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CHAPTER 33

DEMOCRATIZING THE POLICY PROCESS

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> The danger of modern liberty is that, absorbed in the enjoyment of our private independence, and in pursuit of our particular interests, we should surrender our right to share in political power too easily.
>
> The holders of authority are only too anxious to encourage us to do so. They are so ready to spare us all sort of troubles, except those of obeying and paying! They will say to us: what, in the end, is the aim of your efforts, the motive of your labours, the object of all your hopes? Is it not happiness? Well, leave this happiness to us and we shall give it to you. No, Sirs, we must not leave it to them.
>
> (Benjamin Constant, 1816)

What is the role of citizen participation and deliberation in modern governance and policy making? The tension between expertise and popular voice in contemporary polities remains unresolved by students of politics, policy, and administration. Direct democracy strikes many as both undesirable and unfeasible. It is not desirable because the public virtues of political engagement have no special place in modern values and conceptions of the good life.[1] Even if it were desirable, it is not feasible

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[1] See Constant 1995/1816; Kateb 1981; Hibbing and Theiss Morse 2002; Posner 2003.

because the challenges of complexity and scale rule out familiar kinds of participatory democracy such as the New England town meeting (Bryan 2004; Mansbridge 1980) and the ancient Athenian *ekklesia* (Sinclair 1988; Ober 1991).

There are grounds for thinking that the first claim is overdrawn—that there are many contexts in which modern citizens desire greater voice over decisions that affect them or are made in their name because that influence is the essence of democracy (Pitkin and Shumer 1982). In the pages that follow, however, I concede this claim arguendo. Everything that follows supposes that most citizens of modern industrial democracies do not value political participation for its own sake. The experiences discussed below illustrate, however, that citizens do participate in substantial numbers given motive and opportunity. Nevertheless, participation requires time and energy that might be better devoted to private aspirations and enjoyments. Citizens' energies should not be consumed by the potentially extravagant demands of participatory governance when public business can be delegated to a class of professional representatives and administrators who reliably advance their interests. But the vision of a responsive and just government run by elites for the benefit of citizens is as utopian as full-blown participatory democracy (Cohen and Fung 2004). In many contexts, the policy-making apparatus of political representation and expert administration—the very machinery developed over the past two centuries to govern well without requiring too much from citizens—exhibits certain acute failures. These failures can be addressed with mechanisms of citizen participation and deliberation. Belying the second skeptical claim regarding the feasibility of participatory democracy, experiences in local governance have combined representative and participatory mechanisms in hybrid configurations that make government more responsive and just than either pure form.

These experiences suggest that the historic antagonism between proponents of representative and participatory democracy confuses more than it illuminates. A contemporary, pragmatic challenge for democratic theory and practice is to identify the contexts in which received governance mechanisms exhibit serious and systematic democratic deficits, and then to devise appropriate institutional remedies. This chapter pursues a part of that challenge by illuminating characteristic deficits of the conventional representative and professionalized policy-making process and then suggesting how novel combinations of representation and administration on one hand, and participation and deliberation on the other, can and in some cases have, addressed those deficits. This exploration surveys several of the ways in which participation and deliberation can address shortcomings of a minimal representative policy process. There are certainly other ways to address those shortcomings that do not involve popular participation; we focus here on the subset of solutions that deepen democratic engagement. Furthermore, important criticisms of participation and deliberation that claim, for example, that such processes exclude particular perspectives or interests, or that they reinforce patterns of domination and inequality, lie outside the scope of this treatment (Fraser 1992; Sanders 1997; Young 2000).

1. Democratic Deficits in the Policy Process

As a basis for the discussion that follows, consider a highly stylized view of the policy process in capitalist democracies that connects the interests of citizens to the outcomes of government action. This scheme can be called a *minimal representative policy process*; it has no place for direct citizen participation or deliberation. Though its abstraction begs many important issues, many beginning texts for students of politics and policy feature some variant of this schematic depiction. Figure 33.1 is modified from the variant that appears in Przeworki, Stokes, and Manin's volume on representation and accountability (1999). Briefly, in this scheme citizens have (1) interests and (2) preferences over policy options that they think will advance those interests. They (3) signal these preferences to government by voting in periodic elections for parties and politicians whose programs most closely match their preferences. These electoral signals generate mandates for representative politicians to make (5) policies to advance these interests. Under the separation of powers between legislative and executive functions, (6) agencies staffed by professional administrators are charged with executing these policies, which generate (7) outcomes that advance the (1) interests that begin this process.

The discipline of elections is thought to create two dynamics—representation and accountability—that ensure the integrity of the link between citizens' interests and policy outcomes. Prospectively, citizens' votes select the politicians who they think will represent them—those who will know and champion their preferences (2) by advancing appropriate policies (5). Retrospectively, the requirement that politicians stand periodically for election allows citizens to punish those who have failed to secure satisfactory outcomes (7) by ejecting them from office (3) in favor of others who might do better. These dual mechanisms of representation and accountability may produce responsive and just government with only modest citizen participation in many domains of law and policy under favorable circumstances such as competitive elections, strong parties with clear platforms, vigorous public vetting of contentious policy alternatives, an informed electorate, sufficient insulation of state from

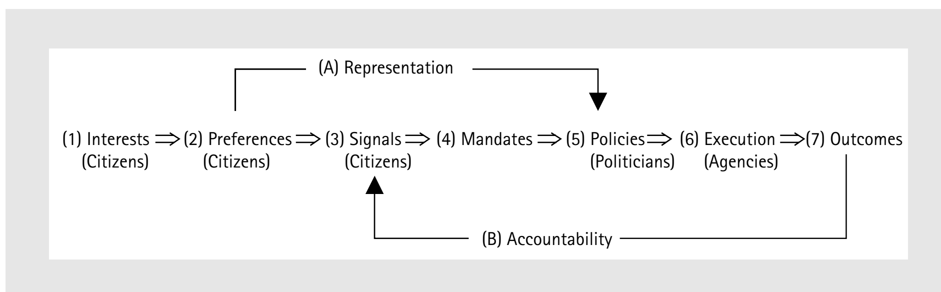

Fig. 33.1. The minimal representative policy process

economy, and a capable executive. For many public problems and under less favorable conditions, however, this minimal institution of periodic elections fails to secure a level of political representation and accountability that makes government responsive.

Consider four characteristic difficulties, or democratic deficits that prevent electoral institutions from making government responsive. For many public issues, citizens have *unclear preferences* regarding the public policies that best advance their interests. Or, they have preferences that are *unstable* in the sense they would change easily upon exposure to new information, arguments, or perspectives (D1). When popular preferences are underdeveloped in these ways, then the subsequent consequences of political and policy choice rest on highly unstable foundations. Even when the rest of the electoral and executive machinery has great integrity, "garbage in produces garbage out." When citizens do have stable preferences, electoral mechanisms provide only *blunt signals* to politicians and parties regarding the content of those preferences (D2).[2] Absent a thicker, continuing relationship between political elites and their constituents than that provided by periodic elections, politicians often misunderstand their constituents. This kind of misunderstanding is especially likely on the wide range of issues that do not figure prominently in campaigns leading up to elections. Politicians who do not understand their constituents cannot represent them well. Third, electoral mechanisms may prove too weak to hold the political and administrative machinery of government *accountable* to citizens when they have clear preferences (D3). On many state decisions, the interests of politicians and administrators may differ from those of the majority of citizens. It is difficult for citizens to use elections to compel politicians to act to advance popular interests rather than their elite ends when elections are uncompetitive, when narrow interests oppose diffuse ones, or when outcomes are difficult to monitor and assess. Accountability problems are compounded by the fact of widespread delegation of power and authority to administrative agencies in modern states. Even if citizens can hold politicians accountable, politicians may not be able to control and monitor the administrative apparatuses that implement, and often make policy. Finally, even when electoral devices of representation and accountability allow citizen-principals to control their political and administrative agents, the state itself may lack the capacity to produce outcomes that advance citizens' interests well (D4). In areas such as economic development, for example, successful outcomes depend not only upon law and public policy, but also upon the actions of actors in the economic sphere. In areas such as environment, education, and public safety, outcomes depend upon engagement and contributions from individual citizens as well as public policy. These democratic deficits, and their positions in the policy process are depicted in Fig. 33.2.

The chains between principals (citizens), agents (politicians and administrators), and outcomes in contemporary democracies are long indeed. The four links

[2] See Przeworski, Stokes, and Manin 1999; Goodin 2000.

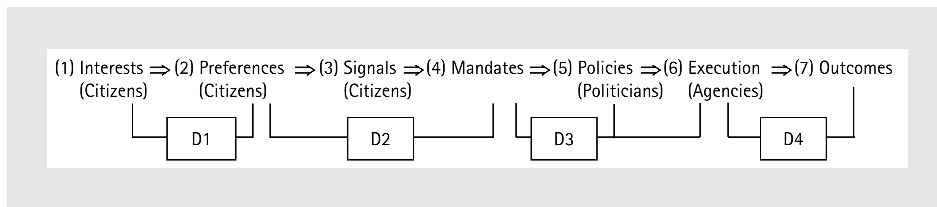

Fig. 33.2. Democratic deficits in the policy process

described above are particularly weak in many contexts. The next four sections describe how participatory and deliberative democratic mechanisms can repair these deficits. Some approaches seek to improve the dynamics of preference formation, representation, and accountability by supplementing elections with direct participation and deliberation. Other approaches seek to reduce the role of political representatives by making agencies and state action more directly responsive to citizens. The case for participation and deliberation below is a tempered and pragmatic one. I do not claim that directly democratic strategies are the only, or best way to address these democratic deficits. Rather, I aim only to articulate the ways in which they can make government more responsive to citizens' interests, and to show how they have been used to do so in actual cases. This analysis suggests that the optimal configurations of decision-making institutions will vary across policy domains, but in many cases should combine both representative and participatory mechanisms.

2. Deliberative Preference Articulation

On policy matters for which there are prominent, diverse, and developed perspectives in the public debate—for example legalization of abortion or the distribution of wealth—citizens may have policy preferences that are clear and stable. On many other matters—where one or a few perspectives dominate, where misinformation abounds, those that are remote from the perceived interests, where having a sensible opinion requires substantial cognitive and informational investments, or issues that simply fail to capture the attention of many citizens—popular preferences may be unclear or unstable (see D1 in Fig. 33.2 above). The people can hardly be said to rule when policies have such fickle foundations. On such matters, institutions that contribute to the development and stabilization of preferences by making them more clear, coherent, rational, and reasonable therefore deepen democracy and potentially make government more responsive to citizens' interests.

The quality of citizen preferences in democracies depends in large measure upon the quality of the institutions of the public sphere—media and secondary associations—through which political perspectives and debates reach citizens.[3] Beyond general improvements to the public sphere, which lie beyond the scope of this chapter, several innovative efforts aim to improve the quality of citizens' preferences by convening groups of them to deliberate with representatives, other public officials, and each other.

Deliberative Polling® is among the most prominent of these. Its inventor James Fishkin describes the effort this way:

> Select a national probability sample of the citizen voting age population and question them about some policy domain(s). Send them balanced, accessible briefing materials to help inform them and get them thinking more seriously about the same subject(s). Transport them to a single site, where they can spend several days grappling with the issues, discussing them with one another in randomly assigned, moderated small groups and putting questions generated by the small group discussions to carefully balanced panels of policy experts and political leaders. At the end, question the participants again, using the same instruments as at the beginning. (Luskin, Fishkin, and Jowell 2002)

Fishkin argues that these deliberations often have profound impacts on the opinions of those that participate. In a 1994 deliberative poll on crime in the UK, for example, participants became much less likely to think that strong punishments deter crime and they became more sympathetic to criminal defendants (Luskin, Fishkin, and Jowell 2002). He shows similar opinion shifts for deliberative polls on issues such as energy utility policy, adoption of the euro in Denmark, and metropolitan governance. These changes may be the result of participants adopting more informed, coherent, and reasonable positions out of their deliberations with one another.

It should be noted that Deliberative Polling is not itself a form of deliberative *democracy* when that term is understood as a method of making social choices. Deliberative democracy is often defined as a system in which citizens make collective decisions by offering reasons that others can accept, or perhaps to illuminate conflicts, rather than, say, simply voting for proposals that best advance their interests. In Deliberative Polling, participants discuss the merits of various positions, but there is no effort to reach consensus or reach a collective choice. Its designers fear that requiring consensus would distort individual preference formation by introducing pressures to conform. This absence of collective decision perhaps makes Deliberative Polling best suited to address the unstable preference deficit of many policy processes.

Deliberative Polling is one member of a family of civic and policy interventions that convene citizens to deliberate with one another in the effort to improve public opinion and action. Its siblings share a commitment to participation and deliberation, but differ in the design of their processes. Citizen Juries for example, also use random selection, but typically convene smaller groups than deliberative polls and meet for several days rather than just a weekend. Citizen Juries also issue collective

[3] Treatment of the public sphere generally lies beyond the scope of this article.

findings and recommendations (Smith and Wales 2000; Gastil 2000; Leib 2004). Twenty First Century Town Meetings, invented by an organization called AmericaS-peaks, convene thousands of citizens and organize deliberations through an inventive use of technology and facilitation.[4] They dispense with random selection in favor of open meetings and heavy recruitment from subgroups that are likely to be under-represented otherwise. The Study Circles sponsored by the Topsfield Foundation are community-wide deliberations on specific issues that occur over several months.[5] Among these efforts, pre- and post-deliberation surveys exist only for Deliberative Polling and so little is known about the extent of changes in participants' preferences and views in other processes. Even the careful research on Deliberative Polling has focused upon the magnitude of opinion change, rather than impact upon the stability, coherence, rationality, or reasonableness of preferences.[6] Though these intentional projects in preference articulation are promising additions to electoral mechanisms, many dimensions of the micro-dynamics of political deliberation remain uncharted.

Efforts such as Deliberative Polling and Citizen Juries typically aim to improve the quality of public opinion on issues that emerge within conventional policy-making institutions. In this way, the agenda of issues that they consider usually comes from policy makers themselves. But the schedule of issues for which citizens have articulated preferences, and those for which they do not, is itself a source of democratic concern. In particular, citizens are more likely to have articulate preferences in areas where they perceive that they have real choices, but less so in areas that they perceive to be outside of their influence. For example, many residents of neighborhoods in urban and suburban America have quite articulated preferences regarding the character of their residence, the school to which they send their children, choice of grocery, and the like. But in other areas, where outcomes are important but depend upon the choices of remote agencies or the market decisions of developers or others—such as whether there is a park in their neighborhood and what it is like, the character of nearby businesses, and how the neighborhood relates to its city or town—residents may have less clear views while those other public and private actors have well-developed preferences. When the actions of those external forces become threatening—gentrification or the construction of "locally undesirable land uses" (LULUs) such as shelters for the homeless or hazardous waste facilities—reactionary "preferences" of rejection commonly emerge.

But the areas of life over which citizens exercise control—and so the depth of citizens' preferences—is itself determined by prior institutional choices. In 1990, the city of Minneapolis, Minnesota initiated a Neighborhood Revitalization Program (NRP) under which $400 million were allocated to some sixty neighborhood associations. In order to spend these funds, neighborhood groups had to develop priorities, plans, and projects, and many did so in a deliberative way that engaged

[4] See www.americaspeaks.org. [5] See www.studycircles.org.

[6] For a more skeptical view about the effects of deliberation upon preference formation, see Cass Sunstein (2002).

many residents. In some neighborhoods, the planning requirement and the resources associated with successful planning encouraged residents to develop much clearer, sometimes shared preferences regarding the character of their neighborhoods. One Minneapolis neighborhood association, for example, developed a comprehensive, professionally executed, long-term plan for the neighborhood that incorporated all major aspects of neighborhood development. Deliberations around the use of NRP funds triggered the desire to articulate neighborhood preferences more clearly:

> This area is undergoing major redevelopment right now. People wanted not just to react to proposals [for redevelopment] that will be coming down the pike. They wanted to have a professional set of guidelines that express what the neighbors want, so that when a developer comes along, hopefully at a very early stage before the developer gets too far along, we can hand them this master plan and say to him "this is what we're looking for architecturally and with respect to land use, where we want the green space, where we want residential [units]." It gives a nice vision.[7]

In order to contribute to the articulation of popular preferences, deliberative and participatory efforts should seek to involve as many citizens as possible. One substantial limitation of efforts such as Deliberative Polling and neighborhood associations is that they directly involve only a tiny fraction of relevant constituencies. These efforts all aim to involve others through indirect means such as media coverage, but citizens who participate directly in deliberations—for which preference development may be quite profound—are in all of these cases only tenuously connected to other citizens and the broader public sphere.

3. Communicative Reauthorization

Participatory democrats have criticized representative government on the ground that it relegates most citizens, most of the time, to passive roles of spectator and subject.[8] But other democratic theorists argue that representation should be conceptualized as a relationship in which both parties—constituents and professional politicians—are active participants. It is a mistake to think of those who are represented as passive or dominated. Plotke analogizes political to market representation. "My representative in the market is *authorized* to make certain agreements. In turn I am *obligated* by his or her actions. I communicate with my representative, and I can replace him or her... If *x* represents *y*, *y* is guiding and constraining *x*, enabling and authorizing him" (Plotke 1997, 28). Similarly, Iris Marion Young argues that "A representative process is worse, then, to the extent that the separation tends

[7] Interview with Minneapolis neighborhood association staff member, 7 Apr. 2004.

[8] Introducing a similar line of thought, Rousseau wrote famously that "The people of England regards itself as free; but it is grossly mistaken; it is free only during the election of members of parliament. As soon as they are elected, slavery overtakes it, and it is nothing" (*Social Contract*, book III, ch. 15).

toward severance, and better to the extent that it establishes and renews connections between constituents and representatives, and among members of the constituency" (Young 2000, 130). Jane Mansbridge suggests that political representatives often act in anticipation of what the responses of their constituents will be in the next election, rather than being instructed by the prior one. Such "anticipatory representation," she argues, works better when elections are joined with mutually educative interactions that enable citizens develop their preferences and representatives to gauge them (Mansbridge 2003).

These conceptions of representation provide a contingent argument for direct participation and deliberation. Campaigns and elections provide quite thin, and infrequent signals about citizens' preferences and interests (see D2 in Fig. 33.2 above). Elections fail to give the people voice on new issues that arise between campaign seasons, that lack public salience, or when major decisions have been delegated to independent administrators rather than politicians. When elections fail to articulate citizens' voices, participation and deliberation before and between elections can work to thicken communication between constituents and representatives.

In the United States, common mechanisms to gauge the public temperament include public hearings, notice and comment requirements, focus groups, and surveys. These devices often produce discussion and argument that fails to elicit a rich sense of public sentiments and educates neither citizens nor officials. Public hearings and meetings, for example, typically are organized in ways that allow well-organized opposing sides to testify before decision makers without facilitating exchange (Kemmis 1990). Deliberative practitioners in civil society organizations have responded to the shortcomings of deliberative and participatory techniques for reconnecting constituents to representatives by applying insights from the fields such as alternative dispute resolution, organizational design, and group process facilitation. In some cases, politicians and administrators have adopted their methods to create non-electoral, participatory, and deliberative mechanisms that inform and reauthorize their policy choices.

A small community in Idaho called Kuna, for example, has adopted a kind of two-track policy process.[9] On the minimally participatory electoral track, representatives and administrators dispose of routine matters without elaborate communication or reauthorization from citizens. Where public sentiments are unclear and on issues that are likely to prove controversial, officials and community organizations frequently convene a process of Study Circles in which citizens are invited to learn about the issue in more detail and deliberate with one another and with officials about the merits and costs of various options over the course of several days. Following the national study circles model, participants in these events are given briefing materials and organized into small, facilitated discussion groups. In these groups and in large group discussions composed of the whole, members develop opinions about the issues and options at stake and prepare questions and recommendations for policy makers. These popular deliberations sometimes validate decision makers' views and

[9] Information in this paragraph is drawn from the field research of Joseph Goldman, unpublished.