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CHAPTER 8

POLICY ANALYSIS FOR DEMOCRACY

HELEN INGRAM
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1. INTRODUCTION

Much of what is taught to policy analysts in many policy programs ill equips them to deal with the issues related to the quality of democracy. Traditionally, policy analysis served democracy by concentrating on the efficiency and effectiveness with which stated policy goals were delivered (Bardach 2000; Weimer and Vining 1999). Using tools from macroeconomics, policy analysts have conducted increasingly sophisticated means–ends assessments and theories of the proper role of government vis-à-vis markets (Ostrom 1990; Lindblom 1977). Where political science has a substantial foothold in policy programs, policy analysts have attended to political feasibility and support, responsiveness of policy to citizens, evaluation of the ways in which policies are constructed to reach agreement, and how implementing agencies relate to constituencies, and to each other (Dye 1998; deLeon and Steelman 1999; Ingram and Smith 1993). Today, assuming that efficiency, effectiveness, and political feasibility are the only measures policy analysts should apply in measuring the various policies' contribution to democracy is clearly inadequate.¹ There is an accumulation of both theoretical and empirical work demonstrating that public policies, and the elements in their designs, have important effects on citizenship, justice, and discourse.² The importance of public policy in creating a more just

¹ See Stone 1997; Fischer 1990, 1995; deLeon 1997.

² See Schneider and Ingram 1993, 1997; Mettler and Soss 2004; Landy 1993; Soss 1999.

society is apparent worldwide. Issues of distributive justice and responsive leadership cannot be left only to academic enquiry, but must become more central in the work of the policy analyst (Page 1983; Denhardt and Denhardt 2003). Moreover, the context in which policy analysis is taking place is changing in important ways that make the relationship of policy to democracy especially salient.

Our initial theme is to suggest that the contexts for most public policies are undergoing rapid changes, which require a focus on the democracy gap that has previously received scant attention from policy analysts. We will then explore briefly the meanings of conditions for democracy. We will next posit some possible linkages between democratic conditions and public policy content or design. The bulk of the chapter will be in developing these linkages as a subject matter for policy analysis. Finally, we will examine how the purposes and tools of contemporary policy analysts need to change to serve democracy better. While our principal focus will be on developments in the United States, which is the case we know best, we will refer to parallel developments elsewhere as appropriate.

2. CONTEMPORARY CONTEXT FOR PUBLIC POLICY

The public opinion context in which policy analysis now takes place is extraordinarily critical about government and public policy not only in the United States, but also in other Western democracies.³ In the United States, a large proportion of the public no longer believes that government is able to fulfill the promises embodied in policy goals (Skocpol 2003). Rather than being viewed as the principle collective problem solver, often government is perceived to be as much part of the problem as solution (Savas 2000; Rauch 1994; Kennon 1995). Moreover, the motives of government officials are not trusted. Many people do not believe that government is trying to help people like themselves, and believe instead that the interests of the elite and the members of the government are placed above the interests of ordinary citizens (Dionne 1991; Greider 1992; Sandel 1996).

Despite nearly forty years of seemingly aggressive attempts on the part of government to alleviate gender, racial, and ethnic bias and unequal treatment, disparities remain. In fact, race and gender have not disappeared as issues in most modern democracies but instead are masked beneath rhetoric that may not mention either one. In the United States, but also in many other Western democracies, a number of policy issues have become exceptionally divisive along these cleavages, including crime, public schools, welfare, and immigration. In these issues, political support is

³ See Anderson and Guillory 1997; Norris 1999; Karp, Banducci, and Bowler 2003; Verba et al. 1993.

too often built by appealing to thinly veiled symbols that represent some groups in highly negative terms as unworthy and undeserving. Such portrayals are justification for provision of benefits to positively constructed groups and burdens upon those who are stigmatized as dependent or deviant. In our other work, we have called this degenerative politics because the result is to perpetuate and aggravate divisions among citizens by providing them consistently with quite different treatment at the hands of government (Schneider and Ingram 1997; Ingram and Schneider 2005). The consequence is an American democracy that espouses ideals of equal protection and treatment under the law, while actual treatment by policy of citizens is noticeably and unfairly unequal. There is great variety throughout Western democracies in how much importance is placed on equality or fairness as an outcome of public policy, and in the extent to which governmental practice approaches the ideals of the society. Nevertheless, the US experience toward greater justice and equality is an uneven one and some social issues emerge again and again as if there is no way to solve them “once and for all” (Sidney 2003).

Concern about the vitality of civic society, social capital, and political participation is evident in the United States and the democracies of the Western world.⁴ Robert Putnam’s often-cited thesis that each generation born in the USA since 1920 has shown less interest in civic participation than the one before has generated numerous calls for civic renewal and numerous policies at the federal and local levels to re-engage citizens in the work of democracy (Putnam 2000).

One of the consequences of the disquiet with politics and government in the United States is that governance structures have altered dramatically with decentralization, devolution, and the emergence of a variety of public–private partnership models (Rosenau 2000; Reeves 2003; Salamon 2002). Among the most salient of these changes is that non-profit organizations now play a critical role in policies as widely divergent as private prisons, charter schools, police, fire, substance abuse, and environmental clean-up (Rosenau 2000). Not only is measuring the efficiency and effectiveness of such programs increasingly difficult, lines of democratic control and accountability are different and less direct (Goodin 2003).

3. RELATIONSHIP OF POLICY TO DEMOCRACY

Even as democracy becomes the apparent political system of choice for many nations throughout the world, in the United States it remains an unfinished, open-ended

⁴ Skocpol and Fiorina 1999; Putnam 2000; LeDuc, Niemi, and Norris 1996; Blais and Dobrzynska 1998; Karp and Bowler 2001; Lijphart 1999; Nevitte and Kanji 2002.

project. As Dryzek (1996, 1997) has argued, democratic governance is in large part striving to expand the franchise, scope, and authenticity of democracy. Franchise refers to the numbers of participants in any political setting. Scope concerns the domains of life under democratic public control. Authenticity is the degree to which democratic control is substantive, informed, and competency engaged (Dryzek 1997). No one of these proposed enlargements ought to take place at the expense of the other: expanded franchise must not lead to superficial deliberation that hurts authenticity. Of course, there are many forces apart from policy, such as interest groups, political parties, leadership, and the press, that affect the democratic enterprise. However, since the important work of Lowi (1964) and Wilson (1986) that connected the content of policy with patterns of politics, a substantial literature has developed tracing the consequences of public policies to politics and to democracy. Figure 8.1 lays out some pathways through which public policy content may influence the character of democracy.

The third set of boxes in the figure identifies some critical conditions for democracy: There need to be open arenas for public discourse in which all relevant points of view are expressed; citizens ought to view their role as citizens as important, as involving obligations as well as rights, and they must be convinced that government has the interest and capacity to solve public problems; citizens themselves should be supportive of policies and positively involved in producing shared goals; and there must be means to hold government accountable for its actions. These important conditions for democracy are directly related to consequences flowing from policy designs: The framing of issues; how targets are constructed; the structure of implementation and delivery systems; and transparency of governmental actions and citizen access to information. The pathways are not meant to be exhaustive but only suggestive. Also, we recognize that a complete causal model would be recursive, showing how changes in the framing of issues impact policy designs, for example; but our focus here is on how policy itself addresses the conditions of democracy.

The relationships shown in Fig. 8.1 reflect an interest in how policy design, or content, affects the framing of problems and citizen identities through language, symbols, and discourse. The central contention here is that policy analysis must probe how the elements of design found in policy content impact framing, constructions, implementation, and information/transparency, and through these the opportunities offered to citizens. These linkages must become part of what policy analysts do if they wish to understand how and why policy impacts democracy and if they wish to design policy that will better serve democracy. Policy is not a black box from which the analyst can understand outputs or outcomes on the basis of inputs such as citizen demand, support, and resources. Nor is policy a simple extension of culture or public opinion. The ways in which the elements of design (goals, target populations, rationales and images, implementation structures, rules, tools) are configured within policy set the stage for what follows.

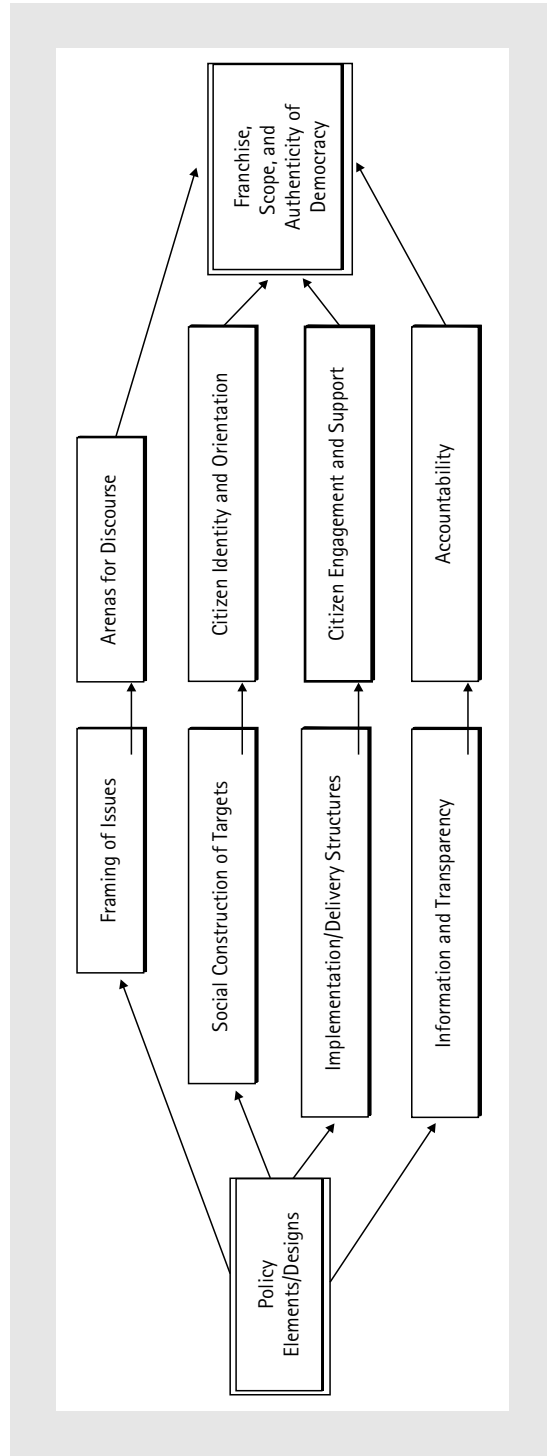


Figure 8.1. Linking policy design to democracy

4. CREATION OF PUBLIC ARENAS AND OPEN FORUMS FOR DISCOURSE

Robust democracy requires open public forums in which citizens can and should be asked to confront policy problems that affect them directly. In such forums people are encouraged to face policy problems not solely as clients or interest groups, but as citizens who can incorporate the view of others in their own “civic discovery” of what constitutes the collective welfare. Whether or not such arenas emerge is at least in part a function of policy framing and design.

It is a political truism that whoever defines the problem has control of the design of solutions (Bardach 1981; Rochefort and Cobb 1994; Baumgartner and Jones 1993). Problems do not just happen. They are constructed through the interaction of a variety of political phenomena including existing public policies. The definitions embodied in policies that characterize what is at stake in particular subject areas can lead to processes of democratic discovery or drastically limit participation and debate. Different problem definitions locate political discourse in particular value contexts and elicit particular kinds of participants, participation, and institutional response. According to the way an issue is framed, different boundaries of interest or jurisdiction are created. Different people get involved, for example, when domestic violence is defined as a health rather than criminal justice issue. Different values are at stake when an issue is framed in moral rather than economic terms. Framing also affects participants’ empathy or willingness to see other perspectives and the likelihood of compromise.

As an example, historians and political scientists in the field of water policy have argued that a misunderstanding of Spanish colonial customary law led western states of the USA to adopt the idea that water rights could be owned as property for growing crops, and later for municipalities and industries. It followed that since water was property, water rights holders were the appropriate decision makers. That meant that the arenas constructed for the discussion of water matters became irrigation districts that focused upon questions of allocation and delivery. Left out of such forums were non-consumptive, non-owner users of water such as recreationists and wildlife enthusiasts and others concerned with the myriad ways water affects the environment. As time passed, water policy evolved to give water other associated meanings: water as product and water as commodity. Water reclamation policy treated water as the output of water development processes of dams and diversions designed to reduce risks, to secure supplies, and to spread water rights allocations to additional users. The arenas in which water development decisions were made not surprisingly consisted of existing and prospective water rights owners as well as producers and managers of large-scale engineering works.

Most recently federal and state water policy has redefined water as a commodity to increase flexibility and efficiency of water reallocations. The discourse in arenas so

constructed is between willing buyers and sellers. This does not mean that environmentalists have had no voice in water resource arenas. In fact, they have exerted considerable veto power through policies that require environmental assessments and protect endangered species. However, they certainly have not been participants in public forums with anything like an equal footing, largely because of the way the issue has been framed in policy. Moreover, water quantity has tended to be separated from water quality, and from other issues such as riparian habitat for birds and other wildlife and the rights of indigenous peoples. The importance of water to a sense of community and place has been marginalized.

Over the past decade, a competitive frame for considering water has taken hold, which has variously called itself ecosystems or watershed approaches. The impetus for framing water differently came largely from the grass roots, but supportive embodiments in federal agency programs and policies have been important (Yafee 1998). At present, seventeen federal agencies have endorsed ecosystems approaches (Michaels 1999). State-level laws authorizing watershed planning such as the Massachusetts Watershed Initiative and the Oregon Plans have also been critical. The most distinguishing mark of this new way of looking at water is that it reintegrates water into the broad ecological and social processes from which it was disembodied by property, product, and commodity framing. Watershed planning embraces equal concern between healthy ecosystems and communities, and envisions them as closely related (Johnson and Campbell 1999). Watershed associations, the arenas for public discourse associated with this emergent framing, involve a wide range of stakeholders including local property holders and citizen coalitions, county state and federal agencies, scientists, corporations, environmental organizations, and the general public. Boundaries for involvement are broadly open and inclusive, encompassing all those who are affected by and have knowledge about particular watersheds. Decision rules vary, but emphasis is placed on consensus building. Those involved accept the equal standing of different kinds of information ranging from laboratory science to detailed experiential understanding based upon long-standing familiarity with place. The watershed management vision includes specific attention to representation, assistance for weaker parties, full and fair opportunity for all participants to participate in the negotiation processes, and respect for cultural values (Johnson and Campbell 1999). Whatever the ambiguities of the watershed approach, and it is not without its inconsistencies (Blomquist and Schlager 2000), the consequence for democracy appears to be quite positive.

Another example of how a policy can frame an issue in a way which has adverse effects on discourse is the Superfund legislation. Mark Landy (1993) has argued that the goal of the Act, which insists on cleaning up all toxic and hazardous waste dumps to all applicable standards, does not encourage people to think intelligently about the issue. It appears to establish a total freedom from risk, but there are far too many sites and the cost of clean-ups is too high for this goal to be obtainable. Because federal dollars, supposedly recovered from polluters, carry most of the burden, citizens are not encouraged to deliberate over which allocations of clean-up efforts are most desirable. As a consequence, precious environmental protection resources are

misallocated and citizen cynicism that laws do not live up to promises is perpetuated (Landy 1993; Hird 1994).

One of the proposals to redefine the issue and to encourage deliberation begins by making distinctions between different kinds of inactive and abandoned hazardous waste sites (Hird 1994). Older sites at which dumping was legal at the time and where there were no strong connections linking the site to original polluters should be removed from Superfund jurisdiction and made eligible for funding from a National Environmental Restoration Fund. Such sites along with other salient environmental problems such as asbestos removal, radon or lead remediation, or other environmental hot spots are to be relabeled and reframed as environmental restoration problems. Such reframing allows numbers of chronic, long-term risks to community and health to be seen in the same light and considered together. Hird argues that a new kind of arena for discourse then becomes possible. Each state, according to the proposal, would establish a committee of citizen representatives, some of whom live near the waste sites, but also including governmental officials and scientists to decide how the fund allocated by the federal government to the state would be spent (Hird 1994). Citizens would be encouraged through this policy change to engage in discourse about relative risk and values of restored lands in different places. Rather than asserting some absolute right, citizens would deliberate about the value added to different areas by different kinds and levels of restoration.

Similar dynamics are found in many social policies. Traditional societies, for example, conceptualized crime as a violation against an individual and his or her family and tribe. The appropriate enforcers were the victim and victim's family. In some cultures, the prescribed punishment was decided through negotiations between the victim's family and the offender's family. The arenas for discourse belonged to the individuals and groups to which they were culturally tied. In contrast, modern Western societies view crime as an offense against the state. This construction of crime results in enforcement belonging to the state, and the state (not the victim) being the appropriate decision maker regarding the amount and type of punishment or rehabilitation. In addition to changing who the relevant decision makers are, this change (as well as in many other social policies) places decision-making authority within a highly specialized body of knowledge and prescribes what kinds of training are needed if one is to participate. One of the results is that participation becomes increasingly the province of highly specialized knowledge groups. Ordinary citizens scarcely participate at all in dialogue about appropriate responses to crime, or even what sorts of things ought to be considered "crimes." Because these policies lend themselves to highly divisive social constructions of the target populations (a point we will return to below), policy entrepreneurs and those intent on finding issues to be used for political advantage manipulate public opinion, rendering intelligent discourse almost non-existent. Arenas of discourse become contaminated and used as "wedge issues" dominated by negative, divisive, and harmful social constructions of social groups and events.

There have been numerous attempts to reform criminal justice policy and bring it into the province of rational discussion where responses to behavior that is harmful

to others or to the society are more uniform and more proportionate to the harm that is done. The juvenile court, for example, is an invention of public policy that traces to the late 1800s where youthful offenders—for whom the harsh penalties of the times seemed too extreme—were separated by policy from “hardened criminals” thereby permitting more lenient and humane responses to the former and continuing with the harshness directed at the latter. These changes also shifted the forms of knowledge specialization such that the juvenile court became dominated by “treatment” philosophies of social workers, psychologists, and educators who believed in rehabilitation. From the 1970s onward, this type of policy separation has continued such that “status offenders” are now separated from “serious juvenile offenders,” with different decision makers and arenas for each. Another innovation is to reframe “crime” from being exclusively a legal problem dealt with by police and courts after the fact to a community development issue or a public health problem (Thornton et al. 2000; Howell 1995). This shifts the prevention activities from police and courts, with programs such as “scared straight,” or DARE, to those in which ordinary citizens in the community have a greater opportunity for participation.

Experiments with restorative justice both in the United States and elsewhere offer an interesting case in point (Braithwaite 2002; Bazemore et al. 1998; Schneider and Warner 1987; Galaway and Hudson 1996). Restorative justice approaches reconceptualize the offender, not as an incorrigible deviant who is a danger to society, but as a virtuous person who has made a mistake for which he or she needs to be held accountable (Braithwaite 2002; Bazemore et al. 1998; Schneider and Warner 1987). These approaches also reframe the appropriate response, rejecting both the medical model in which agents of the state “treat” the offender and the deterrence model in which the state punishes the offender. Instead, the principle of justice is a responsibility model in which offenders are expected to restore victims and the community even as they restore themselves to a contributing member of the society. Restorative justice involves a process through which victim, offender, and community participate in determining the measure of responsibility and accountability. This reverses the modernist trend toward statist responses to crime in favor of responses that permit those who have been harmed (local community and direct victim) to participate within regulations enforced by the state. The victim, offender, and community are all to be restored through a process that brings understanding to the offender of the harm done and that negotiates a sanction all believe to be fair. By reframing the issue and changing the social construction of the offender, restorative justice programs change the decision-making arena, the decision makers, and the results of the decisions.

These examples of how policy designs frame issues and thereby shape the decision-making arenas and the types of knowledge that are brought to bear only hint at the large number of similar issues begging for intelligent policy analysis. What is the impact of the creation of special districts for particularized service delivery? What have been the impacts of the social justice statements now required in many policy areas in Australia? What are the impacts of the movement away from geographically based to service-based jurisdictional lines? Public policies in many US states provide