Making Policy Public

This book challenges the conventional wisdom that government bureaucrats inevitably seek secrecy and demonstrates how and when participatory bureaucracy manages the enduring tension between bureaucratic administration and democratic accountability. Looking closely at federal-level public participation in pharmaceutical regulation and educational assessments within the context of the vast system of American federal advisory committees, this book demonstrates that participatory bureaucracy supports bureaucratic administration in ways consistent with democratic accountability when it focuses on interdependent tasks and engages diverse expertise. In these conditions, public participation can help produce better policy outcomes, such as safer prescription drugs. Instead of being bureaucracy's opposite or alternative, public participation can work as its complement.

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Making Policy Public

Participatory Bureaucracy in American Democracy

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To Michael Clark, for everything

Contents

Figures

Tables

Preface

"The Board helped me get my job done," former Indiana Director of Medicaid Managed Care, Sharon Steadman, recalled, referring to the Drug Utilization Review (DUR) Board that advised her on prescription drug formularies for Indiana's Medicaid Managed Care Organizations.[1] Director Steadman perceived the public board, which consisted primarily of physicians and pharmacists, as a valuable way to give ideas "legs" and buffer formulary decisions from industry pressure arising from both managed care organizations and pharmaceutical firms. Conventional portraits of public bureaucracy emphasize private information, closure, control, and cozy relationships with industry; but Director Steadman's account portrayed the board as offering independent information on formulary decisions. The disconnect between these two views of public bureaucracy caught my attention and launched my study of public committees well over a decade ago. I wanted to know when public bureaucrats would seek openness over secrecy and collaborative decision making over exclusive control, and why. I set out to understand public participation from the perspective of bureaucratic administration: when does participation through boards and committees help bureaucrats "get the job done," and when does it not?

Since both secrecy and technical expertise represent hallmarks of bureaucratic administration, assessments of public participation through public committees typically focus on their potential to promote or inhibit democratic accountability through *participatory oversight*: to induce an otherwise closed bureaucracy to attend to nonbureaucratic voices in the policy-making process and to enable individuals to monitor agency decisions. When, however, can public participation support public bureaucracy, and when is participation not imposed on but initiated by bureaucrats? As I answer these questions, I develop the concept of *participatory bureaucracy*: a systematic process of

[1] Personal communication with author.

public engagement that brings diverse expertise to bear on interdependent task implementations that exceed the scope of conventional bureaucratic hierarchy. When participation is bureaucratic, it advances competent policy implementation consistent with the core elements of bureaucratic reputation: unique agency expertise and diverse support. When bureaucracy is participatory, the scope of participation and policy decisions are fluid, not perfunctory means of rubber-stamping an agency decision or manipulating the masses.

The vast network of public committees in operation across the federal government provides prime venues for me to examine and assess participatory bureaucracy: when it manifests, how it works, how it impacts policy outcomes, and when it might contribute to democratic accountability. Federal public committees have been perennial features of the executive branch since the early twentieth century, and they remain prevalent. In 2010, U.S. federal agencies consulted 1,044 advisory committees composed of 66,389 public members.[2] More individuals, these estimates suggest, served on advisory committees across the federal government in 2010 than worked as civil servants in the Department of Energy, the Department of Labor, the Department of Housing and Urban Development, and the Department of Education *combined*. Federal public committees have also contributed to major federal policies, including the mapping of the human genome.[3] Though committee participation can yield forms of participatory oversight that monitor and constrain public bureaucracy, the origins and development of federal public committees reveal that bureaucrats have also actively initiated, cultivated, and structured public participation.

I focus my analysis on federal-level public participation for pharmaceutical regulation and for educational assessments, and I argue that participatory bureaucracy is more likely to manifest when participation engages diverse expertise focused on task implementation. Participation that abets domination by privileged interests does not support participatory bureaucracy, and neither does diffuse, unfocused participation. Participatory bureaucracy is also more likely to manifest for interdependent policy tasks rather than for tasks that occur fully within an agency's jurisdiction. The chief reason is that interdependent tasks entail evolving implementations that exceed the scope of the agency's hierarchical reach and thus require expertise that agencies do not command. Educational assessments sponsored by the federal government, for instance, can only succeed through interdependent action: implementation depends on the validity of the assessment instrument, on students showing up to take the test, on administrators letting special needs students take the test, on the people scoring handwritten essays, and on other implementers working in the vast space between the Department of Education and Classroom

[2] Wendy R. Ginsberg, *Advisory Committees: A Primer* (Washington, DC: U.S. Congressional Research Service, 2010), summary.

[3] U.S. General Accounting Office, *Federal Advisory Committees: Additional Guidance Could Help Agencies Better Ensure Independence and Balance* (Washington, DC: GAO, 2004), p.14.

#102. Federal officials cannot command educational assessment implementation the way they can command maintenance schedules for military aircraft. Interdependent tasks create incentives for bureaucrats to attend to not only their own learning and knowledge-gathering but also to getting information out the door to other parts of the implementation chain, creating new knowledge when none exists either inside or outside the agency, and legitimating the knowledge that is used.

When participation benefits bureaucracy, is there non-zero-sum potential for it to support democratic accountability as well? Participatory bureaucracy contributes to bureaucratic administration, the analysis suggests, when it fosters multidirectional flows of knowledge instead of just one-way or two-way closed information exchanges. This flow of knowledge can abet some degree of indeterminacy: the outcome of participation is not foreordained, nor is the value of the information flow restricted to a single point in time or to a single user. In other words, participatory bureaucracy is more than a way for bureaucrats to learn from the public; it also is a way to support learning in public. Learning in public both offers bureaucrats opportunities to distribute information to key implementers outside the agency's hierarchy on whom the agency may depend, and it provides opportunities to liquefy knowledge, to use John Dewey's metaphor. Open meetings can put knowledge into the public space that can, in turn, take on a life of its own: the information flow does not necessarily end when the votes are cast and the meeting comes to an end. The potential democratic contributions of participatory bureaucracy exceed the scope of a singular decision or information exchange and are ongoing. In these conditions of task interdependence, diverse expertise, and knowledge flow, my analysis suggests that public participation has the potential to support both bureaucratic administration and democratic governance in two respects: implementation quality and legitimacy. Instead of bureaucracy's opposite or alternative, public participation can complement bureaucracy.

Some theories of community organizing and participatory democracy discount information sharing as token or ancillary to true decision-making power. However, from a *bureaucratic* perspective, knowledge is power. As Weber claimed, "bureaucratic administration means fundamentally the exercise of control on the basis of knowledge."[4] While information sharing may seem insignificant or insufficient from a grassroots perspective, it can be monumental from a bureaucratic perspective.

The task interdependence that is a cornerstone of participatory bureaucracy, however, does not describe all tasks. Participatory bureaucracy is less amenable to supporting bureaucratic administration for tasks that occur fully inside the bureaucratic hierarchy, such as delivering the mail, or for tasks where private information is an end goal, such as spying. As the recent scandal over

[4] Max Weber, *The Theory of Social and Economic Organizations* (London: Free Press of Glencoe, Collier-Macmillan Ltd., 1947), p.339.

the National Security Agency's practice of gathering communication data from U.S. citizens and from allies attests, ample appetites for secrecy persist. Yet, some estimates suggest that governance is becoming more interdependent and less amenable to structural secrecy. The more policy problems and policy tasks embody interdependent implementations, the more participatory bureaucracy holds promise of both enabling opportunities for democratic accountability and helping bureaucrats "get the job done."

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Abbreviations

AASA	American Association of School Administrators
ACES	Advisory Council on Education Statistics
AFT	American Federation of Teachers
APA	Administrative Procedure Act
APC	Assessment Policy Committee
BOB	Bureau of the Budget
CAB	Civil Aeronautics Board
CAPE	Committee for the Assessment of Progress in Education
CCSSO	Council of Chief State School Officers
CDER	Center for Drug Evaluation and Research
DOD	Department of Defense
DOJ	Department of Justice
DOL	Department of Labor
ECAPE	Exploratory Committee for the Assessment of Progress in Education
ECS	Education Commission of the States
ED	Department of Education
EPA	Environmental Protection Agency
ETS	Educational Testing Service
FDA	Food and Drug Administration
FOIA	Freedom of Information Act
GAO	Government Accountability Office/General Accounting Office
HEW	Health Education and Welfare
IES	Institute of Education Sciences
IND	Investigational New Drug
IOM	Institute of Medicine
NAEP	National Assessment of Educational Progress
NAGB	National Assessment Governing Board

NAS	National Academy of Sciences
NCES	National Center for Education Statistics
NCEST	National Council on Education Standards and Testing
NCLB	No Child Left Behind
NDA	New Drug Application
NEA	National Education Association
NELS	National Education Longitudinal Study
NME	New Molecular Entity
NRC	National Research Council
OE	Office of Education
OERI	Office of Educational Research and Improvement
OMB	Office of Management and Budget
SREB	Southern Regional Education Board
VEDS	Vocational Education Data System