

Deliberative Democracy

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Abstract

At the center of the idea, deliberative democracy is that the “will of the people” should be based on the consideration of competing arguments about their merits of each policy choice. Despite this, partisanship and electoral campaigns are designed to win elections, not promote citizen deliberation. The focus of most modern research on deliberation by ordinary citizens rather than by representatives or office holders raises interesting questions about who deliberates, what is the policy context, what rationale is used, and what criteria should evaluate deliberative processes. Access to accurate information, relevant arguments, and a representative sample are necessary for good conditions. Some criteria for evaluation include demographic and attitudinal representativeness, sample size, the opportunity to engage in arguments for and against proposals, and the elimination of distortion (e.g., misleading information).

The core idea of deliberative democracy is the notion that the “will of the people” should be based on the consideration of competing arguments considered on their merits about the choice of policy or, as Jurgen Habermas famously identified the core idea, “the forceless force of the better argument” (Habermas, 1996). In the past two decades, it has produced a large literature in political theory (for some summary collections, see Bohman & Rehg, 1997; Elster, 1998; Fishkin & Laslett, 2003). This notion of reason-based choice under good conditions is deceptively simple and will be regarded by many as little more than common sense. Yet if taken seriously, it challenges the most widely applied approaches to democracy. Further, it poses problems of institutional design that require further empirical study and experimentation.

This emphasis on deliberation is in tension with the other main approaches to democracy such as party competition-based models (Schumpeter, 1942) or mass participatory democracy (bringing decisions about issues or candidate selection directly to the public in initiatives, referendums, or primaries; see, e.g., Cronin, 1999.) The tension arises from the fact that neither party competition nor electoral campaigns for ballot propositions are designed to promote citizen deliberation. Rather they are designed to win elections

and if elections can be won by misleading or distorting relevant facts or arguments, that is not a concern. Such strategies are only to be expected in campaigns. Joseph Schumpeter, the most influential proponent of party competition-based democracy, was explicit that the same techniques of advertising and public relations employed in the market should be expected in the political process. The result, he argued, is a “manufactured” political will. The concern for some sort of “genuine” political will is a leftover from “classical” theories of democracy that Schumpeter treats as irrelevant and hopelessly ill-defined (Schumpeter, 1942). For mass participatory democracy, the tension with deliberation stems partly from the same problem of competitive political campaigns (whether for ballot propositions or for candidates in primaries) having similar motivations to those in political parties. In addition, the citizen in mass society has little incentive to become informed in large-scale elections, whether ballot propositions or primaries, or general elections between competing parties. There is plausibility to the supposition of Anthony Downs that they are “rationally ignorant.” If I have one vote in millions my individual effect on an election is tiny so my individual incentive to become informed to cast a more effective vote in that election is also equally small (Downs, 1957).

The term *deliberative democracy* may well have been coined in an interpretation of the American Founders’ account of the US congress, especially the role of the Senate (Bessette, 1994). However, the views of James Madison and Alexander Hamilton were an idealization of individual representatives deliberating without any concern for political parties. Modern party competition-based democracies bring party discipline to voting in legislatures, limiting the range of choice for legislators to engage in deliberations on the merits. Clearly, Madison envisaged deliberation as central to the role of the Senate. Representatives were to “refine and enlarge the public views” as Madison said in Federalist 10. However, with modern party discipline and electoral incentives, the opportunities for deliberation by representatives are limited by the action of party “whips.”

Most modern research on deliberative democracy has focused on deliberation by ordinary citizens rather than by representatives or office holders (for some exceptions, see Steiner, Bächtiger, Spörndli, & Steenbergen, 2005; Uhr, 1998). The ordinary citizens are usually recruited to participate in a mini-public or microcosm of the population. Such efforts suggest several questions:

1. Who deliberates?
2. What is the policy context?
3. What is the rationale for others (policy makers or the rest of the public) to pay attention to their conclusions?
4. By what criteria should the success of such processes be evaluated?

WHO DELIBERATES?

Given low levels of information and public inattention on the part of the mass public on most issues most of the time (Delli Carpini & Keeter, 1997), it is hard to attribute much active deliberation to the mass public in its ordinary environment in the normal course of events. There may be dramatic periods of mass public engagement, what Bruce Ackerman calls “constitutional moments” when there was an enormous widespread and sustained public debate, but these episodes are rare. He identifies three, perhaps four such “moments” in American history—the Founding, Reconstruction, the New Deal (Ackerman, 1991), and perhaps the Civil Rights period (Ackerman, 2014). Even for such cases, we must distinguish mobilization from deliberation. Many people can get engaged to vote or attend demonstrations but are they considering competing arguments? Are they really thinking about the issues? Data is sparse, especially for the earlier periods of the constitutional moments.

One might envision an institutional design that would encourage everyone to deliberate, perhaps before a national election. One example is the “Deliberation Day” proposal (Ackerman & Fishkin, 2004). On this approach, all voters are invited to sites around the country for a day of deliberation—alternating small group discussions and plenary sessions with competing experts, roughly on the model of a Deliberative Poll, but one which is scaled up to include the total population. An incentive is paid for participation for the day’s work of citizenship. Ideally, it would be held on a national holiday to save expense (perhaps supplanting President’s Day). If the method of the Poll works with microcosms, random samples of the population, then the same process could work with the entire population. A deliberation with the whole population would be far more consequential because actual public opinion in the society would likely have changed.

In the absence of deliberation by the whole population, there are two main approaches for a deliberative subgroup. It could be self-selected or it could be arrived at via some form of scientific sampling. Participatory Budgeting, begun in Porto Alegre, Brazil, uses self-selection for the local population to deliberate on the choice of projects for the city. This process has spread to many countries. It is sometimes lauded as deliberative democracy (Fung); it is also often viewed as mobilization for specific benefits more than deliberation. In any case, any process based on self-selection is likely to be unrepresentative. Only those who are especially interested volunteer themselves (World Bank, 2007).

From the standpoint of deliberative democracy, the principal approach over the past two decades has been to gather a representative microcosm and then to engage it in good conditions for considering the issue. The basic idea

goes back to Ancient Athens. Several key institutions used random sampling implemented with a machine (the Kleroterion) that selected citizens from a list of those who had previously expressed willingness to engage in public service. The Council of 500 selected in this way determined the agenda for what could be voted on in the Assembly, the *graphe paranomon* was a randomly selected jury of 500 that could prosecute irresponsible participation in the Assembly and the *nomothetai* was a final stage of deliberative decision. After a proposal passed the assembly, it did not immediately become law. It could only do so if a random sample of 500 or more was convened to hear the case for and against the proposed law and then after a day of deliberation voted positively on the proposal. Hence, the deliberating microcosms had a key role in Athenian democracy before, during, and after the direct democracy of the Assembly.

These ancient institutions exemplify a practical method for implementing a very different kind of democracy. It is distinct from direct participatory democracy (as in the Assembly or as in modern referenda), distinct from party competition democracy implemented through elections and distinct from the kind of deliberation by representatives envisioned by the American founders (deliberation by representatives on the merits without regard to party interests or party discipline). A challenge for modern research is whether some of the positive attributes of this kind of democratic design for deliberation by a random sample can be adapted to modern conditions.

In modern times, deliberating microcosms chosen by lot have been used to make recommendations on policy in many countries around the world (Gronlund, Bachtiger, & Setala, 2014). A particular design, Deliberative Polling (cdd.stanford.edu), has been applied in 23 countries. In addition, deliberating microcosms such as the Citizens' Assemblies in British Columbia and Ontario have directly put propositions on the ballot (Fournier, van der Kolk, Kenneth Carty, Blais, & Rose, 2011), "citizens' juries" have been employed on many issues, especially health care in the United Kingdom. The list is extensive, but the particular designs vary in important particulars. For now, it is worth noting the use of random sampling for a deliberating microcosm as the predominant approach to implementing "deliberative democracy" by the people themselves, rather than by their representatives.

WHAT IS THE POLICY CONTEXT?

When a microcosm of the public is convened, should its decisions be binding or advisory to other decisions? While some theorists have argued that in order to count as deliberation, the conclusions ought to be "binding" (Gutmann & Thompson, 1996, 1998), there have in fact been few if any such cases if binding is interpreted strictly as requiring the decision to conform

to the conclusions of the citizens. Deliberative microcosms do not produce binding decisions in the way that say a referendum can (although of course some referenda are also only advisory). The definition of binding, when clarified comes down to the intent of the deliberators. As Gutmann and Thompson describe their proposed requirement, participants “intend their discussion to influence a decision the government will make or a process that will affect how future decisions are made” (Gutmann & Thompson, 1998). On this interpretation, many deliberating forums are binding.

The deliberating microcosm typically will offer its conclusions as an input to other decision-making. For example, between 1996 and 1998, there were eight Deliberative Polls convened in Texas by the electric utilities and the Public Utility Commission to provide input to the creation of “Integrated Resource Plans” that would chart how that portion of the state would satisfy future energy needs. Deliberators increased their level of support for renewable energy such as wind power, to the point that much higher percentages of the respondents were willing to pay increased utility bills to support renewable energy. The Public Utility Commission reacted to the data and the eight events by supporting increases in wind power and, in several service territories, slightly increased fees to support the new energy. Texas dramatically increased its wind power. These consultations were part of a process by which Texas moved from having the least wind power among the 50 states to having the most, surpassing California in 2007 (Fishkin, 2009). The context that made this successful was the requirement, implemented by the Public Utility Commission, that the utilities consult the public in some way. The Deliberative Poll was adopted for public consultation in all eight service territories of the regulated utilities because it offered a method to consult that was representative and evidence based. Large investments in different forms of energy were at stake and an unrepresentative process or one dominated by bad information could lead to costly and or bizarre outcomes. Other examples of advisory but near-binding decisions can be found in the Deliberative Polls in China and Macau. When the government convenes a Deliberative Poll to consult its citizens about a policy issue, say which infrastructure projects to build (as in several projects in China sponsored by local government, see Fishkin, He, Luskin, & Siu, 2010), or the design of a press council (in Macau see report <http://cdd.stanford.edu/2011/final-report-deliberative-polling-on-the-amendment-of-the-press-law-and-the-audio-visual-broadcasting-act-in-macao/>), there is a strong impetus to implement the result. After all, there is official sponsorship and government resources are being spent. It would seem odd to go to all the trouble of convening a random sample for intensive deliberation and then to ignore the result.

Another route to impact is to set an agenda for decisions by the voters. The two Citizens' Assemblies in British Columbia and Ontario proposed ballot measures for electoral reform that went directly on the ballot. While neither passed, they broke new ground in that a random sample of citizens deliberated for about a year and produced a proposal that the rest of the province voted on (Fournier *et al.*, 2011). In a less explicit way, the 2011 Deliberative Poll in California ("What's Next California") produced recommendations both for what could go on the ballot and for decisions by the legislature. Proposition 31 included six elements from the citizen deliberations, but other elements as well. The proposition was defeated, but recommendations for legislation about initiative reform did pass (Fishkin, Kousser, Luskin, & Siu, 2015).

Setting the agenda for voting by the entire electorate harks back to the role of the council of 500 in Ancient Athens. It is a very strong form of influence without final decision-making power. A lesser form of influence could occur through the deliberations producing a voter recommendation. The Citizens' Initiative Review convenes small random samples to deliberate on the model of a citizens' jury (Coote & Lenaghan, 1997) and make a recommendation about ballot propositions. Those recommendations go in the voter handbook. Deliberative Polls, which employ larger samples, were broadcast before national referendums in Australia (on the Republic in 1999) and in Denmark (on the Euro in 2000). Of course, a televised process of voter discussion with results of the citizen deliberations would have to compete with all the campaign sound bites in a referendum campaign to have influence. However, the idea is that such deliberating microcosms express the informed views of ordinary citizens rather than just partisan campaign messages.

WHY SHOULD OTHERS PAY ATTENTION?

The strategy of trying to implement deliberative democracy, at least on selected issues, through randomly chosen microcosms has the advantage that it offers a practical method to give voice to the public's considered judgments. In that respect, it offers a stark contrast to standard public opinion polls that, of course, also use random sampling. Because most voters in their ordinary environments do not have much occasion or incentive to deliberate, the opinions represented in standard opinion polls often represent little more than the public's impressions of sound bites and headlines. However, when such poll results are reported, policy makers have, nevertheless, a reason to pay attention. If done well, those polls offer a snapshot of the actual state of public opinion at the time. This is what the people are actually thinking, even if they are not thinking a great deal about the issue in question. There are exceptions of course. The polls might

represent only nonattitudes or phantom opinions as respondents who have not thought about an issue attempt to offer an answer on the spot to avoid admitting that they “don’t know” (Bishop, 2005; Converse, 1964). However, setting aside this complication, standard polls offer policy makers a picture of the current state of public opinion and if they wish to be responsive to the public, such information is useful and relevant.

However, the opinions offered by a deliberating microcosm are different in a key respect. They are not shared by those who have not deliberated. They offer a counterfactual representation of what the people *would* think, presumably under good conditions for thinking about it. Why should policy makers or other citizens (voters) respond to counterfactual opinion?

The issue is ultimately normative. As we noted earlier, democracy presumes some connection between the public will and what is done. If actual conditions do not really permit the public to come to an informed judgment, why not find out what it would think under transparently good conditions, under conditions where it can really consider competing arguments and get its questions answered from different points of view. If the reasons for its considered judgments can then be identified, those reasons should resonate with other citizens.

On the many issues for which the public is inattentive, why rely on conventional polls rather than a representative and informed judgment from the deliberations of a good sample? Of course, one might take the position that public opinion, whether deliberative or not, is irrelevant. Policy making should be a matter of expert judgment. However, it is the people who have to live with the consequences of one policy choice or another. Surely, there is room to take their views into account. Moreover, if one takes that step, why not take their informed and representative views. Hence the idea of the deliberating mini-public or microcosm.

The Texas utility cases mentioned earlier provide an illustration. The public was not very knowledgeable before deliberation about the attributes of various energy choices. In fact, the original discovery of nonattitudes or phantom opinions had come from a question about electric utilities in a panel study from the American National Election Study (Converse, 1964). Thus, on some questions about electric utilities, the public could be expected not to have any real opinions at all.

In Texas, the low salience and information levels on these issues helped make the case for Deliberative Polling. The deliberating microcosm offered an alternative that was evidence based, thoughtful, and representative. To rely on conventional polling alone would have rendered very big expenditures vulnerable to conclusions from people who had little understanding, predeliberation, of the trade-offs at stake. Yet to leave the people out of the decision would, in effect, have substituted values of the experts for the values

of the public. Hence the case for consulting those affected but in a representative and thoughtful way on the basis of the best information available.

BY WHAT CRITERIA SHOULD SUCH PROCESSES BE EVALUATED?

The claim of the deliberating microcosm for the attention of policy makers and fellow citizens rests upon a hypothetical inference—these are the conclusions the population would come to if they could somehow consider the issue in depth under the same good conditions. Hence, the conditions must be credible as good conditions (e.g., access to good information and relevant arguments) and the sample must be representative. Consider some criteria for evaluation building on one or the other of these two basic points:

- Demographic representativeness
- Attitudinal representativeness
- Sample size
- Opportunity to engage policy arguments for and against proposals for action
- Avoiding distortions

DEMOGRAPHIC REPRESENTATIVENESS

To support the hypothetical inference that the population as a whole would likely come to similar conclusions if it were to deliberate under comparably good conditions, the microcosm needs to be representative at the start. It needs to be a version of the whole country or the whole city (or whatever the relevant population may be) in miniature, usually in one place (although for virtual versions distributed in space but connected electronically, see Fishkin, 2009). But representative in what ways? Demographics in all the standard categories, class, gender, education, income, and ethnicity are usually among the most prominent. Some approaches to creating a deliberative microcosm view such representativeness in demographics as sufficient (Carson, Gastil, Hartz-Karp, & Lubensky, 2013). Others require attitudinal representativeness as well. An argument for demographic representativeness is that people from different demographic backgrounds will likely have different views and interests. Furthermore, as they deliberate they may realize more about their views and interests. If significant portions of the population were excluded (say very few women or very few minorities) one could plausibly suspect that the deliberation might have turned out differently if the microcosm had been more representative.

ATTITUDINAL REPRESENTATIVENESS

Attitudinal representativeness seems equally important. If the sample is a representative microcosm of the viewpoints in the population, then it is more plausible to argue that as participants weigh the arguments from these competing perspectives, their views would represent the hypothetical—the conclusions the population would come to, if they could weigh the arguments with comparable engagement, seriousness, and high-quality information. If the microcosm begins with different viewpoints than the population, then the hypothetical inference loses its plausibility. J.S. Mill described the importance of attitudinal representativeness in famous comments on the idea of Parliament acting as a “Congress of Opinions:” “where every person in the country may count upon finding somebody who speaks his mind, as well or better than he could speak it himself . . . where those whose opinion is overruled, feel satisfied that it is heard, and set aside not by a mere act of will, but for what are thought superior reasons” Mill, 1861). Mill’s account of the deliberative ideal probably applies to Parliaments only rarely, but it does offer a clear picture of the advantages of ensuring that a deliberative microcosm is representative in attitudes.

For samples of ordinary citizens, the recruitment of the microcosm should provide a basis for empirical assessment of how attitudes of participants compare to the attitudes of the rest of the public. One simple approach is to ask the questionnaire of potential participants before recruitment allowing comparison of participants and nonparticipants in attitudes as well as demographics. In addition, having another comparison group who are never asked to deliberate is useful and can also be used for matching in case there is any sampling bias. Deliberative Polling typically employs these methods but most attempts at recruiting deliberative microcosms do not (for a compendium, see Gastil & Levine, 2005).

SAMPLE SIZE

The microcosm needs to be large enough that its representativeness and the statistical significance of any opinion changes can be meaningfully evaluated. If it is not representative, then why should others pay attention? Its conclusions might have been determined by strong or idiosyncratic views at the start. If the changes are not statistically significant, then they might be mere random noise. We do not know how seriously to take them. Some microcosms, on the model of a modern jury face both of these difficulties. The Citizens’ Initiative Review in Oregon has the noble aspiration of engaging a microcosm of the state’s voters and offering recommendations about how the electorate as a whole should vote. The recommendations are printed in the voter handbook. However, the sample size is so small that some of the

recommendations are simply wiped out by sampling error. For example, the recommendation for Oregon Proposition 74 on medical marijuana in 2010 was 13 to 11 (Fishkin, 2013).

ARGUMENTS FOR AND AGAINST

The root notion of deliberation is “weighing,” the weighing of competing arguments or reasons for one course of action or another. Therefore, any deliberative microcosm needs an effective method of engaging the participants in these competing arguments. One method is to have a stakeholder advisory group prepare briefing materials that attempt to anticipate the arguments on either side that are current in the policy community of experts. Ordinary citizens are unlikely to be aware of all of these. However, experts will usually not be able to anticipate all the concerns of the public. Hence the public will likely add further arguments, either pro or con. If the public in the deliberating microcosm has an opportunity to get its factual questions answered by experts and policy makers, it further facilitates their coming to an informed judgment. The Deliberative Poll design uses all three of these methods: the balanced briefing materials, the small group discussions where people share their own reasons for support or opposition to the various proposals, and access to competing experts who can answer questions from the small group discussions.

How can we know if participants have actually considered competing arguments? Both quantitative and qualitative data can be gathered, the former from before and after questionnaires and the latter from transcripts of the group discussions. These can be coded for balance and argumentation creating new variables that can be incorporated into the quantitative analyses (Gerber, Bächtiger, Fiket, Steenbergen, & Steiner, 2014; Siu, 2009). This is an important emerging trend in the study of deliberative democracy.

AVOIDING DISTORTIONS

There are two principal ways in which it has been alleged that deliberations may go wrong. First there is a long tradition of discussion, mostly in the jury literature, that deliberations will be dominated by the men, by the more educated, by those who are more advantaged. They will have preponderant influence, importing the socioeconomic inequalities in the wider world into the deliberating microcosm. Part of this is deference to the more advantaged, part of it is the very skills required for deliberation are thought to be disproportionately distributed to the better advantaged. The more advantaged are better able to make arguments and because of their social positions, they are more likely to be listened to (Sanders, 1997; Young, 2000).

Yet the actual empirical study of this problem has not confirmed these speculations. At least with Deliberative Polling, if one looks at the initial positions of the more advantaged (the more educated, the males, the rich, etc.) on policy indices on the issues deliberated about, there is no pattern of movement by the small groups in the direction of those positions. The more advantaged are not dominating the discussions by imposing their views (Luskin, Sood, Fishkin, & Hahn, 2015; Siu, 2009). This is an area for further study, but it seems likely that the design of the deliberative process, the role of moderators, balanced materials, and ample opportunities for everyone to discuss, all play an important role. Further, juries are likely to employ social pressure to reach a unanimous verdict. In the Deliberative Poll there is by design no pressure for consensus. Rather the participants' final considered judgments are recorded in confidential questionnaires.

A second major distortion is the pattern Cass Sunstein has identified as the "law of group polarization" (Sunstein, 2002, 2009). If there is an issue for which there is a midpoint, if the initial position of the group is one side of the midpoint, the hypothesis is that it will move further away from the midpoint to that side, in effect becoming more extreme. Two basic mechanisms are offered—imbalance in the argument pool and a social comparison effect. If most people are on one side of an issue, they are likely to offer more reasons for that side of the argument. As they see others moving in that direction they will feel pressures to conform. Sunstein and various collaborators have corroborated this pattern in some jury-like studies (for an overview, see Sunstein, 2009). However, in the Deliberative Polling design, the pattern has not been found. In an aggregation of the small group patterns in 22 Deliberative Polls, the tendency to move away from the midpoint was <50% (Luskin *et al.*, 2015; see also Fishkin *et al.*, 2010; Siu, 2009). If the deliberative design has sufficient balance (briefing materials, moderation, and balanced panels of experts), it can overcome any imbalance in the argument pool provided by participants. Moreover, if there are confidential questionnaires, the design can minimize the social comparison effects.

Why are these two distortions important? Either domination by the more advantaged or polarization (in Sunstein's sense) regularly moving the participants to more extreme positions could plausibly bring into question whether the conclusions were the result of genuine deliberation on the merits. It cannot be the Habermasian "unforced force of the better argument" (Habermas, 1996) if people are trapped in a pattern of group psychology or implicitly coerced by pressures of group conformity. The fact that the prevalence of these patterns seems to depend on the precise design of the deliberative process opens up an area for further empirical work. The study of multiple projects, aggregating the changes in the small group discussions to investigate whether or not these distorting patterns

hold with various designs is an important emerging trend in the study of deliberative democracy. The whole empirical research program connected with deliberative democracy is designed to make it practical. The empirical study allows for an assessment of the degree to which a theoretical concept can actually be implemented in real democratic practices.

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