

Options for participatory decision-making for the post-2015 development agenda

Paper commissioned for the UN Expert Group Meeting: 'Formal/Informal Institutions for Citizen Engagement for implementing the Post 2015 Development Agenda'

Graham Smith, Centre for the Study of Democracy, University of Westminster
g.smith@westminster.ac.uk

Introduction

Embedding citizen engagement in decision-making has become a ubiquitous refrain in (sustainable) development strategies, the most recent example being from the Proposal of the Open Working Group for Sustainable Development Goals that argues for 'responsive, inclusive, participatory and representative decision-making at all levels' (Goal 16.6). This paper focuses on the principles and practice of participatory decision-making, with a particular focus on the options for designing institutions for citizen participation.

The paper offers a working definition of 'participatory institutions' (PIs) and considers the points in the political process where such institutions can be embedded. Attention is given to potential confusion that can emerge around the use of the term formal/informal institutions. The paper presents a broad analytical framework for evaluating PIs before discussing the options for designing and embedding PIs. The paper concludes with some brief thoughts on the challenge of building the evidence base for PIs.

Clarifying terms

A range of terms have been used in policy and academic literatures to capture the broad class of *institutions that have been explicitly designed to increase and deepen citizen participation in the political decision making process*. In this paper we will simply refer to them using the shorthand 'participatory institutions' (PIs).

The term 'citizen' appears in this working definition to signify institutions that are designed with the engagement of 'lay' people in mind, rather than, for example, the representatives of organized interests, be they civil society organizations, political parties or businesses. A loose sense of citizenship is intended rather than the tighter legal definition that would exclude non-citizen residents who are often some of the most marginalized and vulnerable peoples.

This definition of PIs is ecumenical with regards to the level of engagement and as such does not simply assume a focus on *local* practices. One of the most significant challenges for participatory decision making is designing PIs at scale: there is a school of thought that assumes that participation can only ever be effective at the local level; that scale undermines the possibility of meaningful participation. This would leave the majority of strategic decisions that impact on (sustainable) development outside the remit of participatory decision-making. The challenge of designing PIs that can operate effectively at more strategic levels is thus a key consideration throughout this paper

The definition is also ecumenical towards the lifetime of PIs (temporary, repetitive, permanent) and the various points in the political decision making process in which PIs operate. An understandable focus for much of the work on PIs has been their effect on policy making, in particular ensuring the voice of citizens is heard in relation to agenda setting, option analysis, option selection and/or implementation (while recognizing it can be difficult to separate these elements of the decision cycle). Participatory decision-making in implementation – oversight of public action agreed through participatory processes – has arguably been less developed compared to the focus on policy input (although the example of participatory budgeting in Latin America is one counter-example – see later discussion).

The relative neglect of designing PIs to provide oversight of implementation is symptomatic of the broader inattention towards citizen engagement in oversight, scrutiny and monitoring functions. It may be an attractive ambition to aim for participatory decision-making across all areas of policy, but this is unrealistic given the complexity of contemporary governance. Large swathes of government decision-making will remain untouched by participatory input. The post-2015 development agenda (as with previous development agendas) is aiming to establish long-term commitments that will often run counter to short-term electoral and party-political pressures and to vested interests. By acknowledging these dysfunctions of political systems (democratic or otherwise), we can consider how governance arrangements might be subject to constructive evaluation through participatory oversight, scrutiny and monitoring. The tendency to focus on policy input when considering PIs misses the importance of creating opportunities for citizen oversight of the activities of governance; for what Pierre Rosanvallon has termed the ‘organization of distrust’ (Rosanvallon 2008: 4).

Beyond participatory policy-making and scrutiny, we might also consider participation in service delivery: citizens (often users) engaged in decisions about the nature and form of service delivery. This element of the co-production agenda will not be a particular focus of this paper, but remains a significant site of participation for many citizens.

Formal/informal institution distinction

The working definition of PIs is inclusive with regards the formal/informal institutional distinction that frames part of the agenda of this Meeting. The distinction points towards the tendency within research on PIs to focus on the design of formal institutions organized or sponsored by public authorities. The interest in ‘informal institutions’ is certainly of value, but there is a danger of some confusion in how that term is used. The Aide Memoire for this Meeting touches on two different senses of the term.

The first relates to the informal constraints highlighted by Douglass C North in his definition of institutions: ‘sanctions, taboos, customs, traditions and codes of conduct’ (1991: 97). In their use of the concept informal institutions, Gretchen Helmke and Steven Levitsky follow North and highlight the way in which ‘many “rules of the game” that structure political life are informal – created, communicated, and enforced outside of officially sanctioned channels’ (2004: 725). Helmke and Levitsky’s analysis is useful for understanding the relationship and interaction between informal institutions (as they

define the term) and the introduction of PIs: they can converge (either complement or accommodate) or diverge (compete or substitute) – see table below.

Table 1: A typology of informal institutions (Helmke and Levitsky 2004: 728)

Outcomes	Effective formal institutions	Ineffective formal institutions
Convergent	Complementary	Substitutive
Divergent	Accommodating	Competing

Their analysis provides a salutary reminder for designers of PIs to recognize such norms and the cultural context within which PIs are embedded. For example, the presence of informal institutions offers a partial explanation of why PIs do not always transfer well from the drawing board to the field and why the transfer of designs between contexts is not always successful. Similarly it provides insights into how the introduction of PIs can reshape informal institutions. Proponents of Participatory Budgeting (PB), for example, are often quick to highlight how effective PBs can challenge and destabilize norms and practices associated with clientalism and tax evasion.

But Helmke and Levitsky’s account of informal institutions is in tension with the use of the term later in the Aide Memoire where the focus is on PIs that operate at some degree removed or independent from public authorities. Helmke and Levitsky are explicit in distinguishing between ‘institutions as norms and rules’ and ‘institutions as organizations’. The use of the term ‘institution’ to capture both senses is problematic, but difficult to resolve given that in everyday language it is widely used in both senses.

In an attempt to avoid confusion, this paper will refer to informal/formal PIs (as organizations) and informal social norms and practices (to capture the informal institutions as understood by Helmke and Levitsky or constraints by North). The Balkan example of community-based self-government referred to in the Aide Memoire is a PI that has moved over time between a more-or-less formal status in response to changes in governance arrangements (Mohmand and Mihajlovic 2013). There are thus distinctions to be made between informal PIs that are creatures of statute (instituted by public authorities) and those that emerge more organically from within communities. There is also work to be done to distinguish the defining characteristics of informal PIs from other civil society organizations (CSOs).

The typology introduced by Helmke and Levitsky (Table 1) remains useful even if our focus is on informal PIs. When formal PIs are introduced, they can be *convergent* with existing informal PIs where they share similar aims and goals: informal and formal modes of citizen engagement can be complementary or substitutive. Where those aims and goals are in tension, the relationship is *divergent*: accommodating where formal PIs are effective; competing when ineffective.

The example of the *mesni zajednicas* (MZs) in the Balkans should not lead us to equate informal with local. More or less informal (or independent) PIs operate at higher levels of governance; and there are good reasons to expect such organizations to be particularly effective in embedding scrutiny, oversight and monitoring: ‘informal as well as institutional social counter-powers’ are essential elements of a well-functioning polity

(Rosanvallon 2008: 4). Equally, informal social norms and practices operate at all levels and need to be considered in the design of any PI (whether formal or informal).

Assessing PIs: an analytical framework

PIs are typically introduced where existing institutional arrangements fail to realize democratic expectations. PIs (and the broader political system within which they are embedded) can be judged by the extent to which they realize four democratic goods (Smith 2009):

- Inclusiveness
- Popular control
- Considered judgment
- Transparency

It is highly improbable that any PI (or sequence of PIs or the system as a whole) can realize all of these goods simultaneously. As such the design of PIs entails balancing the realization of these goods against one another – and at the same time balancing democratic expectations against the institutional good of efficiency, since there are always feasibility constraints to organizing and embedding PIs.

Inclusiveness. The extent to which PIs realize inclusiveness relates to three design characteristics. First, the manner in which such institutions constitute the affected population – who has the right to participate? One of the challenges here is that geographical jurisdictions of public authorities do not always map neatly onto the affected population. Similarly, limiting participation to those who have a particular status – e.g. the legal status of citizen – can lead to the exclusion of marginalized and vulnerable residents. Second, the use of selection mechanisms can affect the presence of particular social groups. Open assemblies – and thus self-selection by participants – may seem the most democratic option, but without active mobilization can lead to higher turnout by the already politically active and engaged. Selection mechanisms such as election, random selection and appointment can structure access in more or less inclusive ways. Third, presence does not automatically transfer to voice on the part of participants. Design characteristics such as facilitation and forms of capacity building for those with lower confidence and political skills can affect the inclusiveness of procedures within PIs and the likelihood of voice on the part of participants from more marginalized groups. Such capacity building is often key to overcoming the influence of established informal social norms and practices that can limit and undermine the participation of vulnerable social groups.

Popular control. PIs are often criticized for embedding tokenistic participation and/or incorporating citizens into established bureaucratic norms and expectations (cooption). A reasonable expectation of PIs is that they embed mechanisms that enable citizens to have a degree of influence on political decisions – otherwise there will be little motivation to participate. Responsiveness can range from full control over agendas and decisions through to an expectation that public authorities will provide an account of how participation effected final decisions. The extent to which popular control is realized by any PI should be judged not only in relation to its capacity to effect different stages of the political process, but to the significance of the issue under consideration.

Popular control entails more than just a focus on input into policy processes, but also the capacity of PIs to provide avenues for scrutiny and oversight of public decisions and actions more broadly.

Considered judgment. Critics of PIs are often quick to contend that citizens simply do not have the knowledge or competence to participate in political decision-making. This criticism neglects the justifiable function of PIs to enable citizens who have had their needs and interests systematically overlooked to contest current policy and practices and put forward their own perspectives. Beyond this function, PIs can be assessed by the extent to which they enable citizens to learn about relevant policy issues (however complex) and to reflect on the preferences and prejudices of other citizens and political actors. Design characteristics such as facilitation, mode of information provision and decision rule (e.g. crafting collective recommendations, secret or open voting) can have a profound impact on the form of judgment that emerges.

Transparency. In judging the transparency of PIs, two aspects of their design come under the spotlight. The first is that proceedings are transparent to participants: that they recognize the conditions under which they are engaged (internal transparency). More broadly transparency refers to the publicity of PIs (external transparency or publicity): the extent to which information about a PI and its impact is brought to wider public attention such that those not engaged in the process can deem it legitimate and trustworthy.

Efficiency. There is a tendency to highlight the civic benefits (for participants, public officials and the broader political community) generated by PIs. However, participation also entails costs. Feasibility constraints include the psychological and time demands placed on citizens; for public authorities, various administrative costs in embedding and responding to PIs. There is no simple calculation of how much cost is worth bearing and the design of PIs often reflects divisions of labor between participants in recognition of differential willingness and capacity to engage. Much will depend on context, including the perceived effectiveness of particular PIs and the costs and benefits of not embedding participation.

The design challenge

We often find an overly simplistic design dichotomy in literature on participatory decision making between open assemblies at the local level and referendums at larger scale. In both cases, critics contend that participation is skewed towards the already politically engaged and we have to trade-off the potential intensity of local face-to-face engagement with the blunt instrument of a yes/no ballot. But this characterization represents a significant injustice to the creativity of institutional design for citizen participation.

Designs based on open assemblies have successfully combined local-level assemblies with forums at higher levels of governance through institutionalizing variations in the representative principle. One example is the impressive number of Policy Conferences that have taken place in Brazil, linking the local, municipal, regional and national levels through elected citizen representatives. Where the design of such Policy Conferences is limited however is in relation to scrutiny: Conferences provide an input into the policy

process, but do not have well-developed structures to ensure oversight of the policy area once the Conference has ended. This is a common weakness in temporary or one-off designs. Here another Brazilian participatory invention – Participatory Budgeting (PB) – is particularly effective. Like Policy Conferences, PB links open participatory local assemblies with forums at higher levels (including, for many Latin American examples, the body that sets the rules for the PB) through different forms of representation. There have been creative examples of designing rules to ensure representation of not only geographical constituencies, but also gender, ethnicity, sexual orientation, age and other social characteristics deemed politically significant. Many examples of PB additionally institutionalize oversight, scrutiny and monitoring: representative bodies continually monitor the implementation of PB decisions and public officials are held to account for their actions in the popular assemblies. The capacity of PB to function in this way is arguably related to its repetitive structure (annual cycle) and focus on deliverable projects. Embedding scrutiny of policy is a somewhat different and challenging enterprise. While both Policy Conferences and PB attract a higher than average percentage of lower income participants in open assemblies, the diversity of social composition is weaker amongst citizen representatives (although they are typically much more diverse than elected council and parliamentary officials). Much then rests on the efficacy of representative mechanisms with PB, for example, limiting incumbency through short terms of office and recall to ensure against concentration and abuse of power. The Brazilian examples also provide evidence of the different relationships between informal and formal PIs. Established and officially recognized informal PIs operating at neighborhood and more strategic levels often play a critical role in mobilizing citizens to participate in assembly-based designs; and there is evidence that effective PBs have led to the creation of informal PIs. Equally PBs have been at times designed to explicitly counter the perceived negative impact of informal PIs that have been vehicles for clientalism.

Plebiscitary or direct legislation designs provide a different set of engagement opportunities that go beyond the power of the ballot. Citizen initiative, popular referendum and recall all rely on the agenda-setting device of petitioning, allowing citizens to mobilize to put forward new policy ideas or to challenge existing policy and incumbent officials: a mix of input and scrutiny functions. How petitioning might be tied to other PI designs, particularly to enhance scrutiny functions, is an area ripe for exploration.

A third family of PI designs that has generated increasing interest is mini-publics. Examples include citizens' assemblies and juries, consensus conferences and deliberative polling. What this family of designs shares is the use of (near-) random selection and a focus on facilitating deliberation between participants, including provision and reflection on detailed policy knowledge. On occasion, marginalized groups have been over-sampled purposively to ensure a critical mass. There is much evidence to indicate that citizens are willing and able to participate in mini-publics on highly technical, complex and controversial policy issues. Where mini-publics have been limited to date has been in relation to policy impact: they have not been well embedded within decision-making processes. The British Columbia Citizens' Assembly (BCCA) tends to be the most celebrated example, where in 2004/5 the deliberations of the randomly selected panel led to a province-wide ballot on a new electoral system. Most mini-publics are temporary designs often lasting only a few days: again BCCA is an interesting counter-

example in that it was one-off, but allocated significant time (8 months) to citizens to learn and deliberate on a critical constitutional issue. There are a relatively small number of examples of standing (more permanent) mini-publics: the National Institute for Health and Care Excellence (NICE) in the UK has established a standing Citizens Council that provides advice on the values and principles that should guide its decisions.¹ The NICE Citizens Council offers an indication of how mini-publics could be institutionalized to play a scrutiny function for particular public bodies. We are also witnessing experimentation with forums that combine random selection of citizens with the presence of appointed politicians: a current example being the Irish Convention on the Constitution.² For critics this undermines the 'safe space' created for citizens in mini-publics where evidence is provided by experts (including politicians), but then citizens deliberate away from overt or covert political influence. For proponents such mixed designs are more politically realistic: the presence of politicians means that there is an explicit connection with political decision-making.

While there has been a tendency to develop designs within one family of PIs, there is no reason that they cannot be sequenced in creative ways: BCCA is one such example (mini-public plus referendum). Similarly we can consider how petitions might launch inquiries by mini-publics or open assemblies rather than or complementing a ballot (the Oregon Initiative Review is an example of the latter where a mini-public provides guidance to the wider citizenry on forthcoming ballots); or mini-publics could be integrated into the design of Policy Conferences, PBs or similar designs to ensure a more socially representative set of participants at higher levels of governance.

The potential for adapting and developing PIs is further enhanced by the emergence of online applications and designs. This is a potentially disruptive set of technologies in a number of senses. First, it forces us to move beyond the tendency to focus on face-to-face interactions, allowing us to consider new ways of overcoming the limitations of space and time associated with bringing citizens together in the same physical location. Second it is disruptive because online technologies are constantly in flux and it is unclear how they will contribute to the practice and design of PIs in the future. We are already witnessing experiments with the use of online technologies, particularly to extend voting in PBs and there has been early experimentation with crowdsourcing for policy and legislation. Two caveats are worth bearing in mind. First, the rush to online can mean that the benefits and value of face-to-face interaction are overlooked. We still have relatively little understanding of the nature and dynamics of online interactions between citizens. In many cases, the most effective designs are likely to combine the best of both (online and offline) worlds: 21st Century Town Meetings that use technology to enable thousands of people to gather, deliberate and vote together in one or parallel spaces is one creative example. Second, we must recognize the differential spread of, access to, competence in and desire to use online technologies: the widespread use of mobile phones in Africa has led to the adoption of SMS voting in a number of recent PB and other participatory initiatives, but access to other technologies is often limited. It is an open question as to whether the use of new technologies tends to be a force for democratization or simply reinforces existing power differentials. Design is a critical factor.

¹ <https://www.nice.org.uk/Get-Involved/Citizens-Council>

² <https://www.constitution.ie>

Online developments also remind us of the importance of new forms of informal PIs. Public authorities are typically a long way behind the curve in their capacity to understand and develop online applications and much of the political activity online is informal and independent from governments. How this can be harnessed for both policy input and scrutiny is an area that demands further attention. One interesting example here is NHS Citizen that has recently been established in England.³ Recognizing the significant amount of debate and discussion of health services on online platforms, NHS Citizen attempts to discover and gather current themes and bring diverse groups together online and face-to-face to feed into NHS decision making.

Embedding participatory decision making

While much progress has been made in understanding the democratic characteristics and implications of different designs of PIs, one of the central limitations in participatory decision-making is the extent to which PIs and their outputs are embedded effectively within political systems. Too often the decision to sponsor, organize and respond to PIs is at the discretion of public officials. Aside from direct legislation (where the conditions under which such mechanisms can be utilized are often clearly laid out), even where participation has a legal or constitutional status, there is typically much room for maneuver as to how participation is to be realized. A potential tension exists in the desire to give participatory decision making a more legal or constitutional status: it can be a break on creativity and innovation as particular designs are embedded and institutionalized.

A significant element of the post-2015 development agenda must be focused on building the capacity of public administrations to embed PIs and considering how to incentivize embedding PIs (whether formal or informal) within everyday political and bureaucratic practices. For most public officials, participation remains a minor consideration. The effectiveness of PB in many Latin American cities can be related to bureaucratic reorganization to ensure that decisions are implemented. An important element of NHS Citizen is the explicit focus it is placing on culture change within the NHS so that officials are able to work with and respond to citizen participation and input.

One option for enhancing the take-up of participatory decision-making is for the post-2015 development agenda to promote the establishment of 'autonomous public organizations dedicated to public participation' (APOPP) (Bherer et al 2014). In an initial study of this relatively small field of quasi-autonomous organizations, Laurence Bherer and colleagues define APOPPs as 'organizations created by governments with the mandate to organize participatory forums in accordance with the provisions of the law that created the APOPP' (2014: 1).⁴ While APOPPs remain relatively rare, their

³ <http://www.nhscitizen.org.uk>

⁴ The five APOPPs that Bherer et al study are: Quebec environmental public hearings board (Bureau d'audiences publiques en environnement) (BAPE); Danish Board of Technology (DBT) (Teknologiraadet) (recently converted into a non-profit organization offering participatory services); French National commission on public debate (Commission nationale du débat public) (CNDP); Montreal board of public consultation (Office de consultation publique de Montréal) (OCPM).; Tuscany participatory authority (TPA) (Autorità regionale per la garanzia e la promozione della partecipazione)

institutionalization has proved important in establishing autonomous and recurrent PIs. The degree of autonomy and visibility enjoyed by APOPPs protects them to some extent from day-to-day political pressures. Bherer and colleagues highlight five main functions of APOPP that are particularly significant for embedding PIs: (1) guarantors of the quality of the participatory arrangements; (2) implement or oversee the participatory process itself; (3) ensure transparency; (4) act as a competent authority to translate the views of citizens into recommendations; (5) ensure that the participatory processes have some degree of influence on decision-making processes (ibid 22-23).

It is not hard to imagine APOPPs mandated to organize PIs in relation to the post-2015 development agenda, both in terms of organizing participation in the policy-making process and, importantly, organizing participatory oversight, scrutiny and monitoring. An APOPP could act independently in fulfilling its mandate and/or allow for citizens and other actors, including informal PIs, to petition for the establishment of formal PIs either where there has been a failure to engage citizens in the development of policy or where there is a need to scrutinize existing policy that is not in line with (sustainable) development commitments.

Building the evidence base for participatory decision-making

One of the challenges we face in research on PIs is that the knowledge base, whether for formal or informal PIs, remains limited and dispersed across communities of practice and academic research groups. There are a number of interesting initiatives that aim to consolidate and systematize knowledge in the field, although they tend to focus on a particular type of participation. The *Participate* initiative,⁵ co-convened by the Institute for Development Studies and Beyond 2015, is a particularly pertinent example in that has an explicit remit to shape the post-2015 development agenda, including (amongst other aims) bringing together knowledge on PIs that engage the poorest sectors of society. Other initiatives that collate details of PIs tend to become dated rather quickly.

For this reason, *Participedia* is an interesting development in that it is an open platform for democratic innovation and participatory governance that has the ambition to collate knowledge of PIs from around the world.⁶ Its crowdsourcing strategy may be both a strength and weakness: it means that the platform is continually expanding with examples, but there are questions about data quality. It is a fair criticism that the platform is dominated at present by cases from the Global North and there is a need to develop effective governance and crowdsourcing strategies to enhance its coverage of PIs from the Global South. The promise of *Participedia* is that it will enable more systematic comparison across cases (Gastil et al 2014).

Conclusions

There is a growing evidence base on PIs that indicates the extent to which design is a critical element of their effectiveness. While this knowledge base is mostly focused on 'formal' PIs, the same is likely to be true for 'informal' organizations. However, where we lack systematic insight is in the conditions under which PIs are embedded effectively

⁵ <http://participate2015.org>

⁶ <http://www.participedia.net>

within political decision-making. This relates to the capacity to transfer designs across cultures (the impact of informal social norms and practices) and the willingness of public authorities to embed PIs within decision-making processes. One possible contribution to more effective institutionalization of citizen engagement could be the development of autonomous public organizations dedicated to public participation (APOPPs). Certainly greater attention needs to be paid to how to motivate public authorities to embed effective citizen participation.

Bibliography

Bherer, L., Gauthier, M. and Simard, L. (2014) 'Autonomy for what? Comparing the role of autonomous public organizations dedicated to public participation', paper presented at *European Consortium for Political Research Joint Sessions*, Salamanca, April 10-14.

Gastil, J., Richards, R. and Smith, G. (2014) 'The potential of Participedia as a crowdsourcing tool for comparative analysis of democratic innovation', paper presented at the *Internet, Policy and Politics Conference: Crowdsourcing for Politics and Policy*, Oxford, 25-26 September. <http://ipp.oii.ox.ac.uk/2014/programme-2014/track-a-harnessing-the-crowd/design-i/graham-smith-the-potential-of>

Helmke, G. and Levitsky, S. (2004) 'Informal Institutions and Comparative Politics: A Research Agenda', *Perspectives on Politics*, 2 (4): 725-740

Mohmand, S.K. and Mihajlovic, S.M. (2013). 'Connecting Citizens to the State: Informal Local Governance Institutions in the Western Balkans', *IDS Bulletin*, 45 (5): 81-91

North, D.C. (1991) 'Institutions', *Journal of Economic Perspectives*, 5 (1): 97-112

Rosanvallon, P. (2008) *Counter-Democracy: Politics in an Age of Distrust*, Cambridge: Cambridge University Press.

Smith, G. (2009) *Democratic innovations: Designing institutions for citizen participation*. Cambridge: Cambridge University Press.