Taking Deliberation Seriously:  
Institutional Design and Green Politics

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Deliberative democracy appears to be having a profound influence on contemporary green political theory. This article initially explores the growing fascination with democratic deliberation before raising the question of the implications for the shape of political institutions. Although both green and deliberative literatures are heavily committed to enhanced citizen participation, neither has systematically engaged with the task of institutional design. Three possible ‘models’ of deliberative institutions are analysed: mediation, citizen forums and referendum and initiative. Such institutional forms could be more extensively employed whether as part of a green politics of reform or as the basis for political institutions of a more radical sustainable society.

Just as deliberative democracy is fast establishing itself as a new orthodoxy within contemporary democratic theory, it is having a similar impact within green political thought. A roll call of prominent green theorists would highlight a surprising level of commitment to the deliberative democratic ideal. Greens tend to emphasise at least one of three arguments about the features of democratic deliberation: (a) a pragmatic epistemological argument that democratic deliberation helps to overcome problems associated with bounded rationality; (b) an ethical argument about the form and quality of deliberation; and (c) a civic argument that stresses the form of citizenship embodied within deliberative theory. A number of theorists appeal to all three features of deliberation and they are intimately connected. However, it is useful to separate them for analytical purposes.

The Pragmatic Epistemological Argument

The most well-known advocate of deliberative democracy from within green politics is John Dryzek. In a number of works, he has stressed that deliberative institutions are likely to be more ‘ecologically rational’ than other social choice mechanisms, including liberal democratic institutions, in that they have the ability to respond to the high levels of complexity,
uncertainty and collective action problems associated with many contemporary environmental problems [Dryzek, 1987]. Dryzek’s arguments refer to the ability of democratic deliberation to lessen the problem of ‘bounded rationality’: ‘the fact that our imaginations and calculating abilities are limited and fallible’ [Fearon, 1998: 49; also Torgerson, 1999]. Deliberation offers the conditions whereby actors can widen their own limited and fallible perspectives by drawing on each other’s knowledge, experience and capabilities. Fearon argues that this increases the odds of good judgements emerging for two reasons: it might be ‘additively’ valuable in the sense that one actor is able to offer an analysis or solutions that had not occurred to others; or it might be ‘multiplicatively’ valuable in that deliberation could lead to solutions that would not have occurred to the participants individually [ibid.: 50].

Deliberative institutions are seen as promoting improved information flows by actively engaging numerous voices, including those individuals and groups with direct experience of the effects of environmental change who are too often marginalised from political decision making processes. When faced with high levels of uncertainty and risk, deliberative institutions promise an ingenious mechanism through which the application of scientific and technological knowledge and expertise might be democratically regulated – an institutional setting within which the barriers between ‘expert’ and ‘lay’ knowledge can be challenged and reformulated [Beck, 1992; Barry, 1999]. Similarly, co-ordination problems are more likely to be overcome with the use of deliberative institutional arrangements. Here Dryzek draws on the widely accepted experimental evidence in game theory which suggests that a period of discussion between participants prior to making choices markedly promotes ‘co-operative’ over ‘defecting’ strategies and thus goes some way to overcoming the collective action problems that are at the heart of many environmental problems, in particular the underprovision of public goods [Dryzek, 1987: 211].

The Ethical Argument

The nature of the preferences that are likely to be articulated and defended within deliberative institutions is also of interest to greens. Dryzek’s epistemological arguments above are, for politically expedient reasons, restricted to a minimal, instrumental conception of environmental values. Because he is attempting to identify a generalisable interest of respect for particular aspects of nature that is logically prior to all other competing normative principles, his conception of ecological rationality stresses ‘only the productive, protective and waste-assimilative value of ecosystems – that is, those aspects which provide the basic requirements for human life’
Beyond such a circumscribed understanding of environmental values, many of the values we associate with the natural world are justified in ethical terms. Democratic deliberation promises much in that it provides motivation and encouragement to articulate preferences and justifications which are ‘public-spirited’ in nature.

Miller stresses the ‘moralising effect of public discussion’: deliberation will tend to eliminate irrational preferences based on false empirical beliefs, morally repugnant preferences that no one is willing to advance in the public arena, and narrowly self-regarding preferences [Miller, 1992: 61]. For greens, the moralising effect of deliberation offers the opportunity to emphasise the public good character of many environmental problems and expose and challenge the narrowly self-interested grounds of many environmentally degrading and unsustainable practices.

Greens with quite divergent conceptions of the nature of green politics value the ethical qualities of deliberation. For those who recognise the disparate nature of the green movement and suggest that the plurality of environmental (and other) values are often incommensurable and at times conflict, democratic deliberation offers appropriate conditions under which such tensions can be understood and explored [Torgerson, 1999; Smith, 2000a]. More ecocentric theorists who stress the intrinsic value of nature have suggested that green ends are compatible with deliberative democracy. Eckersley, Dobson and Dryzek have offered arguments that non-human agency, creativity and autonomy ought to be recognised and respected within democratic deliberation [Eckersley, 1999; Dobson, 1996b; Dryzek, 2000]. Sharing a similar commitment, Goodin has argued that deliberative democratic arrangements offer the most likely mechanism through which people can be induced to internalise nature’s interests. Greens (who have already incorporated nature’s interests) will have a voice to challenge environmentally insensitive decisions and offer alternative proposals. Further, the public-spirited character of deliberation means that there is also likely to be ‘anticipatory internalisation’ of green ethical arguments by participants: ‘discursive democracy… creates a situation in which interests other than your own are called to mind’ [Goodin, 1996: 847].

The Civic Argument

Greens have seen much promise in the more active deliberative conception of citizenship as the basis for political cultural change and the development of a practice of ecological stewardship. It is not simply participation per se that is important to an expression of such democratic citizenship, rather a particular form of civic engagement that encourages the public articulation, defence and revision of judgements [Warren, 1996b: 242]. Democratic
deliberation offers conditions under which citizens will encounter and reflect upon ecological knowledge and values and are more likely to internalise these in their judgements and practices [Goodin, 1996; Barry, 1999]. Such internalisation and social learning can profoundly reshape the boundaries of existing political citizenship beyond the nation state, generating ‘additional and occasionally alternative transnational allegiances ranging from the bio-regional through to the global, as well as to other species and the survival of ecosystems’ [Christoff, 1996: 159]. Deliberative processes provide a conducive arena in which to expose citizens to alternative ways of conceptualising relations between human and nonhuman worlds. Gunderson offers some evidence that deliberation on ecological issues has a transformative effect on citizens’ world-views [Gunderson, 1995].

Raising the Question of Institutional Design

When it comes to institutional design, radical decentralisation has become a touchstone for green politics. Small scale, autonomous and self-sufficient political units are to be preferred. There are a number of good reasons why deliberative democrats might also support such local political control, for example, regular face-to-face participation in decision making is made possible and increased knowledge and sensitivity to ecological conditions is likely if the community is dependent on local environmental resources. However, a number of problems arise with such an appeal to local autonomy. Two will concern us here. First, there has been a lack of detailed work on institutional design. It is simply assumed that face-to-face participation is more democratic. However, face-to-face assemblies are not necessarily such democratic panaceas and are easily manipulated by powerful and experienced citizens [Mansbridge, 1983: 276-7]. Second, the local level is not always the most suitable for dealing with the scale and complexity of many environmental problems which require higher levels of political coordination. Again, the question of institutional design that enables engagement across (local) political communities is poorly developed.

A more ecologically sensitive approach is that based on the idea of ‘appropriate scale’. Here the principles of democratic deliberation point to all affected interests having a voice. The relevant political community for ecological problems cannot be fixed and needs to be sensitive to the scope and scale of the particular issue [Christoff, 1996; Benhabib, 1996: 70]. However, as Saward recognises, institutionalising the ‘all-affected principle’ raises a number of practical questions about ‘who can be said to be affected (moderately? significantly?)’ and the apparent requirement for
‘a different constituency – in effect, a new political unit – each time a collective decision needs to be made’ [Saward, 1998: 125].

If greens are looking to deliberative democrats to give them guidance on questions of institutional structure then they will generally be disappointed: there has been little engagement in the messy task of institutional design [Smith and Wales, 2000: 54-5]. A small number of green theorists have offered some thoughts in this area. For example, Eckersley has argued that deliberative forums should embrace the precautionary principle as a decision rule [Eckersley, 1999] and Dobson has proposed the proxy-representation of non-citizens (future generations and non-human nature) to be established in legislatures [Dobson, 1996a]. Again, Dryzek’s work has been particularly sensitive to questions of institutional structure. In *Discursive Democracy* Dryzek displays some dissatisfaction with critical theorists who refuse to engage in institutional design and briefly discusses a small number of incipient discursive designs which are ‘located in, and help constitute, a public space within which citizens associate and confront the state’ [Dryzek, 1990: 43], namely mediation and regulatory negotiation [*ibid.*: 45-8]. We shall have reason to return to these designs below, but like the critical theorists before him Dryzek remains deeply concerned about the co-optation and absorption of discursive designs by state and corporate actors [*ibid.*: 81] and in the end much of his work mirrors that of other critical theorists in its celebration of the public spheres of civil society and the activities of new social movements [Dryzek, 2000]. However he still recognises that the connection between public spheres and forms of political authority must be attended to:

> Sometimes deliberative democracy can find a home in the state, but a vital civil society characterised by the contestation of discourses is always necessary. The authenticity of democracy requires… that… reflective preferences influence collective outcomes, and so both an orientation to the state and discursive mechanisms for the transmission of public opinion to the state are required, so long as the state is the main (though far from exclusive) locus of collective decision [Dryzek, 2000: 162].

It is with the possible deliberative design of such ‘mechanisms of transmission of public opinion’ that the rest of this article engages. Four ‘models’ are offered – mediation; citizen forums; and citizen initiative and referendum. The models are far from exhaustive, but have distinctive characteristics and differences that are worth reflecting on. Mediation relies on the participation of ‘stakeholders’ or groups where the representatives of affected interests are directly involved in conflict resolution or problem solving. Citizen forums allow a random sample of citizens to come together
to discuss issues of public concern. Initiatives and referendums provide for direct voting on constitutional, legislative or policy issues by the whole population.

In analysing the three models, we need to bear in mind a number of relevant characteristics that can be drawn from deliberative and green theory. In all cases we will wish to assess the extent to which:

- equality of voice is achieved and whether participation is affected by material and social inequalities;
- democratic deliberation is defended against strategic action on the part of powerful interests in the setting of the agenda and definition of the common good and consensus;
- there is a sensitivity to the scope, scale and complexity of environmental issues.5

Foremost the three models are offered to stimulate some debate about the detail of institutional design within green politics – calling for more participation or deliberation is not enough. The task must be to answer the questions ‘what sort of participation?’ and ‘deliberation under what conditions?’ Further, they are offered both as a potential complement to existing decision-making processes and as possible models that might form part of a more radical green democratic project. Thus these designs ought to be of interest whether the focus is on ‘collective ecological management’ where such deliberative institutions would complement the representative structures of the green state [Barry, 1999] or on a more radical ‘commons’ or ‘bioregional’ approaches where the role of the state is minimised or even removed and local communities take control of their local bioregions [The Ecologist, 1993]. In both cases detailed work on the form of institutions is needed.

Model 1: Mediation and Stakeholder Group Engagement

Mediation aims at the resolution of conflict such that all parties involved are satisfied and in agreement as to the way forward. Proponents of mediation argue that its value rests on it being a voluntary, nonadversarial and cooperative process where parties focus on collective concerns rather than purely private interests. Mediators play a fundamental role in the generation of the conditions for a successful dispute resolution process although they have no authority to impose a settlement. As such mediation inhabits the space between unassisted negotiation and binding arbitration [Susskind and Cruikshank, 1987]. Reflection on the practice of assisted negotiations may
shed some light on potential problems or opportunities for unassisted forms of negotiation and problem solving often promoted by greens, such as roundtables and associative democracy.

Most commonly associated with labour relations, mediation has been a developing area of practice with respect to environmental disputes and conflicts, particularly in the United States since the 1970s. Initially environmental mediation tended to focus on ad-hoc local, site-specific disputes. However, it has expanded into areas of policy dialogue and regulatory negotiation and in certain domains has become formalised and institutionalised, for example, at least two federal directives promote mediation over litigation [Blackburn and Bruce, 1995: 2]. An extensive literature by practitioners and theorists has emerged although it is surprising that few connections have been made with deliberative democracy.

There appear to be good reasons why deliberative theorists should be interested in mediation: a variety of affected interests are present and thus there is potential for ‘collaborative inquiry’ [Susskind and Cruikshank, 1987: 29–30], the development of mutual understanding and trust [Baughman, 1995: 263; Hadden, 1995: 244] and the stimulation of social learning and revaluation of interests [Amy, 1987: 61]. Any negotiated settlement or decision is more likely to be implemented simply because it has been assented to voluntarily by all parties to the dispute. The stakeholders ‘own’ the decision – it is not imposed by an outside body.

However, critics of mediation point to a number of features of the process that undermine its democratic potential, reinforcing existing power differentials and systematic advantage of dominant political and economic interests in society. First, there is the question of representation and presence. Typically environmentalists will be at an organisational and financial disadvantage in comparison to other corporate interests (such as businesses and government agencies) [Fiorino, 1995; Hadden, 1995]. Secondly, inequalities of representation and voice are further compounded by the underlying understanding of the nature of conflicts within much mediation theory and practice. Critics argue that mediation involves a high degree of agenda setting in that it encourages us to see environmental problems as unique, isolated phenomena abstracted from social relations, because these kind of problems are easiest to mediate. Thirdly, it is argued that ‘dispute resolution … embodies the political theory of pluralism’ [Ellison, 1991: 248]. The neutrality of the mediator, seeking a compromise between static clashes of interests, is seen as a virtue to be cultivated and thus ethical, public-regarding arguments of greens are compromised because they have no more standing than purely self-interested preferences [Dukes, 1996: 115–6; Forester, 1992: 261; Amy, 1987: 185]. Fourthly, the informality of mediation – one of the features of the process that is
celebrated for encouraging parties to explore new territory – may actually invite abuse [Amy, 1987: 107–8]. Mediation can ‘disarm participants of their legitimate feelings of outrage and frustration’ [ibid.: 126], pressurising them ‘toward forms of reasonableness’ [Ellison, 1991: 255] and illegitimate consensus.

For those advocates of mediation who remain convinced of its democratic potential, these are serious charges. One line of response is to ask whether critics expect too much from mediation – after all traditional liberal administrative processes are equally criticised for their failure to challenge dominant power relations [Forester, 1992: 270; Dukes, 1996; 20; Dryzek, 1987].

But on a more constructive note, the deliberative democratic potential of mediation is clearly tied to the role played by the mediator. Many of the criticisms focus on the idea of the mediator as neutral ‘referee’ in a pluralist contest of interests – a passive form of neutrality simply ensures the perpetuation of the status quo, reinforces existing inequalities of power and legitimises disparities. The deliberative democratic potential of mediation rests on mediators taking an activist stance toward the mediation process [Forester, 1992; Dukes, 1996; Susskind and Ozawa, 1985]. It requires a recognition that the process and substance of policy debate will itself shape and influence preferences and that mediators ‘must nurture a process of public deliberation and learning, a process of civic discovery’ [Forester, 1992: 260]. Forester argues that mediators assume a ‘public-creating responsibility’:

Once the environmental mediator … makes judgements about and manages ‘appropriate participation’, that mediator-facilitator has assumed a public-creating responsibility – indeed a constituting or constitutional responsibility – to structure public interaction, debate, and the process of dispute management or settlement … For mediator-facilitators in practice create political spaces in which conflicting parties speak and listen, recollect their experiences and express their needs, articulate their interests and invoke their commitments … Fulfilling this public-creating responsibility requires mediator-facilitators to protect and nurture an always precarious and contingent democratic public sphere [Forester, 1992: 263–4].

Impartiality is not abandoned, rather mediators play a fundamental role in creating the conditions for public deliberation and ensuring that all parties are present, able to articulate their perspectives, access information and challenge and question other parties. The mediator usually establishes initial lines of communication between parties, disseminates information and helps set the rules for engagement. Mediators will play a role in ensuring
that affected interests are suitably represented and that there are mechanisms through which representatives are able to engage with their constituencies [Susskind and Ozawa, 1985]. An active mediator advocates and defends a particular type of process, ‘seeking certain qualities of outcome, including fairness, inclusiveness, openness and endurance’ [Dukes, 1996: 176]. Such an interpretation of the mediation process offers a more favourable climate for the normative concerns of greens.

This still leaves the question of co-option. Susskind and Ozawa are fairly blunt when they suggest that if representatives are unhappy then they should walk away from the process [Susskind and Ozawa, 1985: 146]. Further, participants will often be required to seek authorisation from their constituency. As Amy argues, this is the ‘last line of defence’ against the seduction of mediation: ‘the constituents act as the ultimate safeguard against selling-out’ [Amy, 1987: 118]. If the representatives are unable to explain the negotiated settlement to their constituents then perhaps this can be traced to the co-option of the representative by other parties.

Mediation takes a number of forms in practice – some examples will affirm all the worst criticisms of sceptics; others will offer grounds for the belief that a meaningful public sphere has been created. The possibility of engendering democratic deliberation and civic discovery certainly warrants close attention to the structure and context of the mediation process. And in terms of scope and scale, mediation offers a model that translates from local to international level disputes. Although there is little practice in the environmental field at the international level, Dryzek argues that there is great potential for dispute resolution and problem solving processes. In particular there are accepted and recognised global problems and ‘willing, competent, and credible’ intermediaries such as the United Nations, third party governments and academic institutions. However, the unequal capabilities of different states and their potential unwillingness to deal with non-state actors raises concerns [Dryzek, 1990: 90ff].

Lessons may be learnt from the practice of mediation for other ‘stakeholder’ approaches. A growing number of international environmental bodies and regimes have begun to provide increasing access to non-governmental organisations (NGOs). The United Nations Commission on Sustainable Development (UNCSD) created in 1993 to review progress on Agenda 21 is one interesting example where reports and comments are received from nation states and accredited NGOs. The effectiveness of UNCSD can be questioned but the pressure to include non-state actors in international regimes is growing in intensity. Again at the national and local level, the Agenda 21 process has been central to the development of national roundtables (for example, UK Round Table on Sustainable Development) and Local Agenda 21 forums. More recently
suggestions have been made that models of associative democracy offer possible structures for the governance of sustainable societies [Achterberg, 1996].

There are two obvious major differences between these stakeholder approaches and mediation. First, mediation tends to be a one-off conflict resolution or problem-solving process; these latter institutional arrangements are long term. Second, mediation processes have the most deliberative potential when the mediator plays an activist ‘public-creating’ role. There is no direct equivalent to such mediators in other stakeholder designs. The tendency is toward some form of state-sponsored corporatism. There is some evidence that corporatist arrangements have proved more effective in environmental policy outcomes and that it is ‘the state model most conducive to a discursive and democratic civil society’ [Dryzek, 2000: 107]. The question then rests on whether an activist green state [e.g., Barry, 1999] is a real possibility or whether corporatism is nothing more than an elaborate form of co-option and the absorption of groups by the state.

Where the stakeholder models, from mediation to associative democracy, are perhaps at their weakest is in terms of direct citizen participation. In all cases it is representatives of various constituencies who are directly involved in decision-making. Deliberation is mediated by representation. Often it will be environmental pressure groups which engage in stakeholder forums. For some this is not a problem: given the complexity of contemporary societies, citizens do not have the time, desire or expertise to engage continually in the critical scrutiny of political and scientific authority. ‘One important function of public pressure groups in a democratic setting is that they constitute a critical and attentive public’ [Warren, 1996a: 56]. This may be the case, but there remains the question of authorisation of representatives and associations [Susskind and Ozawa, 1985] and the connected issue of institutionalising deliberation not only between, but also within associations. Few environmental pressure groups are internally democratic in this sense. Further tensions may exist between the idea of group representation and the requirement within deliberative democracy for representatives to be open to the possibility of transformation [Smith, 2000b].

Model 2: Citizen Forums

In recent years there has been growing interest in innovative democratic experiments, such as deliberative opinion polls, citizens’ juries and consensus conferences, which provide the space for citizens to deliberate on pressing policy issues. These three ‘citizen forums’ share a number of features: a cross-section of the population is brought together for three to
four days to discuss an issue of public concern; citizens are exposed to a variety of information and hear a wide range of views from witnesses who they are able to cross-examine; and the fairness of the proceedings is entrusted to an independent facilitating organisation.

There are however some important differences between the three models. First, there are variations in the number of citizens who participate. Deliberative opinion polls have involved between 200 and 466 citizens. In comparison, a citizens’ jury or consensus conference will typically only involve between 12 and 25 citizens.7 Secondly, to select citizens, deliberative opinion polls and citizens’ juries use some form of random sampling procedure. Because of the relatively small size of most citizens’ juries, citizens are often selected using stratified random sampling to ensure that different demographic, and at times attitudinal, criteria are fulfilled. The sheer size of a deliberative opinion poll means that stratification is unnecessary. Consensus conferences differ again in that volunteers are recruited through advertisements and make written applications from which the panel is selected on the basis of socio-demographic criteria. Thus the first stage of the procedure is self-selecting. However there is an element of self-selection in both citizens’ juries and deliberative opinion polling given that citizens who are randomly selected still have a choice whether to accept the invitation to attend. The final important distinction rests with the outcome of the different models. With juries and consensus conferences, citizens come to collective decisions after a period of deliberation and provide a series of recommendations as a group. By comparison, at the end of the deliberative opinion poll, the individual views of citizens are recorded. As the name suggests, there is a post-deliberation opinion poll.

The deliberative potential of citizen forums has been well documented [e.g., Fishkin, 1997; Smith and Wales, 2000; Smith, 2000b]. Although such forums can only approximate the ideal of inclusiveness and equality of voice through sampling procedures, they do foster conditions under which informed and democratic deliberation can take place and directly involve citizens from a cross-section of society. Important evidence is emerging from these experiments that indicates that citizens take their role seriously and are willing and able to reflect on different evidence and experiences. Citizens become better informed and many of their preferences and judgements change. There is also some indication that citizens are more civicly minded and active well after the processes is ended [Fishkin, 1997; Mayer et al., 1995; Smith and Wales, 1999]. Empirical backing is therefore emerging for the theoretical claim made for the transformative and educative power of democratic deliberation. Again, as with mediation, facilitators in citizen forums play an important role in ensuring inclusiveness, encouraging an ethos of mutual respect and defending against
domination and manipulation by witnesses or participants during deliberations.

Citizen forums have been run in a variety of contexts, on a wide variety of issues and with different levels of impact on political authorities. All three models have been used at some point on broadly environmental issues. Under the guidance of its originator, James Fishkin, about twenty deliberative opinion polls have been run in the US, UK and Australia, tackling a range of public issues. Many of these have received a high level of media exposure and public interest. Roughly half of the polls have been run by public utilities in the State of Texas to fulfil their requirement for public participation in resource planning [Fishkin, 1997: 200–203; www.la.utexas.edu/research/delpol/bluebook]. The results from the first three utility polls offer interesting reading. Presented with four ‘first choice’ options (renewable energy; fossil fuel plants; investment in energy conservation; or buying and transporting energy from outside the service territory) significant changes in opinion occurred over the period of the deliberations. Before deliberation renewable energy had been the first choice, but this dropped considerably as support shifted to energy conservation. Interest in renewable energy was not abandoned – in all cases there was a dramatic rise in the number of citizens who were willing to pay extra for more investment in renewables; rather conservation was seen as a more cost-effective solution.

Citizens’ juries have been run and promoted since the 1970s in both Germany (where they are known as planning cells) and the United States and more recently in the United Kingdom [Stewart et al., 1994; Smith and Wales, 1999]. It is in Germany that they have had most political impact with a range of government bodies and agencies commissioning planning cells on a number of different policy issues, such as planning, energy and transport policy, and agreeing to take into account their recommendations in future decisions. The original architects of the process – Dienel and Crosby – have both argued that the model is particularly useful in engaging citizens directly in environmental policy making [Crosby, 1995; Dienel and Renn, 1995]. Two citizens’ jury experiments in the UK – on the creation of wetlands in the Fens [Aldred and Jacobs, 1997] and waste management in Hertfordshire [Kuper, 1997] – produced recommendations that take ecological concerns more seriously than much existing policy and support the view that citizens are willing and able to deliberate about fairly complex and detailed environmental issues.

Consensus conferences have been run regularly since the 1980s by the Danish Board of Technology as a means of incorporating the perspectives of the lay public within the assessment of new and often controversial scientific and technological developments which raise serious social and
ethical concerns. The lay panel’s recommendations have no statutory authority, but have sometimes had direct impact on the legislative process in the Danish parliament. For example, the recommendations of the panel on genetic engineering in industry and agriculture led to the exclusion of transgenic animals from the first governmental biotechnology research and development programme [Klüver, 1995: 44]. Experiments with consensus conferences have also occurred in the Netherlands and the UK although without the level of media and public interest or political impact observed in Denmark. The first UK National Consensus Conference (UKNCC) on Plant Biotechnology was held in November 1994, hosted by the Science Museum [Joss and Durant, 1995: 195], although there was negligible political or public interest and some criticism at the time from environmentalists about the scope of the question and the choice of witnesses [Purdue, 1996]. Even though the report was generally sympathetic to the biotechnology industry, the lay panel recommendations included improved consumer information and labelling and greater monitoring of genetically modified products [UKNCC, 1994], recommendations that the British Government would have been wise to consider. The second UKNCC on Radioactive Waste Management took place in May 1999 [Palmer, 1999; http://www.ukceed.org/]. Again environmental interests were not entirely satisfied with the final recommendations, but there was a recognition that they were more sensitive to environmental concerns than existing policy.

A number of areas of concern remain about the practice of citizen forums, in particular the potential for agenda-setting and manipulation of results, the form of selection and representation and the nature of the outcome. Well before any citizen deliberations, the potential for agenda setting and the mobilisation of bias is at its highest with the selection of the issue to be addressed and the choice of relevant information and witnesses. The independence of the facilitating organisation is fundamental here and organisers are often fastidious in their attempt to draw together a range of stakeholders to help select relevant questions and evidence and provide opportunities for the citizens involved to call witnesses. The problem of authorities selectively adopting (‘cherry-picking’) results is somewhat ameliorated in citizens’ juries in Germany and the United Kingdom where a pre-jury contract is drawn up between the independent facilitating organisation, the commissioning body and the jurors requiring the commissioning body to either act on the jury recommendations or to give reasons why it has decided not to act.

There are also concerns with the process of selection. First, random selection is not the same as equality of opportunity to participate in deliberative forums. As Saward suggests, ‘the acceptability of this idea
[random selection] is far from clear-cut – there is a difference between (1) having an opportunity to participate, and (2) having an opportunity to have an opportunity to participate’ [Saward, 2000: 16]. Secondly, questions are raised as to whether such a small number of participants can be representative of the wider political community. Although some advocates argue that forums aim to realise a ‘microcosm’ model of representation [Fishkin, 1997; Crosby, 1995], it is important that citizens are not seen as representing ‘people like them’ in any strong sense. Rather the legitimacy of the jury rests on drawing a range of citizens together who are able to reflect upon a wide variety of experiences and perspectives. The primary task of citizens within these innovative forums should be understood in terms of deliberation rather than representation [Smith and Wales, 2000: 56–7].

Finally, citizens may feel pressure to suppress any conflict in order to achieve consensus. This has been recognised by facilitators in citizens’ juries who are particularly alert to the way in which outspoken individuals can dominate the agenda and define a consensus [Smith and Wales, 1999: 303–4]. Room is typically made to accommodate differences and disagreement in majority/minority decisions. This is less of a problem in deliberative opinion polls, given that the outcome is the individuals’ post-deliberation opinions on a range of questions. A third party aggregates the individual preferences. Citizens in deliberative opinion polls are less likely to feel any pressure toward consensus; however they are not given the opportunity to exercise the type of political judgement required in coming to collective political decisions [Smith, 2000b].

In almost all cases, advocates of these innovations argue they should not be seen as an alternative to existing representative structures, but rather as a complement; as decision recommending rather than decision taking. Reviewing recent evidence, the UK Royal Commission on Environmental Pollution recommends that methods such as citizens’ juries, consensus conferences and deliberative opinion polling should be used to elicit people’s values primarily in relation to setting environmental standards in connection with ‘issues which are both complex or controversial and of broad scope’ [RCEP, 1998: III]. At one and the same time citizen forums are seen as providing decision-makers with the informed view of citizens and responding to the perceived democratic deficit in contemporary society – the growing distance between the lives, experiences and attitudes of citizens and the decisions made in their name.

But there may be a more radical potential for such forums. First, citizen forums could be used across traditional geographic boundaries, drawing citizens in across the ‘natural’ constituency of particular environmental problems and issues. Secondly, there is the potential for some of these
forums to become decision taking. Here though it is only the citizens’ jury and consensus conference designs that can be explored further – although deliberative opinion polls have an advantage in the sheer number of participants, the process ends with individual responses to a range of policy-relevant questions; there is no collective decision. To a certain extent the more radical vision of extending the forum design might look something like Burnheim’s ‘demarchy’, with all positions of political authority decided through random sampling procedures [Burnheim, 1985].

Model 3: Citizen Initiative and Referendum: An Alternative Form for Direct Democracy

Referendum and initiative are two processes by which a population can vote directly on policy issues. Referendums can be advisory or mandatory – in certain countries laws and constitutional changes require a popular vote. The initiative offers a process through which citizens are able to put forward new legislation or nullify existing laws. Typically citizens will be required to collect a certain number of signatures to have their suggestion placed on a ballot. Direct democracy through the use of referendums and initiatives has recently been defended by both Budge [1996] and Saward [1998]. Budge argues for more direct involvement of citizens within decision making for two reasons: first, given the interval between elections, there is little influence through voting on the policies governments pursue; and secondly, the link between voter preferences and policy packages is tenuous [Budge, 1996: 15]. Based on a defence of the core value of political equality, Saward argues that the extended use of referendums and initiatives would maximise responsive rule, defined as ‘necessary correspondence between acts of governance and the equally weighted felt interests of citizens with respect to those acts’ [Saward, 1998: 51].

Such a defence of the use of referendums and initiatives ought to be of interest to both greens and deliberative democrats and it is quite astonishing that they have been little discussed within either literature. For greens the desire for small scale, face-to-face forms of democracy means that these typically large-scale mechanisms have generally been ignored; for deliberative democrats, their frequent antipathy toward forms of aggregation appears to have resulted in the same fate. However, unlike the two previous models discussed, the use of referendums and initiatives theoretically fulfils the criteria of political equality and equality of voice – this is at the heart of Budge and Saward’s defence of the institution. Participation is full, unmediated and direct – it is not mediated by group representatives (mediation) or by a sample of citizens (citizen forums). The initiative in particular offers a unique mechanism by which agenda-setting
by political authorities can be, if not neutralised, at the very least reduced. Drawing on the Swiss use of such mechanisms, Linder highlights the manner in which the political agenda can be broadened:

If we sum up the innovating effects of the popular initiative, we can distinguish three facets:

1. Initiatives allow new issues to be put on the agenda, issues that are either different from the preoccupations of or neglected by the political establishment or the government coalition;

2. Initiatives can lead to an acceleration of institutional processes when used as a support for innovations desired by the government coalition, such as environmental policy, which Switzerland was to implement earlier than other European countries;

3. Initiatives allow discontent with the establishment to be expressed which can lead to policy changes inside the government coalition [Linder, 1994: 105; also Saward, 1998: 63].

Political equality is only one aspect of deliberative design. What about the fostering of deliberation? Here referendum might appear weak, especially in comparison to the highly structured environment of citizen forums and mediation. However, many deliberative theorists celebrate the public spheres of civil society as the location par excellence of democratic deliberation [Benhabib, 1996; Dryzek, 2000]. If this is the case, initiatives offer an innovative mechanism for transmitting wider public debate and opinion and affecting decision making.

But referendums and initiatives are frequently criticised on the grounds that citizens lack the competence to make sound judgements about policy and that economic and social inequalities within society affect participation and the results of ballots – the manipulative effect of money and media being of particular concern. The question of competence has been tackled directly by Cronin who places much emphasis on the civic responsibility of citizens. He argues that initiatives and referendums have generally been used ‘in a reasonable and constructive manner. Voters have been cautious and have almost always rejected extreme proposals. Most studies suggest that voters, despite the complexity of measures and the deceptions of some campaigns, exercise shrewd judgement, and most students of direct democracy believe most American voters take their responsibility seriously’ [Cronin, 1989: 197; also Budge, 1996: 89]. There are a small number of well-documented examples of successful initiatives and referendums that are far from sensitive to issues of, for example, minority rights which raises questions about the constitutional framework within which direct democratic mechanisms operate.
The practice of referendums and initiatives certainly suffers from the effects of material and social inequalities. In studies of American and Swiss use of referendum, Cronin and Linder both note that middle-aged males with higher incomes and levels of education are more likely to vote [Cronin, 1989; Linder, 1994]. As Linder argues: ‘The most important restriction on the democratic norm of equal and general participation … lies in the unequal representation of social classes’ [Linder, 1994: 95]. It is not low participation *per se* that is necessarily the problem, rather the socially and economically uneven participation rates. Aggravating this problem of participation, the recent history of initiatives and referendums also shows the growing influence of money, paid petition circulators, direct mail deception and deceptive advertising campaigns. Given that the deliberative potential of direct voting rests on access to balanced information [Saward, 1998: 60ff], the educational and civic claims of advocates is under threat because ‘the side with more money too often gets to define the issues and structure the debate in an unbalanced way’ [Cronin, 1989: 226]. Media manipulation is rife particularly when business interests are threatened. However this is a criticism of the existing practice of initiative and referendum, not of their potential. It means that we need to spend time investigating possible ‘imaginative safeguards’ to ensure that information is balanced and that the influence of money and media interests does not continue to grow [Cronin, 1989; Saward, 1998].

Referendums and initiatives on environmental measures have been affected and defeated by large-scale spending by opponents, typically business interests. Often the issues at stake have been grossly misrepresented through the media. However, even with the imbalance of resources, greens have had success. Cronin, for example, highlights the 1980 Oregon anti-nuclear power initiative as one “low budget” victory over high-spending corporate opponents’ [Cronin, 1989: 115]. Environmental initiatives have generally been successful when there is effective grass-roots organisation and mobilisation in the provision of information. Even with the influence of particular business and media interests, the citizen initiative provides a democratic mechanism through which issues of importance to marginalised groups in the polity can be raised in the public domain. Environmentalists are a good example of such a group and ‘have used the initiative process to force legislatures to give greater consideration to conservation and environmental protection issues’ [ibid.: 225]. Environmental concerns such as nuclear freeze, nuclear-free zones, land use, public utilities, bottle deposits and nuclear power plants have been one of the main subject areas on state ballots. Cronin adds that ‘the record suggests that the public can … act responsibly. Indeed, on environmental matters the public appears to be more responsible than state
legislatures … The fear that populist democracy via initiative, referendum, and recall would lead to irresponsible, mercurial, or even bizarre decision making has not been borne out’ [ibid.: 231-2].

Again, in Switzerland greens have used initiatives to raise awareness of ecological and other issues. In the 1970s and 1980s when traditional parliamentary parties showed little interest, environmental groups in Switzerland used initiatives to place environmental issues firmly on the political agenda. Kobach estimates that approximately one third of all initiatives submitted were in the areas of environmental protection, nuclear energy limitation, and road traffic restrictions [Kobach, 1994: 143]. Even when initiatives were not successful, placing the issue on the political agenda forced the government to respond to environmental concerns earlier than many other advanced capitalist countries. Additionally it provided the opportunity for greens to establish themselves as a national political party eventually achieving representation in the legislature [Linder, 1994: 105; Kobach, 1994: 143].

Budge argues that greens should be in favour of increased use of initiative and referendum on the grounds that they widen the political agenda and are ‘more likely to overturn established pro-business policy than normal parliamentary proceedings’ [Budge, 1996: 87]. The initiative is a mechanism by which groups within civil society can ‘repeatedly challenge the government to defend the status-quo’ [Kobach, 1994: 149].

In terms of scope and scale, referendums and initiatives in principle know no boundaries and could potentially be used on local through to international issues. Cross-border referendum are conceivable although practical questions of isolating the affected population and the effect of differential results across states need to be attended to [Budge, 1996: 168–71; Saward, 1998: 135–8]. The use of referendums and initiatives offers an innovative solution to developing a form of direct democracy within large-scale societies. As Saward argues, ‘direct democracy need not … be face-to-face democracy; it does not depend upon the capacity of the members of the political unit to gather together in one place to make decisions … The key point about referendum is that it can be used regardless of the size of the political unit, in terms of either geographical extension or population size’ [Saward, 1998: 83].

**Conclusion: Imaginative Thinking or ‘Mixing and Matching’**

The examples of discursive design that can be brought to bear are no doubt sparse and imperfect, but they nonetheless indicate that communicative contexts can be designed and developed to supply
incentives for a significantly better approximation to communicative rationality than is usual in policy deliberations [Torgerson, 1999: 138].

This initial analysis of three possible models for deliberative political institutions hopefully shows that greens need to be thinking creatively about questions of institutional design, whether the focus is on greening existing representative structures or offering a blueprint for a radically restructured sustainable society. None of the three models is perfect; all have different strengths and weaknesses. So, for example, mediation offers the opportunity for representatives of affected interests to engage directly in the search for workable solutions to environmental problems, but may marginalise less organised or experienced interests and does not allow for direct citizen participation. The strength of citizen forums lies in their ability to create a very structured environment for relatively small groups of citizens to engage directly with policy issues, but suffers in that the majority of the population cannot be directly involved. Initiatives offer a meaningful mechanism for citizens to engage in agenda setting and for all citizens to participate in ballots, but are more difficult to defend against strategic manipulation by powerful interests.

We need to be aware that the analysis of the actual practice of these three possible designs takes place against a political, social and economic backdrop that is far from supportive of meaningful citizen participation. As Forester warns, although ‘much of what practitioners write … is hype, and often marketing hype, much of what academics write is often insensitive to the demands of practice, the demands to do as well as one can in the present institutional context’ [Forester, 1992: 247]. As such any indication that they may have democratic potential merits further investigation. And such indications are present. Thus the task becomes one of embedding good practice and defending such arenas of democratic innovation.

There is a need to think creatively about how such embedding could take place. The relationship between political, social and economic institutions needs to be carefully assessed and analysed. There is no single ‘best’ design: different models will be useful in different circumstances, for different purposes, at different levels and on different issues. There is no simple blueprint. And the three models do not need to be thought of in isolation. There is a potential for them to be combined in creative ways. Saward, who has reservations about citizen forums, argues that there may be an important role for deliberative opinion polls to set in motion ‘in-depth deliberations on proposed initiatives or pieces of government legislation’ [Saward, 1998: 118]. Suggestions have been made that referendums could be used to both legitimate and ratify decisions from mediation processes and
to make them legally binding (Sullivan, in Susskind and Ozawa [1985: 150]). And stakeholder forums are often established to set the agenda for citizen forums such as citizen juries [Smith and Wales, 1999]. The call to greens is surely to begin to think both imaginatively and practically about the question of institutional design.

NOTES


2. A distinction can also be made between greens who support enhanced deliberation for principled reasons and those whose support is purely instrumental. This distinction will not be pursued in this article.

3. This argument differs from the strong epistemological defence of deliberative democracy where legitimacy is identified with the correctness of the outcome of deliberation.

4. This is not to say that other political institutions, such as legislative forums, or social and economic institutions and enterprises cannot be more or less deliberative and are not worthy of investigation. Rather this article is particularly interested in political institutions that engage citizens directly.

5. Renn et al [1995] offer a complementary evaluation of various forms of citizen participation, including mediation and citizens’ juries, using ‘Habermasian’ criteria of fairness and competence.

6. The term ‘citizen forum’ will be used in this article, since there is no recognised term that embraces this type of institutional innovation [Smith, 2000b].

7. In Germany, a number of juries have been run concurrently and/or in series, To date, the largest project involved 500 citizens from all over Germany.

8. However, Burnheim’s understanding of statistical representation differs in important respects from that defended by advocates of citizen forums [Smith and Wales, 2000: 57].

9. Saward meticulously sets out the shape and scope of institutions and agencies necessary to establish a fair and equal form of direct democracy through initiatives and referendums [Saward, 1998: 104ff].

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