

## Some Arguments for Citizen Panels

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In this paper, I will defend the descriptive/deliberative view of political representation as embodied by the citizen panel proposal.<sup>1</sup> In the first section, I rely heavily on game theory and argue that these representative bodies will arrive at efficient decisions more often than elected representatives or direct democracies. My strategy will be to explore whether these views of democracy encourage cooperation in the prisoner's dilemma (hereafter 'PD') and avoid the collapse of the commons. The tragedy of the commons (hereafter 'TOC') and the PD model the same issues.<sup>2</sup> However, considering them separately elicits distinct issues regarding various theories of democracy. Using the PD, the encouragement of cooperation is analyzed. Using the TOC, the fairness and practicality of the citizen panel is discussed. In the second section, I answer objections that claim citizen panels and other deliberative/descriptive models of political representation cannot represent the whole population. In the last section I explore how citizen panels might affect citizen's willingness to cooperate and problem solve outside of political proceedings.

What follows is a brief description of the citizen panel proposal, which throughout the rest of the paper, I take to be an embodiment of the descriptive/deliberative view of political representation. Representative bodies would be selected by a random sample of eligible citizens from the geographic area.<sup>3</sup> All eligible citizens would be equally likely to be selected for these bodies. Whichever traits or characteristics are thought important for political representation will be proportionally represented in the random sample. So, gender, race, ethnicity, geographic location, education level, etc. would be, on average, be represented proportionally to their occurrence in the population. Those who are not selected will be represented in that there will be persons who have similar traits in the sample.

Once the citizen panels were formed they would undergo a deliberative process according to the task they were assigned. The deliberative portion could consist of many things. What follows is a short list a reasonable deliberative process capable of fairness and problem solving could include. When appropriate, deliberative bodies should include presentations and testimony by experts, such as professional bureaucrats and scientists. These experts would be involved in the process of disseminating information and facilitating the deliberative process. Structured debate and periods of reflection and reading would most likely be useful.<sup>4</sup> In addition, the use of moderators would further the goal of constructive dialogue.<sup>5</sup> Institutional norms, or rules for conduct, could also be established that could lead to better deliberation.<sup>6</sup> Another way to encourage constructive deliberation would be to require a super-majority of two thirds or three

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<sup>1</sup> See John Gastil. *By Popular Demand: Revitalizing Representative Democracy Through Deliberative Elections* (Berkeley, Calif.: University of California Press, 2000) for an elaboration of the citizen panel idea and a possible use in the United States.

<sup>2</sup> Elinor Ostrom. *Governing the Commons* (New York: Cambridge University Press, 1990), 3-4.

<sup>3</sup> See John Burnheim. *Is Democracy Possible?* (Berkeley, Calif.: University of California Press, 1985), 106-214. for thoughts on how these panels can be structured.

<sup>4</sup> Gastil, *Popular Demand*, 144-6.

<sup>5</sup> *Ibid.*, 116-7.

<sup>6</sup> *Ibid.*, 116-7.

fourths when voting at the end of the process.<sup>7</sup> Depending on the size of the body, we may not wish to require unanimity, but requiring a large super-majority will most likely foster a more deliberative process. Other possible procedures include giving veto power to members of groups who stand to be most affected by the outcome.<sup>8</sup> Specifying constraints and procedures for politically legitimate debate is notoriously problematic for many reasons. While I believe the resources for legitimate deliberation exist, a full treatment of this topic is beyond the scope of this paper.

### **Citizen Panels and the Prisoner's Dilemma**

I assume a close to optimal theory of political representation would act as a catalyst for cooperation in the PD amongst political representatives. Along with delivering fair deliberation, decision-making bodies should be able to find efficient means when an end has been chosen. I also assume that cooperation in the PD is indicative of the cooperation we hope to find in the deliberations of political representatives in real situations. Efficient outcomes are an important result, but conditions that result in cooperation in the PD are also important because cooperation is a signal of increased problem solving abilities and/or experiences of trust and reciprocity. So, theories of political representation that elicit cooperation in PD style games give us some reason to favor that theory. The argument is not that PD's and TOC's are formally identical to all or most problems representatives actually face. The claim is rather that we have good reason to believe the descriptive/deliberative view of political representation allows participants to solve these problems more often than its competitors. If deliberative bodies composed of samples of the population solves these problems, then it is likely they will solve problems that real political representatives encounter (whether they formally embody the games discussed here or not). Cooperation in the prisoner's dilemma and closure of the commons indicates the release of problem solving abilities in representative bodies that carry over into other problems.

One objection is that evaluating the probable outcomes of democratic processes is not democratic, or at least presumptuous. The outcomes of democratic processes constitute political legitimacy and so evaluations from outside democratic processes do not affect the political legitimacy of the democratic process. In response, evaluating and securing procedures that elicit the best means when the end is agreed upon seems reasonable. It would be problematic to endorse a democratic procedure where, given the ends desired, inefficient means are consistently chosen. It is also plausible to think that democratic procedures that are good at finding optimal outcomes when everyone agrees on the goal will result in reasonable outcomes when there is *not* agreement over goals. Moreover, given the almost limitless procedural types that can reasonably be construed as democratic that are available for implementation, we are forced to appeal to our beliefs about what outcomes democratic institutions should produce when evaluating them. While appealing to beliefs about correct outcomes, beliefs to the effect that democratic processes should be open and inclusive should also be brought into play.

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<sup>7</sup> Melissa S. Williams. *Voice Trust and Memory: Marginalized Groups and the Failings of Liberal Representation*. (Princeton, New Jersey.: Princeton University Press, 1998), 225-6.

<sup>8</sup> *Ibid.*, 224.

In the prisoner's dilemma,<sup>9</sup> there is one case in which the agents can maximize their payoffs by cooperating even if they only value the least amount of jail time. If each player has good reason to believe they are playing their psychological doppelgangers, they know that whatever decision they reach, their double will probably reach the same one.<sup>10</sup> If one agent defects, the doppelganger will also defect. If one agent cooperates, then both will cooperate. Given that each player comprehends this symmetry, they both believe there is little chance of defecting while the other player cooperates. So, given this situation, the players maximize their payoffs by cooperating. There is debate as to whether this move is rational, since the decision on either agent's part does not cause the other's decision.<sup>11</sup> However, there is agreement that the total payoff is maximized. Bryan Skyrms calls cooperating in the PD a strictly efficient strategy since this choice does better in self-interaction in total payoffs than defection, even though defection strictly dominates.<sup>12</sup> The debate over the rationality of cooperating in the PD is technical and abstract. Clearly, we want to find ways to avoid tragedies of the commons with water supplies, fisheries, forests, etc. TOC's are iterated PD's with many players.<sup>13</sup> Therefore, avoiding tragedies of the commons requires cooperation as the outcome for each iteration of the PD. Hence, if preventing TOC's is rational, cooperation in the PD is sometimes rational.

Another move to defuse the objection that cooperation in the PD is always irrational is Simon Blackburn's distinction between the empirical description and the theoretical description of games.<sup>14</sup> If a real agent finds himself or herself in a PD, and they cooperate, this should not be interpreted as a failure of the agent to maximize their expected utility. Instead, we interpret the agent as maximizing other preferences. In the empirical situation, the agent will receive a certain number of years in prison, but concern with time in prison will not always reflect the totality of the agent's preferences if they choose to cooperate.<sup>15</sup> If this tack is taken, we can sometimes count as rational real agents cooperating in empirical PD's, while holding onto the interpretation that all rational agents play the dominant strategy. While this would be a different interpretation than the doppelganger scenario outlined above, either option allows that cooperation in PD's with real agents, can sometimes be rational.

Empirical evidence has shown that people cooperate more often in PD type games when they are allowed to communicate with one another.<sup>16</sup> This addition changes the original game's assumptions of separation between the parties, but it is one way to get players to cooperate when they find themselves in situations similar to the PD. Any deliberation must be composed not only of the expected utility of the action, but the probability that one assigns to that state of the

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<sup>9</sup> The prisoner's dilemma runs as follows: Two players have a choice between cooperating and defecting. There are four outcomes where both players order the outcomes  $a > b > c > d$ . If both players choose to defect, then the outcome is  $c$  for both. If both choose to cooperate the outcome is  $b$  for both. If one player chooses to cooperate and the other defects, the outcome for the cooperator is  $d$  and  $a$  for the defector. Defection dominates cooperation in that the defector will do better no matter what the other player chooses. It dominates except in the case where you believe you are playing your psychological twin, although this last claim is controversial.

<sup>10</sup> David Lewis, "Prisoner's Dilemma Is a Newcomb Problem." *Philosophy and Public Affairs* 8 (1979): 235-40.

<sup>11</sup> Lewis, "Prisoner's Dilemma," 235-40. and Arthur Falk, "Ifs and Newcombs" *Canadian Journal of Philosophy* 15, no. 3 (1985) 449-482.

<sup>12</sup> Bryan Skyrms, *Evolution of the Social Contract*, (New York: Cambridge University Press, 1996), 60.

<sup>13</sup> Elinor Ostrom. *Governing the Commons* (New York: Cambridge University Press, 1990), 3-4.

<sup>14</sup> Blackburn, Simon. *Ruling Passions: A Theory of Practical Reasoning*. (New York: Oxford University Press, 1998), 168-70.

<sup>15</sup> *Ibid.*, 168-70.

<sup>16</sup> Elinor Ostrom, Roy Gardner and James Walker, *Rules, Games and Common-Pool Resources* (Ann Arbor: University of Michigan Press, 1994), 145-69.

world coming about. In PD's with communication, it is likely that if one player defects, so will the other player, but if one cooperates, the other agent is likely to do so. Communication is needed to make the players into twins, which changes the preferred strategy to cooperate.

The amount and kind of communication allowed is important. Overall, however, allowing communication increases cooperative behavior.<sup>17</sup> We can model the effect of communication as eliminating the possibility that either player could defect while the other cooperates.<sup>18</sup> Both players see the outcomes as being symmetrical, both cooperating or both defecting. Cooperate then becomes the preferred choice given the closure of the other possible outcomes. It is plausible that the intense face to face communication involved in citizen panels would encourage cooperation, if citizen panel participants played the PD. Compared to elective representation, citizen panels would facilitate cooperation more often. One reason for this advantage of citizen panels over elected representatives is that voters, given the lack of information about their representatives, will give simple instructions.<sup>19</sup> Moreover, without trust and information regarding the options available those instructions will be to defect in the PD.

As for the first claim, people have limited interaction with modern elected political representatives. There are just too many citizens and too few representatives. With limited interaction and knowledge regarding the activities of representatives, there is little opportunity for trust to grow between the representatives and the represented. There is incentive for citizens to give their representatives simple instructions that can be easily tracked given the trickle of information received regarding representatives' activities. Conditional instructions quickly become complex when trying to predict how a bargaining session will run. It is difficult for citizens to let representatives have any autonomy in playing the PD for them when there is not a trusting relationship. For without information, the represented cannot check whether their representative has acted in their interest. Distrust may arise if the representative cooperates with other representatives, for it is difficult to tell whether the representative has been inept or acted in their personal interest. Even in citizens that are willing to cooperate, the worry could arise that their willingness to cooperate would be used against them, that more would then be demanded from them in a bargaining session if their willingness to cooperate was not reciprocated.<sup>20</sup> Simple, clear instructions are the easiest to monitor. Giving a complex bargaining instruction such as "cooperate only if the other party seems like they will cooperate" requires a high degree of trust in the representative. In elected representation, the representative is one step removed from the represented in deliberation. There is a greater chance of error in attempting to represent someone else's interests, especially counterfactual interests (what *would* they think given such and such information). In addition, it takes more time for communication to be brought back and forth between an elected representative and the represented. Because of this time lag, deliberation with its cooperation enhancing communication, wherever it might have taken place, will be truncated because of the need for action.<sup>21</sup> For all of these reasons, it is plausible to think

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<sup>17</sup> Ledyard, John. "Public Goods: A Survey of Experimental Research" *The Handbook of Experimental Economics*. edited by John Kagel and Alvin Roth, 111-194. (Princeton: Princeton University Press, 1995), 156.

<sup>18</sup> Blackburn models cooperation as an agent having an expanded set of preferences that outweigh the outcomes of the game. 189-91.

<sup>19</sup> See Hanna Pitkin, *The Concept of Representation* (Berkeley: University of California Press, 1967) chapter 7 for an exposition of the conceptual issues involved in giving representatives instructions, especially regarding the mandate-independence controversy.

<sup>20</sup> Jon Elster, "The Market and the Forum," in *Deliberative Democracy*, ed. James Bohman and William Rehg (Cambridge, Mass.: MIT Press, 1997), 15.

<sup>21</sup> Elster, "Market," 26.

that citizens are more likely to order their representatives to defect in the PD. Defecting dominates unless there is a high subjective probability that the other player will do the same. Defecting is a simple clear instruction as opposed to trusting your representative to make the decision during the bargaining process as to what the other player will do. There is a veil between modern representatives and the represented. Communication, when it does occur, is too little and too late, this destroys the trust necessary for the represented to allow their representative to cooperate.

Why are the changes in strategy that occur given communication in the PD absent in elected representatives who engage other representatives in legislatures? I think the answer lies in the fact that elected officials are tied to that which will get them elected in the next election or what has brought them election in the first place. Even representatives who cannot be reelected due to term limits have been conditioned to behave in certain ways by the activities needed to become elected officials in the first place. The preference changes communication brings about are overridden when the actual deliberation is professionalized. For example, lawyers engage in communication with opposing sides, but they are very good at representing their client's instructions, whatever changes in personal beliefs might occur from interaction with the opposing side. Elected representatives are not representing themselves, but trying to represent their constituents in order to gain reelection. Hence, if the representative's base of support, wants to defect in the PD, then there is no incentive to go against this opinion, since it would be harder to get reelected. There is also the vacuum of preferences where the public seems to have no opinion on a matter, in this case, there is reason to believe that the elected representatives will act in their own personal interest rather than in the real, but unarticulated, interest of the represented.<sup>22</sup> Quality deliberation does not take place between elected representatives because the participants are, in general, not willing to change their minds. The beneficial effects of deliberation requires that participates are willing to change their minds.<sup>23</sup> The choices that make election and reelection possible override any change in opinions that elected representatives experience.

Participants in citizen panels, on the other hand, are not professionals and have no mandate, in that their livelihoods are not dependent on being reelected, nor are they professional representatives. While citizen panel participants may think about representing the whole, they will be more willing to change their preferences after going through the deliberative process. They will have the choice of representing their perception of actual public preferences, or their own preferences, whether or not the deliberative process has changed their private preferences.

Citizen panel participants are not bound to anyone other than themselves. For in representing themselves they are representing the group. Secondly, it is plausible that citizens will feel free to change their minds, since they are being taken through the deliberative process in order to find the best solution, which may or may not agree with popular opinion. Alternatively, they may need to fill in gaps where the public does not have an opinion. Also, they do not have the separation problem that occurs with elected representatives. That is, since the representatives represent themselves, they will have direct access to their own preferences, and changes in those preferences will be available for uptake in outcomes. If they face a real life PD, they will be more likely to cooperate than a set of elected representatives.

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<sup>22</sup> Pitkin, *Concept*, 147.

<sup>23</sup> Bernard Manin *The Principles of Representative Government* (New York: Cambridge University Press, 1997), 206.

It is tempting to rely on evolutionary dynamics to foster the trust necessary to avoid sub-optimal results such as defection in the PD, especially given the surprising amount of cooperation and fairness that is often fostered in evolutionary settings.<sup>24</sup> However, these will not be of help regarding the citizen panel since the participants will be different for each task and the amount of communication between panels over time would probably be insufficient for participants to realize the benefits of cooperation. The mechanisms for encouraging cooperation must work anew each time there is deliberation. Despite this fact, the citizenry could still see the overall benefits of citizen panels, even if they were not aware of the specific reasons why they worked.

To sum up, in citizen panels, when agreements made by the representatives are made into law, then it is likely that they will cooperate, even if all they value is the game's payoff, and they only play once. Experimentally it has been found that if participants are able to communicate, a bond of trust and cooperation is formed which translates into efficient outcomes.<sup>25</sup> On the other hand, for a representative that is elected, the population will be less likely to give such a conditional directive, because of the complexity of such directives, and the lack of trust and information shared between citizens and elected representatives.

### **Citizen Panels and the Tragedy of the Commons**

At this point I will discuss show how the descriptive aspect of the citizen panel will avoid the collapse of the commons in a practical and fair manner.<sup>26</sup> I again assume that a good theory of political representation will allow citizens to avoid the collapse of the commons. Furthermore, if a theory of political representation allows citizens to avoid the collapse of the commons, then these same conditions will allow citizens to solve other difficult problems as well.

David Hume writes:

Two neighbors may agree to drain a meadow which they possess in common, because it is easy for them to know each other's mind; and each must perceive that the immediate consequence of his failing in his part is the abandoning the whole project. But it is very difficult, and indeed impossible, that a thousand persons should agree in any such action; it being difficult for them to concert so complicated a design, and still more difficult for them to execute it; while each seeks a pretext to free himself of the trouble and expense and would lay the whole burden on others.<sup>27</sup>

Hume comprehends the essential difficulties in managing common projects or resources. However, we can describe the features of the commons more precisely. Given the nature of the commons or the institutions surrounding the commons, it is difficult to exclude agents from using the commons. Secondly, whenever an agent uses or extracts the resource, this lessens the amount available for others to use.<sup>28</sup> Also, agents who extract or use the resource bear only a

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<sup>24</sup> For example see Skyrms, *Social Contract*, 1996.

<sup>25</sup> Ostrom, Gardner and Walker, *Rules*, chapter 7. Although Ostrom notes that an external authority is very helpful, the cooperation was robust without such agents. These agents would be present of course in a deliberative democracy since the outcomes would be legally binding.

<sup>26</sup> Garrett Hardin, "The Tragedy of the Commons" *Science* 162 (1968): 1243-48. and also Mancur Olson, *The Logic of Collective Action* (Cambridge, Mass.: Harvard University Press, 1965).

<sup>27</sup> David Hume "A Treatise of Human Nature," *Hume: Moral And Political Philosophy* ed. Henry Aiken (New York: Hafner, 1948), book III, part II, section vii, 101.

<sup>28</sup> Ostrom, Gardner and Walker, *Rules*, 6.

portion of the cost of the appropriation, with the balance of the cost spread amongst everyone who uses the commons. Lastly, the marginal cost of using the commons must be less than the marginal income.<sup>29</sup> Since the commons is finite, or has a fixed replenishment rate, it may collapse if there are enough agents using the resource and behaving in a relatively self-interested way.<sup>30</sup> Even if all agents see this happening, they may continue to destroy the commons if they believe there is little hope that others will alter their ways.

As Hume points out, the larger the number of agents using a commons, the harder it is to coordinate behavior.<sup>31</sup> An agreement as to how the commons should be managed may not be proposed, even if we somehow bring everyone together. The probability of any one person getting everyone to listen to a proposal is low, or the cost of doing so would be immense in an unstructured setting.<sup>32</sup> So, not only must communication be *allowed* for everyone to get the information that there are other options besides maximum extraction, but there must be a means such that people can actually propose ways to stabilize the commons and have those proposals adopted. There must be a realistic way of getting real deliberation for decisions that affect all who use the commons. A Robert Goodin states the problem in the context of deliberative democratic theory:

The challenge facing deliberative democrats is thus to find some way of adapting their deliberative ideals to any remotely large-scale society, where it is simply infeasible to arrange face-to-face discussions across the entire community.<sup>33</sup>

If the commons is large, it is difficult to bring everyone together in one place at one time. In addition, even if such a gathering were possible, the size of the body would make deliberation difficult. For if everyone were allowed to voice an opinion, there would be no discussion and slogans would rule.<sup>34</sup> If only a few were allowed to speak, viewpoints might be left out since most would not be able to participate. The deliberative body must be small enough to allow deliberation and practicality, yet also incorporate the relevant viewpoints.

A random sample of the population in question serves this task of representing various viewpoints and preferences, while also preserving quality deliberation. The sample would be small enough to allow for real discussion of options, while also having a proportional cross-section of various views and preferences of the population.<sup>35</sup> Along with opportunities for communication, Ostrom, Gardner and Walker point out the necessity of trust and reciprocity within the population in order to create mutually beneficial outcomes.<sup>36</sup> It seems reasonable to think that a smaller group will have a better chance of building trust than a larger one. Sample size could in part be determined by the strength of trust and cooperation samples of various sizes experience. The citizen panel would be an institution that would lessen the cost individuals incur in proposing and negotiating agreements. It would be small enough to be workable and facilitate

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<sup>29</sup> Ibid., 6.

<sup>30</sup> Hardin, *Tragedy*, 1245.

<sup>31</sup> Hume, *Treatise*, book III, part II, section vii, 101.

<sup>32</sup> Ostrom, Gardner and Walker remind us that communication incurs a cost, and that this cost can cause inefficient outcomes in experimental settings, *Rules*, 167-169.

<sup>33</sup> Robert Goodin "Democratic Deliberation Within" *Philosophy and Public Affairs* 29, no. 1 (2000): 82.

<sup>34</sup> Burnheim, *Is Democracy Possible?*, 107.

<sup>35</sup> It should be noted the Goodin criticizes this answer to his question, Goodin, "Democratic Deliberation Within," 87-9.

<sup>36</sup> Ostrom, Gardner and Walker, *Rules*, 328-329.

quality deliberation, and yet be legitimate since all relevant traits would be proportionally represented.

## Random Samples and Political Representation

Hanna Pitkin claims that a random sample of citizens cannot be a case of true political representation. She argues that if an accurate description of a population is constructed, decisions must be made regarding which characteristics of the population are important. These decisions are forced because everyone is not included, and hence characteristics that may be relevant to representing accurately are always left out.<sup>37</sup>

Even a representative random sample, although it allows us to state with precision the mathematical probability of any amount inaccuracy of correspondence, can yield only certain kinds of information; specifically, it is limited to information about numbers of individuals in a population. So it is always a matter of our purpose: Is it information that we need, and, if so, what kind of information—what features are to be reproduced, what will be significant?<sup>38</sup>

Pitkin thinks we must decide what features of a population are relevant for getting our sample of the nation. I do not think that this is quite right. For in order to construct a random sample, what needs to happen is that each member of the population has an equal chance of being selected for the sample. It does not matter what is relevant to a sample if all the features of the population are represented proportionally. The only problem is a practical one, not a moral or theoretical one, making sure there is an equal chance for each person to be selected. If this goal is achieved to a great degree, any characteristic, whether relevant to political representation or not, will be represented in the sample. Gender is often considered an important characteristic to be represented accurately by our political representatives, and hair color unimportant, but as long as the goal of random samples obtain, we can put aside such questions. For both gender and hair color will be represented, within the error margin of random samples. Again, all characteristics of the population will be represented, politically relevant, and otherwise. So, as an ideal theory, random samples are a neutral goal. However, as a matter of practicality we must attend to the characteristics that make members of the population more or less likely to be selected in our sample. A perfect sampling method is, of course, out of reach. Despite this fact, it seems clear that we have the ability to obtain random samples that are close enough to the ideal to negate these sorts of skeptical worries. Any sort of sampling mechanism must be constantly monitored such that methods can be changed if it is found that samples are not proportional to the population in regards to a politically relevant characteristic.

Pitkin has another response to this type of argument.

But if the perfect replica is an ideal that can never be achieved but only approximated, there is a problem. The degree of accuracy will no longer guarantee the degree of similarity of action, let alone the degree of justifiability of substituting replica for original. As soon as the correspondence is less than perfect, we must begin to question what sorts of features and characteristics are relevant to action, and how good the correspondence is with regard to just those features.<sup>39</sup>

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<sup>37</sup> Pitkin, *Concept*, 87.

<sup>38</sup> *Ibid.*, 87.

<sup>39</sup> Pitkin, *Concept*, 88.

I agree that we should ask whether the random samples have the characteristics we think are relevant to political action in proportion to the population. Pitkin is giving us a skeptical argument to the effect that if we cannot guarantee a perfect sample, then we cannot guarantee anything about whether the actions of the body are representative of the actions of the what the population itself would do. Clearly there is no guarantee, but a radical skepticism of this type between theory and application applies to any type of practical system of representation. Only if the mechanisms for reasonably accurate samples did not exist would Pitkin's objection have any force. Opportunities for foul-ups and error abound in any type of representational system once we move from pure theory towards anything at all practical. Despite the opportunity for error in a random sample model of representation, this does not mean that the model does not qualify as representative. Moreover, it is clear that given the importance scientific, commercial and governmental forces have placed on gathering accurate samples, the resources for obtaining accurate samples exist.

For Pitkin, representing requires more than just having certain characteristics, it also requires an activity.<sup>40</sup> However, an operative assumption in her objections is that the representative's decisions must in the end conform to some counterfactual decision of the represented. She then goes on to question the ability of samples to do provide the same outcome. Two possible counterfactual outcomes arise. The first is the counterfactual outcome of the population before any representative process, and secondly, the counterfactual outcome after the representative process. However, in regards to the first type of outcome, in cases where the population has no opinion, or lacks an informed opinion, we certainly do not want the sample to mimic the whole. In the second type of counterfactual, it seems clear that deliberative quality decreases as numbers of participants rise beyond a certain point. Hence, it seems clear that it is not desirable for the sample to mimic the whole in this case either. If an entire population, charged with managing a commons, is taken through a deliberative process and fails to reach an outcome that protects the commons, why should anyone want a sample of that population, taken through the same deliberative process, to reach the same outcome? These considerations cast doubt on the idea that there is some clear and desirable counterfactual outcome to which representative processes must be compared. Smaller representative bodies are more than just practical expediences; they change outcomes for the better.

At this point, I think we can disarm a closely related objection made by Robert Goodin to procedures, such as the citizen panel, that use subsets of the population:

The question is whether people who started out being representative of the wider community, in all the ways we can measure, are also representative of that wider community in the ways in which they *change* over the course of deliberation.<sup>41</sup>

Goodin claims that any group deliberation will proceed in very different ways, and samples of the population will almost never mirror the deliberation of the whole.<sup>42</sup> As Goodin writes:

From everyday life we know that different conversations with different participants (or with the same participants interjecting at different points) proceed in radically different directions. Given the path dependency of conversational dynamics, and the sheer creativity of conversing agents, it

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<sup>40</sup> Ibid., 90.

<sup>41</sup> Goodin, "Deliberation Within," 88.

<sup>42</sup> Ibid., 88-89.

beggars belief that any one group would come to exactly the same conclusions by exactly the same route as any other.<sup>43</sup>

So, while Pitkin's first objection considered above is that the samples of the population start off as unrepresentative, Goodin is claiming that in any given representative activity, the representativeness cannot be maintained. Goodin must be claiming that the sample does not represent the whole when both undergo a deliberative process. However, if *every* group has unpredictable results after going through a deliberative process, then of course there is no counterfactual outcome to which the random sample process can be judged. Secondly, it remains unargued that the outcomes of deliberation of the whole group are the outcomes that all others must be judged to be considered true representation.

As I have argued above, if it is the case that cooperation and deliberation occur more often with small groups, then we have a positive reason to favor small group outcomes over the whole population for our deliberative processes. Since we need to allow for some changes in the group's preferences in a deliberative setting, that these changes might be *different* from the deliberation as a whole does not by itself make an objection. Deliberation of the sample and the whole may both deviate from the whole sans deliberation, and Goodin has not given us a reason why the whole's outcomes is to be preferred to the outcome of the sample. Lastly, it is not clear why the content or "route" of the deliberation amongst samples must be the same, or predictable as compared to the whole or other samples. If the outcomes of citizen panels facing the TOC are consistently to close the commons, it seems irrelevant how each instance arrived at the outcome. If the tasks of the citizen panels are properly delineated, the only worry is that the outcomes are sufficiently replicable. The details of the particular activities of each representative process are not the issue. Moreover, it seems plausible to think that in any practical model of political representation, there will be such constraints on representative bodies so they do not wander aimlessly.

### **Moral Benefits of Popular Participation in Government**

Here is an objection to the citizen panel view of political representation: In *Considerations on Representative Government* John Stuart Mill gives a convincing reason to allow as many people as possible to participate in government. He begins by having the reader imagine an enlightened despot or benevolent deity ruling a country. This would negate the need for participation in government, for everything would be wisely managed. He then asks what sort of human beings can be formed under such a government.<sup>44</sup> Mill argues that even if a government were somehow perfect, human life would suffer if there was no participation in politics. In a world where participation in government is not necessary:

The man never thinks of any collective interest, of any objects to be pursued jointly with others, but only in competition with them, and in some measure at their expense...Thus even private morality suffers, while public is actually extinct.<sup>45</sup>

And later:

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<sup>43</sup> Ibid., 88-89.

<sup>44</sup> John Stuart Mill, *Considerations on Representative Government* (Amherst, New York: Prometheus, 1861), 57.

<sup>45</sup> Ibid., 80.

Wherever the sphere of action of human beings is artificially circumscribed, their sentiments are narrowed and dwarfed in the same proportion...Let a person have nothing to do for his country, and he will not care for it.<sup>46</sup>

Whereas in a popular government, where everyone participates:

He is called upon, while so engaged, to weigh interests not his own; to be guided, in case of conflicting claims, by another rule than his private partialities; to apply at every turn, principles and maxims which have for their reason of existence the general good...<sup>47</sup>

Involvement in politics stretches people's imaginations, it encourages education and intelligence. Political participation helps us to see other's points of view and encourages debate and dialogue. So, popular participation in government not only creates better government decisions (since we think that the enlightened despot is a fairy tale) but participation in government also creates better human beings.<sup>48</sup>

Now the objector to the citizen panel presses her point: the model of representation presented here seems to involve creating a model of the population, and that model does the representing. The vast majority of people have no active role to play. People are not (in general) participating in government. And if Mill is right, when people are not active in their government then public life, morality and intelligence suffer. Hence, the benefits that take place during the representation procedure that have been argued for are outweighed by the negative effects for the population at large by being excluded from the political process. However, in an electoral representative system in which all people are allowed to vote, or in a system of direct democracy, we are all participating, and we gain the positive effects of political participation.

I have two responses to this argument. Firstly, there are certainly persons for whom voting is a very positive experience. They are informed, empowered, and better off having debated and studied political issues. But these people are a minority. Most people do not have the inclination or the time to become experts in all or even a few political issues. Moreover, most interest in politics that does exist stems from simple curiosity, rather than out of a duty to be an informed voter. In addition, about half of people in the United States do not vote at all. Furthermore, the act of voting itself is simple and short and does not require any great amount of information, thought or discussion. In short, voting does not give us the level of participation necessary to generate the benefits that Mill discusses.

If it is the case that direct democracies do not foster deliberation, then this would not bode well for the positive effects of participation on the population. While everyone would have the opportunity to participate, it is reasonable to think that participation would not increase. Citizens would feel great incentive to raise their voices in order to be heard above others, and the voice would probably not be one of trust and cooperation. Quality deliberation would be very difficult. The direct contact with the differences of others, the complexity of government, and the expert opinion would be lost in a direct democracy.

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<sup>46</sup> Ibid., 58.

<sup>47</sup> Ibid., 79.

<sup>48</sup> In the "Market and the Forum," by Jon Elster, 19-25. Elster contends that these sorts of beneficial byproducts that Mill discusses cannot be used as the only reason to support popular democracy. For if that was the only justification, no one would put any effort into deliberation (since the outcome does not matter, only the process since it generates the byproducts) and hence the byproducts of deliberation would disappear. There must be other reasons as well.

Secondly, if the deliberative/descriptive view of representation were widely used, most people would have the opportunity to participate at least once in their lifetime. Moreover, they would certainly know other people who had participated. They would have direct experience with the machinery of government, the nuances of political problems, and citizens who are different from themselves. These experiences would be more transformative than pulling a level and checking for hanging chads. The direct and intense involvement of citizen panels would equal or surpass voting as a way to get the beneficial effects of popular participation in government on human life. If citizen panels create the conditions for cooperation and efficient decisions more often than other forms of government, then it is more likely that citizens will take these changes with them after their service is over. It would be advisable that, while balancing other considerations, citizen panels should be structured so that most everyone is able to participate.

The descriptive aspect of the citizen panel captures one requirement of democracy, that all viewpoints should be present in political representation. The deliberative aspect of the citizen panel provides the reliable processes of decision making that separates it from direct democracy and elected representation. Citizen panels allow citizens to represent their better selves and when their service is done, take them home.

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