

## CHALLENGES OF DELIBERATION AND PARTICIPATION

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### ABSTRACT

The future of sustainability is tied to the future of our ability to manage interconnectedness and interdependence, and thus to our abilities to engage in cooperative, value-creating public deliberations and negotiations. To understand these issues, we need a better understanding of the micro-politics of planning and public participation, the relationships between our received theories and our practices, and in particular, the work of public dispute resolution and its implications for democratic deliberation and governance. We need better to understand the differences between dialogue, debate, and negotiation, as well as the corresponding work of facilitating a dialogue, moderating a debate, and mediating an actual negotiation. Contrasting processes and practical attitudes of dialogue, debate, and negotiation can teach us, in the context of creating a sustainable future, that we must devise discursive and conversational political processes and institutions that explore possible commitments so that we not only know the right things to do but actually bring ourselves and one another to do those right things.

### RÉSUMÉ

L'avenir de la durabilité est rattaché à notre capacité future de gérer l'interconnexion et l'interdépendance, et par conséquent nos capacités à nous engager dans des discussions et des négociations publiques coopératives et valorisantes. Pour comprendre ces questions, nous avons besoin d'une meilleure compréhension de la micropolitique de la planification et de la participation publique, des rapports entre nos théories et nos pratiques et, en particulier, des pratiques de résolutions publiques de conflit et de ses implications pour la délibération et la gouvernance démocratiques. Nous devons mieux comprendre les différences entre le dialogue, la discussion et la négociation, ainsi que du travail correspondant à faciliter un dialogue, à modérer une discussion, et à faire la médiation d'une négociation réelle. La comparaison des processus et des attitudes pratiques de dialogue, de discussion et de négociation nous enseigne, en ce qui concerne l'objectif de créer un futur soutenable, que nous devons concevoir des processus et des institutions politiques discursives et communicationnelles qui explorent les engagements possibles, de sorte que nous puissions non seulement comprendre quelles sont les bonnes choses à faire, mais pour nous emmener réellement les uns et les autres à faire ces bonnes choses.

The future of sustainability is tied to the future of our ability to manage interconnectedness and interdependence, and thus to our abilities to engage in cooperative, value-creating public deliberations and negotiations, essentially consensus-building in the face of deep differences of interests and values. To understand these issues, we need a better understanding of the micro-politics of planning and public participation, the relationships between our received theories and our practices, and in particular, the work of public dispute resolution and its implications for democratic deliberation and governance: in particular, we need better to understand the differences between dialogue, debate, and negotiation—and the corresponding work of facilitating a dialogue, moderating a debate, and mediating an actual negotiation (Forester 1999, 2006c).

Concerned with environmental sustainability, we must be aware not just of the power — but of the limits — of traditional scientific approaches to thinking about environmental problems—the first such limit being, perhaps, relegating serious, systematic thought about ethics and normative questions to another field altogether.

We need to worry about a second limit, too, of technical work divorced from theories of governance and deliberation. This limit is reflected in the saying that refers ironically to medical expertise: “The operation was a success, but the patient died.”

So if we care about environmental quality and sustainability, we need not only technical success, but we must also be able to reconcile the perspectives, prospects, and health of not one but many patients, including ways to honor those who've come before, to respect those alive today, and to protect the life chances of those yet to come.

But the history of the applied disciplines has not been kind to us. The training of doctoral students seems often narrowly archaic—as if our most promising new researchers are being trained only to talk to a few other specialists. The social sciences seem more taken with “physics envy” than with any growing respect for applied work—much less with carefully and self-critically normative work. Our professional schools remain riddled with anti-intellectualism, with theoretical fads disconnected from the entanglements and challenges of practice, and with conceptions of ethics that reduce normative thinking to simplistic pronouncements of ideals.

But by looking at the practical challenges of governance and environmental policy-making, we might learn not only theoretically but practically. We might see how our received traditions of inquiry can both help us and yet lead us astray too. We might come to see new analytic problems—and we might learn practically also about better and worse ways of handling challenges of deliberation and planning.

In what follows, we consider three central points: First, we need to integrate public participation with innovative and effective negotiation—to learn about skillfully mediated public agreements; Second, public participation, though, raises systematic, pragmatic, even seductive ambiguities that our epistemological traditions predispose us to treat as matters of meaning and argument, but not action; and third, we have a great deal to learn, accordingly, from the practice of public dispute mediators who can help us to understand democratic participation and public deliberation as processes of critically pragmatic action rather than more reductively as processes of argument and argumentation.

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Take, first, then, the problem of integrating notions of *public participation* with *practical negotiations* in processes of environmental (or broader) governance. To pose this problem, consider a very simple but instructive two by two table that maps four possibilities that we can explore.

On the left hand side of our table, accordingly, we have below “weak or ineffective negotiation” and above we have “effective negotiations” (by “negotiation,” for now, we can imagine at least attempts to avoid jointly damaging “lose-lose” outcomes and to open up possibilities of coopera-

tive, mutual gain agreements). On the top of the table we have at the right, “minimal voice” and at the left “substantial voice.” So this gives us four quite interesting possibilities.

TABLE 1: INTEGRATING PARTICIPATION WITH NEGOTIATION

	HIGH VOICE/PARTICIPATION	LOW VOICE/PARTICIPATION
EFFECTIVE NEGOTIATIONS	MEDIATED NEGOTIATIONS	DEAL-MAKING
WEAK NEGOTIATIONS	PUBLIC HEARINGS	BUREAUCRATIC PROCEDURE

As a first possibility, in the lower left quadrant, we have little negotiation but substantial voice, and here, we might think of public hearings: lots of people present, lots of views, if little time, lots of noise and contention, nothing being negotiated. These are public processes from hell, reflecting the meeting or institutional design from hell: there's no better way to raise and smash hopes, fuel anger and distrust, create public resentment at being shepherded through 3 minutes at a time with the de facto incentive to decide-announce-defend: in the absence of a real forum in which to discuss issues, you can only here decide what you wish to say before you've heard anyone else, you can announce it, and then you can defend it against general attacks.

As a second possibility, in the lower right quadrant, we have little negotiation and little participation, perhaps “standard bureaucratic operating procedures.” Given stable problems and stable environments with well-defined expertise available, such procedures might work, but given complex and ambiguous problems, these processes benefit neither from the plurality of participation nor from the creativity of astute negotiations.

As a third possibility, in our upper right quadrant, we have effective negotiations but minimal participation. In many political contexts, this might be back room deal-making: decision-making by elites or the “old boys,” deals being cut effectively for some, with many downstream left out.

This leaves us one very interesting possibility, and so we come to the upper left quadrant and the question, how to marry substantial participation, perhaps representing generations yet to come and non-human well-

being of course too, with effective negotiations that create value and do not squander it, value here including concerns with justice no less than those with health and environmental quality. We should explore this quadrant in particular because we have years of recent work now that teaches us about meeting these challenges via collaborative problem solving, multi-stakeholder negotiations, and consensus-building in complex public policy settings—work from which we (desperately) need to learn, work that does indeed integrate inclusive participation with value-creating negotiations (Susskind).

To learn here, we have to pay attention not simply to interdependence that forces forms of participation, not simply to plurality that forces forms of negotiation, but also to the traps of bungling participation and negotiations as we make a mess of the challenges they confront us with.

### 3

Now consider some of the ordinary difficulties, even ambiguities, of trying to promote such inclusion and participation and trying to get something effective and value creating done too. Here we find both practical and theoretical questions of democratic deliberation and what we can call “mediated dispute resolution” as well—but both “deliberation” and “mediation” are deeply ambiguous notions.

Suppose, then, that you are in a public meeting and the issues at hand involve any of a range of environmental or economic policy issues, for example, let us say, a meeting devoted to issues of growth and sprawl and economic incentives and global warming and energy conservation and what the city council (or national government) can do. So you hear an impassioned and thoughtful if not altogether convincing plea from Sarah Smith for tax incentives for in-fill downtown, urban development to mitigate sprawl.

Now you might have least three quite interesting but quite ordinary questions as you listen to Sarah and wonder what to make of what she’s claimed:

1. You might simply ask, “What is she suggesting?”: Does the evidence support her? Are her claims true? How could we know? Here we have questions of the facts of the matter in the argument at hand.

2. Or you might just as reasonably ask, even if her facts are right, how do her suggestions fit with—or challenge—the institutional context at hand, “What’s she (really) suggesting? Does the government have the authority to do what she’s suggesting? Does the political support exist to mandate the policy options she’s discussing? Are her recommendations justified?

3. Or you might also wonder about “What is she suggesting?”—in effect, “Who in the world is Sarah Smith to argue this? Is she just trying to get business for her shop downtown at the expense of housing on the Northside? Is she going to flip-flop on this suggestion as rumor has it she did before? Here we have a question less of argument and more of identity and reputation, and perhaps gendered politics as well.

Now these might be all quite reasonable questions, but they are questions that lead us in seriously different directions, and not simply by accident, because we’ve been trained to ask them. One raises questions of truth and refutation; the second raises questions of authority and justification; the third raises questions of self, motive and even identity.

These questions are not only deeply tied to the character of language-use and public speech itself, but to the epistemological and discursive infrastructures of our universities and their dominant philosophical traditions: first, we make claims of reference – and organize attention to “the facts” all the time; second, we can hardly speak or act at all without invoking norms selectively, as we say, “in context”—in the context, that is, of social and political institutions whose norms and conventions we enact well or poorly; and third, we embody and instantiate reputations, selves and identities, and we do all this in an “iffy” way, contingently, fluidly, but very practically, almost every time we speak or even act recognizably with one another at all.

These apparently innocuous questions are not only systematically present, but they present provinces of systematic, expectable pragmatic ambiguities, in governance conversations, in deliberative or participatory conversations, and we will return to the *absorbing pull* of this systematic ambiguity below.

But as suggested above, we have long-standing philosophical and intellectual traditions, historically, that prepare us to ask these questions and that even train us to privilege these questions:

1. For the first, we have the critical rationalist tradition and philosophies of science and practices of experimentation that refine it;

2. For the second, we have traditions of political philosophy and ethical discourse, often radically detached from critical rationalism, yet alive and well behind legal discourses and theories of justification; and

3. For the third, we have traditions of phenomenology and the human sciences that animate ethnographic and humanistic studies, the interpretive and hermeneutic disciplines that probe problems of meaning and significance, culture, identity and tradition.

Now, in deliberative and participatory settings, as we witness and hear rival and competing claims, invocations of interests and values—to develop, to protect, to tax, to abate taxes, and so on—we surely feel drawn to use each of these traditions of inquiry. In policy controversies we can certainly expect both passion, exaggeration and posturing, strong claims pressed as some sense opportunity but others fear and distrust those in power, as some sense money to be made and others sense environmental quality to be lost, perhaps forever. Faced with these passionate claims, we feel drawn to respond to them.

But even as we bring to bear these powerful and long-standing epistemological traditions, we're missing something terribly important in contexts of civic controversy and potential civic discovery: the critical assessment of what we can do together, how we might build a consensus to act together. We can be right, but we can fail to act well—the operation can be a success, but the patient may die. So we are missing here not only an intellectual tradition of critical pragmatism and praxis together, but we are missing the practical judgment and wisdom that mediators bring to complex public disputes.

So consider a few of the lessons that skilled mediators might teach us. Faced with these institutionally primed questions of facticity and truth, justification and legitimacy, meaning and identity, mediators show us that we're likely to confuse three distinct discursive processes that all arise in contentious deliberative settings, and these are the processes of dialogue, debate, and cooperation (or negotiation).

In contentious situations, when we might well expect posturing and passion, it's easy to see that we might take rival claims as matters of conflicting arguments in *debate*, as we wonder who has the evidence to support their claims, or who has the more justifiable position. Or we might ask prior question about meaning, intention, and significance: just who is this and what do they mean, where are they “coming from”?

In *dialogue*, however, we seek understanding and knowledge of the other. In *debate*, whether about “the facts” or justification, we do something else again: we're seeking to establish or refute an argument. In *negotiation* or cooperation, however, we're doing something yet different again: we're seeking an agreement upon a course of action (when no established Authority can simply impose an outcome!).

Notice that you need to act quite differently to promote each of these distinct processes: the intervener's or third party's or leader's or manager's

role differs substantially here: We *facilitate* a dialogue to promote understanding. We *moderate* a debate to assess the stronger argument. But we *mediate* a negotiation to avoid lose-lose, tragedy of the commons-like traps and to agree upon action together.

So consider, finally, some of the differences between these last two practices, moderating a debate of arguments and mediating a negotiation over joint action:

Moderators take one party's blaming another as an occasion for the other to refute the claim; mediators move parties' from reciprocal blaming and defensiveness to the generation of concrete proposals responding to one another's concerns.

Moderators take appeals to deep values as positions to be defended and criticized; mediators know that parties who differ radically in their Biblical interpretations can agree practically on where the stop signs should go.

Moderators take the parties' passions to threaten rational debate; mediators take the parties' passions as energy to fuel not personal attack but collaborative change.

Moderators may search for “common ground,” perhaps to narrow differences; but mediators try to find and identify differences in priorities and interests that enable stakeholders to help each other—to realize not difference-splitting poor compromises but mutual gains made possible not despite but precisely *because* the parties have differing priorities;

Moderators may expect debating parties to dig in; mediators expect disputing parties to learn, to identify new interests and stakes, to invent new options in response to one another's proposals and offers;

Moderators seek the “better argument,” but mediators seek to manage interdependence, to build relationships, to craft agreements on action to change the world.

So if we reduce mediating negotiations to moderating debates, we let epistemology trump ethics. We let analytic argumentation displace invention, proposal-generation, and consensus-building, the generation of practical agreement. We deconstruct rather than reconstruct. We sharpen our critical swords and substitute concern to show we are right for finding ways together to do right. We become complicit in assuming that scientific understanding or explanation alone will suffice to motivate public or collective action to bridge disputes over what should be done, and to overcome inaction in the face of such understandings, to produce commitments from relevant decision-makers actually to act. If we confuse mediation with dialogue or reduce mediation to dialogue, we risk substituting

the quest for understanding for the quest for the actual implementation of the pragmatic steps to do what decision-makers and stakeholders may now believe should be done.

Achieving a common sense of issues, then, does not yet produce action together. So along with understanding, along with testing of hypotheses and knowing that the bridge will stand, that the water meets safety thresholds so we might drink it, along with knowing that our scientific bases for acting are sound, we need mechanisms to develop joint action, commitment, steps toward and through implementation, not just “talk,” not just “planning,” not even just “promising.”

Consider, finally, Sarah Smith once more, now as a participant in a dialogue, debate, or negotiation over a given contentious issue of environmental policy or sustainability. Should Sarah engage in debate alone, she may risk a new scholasticism; in dialogue alone, she may still divorce mutual recognition from collaboratively beginning to act together, producing and implementing agreements to continue further action together. In either case she can *know* the better or desirable thing to do and yet not *do* it, either because she does not ‘know how’ to do it or because her and others’ political or moral will is too weak. As a party to a mediated agreement, in contrast, Sarah brings understanding and reason to bear in making publicly accountable commitments to act with others, beginning a flow of action with those others, especially against the backdrop of prior stalemate, impasse, or lack of coordinated environmental policy action.

Contrasting processes and practical attitudes of dialogue, debate, and negotiation can teach us, in the context of creating a sustainable future, that we must devise discursive and conversational political processes and institutions that explore possible commitments so that we not only know the right things to do but actually bring ourselves and one another *to do* those right things.

If we wish to achieve sustainability and a great deal more, we have much to learn from skilled mediators doing the challenging work of integrating diversely passionate voices with cooperative action, all without sacrificing intellectually or scientifically—integrating, then, into our governance and deliberative processes, inclusive public participation with inventive, value creating public negotiations (Forester 1999, 2006c).

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