



The Politics of **PUBLIC DELIBERATION**

Citizen Engagement and Interest Advocacy

Carolyn M. Hendriks



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List of Acronyms

ABARE	Australian Bureau of Agriculture and Resource Economics
ABC	Australian Broadcasting Commission
ABS	Australian Bureau of Statistics
AC	Advisory Committee
ACA	Australian Consumers' Association (now Choice)
ACF	Australian Conservation Foundation
AE	<i>Arbeitsgemeinschaft der bayerischen Ernährungswirtschaft</i> (Bavarian Food Processing Council)
AEC	Australian Electoral Commission
AFFA	Department of Agriculture, Fisheries and Forestry Australia
AFGC	Australian Food and Grocery Council
ALP	Australian Labor Party
ANZFA	Australia New Zealand Food Authority
AOK	<i>Allgemeine Ortskrankenkasse</i> (General Health Insurance Scheme)
BBV	<i>Bayerischer Bauernverband</i> (Bavarian Farmers' Federation)
BIEC	Beverage Industry Environment Council
BITKOM	<i>Bundesverbände Informationswirtschaft, Telekommunikation und neue Medien</i> (German Association for Information Technology, Telecommunications and New Media)
BMBF	<i>Bundesministerium für Bildung und Forschung</i> (German Federal Ministry of Education and Research)
BSE	Bovine Spongiform Encephalopathy ('mad cow disease')
CDL	Container Deposit Legislation
CDU	Christian Democratic Union of Germany
COA	Commonwealth of Australia
CRC	Cooperative Research Centre
CSIRO	Commonwealth Scientific and Industrial Research Organization
CSU	Christian Social Union of Bavaria
CUA	Clean Up Australia
DÄB	<i>Deutscher Ärztinnenbund</i> (Association of Female Doctors)
EPR	Extended Producer Responsibility
EU	European Union
FAZ	Frankfurter Allgemeine Zeitung

FOE	Friends of the Earth
FSANZ	Food Standards Australia and New Zealand
GEN	GeneEthics Network
GID	<i>Gen-ethischer Informationsdienst</i> (The GeneEthics Information Service)
GM	Genetically Modified
GMAC	Genetic Manipulation Advisory Committee
GRDC	Grains Research and Development Corporation
HRSCIST	House of Representatives Standing Committee on Industry, Science and Technology
IKW	<i>Industrieverband Körperpflege- und Waschmittel</i> (German Cosmetic, Toiletry, Perfumery and Detergent Association)
IMEW	<i>Institute Mensch, Ethik und Wissenschaft</i> (Institute for Human Ethics and Research)
ISF	Institute for Sustainable Futures
IVF	In-vitro Fertilization
KAB	Keep Australia Beautiful
LVÖ	<i>Landesvereinigung für den ökologischen Landbau in Bayern</i> (Organic Farming Group of Bavaria)
MP	Member of Parliament
NFF	National Farmers' Federation
NGOs	Non-Government Organizations
NPC	National Packaging Covenant
NPM	New Public Management
NSW	New South Wales
NSW EPA	New South Wales Environment Protection Authority
OFA	Organic Federation of Australia
OGTR	Office of Gene Technology Regulator
PACIA	Plastics and Chemicals Industries Association
PGD	Pre-implantation Genetic Diagnostics
PND	Pre-Natal genetic Diagnostics
PR	Public Relations
PTA	Participatory Technology Assessment
R&D	Research and Development
RDC	Research and Development Corporation
SCARC	Senate Community Affairs Reference Committee
SRG	Stakeholder Reference Group
STMGEV	<i>Staatministerium für Gesundheit, Ernährung und Verbraucherschutz</i> (Bavarian Ministry for Health, Nutrition and Consumer Protection)
SWAC	State Waste Advisory Committee

TAB	<i>Büro für Technikfolgen-Abschätzung beim Deutschen Bundestag</i> (Office of Technology Assessment at the German Parliament)
VdK	<i>Sozialverband VdK Bayern</i> (Bavarian Social Association)
VZB	<i>Verbraucherzentrale Bayern</i> (Bavarian Consumer Central)

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Part I

Setting the Scene

1

Public Deliberation in the Context of Interest Advocacy

In 2000, plans for the first state-wide citizens' jury in the Australian state of New South Wales (NSW) were under way. This participatory process was part of a broader legislative inquiry examining the benefits and costs of introducing a deposit-refund recycling policy, known as Container Deposit Legislation (CDL). This is an issue that has been dominated by polarized interest group politics for over 30 years, and the citizens' jury aimed to open up the debate to public deliberation. However, the idea of engaging everyday citizens in the complex and contested issue of CDL was resisted by interest groups and activists on both sides of the debate. Opponents of CDL such as the beverage and packaging industry were concerned that citizens would be not be swayed by their commercial arguments and would instead fall victim to 'populist positions'. At the same time supporters of CDL such as environmental activists resisted handing over 'their' policy issue to a group of uncommitted citizens who had no interest or association with recycling or waste issues.

Some interest advocates were so opposed to the CDL citizens' jury that they went to great lengths to undermine the deliberations by lobbying in and around the process. For example, just ten days before the citizens began their deliberations a delegation of industry representatives met with the then NSW State Premier, Bob Carr, and demanded that the citizens' jury be abandoned. Their key argument was that CDL would impose costs on industry resulting in job losses. According to industry, the Premier promised that CDL would never be introduced under his political leadership. Remarkably, even after these events the jury went ahead. In contrast to industry, the citizens concluded that a deposit-refund system, such as CDL, should be introduced because they believed it would serve the interests of the NSW public.

This story illustrates the tensions that can arise between two different models of political communication – those based on deliberative democracy and those based on interest advocacy. Communication under the deliberative model emphasizes public reasoning (Dryzek, 2000b). Ideally deliberators engage in a social process of mutual justification; informed policy arguments are put forward, justified, and debated in view of collective outcomes. Deliberators are encouraged to listen and be open to the arguments of others, and allow reason to shape their views (Cohen, 1997). The ultimate goal is to make a judgement (whether collective or individual) based on a thorough public consideration of relevant issues and their collective implications (Gastil, 2008). The deliberative model of political communication is institutionalized in various procedures including parliaments, advisory boards, stakeholder committees and designs for public engagement (Gastil and Levine, 2005; Smith, 2009; Uhr, 1998). This book centres on citizens' forums, which are deliberative processes aimed at collecting policy advice from a group of randomly selected lay citizens.¹

As the story above reveals, deliberative procedures can face strong opposition when they meet policy actors accustomed to a more adversarial and interest-based model of political communication – interest advocacy. Under the advocacy model, organized groups, activists and empowered individuals attempt to influence the policy process and outcomes by articulating a position and putting pressure on decision makers, institutions and the broader public. This pressure can come in deliberative and non-deliberative forms, for example, persuasion, advising, negotiation, lobbying, mobilizing, networking, advertising, funding, forming coalitions, bargaining, campaigning, protests, unruly politics, sanctions and threats. Advocacy represents a host of familiar forms of political communication, many of which make important contributions to democratic life (Fung, 2003b; Warren, 2001).

Although interest advocacy is prevalent in contemporary polities it does not sit well alongside the normative ideal of deliberative democracy. According to classic accounts of deliberative theory, deliberation should be a reflective process where participants put aside their particular interests and make judgements in view of the collective good (Cohen, 1989; Elster, 1997). In other words, deliberation seeks to promote communicative conditions and minimize strategic forms of action such as bargaining and lobbying (Habermas, 1984). In contrast interest advocacy is less dialogical; it is about trying to convince or influence others of the strength of a particular policy position or proposal using a range of tactics. Some interest advocates may use reasons to persuade others that

their interest is worth supporting, but they themselves are not typically in the business of reconsidering and reflecting on their positions, and engaging in a process of mutual justification.

Not only are advocacy and deliberation based on different modes of communication, they also involve different kinds of participants. Under the advocacy model, actors are partisan and passionate about the causes they pursue. Most organize themselves collectively, and use the pressure of a group or organization to push their agenda onto decision makers, elites and the public. Some advocates are agents or representatives who speak on behalf of a particular population, sector, constituency or cause. Deliberation, in contrast is an activity typically reserved for more moderate actors. According to classic accounts of deliberative democracy ideal participants are impartial, reasonable and have a certain degree of autonomy to shift preferences and engage freely in collective reasoning (Cohen, 1989; Elster, 1997). These are most likely to be individuals (not groups) with relatively open preferences who are willing to focus on collective rather than particular outcomes. It follows then that many partisan actors such as interest groups and activists can be excluded from deliberative forums simply because they are unwilling or unable to shift their policy positions (Sanders, 1997; Young, 2001). Paradoxically, the communicative demands of classic accounts of deliberative democracy have the potential to produce exclusive, and hence undemocratic, consequences.

There are also circumstances where groups and activists might choose to exclude themselves from a deliberative process preferring instead to lobby or protest, as the story above reveals. For example, a group might oppose opening up a policy issue to public scrutiny, particularly if they benefit from the status quo, or are accustomed to exerting coercive forms of power (Hendriks, 2002). Others might be reluctant to relinquish their particular agendas and work towards collective outcomes. Some may simply not want to engage with opponent groups, or participate in a process that could marginalize their interests (Levine and Nierras, 2007). More disadvantaged groups may fear co-option, and prefer to fight injustice through more disruptive means such as protests, boycotts or sit-ins (Fung, 2005; Young, 2001).

How then might institutions of public deliberation work alongside the more partisan world of interest advocacy? This book explores this question by taking a critical look at the relationship between deliberative democracy and actors with vested interests, such as pressure groups, non-government organizations (NGOs), corporations, professional associations, government agencies, experts and professionals.

These actors, which are referred to collectively in this book as ‘interest advocates’ come in all shapes and sizes.² Some are conventional member-based organizations such as unions or professional associations that represent the sectional interests of their constituents. Others are non-member-based groups that advocate on behalf of voiceless sections of the community such as the disadvantaged, the unborn, children, the aged, the environment or animals. Other interest advocates represent specific demographics, characteristics or interests of a particular population such as race, religion, sporting interests or cultural values. Many of the entities I am concerned with here might not be typically identified as politically-oriented organizations, but they engage in advocacy on policy issues that affect them. For example, business corporations can become involved in debates on tax reform, and public institutions such as hospitals might be activated to speak up about health policy. Some interest advocates are intellectual entities – experts, scientists, academics and think-tanks. Interest advocacy is also undertaken by actors within government seeking to push a particular programme or departmental agenda. In an era of more networked and interactive modes of governing, public managers and bureaucrats are not neutral arbiters of competing interests, but they are active policy participants advocating for particular outcomes (Hajer and Wagenaar, 2003; Kickert et al., 1997).

Interest advocates are prevalent and powerful actors in contemporary politics yet they have received remarkably little attention in the growing literature on deliberative democracy.³ Indeed this neglect of interest advocates has been the source of much criticism lodged at classic accounts of deliberative democracy. For example, some ask whether deliberation is a realistic goal given that so much of contemporary politics involves power and interests (Shapiro, 1999; Simon, 1999). Others have questioned the capacity of actors driven purely by interests to contribute to public discourse given their ‘dogmatic ideological identities’ (Warren, 1995, p. 189), and their partiality as group representatives (Smith, 2000, p. 35; Squires, 2000, p. 100). The relationship between deliberation and advocacy has also been questioned on the grounds that many groups and activists may not want to engage in a deliberative process, especially if it might further marginalize their voice (Kohn, 2000; Sanders, 1997; Young, 2001).

In response to such criticisms, some deliberative democrats have sought to expand the ideal of rational deliberation to incorporate alternative forms of communication, such as story-telling, testimony and certain kinds of rhetoric (see Dryzek, 2010; Mansbridge et al., 2010). There have also been suggestions that deliberative ideals should be expanded to incorporate forms of self-interest provided they can be justified to others