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Community and Indigenous Involvement Using Discursive Democracy Principles

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Abstract

This paper describes the development of a collaborative governance approach using discursive democracy principles that was adopted in Canterbury, New Zealand, to integrate community and indigenous views into the implementation of a water resource management strategy for the region.

Water management was highly contentious with sustainability limits reached for water availability and cumulative effects of agricultural water use on water quality. The regional council, the body responsible for water administration, with 14 elected members was split with 7 members favouring further development and 7 favouring environmental protection. Decision making based on representative democracy was problematic. The impact assessment process was litigious and adversarial with most significant decisions being appealed to the Environment Court.

The regional council sought a new paradigm for decision-making based on collaborative governance and nested adaptive systems. After developing a regional strategy led by a multi-stakeholder forum with extensive community consultation, implementation programmes were developed for ten zones within the region. Zone Implementation Programmes were developed by Zone Committees with their appointment process and terms of reference based on discursive democracy, in particular, ensuring all "discourses" were represented, systematic selection of discursive representatives, specific provisions for Māori representation, face-to-face deliberations by the committee and involvement of others, and, seeking consensus but avoidance of veto power.

Introduction

There has been a significant increase in irrigation in Canterbury primarily associated with the conversion of dryland farms to dairying. While this has been beneficial to the regional economy it has also led to sustainability limits for water availability to be reached and the cumulative effects of land use intensification to adversely affect water quality. There were acrimonious debates in the regional council between pro-development councillors and pro-environment councillors. Regulatory processes, especially the impact assessment process, for water resource development were highly contentious.

Initial strategic investigations focussed on the provision of water storage to meet irrigation demand (Morgan et al 2002). This met considerable community opposition and led the regional council to develop a water management strategy for the region based on nested adaptive systems and collaborative governance. The strategy was developed through a multi-stakeholder steering group under the auspices of the Canterbury Mayoral Forum and with extensive community engagement (Canterbury Water 2009).

A new governance structure for the preparation of implementation programmes for the strategy was devised based on the principles of deliberative democracy (Dryzek and Niemeyer 2008). This paper describes the establishment and operation of Zone Committees put in place to prepare Zone Implementation Programmes. The next section summarises the concept of representing discourses in deliberative democracy. This is followed by sections on the application of discursive representation and deliberative democracy in Canterbury covering the discourses relevant to Canterbury water management, the Zone Committee appointment process, operations of Zone

Committees, and outcomes of Zone Committee processes. The final section provides concluding comments.

Discursive Representation in Deliberative Democracy

For the production of collective outcomes, deliberative democracy provides opportunities for policy proposals to be reviewed from a variety of perspectives. For decision-making all relevant "discourses" should be represented, where discourse refers to a set of categories or concepts embodying assumptions, judgements, contentions, dispositions and capabilities (Dryzek and Niemeyer 2008), i.e. a discourse refers to a shared way for people to understand the world around them.

Deliberative democracy can be distinguished from representative democracy where representative democracy is founded on the principle of elected officials representing a group of people from a defined territory and making decisions on their behalf. Election processes do not ensure that all discourses are represented. Furthermore, for many issues like water resource management, the people affected can be difficult to define spatially, e.g. whitewater rafters using a particular river can be widely dispersed geographically.

To achieve deliberative democracy, it is necessary to (i) map the constellation of discourses relevant to an issue, (ii) determine which individuals best represent this discourse, and (iii) design the deliberative institution as part of the architecture of government. Dryzek and Niemeyer identify some of the possible methods to achieve discursive representation. One approach is Q methodology which involves measuring an individual's subjective orientation to an issue in terms of ranking a series of statements about the issue. The results can be analysed to define key discourses as well as individuals to represent each discourse. Another approach is in-depth interviews with individuals or focus groups to map relevant discourses in relation to an issue and to identify representatives of that discourse. Opinion surveys can also be used but may lack the interpretative depth to define discourses and may have to be supplemented with other methods such as semi-structured interviews (Dryzek and Niemeyer 2008).

Dryzek and Niemeyer also consider the purpose of deliberations when selecting representatives for different discourses. For forums to generate ideas, people with strong association with discourses are preferred; whereas for forums to make decisions, people with moderate associations are preferred. Consensus in deliberative forums is desirable but is usually only plausible in small groups. Dryzek and Niemeyer see no justification for giving discursive representatives veto power over decisions that affect their discourse.

Discourses Relevant to Water Management in Canterbury

Initial strategic investigations in Canterbury focussed on the single discourse of increasing water availability to meet projected future demand primarily associated with further irrigation. What became clear from stakeholder engagement and community consultation for the Canterbury Water Management Strategy (CWMS) was that there were multiple community outcomes relevant to water. Ten target areas were identified that represent discourses relevant to water management in Canterbury. In addition to the discourse around irrigated land area there were discourses around drinking water, energy security and efficiency (related to hydropower generation), water use efficiency, contribution to regional and national economies, ecosystem health and biodiversity, natural character of braided rivers, recreational and amenity opportunities, environmental limits, and kaitiakitanga (Māori stewardship).

Zone Committee Appointment Process[1]

Selection Panels were established for each Zone comprising representatives of the regional council and local councils operating within the Zone boundary. Expressions of interest for Zone Committee membership were advertised and meetings held within the Zone to explain the role of the committee and its members, and to encourage applications.

Selection Panels reviewed the applications and determined a short list for interview. In addition to information on background and experience, applicants were asked about their personal philosophy in relation to water management, and a self-assessment of their perceived acceptability to various stakeholder perspectives (e.g. environmental, recreational, agricultural, energy, customary). Part of the interview required applicants to describe how they would work in a collaborative and consensus-seeking manner with others to develop the Zone Implementation Programme.

In making its recommendations for the Zone Committee, Selection Panels had to have regard for the collective experience, skills and interests of the proposed members, in particular: (i) does the Committee collectively have the breadth of skills and experience to develop a quality Implementation programme? (ii) will the Committee be viewed as being sufficiently balanced to reflect the various interests and stakeholder groups within the Zone? and (iii) does the Committee have the leadership and governance experience to conduct itself in accordance with the Terms of Reference and to monitor the delivery of the Management Plan? Selection Panel preferences for the Committee were then circulated to a range of stakeholder groups and interests for comment and for the Selection Panel to make amendments as deemed necessary.

One of the key discourses to be included in Zone Committees was the indigenous approach to water management. There was a place on the Zone Committee for each rūnanga[2] with territory in the Zone. Selection of the rūnanga representative was made by the rūnanga itself.

The selection process was designed to cover the range of discourses for water management for the Zone, to contain people who would work collaboratively to make decisions, and, to produce a collective of representatives acceptable to the range of interests in the Zone. The Zone Committees were established as Council Committees under the Local Government Act and included representatives of the regional council and each city or district council in the Zone.

Operation of the Zone Committees[3]

The purpose and function of Zone Committees as set out in their Terms of Reference were to (i) facilitate community involvement in the development, implementation, review and updating of a Zone Implementation Programme that gives effect to the Canterbury Water Management Strategy in their Zone; and (ii) monitor progress of the implementation of the Zone Implementation Programme.

The Terms of Reference also set out the operating philosophy which reflects the concept of deliberative democracy:

1) Give effect to the Fundamental Principles, Targets and goals of the CWMS;

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[1] The text for this section is drawn from Canterbury Water (2010a).
[2] Māori groupings centred on the whanau (family) and hapu (sub-tribe) of marae (tribal meeting place) based communities.
[3] Text for this section is drawn from Canterbury Water (2010b).

2) Be culturally sensitive observing tikanga Māori;

3) Apply a Ki uta ki tai (from the mountains to the sea) approach;

4) Work with the CWMS Regional Committee to support the implementation of the CWMS across the region as a whole;

5) Give consideration to and balance the interests of all water interests in the region in debate and decision-making;

6) Work in a collaborative and co-operative manner using best endeavours to reach solutions that take account of the interests of all sectors of the community;

7) Contribute their knowledge and perspective but not promote the views or positions of any particular interest or stakeholder group;

8) Promote a philosophy of integrated water management to achieve the multiple objectives of the range of interests in water;

9) Seek consensus in decision-making where at all possible. In the event that neither unanimous agreement is able to be reached nor a significant majority view formed, in the first instance seek assistance from an external facilitator to further Committee discussions and deliberations. Where the Committee encounters fundamental disagreements, despite having sought assistance and exhausted all avenues to resolve matters, recommend that the respective Councils disband them and appoint a new Committee.

Outcome of Zone Committee Processes

Implementation Programmes have been prepared for each Zone and have generated a paradigm shift in Canterbury water management. Operational implementation is still a work in progress and further change is needed at the operational level (Jenkins 2018). While Implementation Programmes are non-statutory, they have formed the basis of statutory plans and have guided water management initiatives for the Canterbury region.

Zone Committees have also been instrumental in resolving some of the contentious water management conflicts. One example was a proposal by the Hurunui Water Project to dam the South Branch of the Hurunui River that was in conflict with an application by NZ Fish & Game and Whitewater NZ for a Water Conservation Order to protect the Hurunui River. These formal statutory processes under the Resource Management Act were set aside to see if informal collaborative processes of the Zone Committee could achieve an agreed storage strategy. The Zone Committee recommended investigation of a storage on the Waitohi River, a tributary of the Hurunui, with water diverted from the Hurunui but allowing for a free-flowing river to maintain its fish habitat and whitewater rafting values. When the resource consent application for this alternative by the Hurunui Water Project was publicly notified very few submissions were received compared to over a 1,000 (predominantly negative) submissions on the original proposal (Jenkins 2013).

Another outcome of the implementation programmes has been increased involvement of Māori in the governance and management of water. One example has been the development of Whakaora Te Waihora - a restoration programme for Te Waihora/Lake Ellesmere of cultural significance to Ngāi Tahu (the Māori tribe whose rohe (tribal territory) includes the Canterbury region).

Conclusion

The change from representative democracy to deliberative democracy, and a reliance on informal collaborative processes rather than formal regulatory processes have led to a paradigm shift in water management in Canterbury. While implementation is still in train, significant progress has been made towards sustainable water management, community conflict has been reduced and indigenous involvement has increased, but there is further significant work to be done.

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