

**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.