

The Challenges of Polyphony: A Perspective on New Zealand Local Government

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Abstract

In modern democracies, just governance is dependent on decision-makers hearing plural citizens' voices. Recognition of multiple, conflicting, yet equally valid voices may be described as polyphony. New Zealand's Local Government Act 2002 mandates participation by local residents in the decision-making processes of their councils. Drawing on research into two councils, which manifest distinctly different approaches to citizen participation, this article looks at the challenges for local government engagement with polyphony. First the position of speakers is considered, with focus on the conditions for and barriers to speech in a local community context. Second, consideration is given to the position of intermediaries, those who filter, amplify or otherwise modify others' voices. Third, the position of decision-making bearers is considered. Finally, an outline is given of how two particular councils engage with the issues raised by polyphony.

Introduction

Polyphony

Jürgen Habermas (1996) argues that ideal democratic discourse is achieved when empathetic and competent speakers arrive at the decisions that bind their community through processes of rational argumentation. The legitimacy of such a political community is founded "on the basis of a discursively achieved argument" (Habermas, 1996: 449). Critics of Habermas, notably Ernesto Laclau, Chantal Mouffe and Slavoj Žižek, take a less utopian and more pragmatic approach to discursive democracy, focusing, in particular, on issues of hegemony, and both the undesirability and impossibility of genuine consensus (see, generally, Torfling, 1999.) Mouffe (1999), for instance, presents a model for discursive democracy that is based on *agonism* between adversaries (but not antagonism between enemies). In this model, conflict is assumed. Nevertheless, dialogue and rational deliberation are pre-eminent so that passion is mobilised through democratic channels (Mouffe, 2005). Despite their differences, proponents of conflicting visions for discursive democracy recognise in common that, in a modern polity, a plurality of equal voices prevails, and these voices must all be heard if governance is to be just. This situation of multiple, valid voices may be

described as *polyphony*. (Power and Laughlin (1996) use the term *polyvocal* to describe Habermasian democratic discourse, but the Greek root *phōnē* is considered preferable to the Latin *vox*, as it implies both utterance and hearing.)

Local democracy in New Zealand

Local government in New Zealand is charged with enabling "democratic local decision-making and action by, and on behalf of, communities" and promoting "the social, economic, environmental, and cultural well-being of communities, in the present and for the future" (Local Government Act, 2002: s 10). Community members must be able to participate in making the decisions that bind them and shape the future of their communities. By requiring public consultation and involvement in decision-making, the *Local Government Act 2002* introduced an untheorised and rudimentary form of discursive democracy to local communities in New Zealand. Local government consultation is far from the Habermasian ideal for democratic discourse, which is commonly caricaturised as an academic seminar (see, for example, Frey, 1996). Conversely, while irreconcilable ideological differences may exist in local communities, there is little evidence of the agonistic blocs that Mouffe assumes. Furthermore, in the context of local government decision-making, speakers rarely engage in public argumentation with each other. Rather, they tend to speak severally to elected officials and public servants. Nevertheless, disparate views are expressed and deliberated, and these discursive processes contribute to local community decision-making.

Public contribution to local community decision-making tends to take three major forms.

The first form of contribution comes from written submissions, which are unilateral expressions of opinion. However, over time, speakers become aware of others' positions and views on community issues, so that they are able to reflect on their own views, and respond accordingly. This is a highly dislocated dialogue that nevertheless provides some degree of argumentation over time. Since local authorities must take a long-term view on major community issues, an evolutionary process, which allows time for reflection and negotiation, is desirable and appropriate in this context.

The second form of contribution comes from oral submissions, which are unilateral expressions of views normally made in support of written submissions. Officials may ask speakers questions so that dialogue takes place. Having access to all submissions, officials may use points raised by other speakers as an interrogation tool – a form of proxy argumentation. As such hearings are open to the public, some opportunity exists for speakers to hear others' views, and thereby reflect on their own opinions.

The third form of contribution comes from expression of views at public meetings. These forums provide some, albeit minimal, opportunity for direct dialogue between speakers but are mediated by a chairperson. Different speakers have the opportunity to hear others' views, and thereby reflect on their own opinions. Open

public meetings, where community members can express their views, bear some resemblance to the mechanisms of classical democracy (Hornblower, 1993), although they may not attract a representative cross-section of the local community.

In addition to these active means of expression, community members' opinions are commonly elicited by way of surveys or other market research techniques. Local authorities may also convene a *hui* (meeting or gathering) to discuss an important issue, conduct workshops and roadshows, and facilitate web-based discussions.

The distinguishing features of democratic discourse in the context of local government are the indirect nature of dialogue between speakers, and, consequently, the pre-eminent role of intermediaries, and the fragmentary nature of argumentation. (Argumentation may also take place on local issues through letters to newspapers or talkback radio, but these do not directly contribute to democratic decision-making.) Despite its deviation from an ideal form of discursive democracy, local community decision-making provides a real life context for considering the challenges of polyphony.

This article considers certain challenges of polyphony in the context of New Zealand local government. First the position of speakers is considered, with focus on the conditions for and barriers to speech in the local community context. Second, consideration is given to the position of intermediaries, those who stand between speakers and hearers, and therefore filter, amplify or otherwise modify others' voices. Third, the position of hearers, those in authority whose decisions must take account of the opinions and aspirations of the polyphonic community, is considered. Finally, drawing on research conducted into the ways in which two local authorities engage with their communities in constructing their annual budgets, an outline is given of how the issues of polyphony are tackled in specific contexts.

Speakers

Expectations

Habermas (1990: 88) refers to "presuppositions of argumentation", which are the basic conditions under which competent or fully rational speech takes place. For him, "we are so embedded in a life formed by speech and the consequent presuppositions of argumentation that we cannot remove ourselves from these presuppositions and remain sane" (Chilton & Cuzzo, 2005: 327). While this claim may be plausible for human existence in general, it is an overstatement in the specific context of local community decision-making, which may be described as a weak discourse. Nevertheless, it indicates the critical importance of speakers playing by the rules – but what are those rules?

Considering scientific discourse, Frank van Dun (1986: 24) identifies participants' dialogical rights, "their right to speak or not to speak, to listen or not to listen, to use their own judgment". Identification of such rights is illuminating but they do not necessarily apply to democratic discourse, which is a special kind of conversation, distinguishable from other forms of speech, such as commercial speech

or free expression of opinion. For example, if A has a right to express opinions about B's religious beliefs, which B may consider offensive, B must have the right not to listen. This is because A and B are not engaged in argumentation. Indeed, A may have no intention of persuading B in any way: from B's perspective, A's speech act constitutes unilateral rhetoric. But, if both A and B make speech contributions toward a particular outcome that will bind their community, it is implicit that their participation in such a discursive project does not only grant each of them the opportunity to speak, but also requires them to listen to one another. In the context of democratic discourse, a right to speak without a reflexive duty to listen could render a co-speakers' right to speak meaningless. The result might be nothing more than a Babel of solipsistic noise.

Yet, in the local government context, because community members' speech is invariably intermediated, and argumentation between speakers is highly fragmented, talk of a *right* to be listened to by co-speakers is misplaced. Nevertheless, there is such an *expectation*, but without legal or social sanction to enforce it. Generally, a framework of expectations, rather than rights, applies to dialogue in this context, whether such a framework is formally established or develops organically.

Despite the normal role of expectations, certain fundamental speech rights do exist and must be respected. These include general freedom of expression, which is guaranteed nationally (see New Zealand Bill of Rights Act, 1990: s 14), and the equal opportunity of community members to contribute to local decision-making (see *Local Government Act* 2002: s 82). The specific content of dialogic expectations should be determined locally but will be informed by generally accepted norms of civil behaviour for which the "features of good conversation" proposed by Fredrick Bird (1996) provide guidance. Thus speakers are expected to be attentive to co-speakers, and communications are rational and honest. General courtesy should be maintained, with exchanges being civil.

Just as an assertion of speech rights is, with notable exceptions, an overstatement in the local community context, so is an assertion of a duty to speak. While community members, who have been granted the right to participate in local decision-making, may be expected to avail themselves of that opportunity, they cannot be compelled to do so. The critical issue regarding community members' speech contributions lies with ensuring that those who wish to contribute are able to do so.

Barriers

The Habermasian model requires community members to be competent speakers, that is, rational social actors situated within a community of rational social actors. In this ideal speech situation, speakers "know how to base their interactions on validity claims that their hearers" can assess (Rehg, 1996: xiv). However, for various reasons, many community members may be incapable of speaking competently in this sense. Barriers to speech contribution include:

1. Lack of rhetorical skill: speakers may lack sufficient knowledge of language; they may be unable to construct a logical argument; or may have emotional inhibitions regarding self-expression in public.

2. Physical or temporal barriers: potential speakers may be unable to attend public meetings as a result of a disability or lack of time. They may have a speech or some other form of disability that militates against expressing themselves or hearing others, even if they are able to attend public meetings.
3. Technological or economic barriers: speakers may lack access to the technology needed to contribute to, for example, online forums. Furthermore, the opportunity costs of participating in democratic processes may present barriers.
4. Exclusion: community members have differing abilities to speak competently on complex technical issues, such as local government funding. When discourse is conducted in technical language, potential speakers may be excluded.

These and any other barriers to speech should be recognised and considered by hearers, whether or not they can be overcome or compensated for. Two ways in which individuals, who face barriers to competent speech, may be encouraged to contribute are, first, through group speech and, second, through the use of technology. However, both solutions raise significant issues.

The barriers to speaking experienced by those disempowered or incompletely capable of self-expression can be overcome through voluntary corporatism. For example, ratepayers' associations and non-governmental organisations, whose officials are more competent to speak on certain issues than their individual members or clients, may act as the voice of a particular interest group. Following the *Gesellschaft/Gemeinschaft* distinction (Parsons, 1947), these voluntary associations are distinguishable from organic groups, notably *whānau* (Māori tribes). In the latter case, the group itself is expected to have a voice that is indistinguishable from those of individual group members on all issues that are important for the group. In the former case, as a matter of convenience, people with a multiplicity of viewpoints rely on others to speak for them on particular issues. This raises acute problems of intermediation. For example, a seniors' advocacy group may pursue a complex agenda of ideological goals ostensibly on behalf of its members, many of whom may have joined simply to obtain shopping discounts.

Certain people, such as young adults, the housebound and those lacking the time or opportunity to participate, often refrain from engaging in democratic discourse. Technology may play an important role in including those people. Indeed, technology has the potential to enable the formation of virtual communities of like-minded individuals (Benkler, 2006). Nevertheless, the corporeality of human beings means that those individuals must be somewhere and must exist in a particular political context. Extensive use of technology can create the situation where engagement flourishes within a virtual community but anomie is normal within the real community. Technology can also exclude those who do not have access to it, thereby creating divisions within the political community. Furthermore, technology has the capacity to amplify particular voices, thereby jeopardising validity.

Agonism

The premises on which speakers base their arguments may be incompatible. For example, the views of a person who considers economic growth to be the principal goal of society may be incompatible with those of a person who puts ecological conservation above all else. To suggest that one may be persuaded by the other's better argument, when there is dissonance between their fundamental principles, is implausible. The better argument may prevail intra the group that share fundamental premises but may have no traction inter other groups. Like religious faith, ideological conviction is not defeasible by reasoned challenge. Nevertheless, if their voices have been heard, democratic processes are robust, and the basic rules for speech have been followed, agonistic speakers should accept the democratic decision, even if the rationality of the prevailing argument remains alien to them (Mouffe, 1999).

Intermediaries

Three types of intermediaries are relevant in the local government context, specifically, those who:

1. Speak for others, for example, executives of special interest groups;
2. Mediate between different speakers, for example, the chair of a public meeting;
3. Act on behalf of hearers. Public servants process and filter much of the information that members of the public submit to elected officials.

The law sorts those who speak or act for others into various categories, with varying powers and degrees of autonomy. These intermediaries range from the amanuensis, who is assumed to perform a purely mechanical function, through proxies and agents with greater autonomy, to trustees, who may hold considerable discretionary powers to speak and act on behalf of others. Despite the differences between their legal statuses and powers, whenever an intermediary speaks on behalf of another, some distortion of the principal's voice is inevitable. The intermediary may also actively pursue her own interests over those of the principal. Economists argue that this dissonance can be overcome by aligning the economic interests of the agent with those of the principal (Easterbrook & Fischel, 1991). Comparably, the law imposes duties on agents to ensure they act in the best interests of the principal (Dal Pont, 2008). In a political context, neither economic nor legal solutions are plausible. Ultimately, it is a question of assessing the authenticity of the voice. Hearers must decide whether the intermediary does, in actuality, express the views of those for whom she claims to speak.

Other actors, who do not represent a particular group, play mediatory roles but may also distort others' voices or promote their own interests. For example, the chair of a public meeting may, by setting the agenda and controlling proceedings, be able to chill controversial voices. Finally, while public servants are bound by rules that require neutral behaviour, some intermediary influence is inevitable. Because of the

predominance of intermediaries in local government discourse, it is critical that hearers give consideration to the effects of intermediation.

Hearers

Legal Position

Under New Zealand's Westminster-style political system, an elected official is a representative of voters, not their agent or trustee (Dicey, 1915). The representative is elected to make decisions she considers correct. She is not required to implement the will of those who voted for her or necessarily to act for their direct benefit. Representative government is not, then, a conduit between citizens and political decisions. The elected representative plays an active and autonomous role. As hearer, she is not expected to be ideologically disinterested, but must listen to all voices. However, under the current local government system, decisions are not to be made simply on behalf of local communities, to an extent that is not prescribed. They must be made by those communities through the mechanism of consultation. The task for local government officials in this regard is an extremely difficult one, lacking clear rules or express theory.

Local authorities' decisions may be reviewed by a court if the proper process has not been followed or the authority lacked the power to make the particular decision (Joseph, 2007). Generally, when exercising a power, a local authority must consider all relevant factors, weighting each as it sees fit, but must not consider any irrelevant factors (Craig, 2003). These are well-established rules of administrative justice that underpin valid decision-making, but relate to the mechanics of the decision-making process, and provide little guidance on how the many voices in a community should be heard. The critical issue for listening lies with how hearers should process community members' speech acts. Specifically, it must be decided whether, in a democracy, all utterances should be accorded equal value, akin to the principle of one person one vote, or assessed on some quality grounds. If the latter approach is preferred, it must then be asked how the hearer should qualitatively analyse the utterance.

Utilitarian Approach

In a popular democracy, it may be argued that the hearer should distil the kernel of a speaker's argument to extract a simple yes/no preference. This reflects the principle of one person one vote. Of course, nuance would be lost but a utilitarian calculus would be possible in a way akin to the normal electoral process. In this scheme, a signature on a petition or a photocopied letter would be accorded the same weight as a unique, reasoned submission. Voting is a communicative exercise but we do not, and obviously cannot, examine the quality of the reasoning process that underpins a voter's choice. Furthermore, in New Zealand, the franchise is only denied to qualified voters who are absent, imprisoned or detained for compulsory mental health treatment (Electoral Act, 1993: s 80). Consequently, people, such as those suffering from senile dementia, who may be practically incapable of reason, are able to register to vote. Likewise, a vote by, say, an economically disadvantaged person for a

conservative party cannot be dismissed as a manifestation of false consciousness, and discounted. It is inherent in the idea of popular democracy that voters may elect the "wrong" candidate. Similarly, it may be argued that each utterance for/against an issue should carry equal weight, irrespective of the underpinning ratiocination. Conversely, in the Habermasian ideal discursive democracy, it seems, the "wrong" decision cannot be reached because processes of rational argumentation have been followed, and the better argument should always win. While one may question such confidence in the deliberative process, it indicates that democratic discourse is fundamentally different from the election process. It seems that a system of discursive democracy must do more than replicate the ballot box's rudimentary expression of preference. To do otherwise would degrade the capacity for rational speech which is definitive of human exceptionalism.

Qualitative Approach

If a simple utilitarian approach is not adopted, how can arguments be qualitatively ranked? In short, what constitutes the better argument? For Habermas, democratic discourse should be "a cooperative search for truth in which only the force of the better argument appears" (Habermas, 1986: 243). His principal motive is to meld rationality and morality. (The Habermasian project may be interpreted as being ideological, even colonial, in nature: as Mouffe observes, Habermas seeks "to establish the privileged rational nature of liberal democracy and consequently its universal validity" (Mouffe, 2005: 84). Therefore, hearers should take more seriously arguments that tend toward universalisable moral principles, than those that promote self-interest. In this scheme, a simple "not in my back yard" argument must be inferior to an argument that looks to the intergenerational benefit of the community as a whole. And yet, since the mid 1980s, neo-liberalism – the pursuit of individualised, economic self-interest – has predominantly informed governance in New Zealand. When society has been commercialised, it would be peculiar to reject a speaker's argument because it promotes her economic self-interest.

If, as has been argued, not all community members are competent speakers, should the voice of competent speakers be privileged? While effort should be made to ensure that discussion of specialist issues is conducted in laypersons' language to prevent unnecessary exclusion, certain community members are better placed than others to express an opinion on particular issues. A civil engineer's opinion on the safety of a dam should presumably carry more weight than the opposing view of a non-specialist member of the community. Conversely, the engineer's opinion on a matter of general community interest should carry no more weight than that of any other community member. This seems uncontroversial. But status is not easily discounted. A celebrity speaking on an issue will inevitably attract more attention than a lesser-known speaker presenting a similar argument. In such situations, it is critical that speech is assessed on the basis of force of argument, not force of personality or status, however difficult that may prove in practice. Generally, authority in one field may lead to an assumption of special knowledge in other fields. This is a particular problem when a speaker's utterances mask ideological bias. For example, employers'

associations expressing views on local authority rates might present neo-liberal ideology as fact.

Polyphony in Practice

To understand better how polyphony is engaged with in practice, two local authorities were observed. (Methods of observation included formal interviews with senior officials, analysis of relevant documentation, and numerous informal discussions with interested persons.)

The first local authority observed encompasses a large area and has both urban and rural components. Its approach to public participation in decision-making was implicitly informed by the doctrines of new public management, which envisage community members as consumers of local authority services. A consumer here is synonymous with a ratepayer, who is presumed to be a rational economic actor, seeking to maximise her own utility. The role of consultation is to send demand signals from consumers to elected representatives. In this scheme, cost-benefit considerations – how much particular choices will cost in terms of rate increases – are of paramount importance.

The authority's principal consultation aim lay with ensuring its "customers" were provided with sufficient information to make rational (economic) choices. To this end, it continuously provided information on costs and developments. It also conducted frequent public meetings across its region, focusing on issues it considered important for each area.

Within the conceptual framework of citizens as consumers, it seems this authority was effectively listening to its customers (those who consume local authority services and pay rates in exchange.) Exceptionally high levels of rates compliance and a stable composition of the council of elected officials were thought to indicate community satisfaction. However, little awareness of the barriers to polyphonic discourse was demonstrated. The authority considered those in the community, who were interested in a particular issue, to be capable of communicating their desires and aspirations effectively. Lack of speech competence or other barriers to expression was not taken into account. Since non-participation in consultation processes was considered voluntary, the possibility of involuntary exclusion was effectively discounted. It was evident that decisions made by this local authority would be considered legitimate by the majority of its community members. However, it was equally clear that a potentially significant minority was excluded, voluntarily or by circumstance, from participation in decision-making.

The second local authority observed is a predominantly urban area. This authority less obviously envisaged community members as consumers of local authority services, or the community as an agglomeration of utility-maximising individuals. It demonstrated awareness of barriers to expression by individual community members, but considered that collective representation, whether by ratepayer associations for propertied members of the community, or community and *whānau* (extended family) organisations, representing socially deprived groups,

overcame these barriers. With a vibrant non-governmental organisation sector, it was confident that the many voices of its community were being heard. This seemed plausible, although the potentially distortionary effects of intermediation were not taken into account. While formal public submissions were privileged as a form of expression, the authority also used telephone surveys and conducted workshops on important issues.

This authority appeared to have engaged with polyphony in a way that is broadly consonant with democratic discourse theory. Nevertheless, there was no indication of how the hearers assessed the arguments expressed by different community members and groups.

Conclusion

Habermas provides an ideal for democracy and Mouffe shows why that ideal is not attainable. But both demonstrate the critical importance for legitimate decision-making of the many voices in the community being heard by those who make decisions that bind the community. Representative government is not incompatible with polyphony. At a national level, the mixed member proportional representation system seeks to accommodate different voices by encouraging a variety of political parties. Locally, consultation required by the *Local Government Act 2002* prescribes a way for community members' different voices to be heard. And, in practice, local authorities can enhance the effectiveness of compulsory consultation by developing methods of discourse that fit their communities' needs and expectations. In the context of extreme fiscal pressures on local authorities, these methods must be efficient, practicable and appropriate.

Local consultation in New Zealand is a relatively new concept that needs time to develop organically before it can be assessed properly. It is far from ideal but, ultimately, its legitimacy will be derived from the practices of hearers and the experiences of speakers, rather than specific institutions or systems. In particular, those charged with listening must habitually reflect upon the efficacy and appropriateness of ways of hearing the different voices in their communities. Fundamentally, this is a query into who is excluded from the discourse and why. Failure to recognise and act upon the exclusionary effects of speech incompetence and other barriers to political expression self-evidently detracts from the legitimacy of decision-making. Significant steps have been made in legitimating local decision-making, but until there is the fullest possible inclusion of different voices and deeper reflection on the practices of community participation by those charged with giving effect to it, the expectations of polyphony will not be met. While the specific focus of consideration in this article has been local government in New Zealand, it seems likely that similar observations might be made about democratic participation in local communities in Australia and beyond.

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