

Policy Connection



Can public policymaking actually involve the “public”?

DOMESTIC
POLICY

The Policy Challenge

We often talk about “public” policymaking, but rarely do we think that people have any direct role in the process. Rather, we hear about Congress passing laws, presidents issuing executive orders, and courts handing down decisions. Under the logic of a “republican” form of government (see Chapter 1), the public’s role is to select (through direct election or indirectly via appointment) those government officials who are to engage in policymaking on behalf of their constituents, or in the “public interest.” In this Policy Connection we will focus on the question of whether it might be possible to actually engage the American public in the policymaking process.

The Ideal of Direct Democracy

As we noted in Chapter 2, the Framers were not fans of democracy as they understood it. What they favored was “popular government,” and in that sense they were committed to designing a constitutional system that derived its authority and legitimacy from the American people. This is clearly reflected in the opening words of the Constitution: “We the People . . .” The Framers were anxious, however, about creating a system that led to a form of majority rule that might put liberty and freedom at risk—that is, they feared a “tyranny of the majority.” Although some students of American government have argued that our elaborate constitutional system was intentionally designed to minimize democracy,⁶⁰ others see the work of the Framers as a means to ensure popular rule while avoiding the potential problems

associated with unbridled and unchecked majority rule. In the words of political theorist Martin Diamond, the Framers were “partisans of democracy” who understood the defects of popular government that needed to be addressed.⁶¹

Whatever the view of the Framers, it is clear that the ideal of direct democracy had established itself early in American history, taking its most explicit form in the New England town meeting. During the first century of the Republic, a town meeting was often regarded as evidence that a truer form of democracy was possible—one where the citizens of a community gather to deliberate and vote on public policies. Essayist Ralph Waldo Emerson highlighted how important the town meeting was in New England:

It is the consequence of this institution that not a school-house, a public pew, a bridge, a pound, a mill-dam, hath been set up, or pulled down, or altered, or bought, or sold, without the whole population of this town having a voice in the affair. A general contentment is the result. And the people truly feel that they are lords of the soil.⁶²

Although the town meeting remains a mythical ideal for many and is still found in small communities throughout New England and other parts of the country,⁶³ it has not proven to be a viable option for policymaking in jurisdictions where the both the population size and the complexities of public issues require more elaborate decision-making systems based on representation rather than direct public participation.

Bringing the Public Back In

On a general level, getting public input is a significant concern for policymakers in a democracy, if for no other reason than the need to demonstrate that decisions are being made with the input of citizens—especially those who will be impacted by the government’s actions.

Some policymakers rely on *public opinion surveys* if they are available, and in some instances a government agency might undertake a large-scale survey on its own to measure the public’s views on a particular issue or piece of pending legislation. In addition, under provisions of the federal Administrative Procedure Act (see Chapter 13), most government agencies are required to hold *public hearings* whenever a new policy or regulatory rule is under consideration. Although these mechanisms reflect an effort to assess the preferences of the public, they fall far short of giving the citizenry a direct role in the policymaking process.

Despite these efforts, the desirability of giving citizens a more direct role in making public policy has not disappeared. A number of different approaches have been developed to actively engage the public in dealing with public problems at all levels of American government.

After surveying some of the efforts to enhance public involvement in policymaking, Archon Fung of Harvard University highlighted four general approaches that he notes involve the creation of “minipublics.”⁶⁴

The *educative forum* involves convening citizens in a town meeting–like setting to allow the exchange of ideas and opinions through conversations about policy issues and options among a diverse population. In addition to the still-functioning town meetings, one version of such a forum is the use of “focus groups,” where a dozen or so individuals selected as representative of the relevant community are brought together for an open discussion led by a facilitator who attempts to keep the exchange going. Usually recorded or videotaped, the sessions are analyzed by experts who attempt to draw conclusions from the meeting that can be passed on to policymakers.

Another approach is the creation of *participatory advisory panels* that are not merely structured to

engage citizens in policy deliberations, but also include linkages to formal policymaking agencies to ensure that the outcome is at least heard and taken into account. These advisory panels are typically designed to be representative of citizens who are most concerned with the problems and issues being addressed by policymakers. Unlike focus groups, they may meet several times and become integrated in the policymaking process itself.

Taking the advisory idea a step further is the *participatory problem-solving collaboration*, where citizens and government officials are involved in an ongoing discussion about a given area of public problems, the result being proposed policy solutions that integrate both the insights of the engaged public and the perspective of decision makers. Among the innovative examples of this approach is the “citizen jury,” in which a panel of members selected from the public hears from expert witnesses on the nature of a problem and the pros and cons of different policy solutions. A similar mechanism is the “consensus conference,” in which presentations are made to a more general audience of interested citizens and officials, who then discuss and deliberate with the intent of achieving a consensus on policy choices.

The fourth approach—*participatory democratic governance*—comes closest to the town meeting idea by giving citizens a direct voice in making policy choices. Examples of this are rare, and perhaps the best known are used in countries like Brazil, where decisions about budgets and priorities of local governments require the formal support of the community (much like the old town meeting described by Emerson).

Democracy Is Challenging

Although the ideal of direct democracy is widely held, achieving that ideal has proven extremely difficult when it comes to giving the public a direct role in making public policy. For example, there is the question of who is to be regarded as a member of the “public” when it comes to a particular issue. Should everyone’s views be given equal weight on all issues? What should be the level and degree of citizen involvement and at what stages in the policymaking process? Are there policy choices that, by their very

nature, should be left to the experts? What about the generational factor, that is, should today's public make decisions that will have a significant and perhaps adverse impact on future generations? These are just some of the difficulties involved in designing the right mechanisms for putting the public back into the policymaking process.

One major mechanism has not been mentioned thus far: the initiative and referendum process that places major policy questions on the ballot for voter consideration. This mechanism is used in many American states and localities, as well as abroad. The history and limits of the initiative and referendum

will be discussed in the Policy Connection found at the end of Chapter 8.

QUESTIONS FOR DISCUSSION

1. **We often talk about direct democracy and whether citizens play any role in the policymaking process. Do you think it is possible for citizens to have a direct impact on public policy?**
2. **Public opinion surveys are often seen as a way of measuring citizen demands and expectations regarding public policy preferences. Do you agree or disagree that surveys should be relied on to influence the formation of legislation?**