

Policy By Design: The Elusive Link Between Problems and Policies

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Abstract

This paper re-examines the connection between problems and solutions in policy theory, starting from the constant tension in policy analysis between policy and politics. Politics is often seen as the enemy of good policy because the political work that has to be done in the course of coming to a decision is usually downplayed in favour of an allegedly rational connection between problem and solution. Noting that the activity of making connections is clearest at times of institutional ambiguity, the paper analyses the decision making process in the Great Bear Rainforest dispute in coastal British Columbia, drawing on concepts from ordinary language philosophy and the historiography of political thought.

1. Introduction¹

As Frank Fischer has argued, the development of public policy studies as a discipline has been a largely Anglo-American phenomenon (2003, 1). As a result, both the object of study – “public policy” – and the distinctive methods of policy analysis have largely been constructed out of key elements of American social science, from the pioneering efforts of Lasswell, through the establishment of canonical teaching texts like those of Jones (1970), Anderson (1975) or Dunn (1981), to contemporary reviews of the field such as Sabatier (2007). True enough, under the influence of scholars working in other countries or coming out of different theoretical traditions, there is now a greater diversity of approaches and analytical techniques in circulation. Handbooks of policy analysis with any ambitions to comprehensiveness now routinely include discursive and other post-positivist approaches. Sabatier himself, with a great deal of self-congratulation at his own broad-mindedness, has included a chapter on policy networks written from a European perspective in the latest edition of *Theories of the Policy Process*. A hundred flowers are blooming and a hundred schools of thought contend.

Nonetheless, shaking off old orthodoxies is not as easy as just adopting new methods and approaches in a spirit of pluralism and catholicity. As scholars working in the tradition of discursive analysis should be well aware, modern policy studies now exhibit many of the features of a Foucauldian episteme. As constitutive features of policy studies there are deeply embedded strategic assumptions about the nature of “policy” itself, assumptions that serve to separate out the range of questions that appear worth asking from those that are only idle speculation. Our objective in this paper is to trace out the implications of one of these strategic assumptions, that policy itself is a kind of applied problem-solving and, hence, that policy studies should be directed towards improving the likelihood that problems will be successfully solved.

The problem solving orientation is certainly foundational in *policy studies*, being one element of the classical Lasswellian trilogy: contextuality, a problem-orientation, and a diversity of methods (1971, 4). From here, it makes its way into definitions of *the object of study*, for example, Les Pal’s suggestion, familiar to a generation of Canadian students, that public policy is a course of action or inaction undertaken by public authorities in response to the perception of a problem (2006: 2). After that, it is short step to many of the central concerns of modern policy analysis, from the focus on improving problem definition in policy design, to theories of the choice of policy instruments conceived as problem-solving tools, the evidence-based policy movement, and the ubiquity of logic models in policy evaluation.

Of course, the conception of policy as applied problem-solving cannot be completely jettisoned, not least because it captures a crucial dimension of how most modern governments understand their business. Lasswell (1951) and the other pioneers of policy studies were not wrong to point out that policy studies need to have a problem orientation

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precisely because, over the course of the twentieth century, the modern state increasingly came to see itself as confronting and resolving a series of problems through interventions described as “policy”. The temporary popularity of neoconservatism notwithstanding, the reaction of most policy makers to widespread evidence that their interventions were failing was not to give up but to try harder: to tackle implementation deficits, to practice better coordination, to commission more research and direct it towards evidence-based policy making, and so on. In our own time, the idea of policy as applied problem-solving is more firmly entrenched in government than ever and this is no bad thing.

Our aim in this paper is not to try to swim against this powerful historical tide. It is the more modest one of pointing out the characteristic blind spots and evasions that the strategic assumption of applied problem-solving creates for policy studies and to propose some evasive measures, tactical manoeuvres that, *inter alia*, allow post-positivist methods the space that they need to flourish. Perhaps the most important of these evasions is the depoliticization of what, in the real world, is the very messy business of identifying problems and attaching solutions to them.

The problems caused by setting policy and politics against each other are by no means unknown or unstudied. At least since the renewed interest in agenda-setting and problem definition in the 1980s, we have been aware that the process of coming to agreement on the nature of a problem and the decision to adopt a particular solution to it is an intensely political one. In fact, it is less about reaching agreement in some idealized sense of achieving consensus as it is about overcoming opposition until only one version is left standing, a process of “decontestation”. Even where the political process of contestation and decontestation is clearly acknowledged, attempts are still made to insulate it from policy and decision making, as in Murray Edelman’s distinction between symbolic politics as contest leading to differentiation of friends and enemies and the concrete activity of government leading to decision and policy (Edelman 1964; Ranciere 1998). Our aim is to restore the essential connection between politics and policy in the sense by exploring how the contest of friends and enemies is subject to decontestation resulting in decision.

At this point, discursive policy analysis comes on the scene as a powerful tool for understanding decontestation and finds an opening in what was once an exclusively positivist conception of choice, agreement and decision. But an applied problem-solving orientation will inevitably regard politics as a distraction from the business of discovering the “real” problem and deciding on the “best” solution. On this view, the tools of discursive policy analysis may very well help us understand how problems fail to be identified and sub-optimal solutions are adopted but they remain tangential to improving problem-solving capacity, which is one reason why professional policy analysis in Canada remains so relentlessly positivistic, dominated by economics (Dobuzinkis et al. 2007).

Equally important, failure to unravel the role of discourse in the micro-practices of coming to agreement is also behind persistent skepticism about the explanatory power of discursive approaches to policy-making. It seems obvious that decisions are to be

explained by the “pressures” exerted on the decision maker by various interested parties and it’s hard to see how ideas can exert pressure in this way. So, disregarding the metaphorical nature of “pressure” and explanations derived from it, explanations are interest-based – even when interests are constructed in sophisticated ways as communities and networks – and discourse becomes the realm of obviously inert “ideas”: rationalizations or road maps according to taste.(Majone 1989; Goldstein and Keohane 1993)

Our own strategy is to return to the early concerns of policy theorists with *decision making*, a micro-level concept, and to resist premature aggregation of the decisions of the various actors involved into something identified as *policy*. As a meso- or macro-level concept, policy is already the aggregation of a whole series of decisions, the outcome of the process we have described as decontestation. Problematizing the concept of policy (and hence escaping at least momentarily from understanding policy as applied problem solving) means looking behind the routine and stable set of agreements that *are* policy in favour of the innovative and unstable moves by means of which policies are constructed..

Understanding how the policy sciences have generally come to overlook decisions in favour of policies is an exercise in genealogy. In the next section, March and Olsen’s classic article on the new institutionalism will be presented as the critical turning point, one in which the difficulties encountered by the early science of decision making provided powerful and persuasive reasons for adopting a particular conception of policy that has had the (probably unintended) effect of covering over the political process of decontestation. In the third section we discuss the contemporary interest in performative discourse as a resource for the micro-analysis of decisions, stressing the importance of the conventional background for understanding how performatives work. In the fourth section we provide an example of the manipulation of conventions in a brief case study.

2. From decision making to policy making and back again?

2.1 Decision-making: the cognitive behavioural model

How did we come to lose sight of the politics of agreement, of the work that has to be done to achieve decontestation and move a group of decision makers forward towards something that can later be represented as attaching a solution to a problem? The early work on decision making in organizations did at least have the decision as the key object of analysis but it was soon subject to powerful critique. The first strand of this critique compared the theories with the reality of decision making in organizations, noting the unrealistic assumptions of unlimited time and costless information (Simon 1957). The second, and for our purposes more significant, critique noted how “thin” the organizational context had become, often treating organizations as unitary actors without regard for how the members of organizations came to agree on organizational goals (if they ever did) and how conflict within organizations was managed and contained (March 1962).

As is well-known, it was the first critique that had the most influence on the policy sciences, drawing on path-breaking work in economics on asymmetries of information and calculation under conditions of uncertainty, and fitting comfortably into the applied

problem-solving orientation. Although there was distinguished sociological work on how organizations manage conflict that could have moved the second line of critique forward (Kaufman 1960), it fitted the dominant episteme much less well. The emphasis of the first critique was on the way that cognitive processes caused actors to recognize problems and to arrive at conclusions (solutions). Presumably, similarly situated actors using the same cognitive procedures would arrive at the same conclusions. Two features of this approach stand out. First, there is the primacy of the problem: problems come first and the nature of the problem determines both the kind of cognitive process needed to solve it (Simon 1973) and the nature of the solution (understood as the conclusion of line of reasoning). Second, the work of reaching agreement simply disappeared. Conflict, in the sense of failing to reach agreement on solution, was certainly a puzzle but the emphasis was on explaining how actors came to “misconceive” problems and solutions, through what were regarded as pathologies of political life (such as propaganda) or of personality (Lasswell 1977).

2.2 *The New Institutionalism*

Thus, when March and Olsen launched their classic attack on the narrow theoretical vision that excluded organizational factors from political life, that vision was recognizably the one that animated the cognitive behaviouralist theory of decision making. The orthodoxy was, they argued, *contextual*, in the sense of embedding politics in society rather than differentiating the one from the other; *reductionist*, in seeing politics as the aggregation of individual decisions; *utilitarian*, in ascribing calculated self interest to the agents making these decisions; *functionalist*, in believing that history tends towards equilibrium and balance; and *instrumentalist*, in holding that decisions about the allocation of resources rather than decisions about the allocation of meaning are the stuff of politics (March and Olsen 1983).

As we might expect, the rejection of the orthodoxy reopened the question of the politics of decision making. The fact that it did not satisfactorily resolve this question bears further examination. March and Olsen identified the central elements of “the new institutionalism” as follows:

(to) deemphasize the dependence of the polity on society in favor of an interdependence between relatively autonomous social and political institutions; (to) deemphasize the simple primacy of micro processes and efficient histories in favor of relatively complex processes and historical inefficiency; (to) deemphasize metaphors of choice and allocative outcomes in favor of other logics of action and the centrality of meaning and symbolic allocation (1983: 738).

Two aspects of the critique should be noticed at once. First, the argument throughout is one of degree. The problem is diagnosed as one of emphasis and the solution is to “deemphasize” elements of the older vision, not to replace them entirely. Second, and related to the first point, if pushed to extremes, the ideas proposed under the “new institutionalism” rubric are by no means mutually consistent and hence cannot be adopted without qualification. For example, as they noted immediately after the passage just cited, it is difficult to propose treating institutions as rational actors while simultaneously

undermining the idea that political action is adequately described in terms of rationality and choice. Clearly, on March and Olsen's account, renewed attention to organizational factors in political life is intended as a corrective to mainstream political science, not as a wholesale replacement, a warning not always heeded by the various schools of institutionalism that were developed over the next two decades.

As March and Olsen argued, the key claim of the new institutionalism was a simple one (and once again expressed in the language of degree): "(it) emphasizes the part played by institutional structures in imposing elements of order on a potentially inchoate world." (1983: 743) For understanding decision making, the most important argument derived from this claim turned out to be the seemingly innocuous observation that, underlying non-institutional theories of choice, is the assumption that "things are ordered by their consequential connections", in the sense of means linked to ends, causes to effects, solutions to problems and so on. Institutionalism, on the other hand, alerts us to the possibility of other kinds of ordering, particularly the importance of temporal ordering: "things are connected by virtue of their simultaneous presence or arrival". And, of course, although there may be natural patterns of presence and arrival, such as the seasons, institutions play a central role in determining sequence, presence and absence. Hierarchies impose one kind of ordering of decision makers and choice opportunities, for example, while markets and networks impose and enable a quite different order.

While the discussion of temporal ordering has received most of the attention, the truly liberating move here is the problematization of the idea of consequential connection, undermining the seeming inevitability of a whole series of common sense categories that purport to offer explanations of how ordered sequences come about. Once the connection between problem and solution has been put into question – the one is not the simple consequence of the other – the way is open to investigate the connection as an empirical rather than a logically necessary or "natural" one. And this, of course, is just what March and Olsen did in their own studies of decision making, most notably in their work on garbage cans where problems, solutions, decision makers and choice opportunities are independent of one another and the outcome largely determined by arrival and departure times of elements in each stream.

2.3 Decision-Making According to the New Institutionalism

March and Olsen were always clear that the garbage can described an ideal-typical decision context whose features had been isolated and exaggerated for analytical purposes. Very few real world decision contexts even approximate garbage cans (with the possible, and for those who inhabit them, significant exception of universities). Most institutions impose sufficient temporal order on the elements of a decision that institutional explanations will be called upon to make the connection between problems and solutions. However, the garbage can idea proved sufficiently intriguing that there were attempts to model elements of policy decision-making this way, notably John Kingdon's "three streams" model of agenda setting in the US federal government, elaborated in *Agendas, Alternatives and Public Policies* (Kingdon 1995).

Setting aside the larger question of the applicability of the garbage can model to the cases analyzed by Kingdon, the elements of this new way of attaching problems and solutions are admirably clear in his work. First, the primacy of the problem is replaced by the primacy of the solution:

(p)people do not set about to solve problems here. More often, solutions search for problems. People work on problems only when a particular combination of problem, solution and participants in a choice situation make it possible (1995: 86)

Second, conflict and the work of reaching agreement is reintroduced, both in the idea that the politics stream is an integral part of the decision context and in the claim that solutions are attached to problems by “coupling” the otherwise independent streams together. Third, and perhaps because he is focusing on agenda setting and problem definition, Kingdon himself studies *policy elements*, rather than policy as the macro level outcome of a process. That is, he is concerned with specific proposals like building a subway system or introducing a smoking ban in federal buildings rather than transportation or health policy.

Nonetheless, there are significant difficulties with Kingdon’s account of how solutions are attached to problems, difficulties that are all prefigured in his choice of words in the passage just cited: ‘solutions search for problems’. Lacking agency, of course, solutions can’t literally search for problems but the same love of metaphor that we find in the “garbage can” itself runs right through Kingdon’s descriptions at the very point where we need a careful delineation of how order is imposed on chaos (to use March and Olsen’s phrase). Thus we learn that policy specialists “float their ideas up and the ideas bubble around in ... policy communities” (87) at which point a “selection process” causes some to be taken seriously and others discarded. Problems come to “capture the attention of people in and around government” (ibid). Politicians are attentive to swings in the “national mood” and, of course, the famous policy windows open and close. These examples could be almost endlessly multiplied. Few works of policy theory are so readable (and so memorable) but at such a very high cost in precision and explanatory power.

Ultimately, Kingdon’s metaphors obscure his key assumption that problems and solutions are essentially different kinds of things, existing independently of each other (Bendor et al. 2001). That is, that they are not just analytically distinct but conceptually or even ontologically distinct. While doubt has already been cast on the independence of the streams, we wish to push the analysis back a stage: the policy and the problem streams can’t be assumed to be distinct because the distinctiveness of problems and solutions is an empirical question. It is certainly true, as Kingdon argues, that what *look like* identical policies (“solutions”) are often proposed as solutions to a series of different problems. In his famous case of mass transit, transit is proposed as the solution to urban air quality, traffic congestion, energy conservation and now the reduction of greenhouse gas emissions. Similarly privatization appears as the solution to the problem of inefficient public services, excessively powerful public sector unions, budget deficits, and offering wider consumer choice. These examples make it seem obvious that the streams are

independent and that any solution can be attached to any problem given the right timing and the opening of a window.

On our account, however, the independence of problems and solutions is an artifact of decontextualizing real policy proposals – the extension of *this* subway line or the introduction of bus lanes into *that* city – and grouping them altogether as “mass transit”. The move itself is characteristic of policy debate, often an exercise in framing a policy element to attach it to a more stable policy sector. It should be resisted in analysis, where the work of silencing or bringing-around opponents, shopping for advantageous decision-making venues, and building a winning coalition is going to result in quite distinctive understandings of what the problem is and what specific policy elements can be proposed as a solution. These elements will likely be drawn initially from contexts where problems and solutions have already been attached by decontestation and then handed on to new contexts for new contests to take place.

On Kingdon’s own account, of course, the work of reaching agreement is mainly performed by policy entrepreneurs, another significant contribution to the policy literature: “and what makes the coupling of the streams? Enter again our already-familiar acquaintances, the policy entrepreneurs.” The policy entrepreneur, Kingdon tells us, is both advocate and broker, pushing proposals in a policy community with a view to making them seem familiar and commonsensical, but also negotiating with others and “making the critical couplings” (183). And, in a key passage, he tells us that this focus on brokering shifts attention from the perennial question of where ideas come from to how they become effective: “(m)utation turns out once again to be less important than recombination. Inventors are less important than entrepreneurs” (ibid).

With its emphasis on the political work being done by the broker to bring about agreement by convincing others and the implication that there are familiar policy elements in circulation that can be combined and recombined into new configurations, this explanation of how solutions are attached to problems is a huge advance on the cognitive behavioural model. It triumphantly vindicates the larger institutionalist turn in political science and policy studies proposed by March and Olsen. But it still has strong overtones of a discredited philosophical idealism in the suggestion that policy entrepreneurs latch on to free floating “ideas” and it remains maddeningly imprecise about the nature of brokerage itself. Voluntarism has replaced behaviourism but we are no closer to being able to give a causal account of how and why a decision is made.

3. Discourse and Decision

3.1 Discursive effects: the case of performatives

The discursive turn in policy studies has taken place at a number of levels. In keeping with our general orientation in this paper, we are concerned with the micro-level, the specific discursive practices that could provide a more adequate explanation of decontestation and decision-making. We are, thus, agnostic about the implications of a discursive approach to the debate between constructivists and realists or of macro-

political concepts like “discursive formations” that are used to characterize large-scale social and political institutions.

Our interest in discourse is a more modest one. As we saw in the previous section, if we allow problems and solutions to become conceptually distinct, the result is necessarily either the primacy of the problem or of the solution, in large part because each is understood as a stock of “ideas” – transit, privatization, carbon taxes - somehow floating free from their use in particular contexts where they are “ideas-in-action”, their meaning fixed by agreement.. So our first concern is with various efforts to operationalize a conception of ideas-in-action, efforts that stress the productive use of language to bring about effects in the world. We will argue that the problem-solution connection is an effect of discourse at this level and that the identity of the policy elements is always dependent on the context in which the connection is actually made. The appearance of a generic solution being applied to a particular problem is an artifact of policy itself.

There have been a number of efforts rooted in different philosophical traditions to identify how discourse brings about effects in the world. In this paper we focus on just one strand, the approach to language found in the later philosophy of Wittgenstein, particularly in his concept of language games and “meaning in use”, and in the so-called ordinary-language or Oxford philosophy (Austin and Searle).² The work of the latter group on “performatives” has recently been recovered for policy analysis by Martin Hajer (2004) but there is a neglected development of Austin’s ideas by the Cambridge school of historians of political thought (Skinner, Dunn, Tully) that is also worth pursuing. In all these cases, the focus is not so much on the more commonly studied *constitutive* role of discourse, the part it plays in framing an issue, in assigning parts to the actors, and in distinguishing what counts as a valid contribution from an invalid one (although these remain important), but in its *productive* role. In the formulation made famous in the title of J.L. Austin’s (1962) study of performatives, it is about “how to do things with words.”

The perennial appeal of Austin’s work for social scientists lies in its concern with the background conditions that must be fulfilled for people to be able to do things with words, the norms, rules and expectations of language games that form a bridge between this kind of linguistic analysis and institutionalism. In his later writings, Austin distinguished between two different performative uses of language, perlocutionary and illocutionary acts. In the former case, my uttering the appropriate words in the appropriate context actually causes a particular outcome: “I name this ship ...”; “I hereby pronounce you man and wife”; “I sentence you to life imprisonment”; and so on. Here, the role of the background conditions is absolutely central. I can’t just go up to two people in the street and marry them or cause them to be imprisoned simply by reciting a formula. We are in the realm of ritual and ceremony backed by authoritative warrants.

² We are here avoiding the debate about the extent to which Oxford ordinary language philosophy owed anything to a reading of Wittgenstein (or “Witters” as Austin apparently referred to him); interestingly, the Cambridge group discussed below began with Austin’s vocabulary and distinctions and moved closer to recognizably Wittgensteinian position in their later writing.

Perlocutionary acts are certainly one way that decisions are made: an office holder is authorized to make a decision and does so using the appropriate legal formula, authoritatively linking problem and solution (although *why* she should do so is a question that is, of course, not settled merely by appealing to the convention explaining *how* she can do so). Moreover, as Hajer (2003, 2005) has convincingly demonstrated, a great deal of contemporary policy discourse now takes place in various kinds of fora characterized by rules and expectations that have a distinctly formulaic aspect even if they are not the kinds of legal-authoritative formulae used by Austin. Hajer's examples are especially important because they take place under conditions of institutional ambiguity. The participants are literally making up the rules for successful performance as they go along, revealing the basis of decontestation in agreement over how to produce an outcome, a process that is usually concealed by the existence of conventional understandings of what constitutes successful performance.

Thus many of Hajer's examples actually shade into a different kind of performative, illocutionary acts, where the speaker brings something about by causing others to respond in a particular, conventional way. This may be done directly, as in "please close the window", but also in less direct ways, such as "isn't it rather cold in here?" or "where is that cutting draught coming from?" These latter examples of "indirection" obviously shade into other interesting uses of language where the speaker says one thing but means another, such as metaphor and irony ("training for an Arctic expedition?"), and finally into non-verbal communication where I pointedly put on a sweater or shiver and rub my hands together while looking around for the source of my discomfort. As we shall see, agreement that an indirect performative has been successfully carried out is a key part of decontestation where agreement is being sought in a highly contested policy context.

In Hajer's examples of the debate about building on Ground Zero, the case is characterized by *extreme* institutional ambiguity: the political decision is not to decide but to wait for a proposal with sufficient popular support to emerge. Thus, as he noted, the decision on what to build was inextricably intertwined with the question of how to decide. The enormous symbolic significance of the decision here meant that no one was really sure about the background conditions for a successful performance. As an extreme example of Hajer's "discursive polity", a free floating space beyond the constitutional rules of the polity itself, the Ground Zero deliberations reveal the difficulty of proceeding without conventional understandings of what counts as making a move in a game. In fact, of course, no progress at all would be possible if such conventional understandings were completely absent. Hajer's account shows the efforts of actors to use the different discourses in play to link to more conventional understandings, eventually converging on a shared agreement that the "attack on democracy" should be answered by a participatory process to decide what to do with the site. From here, it was possible to approve some moves and rule out others and, eventually, to come to a decision.

3.2 New discursive effects: manipulating conventions

The contribution of the Cambridge School was to focus on these background conventions in the special case of political arguments found in texts. As Tully (1983) makes clear in his review of Quentin Skinner's work, the objective of the Cambridge School (and its

relevance for us) was not to provide another interpretation of these texts, but to give an account of their contribution to political action in a particular historical context. What Skinner took from Austin was the idea that his object of study will be composed of a changing set of ideas in action, where what authors are doing with words is available to readers because of shared rules and expectations *in that context*. Thus Skinner's interest in the background conventions that allow discourse to be performative is located in a specific context of political action. Recovering these conventions becomes an exercise in what Tully calls historical pragmatics, to distinguish it from Habermas's aspiration to construct a universal pragmatics from the latter's own reading of Austin on conventions.

The Cambridge School drew two general conclusions from their study of ideas in action. First, the discourses they studied had clear transformative potential. At one level, transformative capacity was a necessary implication of the appearance of new ideas and arguments. Authors are not condemned to endlessly repeat themselves, so there must be ways of using language to reflexively modify conventions, achieving new effects. The principal conclusion drawn from their analysis was the Wittgensteinian one that changing conventions to achieve new effects was necessarily the work of piecemeal modification. That is, much of the shared background has to stay in place for a novel move to make sense, even to be identified as a novelty. This is a very significant conclusion for policy studies, where it is common to talk about the transformative potential of ideas as their 'effects' on an independently specifiable world of actors, institutions and policies. If that world is not independent, then we are looking for *interaction effects* rather than one-way causal linkages. (Schmidt and Radaelli 2004: 195-197)

Second, therefore, one of the most important of these interaction effects is the power of conventions to stabilize meaning by restricting what can count as a legitimate move in a particular game

Thus the problem facing an agent who wishes to legitimate what he is doing at the same time as gaining what he wants cannot simply be the instrumental problem of tailoring his normative language in order to fit his projects. It must in part be the problem of tailoring his projects in order to fit the available normative language (cited in Tully 1983: 496).

In policy studies, this is the problem of "entrapment", sometimes treated as a kind of transformation in which policy entrepreneurs succeed in trapping their publics in the rhetorical implications of a particular normative language (Schmidt and Radaelli 2004) but more interestingly where decision makers end up failing to tailor their projects to the normative language on which their previous successes have rested, as in Schmidt's (2007) study of French elites' inability to "sell" the European constitutional changes in the 2005 referendum. In this latter example, the "European project" had conventionally been presented to the French electorate as enabling French leadership in Europe and protecting the French economy from the destructive effects of globalization. While neither argument was especially plausible in 2005, Schmidt shows how elites seemed unable to break out of this conventional attachment of problem and solution: in a telling, televised moment, President Chirac responded to the claim that the EU was "too liberal" by reasserting his (increasingly implausible) determination to fight the Anglo-American

neoliberal agenda rather than confronting the assumption that liberalism was something imposed by Brussels (Schmidt 2007: 17-18).

If discursive effects are interactive in this way, with background conventions allowing us to do things with words, including partially modifying the background conventions themselves, the analysis suggests a fundamental flaw with the idea of the independence of problems and solutions. Once we jettison the view that problems and solutions are “ideas”, existing independently of ideas-in-action, it is clear that solutions are already attached to problems and vice versa. We can’t fit solutions to problems by inventing a discourse in which an independently specifiable solution seems the obvious answer to an equally independent problem; there will already be a number of conventional moves which have connected these elements and which provide the basis for actors to understand what they are “doing with words” when they make such a proposal. The choices are to maintain the conventional connections, perhaps in a deliberate strategy of entrapment, or to attempt a transformative move that may encounter resistance or even outright incomprehension. A nice example of resistance is provided by Hajer in his account of the Listening to the City forum, a giant consultation exercise at which 5000 invited participants were invited to discuss the six original plans to rebuild the Ground Zero site. He quotes one participant:

...my own strained ability to participate in well-behaved Nielson-family fashion finally evaporated when [the professional facilitator] (‘give yourselves a nice round of applause’) embellished her script with a brief pep talk on how the meeting was as democratic as all get out because ‘in democracy, the people have a chance to speak!’ Seizing upon this right, I rose to my feet to shout ‘Buuuulllllshiiiiit! [sic] Democracy means the people have the power to choose! (2004: 22-3)

Enough of the other participants obviously felt the same way, as the outcome of the exercise was to reject all six plans, to send the architects back to the drawing-board and to engender new attempts to reconcile expert knowledge and participatory engagement. But this example of a happy performative could never have been achieved without appealing to a set of background conventions about democracy – it was acknowledged as a successful move in game, more successful than the attempt at therapeutic consensus building (“give your selves a nice round of applause”). As our case study shows, in real political conflict over decisions, entrapment often follows transformation in a process of move and countermove in which transformation becomes the precondition for entrapment, decontestation and ultimately the stabilization of discourse.

4. The Great Bear Rainforest

The complex and ancient landscape of steep forested slopes, mountains and fiords on the coast of mainland British Columbia that eventually came to the world’s attention as the Great Bear Rainforest also has a more prosaic designation: the Central and North Coast Land and Resource Management Plan (LRMP) areas. The story of its transformation from the one to the other and back again and what happened to the identity of problems

and solutions along the way illustrates the importance of the performative dimension of discourse in understanding ideas in action.³

More than 90% of the land area of BC is publicly-owned Crown land. From this fact flows several enduring features of the land use planning regime in the province. First, the BC government has constitutionally-protected jurisdiction over the disposition of the resources on and under Crown lands and, as a result, will always be the central actor in land use planning unless it chooses not to exercise its legislative jurisdiction or ownership rights. Second, the extent of the forest resources and the historical importance of the forest industry in the province have meant that land use planning began as forest planning and evolved into “forest planning constrained by other uses”. New initiatives aimed at taking a more integrated or holistic approach to resource management planning have had to contend with significant policy legacies bequeathed from these earlier efforts. Finally, given the huge size of the resource, there has always been a tension between central direction and the centrifugal pull of the regions, especially once local public involvement became a recognized part of land use planning.

As a consequence, decisions about the disposition of Crown forests between active forest management, preservation, and other uses has been intensely political ever since the 1970s when the fledgling environmental movement first clashed with proponents of plans to intensify forest management activities over most of the accessible forest. Although defenders of the plans pointed out that at least half of the forest was never likely to be logged because of the expense of accessing difficult terrain, the preservation movement quickly contested the idea that preservation could be measured by the aggregation of areas of forest widely dispersed across the province. They countered with the argument, derived from conservation biology, that the key was to preserve intact large-scale functioning ecosystems, especially those that had never been subject to industrial logging. By the late 1980s maps were being produced showing the extent of “fragmentation” of old forests by human activity, especially logging, and projecting further fragmentation as long-term forest management plans began to be implemented.

The connection of preservation with the idea of avoiding fragmentation is especially important because it confronted head on the argument that modern forest management, by rapidly replanting logged-over areas and engaging in silvicultural practices like spacing and thinning, maintains a stable or even expanding forested area. A popular sticker of the period read “a tree farm is not a forest” and the claim was connected to science through the argument, supported by many conservation biologists, that large-scale intact ecosystems preserved native biodiversity that was at risk from forestry practices on the rest of the forested landscape. The central coast of BC was frequently highlighted on such maps as containing the largest intact areas of temperate rainforest in the world. Lacking roads and railways, such logging as had taken place was confined to areas with easy access to water and rarely penetrated farther inland.

³ For a favourable account of the process, see Smith et al. (2007); for the “rejectionists”, see Lee (2005); background information on the process itself can be found at the online archive maintained at <http://ilmbwww.gov.bc.ca/slrp/lrmp/surrey/cencoast/index.html>

The central coast is not, of course, empty. It contains significant First Nations communities, their numbers once seriously depleted from contact with the settler population but now beginning to rebound. Like most BC First Nations, they were never invited to surrender their rights and title over their traditional territories by treaty and recent Canadian court decisions have confirmed aboriginal rights and title in these circumstances and imposed on governments a duty to consult with First Nations where their activities or those of their agents and lessees may infringe rights and title. In this environment, most First Nations have avoided taking part in government-sponsored planning processes, arguing that they are another government, not a stakeholder, and that any other course of action might jeopardize their claims. As expected, when the BC government moved to include the Central Coast in its comprehensive participatory land use planning process, the First Nations largely stayed away.

What was unexpected was that everybody else stayed away, too. The LRMP process was a classic example of late twentieth-century participatory planning offering almost unlimited opportunities for involvement by different groups and organizations but in a highly artificial context, constrained by many other key policies which were off the table and pitting interests against each other in spite of the rhetoric of consensus. The key environmental organizations, mainly international NGOs with significant membership in the US and European markets to which the forest products companies exported, were already tired of the LRMP process. In other parts of the province, it was clear that business as usual went on while the interests deliberated, foreclosing one option after another (Wilson 1998). The NGOs demanded a moratorium on logging in the planning area while the LRMP was under discussion and when they didn't get it, they not only refused to take part but instituted highly effective boycotts of BC forest products from companies operating on the Central Coast. To the fury of the BC government, the companies then also abandoned the LRMP process, instituted a partial and completely unauthorized logging moratorium covering areas that were candidates for protected status, and began negotiating directly with the NGOs in what was called the Joint Solutions Project (JSP).

At this point, the government was clearly staring down the institutional void. While only they retained the legal authority to make land use designations, they seemingly lacked the ability to make such designations effective. Without the support of the companies, who logged and processed timber, the environmentalists, who could make the processed products effectively unsalable, and the First Nations, who could tie up land use designations in court battles for years, even decades, legal designations would be a dead letter. As we have argued, institutional ambiguity lacks the conventional texture of ordinary performative discourse and reveals the actual work of decontestation, reaching agreement and, possibly, the stabilization of new set of discursive conventions. As Hajer has argued, it also has a much more explicitly performative dimension in which the elaboration of agreement through discourse takes a back seat to more dramaturgical production:

... we see political processes as a sequence of staged performances of conflict and conflict-resolution in a particular setting ... These performances are a shared production

in which actors might be positioned in the role of audience for a while but nevertheless always contribute to the performance (2005: 630)

In this case, the performative elements included visits by First Nations' leaders in traditional dress to European capitals, the renaming of the Central Coast planning area "the Great Bear Rainforest" and the adoption of the so-called "Spirit Bear" (a rare subspecies of the North American black bear with white fur, found only in the planning area) as the symbol of the rich biodiversity allegedly at risk from logging, and the mobilization of a whole series of hitherto dormant or marginalized actors, ranging from hyperactive schoolchildren to the Vancouver social elite, in a series of carefully staged contributions.⁴

However, what this case also clearly shows is that, while schoolchildren writing to the Premier, dressing up as bears, or crashing royal visits to talk to about saving the rainforest helped make the government take the JSP seriously as a venue for coming to the agreement, that agreement itself needed more than theatre. It was achieved in a series of discursive moves in which the government first accepted that planning, particularly about areas to be protected from logging, the rate of cut on the rest of the landscape, and the particular forestry practices to be allowed, should be decided according the principles of ecosystem based management (EBM). EBM is a quasi-scientific discourse favoured by many professional ecologists and conservation biologists, in which resource extraction is limited by the goal of maintaining "healthy" ecosystems. While the concept of a "healthy" ecosystem remains a matter of dispute amongst biologists, EBM is at least a relatively stable discourse producing and validating claims to expert knowledge. So the second key move was for the JSP participants to agree with the government on an expert panel (the Coast Information Team [CIT]) whose decisions about the extent and location of protected areas and the appropriate logging practices outside them would be accepted by all parties. This, after a certain amount of negotiation, they did and the JSP was rolled back into the LRMP process.

The outcome was as we would have expected. To get an agreement it was necessary for all parties to tolerate, even encourage, institutional ambiguity and make a series of novel, one-time agreements on process and outcomes. To move forward, these outcomes had to be "re-inscribed" in policy, which was achieved by bringing the parties back into the officially sanctioned planning processes. The recommendations of the CIT for protected areas could then receive legal designation under the authority of the various statutes governing such designations and the areas under active forest management given "land use objectives" under the province's controversial *Forest and Range Practices Act* (FRPA). Under FRPA, licensees are responsible for outcomes rather than adhering to a particular set of practices. They are required to produce Forest Stewardship Plans that, in the opinion of a government forest manager are "not inconsistent with" the relevant land use objectives, not a particularly onerous requirement.

Here is a classic example of what Tully calls "tailoring a project to fit an available normative language." Unable to proceed according to its own conception of how Crown

⁴<http://www.forestethics.org/article.php?id=1609> ; <http://juliapelish.com/blog/2008/04/23/vancouverites-rejoice-great-bear-rainforest-and-raise-60-million/>

forests should be managed and interests accommodated, the government negotiators recast the project of asserting control over the forests of the Central Coast in the normative language of their opponents, accepting what they had previously condemned as “unscientific”, the concept of ecosystem health. But notice how that normative language and its central concept are modified in the process of decontestation. They have to be operationalized in an existing policy context characterized by a deeply entrenched socio-technical system, modern forest management. In the course of reaching agreement, EBM becomes a set of principles and ecosystem health a set of indicators backed by the authority of the CIT, which is nothing other than the agreement of the parties that the CIT is composed of experts and that everyone will accept their conclusions.

Perhaps equally significantly, the government has pushed back by announcing that the process by which these outcomes were achieved was a one-time concession to address the unique issues of the Central Coast. In other words, they have denied that the moves made by themselves and the JSP can be regarded as the conventional background for future planning efforts. While the outcomes have been inscribed in existing policy; the policy itself has not been modified as a result of the various (successful) illocutionary innovations that allowed these outcomes to be reached. There is to be no *conventional* move that would allow this particular indirect illocutionary act – rejecting the official planning process while seeking to bring about legally recognized outcomes. It remains to be seen, of course, whether such a claim can be made to stick.

5. Conclusion

Orthodox accounts of the Great Bear Rainforest conflict stress the clash of interests and the various resources that the principal actors can bring to bear on each other. They may be more or less sophisticated, appealing less to naïve pressure pluralism than to the internationalization of policy conflict and the impact of internationalization on policy networks, for example. But in the end, they all employ a kind of accounting model in which those who can inflict costs on others while avoiding paying costs themselves will necessarily triumph (what March and Olsen referred to as the utilitarian assumption of orthodox political science), imposing their problem definition and forcing their solution to be adopted. Institutionalism may propose a more complex model, where resources may be symbolic as well as real and where institutions structure choice opportunities and alter the relative weights of costs and benefits, but the underlying logic remains the same.

Clearly, there is something important and convincing about the orthodox explanatory model, namely its focus on power and unequal resources. Too often, discursive approaches, in the spirit of Habermas, have replaced the accounting model with one where deliberation takes place against a universally valid conception of the “good argument”, which, when it is made, convinces without further explanation. In the spirit of March and Olsen’s call to “deemphasize” rather than jettison orthodoxies, we propose an alternative. As often noted, the various institutionalisms that now dominate policy studies are much better at explaining policy stability than policy change. Indeed, much of the contemporary interest in the role of “ideas” derives from a desire to explain policy

change without appealing to exogenous shocks and other versions of the *deus ex machina*.

However, as plenty of critics of have pointed out, “ideas” seem rather flimsy entities to perform such an important role. Beliefs and “belief systems” are no better. While contemporary discourse analytical approaches have gone some way towards providing a better explanation, noting, for example, the effect of accepting a common storyline or the interactive role of “ideas in action”, these approaches still fail to convince because they often seem to be analyzing the wrong object. “Policy” is continuously produced in the work of connecting problems and solutions. To explain policy change requires taking a closer look at how this effect is achieved, avoiding the twin fallacies that it is achieved by logical necessity or by mere effort of will. The contemporary interest in performatives, the bringing about of effects, usually but not always discursively, and in the manipulation of the conventions by which performatives achieve their effects, is a promising beginning to understanding how this work is done.

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