

# Managing Wicked Policy Problems: A Case for Deliberative Practices

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Bachelor of Laws

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This thesis is referenced accordingly and is a presentation of my own research for the purpose of attaining Bachelor of Arts with Honours in Politics and International Studies at Murdoch University.

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I declare that this thesis is my own research and contains as its main content work that has not previously been submitted for a degree at any other tertiary educational institution.

Luke Samuel Janeczko.

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Demanding policy issues require responses that are both effective and legitimate.

Wicked problems are examples of such demanding issues. In contrast to *tame* policy issues, *wicked* problems can be distinguished when levels of uncertainty, value divergence, and complexity reach high levels. Examples of wicked problems include issues such as climate change, illicit drug use, and indigenous disadvantage. This thesis puts forward the case for using deliberative democratic practices (in conjunction with typical policy development methods) when working with wicked problems.

Deliberative democracy aims to promote greater legitimacy in decisions as a result of public consultation. Deliberative democracy can create better outcomes as a result of rigorous engagement and deliberation over a topic, and more inclusion in the political process for those groups who have typically found themselves alienated from politics. Such aims and principles lend themselves to good policy development.

Typical policy development methods may not be sufficiently flexible to devise effective and long lasting solutions to wicked problems. By using deliberative practices in conjunction with typical policy development methods, the policy process becomes more flexible and adaptive to work with the ever-changing nature of a wicked problem. The principles and aims of deliberative democracy can make wicked problems appear more manageable by creating legitimacy in decisions as a result of public consultation, bridge the gap between different parties' value divergence, and possibly even change the mind of participants in the deliberation by invoking thought and reason.

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# Introduction

Policy development has experienced a number of radical changes throughout its history. Beginning, arguably, with the development of the method of 'try and test' from John Dewey (Radin 1997, 210), all the way to the introduction of statistical analysis during the behavioural revolution where political scientists struggled to come to terms with the recent uprising of quantitative methods of analysis (Heinemen 1979, 17). The above example displays the gradual evolution of policy development, and arguably, the nature of policy problems that now face governments may require further evolution of policy analysis. Typically, portfolio arrangements created by governments allow for policy areas to be divided up and categorised according to which department is best suited to work with the specific policy area. However, many policy problems today are far too broad and encompassing for this traditional method of development to work as effectively as it once did. There exist policy issues that include multiple departments, multiple stakeholders, and a vast amount of complexity that require a more adaptive method to explore possible solutions to these problems. These policy issues that encompass multiple different areas have been labeled wicked problems, and are causing significant trouble in good policy development.

When exploring wicked problems and surrounding issues a deliberative democratic turn could be used to create help potentially create better outcomes for parties involved in policy development. Outcomes could be

considered better for multiple reasons; firstly, decisions can appear more legitimate when those who are affected by the outcome have actually participated in the process, secondly, outcomes may be better thought out due to the intense engagement that is needed to deliberate, and thirdly, a far wider perspective on the policy could be gained through the inclusion of the greater public to possibly change the minds of even the most stalwart participants.

To properly discuss this proposition the first chapter will discuss wicked problems by exploring the various elements that turn a *tame* policy issue into a *wicked* problem. This will consist of an analysis of the appropriate literature, and to further highlight the nature of a wicked problem, contemporary examples of policy challenges experienced at both the national and international level will be provided to portray each element of a wicked problem. The second chapter will provide a theoretical basis of deliberative democracy. This will consist of the appropriate model and principles that I argue lend themselves to working with wicked problems. In particular, this chapter will explore the principles of reciprocity to strengthen engagement, where legitimacy stems from in a deliberative democracy, and how deliberative democracy can unite society by including segments of society that have typically found themselves alienated from the political process. The third (and final chapter) will discuss how the model of deliberative democracy outlined in the second chapter may create potentially better outcomes to wicked problems. The benefits of using such deliberative practices include the ability to bridge typically divided sectors of the community, decisions may appear more legitimate as those who are affected have participated in the

process, and the engagement of deliberation may change the minds of typically stalwart individuals.

### **The Elements of a Wicked Problem – Contemporary Examples**

The idea of a wicked problem does not stem from public policy. Rather, it was a concept introduced into the field of urban planning (Head 2008, 101). The term was derived to label problems that proved particularly difficult to deal with. Indeed, the label wicked does not denote some sort of evilness to the problem (APSC 2007, 3), but rather used in the sense that solutions to the problem are not so readily available. Broadly, wicked problems tend to include a trifecta of problematic elements, namely: uncertainty, value divergence, and complexity (Head 2008, 104). To properly illustrate the nature of a wicked each of these elements will be explored separately in the first chapter.

To highlight the essence of each of the three elements the first chapter will discuss how they relate to contemporary Australian and international issues that frequently invoke debate among the wider public. The policy issue of climate change will be used to highlight uncertainty, illicit drug use will be used to detail value divergence, and indigenous disadvantage will be used to discuss complexity. While each of these issues is an example of wicked policy in itself, they will be used for the sole purpose of discussing each facet of a wicked problem.

The policy problem of climate change has created a sense of uncertainty among citizens and the administration. Whilst there remains little doubt that climate change is being caused by greenhouse gas emissions (each level of Australian government has adopted the view of the wider scientific community that most of the warming over the last fifty years is man made (IPPC 2001, para. 3)), there remains huge uncertainty in both how to lower greenhouse gas emissions, and just what the effects of climate change could be. This uncertainty has led to what has been described as chaos in Canberra (Scott, 2011) over how best to lower carbon emissions. Furthermore, the recent media attention on the carbon tax seems to have simply polarised the debate between the two major parties (Kenny 2011, para. 16), with citizens entrenching themselves in the view of whichever party they have typically voted for. As a result, this has created mere skin-deep analysis of the real issues at hand, with no real focus or engagement occurring on an issue that has put clouds of uncertainty over the continued viability of our planet.

Illicit drug use highlights a clear divergence of values between the population. There remains doubt over the best course of action to take, that is, whether or not drugs are outlawed completely showing their illegality and wrongfulness, or whether use should be decriminalised by allowing users to inject themselves in safe rooms and under supervision to minimise harm. The Western Australian State Government only recently released new laws relating to the possession of cannabis (Jones, 2011), that appear to put strong criminal penalties against the use and possession of cannabis. As a result, many citizens have voiced their concerns about the harshness of the new

laws, with many arguing that the government should put more focus on drug education (Donaldson, 2011). Here, there is a value divergence in the approach used to develop policy as well, as it makes a large difference as to whether policy deliberations are framed in a medical or legal discourse (Fischer 2003, 43). The laws (and development) have created a clear value divergence among the community, and there has been little engagement between government and citizens on the issue.

Indigenous disadvantage is a clear example of just how complex policy issues can become. The nature of the problem presents a myriad of issues (including health and welfare) that spreads across multiple departments. Cross-departmental communication can be hazardous due to the top-down chain of accountability that has been created by the Westminster style of government that has led to governmental departments and agencies being described as ‘vertical silos’ (MAC 2004, 50). This has led to a style of policy development where information on an issue is shared only within one department, even if the particular issue encompasses many. To highlight this point, in 2007 John Howard mentioned to the then indigenous affairs minister Mal Brough that he was thinking about ‘cutting off the grog to the Northern Territory’ (Johns 2008, 70). It was up to Brough and his senior officers to develop a policy on how to alleviate the problems experienced by indigenous Australians in remote communities. By the next Thursday cabinet meeting the Northern Territory intervention package was born (Johns 2008, 70). Such a response did not have the necessary time, communication, or engagement that effective policy development needs. Complex issues, such as indigenous affairs,

present an opportunity where those who are actually affected by a policy outcome (such as Indigenous Australians) can actually be a party to policy development so that real stories and perspectives can be gained on a highly complex issue.

### **A Theoretical Basis for Deliberative Democracy**

Deliberative democracy is a concept that aims to empower all citizens in a decision making process. Rather than allowing policy or law to be decided by bargaining between competing interests (Parkinson 2003, 180), deliberative democracy aims to engage the participants so that nothing but the weight of the better argument is left to decide the outcome (Habermas 1975, 108). There are three elements of deliberative democracy that may lend themselves to potentially better outcomes when dealing with wicked problems. These are engagement, difference, and legitimacy.

The idea of reciprocity is comprised of two different streams: procedural and substantive reciprocity. Engaging with a discussion is an essential element of deliberative democracy, and this cannot be achieved without reciprocity and effective communication. Briefly, if participants to deliberative democracy are to be reciprocal; they must listen and accept other participant's arguments, even if they are contrary to their own (Held 2006, 233), and accept also accept that if an outcome is reached that is contrary to their argument, the legitimacy stands as they have agreed to the procedure that was used to reach it. If participants uphold the idea of reciprocity then true engagement with the issue

will be achieved. Deliberation will become involved, and the issue will be discussed with an open mind that is agreeable to consensus. The second chapter will discuss the importance of both these principles in a foundation of deliberative democracy.

Deliberative democracy aims to draw upon the vast knowledge that is available among the wide standing population. While difference has often been considered a barrier to democracy, deliberative democracy considers difference as paramount to gaining a better understanding of an issue. By drawing on the personal experiences of citizens who are truly affected by a problem through the use of story telling and rhetoric, one can gain new perspective on the issue and understand it in ways that they may never have considered themselves. In particular, the works of Young provide useful insight into how the narrative techniques of story telling and greeting can complement arguments in a deliberative democracy, as they tend to be more egalitarian than typical deliberative processes (Young 1996, 132).

Legitimacy remains one of the most important elements of a democratic theory. Deliberative democracy draws its legitimacy from the citizenry themselves. Outcomes are considered legitimate to the extent that those who want to deliberate on an issue are given the opportunity to (Dryzek 2001, 651). Arguably, this gives deliberative democracy a stronger claim in being more legitimate when compared to a representative democracy, as quite often the views of the electorate on any issue will differ from their elected representative, and as it is a representative democracy their voice is silenced

somewhat until the next election (d'Entreves 2002, 45). Also, the final outcome of deliberation is not set in stone. If new information arises or if there remains discontent over an outcome, there is no reason why an issue cannot be deliberated again. The use of deliberative democracy makes decisions appear more legitimate, as the people themselves have deliberated on the issues that affect them, rather than a set of elected representatives.

### **The Case for Deliberative Democracy to work with Wicked Problems**

The principles of deliberative democracy lend themselves to potentially better outcomes when working with wicked problems. The very nature of a wicked problem is that it is complex, contains elements of uncertainty, and will have multiple stakeholders that will undoubtedly differ in their values. By proposing that deliberative practices could be used when working with wicked problems, I do not suggest that the right outcome will always be achieved. I use the term right in the sense of a clear distinction between a right and wrong policy outcome. The literature suggests that there is never a right or wrong outcome when dealing with wicked problems; rather solutions should be viewed as 'better, worse, or good enough' (APSC 2007, 4). I believe that by using deliberative democracy when working with wicked problems, the outcomes could be considered better for multiple reasons.

Firstly, decisions may appear more legitimate in the eyes of the people as they have had their voices and opinions heard on the matter. The final outcome will be a result of a collective deliberation where stakeholders have engaged

with the issue to reach a reasoned conclusion. The process of Australian politics can often disillusion citizens, as often the community is not consulted regarding issues that affect their interests. By consulting with the community in a deliberative manner this can build stronger legitimacy claims to an outcome that is reached due to the community strengthening aspects of deliberative practices, whilst complementing the typical policy process by educating various parties about aspects of the issue they may not have previously considered.

Secondly, the process allows for a wide and diverse range of people to put forward their own views and opinions on a topic, and more importantly, their own stories on how the issue has affected them. This helps to bridge the gap between divided viewpoints, allowing parties who are typically opposed to each (due to value divergence, race, ethnicity etc.) to deliberate contentious issues responsibly (with no resort to violence) to the point of reaching sound outcomes. Some wicked problems, such as illicit drug use, encompass views on morality and what it is to be moral. This can be a contentious and hostile issue, as with many moral issues, however, in the appropriate deliberative setting deliberation can bridge the gap between these parties.

Finally, the engagement with an issue that participants to deliberative democracy create when debating an issue can develop a far better understanding on the issue and provide better thought out outcomes to the policy problem. This could potentially lead parties involved in the deliberation to change their mind about how they see the issue, and what they

believe to the appropriate way forward. As with many policy issues, when a party does not engage with other viewpoints on the issue, they can often just become more entrenched within their own. This can be counter-productive to good policy development, as the debate will simply be polarised between the two viewpoints with no real progress being made towards an outcome.

Deliberative practices help to alleviate this issue by making participants think and dwell on points raised by other members that they themselves may not have previously considered.

Again, the aim of this discussion is not to argue that deliberative democracy replace Australia's current system of governance and policy development.

Rather, it can complement it when working with wicked problems. The aims and practices of deliberative democracy can make the very elements that turn a policy issue into a wicked problem appear more manageable. Issues can appear less complex after much deliberation on the topic, and even if there remains uncertainty surrounding the potential consequences of a policy direction, the decision will remain legitimate as it was a result of consensus from deliberation. Again, to further strengthen the legitimacy of the outcome, the divergence of values between parties can be bridged by the practices of deliberation. These advantages from the use of deliberative practices all lead to good policy development, and is why I argue that deliberation, when used with current policy development methods, can lead to better policy outcomes.