A Trade-Off Analysis of the Normative Values of Deliberative Democracy

by

Peter Copeland

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ABSTRACT

A TRADE-OFF ANALYSIS OF THE NORMATIVE VALUES OF DELIBERATIVE DEMOCRACY

Peter Copeland
University of Guelph, 2019

Advisor(s):
Omid Payrow Shabani
Monique Deveaux

I assess the coherence of the normative model of deliberative democratic theory by examining the effectiveness of deliberative decision-making initiatives. To do so, I explore the relationship between the internal and external variables that affect them, and the goals that the processes try to achieve. I first identify the key normative values that characterize the deliberative democratic school of political theory, then the features of the initiatives in question – Adaptive Resource Management, Participatory Budgeting, and Citizen Assemblies. I then a) identify the variables that are most salient in determining the effectiveness of the initiatives, and b) the specific goals of deliberative decision-making initiatives, as well as the larger goals that they attempt to realize. I conclude that the set of goals cannot be reached as a package, as the realization of some is negatively related to those of others.
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Part 1: The Question, Object of Study, Variables, and Outcomes

1.1 Introduction

Deliberative democrats have been motivated by the desire to see our contemporary democracies better embody what they take to be democracy’s key principles. By making democratic life more deliberative, they hope to foster greater political and social inclusion, inspire civic and personal virtues in citizens, and have political decisions be made on the basis of good evidence and reasons. There are many aspects of civic life that can be made more or less deliberative, from civil society, to the various governmental institutions. In this paper, I will focus on policy-making initiatives (both formal and informal) because they contain the complete set of values that deliberative theory posits as normative. My question will be: is the set of values manifested by deliberative initiatives internally coherent? I conclude that they are not because they include both values that are internal to the processes, and larger, external social goals. These larger goals cannot be met given the design requirements of the initiatives.

To unpack this, I will briefly expand upon the key elements of the investigation, of which there are three. First, the focus will be on deliberative policy-making initiatives. I will concentrate on two types: Adaptive Resource Management, and Mini-publics. The former includes many different types of environmental resource management practices in diverse jurisdictional environments – from Habitat Conservation Planning in the United States, Marine Protected Areas around the world, and Decision Analysis and Adaptive Management of fisheries, forestry, and wildlife conservation in Canada. The latter includes the expansive definition of Mini-Publics – defined as ‘governance-driven democratization’\(^1\). These can be placed along a spectrum differentiated by the presence or absence of such factors as decision-making ability, type of problem addressed, and extent to which they exhibit the ideals of various theories of deliberative democracy.

Second, the moral and epistemic goals, or outcomes, that are the desiderata of deliberative theorists are as follows. The ‘moral’ goals include the development of civic and personal virtues, such as respect and toleration, and even good reasoning skills, as well as greater political and social inclusion. The ‘epistemic’ goals pertain to the extent to which the decisions are based on good evidence and reasons.

Third, the barriers or variables that can affect and impede the realization of these goals need to be determined and analyzed. I see three main categories of variables that can affect the ‘success’ of deliberation: content, process, and institutional variables.

Content variables include the type of issue being addressed; process variables include the constraints on deliberation, the formal and informal features of the process of deliberation, and the decision-making mechanism. The institutional barriers are the organizational structures of the policy-making initiative, such as the ownership structure, and the type of civil or government body by whom the final policy decision must be made.

The paper will be organized into parts and sections within. In Part 1, I will define and develop the three key concepts that pertain to my question: the barriers, the moral and epistemic goals, and the deliberative policy-making initiatives. The intent of this section is to clearly articulate the object of study (deliberative policy-making initiatives), and determine the variables (content, process, institutional features of the initiatives) that can affect the outcomes (moral and epistemic goals of deliberation) we are concerned with.

In Part 2, I examine each type of initiative, and highlight the way in which the variables and sub-goals interact with one another. It is crucial to note that both variables and goals must be dealt with simultaneously, since the choice of one variable may rule out the possible achievement of certain goals, and vice-versa. In other words, they both exist in relationships of mutual dependency, and trade-offs will have to be made. In performing this kind of analysis, I hope to find which particular forms of content, institutional and process design are conducive or antithetical to the achievement of some of the moral and epistemic goals of deliberation.

In Part 3, I synthesize the findings from the examples, and draw general conclusions about the relationship between the design of initiatives, and the larger goals to which they are supposed to contribute. What emerged from the analysis of the particular initiatives is that they are supposed to represent individual examples of scalable processes that contribute to larger goals, from the perspective of deliberative democratic theory. These goals are mirrored in the design of the processes themselves, such that the presence of deliberation, done in a certain way, is supposed to contribute to social outcomes with those same features.

I first reiterate the normative vision of deliberative democracy, and argue that the goals of participation, inclusion, and rational deliberation on the small-scale – that is, in concrete, specific instances of deliberation – are necessarily related to outcomes that refer to the larger social goals that they are supposed to realize. This follows from the normative commitments that theorists adhere to. I then point to the specific sources of tension between some of the goals and the nature of the process and what it requires: time and cost considerations, knowledge deficits and incentive structures that are unique to the deliberative setting, and a substantial increase in scale.

I then consider alternatives to this view within the tradition by looking at what theorists who take a ‘systems view’ have proposed. In such an approach, deliberation and the generation of communicative power is to be generated in multiple areas of civil
society, the law, and government in varying combinations. Habermas, Mansbridge and Parkinson, and Iris Marion Young have three theoretical frameworks that place the emphasis on different parts of the social system, as that most suited to a certain kind of deliberation. I do not treat their philosophical outlooks in depth, but highlight the important similarities between them to make my point: they exhibit the same tension that characterizes the deliberative policy-making approach, which arises from a commitment to values that are incompatible when conceived of in such strong, and at times categorical ways in the abstract.

The conclusions are thus that the deliberative democratic vision is characterized by a set of incompatible goals. This cannot be done away with by emphasizing deliberative policy-making initiatives or ‘systems’ alternatives, because one or more of the normative values essential to the deliberative democratic theory must be sacrificed in each case.

1.2 What is Deliberative Democracy?

Deliberative democracy is a movement within political theory and science, as well as politics and practice to make democracies more talk-based, and discussion-oriented. To varying degrees, theorists emphasize the need to tie this discussion and argumentation to norms of reasoning and rationality, as well as to decision-making processes. In its ‘systemic’ form, it is premised on the idea that the concept of democracy itself implies that the demos reasons collectively about its aims and makes political decisions that reflect the considered judgments of citizens. Deliberative approaches to democracy are juxtaposed to aggregative models of representative democracy that place less emphasis on collective reasoning and decision-making, and more on voting and decision-making via elected representatives, without further consultation from the electorate.

There are many features of a democratic society that can be made more ‘deliberative’, and many different reasons for wanting to do so. Theorists work with the distinction between formal and informal spheres of society that can be categorized broadly as governmental, or as parts of civil society. The former includes institutional frameworks such as the law, legislation and policy-making, whereas the latter includes

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4 The following authors make this distinction: Jürgen Habermas, Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy, Studies in Contemporary German Social Thought (Cambridge, Mass.: MIT Press, 1996); Parkinson and Mansbridge, Deliberative Systems; André Bächtiger et al., eds., The Oxford Handbook of Deliberative Democracy, First edition, Oxford Handbooks (Oxford, United Kingdom ; New York: Oxford University Press, 2018), 9–11.
types of organizations that are more formal, such as corporations and labour unions, professional and residential associations, and more casual, such as family and friendship circles.

The motivations for pursuing a deliberative model of democracy are indeed broad, but cluster around two main types, and a few core values within each. Deliberative democrats tend to argue that deliberative democracy has moral value or epistemic value. Moral values include the cultivation of civic and personal virtues through participation in political life. It is hoped that citizens who deliberate more can foster tolerance and respect for one’s fellow citizens, and society as a whole can benefit from higher levels of social trust and trust in political institutions. It is also thought that greater participation in political life leads to greater social inclusion and has the potential to equalize the distribution of power, wealth and status within a society. Furthermore, starting from the position that democracy and the values of participation and self-determination are in themselves valuable, they argue that making democracy more deliberative is cashing in the cheque that the ideal of ‘democracy’ promises — that everyone is meaningfully involved in political decision-making. This is sometimes phrased as addressing the democratic deficit. Epistemic values centre around the idea that through deliberation properly construed, better reasons and arguments will be advanced, and political decisions will be more rational. Here, as with the other goals, there is a wide range of perspectives, and considerable disagreement expressed among scholars who are sympathetic to the tradition.

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6 In this piece, Beauvais shows how deliberation must be tied to equality in its dual sense of both: moral equality and equity. The former “distributes symmetrical empowerments by recognizing certain liberties that guard against coercion”, and “treating people as if they shared a universal starting point”. The latter “requires the demands of justice to attend to social circumstances and recognizes systematic differences (such as structural inequalities) between the members of different social groups... ‘Justice’ refers not only to the redistribution of wealth...but more generally to the promotion of conditions enabling social group members to develop and exercise their individual and collective capacities”. She cites the following authors in support of equality and equity through democratic deliberation: Habermas, Bohman, Chambers, Marion Young, and Warren. Edana Beauvais, ‘Deliberation and Equality’, in “Bächtiger et al., *The Oxford Handbook of Deliberative Democracy*, 144–47.

1.3 The Question and the Object of the Study

In this thesis, I will focus on deliberative policy-making initiatives. Through an analysis of the relationship between the internal and external goals, as well as the internal and environmental variables, I attempt to determine which barriers exist to the achievement of the outcomes that are desired. In doing so, I will not draw on any single theorists descriptive or normative account of the moral and epistemic values of deliberative democracy but try to discover which goals and combinations of goals are attainable in deliberative policy-making initiatives, given both empirical and normative considerations.

Examples of deliberative policy-making/influencing institutions include Adaptive Resource Management of fisheries, habitats, species and ecosystems. Mini-Publics are local or topic-based deliberative groups that influence or implement policy in different areas. They include a diverse set of governance initiatives that range from polling to decision-making institutions, such as: Deliberative Polling, Participatory Budgeting (PB) initiatives and Citizens’ Assemblies (CA). I will briefly go into detail outlining the main features of these initiatives and analyze them in detail in section two.

Adaptive Resource Management (ARM) is an iterative approach to decision-making in situations with quantifiable outcomes in the face of a fair amount of uncertainty. It is used in designing policies or in managing economic developments that involve the use of natural resources. In the face of uncertainty concerning the effects of development and resource extraction, ARM techniques use sophisticated mathematical models to forecast effects on local species, resource levels, and biodiversity among other things, with the aim of ‘minimizing uncertainty’. It is a management practice that developed from the perspective of conservationists but can be seen as an instance of deliberative democracy because stakeholders can be consulted during the development of the plan.

A Mini-Public is a term that in its broad interpretation encompasses several initiatives that involve deliberation about a specific topic or issue, and a strong or weak link to policy implementation. There is a range of normative definitions of a mini-public, from the restrictive to the expansive. James Fishkin has proposed a restrictive definition of a Mini-Public because he sees the goals of equality and inclusion as indispensable, and incompatible with a broader definition that includes initiatives with

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decision-making power. I will go with the broader approach, though keeping his criticism in mind.

Deliberative polling is an initiative that Fishkin developed. It is an attempt to determine what public opinion would look like if time, resources, and evidence were brought to bear in a deliberative setting to determine the best policy choice in a particular instance. He has conducted polls around the world in an effort to determine the cross-cultural applicability of such a proposal and work out some of the kinks in its structure. For most of his career, he has worked on the development of these techniques, and he has recently published a book summarizing the findings of years of trial runs in countries around the world. I have declined to treat deliberative polling as an instance of policy-making because the polls have not been strongly tied to the decision-making process but are attempts to generate better estimates of public opinion. As mentioned above, they are not so strongly tied because Fishkin thinks that they do not allow for the achievement of the broader social goals of equality and inclusion.

Empowered Participatory Governance initiatives tie deliberation directly to decision-making. They include things like community policing, health plan implementations, and participatory budgeting. In this thesis, I look at Participatory Budgeting initiatives that are used in municipalities in a few different parts of the world. They allow citizens to come together to deliberate over the use of public money to fund municipal projects.

Citizens’ Assemblies are intermediate in terms of decision-making power and deliberative quality. Some are tied strongly, though not directly to decision-making, yet they share in the fact that they concern single issues and are one-time events that do not reoccur on a regular basis, at least at this stage. At present, they have culminated in suggestions, which have been put to a referendum, or used as information that governments may or may not act upon. They are comprised of representative subsets of the population, that are selected using stratified sampling techniques that account for

14 Fishkin argues that initiatives like PB are not representative because there is too much self-selection. Citizen Assemblies also run afoul because they are tied too closely to decision-making power, which in Fishkin’s view corrupts the process. James Fishkin, “Deliberative Polling”, in Bächtiger et al., The Oxford Handbook of Deliberative Democracy, 318–19.
15 These authors have coined the term EPG to describe these set of initiatives. See Archon Fung and Erik Olin Wright, eds., Deepening Democracy : Institutional Innovations in Empowered Participatory Governance, Real Utopias Project (Series) ; v. 4 (London ; New York: Verso, 2003).
factors such as age, gender, geography, and income levels. The examples we will explore have taken place in British Columbia, Ontario, the Netherlands, and Ireland.

1.4 Variables

In trying to assess the viability of some of these efforts, we need to lay out both the micro- and macro-level variables that can affect their success. A further distinction can be made between exogenous and endogenous factors: the former being those factors that are outside the initiative itself, and the latter that are internal to it.

Micro variables include factors such as the content of the deliberations, the process through which they are carried out, and the structural features of the institution in question, such as decision-making mechanism, private/public structure, and the level of centralization.

Macro variables exist in the broader environment in which the initiative takes place. These include features of the legal system, the regulatory environment, demographic and economic indices, etc. These variables are less important for the analysis than their micro counterparts, but I think that some of them will appear as key preconditions to be noted by theorists and practitioners, as they can feature prominently when an initiative is tried in one place over another.

1.4.1 Micro Variables

1.4.1.1 Content

*Moral/Epistemic dimension*: topics of deliberation can include content that is moral and epistemic. This is to say, the types of reasons and ‘evidence’ used for certain topics will be based more or less on facts or values. Some theorists, following Jürgen Habermas, understand this using the ‘discourse-theoretic’ paradigm, whereas others emphasize that conventional models have not captured all of the styles and forms of reasoning found among many groups. There is no pure type of deliberation that is exclusively moral or epistemic, nor is there a neat dichotomy between the two, but the distinction is practically useful.

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1.4.1.2 Process

Decision-making initiatives have a formal structure, and thus a process with varying degrees of determinateness in terms of rules, standards, and procedures. The following features of the process are important variables to consider.

*Time span:* the length of time that it takes to carry out all of the stages of the deliberative process can have a significant impact on the outcomes. Time is needed so that participants can learn, consider, deliberate, and decide. It has an impact on the cost of the project in dollar terms, and in its feasibility if the process is to be institutionalized and thus scaled up.

*Information/learning stage:* whether or not the initiative in question has this stage, it is important to recognize the import and effectiveness of any time and resources devoted to informing participants about relevant subject matter and evaluating learning outcomes. The presence of experts, the type of media used, and the way in which learning is conducted can all have an effect on the participants in terms of their level of knowledge on a given topic.

*Number of meetings:* in some instances, participants meet on multiple occasions over a short or long time period, and this has an effect on the quality of deliberation, the amount of material that can be covered, as well as cost and feasibility.

*Group composition:* the demographic composition of the group is important for assessing the inclusiveness, representativeness, and bias of the deliberative processes. This is one of the main concerns of deliberative theorists, and something that many place a higher level of importance on than other factors.

*Quantity and quality of deliberation:* there is considerable debate about what constitutes ‘rational’ or ‘quality’ deliberation, but it is nonetheless important to consider what measures are taken to ensure that some standards are met. There can be strict guidelines for procedures, experts or mediators present, and a narrow or wide variety of modes of speech and types of arguments used in the process, all of which have a bearing on the standard of deliberation.

*Selection of participants:* the way in which participants are chosen affects the level of bias, and the extent to which outcomes can be trusted, or deemed acceptable by other groups, and in comparison, to other types of political decision-making and their standards of representativeness. There is a continuum between self-selection of participants and random sampling that tries to mitigate some of the effects of self-selection.

*Presence of administrators, facilitators, interested and third parties:* third party involvement in the process is an important factor to consider. The participation of administrative staff, people with a vested interest in the outcome, or experts and
mediators all influence the nature of the process and the outcome. Too much control by mediators or interested parties can affect the ‘organic’ quality of the deliberations and skew outcomes, but such parties can also play beneficial facilitative roles that help ensure the smooth operation of the process. The presence of groups with specific interests can also politicize the deliberations, and/or suppress member participation, both with potentially troublesome consequences.

1.4.1.3 Structural features of the institution

These features pertain to the way in which the institution is structured, as opposed to the way in which the process is carried out, which we dealt with in the previous section.

Decision-making mechanism (or lack thereof): these features include mechanisms that range from binding majority vote, general recommendations, and recommendations offered on the basis of consensus. Furthermore, the initiatives under review have differing relationships to the policy-making process. The power that the participants have to influence policy can have various effects on the process itself. In some cases, with raised stakes, participants may be less open to changing their mind, whereas in others, the fact that they have the chance to influence may make them more engaged in the process, enhancing both their enjoyment of the exercise and the quality of deliberation. For example, polling initiatives are ‘ideal’ snapshots of what public opinion would or could look like if people deliberated about a specific topic; the results can be used by decision-makers, but they are not tied to decision-making (which is why we will not consider them)\(^1\). Citizen Assemblies have been funded by governments to recommend policy choices and inform referendums, but the assemblies themselves have not yet been vested with direct decision-making power\(^2\). Empowered Participatory Governance Initiatives (including participatory budgeting, decentralized planning, and local governance initiatives) are examples of deliberative processes that culminate in decisions, not just recommendations or opinion polls\(^3\). They empower local groups to use government funds in local projects at the regional and municipal level. However, elected representatives still have the final say on whether to accept or reject a funding proposal.

\(^1\) “What Is Deliberative Polling®?”
\(^2\) In British Columbia, Ontario, and the Netherlands, recommendations have been rejected by the public in referendums, or in the case of the Netherlands, by the government in power at the time that the assembly furnished its recommendations. Fournier, *When Citizens Decide*; Warren and Pearse, *Designing Deliberative Democracy*.
\(^3\) Fung and Wright coined the term “Empowered Participatory Governance” to refer to democratic institutions characterized by empowerment and that have a participatory quality: “They are participatory because they rely upon the commitment and capacities of ordinary people to make sensible decisions through reasoned deliberation and empowered because they attempt to tie action to discussion.” Fung, *Deepening Democracy: Institutional Innovations in Empowered Participatory Governance*, 5.
Private/Public structure: none of these initiatives are purely private and are either explicitly arms of some branch of government, or are one-off initiatives funded by a coalition of public and private interests that include governments, academics, businesses, and NGOs. However, the composition of the supporting institutions and groups can make a difference to the process and the outcome.

Level of Centralization: the extent to which an initiative is scaled up or localized, and its place in the hierarchy of political decision-making determines its level of centralization. This influences cost, time, and effectiveness and impacts on other areas of government that share or delegate responsibility to the initiatives, as is the case, for instance, with Participatory Budgeting.

1.4.2 Macro Variables

These include cultural, legal/political, and economic factors in the broader environment. Different elements are important for each type of initiative under consideration, so we will explore these on a case by case basis and draw more general conclusions after the case studies. In general, I highlight these issues because they are relevant to the feasibility of the processes in certain regions, and to point out that they are more/less suited to given regions because of the presence/absence of other institutions that I will argue are preconditions to successful deliberation – a strong legal system, competitive and open markets, and a robust political system.

1.5 Outcomes

There are two broad categories of outcomes that deliberative democrats seek to achieve – moral and epistemic goals. The moral values are first, equality and inclusion. This is both understood as equal participation in the processes, and egalitarian social outcomes that this equal participation is emblematic of and contributes towards. Egalitarian outcomes are understood in varying degrees as something that refers to equal treatment of all members of society in political life, to equal power in the sense of political influence, or to measures that are aimed at equalizing status or material well-being. Second, it is hoped that the process will enable the development of civic and personal virtues such as tolerance and respect. Third, it is thought that more deliberation can create social capital, in the form of greater trust, and de-polarization on political issues. The epistemic goals to be achieved are more rational policy choices through a deliberative procedure that is governed more by reason and evidence than by power and self or group interest.

1.5.1 Moral Goals

There are four main moral goals that theorists espouse: egalitarian and cooperative deliberative practices, egalitarian social outcomes, the development of civic and personal virtues, and the creation of social capital in the form of greater trust and de-polarization on political issues.
First, proponents of deliberative democracy think that deliberative practices can foster greater political inclusion and political equality. To do so, deliberative settings must include many different groups of people, and the processes themselves must be egalitarian – everyone must be able to speak, influence the outcomes equally, and be equally respected. The inclusion criterion is variously understood as proportional representation, or overrepresentation of groups that are thought of by certain theorists as either minority groups, disadvantaged, underrepresented, or oppressed.

Secondly, these same values are to be manifested in social outcomes as well. Though it is harder to define, and probably for this reason less often explicitly articulated, egalitarian social outcomes refer to equalization of wealth, status, respect, and power.

Third, it is thought that citizens can cultivate civic virtues through participation in deliberative practices. Through participation, citizens learn respect for one another, an understanding and appreciation of their similarities and differences, develop self and other knowledge, debating and reasoning skills, and potentially esteem from the whole process. They may become better citizens and better people as a result.

Fourth, proponents of the theory think that deliberative practices may result in a society with higher levels of social capital, such as greater trust amongst the citizenry (which is thought to have effects on many other variables such as crime and corruption), as well as the curbing of overt political partisanship and maintenance of polarization at healthy levels.

The following is a list of some of the standards for good deliberation invoked by theorists in the first and later generations of the deliberative democratic tradition. They pertain to the process of deliberation itself.

Table 1 - Standards for good deliberation (From Oxford Handbook of Deliberative Democracy21)

<table>
<thead>
<tr>
<th>First generation</th>
<th>Later generations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Respect</td>
<td>-Unchallenged, unrevised</td>
</tr>
<tr>
<td>Absence of Power</td>
<td>-Unchallenged, unrevised</td>
</tr>
<tr>
<td>Equality</td>
<td>-Inclusion, mutual respect, equal communicative freedom, equal</td>
</tr>
</tbody>
</table>

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<table>
<thead>
<tr>
<th>Reason</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reasons</td>
<td>Relevant considerations</td>
</tr>
<tr>
<td>Aim at consensus</td>
<td>Aim at both consensus and clarifying conflict</td>
</tr>
<tr>
<td>Common good orientation</td>
<td>Orientation to both common good and self-interest constrained by fairness</td>
</tr>
<tr>
<td>Publicity</td>
<td>In many conditions, but not all</td>
</tr>
<tr>
<td>Accountability</td>
<td>Accountability to constituents when elected, to other participants and citizens when not elected.</td>
</tr>
<tr>
<td>Sincerity</td>
<td>In matters of importance; allowable insincerity in greetings, compliments and other communications</td>
</tr>
</tbody>
</table>

It is important to note that there are both goals that are internal to the process, and those that are external to it. That deliberations should be egalitarian and inclusive is an internal goal, and that deliberations should contribute to equality in broader society – in its material, political, and status meanings – in the larger society is an external goal.

### 1.5.2 Epistemic Goals

In addition to moral goals, theorists who take a comprehensive view of deliberative democracy emphasize the epistemic dimension of deliberation. This can mean a number of things but can be separated again into epistemic concerns about the nature of the process, and the final product – the outcome of the deliberation.

First, some theorists argue for a rational and procedural conception of reasoning, and others on plurality of group representation and types of reasons used. In the case of the former, the reasons given and the methods for arriving at agreements should exhibit certain characteristics, measured against a standard of rationality. One of the most influential approaches is that of Habermas, who applies evaluative standards to speech acts based on their content and mode of expression. Different types of speech acts have corresponding standards of validity because they deal with aspects of reality.
as we experience it. People can raise claims to truth, normative rightness, and authenticity in the different settings we find ourselves in – when conversing casually with others, justifying themselves, arguing, and debating formally in a deliberative setting such as those that we will be primarily concerned with in this paper. Each type of claim and the context in which it is made corresponds roughly to an aspect of reality – the world of facts and things, the moral and social world, and an individual’s inner world of perceptions and evaluations. This framework of understanding claims and actions made in the context of deliberation focuses on the analysis of language, and provides the theoretician, or the mediator in an actual deliberative setting with more formal standards for evaluating speech that are derived from conceptual considerations about what must be assumed and implied by speaking and acting in certain ways.

John Rawls’ work bears a close resemblance to that of Habermas, or perhaps it is the other way around. No matter, his conception of ‘justice as fairness’ is derived from the hypothetical exercise of practical reason in an original position, behind the veil of ignorance. When we stand back and use our practical reason to reflect on what political and social rules would be just and universally acceptable, we should come up with principles that maximize equal access to basic liberties for all and suggest that social and economic inequalities are justified only insofar as they are generally advantageous and attached to roles open to everyone. His emphasis on the importance of practical reason for political and moral deliberation is similar to that of Habermas, though Rawls parts company with Habermas in taking a weaker view of the cognitive content of practical reasons – whereas Habermas thinks that they have genuine rational content, Rawls thinks that there are better or worse reasons, though not measured against as strict a standard. Theorists who adhere more closely to Habermas include Critical Theorists (James Bohman, and Simone Chambers), and those with a closer affinity to the views of Rawls include liberal theorists (Amy Gutmann and Dennis Thompson, Mark Warren, and Jane Mansbridge).

Habermas’ standards place demands on the speaker that she use reasons that can be understood and accepted by everyone, that some reasons – such as truths of revelation – must be translated into secular or publicly understandable reasons in order to be valid in the context of a deliberation. Rawls has opted for an ‘overlapping

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\[\text{\footnotesize 25} \text{ Bohman, } \textit{Public Deliberation}.  
\[\text{\footnotesize 26} \text{ Gutmann, } \textit{Why Deliberative Democracy}?  
\[\text{\footnotesize 27} \text{ Jürgen Habermas, } \textit{Between Naturalism and Religion: Philosophical Essays} (Cambridge, UK ; Malden, MA: Polity Press, 2008).  
\[\text{\footnotesize \footnotesize } \]
consensus’, in which the ideals of what counts as reasonable and the importance of consensus are less stringent. He argues that citizens can and should agree from the perspective of a variety of worldviews, though the content of the agreement is thinner. This is a rough characterization however, and many deliberative democrats do not directly apply the standards laid out by Habermas or Rawls, but follow in their footsteps in only a general sense. These theoretical starting points have influenced the development of different normative conceptions of reasonability and rationality. They provide an influence, but neither the theoretical frameworks of Rawls nor Habermas lay out explicit standards for universal use in applied settings.

Theorists not so committed to what they might call narrow standards of rational and reasonable discourse tend to strive instead on striving for the representation of different groups and promoting the acceptance of a diverse range of speaking and reasoning styles in the deliberative process[28]. Although we might think of framing standards in this way as moral considerations, it is thought that the presence of a wide range of views can contribute to a more comprehensive understanding of any given issue, to control for various types of pernicious biases, and help arrive at better policies that – though perhaps not best described as ‘rational’ – are truer in some sense. This is similar to the argument made in other disciplines, and indeed in western society writ large, that the presence of diversity manifested by either ethnic group, gender, or intersectional category of person in a given setting will de facto contribute to better decisions.

After an analysis of particular deliberative policy-making initiatives in Part 2, I will in Part 3 draw some general conclusions concerning the relationship between these goals.

28 See especially, Young, Inclusion and Democracy.
2  Part 2: Analysis

2.1 Variable and Outcome Analysis by Decision-Making Initiative

In this section, I will describe three types of deliberative decision-making initiatives. In doing so, I will take into account the aims of each specific undertaking as well as their structure, then proceed to evaluate them in terms of the goals of deliberative democrats.

To explore the relationship between the variables and the outcomes outlined in Part 1, I will be using some common concepts from economics that emphasize the consideration of cost (in dollar, opportunity, and time denominations), incentives, the time-scale appropriate to evaluating decisions and institutions, feedback loops between decisions and decision-makers, and impacts on other actors to analyze and evaluate decisions and decision-making processes. Here, I am influenced by the work of the economists and social theorists, F.A. Hayek, Thomas Sowell, and Bjorn Lomborg.

Though these considerations can be used in a technical way in economics, I do not intend to do so in a way that requires knowledge and expertise in any given area of that discipline. I only wish to use them to highlight important considerations that result from the interplay of the variables in question.

Generally, the relationship between the discrete variables (as single features of the initiative in question), and between packages of them and the effects that they have can be either positive or negative – that is to say, the achievement of one contributes to, or detracts from the realization of another. In economic terms, these outcomes are sometimes described as 'unintended consequences', whether positive or negative. At first glance, if a relationship between, say, time and cost appears to be either positive or negative, I aim to analyze why that might be, and then attempt to understand the way in which adjustments could be made to optimize outcomes, so as to achieve the most important goals of any given initiative.

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First, I will consider Adaptive Resource Management, then Participatory Budgeting Initiatives, and lastly Citizen Assemblies.

2.2 Adaptive Resource Management

Adaptive Resource Management (ARM) is an approach to natural resource management that is about learning through a process that is both collaborative, and iterative. It is collaborative in that it includes stakeholders in the development of a resource management plan. The resources in question are ‘natural’ and include land and commodities such as fish, game, mineral deposits, and lumber. It can be considered deliberative because it involves stakeholder collaboration that is discursive, and democratic because of the groups brought to the table, and whose opinions are both respected and count toward the decision. The result of the collaborative planning process is a preliminary proposal to manage the designated resources for a stated period of time. The stakeholders – some of whom are scientists – develop a hypothesis with testable predictions about the factors in question. These include matters like specifying catch rates for fisheries based on measures of the species population in an ecosystem, biodiversity levels, emissions levels from commercial activity, etc. The process is an experiment, the results of which are assessed at the end of the first phase. It is iterative, because the stakeholders get together again at this time, and reassess the situation. They make adjustments to the strategy as needed based on the knowledge acquired from the first phase and the changing circumstances of the stakeholders, then proceed from that point in a modified direction.

The impetus for adopting such an approach came from the perspective of practitioners in the environmental sciences. They were first outlined by one of the founders of the practice, CS Holling, in 1978. The first concern is thus the environmentalist agenda, which includes a wide range of matters from aesthetic issues about the intrinsic or instrumental value of biodiversity or landscapes; moral considerations about animal welfare, and even human welfare (benefits from living in clean and appealing natural environments); as well as more pragmatic considerations that highlight the importance of biodiversity for: the next generation of new medical technologies, ecosystem health, and pollution and emissions levels and their impacts on climate change. From within the field of resource management and conservation, ARM may provide advantages over its competitors. According to CS Holling, ARM can fill three key gaps in natural resource management: that which exists between


competing understandings of resource dynamics (amongst scientists of different stripes); the synthesizing of alternative perspectives held by different scientific disciplines; and dealing with the void between knowledge and action\textsuperscript{32}. Since ecosystems are complex, it is potentially useful to consider insights from scientists who study the environment at different levels of resolution. The uncertainty inherent in any resource extraction process invites the use of techniques that can help stakeholders better understand the potential outcomes of the process, including as it evolves, and to plan accordingly.

Crucially, the potential benefits of the ARM process (relative to other resource management approaches) are not defined only in light of the values and concerns of environmentalists, but also with respect to the firms involved in resource extraction, and ultimately vis à vis the broader public. Natural resources are depletable, and their ongoing depletion in many cases requires a careful understanding of the rate of regeneration of species (both plant and animal), and the healthy functioning of the environment so that business activities can continue on a sustainable basis into the future. Furthermore, policy-makers can also benefit from such an approach as they face time and knowledge constraints when making decisions. Stakeholders engaged in ARM processes can do the up-front hard work of deliberation and research on behalf of policy-makers and deliver better researched proposals than might otherwise be available.

This is a suitable initiative to consider from the standpoint of a proponent of deliberative democracy, as the process could be seen to neatly combine the moral and epistemic goals of theorists through stakeholder inclusion, coupled with an emphasis on a rigorous and scientific process with quantifiable targets and outcomes. If done well, the approach should yield better outcomes that deliberative democrats suggest should inherently follow from consideration of all viewpoints and the use of a clear, standards-based procedure. In this case, the standards include a rigorous process and recourse to expert knowledge and statistical techniques from the environmental sciences, and, to a lesser extent, economics. The presence of non-experts – members of the community, and particular interest groups – ensures that it is not merely a technocratic type of solution exercised by elites intent on advancing their own agendas. If these targets can be simultaneously met, then ARM is a good example of deliberative democracy at work.

2.2.1 Variables

All of the micro variables listed in Part 1 apply to the case of ARM, as do a few key macro variables, most notably the regulatory environment.

\textsuperscript{32} Holling, \textit{Adaptive Environmental Assessment and Management}.
ARM deliberations are interesting in that they combine moral and epistemic concerns as a result of the inclusion of stakeholders representing a wide range of concerns. There are typically four interest groups involved. First, there are the business interests that could be represented by entrepreneurs, such as local fishermen, or large corporations that, for example, are looking to extract water from a source and bottle it for sale. Their interests are sometimes couched in moral terms, such as when fishermen make appeals to the practice of fishing as something that is more than just a job, but part of their identity, sense of dignity, and the health of their home and community. A corporation may adopt a strictly legal approach (arguing defensively for a right to use the land as they see fit) or position their efforts as beneficial to the local community, or to the economy at a regional or national level.

Second, there are scientists, and Environmentalist NGOs. The two groups are importantly different, but closer in practice than either might care to admit. These groups advocate for conservation of resources, species, the landscape, etc. and do so from a number of perspectives. The scientists tend to cite factors that are quantifiable like pollution levels, endangered species, ecosystem health and its relationship to biodiversity in order to present a rational case for limiting resource extraction in some way. NGOs may invoke similar strategies and also appeal to aesthetic and ethical considerations like the intrinsic value of a species or a natural environment untouched by human activity, and tie resource use to broader concerns about climate change.

Third, there are the administrative bodies in charge of resource management, for example, the Environmental Protection Agency (EPA) and Environment Canada. As organizations, their stated missions may be roughly in line with the objectives of environmentalists, though they are open to political influence. Furthermore, as organizations, they act over time in their own burgeoning interests, which are to secure more public funding to carry out their activities – create initiatives and programs, designate areas as national parks or reserves, and increase regulation and oversight. An administrative body will always seek to make more regulation and broaden its remit to ensure that it has an ongoing purpose. No doubt, these institutions, and many citizens, view this as beneficial and benign, and indeed some of them are. The point is merely to state that institutions imbued with regulatory power tend to spawn more regulations – it is to be expected.

Fourth, there are community interests that have a direct stake in a project undertaken in their midst. In Canada, local and regional interest groups have lobbied government to regulate business use of natural resources in recent years. Two prominent examples include concerns over Nestlé’s use of aquifers in Ontario, and Indigenous communities along the proposed Trans Mountain and Keystone XL Pipelines in Canada and the United States. They can express views consistent with either the positions of business or environmentalists, favouring the jobs that come to the community, or lamenting the impact of business on community dynamics, the landscape, pollution and noise, traditional ways of life, etc. For example, Indigenous communities involved with the Trans Mountain pipeline have expressed both support of and opposition to the initiative. These examples do not represent cases of ARM but point to the fact that community interests do not fall solely on one side of the equation, in spite of the efforts of conservationists to oversimplify issues and portray the matter as everyone against corporate interests.

High profile examples such as Nestlé’s use of water in Ontario, or the pipelines in Canada and the United States, would not be well-suited to an ARM approach. It might be argued that it is beneficial to include all of the stakeholders in such situations, but the actual effects of deliberation on the outcomes are at best weak. Such instances involve the clash of worldviews and powerful interest groups, with so many factors in play that it is hard to view the role of deliberations as anything but lip service paid to virtuous aspects of democracy. Practitioners involved with the design and implementation of ARM projects suggest that the feasibility of a project decreases as the scope of the project increases because of the time needed to test hypotheses and replicate treatment and controls, not to mention the number of entities involved and the value conflicts that can arise.

Although stakeholders may come to the table with different motivating values that could be described as ‘moral’, they are translated into tangible and quantifiable terms by the very nature of the process, as it culminates in concrete policy proposals. Since the ARM method ultimately culminates in an experiment, a testable hypothesis is a key component, which in turn requires quantifiable variables and outcomes to measure.

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success and failure. Thus, there are informal standards on the content of deliberations that emerge from the requirements of testability.

2.2.1.2 Process:

![The Adaptive Management Cycle](image)

**Who is involved:**

Stakeholder involvement is the ‘democratic’ component of ARM that qualifies it for consideration as a deliberative decision-making initiative. The U.S. Fish & Wildlife Service – the regulatory body in the United States that is involved in oversight and regulation of fish & wildlife resources – defines stakeholders as “anyone with a vested interest in the outcomes of a management decision”\(^{39}\). They generally include: consumers/users (e.g. hunters, anglers, hikers, boaters); public management agencies (e.g. Forest and Wildlife Services, the EPA, state agencies); NGOs; political entities at the local, state and national levels; and economic interests, which include entities like voluntary associations that lobby government such as Chambers of Commerce, as well

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38 Taken from, Chaffin, Brian C., Gosnell, Hannah, “Measuring Success of Adaptive Management Projects”, in Allen and Garmestani, 95.
39 Angela Romito, Clinton T Moore, and Elise R Irwin, “Key Players and Their Roles in Adaptive Management,” 2013, 10.
as various private business interests. To select stakeholders pragmatically, it is suggested that their involvement be determined by a consideration of the combined criteria of: the ability of the stakeholder to affect the decision, and the ability of the decision to affect the stakeholder\textsuperscript{40}. This is different and at odds with some of the values that pertain to equal representation of demographic groups, the most marginalized, and so on, that deliberative democrats sometimes argue is important and essential to include in the deliberation. However, given that ARM projects are often local or regional in nature, it makes sense to include those groups that are directly affected by the decision, one way or another.

*Phases:*

During the assessment phase, the actors in charge of selecting a resource management strategy must decide on whether to proceed with an ARM approach or not. Once the stakeholders have been selected and contacted, the design phase can begin. In this stage, stakeholders work with management and facilitators to frame the problem, develop objectives, and then articulate decision alternatives.

These parts comprise the initiation of the project, and it is where significant time and energy are spent getting things off the ground. In can take considerable time just to select the strategy, then to get everyone to the bargaining table. Factors commonly cited by practitioners include the time it takes to solicit slow moving bureaucratic entities, meeting the various legal and regulatory criteria, and taking time to bring hostile groups together\textsuperscript{41}. This can take anywhere from a few months to a year or more. During the implementation and monitoring phases, the scientists involved are responsible for ensuring data is collected and subsequently evaluated. The adjustment phase occurs at the end of the first management cycle, and the process can resume or break off, depending on the results of the first cycle. Thus, there is a significant time investment at the outset, and at the various negotiation stages that occur and re-occur through the duration of the project. It is crucial to note that many of these projects span several years. The larger the area and issue under consideration, the more time it will take to monitor and assess the process because the time needed to allow for the various project phases to generate measurable effects, and then to replicate the studies, increases.

In general, the more stakeholders that are included, the more difficult it is to reach an agreement, simply by virtue of numbers. Yet, this might be traded off against the perceived value of inclusivity, and the political benefits of appeasing many different parties. Whether this works in practice remains to be seen; Lee has pointed out that

\textsuperscript{40} Romito, Moore, and Irwin, 3.
collaborative practices such as ARM have worked best when a collaborative structure is already in place. This fits with other comments by practitioners and theorists who note that there are important preconditions that must be in place for ARM to be feasible and successful. It is thus common sense to accept that the number of stakeholders should be kept to a minimum so as to avoid high costs in both money and time, as well as ineffective solutions that are best characterized as appeasements, rather than effective solutions for legitimate stakeholder groups.

2.2.1.3 Structural features:

The decision at the end of the process is reached on the basis of consultation, and one that is ultimately overseen by the body in charge of a given process. Three patterns emerge – private organization, government, and NGO initiated and controlled processes. First, private firms interested in extracting resources can seek out management firms that specialize in designing and implementing ARM processes. Secondly, the process can be initiated in a top-down fashion by a regulatory body, such as a federal or provincial/state government, or a government environmental agency. Lastly, grassroots concerns can pressure government actors to initiate regulatory processes, which might result in the choice of ARM as the management strategy adopted. In the relatively rare situations where governments are not directly involved in oversight, the final decision can rest with the business interests involved in use of the resource, but in all other cases, the final say rests with the government.

2.2.1.4 Legal/Political:

I will focus here on Canada and the United States to underscore the relationship between regulatory agencies and strategies, and the ARM process itself.

In Canada, federal powers extend over the ocean and inland fisheries, navigation and shipping, and federal lands and waters. In each of these areas, the federal government has used its powers to create ‘Acts’ that regulate use of the resources and jurisdictions in question. Furthermore, a preamble to section 91 of the Constitution Act is increasingly being used to enact legislation, in the name of ‘Peace, Order, and Good Government’ (POGG). For example, the Canadian Environmental Protection Act, which regulated toxic substances, was justified with reference to POGG.

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45 Field and Field, Ch. 15, 2.
Provincial powers come from section 92 of the Constitution. The provinces have power over local works, property and civil rights, matters of a local or private nature and authority over provincially owned lands and resources. This last authority is significant as it allows provinces to regulate their natural resource industries. Furthermore, most public land in the country is in the provinces, so it is they who have more final say in implementing environmental policy.

Because of some ambiguity in the definition of realms of authority, there is overlap in regulation and oversight. The courts are there to establish principles to determine jurisdiction in cases of potential conflict. It has been determined that federal law takes precedence, though very few cases exist where decisions regarding environmental legislation have been made.

The parliamentary system in Canada allows for far more control over legislation than the American system, notwithstanding the latter’s checks and balances. A Canadian majority government controls the federal bureaucracy and the regulative and legislative agenda. However, whereas in the States, Congress can pass laws that the EPA is required to implement, in Canada, Environment Canada oversees and initiates most regulations itself. It is only when a governing party specifically targets environmental initiatives that top-down policies are undertaken. The Green Plan, started in 1989, was soon cut as balancing the budget through deficit reductions took precedence in the Chrétien government, and no new federal policy on such a grand scale has emerged since. To this day, there are few incentive-based regulations in place that are tailored to the particularities of a given industry or region.

Modern US Environmental law followed shortly after Carson’s *Silent Spring* (1962). The National Environmental Policy Act of 1969 led to legislation including “the Clean Air Act, the Clean Water Act, the Coastal Zone Management Act, the Endangered Species Act, the Safe Drinking Water Act, the Resource Conservation and Recovery Act, the Toxic Substances Control Act, and the Comprehensive Environmental Response, Compensation and Liability Act.” There are also a number of administrative agencies in the executive branch of government, the most significant of which is the Environmental Protection Agency (EPA), which has much more clout than its Canadian counterpart, as it has a broader legal mandate to set standards and regulate. In spite of American federalism, which is supposed to give states more
powers, a clever interpretation has justified a good deal of legislative and legal activity – the Commerce Clause (which gives power to Congress to regulate commerce among states, and foreign nations) has been interpreted in such a way so as to justify sweeping regulations.

Trends common to both Canada and the United States are the increasing use of agencies to advance the environmentalist agenda, aided by changes in the law to circumvent obstacles to the full realization of that agenda. The Canadian and American agencies have more effective although not overriding power to make regulations. This is because they make so many laws that the higher-level courts can only take them into account when challenges are brought against them. This effective power is achieved by moving away from prospective to retrospective law. Prospective laws describe in advance what citizens can and cannot do, with clear language, whereas retrospective laws employ vague terms that refer to outcomes\textsuperscript{52}. For example, with the use of terms like ‘environmental impact’, agencies are able to impose significant compliance costs on industry and private individuals and to retrospectively punish individuals and institutions for failing to meet the unspecified criteria that these terms ‘refer’ to. This allows them to exert more control and regulate behaviour in line with their agenda.

2.2.2 Outcomes

From the perspective of deliberative democrats, ARM is successful so long as the concerns of all stakeholder groups are respected, and a resource management decision is generated that trades off the benefits and harms to the environment and business and citizen interest groups, and society at large. This means inclusion, deliberation in a meaningful way, and results. From the perspective of deliberative theory, when the processes approximate the ideal, beneficial outcomes should result.

From the perspective of the participants, the desirability of the process is largely a matter of who you ask. Environmentalists are keen to gain more sway over resource use, whereas private citizens and businesses are often focussed on their own interests. It is increasingly the case that businesses adopt Corporate Social Responsibility (CSR) codes, for either strategic public and government (regulatory body) relations reasons, for their own long-term success in a potentially fragile environment with finite resources, employee satisfaction, or even because corporate culture is changing, and a company’s ‘vision’ and social purpose are increasingly deemed important by executives and employees alike. Administrative departments that exist to regulate and determine policy tend to be less fond of such approaches if it means too much loss of authority. Politicians may or may not be favourable to such approaches. In theory, ARM initiatives

\textsuperscript{52} Sowell argues that the law has increasingly become a vehicle for political change. By changing laws from prospective to retrospective terms, and using vague language to refer to the outcomes that will be met with punishment, individuals are at the mercy of governments and agencies, who use this vagueness to punish those who fall afoul of their ideology. Sowell, \textit{Knowledge and Decisions}, 233.
do all the work for the politician who must make a decision on a policy whether quality research on the subject is available or not. However, this depends to a large extent on the outcome of the research, and the political influence of the groups involved.

At first, ARM emerged out of the concerns of conservationists to better predict and control resource and land use to protect the environment and to concurrently do science. Over the years, as the use of the strategy has grown, environmentalists and other stakeholder groups have concluded that situations involving resource use do not lend themselves to ‘technical’ solutions. They have determined that ARM is a great way of doing ‘objective science’, but only with reference to certain questions and decisions that are answerable to the perspective from which they come. So-called ‘wicked’ problems that are defined as broad questions of “importance and preference, rather than technical considerations”, are not amenable to a specific reasoning of the sort used in research and experimentation settings within narrowly defined perspectives of individual fields of environmental science\textsuperscript{53}. Indeed, this is precisely what makes it a process appealing to deliberative democrats. Yet, the idea that there are ‘wicked’ problems also makes such questions – as is the case in other areas of decision-making – fundamentally unsuited to deliberation. Strong influences on decisions of such a kind are political concerns, along with more prosaic consideration of alternative uses of the time and money spent on resource management and regulation. For example, the choice to adopt a strategy proposed by an ARM exercise – or any other environmental regulation – is one that might be completely unpalatable to the geopolitical or economic interests of a country, voter base, or political regime. It is doubtful that the Keystone and Trans Mountain Pipelines would pass the test of an ARM decision-making procedure, simply because these processes tend to give more weight to environmental concerns. Yet, viewed from a perspective that does not give those concerns such weight, decreased dependence on Middle Eastern oil and the economic boons to Canada and the United States could outweigh environmental concerns.

What are the appropriate criteria for effectiveness here? At present, ARM is used infrequently, and with varying degrees of success. It requires considerable time and resources, as well as persistent efforts to maintain the relationships that are critical to the ongoing viability of the exercise itself. In some cases, a particular stakeholder group may be attracted by the idea of the experimental nature of the process, or for its ability to generate good PR, but many projects are abandoned after the first phase\textsuperscript{54}. It has


\textsuperscript{54} Lance Gunderson, Chapter 3: Lessons from Adaptive Management: Obstacles and Outcomes, in Allen and Garmestani, Adaptive Management of Social-Ecological Systems, 33; Walters, involved in the early design and implementation of the theory has commented on the frequency of success in getting projects off the ground: “I have participated in 25 planning exercises for adaptive management of riparian and coastal ecosystems over the last 20 yr; only seven of these have resulted in relatively large-scale management experiments, and only two of these experiments would be considered well planned in terms of statistical design (adequate controls and

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become clear that ARM only works when key conditions are met: the scale of the project must be small, the relevant stakeholders are engaged, there is a popular mandate or high-profile public pressure to engage in the process, stakeholders must agree on management objectives, monitoring is feasible, and management actions can be modified. It can work when: leadership is engaged in the process and legislation has paved the way for ARM; funds are available; monitoring of the ecological system is in place; information flows are established (such as cross-scale linkages); there is a variety of sources of knowledge that nonetheless share somewhat homogeneous interests; and a venue exists for collaboration. From this, we can discern that there must be significant political will to engage in the process, as it requires concerted interest and involvement, and the coordination of many actors to make it work.

To summarize, ARM is interesting because it combines epistemic and moral concerns in deliberations. In general, the more local and constrained the situation, the more tractable and effective deliberations can be, and the more complex and politicized the issue, the more unattractive the choice of ARM as an effective resource management method. In some cases, good outcomes have been achieved, measured against the relative weightings attributed to the various interest groups involved. Yet, without recourse to undisputed standards for judging what constitutes a good deliberation, outcomes remain rather murky. The process of ARM is lengthy and costly, increasing with the number of stakeholders involved and the demands of the information gathering operation. There is a trade-off between inclusivity of stakeholders and the time required to gather information, versus the costs of such an undertaking as measured by the duration of the whole process and the financial and other resources required. The suitability of the players involved, and the nature of the jurisdiction’s legal and political environments are critical factors in determining the aptness of ARM and must be assessed when considering its application to other jurisdictions.

2.3 Mini-Publics

Mini-publics are forums where citizens representing varieties of viewpoints get together in small groups to deliberate about a particular issue. The four elements – representativeness, small size, defined topic, and deliberative approach – distinguish a mini-public from other similar types of deliberative institutions. From this common core, they are differentiated in terms of the way in which they are: tied to decision-making, replication).” Carl Walters, “Challenges in Adaptive Management of Riparian and Coastal Ecosystems,” Conservation Ecology 1, no. 2 (December 17, 1997), https://doi.org/10.5751/CE-00026-010201.
57 Grönlund, Bächtiger, and Setälä, Deliberative Mini-Publics, 1.
meet standards of inclusivity and representativeness, and are able to meet standards of high-quality deliberation. Favouring an expansive view, Archon Fung has coined the term ‘Empowered Participatory Governance’ to refer to initiatives that combine high levels of participation with decision-making power. Under this heading, institutional designs that embody and realize different constellations of democratic values are grouped together because of their similarity in emphasis on participation and governance. On the restrictive end of the spectrum, James Fishkin has tried to argue that Deliberative Polls are the only way to meaningfully instantiate the ideals of deliberative democracy. He argues that self-selection and the requirement for collective and consensus decisions (rather than individual judgments) do not reflect the goal of equality. The intermediate approach tries to balance the competing goals of participation with the aim of exercising real decision-making power, and inclusive, representative, and power-free discourse. Citizens Assemblies are representative of this type of Mini-Public.

The disagreements between theorists about the proper normative conception of a Mini-Public reflect the fact that there are trade-offs between the sets of values that they consider important. In order to do justice to the different conceptions, I will consider Participatory Budgets and Citizen Assemblies, and keep Fishkin’s criticism in mind when evaluating them, though leave out Deliberative Polls as they are not tied to decision-making.

2.4 Participatory Budgeting Initiatives

Participatory Budgeting (PB) initiatives democratize the expenditure of public funds, primarily at the level of municipal politics. They involve delegating the power to spend government funds to local units comprised of the citizens of that community. These units engage in deliberations and the joint choice, planning and execution of projects enabled with the funds. The first PB initiative took place in the city of Porto Alegre, Brazil, in 1989. Since then, the movement has grown over the years in different phases. Although first tried in Porto Alegre, PB initiatives now operate around the world. Needless to say, circumstances differ dramatically in each case, though the core of participation, deliberation, and development of a proposal are common to all. The aims of the agents who advocate for the use of PB as a decision-making tool vary from region to region, depending on the level of poverty, corruption, and political and

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58 Fung and Wright, *Deepening Democracy : Institutional Innovations in Empowered Participatory Governance*.
60 Fishkin.
61 The five phases have seen PB grow from Porto Alegre to more than 140 municipalities in Brazil, then Latin America and Europe. Today, PB initiatives are being scaled up to include “larger and more complex systems”. Nelson Dias and Simone Júlio, *Hope For Democracy: 25 Years of Participatory Budgeting Worldwide*, In Loco Association, 2014, 23–24.
62 Examples of PB initiatives are now found on every continent. Dias and Júlio, 25–28.
administrative apparatus, and history with democratic initiatives. In general, in poorer areas, more emphasis is placed on social justice and empowerment, whereas in Europe and North America, emphasis is placed on increasing citizen engagement in the political process, and on providing ‘advice’ rather than binding decisions. This is in part due to the nature of the history of interest in the movement, and the existing political institutions, players, and issues in the concerned regions. In Latin America, PB has had an explicitly leftist bent, and has been tied to revolutionary movements. In North America, Europe, the UK, and Australia, PB has been used more as a complement to the existing way of doing things rather than a revolutionary tool, or blueprint for changing the system.

PB initiatives involve individuals, interest groups, and local government actors in a process, the result of which is the selection of local projects to fund with public money. According to Archon Fung and Erik Olin Wright, it is crucial that PB processes, and ‘empowered participatory governance’ initiatives in general, have the following features. The process must be oriented to tangible, practical issues, the participation is bottom-up rather than top-down, and that the solution is the result of deliberation. The design of the initiative must (1) involve devolution of decision-making from centralized political structures to the local initiative, though (2) centralized supervision and coordination must be maintained to ensure that it is tied to the political process, and (3) it must be non-voluntarist. This last point emphasizes that these initiatives are about changing the way in which the political system operates as a whole – bringing participation and empowerment to citizens at the local level.

The process has a few phases and takes up to a year for recommendations and decisions about spending projects to be reached and put into place. Many benefits are cited and expected to result from the increased use of PB initiatives, but among the most quantifiable are: effective problem solving, equality, and community engagement (building social capital).

We might expect effective problem solving because individuals who are close to the point of action possess relevant contextual knowledge and have a stake in the project. By tying decisions to deliberation, superior solutions should emerge because people have the time and interest to compare alternatives better than others. It is also argued that such practices shorten the feedback loop, as information about the success of projects goes straight to the community, who then consider this in the next round of budgeting deliberations, rather than having the information pass through many levels of the government bureaucracy. Lastly, PB initiatives ‘generate a proliferation of command

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63 Dias and Júlio, 15.
64 Dias and Júlio, 15–17.
66 Fung and Wright, 20–23.
67 Fung and Wright, 24–29.
points’, which can hypothetically allow for more effective control over the exercise as local actors closer to the issues in question have more knowledge over what is needed and what is not \(^{68}\).

### 2.4.1 Variables

#### 2.4.1.1 Content

The content of PB initiatives is more technical and applied than what is found in Citizen Assemblies, for example. This is due to their explicitly practical nature – being focused on choosing specific projects to fund with public money. However, since many different groups are involved, especially political and activist interest groups, issues can be framed in ideological terms, though this differs by region. For example, in Porto Alegre, and in other Latin American countries, concepts from the socialist lexicon are incorporated into the normative ideal of the process, and facilitators try to maintain the discussion in this spirit \(^{69}\). Though the use of PB is different in countries around the world, many use the original design in Porto Alegre and Brazil as a model \(^{70}\). In particular, Paulo Freire’s education model does some normative leg work. Hierarchical relationships are thought to be inherently oppressive and something to be done away with. To overcome this, the teacher (in the case of the education model), or in this case the facilitators of the PB initiatives, are to enter into an equal relationship with the participants, thereby ‘democratizing’ the relationship and process. Facilitators try to create an environment that is based on ‘cooperation and solidarity’ and is ‘non-competitive’ \(^{71}\). We will explore later whether these things are desirable, but at the very least it can be said that they are openly and unapologetically political.

The fact that the issues are practical and that most of the members have an interest in the outcome contributes to high levels of participation, and a meaningful consensus is more likely because of their common geography. In Porto Alegre, participation has increased steadily over the years \(^{72}\). In North America, PB has sprung

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\(^{68}\) Fung and Wright, 25.

\(^{69}\) Dias and Júlio, Hope For Democracy: 25 Years of Participatory Budgeting Worldwide, 157; 402; “An explicit part of the design of the PB is a didactic component inspired by the ‘popular education’ methodologies of Paulo Freire and the Ecclesiastic Base Communities”, Gianpaolo Baiocchi, ‘Participation, Activism, and Politics: The Porto Alegre Experiment’ in Fung and Wright, Deepening Democracy: Institutional Innovations in Empowered Participatory Governance, 56.

\(^{70}\) PB won the UN award for Human Settlements, and gained a good deal of international reputation as a result. It began in Africa in the late 90s. Osmany Porto De Oliveira, “The Dynamics of the Diffusion of the Participatory Budget in Sub-Saharan Africa: From Dakar to Maputo”. The first PB took place in Guelph, Canada in the year 2000, and 2010 in Chicago in the US. Donato Secondo & Pamela Jennings, “Building Sustainable Empowerment: Participatory Budgeting in North America”, in in Dias and Júlio, Hope For Democracy: 25 Years of Participatory Budgeting Worldwide, 90; 242–43.


\(^{72}\) Baocchi (2003), in Fung and Wright, 51.
up in a number of municipalities, with participation waxing and waning, but staying steady in some of the more successful instances, including New York (PBNYC), Chicago, Guelph, and Toronto. In Germany, the processes began in 1998 and have since expanded to include over 100 budgeting initiatives in municipalities around the country. They are consultative rather than decision-oriented and involve a good considerable online (sometimes exclusively) participation. Furthermore, the local nature of the issues means that participants have knowledge that bureaucrats would not otherwise have, and these decisions are thus well suited to their level of expertise.

One of the noted problems with the way in which PB initiatives are structured is that they favour investment in projects with short-term payoffs and horizons versus long-term projects that may prove more beneficial down the road. While this may be true, the relevant question must be whether it is different in this regard from other alternatives. Time discounting for the future, predicting the future, and the natural tendency of people to favour immediate results rather than those that take more time to be felt are all factors that make the problem of long-term planning, policy-making, and investment a general one, and not necessarily something endemic to PB.

2.4.1.2 Process

The act of developing a plan takes about a year in the majority of places where PB has been implemented, though the time frame is tied to the rhythms of local political processes. This is a necessary reality as there are multiple preconditions to establish in order for the process to run effectively, while it is also quite costly in terms of time and resources. There are a number of costs to consider that are internal to the exercise itself: direct administrative costs, self-interested administrative costs, and decision process and outcome costs. The direct costs refer to the time and effort that it takes to coordinate participation. Administrative self-interest costs refer to the impact of participatory processes on the administrative apparatus. The public manager overseeing public projects loses control over the decision agenda, thereby decreasing administrative power and authority. This is detrimental to long-term project success and stability, as it can overly weaken bureaucratic structures and breed resistance from within. Lastly, the process itself is costly as it creates administrative delays and slows decisions and implementation. Decisions are less timely, public involvement deters

73 Secondo & Jennings, “Building Sustainable Empowerment”, in Dias and Júlio, Hope For Democracy: 25 Years of Participatory Budgeting Worldwide, 243–45.
74 Michelle Anna Ruesch & Mandy Wagner, “Participatory Budgeting in Germany: Citizens as Consultants”, in Dias and Júlio, 287–95.
77 Donald P. Moynihan, Citizen Participation in Budgeting: Prospects for Developing Countries, in Shah, Participatory Budgeting, 80.
innovation and new policies, and spending is always increased\textsuperscript{78}. The spending issue is a major problem because, by its very nature, the process is isolated from the bureaucracy, ultimately burdening administrators – already leery of the implications of the process to their work – with cost overruns and political headaches.

Figure 2 - Yearly Participatory Budgeting Cycle (Taken from \textit{A Guide to Participatory Budgeting}, Brian Wampler, 2000).

The groups are composed of individual citizens, local voluntary associations, NGO representatives, activists, politicians, and administrators\textsuperscript{79}. Some have voiced concern that the ‘extremely poor’ are not well represented, and that interest groups

\textsuperscript{78} Moynihan, Citizen Participation in Budgeting, in Shah, 81.
\textsuperscript{79} This diagram characterizes many of the processes in Brazil and Latin American countries. Wampler, “A Guide to Participatory Budgeting,” 20.
dominate the process. Others have claimed that voluntary associations and local groups lose power as PB becomes the forum through which local politics plays itself out. These developments are to be expected, though on the whole, the openness of the process to all individuals in a locality, and measures taken to ensure that the worst-off are able to attend and are given a voice – make such initiatives score high on the inclusivity criterion that deliberative democrats think is crucial to a ‘just’ process – as this contributes to social justice, and makes democracies more representative than they otherwise would be. Such measures include a funding allocation mechanism that assigns priority and apportions funds to regions based on need, called the Quality of Life Index (used in Latin America). According to the index, need is determined by considering levels of income, education, physical infrastructure, and social services provided.

The quantity and quality of deliberation varies, but it is most certainly deliberative. It falls short in this regard of some of the ideals put forth by deliberative democrats, such as freedom from coercion, equality of influence, representation by demographic group, and the various rationality criteria. This does vary from region to region, but generally speaking, it is harder to control the process for the establishment of all the procedural criteria that theorists think is required for, or at least conducive to, genuine deliberation. The fact that such processes include people who would likely never have the chance to participate in an initiative in which they indeed have a chance to speak and collectively make decisions might be reasonably traded off against the desire to achieve a certain standard of deliberative quality. Indeed, the values of inclusion and participation are stressed when other figures pertaining to measurable outcomes that would confirm the effectiveness of the projects are lacking.

2.4.1.3 Structural Features

Small groups form among the participants under the oversight of facilitators. They develop plans themselves in deliberation, but the project and budget allocation are in the end determined by votes from elected representatives. Depending on the party in power or, in the case of a coalition government and its political leanings, the allocation decision can be met with acceptance or rejection. Even through regime change, levels of funding have remained high, likely due to the popular support, and precedent that the initiatives set – which is to always pressure for more funds.

The initiatives are all small-scale, and for good reason. The time it takes to engage in the process is considerable, and the fact that participant interests and the topics covered are so directly linked provides legitimacy and credibility to the process.

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80 Shah, Participatory Budgeting; Dias and Júlio, Hope For Democracy: 25 Years of Participatory Budgeting Worldwide.
Locals are familiar with issues that may elude the somewhat detached bureaucrat, politician or academic. Knowledge of local players, institutions, needs, geography, etc., all make a difference to planning and implementation. PB offers a process uniquely well suited to capturing these factors. There are thus numerous benefits related to knowledge fit, and efficiencies that can stem from a well-managed decentralization of decision-making.

An issue that some proponents raise is of scaling up existing initiatives to higher levels in the political process, e.g., state and national levels. The belief is that doing so will necessarily be an improvement on existing frameworks because results will be either: more inclusion and participation (the process itself is good), or social change (social justice)\(^84\). It is hard to see how, at present, PB initiatives could be escalated, and whether this would be a good idea.

First, there is the problem of scale and cost. PB initiatives work well because their narrow scope of topics or projects and confinement to a region render the design and implementation manageable. Alternatively, the idea that this problem could be avoided through random sampling can work if approached from a certain perspective. If we assume that agreement reached by a group of people from different and demographically stratified interest groups should decide important matters because the outcome will be legitimate or just, then it is sure to sound appealing. However, it is unclear whether the increase in stakes that are involved with deciding how public money should be spent would affect the cooperative and egalitarian nature of the process, and the effect it would have on the corruption of the process. It is also hard to imagine how – given that many PB processes are directly tied to decision-making through suggestions that are then ratified by representatives – the population would take to small groups of representatives being given the ability to influence decision-making.

The second problem is that as the scope of the funding project increases, the advantage in knowledge of the particulars that deliberators have in local instances is lost. It is not as though this problem does not also face politically appointed decision-makers who render the same decisions, but in the comparative advantage of delegating such responsibility to a deliberative budgeting process. Since participants are able to consider which projects they would like to implement in a deliberation on the basis of its hoped-for effects in their society, they are unable to take into consideration the many trade-offs that are involved in the choice of one large scale project over another. They are thus likely to favour more expenditure, as this is incentivized by the very nature of

\(^84\) The following quote is very telling. The solution is always more of the same: “The risk of fragmentation of representation and the intensification of individualism exists and its solution should be dealt with creatively. Democracy’s problems are solved with more Democracy. The Participatory Budget must continually enhance its completeness and consistency without ever abdicating its democratic radicalism.” Dias and Júlio, *Hope For Democracy: 25 Years of Participatory Budgeting Worldwide*, 10.
the process. It is unlikely that participants will come to the conclusion that they should not spend money on this or that infrastructure initiative because they are confronted with the task of deciding how to spend money that is not their own.

2.4.2 Outcomes

PB initiatives increase civic engagement in general, and for groups who would otherwise have less ability to influence decision-making. In this sense then, it moves towards ideals of equality, empowerment, and civic engagement on the moral end. However, it does not ensure some of the more stringent criteria pertaining to rationality, representativeness, or a power-free and equal process. The non-representative demographic composition of the groups that participate is the result of the local nature of the initiatives and the fact that motivated participants self-select.

In terms of quantitative success as defined by increases in spending in relevant categories and the effects that has had on municipalities and regions as a whole, the results are mixed. The World Bank has found that PB initiatives increase public funding in the regions in which they are implemented\(^85\). However, it is hard to say whether this is the result of the PB program, or the fact that they tend to be implemented and thrive under left-wing governments\(^86\). More importantly, the question of whether this has had significant impacts on living standards is hard to quantify. In Brazil, it has been noted that spending in general, and notably on infrastructure projects, has increased. In Porto Alegre, for example, spending on sewage systems, water filtration plants and low-income housing have all increased under PB, from levels that were previously almost non-existent\(^87\). This is undoubtedly a good thing, yet whether it was a direct result of PB, or whether it is the result of a confluence of factors or would have also been achieved under other structures is unknown. Brazil had been a military dictatorship up until the 80s when modernization and market reforms began. PB followed in the late 80s, and it is hard to distinguish the many other changes and the climate that created, and the direct impact of PB. Advocates of the success of PB even note that unemployment in Porto Alegre increased following the reforms, as well as levels of violence in the city (though this is true of Brazil as a whole)\(^88\).

On the one hand, this should be unsurprising because the use of public money to fund infrastructure projects is insufficient to create the conditions that sustain the kind of growth and development that increases living standards. Once a process of public

\(^{85}\) Shah, *Participatory Budgeting*.


\(^{88}\) Avritzer, 183.
funding of municipal projects becomes normative, it is unlikely that business will be
attracted to the region without a number of other incentives to complement this. Notably,
Brazil scores very low on Economic Freedom, with consistently high levels of start-up
costs for entrepreneurs and small businesses due to weak property rights, high barriers
to entry in terms of official regulatory costs, and bribes. The Economic Freedom
indicator is comprised of figures that relate to the ease of starting a business, the
presence of a strong legal apparatus that enforces contracts and provides the
framework for entrepreneurs to assume the risk of starting a business.

This situation is not unique to Brazil, but applies to many countries with weak
democratic traditions, state structures, and economies. The problem is that none of
those aforementioned systemic factors are directly addressed by ‘democratization’ or
increases in public expenditure. The latter can be important, but they cannot be very
effective in the absence of key preconditions, and thus such reforms should be
allocated a lower priority and value than other measures. These include things such as
legal reform with an emphasis on property rights, and the removal of administrative
barriers to small-scale entrepreneurs. Unfortunately, such reforms have the label
‘neoliberalism’ attached to them, which they certainly merit, though not in the sense of
paving the way for multinational businesses to thrive, but for peasants, and urban poor
to be able to circumvent corrupt and bloated state-run, and traditional and
unmodernised business environments.

In wealthier countries, increases in public spending have accompanied
participatory budgeting efforts in the municipalities in which they have been tried, with
far less measurable success, due to their small scale. This is likely due to the fact that
in countries like Canada, the United States, and the United Kingdom, market
mechanisms are well established. PB processes directly undermine the willingness and
ability of private firms to supply things like low-cost housing, infrastructure development,
and other socialized forms of public projects. This is because they become increasingly
unprofitable as they are tied to the political process and burdened with regulations that
are designed to make their use and access more ‘just’, ‘affordable’, and other words
that have moral, non-commercial connotations. For example, in Toronto, the overpriced
rental and housing market is caused by a confluence of factors, none of which are
remedied, and many of which are in fact hurt by the PB initiatives carried out by Toronto
Community Housing. Housing and rental prices are going up because there is a
shortage, caused by excessive demand and low supply. Supply is low because it takes
over a year to acquire building permits, thanks to dense bureaucratic processes and

89 The region as a whole has seen very little progress since an initial upsurge in the 90s. Ian Vasquez, The Human
Freedom Index 2018: A Global Measurement of Personal, Civil, and Economic Freedom, 2018,
http://www.deslibris.ca/ID/10099050; Terry Miller, Anthony B. Kim, and James M. Roberts, “2019 Index of
Economic Freedom” (Heritage Foundation, 2019), heritage.org.
90 In Chicago, New York, and Vallejo California, spending totals range from 1-5 million per district/year under
participatory control. Dias and Júlio, Hope For Democracy: 25 Years of Participatory Budgeting Worldwide, 245–50.
regulations. This is compounded by the efforts of the ‘social housing’ initiatives that increase costs by demanding standards, prices, codes, and ‘quality’ that increases the cost, and thereby decreases the attractiveness of bidding on contracts for the developments that the people they are supposed to represent are to benefit from.

Again, in order to scale up the use of such initiatives in wealthier countries, the likely effect is to make private businesses compete for an increasingly unprofitable set of public projects. The time taken to decide upon a project, its politicization, and the bureaucracy that comes with dealing with government agencies as opposed to private individuals or groups makes the projects that result very costly in dollar terms, as well as opportunity costs for the firms who would provide them. As government expenditure on projects increases, private business must compete for increasingly undesirable projects, and as a result, the quality of the service decreases, and firms that would provide the services at higher quality levels move to other sectors of the industry. This always ends up hurting those on the lower end of the income scale more than it does others, who can pay more for the smaller supply of more expensive private firms that offer the various construction and infrastructure projects.

There is an argument that more public expenditure on infrastructure projects needed in the most vulnerable sectors of a city, region, or the economy as a whole will have a catalyzing effect on the people living in the area in question. It is as plausible on the face of it to assume that increases in spending will have positive results, as it is to surmise that they may not. The optimistic view is that public expenditure can be directed appropriately, as the process is decentralized. If public money can be spent on infrastructure and capital projects with lasting impacts, or catalyzing ones impacting the health and well-being of people in the community, it can attract further investment, increase stability and safety, and living standards will rise.

The pessimistic view suggests that decisions to allocate funds in such a way will be unlikely, and that a too heavy use of such processes discourages activities that would contribute to the development of regions in which such initiatives are used. First, it has already been documented that the nature of the process overwhelmingly incentivizes short-term projects, and not capital-intensive ones that generate further wealth in the long run.

Second, public funding of projects and services cannot solve the problem of low levels and quality of employment. To achieve such outcomes, people must be able to find work that is relatively stable. This cannot be achieved with increases in services and infrastructure alone.

Lastly, the creation of a political process that increases public expenditure and government involvement in a region will likely create disincentives and divert resources to alternative uses. The creation of a political process to allocate spending of funds automatically creates an incentive for groups to capture the process and manipulate it for their own ends. Though there may be competition in participatory processes between competing interest groups, this does not create the same type of competition that private actors face in a competitive market, because they have to deal with the feedback mechanism that profits and losses provide, in addition to the competition of other potential providers for the goods and services in question. In the political process, it is much easier to seek rents because one does not have to do work that is directly tied to one’s ability to provide a good or service and face the discipline of profit and loss. Furthermore, as noted above, proponents of the participatory process – to varying degrees – are motivated by the normative vision of power-free dynamics, where cooperation and egalitarianism are emphasized to an extent that competition is suppressed. This has the effect of disincentivizing those individuals and groups who can stand to make a profit from offering those services because of the barriers – the costs of investing time, resources, and effort are prohibitively high, and relatively less rewarding.

In countries like Brazil, where serious inequalities exist, and corruption, patronage and clientelism are consistent problems, this kind of approach is likely to harm the groups it aims to help in the medium-long term, as indeed it has in the short run. At the very least, Brazil has very little to show from years of the Workers’ Party being in power, and an even longer period of Participatory Budgeting practices. If it does result in short-term increases in public investment in areas and amongst deserving groups, it does so at the expense of the long run prospects of Brazil and other Latin American countries’ overcoming barriers to prosperity, freedom, and greater social and civil liberties.

In conclusion, the promise and success of PB lies in its ability to increase participation, especially among women, grow social capital and catalyze the formation of civic associations, along with efficiencies that can result from the decentralization of some processes. As it is conceived in its local form, it can potentially take advantage of the local knowledge that citizens have of their region, and those projects that are most worthy. However, its goals that pertain to equality, both in terms of status and material levels, are likely misguided. The effects of too much participation and the politicization of development projects that are not tied to market mechanisms make it unlikely that PB initiatives can contribute to the larger goals that typically motivate their practitioners. If scaled up, the benefits of the process as they are now confined to local regions are likely to be lost. If these goals are the more important ones, then such processes are not the best candidates for achieving them.

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93 Dias and Júlio, Hope For Democracy: 25 Years of Participatory Budgeting Worldwide.
2.5 Citizen Assemblies

Citizen Assemblies are forums wherein randomly selected participants convene at regular intervals over the course of an average of a year or more to learn about, deliberate on, and then suggest or implement a decision on some particular political issue. They are designed to be direct, participatory, and deliberative. They are direct in that it is not through representatives, but rather by individuals themselves that recommendations, and in some cases decisions, are based. They are participatory in that a representative sample of the population is chosen to participate—making it demographically inclusive. It is deliberative in that the assemblies devote time to learning about the issue, hearing different perspectives, and then deliberating prior to voting or recommending courses of action. They culminate in decisions that range from suggestions to implementations of projects done on the basis of a vote, or a consensus statement on behalf of the participants. Governments that have favoured implementation of the recommendations of the assemblies have nonetheless often tied the process to a referendum in which the public votes on the topics that were deliberated upon in the Assemblies. A pool of participants is drawn from the intended constituency and is selected via random sampling to ensure demographic representativeness. This technique largely circumvents the problem of scale by selecting a subset of the population that is proportionally representative of it as a whole.

In this section, I will examine four Citizen Assemblies that dealt with the topic of electoral reform and which took place in British Columbia (2004-2005), Ontario (2006-2007), the Netherlands (2007-2008), and Ireland (2012-2014, and 2016-2018).

2.5.1 Variables

2.5.1.1 Content

In theory, Citizen Assemblies (CAs) can be convened on any topic upon which political power can be brought to bear. In Canada and the Netherlands, they have been carried out on electoral reform. In Ireland, after the Irish Financial crisis, a two-year constitutional referendum took place and at present, there is a Citizen Assembly underway on issues that include: abortion, fixed term parliaments, referendums, population ageing, and climate change.

Participants first learn about different perspectives on the subject topic and hear presentations by interest groups and experts prior to deliberating and then voting or

94 Fournier, When Citizens Decide, 11–12.
recommending on the basis of consensus. Crucially, the time taken to learn about the topic under examination varied considerably in the Irish case, wherein citizens met over the course of at most 5, and as little as 1 weekend to learn and deliberate, prior to casting votes and putting forward suggestions.

The types of arguments and considerations covered are wide-ranging and include both values and practical concerns such as cost, institutional mechanics of implementation, and the fact that any decision will involve trade-offs, inclusive of money being spent in one area meaning less is available elsewhere.

Like participatory budgeting, a key blind spot in terms of information considered that is common to all such focused deliberations is that the participants are not faced with budgetary constraints that bedevil politicians and bureaucrats. In addition, participants are shielded from the effects that their choices could have on interest groups and their support for parties and candidates, notwithstanding efforts to transparently phrase questions and inform participants that funding choices necessarily crowd out other initiatives. Notably, when asked where funds should come from, tax cuts of various types and spending cuts to other programs were not mentioned in the case of the Irish Citizen Assembly. They only mention the fact that trade-offs will have to be made, but do not take the time to point out which ones, and the effects that this might have.

2.5.1.2 Process

The participants in a Citizens’ Assembly are selected by random sampling that also actively screens for criteria like gender parity, income levels, age, and region. In spite of achieving a measure of representativeness, some concerns remain. These stem from the fact that though participants are contacted randomly, and only so many can be accepted, self-selection is still the mechanism through which people sign on.

97 The BC assembly involved deliberation prior to a consensus decision on behalf of the participants that was suggested to the provincial government. The government would hold a province-wide referendum, and the proposal was rejected. Warren and Pearse, Designing Deliberative Democracy, 9–12; In Ontario, a similar process was followed, and the proposal for electoral system reform was suggested to the provincial government. It was rejected in a referendum. In the Netherlands, the participants reached a decision by consensus after deliberation that was then submitted as a proposal to the government. A newly elected government declined to implement the proposal. Fournier, When Citizens Decide, 7–10; In Ireland, 99 participants deliberated about legislation on the five topics under consideration. They presented recommendations in the form of tabulation of the results of their votes and answers to survey questions. Farrell, Suiter, and Harris, “Systematizing’ Constitutional Deliberation,” 2–5.

98 Farrell, Suiter, and Harris, “‘Systematizing’ Constitutional Deliberation”; In this report, participants were first asked to consider that increases in funding to state-provided services for elder care would mean less money available for other services. They also went a step further and asked where funding for long-term care should come from. “Second Report and Recommendations of the Citizens’ Assembly: HOW WE BEST RESPOND TO THE CHALLENGES AND OPPORTUNITIES OF AN AGEING POPULATION” (The Citizen’s Assembly, December 2017), 10–25, www.citizensassembly.ie.
That is, they ultimately choose to participate. This means that the population in Citizen Assemblies has tended to be older (while having relatively few people who are very young and very old), has a negative view about current politics, are on average better educated, and are also more interested in politics to begin with. For example, virtually none of the ‘non-voter’ category is represented in the deliberations, which is not surprising. In spite of this, proponents rightly point out that the assemblies are still much more representative than legislatures which tend to be populated by well educated people, often from the majority classes.

In the Canadian and Dutch cases, the process was carried out in phases: research and organization, selection (of participants), learning, consultation, and deliberation and decision-making. The exercise culminated in the generation of reports which included recommendations, and, in some cases, the question being put to a referendum. In the first phase, chairs and political scientists were selected and hired, who in turn retained small teams of research assistants. The number of people selected through random sampling techniques ranged between 100-200 for the larger cases in British Columbia, Ontario and the Netherlands. Facilitators and staff do their best to let participants lead discussions but the agenda is very much set by the former: the facilitators supply material in the learning phase (for example, choosing textbooks on the issue), guide the process by choosing starting questions and keeping things on track, and arrange for competing interest groups to attend and give presentations after the deliberation phase.

In the Irish case, deliberations were carried out with the following behavioural principles in mind: openness, fairness, equality of voice, efficiency, respect, and collegiality (‘a spirit of friendship’). These values directly reflect those of leading deliberative democratic theorists, as the processes were designed with such people involved, and with deliberative democratic theory in mind.

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99 The 99 members of the Irish assembly were “broadly representative of society as reflected in the Census, including age, gender, social class, regional spread, etc.” “The Citizens’ Assembly Fact Sheet,” 1; In British Columbia, the membership “was to be broadly representative of the adult population of British Columbia, particularly respecting age, gender and geographical distribution”. In Ontario, gender parity and age stratification techniques were used, and the composition was informally supposed to be “a representative body of electors”. In BC, 2 aboriginal members participated, and 1 in Ontario. In the Netherlands, “the members of the assembly should form an exact mirror of Dutch society”. In practice, this meant geographic and gender stratification. Fournier, *When Citizens Decide*, 31–32.


101 Fournier, 31.

102 In BC there were 160, Ontario 103, and the Netherlands had 143. Fournier, 32.

In the case of the Canadian and Dutch assemblies, participants met over the course of a few weekends, spread out over several months, for which they were compensated in the form of a paid stipend to cover travel and hotel costs\(^ {104}\).

In the Irish example, the Assembly was composed using stratified sampling techniques, after which an initial meeting was held with the 99 members. After that, the members met a total of 11 times – with meetings ranging from 5 sessions in the case of the question of the Eighth Amendment on Abortion, and just 1 gathering for each of referenda and fixed term parliaments\(^ {105}\). In the latter two instances, participants obviously had less time available to learn about the issues prior to deliberating. However, members did review background articles and submissions from the public prior to attending meetings\(^ {106}\).

The cost of the BCCA was 5.4 million C $, the Ontario CA 6 million C $, the Dutch Burgerforum 5.53 million €, and the Irish Citizens' Assembly 1.5 million €\(^ {107}\). Compared to referendums themselves, which involve the collection and tallying of votes from the entire population, the cost is small, at 5-10 times less. However, at this stage in the development and use of citizen assemblies, governments are uneasy about making their results binding and have generally tied each deliberation to an actual referendum that includes the whole population of the jurisdiction in question. Thus, the figures listed above do not include the cost of the eventual referendum, which is only somewhat less than an election as the costs associated with result-gathering are similar, although fewer people tend to vote in them.

In addition to the time taken to implement every phase of the process, considerable time is spent getting the project going in the first place, in fact multiple years in each of the cases under consideration. However, it is likely that were such procedures to become standard practice, the process would be streamlined as

\(^{104}\) Fournier, *When Citizens Decide*, 34.

\(^{105}\) They were 5 meetings on the Eighth Amendment (concerning abortion), 2 meetings on each of the ageing population and the State involvement in climate change, and 1 meeting each on referenda and fixed term parliaments. Meetings ran from Saturday morning until Sunday afternoon at avenue near Dublin. “The Citizens’ Assembly Fact Sheet,” 2; “First Report and Recommendations of the Citizens’ Assembly: THE EIGHTH AMENDMENT OF THE CONSTITUTION,” June 29, 2017, www.citizensassembly.ie.


procedures evolve to institutionalize it. Time considerations of this nature are thus not likely to be a permanent impediment.

2.5.1.3 Structural Features

After deliberations, the participants cast votes on the issue under review, basis several different selection methods. In the case of Ireland, participants were presented with questions that they could vote on, with the choices varying in each instance. Concerning the Eighth Amendment to Abortion, the participants voted on whether or not to amend Article 40.3.3 of the Constitution which declares: “The State acknowledges the right to life of the unborn and, with due regard to the equal right to life of the mother, guarantees in its laws to respect, and, as far as practicable, by its laws to defend and vindicate that right”\textsuperscript{108}. They voted to remove the article from the Constitution and to replace it with a provision, “which would make it clear that termination of pregnancy, any rights of the unborn, and any rights of the pregnant woman are matters for the Oireachtas (the Irish legislature)”\textsuperscript{109}. They then made recommendations about the contents of any such legislation, including circumstances under which terminating a pregnancy would be allowed, and the reasons for it. The results were that “termination of pregnancy without restriction should be lawful”\textsuperscript{110}. A majority of participants also recommended that – to varying degrees and in descending order – the following reasons should be accepted as grounds for the lawfulness of the termination\textsuperscript{111}:

- Real and substantial physical risk to the life of the woman (99%)
- Real and substantial risk to the life of the woman by suicide (95%)
- Serious risk to the physical health of the woman (93%)
- Serious risk to the mental health of the woman (90%)
- Serious risk to the health of the woman (91%)
- Risk to the physical health of the woman (79%)
- Risk to the mental health of the woman (78%)
- Risk to the health of the woman (78%)
- Pregnancy as result of rape (89%)
- The unborn child has a foetal abnormality that is likely to result in death before or shortly after birth (89%)
- The unborn child has a significant foetal abnormality that is not likely to result in death before or shortly after birth (80%)
- Socio-economic reasons (72%)

\textsuperscript{110} “First Report and Recommendations of the Citizens’ Assembly: THE EIGHTH AMENDMENT OF THE CONSTITUTION,” 64.
They also made five ancillary recommendations:

“1. Improvements should be made in sexual health and relationship education, including the areas of contraception and consent, in primary and post-primary schools, colleges, youth clubs and other organisations involved in education and interactions with young people.
2. Improved access to reproductive healthcare services should be available to all women – to include family planning services, contraception, perinatal hospice care and termination of pregnancy if required.
3. All women should have access to the same standard of obstetrical care, including early scanning and testing. Services should be available to all women throughout the country irrespective of geographic location or socio-economic circumstances.
4. Improvements should be made to counselling and support facilities for pregnant women both during pregnancy and, if necessary, following a termination of pregnancy, throughout the country.
5. Further consideration should be given as to who will fund and carry out termination of pregnancy in Ireland.”

The participants met over the course of five weekends, read papers from experts who were selected on the basis of their experience and reputations for neutrality, heard stories from interest groups, women who had had abortions, doctors, surgeons, priests – the whole nine yards. It is clear that the members of this unique and small subset of the population had timely information available to them such that they could come to grips with issues prior to forming their opinions. In this, their conclusions constitute a potentially more informed set of opinions and recommendations.

There are a number of things to note about the wording, the way in which the questions were framed, and the time it took to reach these decisions. First, vague wording is used to describe the nature of the circumstances, the recommendations made, and even terms such as physical and mental health. None of the terms that qualify the meaning of ‘risk’ were given precise definitions. The notion that mental health is more deterministic and an identifiable illness itself is prevalent here – as in society at large – despite the vagueness of its definition. Ironically, the members of the assembly deliberated upon, and voted to add the term ‘serious’, as though this were an important qualification that adds precision, in spite of the fact that it is not defined. There was also a movement to include an option that did away with the distinction between ‘physical’ and ‘mental’ health, to read as ‘the health of the woman’


require diversion of considerable resources to this one element of the health system, among the many others.

The thought that by adding more options one is able to make things more precise and to take a finer account of the moral distinctions between nuanced contextual differences is not categorically true, but only incrementally so. More nuance, with ever greater parsing of relevant factors, is achieved at the expense of all other considerations affected by that choice, and to the design of procedures that must accommodate greater complexity. This situation illustrates the problem of deliberations being detached from practical considerations in meaningful, concrete ways. The most salient considerations to include would be as follows. Concerning the recommendations, one must think to ask who should make all of these changes, with what resources, whether or not the supply of the services that are required for the fulfilment of these ‘rights’ is attainable and at what cost, what the impact of and meaning of sexual health training is and could be expected to be, and so on. Some of these issues were addressed, though given that the assembly members participated for only 5 weekends and heard presentations on numerous topics, the time allocated was insufficient to properly assess all items. The process itself and the role of the participants within it make it virtually impossible to give equitable treatment of all competing considerations. It is evident from the recommendations that they contain a set of moralized wishes without considering the realities that must exist for them to be carried out.

The same is true of the other topics that the Assembly consider, though the panel on Referenda and Fixed term Parliaments was slightly different in nature. The Climate change Report produced the following after 26 hours of deliberation, expert presentations, and advanced preparatory reading of relevant material:

“The recommendations were reached by ballot paper voting and followed two weekends of deliberation which focused on the energy, transport and agriculture sectors, international best practise and existing national policies and activities.

A total of 13 questions appeared on the ballot and the recommendations were reached by majority vote.

The following recommendations were made by the Assembly:

i. 97% of the Members recommended that to ensure climate change is at the centre of policy-making in Ireland, as a matter of urgency a new or existing independent body should be resourced appropriately, operate in an open and transparent manner, and be given a broad range of new functions and powers in legislation to urgently address climate change.

ii. 100% of the Members recommended that the State should take a leadership role in addressing climate change through mitigation measures, including, for example, retrofitting public buildings, having low carbon public vehicles, renewable generation on public buildings and through adaptation measures including, for example, increasing the resilience of public land and infrastructure.
iii. 80% of the Members stated that they would be willing to pay higher taxes on carbon intensive activities, subject to the qualifications identified in the question.

iv. 96% of the Members recommended that the State should undertake a comprehensive assessment of the vulnerability of all critical infrastructure (including energy, transport, built environment, water and communications) with a view to building resilience to ongoing climate change and extreme weather events. The outcome of this assessment should be implemented. Recognising the significant costs that the State would bear in the event of failure of critical infrastructure, spending on infrastructure should be prioritised to take account of this.

v. 99% of the Members recommended that the State should enable, through legislation, the selling back into the grid of electricity from micro-generation by private citizens (for example energy from solar panels or wind turbines on people’s homes or land) at a price which is at least equivalent to the wholesale price.

vi. 100% of the Members recommended that the State should act to ensure the greatest possible levels of community ownership in all future renewable energy projects by encouraging communities to develop their own projects and by requiring that developer-led projects make share offers to communities to encourage greater local involvement and ownership.

vii. (a) 97% of the Members recommended that the State should end all subsidies for peat extraction and instead spend that money on peat bog restoration and making proper provision for the protection of the rights of the workers impacted; and

(b) 61% recommended that the State should end all subsidies on a phased basis over 5 years.

viii. 93% of the Members recommended that the number of bus lanes, cycling lanes and park and ride facilities should be greatly increased in the next five years, and much greater priority should be given to these modes over private car use.

ix. 96% of the Members recommended that the State should immediately take many steps to support the transition to electric vehicles.

x. 92% of the Members recommended that the State should prioritise the expansion of public transport spending over new road infrastructure spending at a ratio of no less than 2-to-1 to facilitate the broader availability and uptake of public transport options with attention to rural areas.

xi. 89% of the Members recommended that there should be a tax on greenhouse gas (GHG) emissions from agriculture. There should be rewards for the farmer for land management that sequesters carbon. Any resulting revenue should be reinvested to support climate friendly agricultural practices.

xii. 93% of the Members recommended the State should introduce a standard form of mandatory measurement and reporting of food waste at every level of the food distribution and supply chain, with the objective of reducing food waste in the future.

xiii. 99% of the Members recommended that the State should review and revise supports for land use diversification with attention to supports for planting forests and encouraging organic farming.\textsuperscript{114}

\textsuperscript{114} “Third Report and Recommendations of the Citizens’ Assembly: HOW THE STATE CAN MAKE IRELAND A LEADER IN TACKLING CLIMATE CHANGE” (The Citizen’s Assembly, April 18, 2018), 4–6, www.citizensassembly.ie.
In the case of the second forum on the ageing population, long-term care and pensions, the following suggestions were made after two weekends of deliberation:

"In summary, the Assembly made the following 21 recommendations by a majority vote:

R1. That Government should urgently prioritise and implement existing policies and strategies in relation to older people including, for example, the National Positive Ageing Strategy, the Carers Strategy and the National Dementia Strategy (100%).
R2. That the family/older person should be principally responsible for providing required care for older people but that the State should have at least some responsibility (60%).
R3. That there should be an increase in public resources allocated for the care of older people (87%).
R4. That additional funding for care of older people should primarily be spent on home care services and supports.
R5. That overall funding for the care of older people should come from a compulsory social insurance payment – an earmarked tax for all workers linked to labour market participation and not unlike the current PRSI mechanism to fund long-term/social care for older people.
R6. That the Government should expedite the current commitment to place homecare for older persons on a statutory footing (99%).
R7. That regulation, such as that currently in place for residential centres, should be extended to afford better protection to older people in receipt of all health and care services (99%).
R8. That, if the Government were to decide to extend regulation to other health and care services for older people, the following services should be regulated:
   a) Respite services (90%)
   b) Day care services (87%)
   c) Care and support services delivered by service providers in a person’s own home (92%)
   d) Care and support services provided through a supported housing scheme (91%).
R9. That Government should introduce some form of mandatory pension scheme to supplement the State pension (87%).
R10. That the current anomaly, which arises when a person who must retire at 65 is not entitled to the State pension until 66, should be removed (96%).
R11. That mandatory retirement on the basis of age should be abolished (86%).
R12. That the State pension should be benchmarked by reference to average earnings (88%).
R13. That Government should take steps to rationalise private pension schemes to include greater transparency in relation to fees (100%).
R14. That Government should backdate the Homemakers Scheme to 1973 (87%).
R15. That State support for carers, including access to education, retraining and pension arrangements, should be enhanced (99%).

When considering How We Best Respond to the Challenges and Opportunities of an Ageing Population the following additional recommendations were voted on by the Members as to their importance to implement:

R16a. That responsibility for older people should be formally delegated to a dedicated Minister of State for Older people (92%)
R16b. That there should be a dedicated point of contact for older people to access information about services, supports and entitlements and run a national awareness campaign to support it (91%)
R16c. That steps should be taken to ensure that older people have a stronger voice in determining their own care needs (88%)
R16d. That there should be stronger governmental leadership in relation to the prioritisation of the health and social care needs of older people (83%)
R16e. That the State should promote, encourage and organise non-financial intergenerational transfers, for example, between younger and older people (73%)
R16f. That the State should urgently commence the remaining provisions of the Assisted Decision-Making (Capacity) Act 2015 and urgently enact legislation in relation to the safeguarding of adults who may be vulnerable (92%).”

Here, we see the use of ‘should’ to indicate the way in which the issues are being framed as morally desirable, in a way that divorces what we would like to happen from the realities that are involved with making it happen. There is not one mention of what services should be cut to provide for these, whether taxes should be increased, or reduced in certain areas, or the consideration that other things in general, such as certain lifestyles, would likely suffer were ‘we’ to provide all of the services demanded.

However, it is important to note that although learning time was short, topics covered were wide-ranging, experts were chosen with particular emphasis on their reputations for neutrality and experience in the domain under discussion, and that interest groups or academics with a more biased take were balanced by the presence of another with opposing views.¹¹⁶

The attempt to be wide-ranging and comprehensive in treatment of material represents what I think is another instance of a disconnect between intentions and reality. The following topics were covered over the course of one weekend on the pension system: the current pensions scheme in Ireland, trends in pensions provision, possible future developments, the income and living standards of the elderly, future challenges facing the pension system, the causes and consequences of retirement, the sustainability of public pensions, a behavioural economics perspective, a gender perspective, pensions and human rights, and more.¹¹⁷ Though a noble effort, it is unrealistic to think that participants had sufficient time to understand each issue, or that a few hours of presentations was enough to inform people adequately on each matter. Again, and more to the point, the issue here is with making political decisions about how to bring public and private resources, administrative apparatuses, legal institutions and

so forth, to bear on issues. This is not a speculative exercise, but one that involves understanding and implementing decisions on the basis of practical considerations, most importantly trade-offs.

The irony of these assemblies is that they generate long lists of demands that conceive of actions to be taken as ‘urgent’ and as ‘priorities’. The priorities range from infrastructure spending, to healthcare spending in abortion clinics, mental health, ageing and retirement, pension, public transport spending, and ‘ending’ subsidies to peat providers. They clearly misunderstood the meaning of the word ‘prioritize’.

2.5.2 Outcomes

The chief benefit of the Citizen Assembly is that it meets the demands of democratic legitimacy through an evidence-based, rational decision-making process that includes the input of citizens who are representative of the populace. The epistemic dimension is more prominent in such a process than in the case of participatory budgeting as the topics arguably require more complex background information in order to ensure a reasonable debate. It can be seen from the results so far that the assemblies come to different conclusions than the population would through a referendum. The question is whether this is indicative of ‘evidence-based’ decision-making. In a certain sense, it clearly is because assembly members have sufficient time to weigh the considerations internal to the question at hand. At the very least, they have taken more time to do so than the vast majority of people in the general population. What is unclear though is whether they take into account the most important concerns – the trade-offs that stem from their implementing the decision they have come to. These trade-offs include the cost of any undertaking in financial terms and the alternative uses that are threatened by the CA decision. Considerations of this type are well known to politicians and bureaucrats whose ways of thinking are circumscribed by such factors.

Citizen Assemblies can either be conceived of as supplements to the representative system that increase legitimacy without fundamentally altering it, or as test cases and building blocks to foster changes to the underpinnings of the system, from representative to participatory. I bring up this distinction because of the necessity of scale in achieving the larger egalitarian outcomes that the practice of deliberative democracy is committed to.

Representative government has a pragmatic and normative justification going for it. Practically speaking, the larger the populace becomes, the more difficult it is as a matter of time, cost, and adequate dissemination of information for the population to be involved concretely in political decisions. Normatively, representation allows for the election of interested and knowledgeable politicians to both: make better-informed decisions and to check against the excesses of majoritarianism in mass democracy. They can make ‘better-informed decisions’ only in the sense that they know the cost of decisions in terms of the trade-offs that must be made when making one over another with the public purse, and the sense in which the decision coheres with a broader set of
policy goals consistent with the party vision, and the region or nation’s relationship with its neighbours. They cannot be expected, without certain cultural norms and institutional arrangements, to pursue policies that are in anything like the public interest. To guard against such natural human proclivities as the tendency to act in one’s narrow self-interest and to engage in the pursuit of power, the adversarial system of party politics is there to act as a check, along with divisions of power.

The Citizen Assembly is best conceived as a supplementary tool with practical and normative significance. In essence, it is a good thing for people to participate, even though the ‘effect’ of the discrete event is itself a drop in the pond. The same can be said of the ‘single vote’ that people have in a representative democracy. Participation, the feeling of being valued, and the sense of belonging to a community oriented toward cooperation and collective decision-making is something that is lacking in many societies today. Normatively speaking, legitimacy is increased by delegating some decision-making influence, and perhaps authority to Citizen Assemblies, as the vision of liberty that has emerged as inherently valuable in the West, is one that makes reference to both an individual’s ability and capacity to pursue a good life for herself and with others in her society.

The question of whether Citizen Assemblies have already and can have – if scaled up – effects on civic practices and make people better and more informed citizens admits of two responses. First, it is clear that those who participate in the processes become more interested in politics, and more informed about it. Furthermore, they give positive reports about their participation in the process, though there is little evidence to suggest that they feel differently about political actors, their fellow citizens and themselves as a result. Lastly, it is hard to disentangle the feelings of pride associated with participating in novel processes that attract positive attention from the tangible impacts of the process and practice themselves. On the one hand, it can hardly be expected that given a single experience, the benefits derived from quality participation in the political process would have lasting results. It is plausible that an increase in the number of experiences would have a positive influence on citizens. On the other hand, it is questionable whether such beneficial outcomes would continue to characterize the process if it could be scaled up. As the process becomes more regular and imbued with greater significance and decision-making power it is likely to become like other political processes, including their inherently confrontational and unpleasant aspects, often in proportion to the power exercised by them. I think that assemblies are therefore likely to be most useful on the smaller scale and tied less to significant decisions.

119 Fournier, 125.
3 Part 3: General Conclusions

3.1 The Incompatibility of the Normative Values

I want to make the following general argument about the relationship between the process of deliberation and the outcomes that it is supposed to help achieve. The normative ideal of deliberative democracy requires two things: a) processes that are inclusive, egalitarian, and meet standards of rationality pertaining to learning, evidence, and argumentation, as well as b) outcomes that are ‘rational/evidence-based’ and more egalitarian. Since the democratic process is crucial to the normative vision of deliberative democracy, and it is flawed in the ways in which the normative vision of the theory suggests, the remedy to the problems in democracy and our modern societies lies in increasing participation, making it more inclusive, and egalitarian; in other words, the process is essential to the vision. Likewise, the outcomes that result must have the same features that are supposed to characterize the process. The decisions must be evidence-based and achieve social justice (by reducing power asymmetries, redistributing income, increasing the status of oppressed groups, and so on).

However, the realization of processes that meet the epistemic and moral goals as they pertain to the processes, scaled-up, is incompatible with achieving outcomes that deliver on those same values. This is because of inescapable trade-offs that exist between the variables and outcomes. Even if we recognize that deliberation is not an intrinsically good thing and that it should be used sparingly, we cannot then say that deliberative democracy can achieve the goals of evidence-based policy-making and egalitarian social outcomes through other ‘systemic’ means. This follows from similar reasons – that on a fundamental level it is incompatible with the values of participation and inclusion in the decision-making process and requires excessive time, scale and scope, factors that collectively impose major restrictions on freedom.

3.1.1 The Dual Commitment to Deliberative Practices, and Outcomes with the same Features

It is the case that the vision of deliberative democracy necessarily incorporates certain processes and outcomes with distinctive features because of the normative commitments of the theory. I want to demonstrate this by highlighting the recurrent patterns that have emerged between variables and outcomes, and the goals that deliberative democrats have espoused. First, we can see that though emphasis is often placed on designing the process in certain ways, we quickly see that this is embedded in larger outcomes that go beyond the design and institutionalization of the process.

The first point follows clearly from a normative diagnosis of the problems that beset our contemporary democracies. Theorists argue that democracy has always meant the participation of a *demos* in the political process. Though the meaning of the concept is unable to lay out the extent and scope of the participation and power of citizens, it provides a direction to follow – more participation. Though theorists disagree
on many details, they are united in the belief that more participation is needed, and that it best be tied to deliberation, ensuring thereby that the opinions of citizens are well-formed. If it is not deliberative, then the participation is a reflection of raw self-interest, a paucity of understanding and an uncritical mass of conflicting and competing opinions, the aggregation of which is not sufficiently rational to inform and guide the political and social decisions that political communities must make.

The second point is that the most important variables internal to the design of the decision-making initiatives are direct expressions or manifestations of the larger social goals that deliberative democrats advocate. For example, random sampling to ensure representativeness of a Citizen Assembly is both a variable of the initiative and represents the goal of inclusiveness. Participatory budgeting is valuable because it gives power to those who otherwise would not have it, and because they may use this power to improve their communities. From these perspectives then, doing deliberation the right way achieves the normative ideal because the process guarantees some of the outcomes by the very practice itself, including of the proximate or local outcomes that they may achieve. Furthermore, the moral and epistemic goals refer – at times clearly and sometimes ambiguously – to measures beyond the scope of any specific deliberative initiative. That is to say, singular instances of Citizen Assemblies, Participatory Budgets, or ARM initiatives are not enough to realize the goals that underpin them in the broader sense. In order for the external goals to be met, either a) the processes must be scaled up, or b) deliberation must be incorporated into social processes at a 'systemic' level.

3.1.2 The Incompatibility of these Commitments

ARM initiatives are not the creation of academics and politicians influenced by the political theory of deliberative democracy. Nonetheless, they share many of the most important features of the movement. Though initially seen as a way of doing science through management, they are now seen as effective ways of incorporating stakeholders into the process, working through management problems in a cooperative and democratic spirit, and thereby manifesting the values of inclusivity and democracy. Thus, the practice is implicitly committed to the achievement of larger goals that include those under the umbrella of environmentalism – conservation, biodiversity, animal ethics, pollution, and climate change, for example – and those pertaining to just treatment of all stakeholders, not solely the interests of the heavyweight boxers who are engaged in a never-ending bout that may very well go the distance – big and small business interests, and environmental agencies and NGOs.

Participatory Budgeting initiatives have a claim to efficiency going for them, through the decentralization of political decision-making and the capturing of local knowledge to supplement blind spots that the bureaucratic, political and administrative apparatus may incorporate. Clearly, they also represent the idea that through the inclusion of all members of a region or municipality, especially those on the lower end of the socio-economic spectrum, that this involvement will pay off in terms of egalitarian outcomes,
through the mechanism of increased regional public spending with its inherent catalyzing effects.

Citizen Assemblies address issues of participation and representation that representative democracies are increasingly unable to meet due to increasing populations and the complexities of the modern world. They are also intended to generate policy choices that reflect the fact that everyone is being included in the discussions. In a vague and general sense, the fact that all groups are being accounted for is supposed to mean that the decisions reached will reflect their interests and incorporate them in non-trivial ways. Again, it is unclear what this means in practice, but at a minimum it suggests that decisions and policies that are more egalitarian than the status quo will result from them.

In each case, the process is supposed to contribute to goals that are progressive and egalitarian on a larger scale. We can see that in each case, the processes are very ill-suited to doing so because they must be scaled up in order to achieve this. In what follows, I want to make a point about the relative value of decision-making processes and mechanisms. I do so to buttress the claim that deliberative mechanisms have this feature, and that this is the crucial consideration in determining the extent of their usefulness, especially concerning the goals external to their process that they are in service of.

The first point is that decision-making processes, and the values that they represent, do not have categorical value, but instead only incremental value when seen from the perspective of the outcomes that they are in service of. The value of every decision-making process, technology and institutional arrangement is divisible into its use in practice, and its properties in the abstract. In the abstract, it may be described as possessing certain characteristics that may or may not be instantiated when applied. In practice, it exists in a society with certain norms, a history, and other institutional, technological, and economic arrangements, as well as resources that are finite and have alternative uses. Because of this, the presence of any one decision-making mechanism or institution has effects that must be considered in the context in which it is to exist, and in particular, the incentives, costs, and effects it will have if implemented. Concurrently, this means that there are few things of this type with intrinsic categorical value and that the extent to which a mechanism is used or foregone will have markedly different outcomes, particularly with respect to the worth that it is supposed to embody, in the abstract. This should be the way in which decision-makers – not anyone and everyone – conceive of the value of such measures.

To illustrate, I will give an example of the way in which all things must be seen in relationships of feedback and trade-offs, and thus from the perspective of decision-makers, as things with incremental value. Automobiles, social media, the internet, cancer treatment, contraceptives and nuclear weapons are all examples of technologies. Seen as innovations, they could be said to have categorical or intrinsic value insofar as they represent increases in the stock of technical knowledge, or know-
how. However, they do not have categorical value in any other sense. There is an impression in which each of these innovations can have positive impacts on human life in a social or moral perspective, as well as ways in which they have the exact opposite effect. This is true because people can use these technologies for whatever ends they desire and indeed, each one has been used in ways that some would consider morally wrong or at least, in manners that produce or lead to undesirable social side effects, particularly in the hands of certain people.

The same is true of the decision-making mechanisms and institutions that exist in our society in private and public domains. Markets, regulations, government agencies, regulatory agencies, charities, religious organizations, NGOs, voting by ballot, ‘voting’ with your dollar, private firms, and public firms all have categorical value in that they are innovations that people have created with the intent of solving problems or achieving certain objectives. In this sense, they represent achievements of human ingenuity and when used well, make such time, effort, and inventiveness worthwhile. However, they do not have categorical value in any other meaning of the word because each and every one can be and have been used to the detriment, both moral and social, of some people and groups, and have created negative unintended consequences that stem from their use in certain applications. This all goes to show that the way in which these processes and institutions are used is a crucial consideration, as is the extent to which they are used.

This is not a meta-ethical point about the abstract definition, characteristic, or justification that defines or explains morality, moral statements, or moral actions. One can quite readily agree that certain actions have categorical value – such as killing, insulting, or stealing – but take a quite different view about whether or not such actions should be permitted legally or practically in particular situations. The implications of this statement become apparent when we take note of the interplay between single instances of deliberative decision-making versus the scale required to achieve its goals on a large, societal basis. Since these processes have only incremental value, we must pay careful attention to what their use can be expected to deliver and select attentively the applications in which they are used.

Now, I want to highlight a difference between the institutional and collective decision-making mechanisms associated with democracy, versus defined individual actions reliant on one’s own resources, measuring in each case the types of considerations involved. The two crucial differences between the pair are the emphasis on theoretical vs. practical concerns, plus feedback loops that are virtually non-existent in the one instance but very direct and relevant in the other.

In the situations in which we have been dealing with, the decision-making mechanisms have been voting, deliberating with an aim to reaching a consensus, as well as suggesting or recommending on the basis of information and learning. At their best, these acts represent expressions of well-informed opinion arrived at through a legitimate process in which as many relevant factors as possible have been taken into
consideration. These processes are able to incorporate a host of concerns that are theoretical and abstract in nature but fall short in terms of more salient and practical matters. Furthermore, they cannot support large scale feedback loops that embody the right kind of information needed to adequately shape the decisions in question.

In the examples we have examined, this is readily visible. In the case of ARM, the deliberations take place prior to the design and implementation of a management plan. When the problem is tractable, the procedure represents a relatively good example of an effective positive feedback loop, wherein the tests generate data that can be monitored and analyzed, after which new proposals can be developed. However, it is increasingly difficult to do this for problems beyond a certain scale without incurring other costs in terms of time, money and amounts of information needed, all of which make ARM unfeasible. The number of data points, values and trade-offs all increase in a linear fashion as a function of the size of the project, thereby muddying the foreseeable effects of a decision on the broader social and natural environments. For this reason, the scale required to achieve the larger goals pertaining to environmental concerns and the inclusion of the most vulnerable stakeholders are impracticable, and outside the range of such initiatives.

With respect to Participatory Budgets, the participants are close to the decisions at hand and so arguably have a sufficiently well-grounded understanding of the situation to render enlightened decisions, as well as the incentive to ensure that it will be a good one, as it affects their community directly. This is undoubtedly a good thing. However, the process tends to favour, by its very nature, more and more spending of public money on as many things as possible. Thus, the decision is divorced from the legitimate concerns of other decision-makers regarding the apportioning of public funds amongst competing regions and projects. The feedback loop has the merit of revealing to participants the positive or negative effects of the projects they undertake, but they have the incentive to ask for more funds to be spent in similar or different ways without considering the larger effects of what the use of such a process means at a higher level; participants are insulated from the complex trade-offs that the governmental system must make between competing expenditures. This becomes increasingly difficult as processes like PB become more widespread and the problems that they are designed to ‘solve’ become ever more difficult to manage.

In terms of Citizen Assemblies, participants are able to make suggestions and recommendations without meaningfully having to concern themselves with the consequences, notwithstanding well-meaning efforts on their part to consider in their deliberations what those impacts might be. In the abstract, we would like to be able to make laws that take into account the nuance of every individual’s personal life history, ensuring thereby that justice be universally delivered. Thus, the members of the assembly generate a list of factors to qualify the legality of an abortion that take into account subtle nuances that we can all agree in some manner make a difference to the morality of the act. Furthermore, since it would be ideal if everyone could receive the treatment that they need by way of funds and programs to deal with ‘social problems’,
then it also makes sense to make access to such things ‘a right’, or to make government action ‘urgent’, a ‘priority’, or ‘of the utmost importance’. A long list of suggestions and recommendations is complemented by an absence of practical considerations essentially omitted from the equation: what can realistically be offered by providers, what are the costs of doing so, the alternative uses of the time and resources of the government, the administrative apparatus required to sustain such expenditures, a court system to deal with an ever-increasing caseload resulting from considerations of personal and individualized factors such as stage of the foetus, assessments of the vague notion of ‘socioeconomic status’, and so on. Even though the cost, the institutional mechanics and the law are all taken into account to some extent in the deliberations, it is simply not possible for the participants to adequately weigh the effects that their decisions will have on the broader society. The fact that the deliberators are not subjected to the feedback loops that managers and administrators face means that they do not have to deal with the practical difficulties that actual implementation of their plans would entail. This practical difficulty – that we cannot achieve all that we might want to – is compounded by the increased use of deliberative assemblies and thus the amplification on a larger scale that their usage effectively ensures.

Voting in general, and political decision-making in particular, are not subject to the constraints that individuals and small groups encounter when choosing from a set of competing alternatives to be addressed using one’s own time, money, and effort. When citizens in a deliberation agree that they would like the government to spend more on this by taxing more of that, they struggle to account for the many other conditions that must exist in order for the suggestions that they make to be implemented. Accordingly, the stark reality is that the suggestions are linked only weakly to the actual practice of carrying them out.

This is much less of a problem in discrete, individual cases because each one is confined to the single task at hand or at worst, within the relatively constrained orbit of the individual. It only becomes a problem when such thinking is carried out on a larger scale. The number of ‘problems’ and ‘injustices’ that people would like to have ‘fixed’ are so numerous that the scale required to deal with them in ways consistent with their objectives are literally staggering. If we do go down the road of scaling up the prevalence of and recourse to deliberative initiatives, then complications are compounded by the fact that the structure of the process tends to achieve its objective in every instance – lists of demands are generated that are blind to the competing calls of other worthy groups upon the finite resources of governments, their administrative apparatus, and their court systems. The result is a platform from which individuals and interest groups compete for preferential treatment from the multiple branches of public institutions – through fiscal spending, the creation of new departments and programs, legislation and regulation, tariffs and quotas, more schools, more roads, more national parks, and so on and so forth.
The foregoing illustrates where the challenge lies which is the pursuit of broad social goals that are ascribed a categorical value, through processes that cannot deliver those goods without incurring other unacceptable sacrifices. If we want to eliminate all violent crime, then this will require not only a massive police force but the suppression of activities and freedoms which if left unchecked, could otherwise lead to violence. The goals of equality, inclusion, climate justice and social justice can only be approximated, but never fully achieved. The pursuit of these goals and the treatment of their outcomes as having categorical value ultimately leads down ‘the road to serfdom’, to quote F.A. Hayek.

We must separate the ideas that the processes are attached to from the effects that result from the nature of their design and the ways and extent to which they are used. Viewed as values – democracy, deliberation, inclusion, equality, and cooperation embody a certain worthiness and a dimension of relative value when measured against other beneficial objectives. Nonetheless, we must recognize that the same considerations that apply to all other decision-making mechanisms must equally apply to deliberative decision-making initiatives. It is not those values themselves that are the problem, but those values reified, cast as categorical objectives, and pursued via radical reform of the political system.

3.2 The ‘Systems’ View Alternative

Initially, I focused on deliberative decision-making initiatives because they seemed to provide the best combination of all of the values that the theory of deliberative democracy represents. Many other theorists have recognized that different and relatively few areas of civil society and the political and legal apparatus can be made the subject of reform along deliberative lines and argue that this need not come at the expense of the key values of the theory. It is to a few of these ‘systems’ views that I now turn. I conclude that they face the same problem, but in a different form; the problem with a ‘systems view’ alternative is that it cannot achieve the whole collection of goals under the deliberative democracy umbrella for different reasons. I begin with Jürgen Habermas, move to Parkinson and Mansbridge, then Iris Marion Young.

3.2.1 Habermas’ Discourse Theory of Law and Democracy

Habermas’ social and political philosophy has evolved over time. He has moved from an original analysis of the role of the emergence of a public sphere in salon culture in Britain, France, and Germany, to the development of a full-fledged social theory.
that gives significant normative weight to the value of communication in transmitting the informal opinions of citizens into binding norms through politics and law\textsuperscript{122}. In \textit{Between Facts and Norms}, Habermas synthesizes learning from years of engagement with political and legal theory – in the case of the former, primarily John Rawls, and in the latter, Ronald Dworkin – to arrive at a social philosophy that sees the law as the mechanism through which public opinion is to be expressed in the creation of legislation and norms. What we have here is a top-down imposition of what he argues is produced at the grassroots in informal communication, and the various parts of civil society. This is to be seen as a remedy to the problem of increasing complexity and a lack of control over the autonomous ‘systems’ that have grown up as a consequence of rationalization and modernization. A political, legal and administrative apparatus that translates communicative power into binding legislation gives people control over the creation of norms that govern their society.

Habermas uses the tools of conceptual analysis and performative contradiction to force the reader to accept that the combination of the normative meaning of concepts and their implications when used in certain ways generate an ever-greater number of normative commitments. In this way, he proceeds to erect a scaffolding that culminates in a normative political vision in which the law translates and represents the rationally well-formed opinions of a body of citizens. First, we start from the idea that the law both commands obedience because of its force and because it commands our respect, since the institution itself exists to guarantee things that we want – such as liberty\textsuperscript{123}. Since we already know that communication is central to the rational and legitimate formation of norms in a world in which rational construction of norms is normative, then social integration must be done by people. This process of construction is only normatively valid if it is done through the use of language in its action-coordinating role\textsuperscript{124}. The law is thus a prime candidate to ‘achieve social integration’, as it deals with circumscribing the bounds of acceptable behaviour and adjudicating disputes among people as they interact in the world. However, it must do more than just integrate, because of the normative significance ascribed to the rational establishment of norms through processes of communicative action among all citizens.

The next step is to show that there is a conceptual link between the modern concepts of private and public autonomy and human rights and popular sovereignty. Each pair of concepts represent the same tension between force and the legitimacy of its exercise, that is present in the law – as the power of a legal norm and its validity. Private autonomy, defined largely by negative rights, refers ‘at a conceptual level’, beyond the sphere of atomized subjects to a presupposed collaboration among subjects

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\textsuperscript{123} Habermas, \textit{Between Facts and Norms}, 28.  
\textsuperscript{124} Habermas, 17.  
\end{footnotesize}
with the same rights. Thus, the concept of a subject free from undue imposition in the private sphere implies a sphere of public autonomy, wherein the individual can realize this freedom in concert with others in a collaborative fashion. Having established this conceptual link, we move to the human rights-popular sovereignty relationship. The move is justified by claiming that these two ideas are the only ones that can justify modern law because of "the extent that moral and ethical questions have been differentiated from one another, the discursively filtered substance of norms finds expression in the two dimensions of self-determination and self-realization." Rights and sovereignty obviously conflict when the former acts as a trump against the exercise of the latter, and so some sort of resolution must be found. The connection between the two is that there is a normative content found in the practice of exercising political autonomy in a modern democracy, which is the extensive participation of subjects in discursively forming their own opinion (through informal dialogues in the public sphere) and will (through decision-making in the political sphere). Somehow, since a select number and type of considerations about the relationship between rights and sovereignty establish the normative significance of participation and deliberation, individuals are to participate actively in the exercise of political sovereignty through deliberatively creating norms and laws. Habermas puts it this way: "the principle of popular sovereignty states that all political power derives from the communicative power of citizens. The exercise of public authority is oriented and legitimated by the laws citizens give themselves in a discursively structured opinion- and will-formation." This story treats historical developments and the move from concept to concept from the lens of rational and moral considerations. It is not necessarily that this is how things have progressed, but that we should see things as having this kind of normative significance and base our decisions on such considerations going forward. Though Habermas recognizes that history is not mostly a rational progression based on conscious decisions, this is nonetheless how we are to progress from here.

I do not see how this should follow from a rational reconstruction of history, that is attentive to the fact that this is a conceptual reconstruction, and not a descriptive history. That we have not moved forward through rational planning and have arrived at a half decent spot should be a clue that rational planning is not the answer. Ideological shifts ought to be treated as Kant recognized the way in which we come to recognize concepts in our intuitions. We only understand the abstract significance of what we have

125 Habermas, 88.
126 Habermas, 99.
127 Habermas, 103.
128 Habermas, 170.
129 Habermas, being concerned mostly with the philosophical and abstract form of democracy and political institutions is mostly silent about the particular forms his design is supposed to take. However, it is clear from his critique that we must regain control over the autonomous steering systems in our society, that in his view are the source of the ills of modernity. Habermas, Between Facts and Norms; Habermas, MacCarthy, and Habermas, Reason and the Rationalization of Society.
been doing after we have done so. Even if God revealed the Ten Commandments to Moses, it was already intelligible to him because the list captured and expressed what he already knew. Moses codified what people had already been doing through their myriad interactions and particular rulings they made amongst themselves. This is the spirit of the common law tradition that stands in sharp contrast to the progressive legal philosophy of law-making through legislation. The process of individualized solutions to real-world disputes, and their subsequent codification in rare cases of conflict is at odds with the vision of an abstract communicative process that takes place throughout a society in its various contexts and is then passed into law through the democratic process. The connection is weaker, and the level of abstraction greater.

Habermas rightly recognizes that, as Michelman has pointed out, there is a tension between impersonal rule of law and the spontaneous organization of a community that makes it law. The conclusion ought not to be ever more legislation that is tenuously linked to abstract concepts like communicative power and deliberation in the public sphere, but a very measured and limited use of such powers. There is nothing more alienating and frustrating than to apply for a permit and be met with discouraging layers of regulations, or to be retroactively punished for failing to abide by an obscure subsection of the latest amendment to the tax code. Kafka was well ahead of his time in recognizing what an emphasis on the legislative understanding of law would mean with its generation of politically instituted covering laws, and eventually administrative apparatuses that were officially under the purview of supreme courts, and the constitution, but whose numbers increased so rapidly so as to give them effective power over their domains. Ironically, this tendency has led to some of the very things that philosophers in this tradition view as problems – the increase in the number of large corporations with considerable market and political clout, and a bigger concentration in each industry. It is well known that larger corporations, seeing the writing on the walls, actively lobby for certain types of regulation, knowing that their smaller competitors and potential new entrants will not be able to pay the teams of lawyers, accountants and administrators to meet compliance costs of regulations heaped on from regulatory bodies that have sprung up to control many aspects of society.

An emphasis on change through deliberatively formed opinion that tracks the fads of the day and leaves us with a list of opinions, wishes and demands cannot possibly be taken in, synthesized and codified into legislation reflecting the deliberatively formed will of the people. Like deliberative decision-making initiatives, the deliberative forum itself engenders debate and generates suggestions divorced from the constraints of action.

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130 Habermas, *Between Facts and Norms*, 102.
131 In this article, Yandle shows the relationship between regulators and those they seek to regulate, arguing that the regulators effectively create the circumstances under which a few of their targets can survive. Those regulated favour the regulation because it deters competition. Bruce Yandle, “Bootleggers and Baptists in Retrospect,” *Regulation; Washington*, 1999.
More to the point, Habermas’ view in particular parts company from the realization of the goals of participation and equality of influence, power, and its hoped-for redistributive capacity. The vision of a translation of opinion into law through legislation and supreme courts is so weakly tied to participation and inclusion that it seems positively conservative relative to the emancipatory vision that animates most of the liberal and leftist versions of deliberative democracy.

3.2.2 Deliberative ‘Systems’ View

There is a group of scholars, among them Jane Mansbridge, James Bohman, Simone Chambers, Thomas Christiano, Archon Fung, John Parkinson, Dennis F. Thompson and Mark E. Warren who have expressed support for a ‘systems view’ of deliberative theory. They suggest that the two other approaches – the design and empowerment of deliberative initiatives like the ones addressed in this paper, and the focus on deliberation in legislative bodies (Habermas) – have too narrow a scope, and that they ignore the way in which “individual institutions and processes…interact in the system as a whole”. The ‘systemic’ approach is thus a way of analyzing the parts of a political and social system as a whole. The system in question is not a mechanistic one, nor does it have to be clearly defined: “Our point is that normatively, in the systemic approach the entire burden of decision-making and legitimacy does not fall on one forum or institution but is distributed among different components in different cases.” It models the logic of the division of powers and understands political systems as complex. What’s key, instead, is that some institution ultimately fills in to meet the legitimate demand raised in some area of a society. Parkinson, for example, points to partisan heckling in Houses of Parliament, politically partisan media, and zealous and closed-minded activist movements as examples of non-deliberative instances of partisanship that “appear to undermine deliberation at a micro level but not at a systems level”. This is because, following Habermas, the appropriate level of analysis is to differentiate the deliberative spheres of society in concentric circles around the state. In this view then, each part of the system has its role to play, and the various functions and goals of the parts of the system can be viewed through the epistemic and ethical lens. A healthy deliberative system “produces preferences, opinions, and decisions that are appropriately informed by facts and logic and are the outcome of substantive and meaningful consideration of relevant reasons”. The ethical function of the system is to “promote mutual respect among citizens…This implies non-domination, because relationships of domination have already short-circuited mutual respect and, with this,
deliberative influence"\textsuperscript{139}. The final function is to "promote an inclusive political process on terms of equality", which is "the central element of what makes deliberative democratic processes democratic"\textsuperscript{140}. This means that all "interests, concerns, and claims" are to be included, and exclusion from the process is only allowed if it can be strongly justified in a way that could be "reasonably accepted by all citizens, including the excluded"\textsuperscript{141}.

In spite of the evident fact that the realization of these three aims is impossible, they note that "we endorse all three overarching functions, recognizing their potential conflicts and expecting that many conflicts will have to be worked out through deliberation on a provisional basis in any given context. A systemic approach allows for a nuanced application of these functions, recognizing that some will be more important than others in different parts of the system"\textsuperscript{142}. Through this theoretical lens, the system is functioning well when each part is fulfilling its role, and the parts harmonize to create a whole with the features of well-informed, rational decisions, done on the basis of cooperation and non-domination, that includes everyone and only excluding in a way that is justifiable to all. The vagueness of what each of these assertions signify is such that the concepts can be moved around and applied to different parts of the system so that the status quo can either look great, or woefully inadequate.

There are three simple considerations to raise about each one of these goals, and they apply the same here as they did in the case of deliberative decision-making initiatives. First, a well-informed, rational and evidence-based decision necessarily has the property of being an informed guess about the future. As it is cut off from feedback, and by its nature tends to incorporate abstract considerations, it is likely to produce decisions reflective of these factors. Acting as individuals or small groups in a circumscribed manner with a restricted set of goals is the opposite of this approach. Such decisions can be refined as information flows back to the decision-makers. Scaling up decision-making efforts along these lines would mean more rational planning, which is exactly what occurred to the determinant of increases in wealth, living standards, equal treatment under the law, and freedom in the communist and socialist countries. Cooperative and non-dominating decision-making and discussion environments are ambitions that many citizens would ideally want to characterize a good deal of their institutional, public, and private lives. However, the singular emphasis on these noble objectives at the expense of the obviously equally present competitive side of human nature just means forced cooperation in practice. The inclusion of everyone in such a way that exclusion could be justified is a factual impossibility. There are many injustices in the world that cannot be remedied, because the cure is worse than the disease.

\textsuperscript{139} Parkinson and Mansbridge, 11–12.  
\textsuperscript{140} Parkinson and Mansbridge, 12.  
\textsuperscript{141} Parkinson and Mansbridge, 12.  
\textsuperscript{142} Parkinson and Mansbridge, 12.
If, on the other hand, what is meant by a ‘systemic’ approach is some of these things in their appropriate sphere of society, then we have exactly what we already have in many Western countries, albeit with room for improvements to be made.

3.2.3 Iris Marion Young’s Structural Approach

Iris Marion Young’s work *Inclusion and Democracy* refines the tradition of deliberative democracy to accommodate an understanding of justice as ‘structural’. This requires rethinking the narrow commitment to rationality and argumentation that dominates the theoretical tradition. It answers three questions: what are the norms and conditions of inclusion in democracy, how can democratic communication and decision-making be theorized, and what is the scope of the democratic polity? She argues that deliberative democracy is normatively committed to a number of ideals: inclusion, political equality, reasonableness and publicity. Everyone must be included who is affected by “decisions and policies that significantly condition a person’s options for action”. Inclusion implies mutual respect, and when combined with the norm of political equality, allows for “maximum expression of interests, opinions, and perspectives relevant to the problems or issues for which a public seeks solutions”. This ideal of political equality is itself nascent in the concept of democracy. “All ought to have an equal right and effective opportunity to express their interests and concerns”. She says that this condition cannot be met without a third condition of equality, which is “freedom from domination”.

These conclusions are derived from narrow interpretations of the abstract meaning of concepts, and their inter-relationships. This is not something that can be concluded as each of these concepts pertain to the relationships of vast numbers of people across time and space. I do not see how an analysis of the concepts of inclusion, political equality and non-domination could be carried out without a consideration of other basic facts about the possibility of achieving these things. The idea that people can have a “right to an effective opportunity” is a case in point. Having a ‘right’ requires other people to guarantee or fulfill it, and to accept that it necessarily trumps all other concerns and reasons in a given situation. An ‘effective opportunity’ thus refers to a set of material, institutional, geographical, sociological and biological circumstances that are so vast as to elude even abstract thinking as to how they could possibly all be made effectively equal. Having such a right to effective opportunity would mean pursuing the goal of equalizing conditions at the expense of all other pursuits.

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143 The questions are, “[1] What are the norms and conditions of inclusive democratic communication under circumstances of structural inequality and cultural difference? (2) How should inclusive democratic communication and decision-making be theorized for societies with millions of people? (3) What is the proper scope of the democratic polity, and how are exclusions enacted by restricting that scope?” Young, *Inclusion and Democracy*, 6.
144 Young, 21.
145 Young, 23.
146 Young, 23.
147 Young, 23.
legitimate or otherwise. The familiar problem of scale confronts us again. When such a way of thinking is measured against the many other ‘injustices’ that materialize from this type of abstract reasoning, we are left with a host of demands, all requiring ‘solutions’ and virtually all generating direct conflict with one another, underscoring the reality of our world constrained by finitude.

This type of thinking builds upon John Rawls’ philosophy, that consistently extends the meaning of concepts to include more than what they originally did. For example, he conceives of justice that is not equality of opportunity, through equal treatment under the law to something of an effective guarantee of equality of opportunity. According to Rawls, outcomes are ‘just’ when the players in the game start playing with as many of the same characteristics relevant to success as possible. In the abstract, this sounds fine, and to the extent that we could achieve this without undue sacrifice, it is desirable. Though of course, it requires a third-party reconfiguration of the starting position of every person so that their differences are accounted and compensated for in such a way that they will all be able to compete in the game of life on ‘fair’ terms. This is representative of the same abstract thinking about concepts, that translates into their categorical pursuit at the expense of other real-world considerations that can only be sacrificed in light of many other competing values and concerns.

3.3 Conclusion

I have tried to show that the tools and forms of thinking that dominates the theoretical landscape bleeds over into the practical world. This is because normative ideals are formulated in the abstract by generating conceptual links between desirable values. From here, we see that the actual pursuit of the collection of these goals meets with considerable difficulty. There are a number of problems with the deliberative approach to problem resolution, decision-making, the scale of deliberation, and the pursuit of equality in its many forms.

In choosing to focus on trade-offs, and the incremental value of ends, and the means with which they are pursued, I have tried to make a criticism from the perspective of a competing interpretation of the same political ideology that deliberative

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148 “The thought here is that positions are to be not only open in a formal sense, but that all should have a fair chance to attain them...assuming that there is a distribution of natural assets, those who are at the same level of talent and ability, and have the willingness to use them, should have the same prospects of success regardless of their initial place in the social system. In all sectors of society there should be roughly equal prospects of culture and achievement for everyone similarly motivated and endowed”. Rawls, A Theory of Justice, 63.

149 “The liberal interpretation of the two principles seeks, then, to mitigate the influence of social contingencies and natural fortune on distributive shares. To accomplish this end it is necessary to impose further basic structural conditions on the social system...The elements of this framework are familiar enough, though it may be worthwhile to recall the importance of preventing excessive accumulations of property and wealth and of maintaining equal opportunities of education for all”. Rawls, 63.
democracy partly belongs to – that is liberalism. This concept has undergone a shift from its classical version to progressive variants today, but a remaining common core unites the two. This core is the understanding of the individual as the ultimate source of value. Classical liberals tend to see the individual as that which must be protected at all costs and left to make as many decisions as they can on their own. Progressive liberals tend to think that individuals should be free to express themselves as they like, and for circumstances to be changed so that they have the effective opportunity to achieve many of the things that others can, due to contingent circumstances of place, demographic and natural endowments. The progressive model needs assistance through changed material and cultural circumstances, courtesy of a larger and larger state. Thus, though there is considerable disagreement on many things, there is implicit consensus that the choices of individuals are the things with great and inherent value. The argument then proceeded to show that in fact, the deliberative democratic vision cannot be conceived of as part of the liberal tradition because it includes too many conflicting normative values that conflict. Notably, the pursuit of the collectivist values means that it must ultimately be authoritarian, and thus in conflict with individualism.

However, it is not as though the problems that the deliberative tradition points out were not there in the first place. The classical liberal tradition does indeed hollow out the lives of individuals, breaking down civic ties, as well as cultural ones that formed the glue that could hold people together in spite of their differences. I do not make a positive argument for free markets, limited representative government, and the defence of an individual’s right to free expression, conscience, association and so forth. Perhaps the problem is the liberal commitment to the individuals’ pursuit of any and every desire, appetite, and ‘right’ to an increasing number of material and relative goods, as well as status. It should be clear that an ever-increasing plurality of these, and the relative nature of some goods, and especially status, are not things that individuals can hope to attain or realize.

In spite of what I have said about the vision in which these initiatives are embedded, and the problems that they may face, I believe that the initiatives themselves have great value when they are used in certain instances, and in specific ways. Their main shortcoming lies in tying them too strongly to certain outcomes that are not achievable at a reasonable cost.

We have seen that ARM initiatives are well-suited to particular kinds of problems, that PB efforts benefit from local knowledge and decentralized decision-making, and that Citizen Assemblies bring people together to participate in the discussion of complex political issues that affect all citizens. However, they all face, in their own ways, problems with time, cost, knowledge, decision-making type and structure and the incentives these create, topped off by difficulties in scaling things up. The problem lies with the categorical pursuit of a set of objectives both internal and external to the deliberations themselves. When conceived of in this way, the goals exhibit a mutually exclusive tension that cannot be resolved. The same is true of ‘systems’ alternatives, which, in order to proceed, have to sacrifice one or more of their intrinsic goals that the
deliberative process is designed to exhibit, and that its application is supposed to help realize in society as a whole.
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