice between politically equal but relatively incompetent masses and politically unequal but relatively more competent elites.

The idea of a deliberative opinion poll is to take a random sample of the public from across the nation and to transport these citizens to a single location. There they would be immersed in the issues. Carefully balanced briefing materials would be distributed, intensive discussion in small groups with the chance to question competing experts and politicians would be offered. When the issues had been worked through face to face in such a way for several days, a detailed poll would then be taken of the participants. Fishkin contends that the survey results thus obtained would be representative of the considered judgements of the general public had the entire voting age population had the same experience of behaving more like ideal (Athenian) citizens, immersed in the issues for an extended period of time.

As this type of event became institutionalised, Fishkin believes that it would be considered an obligation of citizenship and would therefore be viewed in a similar way as participating in jury service.

As previously alluded to, people exhibit different levels of interest and willingness to participate. If the deliberative opinion poll was comprised of volunteers alone, there is the possibility that the forthcoming 'public' voice would be deliberative, but not representative. The deliberative opinion poll attempts to overcome this 'representative' difficulty by approaching a random selection of citizens and inviting them to participate. Analysis of the 300 participants in Britain's first deliberative opinion poll held in Manchester in April 1994 showed the sample to be "an almost perfect representation of the nation gathered together in a single place" (p167). Further, these 300 participants demonstrated a new appreciation of the complexity of the issues discussed, at the end of their intensive weekend, including the conflicts of values the issues posed and the limitations of any one solution.

The common opinion poll can affect the public's conclusions and behaviour, for example, voting behaviour. Similarly, the deliberative poll could both affect the public's conclusions and affect the way that citizens frame and understand issues, based on more informed and deliberated opinions. In essence the deliberative opinion poll offers a viable example of deliberative democracy. When used in conjunction with, or as an alternative to, expert committees, the deliberative opinion poll may overcome some of the shortcomings of such committees and of the purely populist approach to lawmaking, while retaining some of the strengths of each approach. The concept of deliberative democracy suggests a way in which citizens can be involved in making the legislative and policy decisions that affect them, and in a way that goes beyond the simple publication of their opinions.³

To conclude, the minimum level of participation in law and policy making that is required in a representative democracy is that citizens partake in voting at regular intervals. Arguing that this minimum level of participation is insufficient for a healthy representative democracy this essay has determined that the public need to be consulted on issues but that it is difficult to perform consultation well. One hundred percent participation in the formulation of public policy by citizens, as demonstrated by direct democracy, is impractical. Common methods used in New Zealand to provide greater citizen involvement include referenda and focus commissions and committees, however these methods also often fail to deliver truly representative views. Failure occurs due to factors such as cost limitations, misleading influences, time constraints and/or a lack of effective public education. Innovative consultative processes such as deliberative opinion polls appear to provide a truer reflection of public opinion and offer the opportunity for citizens to participate meaningfully in policy formulation. Democracy comes with a cost – a cost to all of us to get involved, to engage with and to deliberate issues, although this will not always be at the direct level of public policy and law formulation.

“Democracy should be a celebration of an involved public. Democracy requires an active citizenry because it is through discussions, popular interest, and

³ Through a similar approach known as the “Consensus Conference”, Denmark has addressed matters such as the regulation of genetic testing and the use of some of the new technologies in health care. On a more local level city councils in New Zealand have been known to facilitate a Citizens Jury. While these are much smaller than a national deliberative opinion poll, they offer twelve local citizens an opportunity to become fully informed on an issue of local concern. For example, Wellington City Council held a citizens jury when deciding whether or not to sell its power company, Capital Power.

involvement in politics that societal goals should be defined and carried out in a democracy.” (Dalton 1996, p40)

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