Deliberative Democracy: Antecedents and Applications

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Our images of democracy are a palimpsest, with political practices and their attendant norms and values layered on top of each other. Earlier images shine through, sometimes highlighted, sometimes only barely visible. Rule by the people, in one sense or another, has undergone a long journey over more than 2,400 years. Despite the many complexities in this story, there are a few key ideas that pose fundamental and recurring issues of institutional design. In this paper I will try to highlight those, as they provide a frame for thinking both about the history of democratic practice and the key challenges ahead, at least for those concerned with democratic reform.

To focus thought, consider the four democratic mechanisms in the chart below. They have each produced influential images of democratic practice at different times. All have a claim on modern thought and practice and all have, at various times, guided democratic reforms. These four options, inevitably a simplification, are built around two distinctions: direct versus indirect and filtered versus unfiltered. Direct versus indirect identifies whether it is the people themselves who are expressing a view (or making a decision) or their elected representatives. When I say the people themselves, it can be a portion of the people, sometimes with a mode of selection or self selection other than election. Filtered versus unfiltered opinion identifies whether public opinion is subjected to an institutionalized process that successfully facilitates consideration of competing reasons for competing options or whether opinion has not been subjected to such a process (and is thus more or less in the form we find in ordinary life) and hence, unfiltered.

Ultimately, the question for political theory is whether a particular democratic mechanism, or combination of mechanisms, provides a basis for a meaningful expression of what is commonly called “the will of the people.” What we might mean by the “will of the people” is somewhat different when grounded in these different mechanisms. But the question of what might be the most meaningful account of the will of the people is central to considering which institutional designs best fulfill our democratic aspirations. In the argument I will sketch here, the will of the people is ideally both deliberative (in that the public has weighed competing reasons for what it decides to do on the basis of evidence and good information) and it is representative (inclusive of all the strata and viewpoints in the society roughly in their appropriate proportions). If people decide on the basis of mis-information, or if their views have been manipulated by deception, then that is a case of defective public will formation. If significant viewpoints and interests are shut out of the discussion then the process of public will formation has also been distorted. We will return to these considerations later but begin with some simple distinctions.

**Democratic Mechanisms**

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<th>Unfiltered</th>
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<tbody>
<tr>
<td>Direct</td>
<td>1. Mob rule?</td>
<td>2. Deliberating microcosms (Athenian model)</td>
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1 Prepared for the meetings of the European Consortium for Political Research, Bordeaux, France, September 2013
Madison and Indirect Filtration

The fear of direct, unfiltered opinion (option 1) motivated Madison’s strategy of “successive filtrations” (option 4). The Founders even tried to avoid the word “democracy” in describing their proposed “republic.” After all, the people had killed Socrates and they had recently lived through Shays’s rebellion so the mob—aroused by passions and interests that motivate factions adverse to the rights of others—was a spectre that affected the design. The Founders relied not on direct deliberation by the people but by representatives as modeled, say in their image of the Senate. As Madison observed in Federalist 63 about Socrates and the lack of a Senate in Ancient Athens:

“What bitter anguish would not the people of Athens have often escaped if their government had contained so provident a safeguard against the tyranny of their own passions? Popular liberty might then have escaped the indelible reproach of decreeing to the same citizens the hemlock on one day and statues on the next.”

The Senate was the institutional embodiment of Madison’s “strategy of successive filtrations.” The people elected the state legislatures and the state legislatures selected the Senators. In a parallel way, the election of the President would be the task of an Electoral College selected by the states (and deliberating on a state by state basis). The constitutional convention and the ratifying conventions were meant to be deliberative. All of these bodies constitute indirect filtration, both because the indirect character contributes to the selection of who is in the room and because the people so selected, it was thought, would be inclined to think about the public interest.

Such a design was meant to be “a defense to the people against their own temporary errors and delusions.” As Madison argues in an earlier passage in the same number of The Federalist:

“There are particular moments in public affairs when the people, stimulated by some irregular passion, or some illicit advantage, or misled by the artful misrepresentations of interested men, may call for measures which they themselves will afterwards be the most ready to lament and condemn.”

Hence the unfiltered direct expressions of the people are vulnerable to the passions and interests that pose a danger to the rights and interests of the community. The defense is in the indirect filtration of institutions like the Senate:

“In these critical moments how salutary will be the interference of some temperate and respectable body of citizens, in order to check the misguided career and suspend the blow mediated by the people against themselves, until reason, justice and truth can regain their authority over the public mind.” (The Federalist 63).

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2 I am using the word “democratic” in the classification of these mechanisms while acknowledging that Madison as noted would not have used that word except for unfiltered direct democracy.

3 Ironically, Socrates had been convicted, not by a mob, but a jury that was randomly selected, a design that usually provides what we are calling filtered rather than unfiltered direct public views. We now know a good deal more of the case, and there is good evidence the jury was goaded into its verdict by Socrates himself. Nevertheless the trial of Socrates set back the credibility of direct consultation of the public, whether filtered or not, for two millennia. See I.F. Stone *The Trial of Socrates* for an account of how Socrates goaded the Athenians to produce his conviction.
The argument is detailed further in a famous portion of Federalist 10. Again it is a contrast between what we are calling option 1 and option 4. The challenge for institutional design is to avoid the mischiefs of faction. Factions are defined as “a number of citizens…united and actuated by some common impulse of passion or of interest, adverse to the rights of other citizens or to the permanent and aggregate interests of the community.” In a “pure democracy” as in what was pictured as the direct democracy of the Assembly in Ancient Athens “there is nothing to check the inducements to sacrifice the weaker party or an obnoxious individual.” Direct unfiltered democracy has no cure for the mischiefs of faction. But a “republic…in which the scheme of representation takes place, opens a different prospect and promises the cure for which we are seeking.”

A key part of the cure is the filter of representation, in the famous passage “to refine and enlarge the public views by passing them through the medium of a chosen body of citizens, whose wisdom may best discern the true interests of their country and whose patriotism and love of justice will be least likely to sacrifice it to temporary and or partial considerations.”

Note that the “refining and enlarging” produces a transformation of opinion:

“under such a regulation, it may well happen that the public voice, pronounced by the representatives of the people, will be more consonant to the public good than if pronounced by the people themselves, convened for the purpose.”

The representatives have achieved what he elsewhere calls the “deliberative sense of the community.” If people were simply asked their opinions, without going through a similar process, then their expressions, unfiltered, might be overwhelmed by passions or interests dangerous to the rights of others.  

He notes the design is not guaranteed to work. “Men of factious tempers, of local prejudices or sinister designs, may by intrigue, by corruption or by other means, first obtain the suffrages and then betray the interests of the people.” The argument then proceeds to consider the circumstances, large or small republic, in which representatives might best be recruited to deliberate in the public interest. Without pursuing the entire the argument here, it is worth emphasizing one aspect—deliberating representatives provide a solution to the problem of faction. The argument is that “if a faction consists of less than a majority, relief is supplied by the republican principle, which enables the majority to defeat its sinister views by regular vote.” But the puzzle is how to deal with majorities:

“to secure the public good and private rights against the danger of such a faction and at the same time to preserve the spirit and the form of popular government is then the great object to which our inquiries are directed…it is the great desideratum by which alone this form of government can be rescued from the opprobrium under which it has so long labored…” (Federalist 10).

It is at this point that Madison introduces the role of representation and the idea that the representatives refine and enlarge the public views. Representatives who deliberate on the basis of

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4 See Coleen Sheehan for the argument that Madison came to think that the “commerce of ideas” or the growth of communication would assist the rest of the public in also refining and enlarging their views in parallel to representatives. See Coleen Sheehan James Madison and the Spirit of Republican Government (Cambridge, 2009) p. 100.
reasons will not be motivated to participate in factions. They will be motivated to consider the interests of the community. The filtration in the Senate and in other indirect contexts (the constitutional convention, the Electoral College) will be brought about through a combination of the recruitment process and the propensity of those so selected to weigh the interests affected by legislation or policy choices on the merits. Of course everything depends on the propensity of elected officials to deliberate in the public interest. Madison acknowledged the possibility of sinister motives. Famously, he later went on to co-found a political party. And parties in themselves limited the possibilities for individual representatives deliberating (as their representatives need to follow party discipline). And of course electoral advantage does a great deal to turn representatives who might deliberate on the merits into politicians who simply calculate the political advantage of one position or another. Actions characteristic of Madisonian (or Burkean) representatives are almost certainly the exception for legislative behavior. Such actions of principle are the stuff of John Kennedy’s Profiles in Courage, but not the basis for most efforts to get re-elected. Option 4 has for the most part, turned into Option 3. Instead of indirect filtration we mostly get the indirect competitive democracy of campaign calculation, pandering and manipulation.

The Rhode Island Referendum

The contrast between direct consultation and indirect filtration was soon dramatized by the debate in Rhode Island in 1788 over the referendum it held on the Constitution. Rhode Island’s referendum was the only effort to consult the people directly about the ratification of the Constitution. Rhode Island was a hotbed of paper money and, from the Federalist standpoint, irresponsible government and fiscal mismanagement. An Anti-Federalist stronghold, it lived up to the Founders’ image of a place where the passions of the public might produce dangerous results.

The Anti-Federalists sparked a thorough going debate over the proper method of consulting the people. Referendum advocates held that “submitting it to every Individual Freeholder of the state was the only Mode in which the true Sentiments of the people could be collected” (emphasis in original). However, the Federalists objected that a referendum would not provide a discussion of the issues in which the arguments could be joined. By holding the referendum in town meetings scattered throughout the state, different arguments would be

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offered in each place, and the arguments offered would not get answered. “The sea-port towns cannot hear and examine the arguments of their brethren in the country on this subject, nor can they in return be possessed of our views theoreof…each separate interest will act under an impression of private and local motives only, uninformed of those reasons and arguments which might lead to measures of common utility and public good.”6 Federalists held that only in a Convention could representatives of the entire state meet together, voice their concerns and have them answered by those with different views so as to arrive at some collective solution for the common good. The very idea of the convention as a basis for ratification was an important innovation motivated by the need for deliberation. Direct consultation of the mass public would sacrifice deliberative discussion.

Federalists also noted another defect—lack of information: “every individual Freeman ought to investigate these great questions to some good degree in order to decide on this Constitution: the time therefore to be spent in this business would prove a great tax on the freemen to be assembled in Town-meetings, which must be kept open not only three days but three months or more, in preparation as the people at large have more or less information.” While representatives chosen for a convention might acquire the appropriate information in a reasonable time, it would take an extraordinary amount of time to similarly prepare the “people at large.”

Of course, what happened in the end, is that the referendum was held; it was boycotted by the Federalists; and the Constitution was voted down. Rhode Island, under threat of embargo and even of dismemberment (Connecticut threatening to invade from one border and Massachusetts from the other) capitulated and held the required state convention to eventually approve the Constitution.

While it might be argued that the Anti-Federalist plan for direct consultation built on the local experience of town meetings, and so had an element of filtration for direct democracy, the Federalists thought it inadequate and defective (since different arguments would be raised by different towns with different interests) and since there was little effective opportunity for everyone to become informed hearing the same arguments offered and answered. The Federalists viewed the ratifying convention as a superior method of decision even though it was by

representatives acting on behalf of the people and was not constituted by the people themselves. If one emphasizes the town meeting discussions, one could view this debate as between a modest version of direct filtration (via town meeting discussions) versus the indirect filtration of a convention.

There is no doubt that as the referendum later developed in the US and around the world, the elements of deliberation at the mass level have become so slight that we can classify referenda as unfiltered mass opinion in option 1. While the Progressives aspired to offer voter handbooks, a tradition maintained today, the low levels of voter information in referenda, along with the many populist uses of ballot measures, squarely fit the referendum and initiative in category 1. We do not need to rehearse the many populist uses of the referendum, from Napoleon and Mussolini to many of the initiatives in the US western states that have been over-turned by the courts. At least some of the Founders’ fears about unfiltered mass opinion have been born out by non-deliberative, unfiltered direct political practice by initiative and referendum.

The Ideal of the Town Meeting

The town meetings that Rhode Island employed for its referendum voting exemplify a form of direct democracy, practiced in many parts of New England. It constitutes a modest form of filtering, in that there is organized discussion of arguments for and against collective choices. Tocqueville famously praised the town meeting:

“Town-meetings are to liberty what primary schools are to science; they bring it within the people’s reach, they teach men how to use and how to enjoy it. A nation may establish a system of free government, but without the spirit of municipal institutions it cannot have the spirit of liberty.”

J.S. Mill, reacting to what he read in Tocqueville, treated the town meeting, along with the jury, as a “school of public spirit” in which people would discuss public problems together and feel a bit more responsibility for their solution. In effect the hypothesis was that deliberation would lead to a greater sense of public responsibility—a hypothesis which seems to be confirmed in modern Deliberative Polls.

But modern studies also show that the town meeting works best in very small communities. Attendance in large communities is often miniscule and there is great inequality of participation for all
sizes of town. As Morris Fiorina shows in a case study in Concord, Ma in large communities, the participation is often very unrepresentative and more like mobilization of the already committed rather than anything one could term deliberation (interest groups mobilize for turnout on their issues).\textsuperscript{7}

But the town meeting has long been idealized, especially in the US. It was the canonical image that guided one of the key democratic innovations of the 20\textsuperscript{th} century, the development of the modern public opinion poll. After the initial triumph of the public opinion poll, when Gallup correctly predicted the winner of the 1936 US Presidential election (while an inferior method, the self-selected \textit{Literary Digest} poll, had predicted a landslide for Alf Landon over Franklin Roosevelt), Gallup reflected on the aims of the poll, which he then considered such a serious instrument of democratic reform that he called it the “sampling referendum”. He argued that the combination of mass media and scientific sampling could bring the democracy of the New England town meeting to the large scale nation state:

“Today, the New England town meeting idea has, in a sense, been restored. The wide distribution of daily newspapers reporting the views of statesmen on issues of the day, the almost universal ownership of radios which bring the whole nation with the hearing of any voice, and now the advent of the sampling referendum which produces a means of determining quickly the response of the public to debate on issues of the day, have in effect created a town meeting on a national scale.”\textsuperscript{8}

Gallup aspired to achieve representativeness by using scientific sampling techniques. But his aspiration to achieve even the deliberations of the town meeting fell drastically short. He thought that the media would in effect, put the whole country in one room and the poll would allow for an assessment of the resulting informed opinion. But if the whole country was in one room, he neglected to realize the effects of “rational ignorance”—the room was so big that no one was paying much attention. Instead of the democracy of the New England town meeting, he got the inattentive and often disengaged democracy of modern mass society. Instead of informed and deliberative public opinion, he got the kind of debilitated public opinion based on a casual

\textsuperscript{7} Morris Fiorina “The Dark Side of Civic Engagement”

\textsuperscript{8} George Gallup “Public Opinion in a Democracy” (Princeton: The Stafford Little Lectures, 1938), p. 15.
impression of sound bites and headlines that is common in plebescitary democracy throughout the world. Instead of reflective or “refined” opinion, he only got a reflection of “raw” opinion. He produced a good representation of what we have been calling option 1 despite his aspiration to produce something like option 2. Technology helped create a new form of democracy, but it was not one that realized the values of the town meeting. The town meeting, after all, offers the potential of combining deliberation with a consideration of everyone’s views. But the trick, in democratic reform, is to pay enough attention to the social context that might really motivate thoughtful and informed public opinion and then to combine the realization of that social context with a process for selecting or counting the views of the participants equally.

The Athenian Solution

Largely lost in the dust of history there was a precedent for combining random sampling with deliberation for important public decisions. This combination could put the whole country in one room as Gallup aspired, and thus apply some values akin to the town meeting on a national scale. In ancient Athens there were a number of democratic institutions in which a random sample of those who said they were available were recruited via the Kleroterion (a kind of random sampling machine) to constitute deliberative bodies of 500 or more. The Council of 500 was randomly selected, met throughout the year and set the agenda for what was voted on in the Assembly. In addition, the graphe paronomon was an institution that could set aside a vote in the Assembly by prosecuting a member for making an illegal (or unwise) proposal. This institution was thought to improve the sense of responsibility for members of the Assembly. In addition, by the fourth century, legislative commissions of 500 randomly selected citizens would make the final decisions on legislation. The Assembly would make a decree which convened a

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9 Gallup of course did not use random sampling to begin with, but he switched from quota sampling to random sampling after the famous debacle of the 1948 election which the Michigan Survey Research Center got right with random sampling.
“nomothetai” which heard the case for and against a proposal and then voted. Only through the nomethetai did a decree become law in fourth century Athens.  

The pervasive use of random sampling and deliberation in Ancient Athens was not known to the American Founders. Aristotle’s *Constitution of Athens* was discovered a century later. So the implications of this alternative democratic mechanism were not considered. Given their concerns about direct expression of the public’s views it seems dubious that this knowledge would have changed much, but like most counterfactuals, the possibility is hard to evaluate.

**Deliberative Polling**

A key point is that a deliberating microcosm chosen by lot or random sample can be designed so that it is both deliberative and representative. It can be far more representative than town meetings, except in the smallest cases and even those have many imperfections in both representativeness and distortions of the process from inequality. 

To the extent such a microcosm is really both deliberative and representative it can be offered as a form of public will formation in which the people weigh the arguments about what should be done for reasons under good conditions. It is a modern social science-based version of the Athenian aspiration and indeed an aspiration for filtration or deliberation by representatives that was voiced by Madison and the Framers. But this is deliberation not by elected representatives but a microcosm of the people themselves and hence a version of option 2.

Madison and the Framers clearly hoped to employ real institutions to approximate deliberative public opinion, the “refined and enlarged” versions of the “public views”. The conditions of relatively small group deliberation and representation defining a “convention” constituted the appropriate conditions for making the choice in the view of the Founders. The Constitutional Convention, the ratifying conventions in each of the states and the Senate, were all meant in theory to be deliberative bodies applying the filter to the public’s views. In this light a convention was an empirical exploration, or, if you will, a (non-rigorous) experiment, aimed at discovering what the deliberative opinions of the relevant public might be.

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11 For the classic study see Jane J. Mansbridge *Beyond Adversary Democracy* (Basic Books).
12 See Rakove, *Original Meanings*, for an account of just how original the idea of a convention was, as a method for consulting the people.
The research agenda of Deliberative Polling takes this aspiration a step farther, at least for informal public consultation. It attempts to employ social science to uncover what deliberative public opinion might be on an issue by conducting a quasi experiment, and then it inserts those deliberative conclusions into the actual public dialogue, or, in some cases, the actual policy process.

Deliberative Polling begins with a concern about the defects likely to be found in ordinary public opinion. Two that are especially worth mentioning are the incentives for rational ignorance applying to the mass public and the tendency for sample surveys to turn up non-attitudes or phantom opinions (as well as very much “top of the head” opinions that approach being non-attitudes) on many public questions. The public does not like to admit that it does not know and may well make up answers on the spot in response to questions. These worries are not different in spirit from the Founders’ concerns about mass public opinion, at least as contrasted to the kinds of opinion that might result from the filtering process of deliberation.

At best, ordinary polls offer a snapshot of public opinion as it is, even when the public has little information, attention or interest in the issue. Such polls offer a representative picture of the public’s views, but not a deliberative one, Gallup’s aspiration to the contrary.

Every aspect of the process is designed to facilitate informed and balanced discussion. After taking an initial survey, participants are invited for an extended period, typically a weekend of face to face deliberation; they are given carefully balanced and vetted briefing materials to provide an initial basis for dialogue. They are randomly assigned to small groups for discussions with trained moderators, and encouraged to ask questions arising from the small group discussions to competing experts and politicians in larger plenary sessions. The moderators attempt to establish an atmosphere where participants listen to each other and no one is permitted to dominate the discussion. At the end of the weekend, participants take the same confidential questionnaire as on first contact and the resulting judgments in the final questionnaire are often broadcast along with edited proceedings of the discussions throughout the weekend. Typically, the weekend microcosm has been highly representative, both attitudinally and demographically, as compared to the entire baseline survey and to census data about the population. In every case

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14 For an overview see James S. Fishkin When the People Speak: Deliberative Democracy and Public Consultation (Oxford: 2009).
thus far, there have also been a number of large and statistically significant changes of opinion
over the weekend. In about 70 such projects in 18 countries, about 70% of the attitude questions
have changed significantly with deliberation. Considered judgments are often different from the
top of the head attitudes solicited by conventional polls.

But what do the results represent? Our respondents are able to overcome the incentives
for rational ignorance normally applying to the mass public. Instead of one vote in millions, they
have, in effect, one vote in a few hundred in the weekend sample, and one voice in fifteen or so
in the small group discussions. The weekend is organized so as to make credible the claim that
their voice matters. They overcome apathy, disconnection, inattention and initial lack of
information. Participants from all social locations change in the deliberation. From knowing that
someone is educated or not, economically advantaged or not, one cannot predict change in the
deliberations. We do know, however, from knowledge items, that becoming informed on the
issues predicts change on the policy attitudes. In that sense, deliberative public opinion is both
informed and representative. As a result, it is also, almost inevitably, counter-factual. The public
will rarely, if ever, be motivated to become as informed and engaged as our weekend
microcosms.

The idea is that if a counterfactual situation is morally relevant, why not do a serious
social science experiment—rather than merely engage in informal inference or arm chair
empiricism-- to determine what the appropriate counter-factual might actually look like? And if
that counterfactual situation is both discoverable and normatively relevant, why not then let the
rest of the world know about it? Just as Rawls’s original position can be thought of as having a
kind of recommending force, the counterfactual representation of public opinion identified by the
Deliberative Poll also recommends to the rest of the population some conclusions that they ought
to take seriously. They ought to take the conclusions seriously because the process represents
everyone under conditions where they could think. Deliberative Polling is meant to uncover
representative and deliberative conclusions—considered judgments that embody deliberation,
political equality and, presumably, non-tyranny.

Two general questions can be raised about all research designs—questions of internal and
external validity.15 Sample surveys are relatively high on external validity: we can be fairly

15 See Donald Campbell and Julian Stanley Experimental and Quasi-Experimental Designs for Research (Chicago:
confident about generalizing the results to larger populations. By contrast, most social science experiments done in laboratory settings are high in internal validity: we can be fairly confident that the apparent effects are, indeed, the result of the experimental treatments. However, experiments done with college students, for example, lack a basis for external validity if the aim is to find out something about the general population.

If a social science experiment were to have relatively high internal validity, where we could be confident that the effects resulted from the normatively desirable treatment, and if it were also to have relatively high external validity where we could be confident about its generalizability to the entire citizen population, then the combination of those two properties would permit us to generalize the consequences of the normatively desirable property to the entire citizenry. We could be confident in the picture of a counterfactual public reaching its conclusions under normatively desirable conditions. In other words, if an experiment with deliberation were high on internal validity, then we could be confident that the conclusions were the result of deliberation (and related factors such as information). And if such an experiment were high on external validity then we could be confident about generalizing it to the relevant public of, say, all eligible voters. It is in that sense that the conclusions are those the rest of the public would arrive at, if it were to engage the issues under similarly good conditions.

Deliberative Polling assesses public opinion in random samples of the population, both before and after the participants have had an opportunity to deliberate. Because it uses random samples of several hundred drawn from the voting public, Deliberative Polling provides a basis for claims of external validity. Because the research designs often, (and ideally will) employ control groups of various sorts, they provide a basis for claims of internal validity. Once we are confident that the considered judgments really are the consequence of deliberation and that they are generalizable to the relevant public, then there is a sense in which the experiment speaks for the people in a distinctive way—a way that can easily be distinguished from other methods of public consultation. Focus groups and citizens juries are too small to be statistically representative. So-called “town meetings” in the media usually employ convenience samples or self-selected groups. Conventional polls assess public opinion when it is often top of the head, or when it may not exist at all. Referendums and various forms of direct democracy suffer from rational ignorance, campaign inequalities and manipulation. So-called “consensus conferences”
use self-selected samples and do not assess opinion individually and confidentially (but instead attempt to produce a “consensus”). Deliberative Polling stands out as a form of consultation that can credibly capture the considered and representative judgments of the public.

Deliberative Polling is not the only effort to engage microcosms of the public in deliberation. Designs can vary and it seems that the precise details of the design can have an effect on a method’s claims to being both representative and deliberative. Let us call all the efforts to realize the basic Athenian microcosm idea mini-publics. All these mini-publics can be considered efforts to fill out option 2 in our scheme with some mechanism for public will formation.

Criteria for Mini-Publics

The basic idea of a mini-public whether the Deliberative Poll or some other design, is that it should be both representative and deliberative. However designs vary in important ways. I would propose some key considerations in evaluating viable designs:

a) Random sampling.

b) Sample size

c) Attitudinal as well as demographic representativeness

d) A design that avoids distortions of small group psychology

e) A design that embodies good conditions for considering the issue.

Random Sampling: No random sample with humans is perfect, except perhaps those with prison populations. But the social science issues are well understood and there are best practices to get a reasonably good sample. With a mini-public there is potentially a second stage of self selection. Assuming the first stage to be some kind of initial questionnaire or data gathering, the second stage is the actual participation in the mini-public. It is important to keep the response rate as high as possible, particularly in the first stage, so that one can evaluate the degree of representativeness of the sample recruited to the second stage, the actual deliberations.

The representativeness of the mini-public can be evaluated statistically, but the presumption of these evaluations is that the method of recruitment was random sampling. Hence every effort must be made to limit non-response bias, or an apparently “random” sample can really become essentially self selected. In the Deliberative Poll, there are usually extensive call-backs to those
Initially in the sample to ensure that they take the initial questionnaire and to encourage participation. Efforts to overcome special challenges for those selected in the sample, such as child care or the need to care for a sick relative are also standard practice. In the first Deliberative Poll in the US, a woman who had a small farm in Alabama could not fly to Austin, Texas for the weekend because there was no one to milk her cow. The project sent someone to do so and she came for the weekend. In addition, all the expenses and usually a significant honorarium are paid to enable everyone to participate regardless of income. All these efforts are focused on getting those initially identified in the random sample to turn up and to provide data making it possible to evaluate how successful the recruitment effort was in creating a microcosm of the population.

**Sample Size:** The sample of deliberators needs to be large enough that it is meaningful to evaluate their opinions statistically. If the size is too small, a strong majority in favor of a proposal could actually be a strong majority against merely due to sampling error. Jury like processes are too small to satisfy this requirement.

**Attitudinal and Demographic Representativeness:** The idea of the mini-public is that it is a microcosm of the people, a miniature version of the public in both its demographics and attitudes. If the microcosm starts out as representative and then changes on the basis of arguments considered under good conditions, then its considered judgments at the end can plausibly be claimed to be those the public would reach if it were engaged to consider the issue under similar good conditions. If the balance of initial opinion is very different from the mass public at the start then that difference by itself could explain any difference in eventual conclusions. The representative claim of the mini-public is two fold: representative before deliberation of public opinion as it actually is (as would any conventional poll) and representative after of public opinion as it would be, as a result of deliberation under good conditions. Of course a great deal depends on the account of good conditions. And some mini-publics differ in their specific designs and the conditions for deliberation participants engage in. But there must be a basis for establishing the claim to representativeness before deliberation in order to establish the claim after. And without that claim to representativeness, why should we pay attention to the conclusions of the participants? Both demographics and initial attitudes are important. The demographics may affect their interests or the realizations of the participants about their interests as they discuss the issue. The attitudes include their values, viewpoints on
the issues, causal assumptions and ideologies as well as their specific policy attitudes. Some of these may change as people become more informed and consider competing arguments. But the claim of representativeness requires that the microcosm and the public begin in roughly the same place.

Avoiding Distortions: Applications of deliberative democracy have spawned a critical literature focused on small group processes. Based on jury studies, one line of criticism is that deliberation will allow the more advantaged to impose their views on everyone else. While a selection process for deliberative democracy might involve random sampling, once the participants get into the room, the more advantaged, will be able to dominate the deliberations and effectively impose their views on the others. 17

A second line of criticism is also based on jury like studies and posits a different, but not incompatible small group distortion. According to what Cass Sunstein calls “the law of group polarization” for an issue that has a midpoint, if the pre-deliberation mean of the group is to the left of the mid point, the group will move further to the left with deliberation. If the pre-deliberation mean of the group is to the right of the midpoint, then the group will move further to the right with deliberation. He posits two mechanisms, an “imbalance in the argument pool” and a “social comparison effect.” For example, if most people start on the right side of the issue they will tend to offer more arguments on that side producing most persuasive effect in that direction—a process he labels “going to extremes.”18 As people see how others are moving they will also see more pressure to converge, hence the role of the social comparison effect.

Both of these distortions undermine the normative claims of deliberation. The domination by the more advantaged is disturbing since it undermines the claims of the process to political equality. Instead of the resulting conclusions representing the considered judgments of everyone, the process has been effectively high jacked by the privileged who use it to impose their own views on everyone else. The polarization critique is also disturbing. If there is a regular pattern of group psychology, a “law of group polarization” that can predict the outcomes regardless of the

substance of the deliberations, then it is hard to make the claim that the participants are really arriving at considered judgments on the merits.

As it turns out, the Deliberative Poll is an institutional design that avoids these two distortions. 19

A design that embodies good conditions for considering the issue: The core idea of the mini-public is that a representative sample considers the issues under good conditions and this offers a form of representation—a representation of what the larger public would think if it were to engage in the issues under similarly good conditions. So much depends on the conditions and on whether they fulfill that aspiration. The Deliberative Poll, for example, has briefing materials that have been vetted for balance and accuracy by an advisory committee representing different points of view; it has moderated small group discussions; it has each group’s most important agreed questions answered by panels of competing experts and policy makers in plenary sessions where all participants get to hear the same answers; it has the final considered judgments of the sample recorded in confidential questionnaires. The confidential questionnaires, without any push for consensus limits the “social comparison effect.” The balanced briefing materials and the competing experts in the plenaries provide balance to the argument pool. The moderated discussions encourage everyone to participate and limit domination by the more advantaged. Information questions in the questionnaires before and after provide evidence that the participants become significantly more informed. And extensive before and after questionnaires allow evaluation of the extent to which the microcosm is representative in attitudes as well as demographics (since it permits comparison of participants with non-participants who take the initial survey but who do not attend). This design is of course, not the only possible design, but it is one that permits a mini-public to fulfill the criteria listed above.

In doing so, they fill out option 2 in our scheme in a way that provides an input for meaningful public will formation—meaningful because it is based on deliberation where the mini-public weighs competing arguments for competing choices. And meaningful also because the mini-public is demonstrably representative in its attitudes as well as demographics. Just as Gallup thought a version of the town meeting could be achieved by putting the whole country “in one great room” where it could “express its will” in this case, the one room is a room on a human

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19 See Fishkin, When the People Speak, chapter four and the references there.
scale, a microcosm where each person can view his or her contribution as having a meaningful effect on the process and the outcome.

So the question is whether social science can be harnessed to facilitate the expression of the public will. Gallup thought he was doing that, but the public will so expressed, is often little more than an impression of sound bites and headlines. Madison did not have a social science to guide his reflections on whether a republic was possible. But we have modern social science and it should be used to pursue whatever promising paths there may be for democratic reform. And it turns out that an especially promising path was charted by the ancient Athenians in their reliance on the deliberative microcosm chosen by lot or random sampling.

If this option, a perfected version of our option 2 is developed in a credible way, how it can it be made consequential in a world dominated by the other democratic mechanism? In my view we need to pursue an agenda of experimentation to harness social science in the public interest. Without replacing or revolutionizing current institutions, there are many arenas where deliberative public opinion can be assessed and inserted into the policy process and the political dialogue.

To gesture toward what would be a long discussion:

a) Deliberative opinion can have an effect on the unfiltered direct mechanisms of option 1.

For example, in British Columbia and elsewhere Citizens Assemblies selected by random sampling deliberated to propose ballot measures for electoral reform. In California we are experimenting with statewide Deliberative Polls to formulate ballot measures. A random sample deliberating to propose a ballot measure for other citizens to vote on is very much like the Athenian Council of 500 deliberating about which measures to put before a vote of the Assembly.\(^\text{20}\)

b) Deliberative opinion can have an effect on the filtered elite opinion of public officials as in option 4. There are few Madisonian representatives but there are public officials in positions where they are charged with considering the public interest. For example, beginning in 1996, there was a series of Deliberative Polls conducted in Texas about how to provide electric power in each of the eight service territories in the state. The

\(^{20}\) See my proposal for the Deliberative Initiative: [http://blog.sfgate.com/jfishkin/2012/02/01/the-deliberative-initiative-returning-direct-democracy-to-the-people/](http://blog.sfgate.com/jfishkin/2012/02/01/the-deliberative-initiative-returning-direct-democracy-to-the-people/) as well as the What’s next California project also on the cdd web site [http://cdd.stanford.edu/ca](http://cdd.stanford.edu/ca)
Deliberative Polls showed a strong increase in support for renewable energy and conservation, including a massive increase in the willingness to pay for these results. The Texas Public Utility Commission considered the “Integrated Resource Plans” filed by each of the utilities which made use of this data and made a series of decisions, which led to massive increases in wind power in the state. Texas went from last among the fifty states in the amount of wind power in 1996 to first by 2007. In this case elite deliberation was informed by the deliberations of random samples in each of the eight parts of the state.21

c) Deliberations of a random sample can affect electoral choice, the competitive democracy of option 3. The Deliberative Poll was first proposed as an agenda setting for the presidential nominating process. It led to a national pilot in the 1996 PBS broadcast of the “National Issues Convention.” While only the issues and not the candidates were evaluated the basic idea was to use a deliberating microcosm for candidate selection. This idea was piloted further in Greece when one of the major parties used Deliberative Polling to actually select a candidate instead of using a mass primary.22

Option 2, if developed as the deliberative microcosm chosen by random sampling—a modern and updated version of the basic Athenian idea—can be employed to insert a representative and thoughtful form of public will formation into our current processes embodying each of the other three options. It can improve direct unfiltered democracy through deliberative agenda setting for ballot propositions and recommendations about ballot proposals. It can improve electoral democracy through deliberative agenda setting affecting candidate selection or the evaluation of issues in an election. And it can improve elite and often technocratic policy recommendations by commissions and other public bodies by demonstrating the trade-offs the people are willing to accept after a considered judgment.

21 For more details see James Fishkin When the People Speak: Deliberative Democracy and Public Consultation (Oxford 2009).
22 For details see “From Athens to Athens” in James Fishkin When the People Speak.