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TWELVE

Deliberative policy analysis

John S. Dryzek

Deliberative policy analysis prizes communication of a particular sort amid the disagreement that pervades public policy processes. What role, then, should deliberation play in the policy process? There are several possible answers to this question. These answers include seeing deliberation as:

1. a limited input into analysis of the relative merits of policy options;
2. a means of resolving conflicts across relevant actors and interests;
3. a form of public consultation;
4. a unique source of valuable inputs into policy processes; and
5. a comprehensive aspiration for whole systems of governance.

I will argue that the first four of these alternatives may have their merits, but also some substantial limitations. These limitations point to the necessity of the fifth alternative, which means that, in the end, deliberative policy analysis has to involve the thoroughgoing analysis, critique and reform of systems of governance. Deliberative inputs into intrinsically non-deliberative processes are of correspondingly limited utility.

Before discussing these five possibilities more systematically, I will say a bit about what deliberation involves, and how it is rooted in the broader idea of deliberative democracy.

Basics

Deliberative policy analysis can be located as part of the ‘argumentative turn’ in policy analysis (Fischer and Forester, 1993; Fischer and Gottweis, 2012). This turn treats public policymaking as primarily a matter of communicative practice (as opposed to instrumental calculation or the aggregation and reconciliation of interests). Deliberative policy analysis has a particular set of standards that it can apply to the evaluation of communicative practices. While it is not

1 the only such source of standards, this kind of analysis can draw on a
2 well-developed body of work in deliberative democracy.

3 Deliberative democracy sees governance in terms of effective,
4 inclusive and transformative communication encompassing citizens
5 and policymakers. The core idea is that the legitimacy of collective
6 decisions rests on the right, capacity and opportunity of those subject
7 to or affected by a decision (or their representatives) to participate in
8 consequential deliberation about the decision.

9 What, then, is deliberation? The origins of deliberative democracy
10 owe something to philosophical schools of thought that emphasise
11 reason-giving in pursuit of consensus. However, the field has long
12 outgrown those roots in order to welcome forms of communication
13 such as rhetoric, the telling of stories and humour. Yet, the welcoming
14 of these forms has to be conditional. Deliberation cannot involve
15 threat, manipulation, coercion or command. To count as deliberative,
16 any communication must be non-coercive. In addition, it ought to
17 be able to induce reflection. Crucially, reflection requires effective
18 listening, so deliberation is not just about talk.

19 Any participant in deliberation should strive to do two things. The
20 first is to justify any self-interest or partial interest in terms of more
21 general values. Sometimes, this is easy (eg when a representative of a
22 small island state in climate change negotiations argues for the material
23 interests of his/her state not to be destroyed as a result of rising sea
24 levels and more ferocious storms as a matter of justice). Sometimes,
25 it is harder, as when those who seek personal material gain have to
26 argue in terms of how it would benefit some larger values (such as
27 economic growth or generalised income security). The second relevant
28 aspiration is what Gutmann and Thompson (1996) call reciprocity,
29 which effectively means trying to communicate in terms that those
30 who do not share one's frame of reference (be it national, religious or
31 ideological) can accept. So, for example, in deliberations on divisive
32 issues such as abortion or euthanasia, it is not enough for a speaker
33 simply to assert that his or her religion requires a position to be taken.
34 Rather, the speaker must go on to explain exactly why that is the case,
35 and, in so doing, to try to make more sense to those who do not share
36 the religion in question.

37 In its early days, some deliberative democrats flirted with the
38 idea of consensus as an aspiration for collective decision processes.
39 However, that aspiration to consensus (itself a term that has several
40 different meanings, not usually recognised) has, for the most part, been
41 abandoned by deliberative democrats. Instead, the task of deliberation
42 can be seen as clarifying disagreement, or the mutual recognition of

positions that are not shared. Deliberation can then coexist with a number of other procedures for reaching collective decisions, including voting. While it may be the case that deliberation concluded with workable agreements to which all participants consent, that is not the same as consensus in the stronger sense of agreement on preference orderings. A workable agreement may not, in fact, embody the first preference of any of the individuals or actors involved.

For deliberation to be styled as democratic, it must be inclusive of those affected by a collective decision; it must also be inclusive in the more subtle sense of enabling all those who are formally involved to have an effective voice, and to be listened to. Deliberation should also be consequential in having an effect on the content of the relevant collective decision. Deliberative democracy does not neglect the exercise of power, but it imposes stringent tests to determine when that exercise is legitimate (Mansbridge et al, 2010: 80–3).

Where, then, might we seek deliberation? Possibilities include: the existing institutions of government, such as legislatures, courts and administrative processes; governance networks; the informal processes of civil society; and designed forums. Given that most of these locations are not especially deliberative when left to their own devices, proponents of deliberative policy analysis have devoted sustained attention to the design and adoption of forums that would be better when it comes to embodying deliberative virtues. I will now take a look at the different kinds of forums that can be deployed, though I will argue later that it is important to look at how forums play out in larger systems of governance, for it is the deliberative virtues of the latter that are ultimately the main concern. Inattention to this systemic aspect means that analysis can go astray.

Deliberative forums

Designed deliberative forums now come in many varieties. Historically, those involving partisans with a history of activism on an issue were most popular (Dryzek, 1987). From the 1970s onward, such partisan forums came under many titles, such as policy dialogues, regulatory negotiation, environmental mediation, consensus building and dispute resolution. Despite the different names, the common idea is to take partisans out of the normal context of their strategic interaction and into a more deliberative setting. This setting usually features a facilitator or mediator, there to help ensure that interaction proceeds along deliberative lines. This can involve a set of guidelines that participants agree to in advance, such as no ad hominem arguments, no deception,

1 everyone getting a chance to speak and no withholding of information.
2 Such forums involve an effort to reach mutually acceptable outcomes.
3 These outcomes should be better than simple compromises between
4 the initial positions of the parties because they can involve a measure
5 of creativity in finding ways to meet the key interests of all sides.
6 Partisan forums may be deliberative, but sometimes they are not
7 defensibly democratic because they are not inclusive of some larger
8 citizenry. The fear is that well-defined and well-funded interests will
9 produce agreements that suit one another but may hurt a larger public
10 (especially if the public indirectly pays for what is proposed in the
11 agreement) (Lowi, 1999).

12 More recently, deliberative practitioners have paid more attention
13 to non-partisan forums composed of lay citizens with no history
14 of interest or activism on an issue. These are otherwise known as
15 minipublics (Grönlund et al, 2014). Some minipublics involve
16 relatively small numbers (around 15–20): citizens' juries and consensus
17 conferences are the most popular models here. These two models
18 are actually very similar. Both involve convening a forum for an
19 extended period of time (which can, for example, be over several
20 weekends), a facilitator who oversees the interaction, providing the
21 citizen-participants with relevant information and enabling them to
22 hear from advocates from different sides and experts on the issue in
23 question. The citizen-participants then deliberate among themselves
24 and write a report containing their recommendations (the report can
25 also identify disagreements).

26 Other minipublics involve larger numbers of citizens. The largest are
27 those associated with the 21st Century Town Meeting model developed
28 by the (now-defunct) *AmericaSpeaks* Foundation, which could involve
29 thousands of people gathered in a large venue, divided into smaller
30 groups and connected using information technology, and concluding
31 with voting on an issue. While the sheer number of participants
32 made possible by this model can impress politicians, most relatively
33 large minipublics are more careful to ensure that the participants are
34 representative (in statistical or demographic terms) of some larger
35 population. The self-selection of participants for 21st Century Town
36 Meetings means that there will normally be a substantial proportion
37 of activists, as well as ordinary citizens. Deliberative polls and citizens'
38 assemblies, in contrast, generally have about 150 participants, which
39 is enough to sustain claims of statistical representativeness. Usually,
40 they use stratified random sampling to select participants. (Smaller
41 forums, such as citizens' juries or consensus conferences, can start with
42 random sampling too, and then select from within the random sample

to ensure participants with a variety of social characteristics.) The 150 participants may meet in plenary sessions where they hear from and can question advocates and experts, but their deliberation will be done in the small groups into which they are divided. In deliberative polls, the citizen-participants all complete a questionnaire (individually) at the end of the process. The idea in citizens' assemblies is a bit different: to craft a recommendation. The most well-known such assembly remains the British Columbia Citizens' Assembly, convened to recommend a new electoral system for the province.

Hybrid models that combine partisans and non-partisans are relatively rare. The most important is the 100-member Irish Constitutional Convention held during 2012–14, which was composed of two thirds lay citizens and one third politicians. This Convention was responsible for recommending the referendum on same-sex marriage in Ireland, which passed in 2015. Other constitutional and policy changes were recommended to the government, some of which were adopted, while others were rejected.

There are, then, a number of models of designed forums that can be deployed in deliberative policy analysis. Just how and to what effect they get deployed depends on how the role of that sort of analysis is conceptualised. So, I will now return to the five images of deliberative policy analysis I listed at the outset, and examine each in order to figure how best to make use of deliberative forums, and how to think about the role of deliberation in governance.

Deliberative policy analysis as an input into conventional policy analysis techniques

Deliberative monetary valuation has been pioneered in environmental economics as an alternative to more conventional sorts of cost–benefit analysis. Conventional cost–benefit analysis uses a variety of techniques to attach monetary values to costs and benefits that are not traded in any market, and so have no market price. Contingent valuation is important among these. Contingent valuation asks individuals what they would be willing to pay to, say, preserve a natural area or to have a particular source of pollution removed, or how much compensation they would require should the area be removed or a source of pollution established. Contingent valuation has been criticised for its reliance on ill-formed and poorly considered preferences. The idea of deliberative monetary valuation is to yield more considered and socially defensible measures of willingness to pay (or to be compensated). Instead of simply responding to survey questions, a deliberating group of those

1 potentially affected by a decision can reflect upon their individual
2 preferences. The group would normally be constituted by ordinary
3 citizens (rather than partisans and activists, whose expressed valuations
4 could be strategic). These considered individual preferences can then
5 be inputted into the cost–benefit analysis. However, it is important
6 to note that the sum of individual reflective monetary preferences
7 can be very different from a considered group judgement about the
8 appropriate price to put on an asset (Spash, 2007), and different again
9 from a group decision about what policy choice should be made.

10 Conventional deliberative monetary valuation still imposes on
11 the deliberating group the idea that value always can and should be
12 expressed in monetary terms. It does not allow the deliberators to
13 consider whether or not a monetary metric is appropriate. As Sandel
14 (2013) points out, some things should not be treated as though they are
15 for sale – at any price. Sandel’s examples include children, friendship,
16 queue jumping and life insurance that enables a company to benefit
17 from the death of an employee. It is equally plausible to put unique
18 landscapes, human communities or cultural creations in the same
19 category. Deliberative monetary valuation also stops its participants
20 short of considering the broader question of ‘What is to be done?’,
21 a choice that can be informed by, but never fully determined by, the
22 ratio of (tangible) costs to benefits. For all these reasons, deliberative
23 monetary valuation fits uneasily with the broader commitments of
24 deliberative democracy.

26 **Deliberative policy analysis as conflict resolution**

27
28 There is a strong affinity between public deliberation and conflict
29 resolution, especially when it comes to the forms of communication
30 that both prize, an affinity that is now recognised by conflict resolution
31 professionals (Susskind, 2006). Of course, not all conflicts have a public
32 policy dimension – but some do. In this light, deliberative principles
33 can be applied to policy processes that involve partisans, especially in
34 the kinds of forums listed earlier. Policy-related conflict resolution is
35 especially popular in the US, where the large number of veto points
36 in the political system, and substantial opportunities to take policy
37 disputes into the legal system, often mean that competing interests
38 can fight each other to a standstill, with considerable expenditure
39 of time, money and energy on all sides. The idea of deliberative
40 conflict resolution is to move beyond this kind of impasse. So, for
41 example, Innes and Booher (2003) show how paralysing partisan
42 conflict in California water management featuring environmentalists,

local governments, irrigators and developers could be resolved in a deliberative forum.

While often productive in such terms, it may also be the case that deliberative conflict resolution does not find easy reception in policy processes – as it does not always take into account the authority of governments with a mandate over a particular policy area, which may have interests of their own. Perhaps more fundamentally, conflict resolution conceives of policy issues in terms of competing partial interests – which can mean that more general values or truly public interests are either downplayed or treated as just one kind of interest among others that are more partial and private. In this light, conflict resolution and deliberative principles can stand in some tension (Aragaki, 2009).

Deliberative policy analysis as public consultation

The more common forms of public consultation involve public hearings or requests for comments on draft policy documents, which tend to attract predictable respondents (the ‘usual suspects’) and predictable arguments. Deliberative public consultation can seek to improve matters. Even when it comes to the usual suspects, partisan forums can induce them to articulate their concerns in a way that can reach, and respond to, the frames of reference of those who do not share their positions. Non-partisan forums, by definition, involve recruiting those who have no history of activism on an issue, and no prior position. Thus, if nothing else, they provide a fresh representation of public opinion on an issue – which is why they may be attractive to policymakers tired of hearing the same old arguments from the same old activists. If the conclusions are to their liking, policymakers may be able to deploy them against the usual suspects – though there is, of course, no guarantee that any particular conclusions will be produced.

Fishkin (2009: 98) goes so far as to say that his kind of minipublic, the deliberative poll, provides a representation of what public opinion would be if all citizens had the opportunity to deliberate under good conditions. Critics point out that these ‘good conditions’ are highly artificial, and that only a tiny fraction of the population could ever participate in such a forum. Thus, at best, a citizen forum provides only one picture of public opinion, other methods such as surveys, referenda, election results or petitions provide other pictures (Parkinson, 2006). Defenders of minipublics would argue here that these other methods provide representations of unreflective preferences; the key quality of minipublics is that they are reflective.

1 It is easy to conclude that deliberative forms of public consultation
2 are generally likely to be a big improvement over non-deliberative
3 forms of public consultation (with only slight hesitation caused by
4 the larger numbers of people that the former may involve). However,
5 a public consultation framing may mean that the full potential of
6 deliberative processes is missed. This will be the case if such exercises
7 are placed early in the policy process and seen as inputs to more
8 consequential arenas (such as legislatures). To see why, we might ask
9 what exactly minipublics, in particular, are good *for* when it comes
10 to public deliberation. The short answer is that deliberation involves
11 both justification and reflection; minipublics are relatively poor when
12 it comes to justification, but relatively good when it comes to respect,
13 civility and responsiveness to counter-arguments – the ingredients of
14 reflection (Pedrini, 2014). Justification involves the making of claims
15 either in support of or against a course of action. Reflection involves
16 listening to and considering the claims, and an openness to changing
17 one's mind if persuaded. Processes involving partisans – especially
18 legislatures – generally involve sophisticated justification; however,
19 in many ways, they are ritualised performances as legislators do
20 not listen and reflect (though they may be more likely to do so in
21 relatively low-visibility parliamentary committees, rather than on the
22 floor of Parliament). Just as, for individuals, it may be hard to obtain
23 the virtues of justification and reflection in a single personality type
24 (Jennstål and Niemeyer, 2014), so it may be hard to obtain the virtues
25 of justification and reflection in a single forum type. The solution
26 may be to distinguish explicitly between chambers of justification and
27 chambers of reflection.

28 The paradigm here is a jury trial, where the courtroom itself is the
29 chamber of justification as advocates make and support claims for each
30 side and try to undermine the other side. Reflection takes place in a
31 separate jury room, from which the advocates are, of course, excluded.
32 This division of labour across forums has major implications for how
33 deliberative forums are placed in the policy process. Putting them early
34 in the process – and thinking of them as public consultation inputs
35 into larger processes of justification and policy decision – is a bit like
36 asking the jury to deliberate before they hear the arguments of the
37 advocates. It means that their potential will not be realised, and may
38 help explain why inputs into processes from deliberative forums so
39 often get lost in the subsequent cacophony of justification. (Though
40 there are other reasons: actors who do not like the recommendations
41 of deliberative processes may seek to undermine the legitimacy of
42 the process; governments may set up such processes with the aim of

generating support for predetermined positions and quickly drop the process when it appears not to comply; and there may sometimes simply be no channel through which a deliberative process could conceivably influence policy.)

Deliberative policy analysis as a unique source of inputs

Conceptualising deliberative processes as nothing more than forms of public consultation may, then, either see forums in the wrong place in a sequence or simply compete with the variety of other inputs into policy processes. Occasionally, though, deliberative forums are given a more central role. This occurs most prominently in connection with referenda. Here, the idea is that a citizen forum will hear from advocates on different sides on an issue (as well as relevant experts), and then reach considered recommendations for the larger body of citizens voting in the referendum. These recommendations can be in the form of a report recommending a particular alternative, or they can be in the form of an assessment of the arguments on both sides of the referendum question (with no necessary recommendation).

The British Columbia Citizens' Assembly mentioned earlier constitutes a prominent example of a minipublic that reached a single explicit recommendation. The Assembly, composed of 150 lay citizens, took place over several months; its members eventually concluded that an electoral system based on a single transferrable vote was preferable to the existing simple plurality system ('first-past-the post') operating in the province at the time (for details, see Warren and Pearce, 2008). This recommendation was put to a binding referendum. While 57% of those voting voted in favour of the Citizens' Assembly proposal, the extraordinarily high threshold requirement of 60% imposed (at the outset of the process) by the British Columbia government meant that the single transferrable vote system was not adopted. Surveys showed that those voting in favour did so not because they understood the intricacies of the proposed new system, but because they trusted the fact that the Assembly was composed of ordinary people like themselves.

A somewhat different way to link citizen deliberation with binding referenda has been developed in the State of Oregon. Like many US states, Oregon has a citizen-initiated referendum process. A measure can get onto the ballot with enough signatures from registered voters. If the measure passes, it becomes law (unless it is ruled unconstitutional). This means that every two years, Oregon voters get to decide on a large number of measures, which can range from property tax limitation to

1 whether or not a nuclear power plant should be closed. Money plays a
2 large role in the process as it can finance both signature-gathering and
3 media campaigns prior to the vote. Reflective preferences are less in
4 evidence as voters are overwhelmed by so many measures to vote on.

5 The Oregon Citizens' Initiative Review process was instituted in
6 2009 to provide a deliberative input into the referendum process.
7 Essentially, a citizens' jury convenes and concludes with a one-page
8 report on the measure in question, which is then included in a
9 pamphlet that is sent to every registered voter in the state. The report
10 does say how many jurors ended up both supporting and opposing the
11 measure in question, but, more importantly, it contains what the jurors
12 believe to be the best arguments both for and against the measure – the
13 ones that can survive deliberative scrutiny. So far, only a minority of
14 the measures proposed each election year have been subjected to this
15 process (eg concerning the legalisation for medical use of marijuana
16 or mandatory sentencing for particular criminal offences). Survey
17 evidence suggests that those who read the report in the pamphlet are
18 influenced by it (Knobloch et al, 2013).

19 The Oregon Citizens' Initiative Review is not a form of public
20 consultation. Rather, the idea is that a deliberative citizens' jury reflects
21 upon the claims that have already been made in the campaigns for and
22 against a particular measure, and these reflections are inserted into
23 the sequence immediately prior to the moment of decision in the
24 referendum itself. So, unlike most public consultation, it occurs at the
25 correct place in the sequence of policymaking.

27 **Deliberative policy analysis as a governance aspiration**

28
29 The lesson from the Oregon Citizens' Initiative Review is that putting
30 a deliberative process in the proper place in a decision sequence means
31 that there can be a good (reflective) effect; however, even there, the
32 citizens' jury and its report struggle against a host of non-deliberative
33 factors. For a start, most voters do not bother to read the pamphlet
34 that is sent to them, and they may still be swayed by partisan campaigns
35 rather than the jury's reflections.

36 The deliberative systems approach that now dominates the theory of
37 deliberative democracy highlights the limits of relying on any particular
38 forum to fully meet the requisite deliberative virtues, no matter where
39 it is placed in a decision sequence (Parkinson and Mansbridge, 2012).
40 One of the key insights of this approach is that we should not impose
41 the entire burden of achieving deliberative virtues on a single forum,
42 be it a parliament, a constitutional court, a stakeholder dialogue

or a minipublic. Instead, we should be more concerned with the deliberative qualities of a system as a whole. My earlier suggestion that we might want to seek moments of justification and moments of reflection in different, yet linked, institutions is consistent with this systemic view. However, the deliberative systems approach has larger ambitions.

Any system can be defined as a set of differentiated, yet linked, components that together can be interpreted in the light of some common purpose. For a deliberative system, the common purpose involves the generation of political legitimacy (which, in turn, depends on the achievement of a number of democratic values) and an effective, ethically defensible decision. The precise components of a deliberative system can vary, but they might include: everyday talk among friends, neighbours and colleagues; social movement activity and political activism; public consultations; civil society forums; minipublics; legislatures; nodes in governance networks; constitutional courts; international negotiations; and international organisations. These components can be formal or informal. A well-functioning deliberative system features integration and good communication flows across different sites (Hendriks, 2006).

In this light, deliberative policy analysis can most profitably describe, analyse, evaluate and perhaps even inform the design of deliberative systems. If it does not do so, but focuses instead on deliberative forums in isolation from the context provided by a system, then it is falling far short of the aspirations of deliberative democracy, which is about governance in its entirety – not small components of governance.

To date, most statements about deliberative systems have a programmatic or illustrative quality; comprehensive empirical analyses of particular deliberative systems are relatively rare. An early example, though, can be found in Parkinson's (2006) study of health-care policy in the UK. Parkinson shows how petitions, citizens' forums, bureaucratic processes and legislative debate can all be seen as contributing bits of legitimacy to policymaking, though, individually and collectively, they fall far short of deliberative ideals. Dodge (2009) looks at the deliberative system for environmental policy (with a focus provided by the practices activists use in different locations). **J. or C.?** Boswell (2013) shows how narratives on obesity policy get transformed as they traverse a deliberative system – and get exploited by powerful interests, to the democratic detriment of the system. Stevenson and Dryzek (2014) conduct a comprehensive analysis of the global governance of climate change in deliberative system terms. They map the system in terms of public spaces and empowered

1 spaces, as well as the interconnections between them. Their study
2 reveals a deliberative system in considerable disrepair as, for example,
3 communications beyond enclaves of like-minded civil society actors
4 (ranging from corporations to climate justice activists) are limited, the
5 voice of civil society does not get heard effectively in more formal
6 decision processes and emerging forms of networked governance are
7 dominated by single (moderate) discourses. Stevenson and Dryzek
8 conclude with a set of suggestions for improving the qualities of this
9 particular deliberative system. These proposals include: improving
10 communication across enclaves by extending invitations to forums
11 held by (respectively) moderate and radical actors; and constructing
12 accountability chains linking civil society to the formal United Nations
13 negotiations to emerging centres of networked governance (which
14 otherwise elude deliberative scrutiny). They do not ignore the part that
15 could be played by designed deliberative forums such as transnational
16 minipublics, but they stress the importance of looking at the systemic
17 qualities to which any such innovations would contribute.

18 It is one of the core propositions of the deliberative systems approach
19 that intrinsically non-deliberative actions and practices can have
20 positive deliberative consequences at the system level. Examples would
21 include ridicule that induces reflection on the part of those on the
22 receiving end, or social movement activism that gets previously ignored
23 dimensions of an issue onto the political agenda. The corollary is that
24 intrinsically deliberative actions and practices can have systemically
25 non-deliberative consequences. So, if a deliberative forum is established
26 by a government to give the impression that it is doing something or
27 cares about public opinion on an issue, with no intention of using
28 the results, then that may detract from the deliberative capacity of
29 the system as a whole. The same might be said if activists are induced
30 into a conflict resolution exercise or dialogue with opponents – which
31 proves to sap their energies but have no impact on policy.

32 The frequency with which designed deliberative forums fall short
33 when it comes to being consequential suggests that it is important
34 to always remember the systemic level of analysis. This has profound
35 implications for the content of deliberative policy analysis. In the
36 end, deliberative policy analysis cannot be just a set of techniques and
37 tools for the design of forums and their use in more conventional
38 policy analysis, in public consultation or in conflict resolution. Rather,
39 deliberative policy analysis should analyse systems of governance in
40 deliberative terms. Only in this way can deliberative policy analysis
41 remain true to the core commitments of deliberative democracy, and
42 contribute to more effective, as well as more legitimate, policymaking.

Further reading

Fischer and Gottweis's (2012) *The argumentative turn revisited: Public policy as communicative practice* updates the argumentative turn in policy analysis and provides the context for deliberative policy analysis.

Hajer and Wagenaar's (2003) *Deliberative policy analysis* contains a classic set of essays on the need for deliberative policy analysis.

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