

PARTICIPANT REACTIONS

Workshop on Deliberative Democracy and Dispute Resolution at MIT June 24 – 25

*Sponsored by the Hewlett Foundation
and The Program on Negotiation at Harvard Law School*

Peter Adler	p. 2	David Kahane	p. 32
David Booher	p. 4	David Laws	p. 33
Josh Cohen	p. 7	Judy Layzer	p. 36
John Dryzek	p. 9	Carolyn Lukensmeyer	p. 37
Michael Elliott	p. 11	Jane Mansbridge	p. 38
David Fairman	p. 13	Carrie Menkel-Meadow	p. 41
Frank Fischer	p. 15	Susan Podziba	p. 45
Jim Fishkin	p. 17	Richard Reuben	p. 48
John Forester	p. 19	Nancy Roberts	p. 50
Archon Fung	p. 23	Jay Rothman	p. 51
Maarten Hajer	p. 26	Marianella Sclavi	p. 52
Judy Innes	p. 28	Susan Sherry	p. 54
Bill Isaacs	p. 30	Daniel Yankelovich	p. 57

Peter Adler

DEMOCRACY, DELIBERATION, AND CONSENSUS BUILDING

Thoughts on a New Braid

Peter S. Adler

June 27, 2005

“Democracy is good. I say this because other systems are worse.”

- Jawaharal Nehru

Above all else, democracy is founded on a resolute belief that citizens can govern themselves. Not only can they, they should. Democracy (from the Greek demos, "people," and kratos, "rule") assumes that most ordinary people have the capacity, the means, and the will to participate in the making of key decisions. These three impulses – capacity, means, and will -- directly shape the common good. Paradoxically, the means for exercising these three impulses requires us to manage and embrace a variety of ever-present polarities: conflict vs. cooperation; deliberation vs. problem solving; communication vs. negotiated problem solving; formal procedures embodied in the laws, rule, and procedures of our political institutions vs. the informal and often ad hoc assemblies that are invented more in the moment. All of these dualities need each other. It is not “versus.” It is “and.” We require both.

In the U.S., and perhaps in other democracies, something seems to be going wrong with the idea of self government. The undertaking of deliberation and decision-making at the federal, state, and local levels is too complex, too remote, too confused, and too self-absorbed by elites. Whether the discussions and determinations emanate from Washington D.C., the state capitol, or a county council, I hear a persistent complaint in my work as a public policy mediator that personal involvement doesn't count and cannot really change anything. Is it cynicism, fatigue, or something more? Whatever is going on, fragmentation and balkanization continues and fewer and fewer people seem to see themselves as part of a central polity.

Ironically, this takes place at the very moment when former private “problem” spheres become ever more public. On any given day the larger realities of post 9/11 security, economic development, cleaning up pollution, stabilizing climate change, reducing crime, securing energy production, reducing homelessness, and improving poor student performance in our educational system touch us personally. Public problems do not respect conventional boundaries. No one sector – governmental, industrial, and civic –owns them. Technical remedies are insufficient. No one agency of government has full jurisdiction to solve them. No one special interest group has the power to force a solution. No one discipline or mental model can fully explain them. No one locale can wall itself off deal with them exclusively.

This is a challenge to those of us who look through the two binocular lenses of deliberative political theory and the theory and practice of conflict resolution. At our gathering on June 24-25, 2005, we explored the seeming distinctions and tensions between these strands and found interesting differences and similarities. We all seem to agree that our current democratic structures and processes are insufficient. They must be supplemented. We all seem to agree that the steady infusion of raw opinion polls is insufficient, even though they are the high octane jet

fuel of politics. There was, in this regard, a broad recognition that conventional polled opinions are uninformed, do not admit of dialogue, and actually inhibit deliberation.

Important differences also emerged. Notions of negotiation and problem solving seemed absent from the deliberative democracy theorists. It is unclear how and when conversations ever conclude and how and when citizens move from discussion to action. In the press of problem solving, however, conflict resolution theorists may fail to capture and deepen opportunities for dialogue and for bringing greater numbers of viewpoints into discussion. Further, the words “deliberate,” “deliberation,” and “deliberative” remained comfortably but perplexingly undefined by all of us. Our uses of the words ranged from a set of specific techniques and methods, to a set of set of relationships, to a utopian conception of a future society.

So where to next? Much more discussion, of course. More opportunities for exchanges like we had. More research and more case examples and well examined case studies. Most of all, I think we need to hatch plans. I believe we must take a 25-year one generation view and begin to do precisely what the neo-conservatives did 25-years ago. We must begin to be systematic at articulating the essential values that collectively underpin our thinking and imagine a new political “braid” that weaves and twines separate strands into a more coherent, practical, and intentionally political school of thought. The starting points will be those shared values we have now: the legitimatization and valuing of differences (as opposed to the current intolerance of them); civil and civic participation in the great issues of the day (as opposed to control of those discussions by elites); and the creative uses of conflict to help solve tough problems and build enduring relationships in the polity.

David Booher

Reflections on Dispute Resolution/Deliberative Democracy Conference

MIT, June 2005

David E. Booher

Thanks to everyone who participated. This was a very valuable learning experience for me personally and continues to influence my thinking about the state and future direction of both theory and practice in what I sense is an emerging new field that will build on work in both deliberative democracy and consensus building. I would like to share some of my initial reflections from the conference.

State of the Practice and Theory

I think the practice of dispute resolution has evolved beyond the earlier stages when it focused on solving discreet conflict problem situations. Many of the methods and theoretical thinking growing out of this practice is now finding its way into other practice arenas such as public participation, visioning, network structures, governance, and institutional capacity. Many of these evolutions are captured in some of the literature. For example, the Consensus Building Handbook includes excellent chapters on visioning and organizational collaboration. As I look at much of the work in the field it seems to me that many practitioners are working as much with some of these topics as they are with public dispute episodes. It also seems to me that the practice models for these other arenas may depart from practices in dispute resolution. If this is true, practitioners have some thinking to do to explore how the practice from dispute resolution can inform other practice arenas and the areas where adaptations are needed. I came away from the conference thinking the work in deliberative democracy theory building can help with this thinking.

The work in deliberative democracy theory seems to me to be similarly very much a work in progress. I inferred from the interactions at the conference that there is an opportunity for theorists in deliberative democracy to work together to attempt to more clearly define a coherent theory of deliberative democracy. I don't share the view that the objective of this work should be to deliver immediate lessons to practitioners. I appreciate the importance of theorists to both think abstractly and empirically about the elements of a useful theory. I also think that as a more coherent theory emerges practitioners and scholars will be able to apply it to their work and improve the depth and adaptability of their practices.

Thinking About the Future

As I stated at the Friday night dinner, the state of representative democracy and the underlying pluralist theory of democracy is very troubled in 21st century governance. The practices that are emerging based upon deliberation, dialogue, and collaboration are gaining traction in many diverse settings in governance. But they are still very challenged by existing norms, heuristics, structures, and practices of governance institutions. To make governance institutions more effective in addressing societal problems I believe that both robust theory and effective new practices are required. I don't know yet what form this will take, although we are learning a lot from the research of folks like Archon Fung. I hope and expect this conference will serve as a

platform from which we can all collaborate in creating an augmentation or alternative to pluralist democratic theory that is based on deliberation and dialogue.

It did seem to me that there are several areas of convergence for the practice and theory similar to those Carrie listed in her reflections. I think one of the most important is the shared interest in improving institutions of governance.

Patsy Healey, who could not join us, talks about collaborative policy in three venues: Episodes, programs, and institutions. I think learning from each of the “lower” venues can inform thinking about “higher” ones. Episodes are the kind of venues that traditional conflict resolution and consensus building address. Programs are the venue where some of the changes with organizations and stakeholders as a result of their work with episodes occur. For example, many successful consensus building projects result in outcomes that include changes to government programs. Many practitioners are beginning to work with change in the third venue, institutions. This is much more problematic because collaboration, deliberation, and dialogue often are in conflict with firmly entrenched bureaucratic practices grounded in expert culture, adversarial heuristics, and “pork” barrel political norms. But it is the venue where many practitioners are seeing more demand for their services. It seems to me that there may also be a fourth venue to add to Patsy’s observation. I think of it as systemic. Beyond the institutional stage we may be interested in how the system of democracy might change to appropriately incorporate deliberation, dialogue, and collaboration. It is in this venue that the contributions of deliberative democracy theorists seem to me to be particularly important.

Recently members of the Collaborative Democracy Network (CDN) negotiated and published a “Call to Scholars and Teachers of Public Administration, Public Policy, Planning, Political Science, and Related Fields.” Among other things, this document offered suggestions for future research and education agendas. (Several of the conference participants are among the 48 scholars who endorsed this statement. For a copy of the “Call” go to www.csus.edu/ccp/cdn/) I think this statement is a good foundation to continue discussion about the future for a more deliberative democracy. CDN will welcome the involvement of any conference participants. Just let me know if you are interested.

Observations about the conference

On balance I think the use of scenarios was a good vehicle to structure the discussion. The scenarios helped me to understand how others saw some of the basic dynamics they manifest differently than I had before. I agree with Judy that the scenarios could have been improved by having a deliberative democracy theorist help prepare them. I also think the conference discussion would have benefited by participation of more DD folks. We did invite several more but for future conferences the organizers will need to think about strategies to be sure more DD theorists participate.

I also think the conference resulted in better understanding by both DD folks and DR folks about each other’s work. I can see this leading to many fruitful exchanges in the future. In retrospect I regret we couldn’t arrange more time for one on one and smaller group discussions.

Finally, I sense that we could have gone further in exploring the guidelines for practice that Larry summarized, in particular how these guidelines might need to be adapted to address the institutional and system context I discussed above. I interpreted some of the exchange between the DR folks and the DD folks to be grounded in questioning about whether those guidelines as summarized are adequate for addressing the question of enhancing democracy at the institutional and system levels. I think there is extensive empirical evidence that the guidelines work in dispute resolution and consensus building. But I think much more research needs to occur to inform their translation into other venues of democracy.

Josh Cohen

1. I disagree with Larry's claim that "it does not depend," though I was glad that he asserted it so forcefully. It strikes me as implausible in a variety of ways that anyone has a universal technology of conflict resolution. I say this as a huge admirer of the work that Larry does, which is both interesting and inspiring. The crucial issue, it seems to me is to have a sense of the universe of ways of addressing conflicts and a sense of which ones may be more appropriate for which sorts of conflicts.

2. I agree with Larry's central claim: that people who work in the area of deliberative democracy ought to give more attentive to work on resolving disputes. Sometimes the deliberative democracy discussion operates at too-great a remove from issues about the resolution of more focused problems and disputes, despite the fact that such resolution provides a good testing ground for efforts to make a more deliberative democracy. (This point about deliberative democracy and "problem-solving" is important in Archon's work and in a 1997 piece that Sabel and I authored on "directly-deliberative polyarchy").

3. That said, there are also large issues about making democracy more deliberative that may not be best approached by focusing on concrete problem-solving: issues about education, about the media, about commitment to cultural pluralism and toleration, about polarization and how to have the political parties that are essential to mass democracy without the destructive competition and polarization that they sometimes produce (I think this is part of the implication of keeping in kind the Yankelovich point that deliberative democracy puts deliberation together with democracy).

4. I think the Hajer/Kahane point about processes not reaching closure when a decision gets made is right and important. Though the precise bearing on deliberative democracy and/or dispute resolution is not entirely clear, it is a mistake to draw too sharp a distinction between decision-making and implementation. There is a distinction, and "that's what we decided" is an important thing to say when issues about implementation emerge, but the point about closure remains and remains important.

5. Jenny made a very good point about deliberative polling: the precise implications are not clear to me, but it is important to bear in mind. So the claim in deliberative polling is: we have a random sample, so now we have a pretty good idea what the people would decide if the people were to decide in a deliberative and informed way. What Jenny said was that "we do not do democracy that way." I took her to mean that there is great reluctance to assign any democratic authority to decisions made by a small group, even if the group is a random sample. Fishkin has an answer (with some help from Archon): the answer is that the point of deliberative polling is NOT to authoritatively decide anything but to help guide the judgment of citizens or decision makers (the point of polling lies in the domain of communicative power). But if deliberative polling works by informing the judgments of citizens or of policy makers, we need more of a story about how that works or might work: not just about the technique of deliberative polling (as important and interesting as that is), but about how the results of deliberative polling might be inserted into a larger democratic process, as one of the elements that citizens take into account in deciding what they think about an issue.

Is there a larger theme that runs through these comments? I guess the idea is that, as we are thinking about deliberation and about dispute resolution, we need to keep in mind the larger setting of mass democracy that frames our research and our practical efforts (as depressing as that setting can sometimes be).

John Dryzek

The workshop was very instructive in terms of bringing two communities together. Deliberation (sometimes connected to democracy) is arising in all kinds of places; in political practice (innovations often with little theoretical input, sometimes with questionable motivation ^ for example when public managers in UK use citizen panels as a way to sideline established interest groups), and in a variety of disciplines (constitutional economics, ecological economics, public administration, international relations, social psychology, etc).

Deliberative democracy as an ideal should not be equated with its manifestation in any single institutional design or process, be it environmental impact assessment, deliberative polling, or dispute resolution. However, it is possible to see deliberative democracy as a critical angle that informs processes of democratization. These processes can include limited innovations in any kind of political institution or setting. In this sense, dispute resolution exercises can be seen as moments of deliberative democratization.

Some deliberative democrats (including me) remain uneasy with the exclusive stakeholder, emphasis in dispute resolution. This doesn't just concern potential under-representation of the weakly organized and disadvantaged. Sometimes the population of potential stakeholders is unbounded; for example complex transnational environmental issues that also affect future generations. More problematic still is that even if all conceivable interests are represented, the sum of their partial interests does not necessarily constitute the general public interest. A local agreement might externalize its costs. There is also a civic republican angle here: that general public interests should always be the focus of debate. Lay citizens may be more open to deliberation in these terms than are partisan stakeholders. However, this is not an argument for excluding stakeholders in favour of lay citizens, because deliberative democracy is also a theory of political legitimacy, which can only be secured with the deliberative assent of relevant partisans.

Once issue that could have received more attention in the workshop is the fact that deliberative democracy comes in several quite different varieties. In retrospect a ten-minute presentation at the outset on these varieties might have been good. For example, when it comes to the location of deliberation, there are at least five categories:

1. Institutionally unspecified ^ some philosophical treatments.
2. The conventional institutions of liberal democracy: legislatures, courts, maybe administrative agencies.
3. Designed forums, more innovative.
4. Governance networks, possibly transcending formal jurisdictions
5. The diffuse processes of the public sphere.

Obviously these locations are not necessarily mutually exclusive, but deliberation can be a very different matter in different locations. There is also variety when it comes to the essence of the activity of deliberation. If everyone had done the assigned readings these differences would be apparent ^ but an overview/summary reminder might still have been helpful.

The role of consensus in the theory of deliberative democracy remains problematic and contested. For deliberative theorists, "consensus" connotes agreement on an action, and also on

the reasons for it, including values (Habermas influential here). Obviously this isn't the kind of consensus required in dispute resolution, which can allow continued dissensus on the content and relative weight of values supported by participants. I'd now say one main purpose of deliberation is to produce meta-consensus: on the validity of disputed beliefs, the legitimacy of disputed values, and the range and structure of disputed preferences. Meta-consensus can co-exist with continued pluralism in beliefs, values, and preferences. To the extent meta-consensus is achieved, collective decision becomes more tractable no matter how decisions get made.

Michael Elliott

Some thoughts on the impact of scale on theories of deliberative democracy, collaborative planning and dispute resolution

For the Conference on Deliberative Democracy and Dispute Resolution

June 24-25, 3005

Effective planning for complex and spatially interactive systems—including many of the areas of concern to planners such as environmental, transportation, and community development systems—increasingly must combine specialized expertise with multi-disciplinary perspectives, expansive demands on financial and human resources, and vocal claims made by a wide-range of geographically dispersed interest groups and electorates. Moreover, these systems frequently cross jurisdictional boundaries, affecting neighborhood, regional and national interests simultaneously.

In this context, collaborative planning and participatory democracy offers potential advantages over traditional processes that center more exclusively on either pluralist political interaction or the rationalist logic of expert-based bureaucracies. Proponents claim that collaborative decision processes promote interactive rationality and leads to decisions that are better thought-out and more fair, implementable and durable. Proponents further hail collaborative processes as a route to providing meaningful voice to concerned citizens in a democratic society, and as a vehicle for sharing power amongst multiple agencies and interest groups.

Yet, most of these claims are based on consensus building processes associated with particular projects or clearly defined policy arenas, such as the management of a coastal resource or the development of policy for fair share housing. If collaborative planning is to address problems imbedded in complex systems, we must more meaningfully engage citizens and stakeholders at multiple levels of governance. Participatory collaborative processes must develop forms and forums capable of addressing not only localized place-specific issues and more regional but discrete policy tradeoffs, but also multidimensional regional, state and national issues.

While collaborative processes have been employed at all levels of governance, most engage citizens locally. Moreover, participation often becomes more specialized at the regional and national levels, providing voice to organized interests more readily than to the broader public. This, coupled to long standing concerns about who participates (small numbers of elites) raises questions about the feasibility of collaborative democracy in general and collaborative planning in particular, as a vehicle for addressing complex regional, state and national issues.

It is precisely this problem that is at the core of political theories of deliberative democracy. If democratic decision making is to be conducted in forms that are more direct than offered by traditional representative governance, then the decision making process must provide an opportunity not only for citizen voice, but also for deliberation and decision making. Further, it must do so in a way that is transparent, provides at least equal opportunity of participation (opportunity that accounts for contextual barriers to participation), resists capture by specialized interests, and promotes reasoned discourse and closure around issues to allow for effective decision-making. How might we link our knowledge about processes for building consensus and

communicative rationality (developed to resolve discrete conflicts) with political theories for governmental decision making (developed to enable legitimate political decision making)?

Dispute resolution (DR) theory and practice have developed answers to each of these questions when participants can be limited to some relatively small group and consensus-based processes can be utilized. Deliberative democratic (DD) theory is developing ideas about practice that attack the problem from a larger scale. Most DD theorists presume that final decision making will be done via representative governance, and that the role of collaborative deliberation is to enable these representatives to more fully understand the issues and their ramifications, as seen by various publics. The processes proposed by DD theorists do not seem to be agreement seeking per se, but more broadly focus on developed shared understandings, envision shared futures, and design innovative solutions and pathways to those futures. These processes mostly stop short, however, of seeking binding consensus. Instead, they look for buy-in from elected officials, who will conform to outcomes largely because it will be politically expedient to do so. In this way, DD theorists provide legitimation and closure (by linking to representative governance), while improving transparency and reasoned discourse (through structured participation processes).

The problem of capture by special interests is dealt with differently by various DD theorists. Two approaches were particularly discussed in the conference: one emphasizing extensive outreach for highly publicized efforts, coupled to openness to widespread participation; the other emphasizing random selection of a cross-section of the community. Both were limited to relatively intense but short-lived processes (from one to three days), largely to maintain the focus and interest of participants. What are the limits of a process that is completed in 3 days? To the level of understanding and the ability to envision the future amongst its participants? To the ability of the participants to move toward a shared understanding of each other's interests and the nature of the problem, towards the design of mutually acceptable futures?

It seems, then, that DR and DD theory overlap, but that they confront the problem of scale by resolving different problems associated with scale, and by in essence ignoring other problems. It would seem that DR theory provides clearer answers about how complex problems can be addressed inter-jurisdictionally over long periods of time, but does so by in essence "professionalizing" participation, empowering well organized interests who are capable of sustained action over time, at the expense of disorganized interests and those who lack resources. While DR theory has made suggestions about how to overcome these problems, rarely are the suggestions followed. DD theory, on the other hand, has opted for intense but sporadic involvement of the public. DD theory protects against the professionalization of participation, but does so by limiting the complexity of issues that can be addressed. While the processes can incorporate large numbers of individuals, the range of involvement is more limited.

The question that I am left with is: can the theory and processes of these two fields be combined to create a more robust answer to the problems posed by scale? Can processes be designed that allow more active participation in agreement seeking, while at the same time allowing for widespread participation. DR theory suggests that the use of nested processes might resolve this difficulty, but relatively few processes have been designed to effectively mix extensive processes involving widespread participation with intensive processes focused on consensus building and agreements. What might these processes look like?

Reflections on the Dispute Resolution and Deliberative Democracy Conference

David Fairman

Looking back on the conference, I'm struck by four "creative tensions" in the dialogue between deliberation theorists and conflict resolution practitioners:

- Stakeholders vs. publics
- Persuasion based on reasons vs. negotiation based on interests
- Deliberation vs. decision making
- Ad hoc vs. permanent institutions

Stakeholders vs. Publics: The critique of stakeholder-driven public conflict resolution and consensus building processes by theorists of deliberation rests on two main points: stakeholders may not represent the broader public interest, and they may make decisions through bargaining rather than reasoning. In my experience, the representation issue is more significant. There are certainly many public stakeholder convening processes that proceed with limited outreach to potentially interested publics to identify and recruit participants, and with limited transparency to the public during the process.

My own practice has been to encourage (and sometimes push) convenors to do more systematic outreach to, organizing assistance for, and ongoing engagement with stakeholder groups that would be less likely to have the information or resources to participate—primarily lower income and socially marginal groups (e.g. public housing residents for housing policy; low income and minority group residents of neighborhoods doing site-based planning, etc.). I can't say that I'm always satisfied with the results, and I do think that there is a point at which practitioners should walk away from processes that don't pass the laugh test of good faith efforts to engage a broad spectrum of stakeholders or promote process transparency.

Large-scale engagement of the interested or the statistically representative public (e.g. through Carolyn Lukensmeyer's AmericaSpeaks events or Jim Fishkin's deliberative polling) may offer a good option for promoting more direct engagement of stakeholders and publics. I am excited by the possibilities, and am currently looking at two projects where this approach might be applied.

Interests vs. Reasons: On the issue of reasoning about the public interest, I think that some theorists of deliberation may be giving the practice of public conflict resolution less than its due. Interest-based negotiation does play a key role in any public conflict resolution/consensus building process. So too does reasoning based on arguments about a) facts; b) feasible options; and c) the public interest.

I have never participated in a public conflict resolution/consensus building process in which participants did not make arguments about the public interest. Those arguments often consume hours of meeting time, as participants seek to establish principles and criteria to guide the decision making process. In my opinion, participants often waste time on this type of argument, but not because "it all comes down to who has the most power." Rather, participants sometimes have profoundly divergent views of the public

interest (e.g. the appropriate balance between regulation and market forces; between community control and Federal authority; between serving the very poorest and serving a larger number of the poor, etc.), and are simply not going to argue each other out of those views.

My sense is that the arguments at this level are valuable mainly as a way to ensure that the participants recognize the need to make trade-offs between legitimate, competing public values. Making those trade-offs requires negotiation, but I've never been in a situation where the negotiators jettisoned their values for the sake of reaching a deal, and have often been in situations where the most powerful were constrained by arguments about the public interest advanced by those less powerful.

Deliberation vs. Decision Making: There was a slightly “Bambi vs. Godzilla” flavor to our discussion on public officials’ need for time-limited deliberation with clear decisions at the end. I have no objection in principle to the notion that all public issues are in some sense endless public conversations, and that all decisions can be reopened. I don’t think the theorists are naïve in this regard, but I do think that there is a limit to how much time and energy any public official or stakeholder can be expected to spend discussing an issue before making at least a “temporary decision.” More importantly, there is sometimes a compelling public interest in having a decision in a timely fashion (a country is under attack, widespread fraud in the stock market leads to a crisis of confidence, etc.).

Nonetheless, I left our conference wondering whether I might be giving more weight to getting a decision than to sustaining deliberation. This weighting is in part a defense against stakeholder impatience and cynicism about process. I sometimes find myself insisting that I am just as pragmatic and instrumental about “process” as the stakeholders who roll their eyes at the term. But that defense may disarm me as a process practitioner in situations where there are both instrumental and principled reasons to argue for a deeper, more sustained interaction among stakeholders. The theorists’ arguments in favor of democratic deliberation as an end in itself will, I think, stay with me and influence my future responses to stakeholders who doubt its value.

Ad hoc vs. Permanent Institutions: Given the demand for decisions, conflict resolution practitioners generally focus on helping the stakeholders deal with the situation at hand, seeking a mutually acceptable solution within the time and resources available. The deliberative theorists make a strong case that we should be working harder to develop better institutions for ongoing deliberation. We do try to help the stakeholders consider implementation issues, and to develop forums for joint monitoring and conflict resolution during implementation. I think we could go further in helping stakeholders use those forums not only to address implementation issues, but also to learn from each other and from their implementation experience, and to continue informing and engaging the broader public. My aspiration after the conference is to do more to create or strengthen deliberative forums that can outlive the particular issues at hand, and to take on more projects that are explicitly institution-creating as well as problem-solving.

Frank Fischer

The conference was useful. I say this as one who decided, with some reluctance, to fly back briefly to the U.S. from Europe to attend it.

Although the conference was billed as an exchange between deliberative democratic theorists and alternative dispute resolution practitioners, the tone was set more by the concerns of dispute resolution than deliberative democracy. It took this direction, I think, more by virtue of the orientations of the attendees than by design. For one thing, fewer of the invited deliberative democracy theorists attended. I counted about 6 people who would be identified, one way or another, as deliberative democracy theorists, as opposed to some 20 dispute resolution theorists and practitioners. Thus, the questions and concerns tended to be those of the practitioners, in particular how to relate their activities to the theory of deliberative democracy.

If the conference had been structured the other way around, i.e., 20 deliberative democracy theorists and 6 dispute resolution practitioners, it would have generated a very different discussion. But not necessarily more productive. It would have been much more abstract, often at a level that practitioners would have found frustrating. Many would have asked what they could possibly do with such argumentation. It would've been difficult to have found a middle ground on which a productive discussion could have played out. As one who operates more at the intersection of theory and policy, I would not readily reject an argument that it was better to begin with an emphasis on practical disputes. Relevance, as a practitioner would understand it, is not what the political theorist is about.

By and large, deliberative democracy theorists have shown little interest in the practices of alternative dispute resolution. They are seen either as manipulative, even if subtly so, biased, and perhaps politically naïve. Without necessarily putting to rest such charges, I think the conference demonstrated that dispute mediators have collected a range of experiences that are sophisticated enough to bear on the concerns of deliberative democracy.

The dispute resolution participants, as I saw it, seemed to have taken the theory of deliberative democracy to be more developed than it is. Not only is the work in this field in its developmental stages, there is a great deal of disagreement among those who identify with the theoretical project--too much disagreement to offer it as a set of fixed principles that can easily be linked up dispute resolution practices.

Part of the problem is that the two approaches focus on different tasks. Whereas dispute mediators are geared to solving problems in the existing world--better bargains and the like--deliberative theorists are challenging that world and calling for another one based on a different political culture. While a dialogue between the two can be productive, as the workshop seemed to show, such an interaction will necessarily involved tensions.

Perhaps the most difficult one is associated with the question of neutrality and bias. Where dispute resolution practitioners emphasize neutrality--out of necessity--deliberative democracy theorists see bias. But this is a bias that is difficult to describe. For the most part, the concern doesn't question the credibility of the dispute practitioners per se; rather it has do with the nature of discourse more generally. Each discourse, particularly discourses about particular policy

problems, rests on an implicit construction of the world, which influences and shaped the framing of the questions to resolved. For those working inside a given system, accepting a particular set of values (or interpretations of them), is not necessarily problematic. But theorists focus on the deeper realities that shape the way we think and act. Although these are real, bringing them to the fore in efforts to solve particular problems in a giving social context tend to make it difficult to proceed. Thus, while the deliberative theorist can offer practitioners ways to think about what he or she is doing, this contribution does not automatically translate at the level of specific methods and practices.

Another issue was the question of authenticity. Larry asked how one can know or identify authenticity, saying that he had no "authenticity meter." Neither does anyone else, at least in a literal sense. Authenticity is fundamentally an intersubjective process confirmed by the participants themselves. The basic condition for authentic deliberation, John (Dryzek) has argued, is the requirement that communication induce reflection upon preferences in a non-coercive fashion. Some aspects of this can be objectively observed; others have to rely on the thoughts and feelings of those engaged.

This relates in important ways to the point made by Susan (Sherry) that most of the people calling for more deliberation and negotiation tend to be a rather elite lot with different interests, perspectives, and language than large numbers of people from whom they try to elicit deliberation. I was, in this respect, impressed with Marianella's strategy for eliciting people's opinions by going to their house, asking them to talk about the history of their life, etc.

Finally, during the conference, I stressed the role of power. Some people misunderstood, I think, taking my argument to be something of an either/or between deliberation and political advocacy. My point was that power and discourse are intricately involved with each other. One should engage in deliberation because of power, I would argue, but not forget in the process the ways it shapes at the same time the various processes of deliberation, both subtly and not so subtly.

In this respect, I think that Jenny Mansbridge's argument about representative government is important. Deliberation is not an alternative to representation, but rather a supplement to it. I would argue that the quality of a representative system depends in significant part on the level of participatory deliberation beneath it.

Jim Fishkin

a) The overall conference had a dual, but modest imperfection if it was conceived as a full-blown dialogue between deliberative democracy and dispute resolution people. One of the other participants counted an imbalance of 20 dispute resolution people compared to six DD participants (hereafter I will use DR for Dispute Resolution and DD for Deliberative Democracy). As we all know, it matters greatly who is in the room. If one is greatly outnumbered it has a big effect on the implicit appearance of consensus and willingness to make points that go against it. With this crowd, this was not fatal, but it was a noticeable defect. Secondly, you included critics of DD but no critics of DR. So the set up was once again imbalanced. I know that some people did not show but I am not aware that any of them were critics of DR.

b) Your opening comments set up a fine frame for discussion. However, they did not, from my point of view, represent DD accurately at all. Three of your four points did not apply to our Deliberative Polling work. And the fourth did not apply to most other DD work. More specifically:

1. Deliberative Polling requires the use of neutral moderators for the small group discussions and the plenary sessions.
2. Deliberative Polling employs an advisory committee of stakeholders who supervise the briefing materials, the questionnaire, the agenda for the weekend, the choice of experts
3. Deliberative Polling is concerned, wherever possible with implementability. Our energy projects and the China projects (there are now more in planning) both exemplify implementability.
4. The DD literature mostly positions itself as aiming at consensus. This is part of the reason why it aims to replace voting (aggregative democracy) with consensus via deliberative democracy. My own work is an outlier in this respect in that while consensus is desirably, I work hard to collect opinions confidentially so that social pressure does not produce false consensus. But see my critique of Shapiro (sent earlier) who is taking the literature as it stands. Mansbridge played a role in framing the issue this way in *Beyond Adversary Democracy*. I think you will also find the contrast between aggregative and deliberative democracy mentioned in Cohen and in Gutmann and Thompson.

c) One of my key concerns is with who is doing the deliberating. Hence I found much of the discussion in which Lukensmeyer's *America Speaks* model was lumped with Deliberative Polling to be misleading. Both Dan Yankelovich and I employ random sampling. She employs self-selected samples (often recruited with an 800 number). I thought David Booher's comment was on point when he noted that a self selected sample can be packed by organized interests.

d) I thought that the panel I was on was framed (unintentionally) in such a way that it ruled out my concerns with DD. It moved from DD to "national level consensus building." It is posed in terms of an agreement among elites. While there is reference to involving the public in the first sentence, none of the questions about how the public might be involved are discussed in any of the prompts. But to us in the DD world, this is a key question. Deliberative democracy is not a dialogue among elites; it engages the public. That is what makes it democracy rather than just deliberation.

e) The format of the conference did not permit enough of a sustained discussion of the different models that traffic under the banner deliberative democracy. Very different efforts and institutions were clumped together as if they were the same thing. Many have severe defects, from my standpoint, not just in terms of the recruitment of participants, but in how information is provided, how dialogue is sustained, how results are produced, how some connection to the policy process is nurtured. Hence I think we just began to scratch the surface of this discussion.

f) Also we could have benefited from a more robust discussion of the strategies for connecting a dialogue among the people to the policy or political process. In our own work, there is the role of the media, connections to referenda and elections, connections to a regulatory process, connections to actual government decision making (as in China), possibly the connections to commissions (conceived as an alternative to public hearings). We just scratched the surface again of the variety of possibilities.

g) On the other hand, I think it is clear that there are many possible synergies between DD and DR. I hope there will be more occasions to nurture this discussion. Congratulations on successfully holding the first of its kind.

John Forester

Reflections On Our Deliberative Democracy-Dispute Resolution Workshop and Participants' Notes About Worries and What's Missing

John Forester
July 19, 2005

I found our June meeting both rich, tantalizing, and, of course, frustrating at times too. The scenarios worked effectively to counteract our flying off in widely divergent directions, and they also pre-empted a few more focused moves to ask, of both practitioners and theorists, "What would you really like to learn from others here?" Discussions between theorists and practitioners are notoriously difficult, and I think we did pretty well: the theorists seemed heartened by the richness of case experience and perhaps succeeded by setting themselves some new challenges; I'm less clear what practitioners took away from the theorists except for a renewed sense of the theoretical significance of their work.

After noting several comments that I found striking and significant, I will add the notes I collected from our participants about what most worried them in their work and what they thought we might have been missing.

Reflections on a series of striking comments:

1. The question about **practitioners' biases** led to an initial discussion of aspirations and hunches, and I think we can say much more. DR practitioners have biases:
 - a. that interdependence produces opportunities to negotiate, a space of possibilities to explore;
 - b. that parties to disputes typically posture, take initial strategic positions that deserve respect as first, not last, words regarding what they want, are willing to do, and might yet act on;
 - c. that inequalities typically present in complex public policy disputes do not yet involve sufficient legal or constitutional inequities or violations of rights that negotiation should be considered inappropriate;
 - d. that conversation matters even when parties distrust, dislike, disbelieve and are disinclined to talk to each other (but disrespect?);
 - e. that disputants bring partial information and judgments ("raw opinion" as Dan Y. put it) and can and will learn;
 - f. that disputants can create workable options and proposals under supportive conversational conditions that protect them from escalating arguments about blame, and
 - g. that there's always more going on in a dispute than meets the eye and the ear, so journalistic or even policy analytic (!) accounts based on separate, disputant by disputant interviews, for example, will be terribly misleading guides to what a dispute is really about and to what might really be possible (be jointly crafted and mutually agreed to).
2. The question about inevitable or **necessary injustice** should be understood as a matter of inevitable incompleteness, or seen as deeply ambiguous. Does an effective DR process in a complex dispute promise complete justice? Probably not. Does an effective DR process create a sufficient justification for public action? Sure. Can DR practitioners guarantee

justice? No. Can there always be people who wish they'd been included and who might feel not well represented? Sure. I take David Kahane's thesis of "essential injustice" to be one of "necessary humility" in a practical world; he is not implying that another process could realistically do better, just that even a fine DR process will often have serious limits (re: those not fully represented, information not fully considered, etc.)

3. Carrie's comment toward the end that many of us "are **trained to argue**," are trained to debate, strikes me as fundamental. We have cultural models, institutions, training, and familiarity with argument and debate, with images of neutral moderating, with argumentative styles of attack and counterattack, even with ground rules, and we are all too familiar with the ways that vigorous argument can become ad-hominem and personal. We are all too familiar with the often, even stereotypically, gendered versions of guys arguing while women are disgusted at the guys' neglect of the relationships involved. This matters all the more when we contrast all that to the public ignorance – lack of models, institutions, training, and familiarity – with the basic creative moves of joint inquiry, mediated negotiations, and consensus building. I hope to write a bit about three quite distinct but often confused, even if interrelated, processes and actions of encouraging dialogue, moderating debate, and/or mediating negotiations (doing consensus building).
4. Dan Yankelovich's quick observation about the complex **evolution of "raw opinion" into "considered public judgment"** deserved far more time than we were able to give it. This evolution typical of dispute resolution processes raises significant questions about the respect necessary to give to those pounding the table with opening demands and positions, the public understanding of dispute resolution processes, and understanding that these processes are not about making compromises to betray one's principles. (Notice that the word "compromise" hardly arose.)
5. For my tastes, we paid too little attention to the ways that we think **parties learn**, to the ways that would promote that learning, and to what that implied for institutional design and practice. We know a lot, I think, about how to help parties learn about each other and about the technical substance of issues—(meals and small groups and participatory rituals for the first; joint fact finding and related techniques for the second) —but I'd have loved a discussion about how DR processes encourage learning about others' and one's own interests and furthermore about "value," about what's at stake, about the "facts that matter" in particular cases that haven't yet been recognized by any party.
6. I wonder in retrospect if we spent a great deal of time on process design (and representation, for example) and far less time on **3rd party roles** and actual practice and practical judgment. Larry's opening remark that the complete absence of discussion of 3rd party behavior in the theoretical literature strikes me as a point of real depth and significance. It's significant in research implications; it's deep in the sense that it reveals a structural and processual rather than a pragmatic bias in the theoretical literature, and perhaps even an implicit formalism or scientism, a search for a system that will be abstractly sufficient and legitimate rather than a search for an informed sense of practical judgment that reflects and might inform what practitioners (can and ought to) do. I hope to finish up a lot of work about these issues sooner than later!
7. Peter Adler's comment that (roughly) "**decision-makers have problems too**," and that 'they need this stuff,' came late but reflects a huge challenge for all of us: a better understanding of the culture, function, and structure of administrative systems in which

DR processes can really be helpful and actually welcomed by "decision-makers." Larry remarked at one point that we don't understand why these processes aren't more widely embraced, and both comments need more attention.

8. Closely related to the sense of under-utilization of DR processes we find Dan Y's mention of an unexplored topic: the **public resistance** to DR processes. Perhaps we could spend a whole day on this, because certainly DR practitioners around the country find themselves disabusing people all the time about various myths of what DR and consensus building involve: no, it's not about replacing regulatory agencies, it's supplementing them; no, it's not about compromising your principles, it's about avoiding lose-lose outcomes and reaching mutually satisfying outcomes; no, it's not about giving up on expertise and letting anyone's technical information dominate, it's about taking advantage of the best available information and avoiding my expert vs. your expert; and so on. The resistance to these processes is enormous (will I give up power, look weak, betray my values, do less well than I can on my own...), and we badly need to work on this.
9. Jim Fishkin and Carolyn Luckensmeyer showed us that we (and the public) can rethink questions of scale (regarding suspicions that "this can only work with small groups or in small communities,") and Larry's work has done this too. But **suspicious about time** linger, and so Susan Podziba's DOL example bore further discussion: on crane safety regs, after they'd spent seven years with committees writing reports and nothing happening, they hired Susan who then did a successful reg-neg in 18 months that produced a workable, implementable rule. It's terribly important to see if we think Susan's case was a huge exception or an indication that, quite counter to stereotype, DR processes might be more efficient time-wise than regulatory processes held hostage to blue ribbon committees and the courts.

There's a lot more for us to do. What a stimulating couple of days it was!

Participants Responses to What Worried Them and What They Thought Missing:

What of these issues worries you in or about your own work?

- How to develop an integrated understanding of deliberative democracy, dispute resolution and larger democratic theory – on that is both normative and lends itself to prescriptive application.
- The multi-track or multi-layered dimension: a vision of connecting micro-institutional-public decision-making within inclusive processes (MS)
- The relationship between DD and community, and the role of power as an intermediary between community and community decision-making.
- Utter irrelevance.
- Figuring out how parties learn at the table.
- Having an impact: People go to a lot of trouble and we have to be sure their time is not wasted – getting from talk to action.
- How it scales up to a broader account of government/governance.
- The articulation of conflict and consensus.
- The lack of real capacity to engage and catalyze genuine shifts of consciousness and heal subtle alienation and damage; also group dependence on structural solutions which can't work.
- How to move high quality deliberation from the periphery to the core of political decision-making processes.

- Non-responsiveness to where people are vs. using 'tried and true' designs and moves.
- Resistance of public officials to the benefits of public dispute resolution. (LS)
- The lack of focus collectively on the creation of new governance mechanisms that stay authentic over time. Also: embedding these processes in the context of institutional decision-making – how to do this meaningfully and sustainably.
- Existing institutions are not compatible with deliberative policy formulation.
- There is no King! (that is, no one site/actor/location where the decision can be taken.)
- The challenge of bringing the values, strategies, and methods into America's political culture, the way we have the legal culture.

What are we missing altogether?

- Discussion at a deeper level of the relationship between deliberative democracy and representative governance.
- Too much on right decisions, too little on processes
- The institutional basis for reflective learning and continuity between decisions.
- Discussion of political setting, or outcomes.
- Learning about value, and learning about interests.
- The precise design of deliberative institutions has still been only vaguely discussed – with many crucial differences glossed over
- Practice.
- We're mostly missing a discussion of how to improve the elected representative process to make it (and representative-constituent communication as well as rep-rep communication) more "deliberative" (by which I mean "helping to illuminate both common and conflicting interests"). Perhaps we are missing altogether the processes of mourning and working through that Dan Yankelovich has written on.
- Core questions below this inquiry that stimulate and align this group (and) what do people most care about, that keeps them up nights?
- Cases where the population of potential stakeholders is unbounded – e.g. transnational, transgenerational.
- The impact of dysfunctional national political culture on our efforts.
- The fact that power in political contexts is dynamic, not static.
- Strategies for addressing the resource issues on a local, regional, national, global basis.
- What is our role (if any) as change agents?
- Expertise: the value of experts of content (not process) (though no longer once Panel 3 presented).
- Why we want what we want! However dynamic it may be: the end goal.

Archon Fung

Reflections on MIT Dispute Resolution/Deliberative Democracy Meeting

July 23, 2005

I want to thank Larry and the other organizers of the conference for hosting a very engaging and thought provoking meeting. It was a chance to see old friends and make some new ones. The workshop also comes at an important moment in the development of thought on deliberative democracy and, I gather, in negotiation and dispute resolution.

I quite liked the format of the sessions. For some reason, though, for me they fell short of illuminating the extent of agreement and disagreement between DR and DD. It might have helped to force a more extended and deliberate application of contending models to a particular actual or hypothetical situation to clarify the comparison and highlight what's at stake. Just to take one, consider Carolyn's Listening to the City project. For a problem and conflict such as the redevelopment of lower Manhattan, what is gained and lost in (i) Carolyn's method, (ii) Jim's method, (iii) a stakeholder dispute resolution, (iv) some more encompassing process in the public sphere, perhaps as elaborated Maarten's notions about performance and on-going narrative. With some exceptions, I didn't get a sense of the structure of agreement and disagreement. At the most rudimentary, do DR/DD people think that there are some situations that are more appropriate for stakeholders to deliberate than ordinary citizens and vice versa? Then, of course, there are a thousand more questions to ask about the process.

Building on some of Josh's observations about the objectives of deliberative democratic theory and then Larry's 2x2 that Carrie laid out in her remarks, I want to suggest a slightly different way of thinking about who works on what, and what more needs to be done. Here, the columns are DD and DR. But the rows, instead of distinguishing between theory and practice, lay out different levels of problems and levels of abstraction. These three levels are (i) concrete problems (e.g. disputes over urban plans, educational policies, the rights and benefits of workers, energy policy), (ii) mid-level institutions (such as elections, bureaucracies, media and the institutions of the public sphere), and (iii) whole conceptions of democracy (e.g. should we think of our society as one that is governed by the exchange of good reasons, one in which a few leaders do almost all of the work of governing, one in which everyone participates in making the decisions that most affect them, or some other Big Idea about how democratic society writ large ought to work). Within each of these cells, I think that the distance between practice and theory is less important than the distinction between levels at which people work. So, my sense is that much of the "theory" in DR is theory about what constitutes a good process to resolve particular problems and disputes, and that the theorists who do this work are relatively well connected with the practitioners who attempt to solve those problems. Indeed, many individuals in the DR/concrete problem cell move very easily between theory and practice in their own lives. This is cell (3).

So, the table looks like this:

	<i>Dispute Resolution</i>	<i>Deliberative Democracy</i>
Conception of democracy writ large	(1) Weak	(4) Strong, Bread and Butter
Middle level institutional accounts (e.g. national elections, bureaucracy, policy process etc.)	(2) Emergent?	(5) Weak
Solving particular problems	(3) Strong, Bread and Butter	(6) Emergent (Yankelovich, Fishkin, Lukensmeyer, many others)

One of the reasons that it is so difficult to get a conversation going between DR and DD is that most of the work in each addresses very different phenomena. Most deliberative democrats argue about how we should think about democracy, or democratic society, with a capital D. There isn't much agreement among them, often very little discussion, even about what sorts of mid-level institutions (cell (5)) fit best with the deliberative conception of democracy: some think that the institutions we have can be tweaked to realize deliberation, and other more radical deliberative democrats think that we need socialization of the means of production, equalization of material resources that individuals command, etc., before we can get there. There are those -- such as Jim F, Dan Y, Carolyn L, and emergent others who work in the lower right hand cell of Deliberation/Concrete Problems -- but it's fair to say that work here is in the minority. Indeed, I think there are many cell (4) deliberative democrats who think that DD doesn't require any of the kinds of practices that I have identified as cell (6) work.

I don't know the area, so this is guessing, but my guess is that most of the work in both theory and practice of DR is in the lower left hand cell (3). As Maarten said, it isn't clear what people in (3) would talk to people in (4) about. It is clear, and this came out in the meeting, that people in cells (3) and (6) have lots to talk about.

My sense furthermore is that there is some reluctance on the part of DR to develop a more articulated account, or position, in cells (1) and (2). When Larry denies Josh's contention that "it depends," I take him to be saying in part that "I have a set of cell (3) practices that work well no matter what (row 2) middle level institutions you happen to have and what (row 1) your Big Idea of democracy is. The downside of efforts in DR to get more specific about what a DR world requires in cells (1) and (2) is that the set of practices risks losing some generality in its appeal. But, and I think that this sense may be spreading, it seems to me that some mid-level institutions are more favorable to DR practices than others. So, at one point in the meeting, I said that a local-level "home run" case for empirical examination for me when I work in cells (5) and (6) is

when I find a city that has a long standing structure of robust and deliberative neighborhood organizations that do much of the work that in other cities is done by planning departments. Some of the DR people said that they usually don't find institutions like that, but that they would be good to have. Is part of the cell (2) DR view that all planning should be re-organized into participatory, empowered councils? This is clearly put too crudely to make a point, but I'd like to know one way or another.

People in DR camp are eager to move their work and thought into cells (1) and (2) when they say, as some have, that we should have talked more about the relationship between representative government and DR and/or DD.

Maarten Hajer

Reflections on the Workshop on Deliberative Democracy and Dispute Resolution

Dear Larry,

Here are my reflections on the Workshop on Deliberative Democracy and Dispute Resolution. Let me start with thanking you and your co-organisers for getting this group together. I experienced the 1.5 day as very stimulating indeed and thought the format with short scenario-oriented statements worked very well as it got us to share thoughts soon (instead of the monologues/questions & answers implicit in the familiar practice of paper presentations).

Although it was obvious from the outset that you thought the two 'communities' had a lot to gain from the exchange, one could suggest this was not that obvious at all. What, after all, would the deliberative democracy group have to gain from the exchange with practitioners, that are, in their practice, to a large extent pragmatic problem solvers? What, on the other side, could those practitioners learn from the deliberative democracy theoreticians that, tend to focus on rules of proper conduct, rather than on thinking along how to help get out of policy stalemates?

Yet the workshop was a success because the above is a cliché representation of what the two 'communities' are up to these days. The workshop illustrated the more empirical turn in deliberative democracy as well as the coming of age of the dispute resolution group. First, an illustration of the empirical turn is the work of Archon Fung and others on empowered participation which is informed by solid case study work. It is in no way analytically inferior to the 'armchair' tradition in philosophy, quite the contrary. It is equally obvious that people with that sort of mindset have an active interest in real life experiments. Second, the work on dispute resolution has, over the last 25 years or so, grown from finding mechanisms for agreements to theoretically informed work on how mind shifts can occur and nowadays produces ideas that are one step away from theories of democracy proper.

Interestingly, no one really questioned the framing of the workshop as a meeting of two 'communities'. Yet, reflecting upon who were there and what was said and by whom, it was obviously not so straightforward. More than a third of those present swam happily in the discursive space that is demarcated by democratic theory on one end, practical experiments of alternative dispute resolution on another side and all sorts of notions about knowledge, the role of the professional, and the problems of representative democracy (both in theory and practice) on the various other outsides of this space.

It leads me to suggest that there is a particular historical-sociological reason for our common interest in the theme of the workshop. In our complex societies, both in terms of institutional make up as well as cultural composition, public problems often do not match the scale or orientation of existing mechanisms of conflict resolution. Politics has changed, both in nature and in topography. Even if we would like to continue to regard the state as the sole legitimate locus of political power and authority, we have to acknowledge that the state often lacks the powers to solve pressing policy problems on its own. This is what is addressed by the literature on governance networks. Many of our most pressing problems are transnational in nature and require some form of political collaboration, both with governmental agencies from other states as well as NGOs in numerous variations. The governance of international financial markets,

global environmental change, migration or terrorism, to name just a few major contemporary policy issues, are central tasks for politics that cannot be meaningfully addressed under the comfortable cupola of 'classical-modernist' political institutions (Hajer 2003, Hajer & Versteeg 2005). So for all these issues we need to invent new procedures.

Reflecting on the sort of political challenges that the 21st Century has on offer for us (seems to have on offer at least), alternative, incidental, ad hoc mechanisms of dispute resolution are likely to become a fully fledged component of new notions of democracy. Of course, one should not make the classic error to mistake a part for a whole. And, of course, conflict resolution as we discussed it covers an incredible range of things (from the regulation of cranes to the mediations between WTO and anti-globalisation spokespeople!). Yet in its shape or form it has this capacity to be a 'rapid reaction force' to democratic problem solving; the potential to come to legitimate agreement without first having to agree upon an elaborate constitution. I think that comparing notes on such experiences and reflecting on what they mean in terms of a theory of democracy is a key task for us in the years ahead. So perhaps we will find out later that this was merely the first of a range of exchanges.

Finally, a word about the 'bias' question. When I asked what the bias in dispute resolution was I did indeed think of Schattschneider's famous dictum 'organisation is the organisation of bias; some issues are organised into politics while others are organised out'. While doing so I meant to tease out (sic) the problems that deliberative democracy must encounter in practice. The turbulence that this simple question caused was quite interesting. Actually, I had anticipated a range of answers including statements like 'Well, sometimes you are happy to have some sort of agreed upon decision, no matter whether it is a superior one' or: 'Well, compared to Habermas ideal of a free-speech situation we have to do quite a bit of arm-twisting, back stage most of the time, to secure a deal.

Back stage I got these answers anyway of course. But why was no one prepared to come up with these facts of practice in the plenary? It is easy to see that these sorts of things are inevitable: there are constraints of time, energy and money. My intention with asking the question was to challenge the deliberative democratic theorists to learn from that 'practical wisdom' yet now it seemed as if conflict resolution was the 'actually existing deliberative democracy' which I suppose would in the end come out to be too heavy a burden to carry. There is always a political-economy side to things and it is in expressing and understanding it that we can move on and create the best possible democratic solutions for the public problems we face.

Judy Innes

Comments on the Dispute Resolution/Deliberative Democracy Seminar
MIT, Cambridge MA June 2005

Defining Moments

The defining interchange of the seminar for me occurred when Susan Sherry said at the end that she wanted some take home lessons from the DD theorists that she could use on Monday. There was a long silence and then Josh Cohen said he had two reactions. The first was that the question made him feel useless. The second was that it was enormously gratifying to hear someone like Susan using the term deliberative democracy at all because he had been working for 20 years to get this concept developed and out into the world. [please note that this is a very rough quote]. Later on Frank Fischer said as he was leaving that he thought the benefit of the discussion would accrue more to the theorists than the practitioners.

The Challenge of Connecting the Fields and Achieving Joint Learning

This points up vividly the challenge in trying to link up the fields. It is not so much that we disagree on intellectual points—but that we are all engaged in very different kinds of enterprises. The theorists are looking to frame, discuss and refine ideas about deliberation and democracy and build a conceptual framework for a field. Some do it using logic and disciplined argument and some do it through a type of grounded theorizing based on empirical example. Ultimately they are mainly having a conversation among themselves. They are working on building their own discipline and judging by our difficulties in getting the theorists to come, largely uninterested in talking with others or building cross disciplinary links. It should be noted that those who did attend were mostly people who do some empirical research.

The practitioners are trying to produce societally beneficial outcomes through dialogue. They are interested in how best to do this and are caught up in a very real world of politics, conflict and specific problems they work to solve. They would love to get help in doing that from the world of political theory. But they do not really relate to the enterprise that the theorists are engaged in or know just what the theory might be like. They think it is more easily translatable to action than it typically is, particularly theory that comes through logical argumentation rather than grounded theorizing. Their time horizon is much shorter than the theorists' as the tasks they work on are pressing and immediate. Yet it seems that they hold similar values and goals for fair, informed and just decision making. They differ perhaps in being more focused on decision making but their concerns intersect with the DD folks in that they know that the stakeholder based dialogues at which they are skilled are not necessarily representative of the unorganized citizenry. They know that whatever is decided by these largely elite and professionally skilled stakeholders may meet most interests, but still has to face a less informed and less interested public when it comes up for formal governmental approval. They want to be able to link stakeholder decision making to the public but lack the methods and skills to do so.

For Future Reference

The interesting thing is that we got an overwhelmingly positive response from most of the people we invited. It was gratifying to hear the excitement and anticipation Friday night as people talked about their reasons for coming. It was gratifying too to see how the written comments reflect a very positive view of the meeting and the participants—who were a very distinguished bunch. Yet

it remains clear that we need to offer a much better account of what those interested in DR can reasonably look for from the DD theorists and a much better account of what the DD theorists can gain from a conversation. Ultimately my hope is that we could at least understand each other's language and preoccupations so that we can enrich each other's work. I like Maarten's idea of terrain sketching by each side as a next step.

In hindsight I think it would have been a good idea to get a DD theorist to help design the conference and persuade other DD theorists to participate. It seems that the municipal scenario was a good one as it linked quite closely to what DD theorists think about. The regional housing one seemed to work well. My sense though I missed some of the discussion was that the national scenario was of less interest to them perhaps because DD is usually is more linked to the grassroots deliberation. The last for some reason did not seem to generate the quality of dialogue and I wonder if that is because it is difficult for some of those who operate largely in a world of theory with its own rules and questions to relate well to such a specific problem and task. I think a DD theorist would have designed a very different set of scenarios.

Reactions to others' Comments

The thoughtful comments I read by others triggered a number of reactions and questions for me.

A couple of people said there was inevitably bias in the stakeholder processes and David Kahane said something about the work being by definition unjust and incomplete but he did not say how. [nor of course compare it to the alternative] I recognize the general idea that there is bias in any organizational form, but I would like us to think about and discuss what that bias is or might be. Perhaps it is bias toward people who are better deliberators, or interests that are by their nature better able to organize [unlike Mancur Olson's diffuse public]. Perhaps it is bias toward representativeness [is that bias?] toward empowering the less empowered or challenging the status quo and existing authority? Perhaps it is a bias against the people who are not there [but it is not bias if this cannot be identified in any systematic way.] Is it a bias toward closure? [that would not be true of many types of collaborative processes and public dialogues] In any case I think this is an important discussion to have if not with DD theorists then among the rest of us. It is a serious potential critique that needs to be addressed head-on.

One thing it seems nobody talked much about was capacity—the capacity of a community to govern themselves, to participate in dialogue or dispute resolution processes. It seems that DR does build capacity, as do the processes of public dialogue. If this is true how do we look at the issues differently. Maybe it is a gradual and iterative process to build the type of citizenry we need.

Josh Cohen's point about how a decision does not necessarily mean closure. One of the people I interviewed in my research said "consensus building is forever." Well run consensus building processes often continue long beyond a decision in various forms. They come to realize that implementation will be a negotiation and that times will change and it will continue to be important to have multiple voices attentive to the issues and a forum for them to sort out emergent problems and deal with new information.

It would be important for us if we try to move forward with this to pay attention to John Dryzek's explanation of the different locations for deliberative democracy. This might have helped us with the design of the scenarios.

Bill Isaacs

Reflections

- *This was a fine session*; it was good to meet everyone, good to begin to extend and talk across disciplines, and think about what we have been learning. There is value in this, in building the field(s), and in deepening our capacity as thinkers and practitioners.

- *There is a difference between deliberation and dialogue.* This did not come out as strongly as in retrospect I think could be the case. I think this distinction cuts across both fields or can be present in both. This is not just an intellectual difference, but also practical one. Deliberation comes from the root *delibere*, which means to weigh out. Dialogue comes from two roots, *dia* and *logos*, and connotes “meaning moving through.” One refers to a process of weighing out before deciding (whose root means to cut out, similar to homicide and suicide); the other to a flow of meaning. I believe deliberation is a natural precursor to dialogue; I think dialogue arises once there has been space to weigh out options, and realize that none of them are quite right. Deliberation if done under the pressure of needing to choose can certainly lead to decision. But it can produce, if there is time, intention, and desire, a realization of a need to gather between the categories of previously thought out subjects. To “gather between” is the meaning of intelligence (*inter legere*).
 - o I think it might be fruitful to explore more carefully the relationship between these two and how they might play out during various exercises in deliberative democracy, whether formally organized or in the mode of a community building exercise; or in a more strict, alternative dispute resolution or consensus building process. I suspect both are again needed for both, with different emphases depending on context and the structures driving the situation.

- *There is value in exploring the challenges of practicing what we preach.* This challenge is always present, and rarely maturely addressed. I want to say that I certainly did not intend my reflection on the nature of our process to have a chilling effect on our interactions, which I worried it did, whether out of an attempt to inquire further and reflect or out of reaction! In addition to attempting to bridge the worlds of deliberative democracy (DD) and Alternative Dispute Resolution (ADR), we were also bridging between intellectual reflection and different kinds of practice. I detected at least 4 and probably more kinds of practice in the room—I do not know everyone well enough to say this with any completeness: Fishkin-esque randomized deliberative democracy work, ADR consensus building work (Jay, Larry, David+) community organizing/new governance process conversations (Carolyn+), and dialogue (Dan, myself, perhaps others). The rare thing is actually in my mind not just interdisciplinary interaction but the willingness to take a look at *how* we are talking and not just *what* we are talking about. This is typically a source of immense discomfort for people, but without it, I believe no substantive transformation takes place. Now if one has no desire for substantive transformation, then the need is less...

- *There is a more general theory of conversation lurking here.* One mode is to map out, as Archon did, different modes and where and why they fit. But I would suggest there is

another way to think about this that stems more from how conversations system unfold. I think we could produce a more general language or grammar of conversation. I have been working on this and am now writing about it. I think of a conversation as emerging in some social field, with some set of boundaries or container, and some kind of “center” or focus. I think the different practitioners I see make different conscious and sometimes not so conscious choices about each of these three things: field, container, and center. I think, depending on the situation, that there are transformations and patterns in how all this works that are relatively stable – in other words I do not think there are 500 ways this all happens, but much fewer. I am not sure what they are, and as it was put, “it all depends”. But depends on what? I think on these three things and how they form in whatever context it is:

- *DD* for instance looks at widely or precisely representative (selected somehow) “containers”, with a field of exchange that values scientific or externally valid data and knowledge, and a center on a decision or choice or vote. (A “container” is a bounded space for exchange).
- *ADR* makes a particular set of claims about the way you produce the field (think of this as the process of engagement) that is different from *DD*. It value process management and has norms about what this means. Its container is narrower and typically more issue focused, and its center is a choice or a resolution. “Field” is the quality of social exchange, mood, feeling, energy that emerges among the people. Center is the focus or core window. In conversations there are be none, or many; they can be linked in a finely woven (subtle) way or not linked at all, etc.
- *Dialogue* as I and some others practice it is a social intervention method aimed at the upstream structures of thought and feeling that are governing a particular problem or situation. It takes the potential of the intervention challenge in the situation, and then tries to form a container that can hold as many of those factors as possible at first; lets the field form as a result of “suspending” assumptions and bypassing or moving through deliberation to a point of collective inquiry, and lets emerge (versus defining in advance) the center or core of the matter.

Hope this stimulates some conversation and further interaction among us! Lovely to meet everyone...

David Kahane

I'm still wishing for an intelligible map of the intersections and divergences between conflict resolution and deliberative democracy, in theory and practice. I suspect cross-fertilization between the fields would be much helped by a clearer sense -- however provisional -- of how each field characterizes itself (including its key internal complexities and contests) in connection with key questions raised in the meeting (e.g. who needs to be at the table, legitimacy, institutionalization). I definitely had thoughts on this terrain-sketching from the DD side, and suspect that others could take a good stab at it from the DR side.

I continue to be intrigued by the widely varying degrees of confidence, on both the DD and the DR sides, in how well certain favored methods of participant selection (e.g. statistical sampling, conflict assessment) can achieve representative fairness, and/or normative process legitimacy. Or to describe it from the other side, I'm intrigued by how some people in both the DD and DR communities are much more focused on the persistence and inevitability of exclusion and remainders than are others.

I wish we'd had more time to explore pragmatic concerns about acknowledging the necessary injustice of DD and DR processes, together with the endlessly recursive quality of deliberation. (The idea that "Inevitable Injustice Associates" might not get much CR work.) How can openness of process, and awareness of the persistent question of exclusion, be built into DD and DR processes while still allowing these to meet the needs of sponsors, and the requirements of efficiency/implementability? (I think it can be done....)

I was fascinated of discussions around stakeholder vs. 'unaffiliated citizen' involvement, and around the pragmatic and principled arguments for each. I also found myself promoting the possible advantages of stakeholder-based processes for enabling voice for marginalized groups -- something I hadn't formulated before, and need to think about further.

I come away with the sense that the key political challenge facing both communities is this (and here I think I'm building on something Michael said): How can we help to foster the public space and capacity needed to sustain the long-term, internally complex deliberative processes required to meet a range of challenges, including those of social justice.

Finally, I dearly hope that we will be able to find ways of building on this weekend's meeting, perhaps even with another gathering of DD and DR researchers and practitioners. If we do plan another meeting (and I'd be pleased to be part of this planning), we might aim to include a great deal more geographical diversity, which I think would reconfigure discussions in very fruitful ways.

David Laws

Comment on Public Dispute Resolution and Deliberative Democracy Workshop

A core experience in public dispute resolution (PDR) is the development/generation of legitimacy through interaction around (often controversial) public policy problems and issues. This is the experience that has demands reflection and that seems to have implications for a directly deliberative account of democracy in the current social and institutional environment. It has been repeated in diverse institutional settings that have different relationships to formal governmental processes. An in-depth account of this experience will bring out some strong characteristics that will challenge efforts to theorize.

These experiences some characteristics: 1) a strong problem orientation; 2) an ad hoc pattern of organization that recognizes and gives “standing” to formal and informal patterns of association, 3) the use of stakeholder as a device for organizing participation and representation, and 4) a set of formal commitments (consensus, ground rules for talk) and a developed practice that regularly foster deliberative moments. These characteristics all play a role in the development of legitimacy around specific proposals for action and working relationships. It should be noted that legitimacy in these contexts is generally compatible with and correlates procedurally and substantively with effective action.

The significance of this experience is raised by circumstances like those that prompted the workshop. The legitimacy of governmental processes and decisions is declining and those involved lack effective and attractive ways of enhancing legitimacy. We need to invent ways to develop legitimacy and take advantage of opportunities as they come up. PDR is attractive in this context, but still somewhat difficult to digest because it ties legitimacy to qualities of experience (as well as to outcomes) rather than to formal institutional relationships—what Josh has usefully described as a decision’s “pedigree.” This seems to me a little like the discovery in biology of the complexity that exists at the level of the cell. It should not be surprising to deliberative democrats (and probably is not), because a key relationship in the development of the theory was the tie between democracy and communicative ethics, which emphasizes the importance of speech practices. But figuring out what to make of and what to do with such experience is not easy.

This raises a set of institutional questions, many of which arose in a useful way at the workshop. These need to be considered, however, in light of a depth account of the PDR practice and other practices like those that were discussed at the meeting. A few points follow from this.

As a point of departure, we should include the more radical possibilities signaled by sociological and political accounts of political participation. A prominent, almost to the point of being cliché, example is the contemporary shift from government to governance. This is interpreted, empirically and theoretically as highlighting incidence and importance of private and civic actors in shaping effective responses to problems and drawing on the network as the institutional device for capturing these relationships. If we accept these as common and significant features of policy domains, then we must at least be cautious in talking about the state or government in terms that assume it as a stable center. It is the composition and stability of this governance sphere that is put at issue and that demands practical and conceptual responses—it must

continually be made and remade. At least some of what we discuss as ad hoc may be better thought of in terms of this ongoing remaking in settings that reflect the particulars or places, problems, or sectors. The trick is to relate these particular conversations in ways that don't gut them by taking away their texture and local authority. If we continue to talk about these practices in terms of 'supplementing,' then I think we are using that word in different ways. In practical terms, this fits with experience where we regularly find that policy makers who are looking for more than a kind of supplemental blessing of legitimacy or practical insight through the direct involvement of different actors. They are looking to make and secure the legitimacy of policy in substantial ways in the interactions that take place in these settings.

In this context, the significance of experience with PDR (and other practices) changes. The question is not just whether and how these experiences fit within a set of categories and relationships defined by existing institutions and theories, but how to make sense of and develop the settings and instances in which legitimacy is developed *deliberatively*. There is no claim that any of these instances are sufficient institutionally to provide an account of a functioning democracy generally—but that such an account must reflect the details of those experiences in which legitimacy is enhanced. This raises questions about when and how deliberative publics may develop, what the role of governmental actors is in fostering such development, how this role relates to traditional roles, and so on. The trick I think is to get better and tougher at asking these kinds of questions and simultaneously more open to the character and implications of the experience of deliberation when and where we find it. This is one of the virtues of the theory of deliberative democracy. It facilitates not only a critical, but also an appreciative analysis of existing practice and provides a way to relate such inquiry to broader questions about democracy and democratic institutions.

This kind of stance is likely to invigorate questions like representation, in just the way we experienced at the workshop. We can find many alternatives to territorial representation and think through their relationship to conventional institutions. The group as a kind of representative sample is one way. This might be amended, as in the ground zero town meeting, to include over-representation in some categories. PDR practice highlights the viability and value of other forms of representation that draw on informal structures like networks and communities of practice and the ad hoc groups that emerge around issues. These are not exclusive definitions. One of the virtues of a directly deliberative account of democracy is that these variations become interesting and important, as do questions about the relationship between episodic and continuous forums. Finally, practical experience should make it clear that representation is not just a matter of who participates, but what participation means.

Design seemed to me to emerge as one way to deal thoughtfully, openly, and practically with these questions. It provides a way to look at existing practices, both by classifying and by working inductively to make sense of action/practice as design. A discourse about design looks promising as a way to bridge theoretical reflection and practical experience without ceding to either the kind of authority that is likely to short circuit exchange, learning, development.

Such an exchange is likely to confront questions about what design is that were already raised in our discussions at the workshop. On the one hand we can usefully and meaningfully talk about different designs, ask what we did or want to do in this or that setting, and examine how these

designs relate to one another. In a deliberative context, I expect that we will also confront design as a verb. Design doesn't stop when we convene some kind of group. One of the sources of legitimacy in my experience is that design emerges from the interactions that occur around the table. This is particularly true if one of the core features/commitments is to extend to all participants in a deliberation the right and capacity to comment on the conditions and assumptions on which the conversation is proceeding.

Then, as with institutional relationships, the genie is out of the bottle. Who the 'we' is that is or can act legitimately in this setting becomes a question that the participants in a deliberation must answer (as well as being open to theoretical reflections). What the conditions are that make our decisions and actions legitimate are not questions that can be answered presumptively or a priori. Such answers would undercut the conditions that foster deliberation and legitimacy in the first place. These commitments have the potential to tie legitimacy back to the participation of citizens and to enhance the role of citizen in ways that seem democratic. At the same time, it is clear how they raise problems for a broader institutional account of democracy. It's interesting that this kind of institutional pluralism doesn't seem to bother many practitioners. In state level reforms in Wisconsin, for example, these kind of directly deliberative forums play a prominent role, but the administrators in charge seem quite content with each example as a kind of one-off craft product that is responsive to the particulars of a place or a sector.

Chuck Sabel has provided some interesting guidance on how to think about the relationship between such particular designs by tying the one-off products together in an ongoing conversation. This kind of bridging is related to what I was trying to get at by invoking Seyla Benhabib's metaphor. (I lent the book to someone and so haven't been able to put my hands on the exact quote). I suppose the more measured way of saying it would be that in addition to thinking about how practices fit within a general theory of democracy, we might also start (in ways that will be practically useful and theoretically interesting) to ask how the moments we find where deliberation produces legitimacy relate to one another. A useful institutional theory is then one that can engage the depth of experience that occurs in practice and need to relate these experiences to one another in a broader account and practice of democracy.

Judy Layzer

coming soon

Carolyn Lukensmeyer

It was wonderful to meet so many new people doing such excellent work.

I learned a lot about the work of the Consensus Building Institute.

I believe it would be fruitful to further explore the issue of political context and what it takes to create public will and build a public constituency.

I would like to hear more dialogue on the role of the media in covering and partnering in the work of both fields. Also, to explore the media's role in perpetuating the cultural context that is part of the deep mistrust between people and institutions in our society.

David Kahane's challenge that our work is by definition unjust and incomplete will stay with me and challenge me to rethink how we deal with issues of inclusion.

Larry Susskind's reflection that deliberative democracy work is upstream from conflict resolution work sparked lots of ideas for me.

What I am most interested in is continuing the conversation on the issues of how to institutionalize the work that we are doing in both fields so that it becomes part of how the public does its business.

I would be excited about the potential of a practical collaboration mixing the models from consensus building and deliberative democracy. One example of that might be linking some of the excellent multi-stakeholder work that has been done on environmental issues like energy policy and climate change (National Commission on Energy Policy/National Energy Policy Initiative/Keystone Dialogue on Global Climate Change) to a broad based citizen engagement project to discover the collective wisdom of ordinary people and build a public constituency for change.

Hope this is helpful, Larry. As you can tell, I am usually thinking about how to leverage work to have an impact. I would be delighted to be a co-conspirator in the appropriate context. Thanks again for convening the conference - it expanded my thinking in ways that will be reflected in my choices going forward.

Jane Mansbridge

I've grouped my reflections into two categories, one of ideas that might be useful for practice and one of ideas for how practitioners, attending to what they do and see, might contribute to some ongoing problems or controversies in theory. I thought this workshop produced an excellent interaction between theory and practice, and hope there will be more. As you can see, I have plenty of ideas about how practitioners can help theory; I have fewer ideas (zero at this moment) as to how theorists can help practitioners!

I. Reflections on practice

1) The role of the media.

In his reflections, Josh Cohen quotes me as saying about deliberative opinion polls, "We do not do democracy that way." I strongly favor deliberative opinion polls, along with other efforts to increase deliberation, genuinely consensual decision, and participation in democracy. But Josh is right in thinking that at the moment there is, in his words, "great reluctance to assign any democratic authority to decisions made by a small group, even if the group is a random sample." At the moment, the point of gathering a relatively random sample to deliberate about a policy is, as Josh says, "not to authoritatively decide anything but to help guide the judgment of citizens or decision makers." That guidance can be more effective if the deliberative group works closely with the media.

Several deliberative and consensus-building entities have involved the media throughout their work. Jim Fishkin, Carolyn Lukensmeier, and Jay Rothman all have successes to report on this front. Stephen Weatherford and Lorraine McDonnell comparing deliberative school reform attempts in South Carolina, credit the success of the most successful one to, among other things, its close working relationship with the media (forthcoming in Shawn Rosenberg, ed., Can the People Decide? Theory and Empirical Research on Democratic Deliberation). By contrast, the impressive and expensive recent Citizen's Assembly in British Columbia after a year's study by a relatively random selection of citizens recommended a new electoral system for the province, but saw their recommendation fail in a referendum (which required 60% of the vote and received just under that). The Assembly had no budget or provision for dissemination, advertising, or ties with the media. The media were not enlisted as allies in the process.

If deliberative innovations are to take a place among the panoply of democratic institutions that enable citizen input, participation, information, and education and that help handle practical problems more consensually, the media will have to be an ally.

2) Integrating deliberation into existing institutions

Peter Adler mentioned that government decision-makers "have problems too," and that "they need this stuff." Archon Fung made a similar comment. Deliberative groups might be welcomed in many spaces in the current polity, as they fill some real needs.

1. Administrative agencies are, at the moment, often required by law to consult the public. They usually do this either through public hearings or by citizens' panels of one sort or another. Random selection on the model of the deliberative poll would provide a better model, and one that would give administrators a better idea of what the reflective public would want. (I don't think it a good idea, however, to replace all public hearings, because they a) provide a focus for political organizing and b) bring out adversary issues that consensually-oriented deliberative groups sometimes avoid.)

2. Elected representatives faced with controversial issues often want to pass the buck. If they could commission a deliberative poll, or a larger participatory deliberation on the order of America Speaks, that entity could give them political cover.

3) *Involving marginal citizens*

Archon Fung is right that the best way to involve marginal citizens (e.g. very low SES citizens) is to empower deliberations on topics of great importance to those citizens (e.g. the Chicago police beat meetings). When topics are more diffuse, random samples help greatly, as does targeting marginal areas for special recruiting. I was very taken, in addition, by Mariannella's technique of going to people's houses and asking for their perspectives in their own settings. My own view is that you need one-on-one interviews first, to get people involved, and Mariannella suggested beginning with life histories, which I too find infinitely better than coming to people with a prepared list of questions, especially on some policy matter.

II. Practitioner-theorist alliances

1) *Is bargaining part of deliberation?*

Most deliberative theory sees bargaining as the opposite of deliberation. In my own view, in even the simplest bargain (I trade my three oranges for your four apples), both parties often learn a little about how much they value what they have and what others have. In negotiation (in contrast to simple bargaining), you need empathy and creativity to come up with solutions to the problem that give others what they underlyingly want at less cost to you than what they had originally proposed. So even bargains, but particularly negotiations, contribute to the clarification of interests. They could easily be part of deliberation, as I see it.

Maarten commented, "Well, compared to Habermas' ideal of a free-speech situation we have to do quite a bit of arm-twisting, back stage most of the time, to secure a deal." It would be helpful for theorists if practitioners were able to scrutinize the times in which they had to do "quite a bit of arm-twisting," to understand conceptually what was going on.

In my view, constraint, including coercive power, is part of life. We can try to minimize it, in order to approach the ideal speech situation of no power, and we can also try to make it more legitimate. Practitioners could help in documenting what they considered good uses of coercive power in the deliberative situation, and the degree to which they concluded, on the basis of practice, that bargaining and negotiation were helpful or harmful additions to deliberation.

2) *How important is authenticity?*

And how measure it? Speaking authentically (without intent to deceive) is a central part of Habermas's view of "communicative" rather than "strategic" action. In deliberative polls, forums like America Speaks, the British Columbia Citizens' Assembly and other advisory deliberative groups, there is little incentive intentionally to deceive. In bargains and negotiations there is far more incentive. Is this a reason that bargaining cannot be included in deliberation? What is the effect in negotiation of the discovery that a participant has intended to deceive? Do different negotiations have different norms? Is authenticity absolutely necessary for good deliberation? This is a question on which theorists could learn much from practitioners.

3) *What biases do different processes introduce?*

Maartin introduced this issue, and Judy Innes sums up some of the possibilities. It is another important area in which practitioners are in a better position to contribute to theory than theorists.

4) *Do we have examples of individuals clarifying their interests and values?*

For me, a major goal of deliberation is the clarification of interests and values. So I support Frank in wanting more “discussion about how DR processes encourage learning about others' and one's own interests and furthermore about ‘value,’ about what's at stake....” Although most deliberative theory rules self-interest off the table in deliberation, I see deliberative purposes in uncovering conflicting interests in situations that were wrongly described as the common good as well as vice versa. It would be helpful if practitioners could particularly note the moments when self-interest come on the table and could think about their relative legitimacy and lack of legitimacy when they do.

Carrie Menkel-Meadow

Larry Susskind began our productive meeting by suggesting four major differences of issues between the two fields of deliberative democracy and conflict resolution:

- The role of the third party neutral in deliberative or decisional settings;
- The role and selection of stakeholders or representatives in such processes (as contrasted to direct participation of all);
- The contrasting approaches to outcomes – working toward consensus (conflict resolution) as contrasted to majoritarian votes of individuals aggregated for some purpose (deliberative democracy).
- Implementability of outcomes (a more pragmatic, in the Deweyian sense, concern of conflict resolution theorists and practitioners than aspirational and utopian theorists of deliberative democracy).

We gathered to consider what the “communities” of conflict resolution and deliberative democracy could learn from each other and, as I said at the meeting, we could be categorized in a four-fold table as follows (with many individuals belonging to more than one cell):

	Deliberative Democracy	Conflict Resolution
Theory Builders		
Practitioners		

Our learning at the meeting produced some new insights for all of these cells and also illuminated how we might work productively together. In that spirit, I want to suggest here some of our commonalities, (then say a few words about some differences, not only between the two basic fields, but within each community), and suggest some questions or further avenues to pursue in future work, both as a group and for particular individuals to explore.

Our commonalities:

An assertion or empirical statement that current democratic institutions in the US (and perhaps world-wide) are gridlocked, outdated, and ineffective for both 1) good quality decision making (substance) and 2) the participation in the polity they grant citizens (process based objections). A shared commitment to the Habermassian foundations of both our fields that “the acted upon should assent to the rules or decisions that are made about them,” preferably after full participation in reasoned deliberation, with the hearing of “others” and fair decision rules. Only such decisions or actions of governance will have true legitimacy.

Reasoned deliberation or participation should be “authentic” – not coerced and, as much as possible, allow everyone with a “stake” or concern about an issue to participate in “ideal speech conditions.”

New institutions and forms of deliberation and decision making are necessary to increase true democratic participation of the polity, especially now with great diversity (both demographically speaking and in terms of substantive values and commitments) both domestically and internationally. Those institutional forms will likely have to be context-specific, what some have labeled “ad hococracy” in a non-pejorative manner.

The relationship of these new forms or expressions of deliberative democracy to existing governmental structures is complex and perhaps somewhat problematic, but we are also engaged in a time of great “constitutional experimentalism” (to quote Dorf and Sabel).

Both CR and DD theorists and practitioners probably share some visions, or as I prefer to call them, “sensibilities” about where we would like to see the world go:

A belief in consent and participation of the governed;

A hope that individuals can learn in particular settings (both with good information, joint fact-finding, and from truly listening to each other, what Dan Y calls “social learning”);

A hope that with certain structural formats (deliberative polling, consensus building fora, mediation, reg-neg) people will learn from each other, change or alter their views, and make “better” decisions, that take account of self-interest but focus more on the common good.

A belief that multi-party, citizen participation, and group engagement is more likely to enhance the “fellow-feeling”, empathy and care for the common good, to improve decisions away from self-interested aggregations or compromises which do not exploit the best for the most, but seek lowest common denominator “acceptable,” but not preferable, solutions.

A suspicion that for full legitimacy and accountability, our work will be recursive, repetitive and contingent –complex social issues will require re-visiting and some open-endedness, even within the need for decisions.

Given these commonalities of interests, here are some questions I take away from our meeting for further work, contemplation and practice experiments:

What is “reasoned deliberation”? My own work currently focuses on creating process forms which allow the expression of reasoned argument, traded preferences and emotional, ethical and religious commitments –all as human discourses that exist within decisional and deliberative settings whenever people come together. How can these very different kinds of discourses meet? Must democratic deliberation always be based on “rational” deliberation? How do we take account of “non-rational,” or, as I prefer to say, “a-rational” feelings or commitments that people have, which we know greatly affects points of view, votes and decision-making? Does making all of this transparent help?

Do deliberative democracy and conflict resolution work together only when there is a need of a decision (policy, vote, etc)? I think we were missing the voices of groups like Public Conversations and others who facilitate groupings seeking “mutual understanding,” as in the abortion context. Aspirations of deliberative democracy when tied to the “tools” and “techniques” of CR can be applied in non-decisional settings as well. Non decisional settings, in fact, may enhance participation and encourage new frameworks for thinking about contested matters, away from the need for decision in a particular matter.

Who participates? This is a big question. One of the really important questions that emerged from our meeting (for me) was David Kahane’s challenge to the individualistic, but “representative” method of “random selection” of individuals for polls, voting, and other decisional mechanisms, as opposed to different selection devices (Kahane’s group representatives, critical mass theory, stakeholder selection processes, Menkel-Meadow’s

“interested parties” rather than “stakeholders” (because of property law, conquest connotations), all with their own problems. Also, there is the Oscar Wilde (or Iris Young) problem – who has the time and resources (and some would say interest) in full participation in our democracies? Some want in and can’t afford to play; others could care less as long as things are going reasonably well. When is a democracy truly participatory?

What are the effects of different process choices and decision rules on outcomes and perceived legitimacy? (This differs much in different contexts -- as Josh Cohen would say (along with all lawyers) ---“it depends”.....) Deliberative democracy may look different to an organizing labor union, a faculty, a national political party, the EPA, and a regional planning body. The advantage of DD and CR working conceptually and practically together is exactly to point out that different settings may require different processes and different decision rules. Will there be foundational grand schemes? Who knows? That’s why the theorists look for first principles in all of this and practitioners feed in ground-up observations and experiences. Archon Fung and I both seem to be into creating taxonomies of different process characteristics to help us specify conditions and characteristics of particular process choices in particular contexts.

Can we transcend current configurations of “identity politics” (in the US and now world-wide) to re-imagine a commitment to more “common good,” “collective consciousness,” or “interdependence” sensibilities? (Carol L. and my questions...)?

How can we get more people to see that integrative, joint gain, problem solving approaches to solving problems (even with scarce resources) may be more effective than conventional modes of competition, majority voting, existing institutions? (Mass social learning about process and the possibilities of different outcomes?)

What moves people to participate? To change their minds? To care about others and the fate of the earth?

Will our efforts be seen as Democratic (big D) – the program of a particular political persuasion, progressive liberalism or some such? Would we allow Republicans (and republicans) to design deliberative democracy fora? Are we representative of our own polities? Speaking of representativeness, we were pretty white –where is the diversity and representativeness in our own theorizing and practice?

What are our foundational points of evaluation? How will we know deliberative democracy and good conflict “handling” when we see it?

Inclusion

Participation

Good information;

Questioning and inquiry

Mutual listening and understanding

Fair decision rules

Transparency

Accountability

Amendability

Assent/ Consent/ Acceptability (how will we know?)
Implementability

Is Deliberative Democracy just another phrase for “system design” in Conflict Resolution language? What processes best serve the needs of a society or polity to make good decisions that people participate in and adhere to?

Do deliberative democracy theorists and practitioners understand and use all of the theories and practices of CR? E.g., Negotiation is not necessarily all competitive; voting is not necessarily majoritarian...etc.

Do conflict resolution theorists and practitioners see the irony in suggesting that our process expertise can “help” democratic processes? Is leadership/guidance/expertise and third partyism anti-democratic? How do we elaborate a theory of “facilitated democracy?”

We have a full agenda of questions and further issues to explore.

Susan Podziba

Thank you to all who organized and attended the conference for a thought-provoking conversation. As a public policy mediator, I came away with a number of questions and thoughts regarding the convergence and divergence of deliberative democracy and dispute resolution approaches. To add to the post-conference thinking, I've selected the following: stakeholder versus public involvement; deliberative democracy theory and the practice of public policy mediation: shared values and value added; deliberative democracy theory and public policy dispute resolution practice; and negotiations: bargaining or deliberation.

Stakeholder versus Public Involvement

A key difference between the deliberative democracy (DD) and dispute resolution (DR) approaches concerns the target participants of the processes. Deliberative democracy (DD) practitioners and theorists seemed to view "the public" as the primary and preferred participant of DD activities, while dispute resolution (DR) practitioners commonly view relevant "stakeholders" as the key participants in public policy mediation processes, in part because such processes are dependent upon representatives of interest groups reaching agreements.

As I listened to the discussions, I wondered if DD practitioners and theorists assume the public is altruistic, as opposed to stakeholders, who act from self interest. If this is an implicit assumption, I would suggest further reflection to determine the necessity and value of an altruistic public and the criteria for determining when a member of the public becomes a stakeholder.

Are members of the disinterested public assumed to be keepers of communal moral values, such as in the Kpele Moot processes (See Gibbs, James L. Jr. "The Kpelle Moot: A Therapeutic Model for the Informal Settlement of Disputes." In *Africa; Journal of the International African Institute*, Vol. XXXIII, No.1.) and in Bill Ury's concept of the Third Side? (Ury, William, *The Third Side*. New York: Penguin Books, 2000). What causes a disinterested member of the public to participate and how is such participation sustained? In the Chelsea case, are the members of the Charter Preparation Team stakeholders and those that participated in community meetings the public? Or are they all stakeholders or all the public?

Perhaps the difference between participation by the public or stakeholders is a function of the goal of the deliberative activity. For example, only stakeholders are likely to engage in a lengthy process to develop regulatory text. The long-term commitment required to create a consensus regulation is only possible because stakeholders seek to gain through the process. However, the deliberative policy making process depends upon stakeholders' abilities to reach beyond simple self interest to enlightened self-interest.

Deliberative Democracy and the Practice of Public Policy Mediation: Shared Values and Value-Added

I was struck by the similarities in values and skills of the DD and DR workshop participants. Proponents of both approaches value the inclusion of a broad cross section of those affected by

public policy issues over decision making by an elite few. DD and DR practitioners value processes that enable learning and analysis of multiple framings and multiple options and approaches to increase understanding to potentially address public policy challenges.

To enable such learning and analysis, DD and DR practitioners synthesize great amounts of information to clarify and bring focus to complex public policy questions. We design the deliberative processes that create the possibility of deliberative discussions and then manage those discussions to continuously stimulate learning and increase participants' abilities to hold in their minds and assess competing frames and scenarios at the same time.

Is DD and Public Policy DR dependent upon the abilities of an elite few to create the context and capacity for deliberative processes that involve both or either interested stakeholders and the disinterested public? In structuring the processes and ultimately the questions posed, do we promote our value of increased participation? Does increased deliberative participation genuinely strengthen democratic practice or is it a means for extending our own values through our intellectual capacities?

Deliberative Democracy Theory and Public Policy Dispute Resolution Practice

Deliberative democracy theory seeks to analyze and explain the entire set of practices inherent to democracy. Public policy mediation, on the other hand, focuses on a specific practice of deliberative decision making. This leads me to wonder if DR may be considered one practice, among a set of practices, within the rubric of deliberative democracy.

If so, DD theory may need to revisit the question of legitimate participation. If, as was suggested during the workshop, DD theory concludes that some party or parties will always be left out of a process and therefore, final decisions may not be legitimately taken by any convened group, then DR cannot fit as a practice within DD. The legitimacy of DR processes and their outcomes are dependent upon inclusion of all relevant stakeholders. Multiple actions are taken to protect against the unintentional exclusion of relevant stakeholders. Further, it is within the professional ethos of public policy mediators to refuse a case if relevant stakeholders are purposely excluded.

Negotiations: Bargaining or Deliberation

During the workshop discussions, I sensed differences in understandings of the word, "negotiations." Interestingly, some members of the DD community seemed to share the Dutch view of the word negotiation, which links negotiation to deal making and bargaining. As a DR practitioner, I have always used the word, negotiation, more broadly, to describe those interactions that occur in an effort to resolve differences among people's wills. I think of negotiations as creating forums for discussions that contain conflict and foster the search for non-violent resolution of conflict.

In the complex world of public policy, such negotiations must involve deliberations if any progress is to be made. In complex, multi-party, multi-issue negotiations, some, but not much

bargaining occurs. For example, in negotiated rulemaking, whereby typically 25 individuals negotiate hundreds of issues on behalf of their constituents, the complexity requires deliberative discussions. The varied understandings, perspectives, and knowledge bases of the participants requires discussions that lead to learning, clarifying conflicts of confusion from actual conflicts among interests and values, and parsing of nuance. Solutions and agreements only emerge when previously held assumptions give way to new understandings of old problems and challenges.

-

Richard Reuben

I found the workshop to be very important in terms of helping me get a handle on the relationship between deliberative democracy and dispute resolution, and more broadly, in starting to make the theoretical and practice connections between the two.

I come from the dispute resolution side of the equation, and have been working for the last several years on the relationship between law and dispute resolution, and most recently on the relationship between dispute resolution and democratic governance. I have come across the deliberative democracy literature frequently during the course of this research, but haven't really known how it fits in to the larger literature of democratic theory. I now see that deliberative democracy can be seen as a relatively modern theoretical construct of how democracy can work most effectively, something normatively rather than descriptively based. This is to say, the consent of the governed requires dialogue and deliberation on issues of public importance to achieve legitimacy that is steeped in uncoerced cooperation. This to me is eminently sensible as a normative goal, and I can see how the practical methods and experience of dispute resolution, especially public policy dispute resolution, can richly enhance the facilitation of this kind of democratic dialogue. If deliberative democracy is the theory, then public policy dispute resolution is the practice that gives it traction. In this way dispute resolution can be seen as enabling deliberative democracy, and I think the workshop and its outputs will do a great service by bringing dispute resolution practice to deliberative democracy theory.

Going the other way, bringing deliberative democracy to dispute resolution, again, primarily public policy dispute resolution, also serves an important purpose – that of providing a theoretical justification for this practical work, while also raising the bar for practice in ways that good theory can do. From a utilitarian perspective, it is of course salutary for public policy decisions to be made through consensus; the process helps assure compliance and may even produce “better” decisions. Deliberative democracy provides an additional and deeper justification, though: that these dialogues are tantamount to the exercise of democracy itself. As we discussed, they complement traditional representative structures by bringing democracy closer to the ground, involving actual stakeholders and other interested parties directly in the formulation of public policy and in the resolution of public disputes. Indeed, when government is a participant, one gets the best of both worlds, the expertise of centralization and the pragmatism and passion of decentralization. However, in recognizing this “democratic character” of public policy dispute resolution, as I have called it in other contexts, deliberative democracy also demands more of these processes. For example, broad participation is an important value for deliberative democracy, and the fact that public policy dispute resolution has this democratic character seems to me to raise the stakes on minority participation. David Kahane and I spoke about this in terms of minority Indian tribes in Canada, and the question was how many needed to be included in order to be able to make the claim of a “representative” process. Deliberative democracy would seem to push practitioners to include as many as possible.

Only so much can be done in the course of a tightly focused workshop, and in the future it may be interesting to explore other issues that received little or no attention during the workshop.

For example, it would be good to consider how deliberative democracy might push other aspects of the public dispute resolution process beyond the convening example discussed above. How might dialogue and deliberation be fostered, for example, through the use of Internet and other technology? What is the role of the media as an institutional player in this process?

More broadly, the relationship between traditional representative government and more expansive formats of deliberative democracy is in tension in important respects, and deserves more consideration. (I suspect there has been more discussion of this in the deliberative democracy literature than our format may have permitted.) One particularly important area of inquiry is the capacity of public policy dispute resolution practices to facilitate more formal representative government beyond the familiar context of administrative reg-negs. If used in good faith, public policy dispute resolution techniques can facilitate a deeper level of dialogue and deliberation within the legislative and judicial branches, just as they do in the administrative and “supplemental” contexts. Again, the normative basis of deliberative democracy provides a crucial justification for this extension.

We also had relatively little consideration of the issue of legitimacy, which I view as crucial to the democratic character of dispute resolution. Under what circumstances and conditions is a dispute resolution method, process, or outcome legitimate from the perspective of democratic theory? The fourth hypothetical raised this question in part, and I articulated some considerations for making this assessment, but the topic merited much more discussion and consideration than the hour permitted. If there was another convening of this or some similar group that included exploration of this issue, Tom Tyler of NYU would be a good one to have on hand because of all of the empirical research he has done on this issue.

Another, related, area of inquiry is the relationship between dispute resolution – again particularly public policy dispute resolution – and social capital. Under what circumstances and conditions does public policy dispute resolution foster greater social capital – specifically in the sense of trust in democratic governance, social connection and cooperation among citizens, and a spirit of reciprocity? Robert Putnam’s and following research makes clear how important this kind of social capital is to the effectiveness of democratic governance. My sense is that public policy dispute resolution has the capacity to foster these values, and in so doing re-engage those who have become alienated from the system. It is well worth considering how we might use public policy dispute resolution to facilitate this kind of bottom up re-engagement of democracy through, for example, the selection and framing of issues, the manner of convening, by who, etc.

In my view, this workshop was an important first step in making the linkage between democracy and dispute resolution, and I very much hope that the discussion will continue.

Nancy Roberts

Although my participation was limited, the time I spent at the workshop was invaluable. Four points stand out for me.

First, I was delighted that you included practitioners who have been out in the field working on deliberative democracy and dispute resolution, especially those who write about their experiences. Practitioners are discovering very creative and innovative ways to deal with the challenges of deliberative democracy and their work needs to be validated and reinforced. Your choice of participants signaled your interests in bringing the two groups together, a task that has not been easy up to this point given the wide ranging disciplines from which we come.

Second, although my perspective may be limited due to my early departure, I think I can see some next steps that need to be taken with the two groups (practitioner-researchers). I think we need to identify the basic theoretical ground on which we all can stand. I believe there could be a common, theoretical foundation, but it has yet to be clearly articulated. Each of us has worked in our sub fields of interest; we now need to pull the years of research together to begin to build this framework. At this juncture, I think theory-building is our greatest challenge (Roberts, 2005). By bringing us all together, and giving us the ability to contact one another, you most likely have jump-started this process.

Third, and related to the second, I think there are important distinctions between dispute resolution and problem-solving. Most of the deliberative democracy field settings in which I have worked/observed can be characterized as "messes." There is confusion, ambiguity, uncertainty, but not as yet fully formed disputes as the dispute-resolution literature characterizes them. Instead, the challenge in dealing with messes seems to be articulating what the issues are and how to cope with them. For theoretical and practical reasons, I think we need to be careful to make distinctions--whether disputes or disorders best describe the situation.

Fourth, and this is a personal note, I found myself less depressed and more hopeful about our deliberative democracy and dispute resolution after interacting with the workshop participants. It was wonderful to find a group of like-minded people who have made it part of their life's work. Thank you for bringing us all together. It was nice to put a face to the names of researchers whose work I have read over the years.

Jay Rothman

My first reflection is about still puzzling through the issue of fields. I have always been most engaged in the notion of "creative marginality" in which the edges of disciplines meet one another to

>create something new and dynamic (a few years ago I co-authored an essay about the creative marginality between CR and Social Work; accessible at <http://www.gmu.edu/academic/pcs/RothSchw81PCS.htm>. It seems to me that's what both conflict resolution and deliberative democracy are - edges of disciplines. Therefore, while I think Larry's efforts to draw disciplinary boundaries is a worthy exercise, its main value is to stimulate reflection on where and how there is useful complementarity (which includes relative strengths and therefore clarity about differences) between the two "edges."

Bill Isaac's closing comment to further distinguish PD, CR and Dialogue was also quite interesting. I have some trouble placing myself within one or another of these approaches as I have spent most of my career developing integrative models. My use of What, Why, How questions to frame my conflict and visioning work is cross-disciplinary. The question Why? for example, is best engaged dialogically. The question What? is a visioning question (or problem solving question) for which participation, ownership, consensus and deliberation are very helpful. Finally, the How? or operational question, can usefully be addressed in a problem solving mode in which people forge functional cooperation and learn in the doing how to cooperate and achieved shared and respective goals (a Conflict Management outcome).

My next reflection is simply reiterating what I said at the conclusion of our time together. "We are not obligated to complete the task (i.e. of perfecting the world) but neither are we free to desist from it." I found great comfort and support in the acknowledgement that while Utopians (or better: "realistic-idealists") like us seek to traverse from Is to Ought, we will always come up short. I know that. I live it everyday but having a group of such high level and seasoned professionals like all of you saying and accepting that reality, truly gave me encouragement.

Thank you to all the organizers and participants.

Marianella Sclavi

1. Being invited to this workshop has being for me an unique occasion to meet researchers and practitioners whom I feel are moving in the same field of interests as mine.

I can say that never before I experienced in an academic context, this feeling of communality and of “being heard” with and by so many persons. Before this meeting I had read and met and knew of the existence of only few other participants. So few that I can name them: I had read and met John Forester, Larry Susskind and David Laws, only read but not met James Fishkin and Jay Rothman. I had heard about Carolyn Lukensmeyer’s work in Washington and New York and was very curious to know more. That’s it.

The fact that next year I will spend four months (March to June 2006) of my sabbatical at MIT gives breath to the intention to get better acquainted with many of these scholars and to play a role in bridging this kind of approaches in the States and in Italy and Europe.

2. I found the organisation of the workshop (scenarios plus papers to be read apart) a much better format than any traditional call for papers – meetings because at least there was the space of looking each other in the eyes and trying to build a dialogue. The very fact that the dialogue was between political theorists and dispute resolution professionals gave it a momentum that compensated some pitches of frustration during the day. Perhaps if the scenarios were more bent towards “real” stories and situations, we might have avoided the lamentation that more contingency, and story-telling was needed. In conflict transformation the difference between “role playing” and “character enacting” is very important, precisely because creativity can be enacted only by unique persons in unique situations which must be (both) appreciated as such. At the same time “real stories” could limit the possibility by panelists and participants to tell their own experiences. It is difficult to find a good recipe. On the whole my opinion is that those who will discover how to organise less boring academic meeting, and have the courage to present them as such, will be the winners (in the long term).

A lot of ideas are turning over in my mind after this workshop.

I see a certain confusion between Consensus Building at large (which refers to a plurality of approaches and methodologies, often complementary to each other) and Consensus Building as a specific methodology, the one that sees Larry Susskind as maximo inventor, practitioner and teacher. While at the background of the first there is “how to build a consensual democracy”, at the background of the second there is “how a consensual democracy builds specific formal and administrative agreements” (= “a package of commitments” that makes all stakeholders better off). The second is much more “technical” or at least formalised in steps and outcomes, and it is appealing to administrators who are looking for the certainty of alternative administrative procedures.

I completely agree with Jane Mansbridge’s idea that deliberative democracy cannot be thought of, (nor built) if a consensual democracy does not exist also at the levels of everyday life conversations and dialogues. I also agree that the two conceptions of democracy, the “adversary” and “consensual” are both needed in a postmodern society.

I add Jane Mansbridge, Dan Yankelovich, Will Isaacs to an author I have being quoting a lot lately, namely David Augsburger (Conflict mediation across cultures) with the intention of illustrating that argumentation is not the only democratic way of dealing with conflict. This kind of entry into deliberative democracy spans from the dynamics of listening in a friendly conversation (see Martha Nussbaun, also quoted by John Forester) to the distinction between

raw opinions and solid assumptions by Dan Yankelovich, to the experiences of deliberative pooling by James Fishkin.

The bigger picture is one of democratization of democracy and the interlocutors are all those interested in becoming active citizens and facilitators and inventors of participatory planning approaches to urban (and rural) social life. Carolyn Lukensmeyer's birds eye view approach to this bigger picture is very rich and interesting indeed, and I hope to learn more about it. But perhaps the one major thing that I might do during my sabbatical should be an "Italian narration" of the Chelsea case starting from Susan Potziba's paper and experience. I say "Italian narration" because in Italy we have a lot of Chelseas, and I find extremely interesting the insights about the social construction of a democratic common ground that we can learn from this experience. And the relation between government, institutional and everyday life. It may be a good example about how Consensus Building at large and the more specific one, need each other and interact.

Susan Sherry

Thank you to the organizers -- Larry, John, David, Judy, and Carrie -- and all the participants for an invigorating two days. As a practitioner in the trenches, the workshop was a time for me to pause and reflect why we do the work we do and how can we use our work to foster participatory and deliberative democracy in our communities. In my comments below, I confess I had the advantage of reading what others wrote.

I view the practice in this field as a laboratory for deliberative democracy. And, although I consider myself skilled in policy dispute resolution, I do not now consider my practice to be limited to or defined exclusively by policy dispute resolution. I would like to give you a short description of how this happened. This will provide some context for my comments about the workshop.

The university-based center that we launched in 1992 was originally called the California Center for Public Dispute Resolution. It was and continues to be one of the government-sponsored centers in the national network of public dispute resolution "offices." By 2002, our experiences in the field led us to challenge our identity. Our work, the participants in our processes, our clients, our environment at the seat of government in California, and our dialogue with our practitioner peers repeatedly pushed us to redefine how we saw ourselves, how we entered projects, and what expectations and outcomes we had for ourselves, our clients and the citizens who become involved in these processes.

At that time, we began a year-long intensive strategic planning process to understand why and how we needed to change. David Booher did considerable research to inform our discussions. At the end of the year, we were debating what to call ourselves to match our new understanding of where we were evolving. The names Center for Collaborative Governance and Center for Collaborative Democracy were many of our first choices. We settled on the tamer Center for Collaborative Policy as our informal polling indicated that clients either considered the first two names too abstract or possibly telegraphing a partisan bias. (We also consulted with a well-respected Jewish Rabbi in Sacramento to test out the term collaborative, as the one of the forms of the word -- collaborator -- held a very different meaning 50 years ago.)

Many of the practitioners in the Center's network now see themselves as practitioners of collaborative governance, which for us has become a synonym for deliberative democracy. This is not to say, by any means, that we have developed a coherent deliberative democracy practice. We have not. We know discrete pieces of it, and are hoping that by putting pieces together and inventing more of the pieces, we will be able to build a practice model for our deliberative democracy aspirations.

Here are examples of some of the pieces. Inclusion of ethic and economically disadvantage communities (sometimes two distinct interests) "at the table" is key. More and more our stakeholder processes are interwoven with good (but not yet great) public engagement efforts, but we want to experiment more with stakeholder decision processes that tack back and forth (real time) with larger public engagement efforts of "unaffiliated" citizens (thank you David Kahane for that term of art.). One of our practitioners is an expert in working in very large groups - - 300 to 400. Last summer, she was involved in the Parliament of World Religions convocation where 5,000 people participated.

For us, DR is now seen as a very essential *tool* in our tool kit, along with other tools for untangling policy gridlock, community problem-solving, civic engagement, strategic planning and organizational development and change. In DR cases, which we have many, the outcome is both to achieve a sustainable, implementable agreement as well as take steps "calling for a different political culture" (Frank Fischer) within the institutions, constituencies, and individuals at the table.

The DR field could move to another level by examining its day-to-day work against the backdrop of the ideals of deliberative democracy. That does not mean that practitioners pursue actionable and implementable agreements any the less, alter the rigors of the DR practice, or change our professional standards of neutrality. But, but it may mean that we: Look more critically at who and how many participants are at the table; integrate visioning of the future "commons" either as a prelude to the negotiation or in place of a traditional DR process; encourage scientific public opinion polls to be commissioned as an integral piece of a stakeholder negotiation if the issue directly impacts a large number of people in the state, region or community; combine a larger public engagement dialogue on the issue as part of the educational part of the negotiation preparation; or pursue our work with an intentional objective of creating civic and institutional leadership dedicated to deliberation, dialogue and collaborative decision-making.

I agree with John Dryzek's reflection that "deliberative democracy as an ideal should not be equated with its manifestation in any single institutional design or process be it deliberative polling or dispute resolution." No one method for bringing citizens together to solve problems, resolve disputes, re-create their community's future or deliberate is going to make a difference by itself in changing the governance systems around us. Each lends a hand, while serving other legitimate objectives. The success of a *wide variety* of processes and settings of public deliberation, dispute resolution and informed public decision-making enhances the theory of deliberative democracy and hopefully begins a reinventing of our institutions of self-government.

We talked about the differences between the dialogue and DR decision-making. How one goes about structuring a process for one over the other is definitely different (Josh's "it all depends..."), but they both appear to rise from the same wellspring. It seems that they both have roots in deliberative democracy.

Of special interest was the ongoing discussion we had around power, injustice, and exclusivity. By their nature, DR processes do exclude many. The real question is: Does it matter against our democratic ideals? Sometimes yes and sometimes no. In one long-term mediation on water, we wanted the ethnic and low-income folks at the table. In our conversations with the leadership of these communities, they told us that they were focused on other issues that more directly affected them. They told us: If the water comes out of the tap - then go on without us. In another process, where ethnic and low income representative were very much present, the missing piece was the "unaffiliated" citizen - which became stunningly obvious when the electorate dismissed the work of a four-year process with one fell swoop of an ballot initiative.

The notion of stakeholders in a DR process as a "special interest" has resonance for me. As much as we try to expand our work to be more inclusive, this remains a nagging question. In California, similar to much of the rest of the county, the constituencies are all so polarized - even the ones that were genuinely concerned with the "commons" just a decade ago. A further exploration of the special interest stakeholder within a deliberative democracy framework would be helpful.

The workshop did not develop shared meaning on what deliberative democracy means. So, it was at times challenging to come to a tentative integration of ideas since various workshop participants approached the term somewhat differently. This is unlike DR where the definition of the practice is better defined and accepted within the profession. If we convene again, understanding the nuances of how the term deliberative democracy is defined by different theorists would be very helpful, not only at the workshop but for the work on the ground.

I also felt at times that some of the creative tension in the room might have been more the result of theorist and practitioners trying to understand one another rather than the differences between dispute resolution and deliberative democracy.

When we meet again, I would like to take the differences that we explored between dispute resolution and deliberative democracy and discuss the concepts as points on a continuum. The challenge is to develop integrative practices while respecting the practical and professional boundaries inherent in one method or theory over another. I thank the workshop for examining the differences so we can begin the task of integration.

Dan Yankelovich

Here are some random impressions of the workshop, as of the morning after:

My dominant impression is a highly favorable one of the participants, whom I felt were uniformly warm, receptive, open and interested in one another, perhaps even more than in the subject of the workshop

The conversation was not always easy to follow because participants spoke at a level of abstraction that presupposed a shared frame of reference which some of us (the deliberative democracy folks) did not, in fact, share. But, nonetheless, a great deal got through. We learned that: the conflict resolution field enjoys a well established practice, in which participants have great confidence. Theory, however, has not kept pace with practice.

The conflict resolution participants take their commitment to achieve practical results very seriously.

Considerable overlap exists between the two fields, sufficient to warrant a single theory that will embrace both.

The purposes of the two fields are sufficiently different that methods correct for one may not be correct for another (e.g., separating dialogue from decision-making).

A unified theory is needed in order to explain and rationalize the differences in practice.

If and when the two fields are unified in both theory and practice they will provide our society with a powerful means of correcting the serious defects of our system of representative democracy. Winning acceptance and correcting these defects will, however, prove quite difficult, because carving out a cogent role for the public voice will be interpreted by those in positions of power as an unnecessary distraction at best and at worst a usurpation of their power. It would therefore be naïve to expect quick transformation in governance, but it may not be naïve to hope that acceptance will come eventually as a new generation is exposed to the possibilities of creating a society in which elites are not a class apart utterly disconnected to the general public, thereby undermining the promise of genuine democracy.

I enjoyed the workshop and particularly enjoyed the people. Dan Yankelovich