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Complementing and correcting representative institutions: When and how to use mini-publics

Jonathan W. Kuyper & Fabio Wolkenstein

Abstract: In democratic theory and practice, it has become a popular view that designed deliberative mini-publics can effectively counteract failures of representative democratic institutions. But when should mini-publics be deployed, and how should they be designed? This paper develops a framework for thinking about these questions. It argues that when representative democratic institutions ensure the empowerment of inclusions, enable the formation of collective agendas and wills, and are capable of translating those agendas into binding decisions, mini-publics should be used sparingly and as complementary initiatives; the less representative institutions are able to serve these functions, the more mini-publics should gain independence and standing to correct these problems. The paper shows how this can be operationalized in light of two key institutional design issues—coupling and authority—and discusses some empirical examples that foreground the empirical leverage offered by the suggested framework.

Keywords: party politics; representative institutions; democratic systems; deliberative democracy; mini-publics

Complementing and correcting representative institutions: When and how to use mini-publics

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Complementing and correcting representative institutions: When and how to use mini-publics

Democratic innovations have become a mainstay of political systems across the globe. These institutional mechanisms come in many different forms, such as town hall meetings in the United States, participatory budgeting processes in Brazil, and e-democracy initiatives in India (Smith 2009). Perhaps the most well-known and widely discussed of these innovations are mini-publics such as citizens' juries, consensus conferences, and deliberative polls. These bodies engage relatively small numbers of individuals in participatory processes and have varied goals: some are largely advisory, while others have the ability to shape—directly or indirectly—public policy.

There exists an extensive literature on mini-publics and their contribution to democratic life. Empiricists have studied mini-publics with very different purposes in democratic systems with varied institutional features, affirming their potential to reinvigorate civic engagement and offset democratic distortions created by traditional representative bodies (for an overview, see Fung 2003). Despite these principally encouraging insights, however, we still lack a general account of how traditional representative institutions—above all parties—and mini-publics *should* operate in tandem across a democratic system. Our ambition in this article is to move the debate forward and provide a *general and systematic response to the question of when and how to use mini-publics*.

Our point of departure is the normative assumption that, in order to count as democratic, a political system must empower inclusions, enable collective will-formation, and generate binding collective decisions (Warren 2017). These criteria are best understood as a continuum in which each value can be realized to a greater or lesser extent. Deficits across these dimensions are critical in thinking about redressing crises of democracy. We contend that, in most democratic systems, the representative party system is both empirically central and normatively appropriate to realize these desiderata, but the capacity of parties to do so is often, and increasingly, weakened. The role of mini-publics, then, is to act supportively when the system is functioning well, and as remedial devices when problematic distortions occur.

We elaborate this claim by discussing four different ideal-typical stages of institutional interaction. When representative institutions function well, mini-publics should be decoupled from those institutions and non-authoritative in their decision-making power (Stage 1). As representative bodies begin to distort the legitimacy of the system, mini-publics should be more closely coupled to representative bodies in order to provide a corrective to deficits, but still remain without authority (Stage 2). As representative institutions cause serious systemic problems for democratic legitimacy, mini-publics should be granted increased authority for remedial purposes, and remain tightly coupled in an effort to share power (Stage 3). Finally, representative institutions that pathologically distort the legitimacy of the system should see their authority

transferred to mini-publics that are decoupled entirely from representative bodies (Stage 4). Taken together, these criteria show both when mini-publics should be used and how they should be designed to help augment systemic legitimacy.

Democratic legitimacy

We begin by putting forward desiderata to judge the democratic legitimacy of political systems. What does it mean for a political system to function democratically? Typically, this question is answered by way of appealing to a particular model of democracy: aggregative, deliberative, republican, agonistic, and the list goes on. Here, we take a different tack. Following Warren's (2017: 40) recent critique that model-based approaches to democracy risk overgeneralizing the place and functions of certain ideal-typical features of democracy (such as deliberation or elections) and thus organize other relevant democratic practices 'out of the picture', we instead approach democracy in terms of a political system's capacity to serve a number of *basic democratic functions* that can be defended without committing to a particular substantive model of democracy.

A distinctive virtue of such a 'problem-based' approach to democratic theory is that it treats practices like voting and deliberating as means that allow political systems to perform those basic democratic functions, rather than as definitive components of a model of democracy that are to be prioritized over other functions and realized at all costs. This opens the door to a more comprehensive, and thus accurate, evaluative picture. We then distinguish, with Warren (2017), three basic democratic functions that a political system must serve in order to count as democratic (43-45):

- (1) ***Empower the inclusion of the demos.*** Democratic processes begin with inclusions: the members of a political community must be capable of shaping those laws and policies. It is not sufficient that the state merely consults its citizens, however. Citizens must have political rights and powers that allow them to demand and enforce their inclusions, for example through votes, vetoes, organized opposition, etc.
- (2) ***Enable this group to form a collective agenda and will for action.*** The values, interests, preferences, and concerns of those citizens who are included in the democratic process must be "formed communicatively into collective agendas and wills" (Warren 2017, 44). The core idea behind this is a familiar one, namely that collective self-government requires that citizens know how their individual preferences relate to collective judgments, and that they (roughly) understand the reasons justifying collective judgments. To achieve this, democratic political systems must provide mechanisms allowing citizens to give collective shape to their individual preferences.
- (3) ***Provide a channel to turn this agenda and will into binding decisions.*** Finally, a democratic political system must enable that collectively formed political

agendas can be translated into binding decisions and connected to practical agency. This requirement differs from (1) in that it is not about the empowered inclusion of individuals, but about the empowerment of collectives who have formed a joint political agenda or will. So, it *presupposes* the inclusion of individual citizens (and indeed the capacity of citizens to form a collective will), but it is not reducible to it.

To be sure, different theorists of democracy (or citizens) will place different emphasis on individual functions, or formulate them in different ways. On the whole, though, we see no reason to demur from Warren's (2017: 43) judgment that the three basic democratic functions outlined cohere with 'widely shared intuitions within democratic theory as to what political systems must accomplish to count as "democracies".'

Note that, if we care about what political systems must accomplish in order to be called 'democracies', then there are actually two different questions of relevance. First, *is* a system democratic (a binary issue)? And second, *how* democratic is it (a continuum question)? Our concern here is with the latter question – that is, *how* democratic a political system is – and we will not try to provide a minimum threshold for when a system ceases being democratic and would fall out of our framework. Establishing such a boundary in a non-arbitrary fashion is not only very difficult, insisting upon any hard line of demarcation may unduly call for false precision. At any rate, we restrict our argument to systems that have some functioning democratic qualities using the desiderata above. A system that was not even minimally democratic would fall out of our analysis. In those instances, designed mini-publics are likely not be the most effective remedy in the first place.

Representative democracy and political parties

In democracies across the world, the main way of filling out Warren's three functions are structures of representative democracy, centering on political parties. By 'representative democracy' we mean not a particular model of democracy but a real-world institutional arrangement that involves (at a minimum) a division of democratic labor between citizens and elected representatives, whereby the former select and sanction the latter in free and fair elections (e.g. Mansbridge 2003; Schweber 2016; Urbinati 2006). Though there are significant institutional differences between existing democratic systems, most such systems can usefully be described in these terms.

The centrality of political parties to the functioning of representative democratic systems is widely acknowledged in both classic and contemporary democratic theory (e.g. Kelsen 2013, Sartori 2005, Schattschneider 1942; Christiano 2012; Mansbridge et al. 2012). When parties function well, they can perform Warren's three basic democratic functions. Firstly, parties can *empower the inclusion of the demos* by establishing representative relationships with their constituency that allow them to overcome limitations of time, space and complexity. These representative relationships

may best be described as based on ‘ideological sympathy or a relation of attraction between the ideas of the electors and the ideas of those in the place of whom the representatives act in the legislature’ (Urbinati 2011: 44; cf. White & Ypi 2011: 387-389). Through such relationships, many thousands or even millions of citizens can, so to speak, acquire a ‘place at the table.’

Secondly, parties can *enable the formation of collective agendas and the popular will* in that they structure public deliberation, helping citizens to navigate the far-reaching pluralism of existing political viewpoints (Manin 1987: 357). By the same token, parties also assist the process of will-formation in legislatures—the production of a will that perhaps comes closest to what one might call the ‘popular will’ in a representative democracy (Kelsen 2013: 40-41). They do so by defining problems to be addressed collectively; putting forward policy strategies for resolving them; explaining why the proposals of their rivals should be modified or rejected; and identifying points of conflict and commonality based on a shared partisan agenda. Finally, partisan agendas are sometimes also the outcome of more or less deliberative processes of will-formation that occur *within* parties. These processes have until recently been ignored or set aside in the literature, though it was recognized in some early texts on deliberative democracy (esp. in Cohen 1989; contemporary discussions include Biezen & Saward 2008: 30-31; Rosenblum 2008: 160; Wolkenstein 2016).

Thirdly, parties *provide a channel to turn collective agendas and wills into binding decisions*, in that they are capable of connecting their political platforms to the relevant legislative and executive mechanisms. This ‘executive function’ (White & Ypi 2010) is one of parties’ most unique features: legislatures are, almost without exception, *partisan* legislatures (Muirhead 2014: ch. 7). Parties are consequently the only association capable of demonstrating in full the capacities of government for implementing public policies that are responsive to the democratic process. This distinguishes them from social movements or interest groups, which may well exercise *influence* on the governmental agenda, but cannot usually design and execute it (Muirhead 2014: 174; Sartori 2005: ch. 1).

When parties fail

While parties are in principle able to secure the empowerment of inclusions, the formation of collective agendas and wills, and the channeling of those agendas and wills into binding decisions, their ability to deliver these values has often been called into question in recent times. A brief glance at the empirical literature documenting what has sometimes been referred to as the ‘crisis of party democracy’ (Invernizzi-Accetti & Wolkenstein 2017; also see Mair 2013; Papadopoulos 2013) suffices to illustrate this.

First, a major reason for why parties’ capacity to *empower the inclusion of the demos* is impaired today has to do with the loosening of the links between societal

interests and organizations. In short, because parties are less and less anchored in civil society, they have a difficult time establishing and sustaining meaningful representative relationships with the people in whose name they claim to speak (Schmitter 2008; Armingeon & Schädel 2015). Many citizens as a result feel unrepresented and perceive parties as largely unaccountable elitist groupings; they certainly do not view themselves as having a ‘place at the table’ via parties (Dalton 2004; Dalton & Weldon 2005; Fiorina & Abrams 2009; Ignazi 2017; Mair 2013).

The deeper causes of these developments are complex, relating centrally to ‘the breakdown of traditional and ascriptive identities’ and the concomitant rise of self-expression values, on the one hand, and parties’ colonization of the state, on the other. The former of these trends has its origin in the loosening of the class roots of party ideologies, which coincided with processes of large-scale societal value change that made citizens view political allegiance less and less as a matter of loyalty to a collective and more and more in terms of an individual choice (Inglehart 1997; Inglehart & Welzel 2005; Dalton & Wattenberg 2001: 11; Dalton 2008; Invernizzi-Accetti & Wolkenstein 2017; Ignazi 2017: 150-159). The latter trend is in part a reaction to this thinning out of voter loyalties, and involves parties increasingly relying on the state’s bureaucratic apparatus (courts, regulatory agencies, independent commissions) for power and funding (Biezen 2004; Biezen & Kopecký 2007; also see Blyth & Katz 2005; Ignazi 2014: 162-163). At least in Europe, this also involved an intensification of clientelist practices and party patronage, for which parties now have more resources than ever thanks to their access to public funds and control over parts of the bureaucracy (for an overview, see Kopecký et al. 2012).

Consistent with this tendency to seek organizational stabilization through becoming ‘agents of the state’ (Katz & Mair 2009), parties also became less and less (willing and) able to provide meaningful channels of participation—which used to be a means through which they were able to empower inclusions, as noted above. Empirical studies on intra-party democracy suggest that contemporary parties tend to design their internal participatory institutions such that they effectively become a means to reinforce and legitimize the power of party elites, rather than allowing party members (or unaffiliated supporters, see Scarrow 2014: ch. 6) to make their voices heard (Faucher 2015; Garland 2016: 25; Hopkin 2001; Katz & Mair 2009: 759; Ignazi 2017: ch. 6). This also undermines their capacity to facilitate the party-*internal* creation of collective agendas.

To be sure, secondly, most contemporary parties still *enable the formation of collective agendas and the popular will*, at least in some of the senses described above. For one, it is difficult to deny that, in most democracies, parties still play an important role in shaping public opinion and deliberation. Party leaders and officials tend to dominate political discourse and media coverage, which allows them to structure choices among political alternatives and so exercise substantial influence on citizens’ collectively held preferences (e.g. Leeper & Slothuus 2014; Wagner & Meyer 2014). It is also the case that parties retain some capacity for structuring legislative will-

formation; recent studies on the topic show that parties can effectively control the message that their partisans convey in parliament, thus ensuring that their agenda is brought to bear on the process of parliamentary deliberation and compromise (Kam 2014; Proksch & Slapin 2014).

That said, a large literature on party polarization suggests that there may be a trade-off between parties' capacity to enable the formation of collective agendas, on the one hand, and their capacity to enable the formation of a popular will, on the other. In the US, for example, parties are no doubt able to shape the preferences of their supporters—but because Democrats and Republicans disagree on many fundamental value-based issues and mistrust each other, their representatives are often incapable of creating the level of cross-party agreement that is necessary to pass legislation in Congress (e.g. Hetherington & Rudolph 2015; also see Druckman et al. 2013). This phenomenon is of course not entirely new (Lee 2015), but commentators have emphasized that—at least in the US—polarization has intensified considerably in recent times (Hetherington 2009; Ryan 2017).

Thirdly and finally, it seems to be the case that parties' ability to *provide a channel to turn collective agendas and wills into binding decisions* is increasingly circumscribed. In effectively becoming a part of the state (Ignazi 2014: 163; Biezen 2004; Biezen & Kopecký 2007), governments—and thus parties—also became more dependent upon unelected regulatory bodies and 'international rules and norms for their own identity and sense of purpose' (Bickerton 2012: 75), and consequently more and more bound by what Mair (2009) calls 'demands of responsibility.' By this is meant that parties are increasingly accountable to the many veto and semi-veto players (the central banks, the courts, the European Commission, the Council of Europe, the WTO, and so on) that now surround government in its dispersed multi-level institutional setting (Hooghe & Marks 2009; Mair 2009; Streeck 2016). These players, whose influence is especially well-studied in the context of the European Union (for an overview, see Bickerton et al. 2015), are in a position to place significant constraints on parties' policy choices, undercutting their ability adequately to translate collectively determined agendas into decisions, let alone respond to the concerns and demands of their constituents.

Counteracting failures of representative institutions

As noted at the outset, in this article we are concerned with the question of how mini-publics should be used as a complement or corrective to the failures of representative (partisan) institutions. One important thing that needs to be clarified at this point is that our argument applies not only to *deliberative* mini-publics. Following Fung (2003), we think of mini-publics as encompassing a wide range of designed participatory institutions that are irreducible to purely deliberative fora. This is worth underscoring also because our argument should *not* be read as stating that failures of representative

democracy necessarily require a deliberative response. While it is true that mini-publics are often designed with deliberative ideals in mind, they also embody other democratic virtues in addition to (or instead of) deliberation (e.g. representation, participation, etc.). Determining which sort of mini-public design is required is a contextual issue, and shortly we will discuss in detail how to make this choice.

What is especially appealing about mini-publics is that they can be designed and implemented in a targeted fashion. One can, amongst other things, systematically connect them to empowered decision-making arenas so as to ensure that they are consequential (Fung 2003; Goodin 2008; Grönlund et al. 2014). This ‘designability’ of mini-publics is a distinctive virtue. Very few other democratic institutions can be deployed strategically with the aim of reinforcing legitimacy-enhancing parts of a system, or to counteract failures of existing institutions. Without denying the value of alternative strategies to combat shortcomings of democratic systems, such as protest and civil society activism, spontaneous bottom-up practices of this sort by definition lack designability (though see Böker & Elstub 2015).

On this note, however, two caveats are in order. First, we do not commit ourselves to the much stronger claim that mini-publics *always* or necessarily succeed in performing the functions assigned to them. Obviously, and like all democratic institutions, mini-publics can sometimes underperform or indeed fail. Our point is simply that, when they are appropriately designed, they can go a long way in addressing some of the (most serious) failures of the representative party system. We offer evidence for this claim later on. Second, we also recognize that, in many instances, this designability aspect comes with the problem that certain agents—oftentimes governments and parties, precisely the agents whose shortcomings mini-publics are meant to counteract—will have the most capacity to establish mini-publics. However, as we show below, agents from civil society or opposition parties may also have the ability to set-up even highly authoritative mini-publics through a variety of pathways and mechanisms. This helps elide the criticism that mini-publics will most likely serve entrenched powers.

How to think about institutional divisions of labor

To know *how* mini-publics should be implemented in a targeted and effective fashion in a democratic system, we must adequately theorize the division of labor between mini-publics and the institutions they are meant to complement or correct—political parties. Scholars concerned with divisions of labor between different democratic institutions have recently suggested that theorizing democratic divisions of labor revolves around two axes: how tightly *coupled* institutions should be, and with how much *authority* different bodies should be endowed (e.g. Mansbridge et al. 2012).

Coupling. In Mansbridge et al.’s (2012) influential work on ‘deliberative systems’, coupling is described as involving ‘processes of convergence, mutual

influence and mutual adjustment' that lead each part of a democratic system to 'consider reasons and proposals generated in other parts' (23). Coupling is important for the obvious reason that it makes different democratic institutions responsive to one another; and if mini-publics are to step in when representative institutions fail, it is imperative to get the strength with which they are coupled to the latter right. Mansbridge et al.'s (2012) own proposal is that institutions should be loosely coupled—i.e. connected enough to allow the flow of good arguments between sites, but not coupled too tightly to allow for cooptation. Yet an increasingly common view in the relevant scholarly literature, to which we also subscribe, is that there is no one-size-fits all rule concerning coupling: the appropriate strength of coupling (relational linkages and patterns defined by rules and norms) depends on the institutions involved (Hendriks 2016; Setälä 2017). To know how much designed mini-publics should be coupled to representative democratic institutions, we require an understanding of the successes and failures of those representative institutions.

Authority. Institutional divisions of labor are also about how authority is shared between different institutions. Authority designates the ability of an institution to shape and exercise binding public policy. To fully understand how this is different from coupling, imagine a legislative body that is closely coupled to a mini-public in several ways: the legislative body establishes the mini-public, signs off on the participants, and accepts testimonials and evidence from the body. But unless there is a corresponding duty on behalf of the legislative body to respond to, consider, or debate these points, it would be a very weak form of authority for the mini-public (though a high degree of coupling). Just as with the question of coupling, the most common perspective in contemporary scholarship appears to be that how authoritative designed mini-publics should be, depends on the problems they are intended to address (e.g. Chambers 2009; Curato & Böker 2016; Warren & Gastil 2015). Sometimes it suffices that a mini-public possess little influence on binding public policy; other times it may be warranted to give it considerable authority, and correspondingly to disempower other institutions.

A normative framework for implementing mini-publics alongside representative institutions must accordingly address and answer the questions of *coupling* and *authority*; and to do so, a close understanding of the particular problems mini-publics should solve is required. In the next section, we present a typological framework that distinguishes four different scenarios of party success or failure and the appropriate institutional design responses to them.

Before proceeding, however, it is important to note that a number of influential scholars have been deeply critical of the notion that mini-publics should be granted authority to directly shape public policy (e.g. Lafont 2015; Medearis 2015). Briefly, the worry is that democratic legitimacy is contingent upon mass participation, and that mini-publics sacrifice democratic legitimacy at the societal level for micro-level participation and deliberation (see Chambers 2009). An even stronger version of this argument holds that mini-publics should not shape public policy because those selected to participate or deliberate cannot be considered representative of the wider citizenry.

This is because, even if they are a representative sample descriptively speaking, their interactions with others within the mini-public will likely make them hold views that are different from the public at large. Therefore, the only option is to refocus on actually improving the democratic quality of the political system at large (Lafont 2015, 59; see also Parkinson 2006).

However, there is much more overlap between these perspectives and our position—which is open to equipping mini-publics with significant authority—than might at first appear. We agree that mass deliberation and participation should guide public policy at least to some extent (ideally to a great extent); otherwise, it is difficult to see how the three basic democratic desiderata could be met in the first place (Warren 2017; Dryzek 2017). We also agree that the traditional party system has a key role to play in facilitating system-wide democratic legitimacy in precisely this pursuit. In fact, we will argue in what follows that authoritative mini-publics should be *avoided* when parties foster systemic democratic legitimacy. It is only when distortions are caused by parties that authoritative remedial action is required.

The usage of mini-publics: coupling and authority

Our core contention is that the relationship between mini-publics and parties with respect to coupling and authority should be conditioned upon how parties fare in performing Warren’s three basic democratic functions. When parties perform these functions well, mini-publics should be used only supportively. When parties distort the system, then stronger remedial action is required. We suggest thinking about this in terms of a two-by-two matrix with four boxes (see Figure 1). We delineate the appropriate justification and therefore design of mini-publics in this matrix, and (indicatively, not exhaustively) list some scope conditions for adopting different designs. In doing so, we draw on (some of) the evidence we have appealed to in the above discussion of contemporary parties’ shortcomings and failures.

In box one, the party system is functioning close to optimally; parties perform their functions as described above, in the section on ‘Representative Democracy and Political Parties.’ This entails having representatives in place that fairly and equally reflect the weighted views of society; that parties structure preferences; undertake legislative debates in way that publicizes views and reflects their mandate; and so on. Correspondingly, the legislature produces laws and decisions that adequately reflect citizens’ preferences, balances decisions across issue areas, and enables short and long-term decision-making. When this situation obtains, mini-publics require little to no authority because the system is functioning well. They should also be de-coupled to allow for a flourishing and independent public sphere that can be reflected in representative bodies (Urbinati 2006; Rummens 2012).

This is a high bar, and frequently parties will not satisfy one or more of these dimensions, becoming unresponsive to their core constituents, failing to make clear

differences and similarity across parties, and so on. Consider for example the aforementioned difficulties parties face with regard to adequately representing those for whom they claim to speak: a well-known problem of parties on the left, who in many democracies have lost the trust of their traditional working-class supporters. This has rendered many working class groups, especially in two-party systems, without clear representative alternatives. In these instances, we find ourselves in box 2. Under these conditions, mini-publics should remain without authority but become increasingly coupled to the representative system. This may involve having mini-publics engaged by representatives in different policy processes so that the views and opinions of under-represented groups become starker. This in turn can facilitate dialogue between representatives about why certain groups are not being suitably represented, and shine a light on deficiencies so that individuals in the public sphere become aware of possible party malfunctions.

----- **Insert Figure 1 here** -----

Empirically, there are several possible indications that circumstances are as described in box 2. As already noted, one of these indications is the remoteness of (some) parties from (some of) their constituencies. This might make itself felt through the emergence of new protest movements that claim to be excluded from decision making, or a spike in participatory inequality along class or ethnic lines (see Armingeon & Schädel 2015; Offe 2013; Schäfer 2013). Another indication is that parties engage in clientelist practices, but rules for who gets what are not transparent. Some readers will be inclined to think that this is a major disfigurement of the democratic process, and hence does not belong in box 2—but as Stokes et al. (2013: 258) rightly note, clientelism is democratically defensible provided that ‘public reason and deliberation establish the rule for who gets what and when these public rules are respected in practice.’ If deliberations over partisan distributional considerations are not entirely transparent, this on our view warrants the use of mini-publics that are tightly coupled to representative institutions. Lastly, a more general indication of a box 2-scenario is the existence of increased polarization over one or a small number of issues. Increased polarization may become problematic, and indeed produce further negative externalities, when it is not just a temporary phenomenon, and when partisan actors strategically try to capitalize on—rather than trying to mitigate—divisions. When that is the case, mini-publics that develop possible compromise positions on conflictual issues deserve to be granted some authority, at least so that they can positively influence public debate (see O’Flynn 2007).

In the third box, the party system is beginning to create serious systemic deficiencies across one or more of the three democratic desiderata. This can mean more significant exclusions of the relevant *demos*, a failure to undertake internal deliberation in ways that meaningfully involve the party’s base (recall the above discussion of how intra-party participation is often controlled by partisan elites), or a more general failure

to translate the views of their members and voters into collective decisions (Mair 2013). In that instance, mini-publics should be coupled to partisan and representative bodies, while being empowered and made authoritative. This helps correct for problems by forcing parties to share power with groups of citizens—in other words, a balance of power is put in place so that citizens check failing party authority. A loss of segmental authority will also help mass publics be aware that remedial action can and is being taken.

What may be real-world indications of box 3-type failures? Consider first the much-discussed trend of parties forming ‘cartels.’ This means, amongst other things, that parties strategically ‘limit the degree to which they attempt to ‘out-bid’ one another: many issues are simply avoided by the mainstream parties as demagogic or populist, and the range of proposals offered for those issues that remain is often limited’ (Katz & Mair 2009: 758). As a result, parties’ ability to translate citizens’ views into collective decisions is undercut, as is their capacity to enable broad and inclusive societal or intra-party deliberation. A second indication that a democratic system is failing in the sense described in box 3 is that parties engage in clientelist practices but distributive rules are largely or completely non-transparent. An unambiguous case would be ‘organization buying’ (Stokes et al. 2013: 251), where parties claim to act in the public interest but effectively direct resources away ‘from their rightful beneficiaries to loyal supporters’. Thirdly, the systematic and strategic intensification of political polarization by parties over time also constitutes a harm of the box 3-type; tendencies of this kind have been extensively studied in the US context (e.g. Druckman et al. 2013), and we simply point out that evidence of this sort is a powerful enough indication for box 3-responses.

Finally, in box 4, party structures are causing serious distortions to the democratic system. This can occur through widespread misrepresentation and/or exclusion of large numbers of citizens, systematic failure of party policy to track the preferences of those they claim to represent, little or no intra-party deliberation, and either full collusion between parties (Ignazi 2014: 163; Katz & Mair 2009) or severe gridlock, so that policy is either divorced from citizens’ preferences or completely unrepresentative. In these instances, mini-publics should be split from the party structure to avoid cooptation. Moreover, authority should be transferred from the representative bodies to mini-publics. This is necessary until parties resuscitate their capacity to fulfill the criteria of systemic democratic legitimacy.

An obvious indication of serious systemic distortion is when parties engage in the sort of state capture that has occurred (for example) in several countries in Central and Eastern Europe. This typically involves extremely high levels of public sector corruption, parties pursuing strategies to assert political monopoly and combat free media, and that public power is more generally exercised primarily for private gain (Innes 2014). At least when they take the extreme forms we are interested in here such distortions tend to be relatively easy to spot using standard indicators (e.g. *Transparency International* or *Freedom House* indices). Other serious distortions of

the functioning of the democratic system include (major) parties pursuing racist or anti-democratic ends that risk violating the constitutionally guaranteed rights of minorities, or parties undermining the equality of the democratic process via aggressive gerrymandering tactics that lead to the exclusion of large numbers of people from the democratic process (Rosenblum 2008: 221-227). These kinds of systemic distortions justify a transfer of authority to other bodies, such as mini-publics.

This typology then tells us how mini-publics should be used in democratic systems. The four boxes are of course ideal-typical, and in reality, both dimensions form a spectrum. This also means that our typology actually contains variation within each box of the matrix: though it is important to follow the four stages we have outlined, the precise design within each box will depend on the problem at hand and the menu of choices available to designers. Importantly, in thinking about the design of mini-publics, it is the democratic performance of partisan representative bodies that remains the main yardstick. So, for example, whether polarization is limited to specific sectoral debate or fosters widespread societal conflict, our institutional response should track the extent to which polarization affects parties' ability to perform our three democratic functions with, *ceteris paribus*, the latter being a graver systemic concern than the former.

Notice furthermore that the democratic failures we discussed are *continuous*, just as Warren's three democratic desiderata are also continuous (see above). This implies that, once we apply our typology to a particular case, we might find that there are multiple plausible answers to the question of which box we presently fall in. Given that we are interested in developing a general normative account of mini-public usage here, all that we can do is provide scope conditions that can guide practitioners faced with difficult institutional design choices in thinking about which box we are in and what type of mini-public is normatively appropriate. In practice, the question of which box will have to be decided on a case-by-case basis.

Someone might still ask whether our account has something to say about how more 'stable' system-level factors, notably different electoral systems (i.e. proportional representation vs. single member plurality systems), should be taken into account when designing and implementing mini-publics? These generally shape the course of politics (e.g. Boix 1999), and one might reasonably suppose that they also affect the success of mini-publics. Another concern is that we have so far said little about who *should* be the agents designing and implementing mini-publics. Can one legitimately gloss over this arguably central question in the name of context-sensitivity?

The first of these objections can be tempered as follows. While we do not deny that electoral rules can have a powerful impact on how democratic functions are performed by representative bodies, we doubt that the prism of electoral rules is the most useful to analyze the failures of representative party democracy we have discussed, and hence to develop appropriate responses in terms of mini-publics. If the broad literature on the shortcomings and crises of contemporary representative democracies is any indication, then the problems plaguing the latter are found across

very different electoral systems, and so it seems possible that similar mini-public designs can correct similar distortions in both proportional and plurality systems.

As far as the second worry—that to do with the agents who should implement mini-publics—is concerned, it seems clear that this issue is hard to settle conclusively on normative grounds, especially if one commits to the sort of contextualism we have advocated. Indeed, just as the problems mini-publics are meant to solve are different from case to case, the agents who are most capable/entitled to be tasked with designing and implementing mini-publics can vary contextually. To insist that only one or a number of agents should be in charge would be to suggest false precision. This position is also buttressed by the empirical cases we discuss in the remainder of the article, which show that a variety of different actors can successfully develop mini-publics and put them into practice.

Parties and mini-publics: A division of labor in practice

To show that our theory has empirical traction, we now discuss four real-world mini-publics/democratic innovations that correspond to each box. The cases are illustrative: we draw from a variety of contexts with different political systems to highlight the applicability of our argument. Most space is devoted to the final case (box 4) as we take it that decoupled and authoritative mini-publics are the most controversial of our propositions.

Supplementation: A legitimate system and flourishing public sphere (Box 1)

In the first instance, when parties are functioning close to optimally, mini-publics should be non-authoritative (as the parties are serving that authoritative function well) and no coupling between formal representative bodies and mini-publics. Here, mini-publics are used in a supplementary fashion, providing additional inputs for an already-healthy public sphere.

Many real-world mini-publics would fall in to this box. Deliberative polls, for instance, are typically deliberately decoupled and non-authoritative (Fishkin & Farrar 2005). They are supposed to operate in civil society without being connected to formal state infrastructure. These bodies then serve two main goals: the first is to understand what citizens would think under deliberative conditions; the second (less recognized) is to test key elements of deliberative theory. The former information can certainly be used by representatives, but need not be. The information produced about how citizens update preferences, gain knowledge, and so on, on the other hand, is certainly more important to academic theory testing and development than government policy.

It might be argued that, in box 1, one should couple mini-publics to the representative system whenever possible to add more views and information to formal

decision-making processes. However, we want to reject this suggestion for two reasons. First, in this box, the representative system is taking due consideration of most, if not all, societal views; so coupling is normatively unnecessary. Second, and more importantly, having almost entirely non-authoritative mini-publics that are decoupled from representative institutions is a justifiable design when the representative system functions well, because it helps cultivate the public sphere away from pressures of the state (Rummens 2012). This has become a key argument of many public sphere scholars, and keeping this space divorced from the representative system enables new ideas and arguments to emerge without being tainted by state power.

Corrections: Representational deficits and remedial efforts (Box 2)

As we saw, the modern party system often fails to fulfill key democratic functions so well as in box 1. In cases where party structures are only causing minor systemic problems, mini-publics are required to act as corrective devices. By this, we mean that efforts should be taken to include mini-publics within and alongside representative institutions. This helps to include otherwise-excluded viewpoints and arguments in legislative deliberation (collective will formation) and collective policy (binding decisions). Because the system is still functioning fairly well, we consider the likelihood of co-optation fairly low, so inclusion is an appropriate normative goal.

To see how corrective usage of mini-publics might look, consider Hendriks' (2016) discussion of a mini-public coupled to a legislative body in New South Wales (NSW). In 2011, the NSW Minister for Resources and Energy asked a think-tank to establish two concurrent citizens' juries to augment the standard inquiry procedure. These bodies were charged with considering 'the financial and public perception aspects of alternative forms of electricity generation—one of several themes under consideration in the broader Energy Inquiry' (Hendriks 2016: 50). Eventually, these mini-publics 'provided the Committee with an opportunity to hear from a sector of the community that it struggles to reach, and thus represent' (Hendriks 2016: 51). The larger point to take from this is that mini-publics can correct for several deficiencies of legislative (partisan) politics, notably shortcomings in representing affected publics. This is because, while legislative committees are elected, offer geographically-bound representation, and are susceptible to special interest pressure, mini-publics are randomly selected, descriptively stratified, and not targeted by interest groups.¹

Hendriks' just-mentioned case study is instructive for seeing how mini-publics can be used as corrective devices. What we have here is a moderate form of coupling: the NSW legislature enacted the mini-public and had to take consideration of its

¹ This type of coupling has also been used for other mini-publics and innovations, such as a sub-set of deliberative polls in the US states of Vermont and Texas (for such examples, see Luskin et al. 1999; Luskin et al. 2008). In those cases, the deliberative polls—also on energy issues—were deliberately coupled with decision-makers to heighten public awareness of governmental positions and justifications.

recommendations. But ultimately the mini-public was almost entirely non-authoritative as it had no capacity to enact binding decisions, the legislature had only weak requirements to respond to the recommendations, and Hendriks' content analysis shows that said recommendations were watered down in committee decisions. To the extent that these views were added to the process as a corrective for deficits in how partisan bodies operate, this is normatively appropriate. However, we have good reason to think that these views were ignored but should not have been: as Hendriks notes, the 'public concern' voiced by the mini-public was incorrectly perceived as 'public ignorance.' This indicates the remedy was not sufficient and we may need to go on to box three: if representative bodies frequently ignore the relevant demands of citizens, then a power-sharing division of labor should be enacted.

Power-sharing: Widespread failures and counterweights (Box 3)

There are many cases where problems of this sort occur: long-term and widespread failures of partisan representatives necessitate the utilization of mini-publics not just as corrective tools, but as *counterweights*. Here, mini-publics and representative bodies remain coupled to enable mutual learning (i.e. so that the representative body can understand if and how mini-publics help counteract failures), though the degree of coupling can vary from moderate to strong depending on the likelihood of cooptation.

One relevant example that fits box three is the Oregon Citizens' Initiative Review (CIR). This started from widespread recognition that voters were struggling to obtain from partisan actors reasonably balanced information concerning statewide referenda (a problem that is particularly pressing in circumstances of high partisan polarization) (Warren and Gastil 2015: 570). In response, a mini-public was established that was supposed to provide high-quality information, arguments for and against referenda, and the results of a vote between mini-public participants. This body shared authority with the state legislature because the Secretary of State is bound to release this information to all registered households without amendment. While not capable of making public policy directly, this does constitute the exercise of authority in a formal sense (i.e. the right to decide through binding rules what information should be disseminated). This design has been highly successful in generating trust from the citizens' of Oregon. In a recent study, Knobloch et al. (2014) show that the CIR generates knowledge gains in lay citizens which impact voting patterns. To this extent the mini-public's coupling means that legislative representatives can learn from balanced and clear information, but the degree of authority given to the mini-public guards against cooptation.

Offense: Pathological distortions and detached authority (Box 4)

Our most important claim pertains to box four. This is that, in the instance that representative bodies pathologically distort systemic legitimacy, mini-publics should be *de-coupled* and *made authoritative*. Decoupling is required due to dangers of cooptation and to provide space for the mini-public to reinvigorate the public sphere (i.e. generate elements oppositional to formal representative politics). Authority is needed to reorient the locus of systemic legitimacy.

There are, of course, very few cases of this sort. Yet there are some examples which highlight the empirical possibility and normative importance of this option. The most relevant for present purposes is the California Citizens Redistricting Commission (CCRC) and similar redistricting bodies across the United States. The CCRC was a mini-public established to counteract gerrymandering—the purposive redistricting of electoral districts to favor a particular party or interest group—in the state of California (Ancheta 2014). Gerrymandering has been driven by the major parties in recent years, essentially disenfranchising millions of voters and causing systemic pathology. As Ancheta (2014: 109) states, ‘partisanship in redistricting is also commonplace, and majority parties are not inclined to alter a process that helps keep their party in power. At the same time, decision making by legislators can be opaque and subject to behind-the-scenes deal-making.’ It is therefore unsurprising that parties are able to horse-trade and collude in the enactment of boundaries that provide benefits to both parties in the short- and long-term.

In response to this problem, the CCRC was authorized through California Proposition 11—the Voters First Act—in 2008. In 2010, this Act was followed by Proposition 20. Together these Acts gave the Commission the right to redraw the boundaries for the state House, Senate, Assembly, and Board of Equalization districts. The propositions were put on the ballot through means of initiative: the petition system in which a requisite number of signatures ensures a state-wide referendum on that issue. This petition and referendum system enabled the re-writing of Californian constitution to vest redistricting power in an independent commission rather than in the legislature. This novel pathway bypasses the legislative route often needed for authoritative mini-public enactment, while still being majoritarian in its orientation.

The CCRC is composed of 14 members, including five registered Democrats, five registered Republicans, and four individuals without party affiliation. The Commissioners were selected through a complex process. In 2009 the California Bureau of State Audits (BSA) convened a randomly-selected Applicant Review Board (Cain 2012). The initial 30,000 applications were narrowed to a list of 120 (40 Democrats, 40 Republicans, and 40 applicants from neither major party through interviews) and then cut in half through interviews seeking the most motivated, qualified, and well-balanced group. This list of 60 (20 Democrats, 20 Republicans, 20 non-affiliates) was submitted to the state Legislature where that body had the right to remove eight from each pool. This final list of 36 was given back to the BSA who randomly selected three Democrats, three Republicans, and two non-affiliates. This group of eight voted for six more from the remaining pool of 28 to end with a 5-5-4

split. So, while the legislature had veto power over a subset of candidates in the penultimate stage, this is clearly a very weak form of authority sharing as the proposition was put on the ballot and enacted without legislative oversight. Furthermore, the process went through initial selection, review, and final decisions with only one instance of intervention to remove 24 candidates: the final list was selected by the BSA and participants themselves (not the legislature).²

The CCRC had enormous power due to Propositions 11 and 20. From these measures the Commissioners were able to redraw state-wide electoral maps, which they did in August of 2011. They did so with a 13-1 vote for the state legislative districts and a 12-2 vote for Congressional districts (supermajority was set at nine of 14 with three from each group required minimally). The Commissioners had to take consideration of two sets of factors in their redistricting. First, there are formal rules to comply with state and federal constitutional rules, including maintaining relatively even population spread across districts, ensuring geographical continuity, upholding community groups (integrity), and enabling compactness of districts. Second, the Commissioners took on board public testimonies, expert advice, and engaged in a deliberative and open process prior to voting. Eventually the CCRC's recommendations became law and survived a series of legal challenges from the state legislature whereby the Californian Supreme Court determined that the CCRC's borders met the state and federal constitutional requirements.

The case of the CCRC's speaks in favor of our key arguments about box 4-cases. First, there are good reasons to think mini-publics can be both *highly authoritative* and *decoupled* from existing party institutions. This can be achieved by having 'escape valves' in a democratic system that allow citizens to use ballot initiatives to wrestle control from the failing party structures, and other designs are surely possible. The uniqueness of this case points future research toward establishing how such bodies might emerge in different democratic systems.

Second, even though gerrymandering was severely distorting the democratic system,³ as a recent study by Edwards et al. (2017: 1) shows citizens are capable of creating sophisticated and fair electoral boundaries. Of course, this is not a perfect case. Partisan groups did attempt to capture the CCRC's public consultation and commenting process, and perhaps were able to insert some of their preferences into the redistricting results. But, overall, the CCRC and other independent citizen redistricting commissions have been successful in crafting new borders in ways that undercut party gerrymandering and improve upon legislative efforts (Edwards et al. 2017). While we cannot generalize too much, this case shows that authoritative and decoupled mini-publics can be used to help reorient democratic systems in productive ways, even in highly problematic circumstances.

² For a full description of selection, see 'We Draw the Lines', available at http://wedrawthelines.ca.gov/general_info.html (accessed 19/05/2017).

³ For instance, in the ten years prior to the CCRC's boundaries taking effect in California, only one Congressional seat changed party control in 255 elections.

Conclusion

The argument of this article has been that successes and failures of representative institutions, and in particular of parties, can respectively be supported or corrected by mini-publics. To recapitulate the central point: *when parties perform well systemically, mini-publics should be used as complementary initiatives; the more representative institutions create distortions in the democratic system, the more mini-publics should gain prominence to counteract these problems.* We have outlined how this can be operationalized in light of two key design issues—that of coupling and authority—and discussed some empirical examples that foreground the empirical bite of our theory. While future empirical work would need to go beyond illustrative cases to study how our argument might apply to specific cases across different democratic systems, the framework we developed provides a first generalized account for determining how mini-publics and political parties should inter-relate.

A key point worth reiterating in conclusion is that we do not wish to claim that mini-publics provide some sort of magic bullet for the democratic ills of our age. Our argument is more modest. We suggest that mini-publics provide *one way* of responding to those ills; and because they can be designed and implemented in a targeted fashion, they can be very effective. For mini-publics to deliver on these promises, however, it is important to think carefully and systematically about what problems they ought to respond to, and consequently how closely they should be coupled with representative institutions and how much authority they should enjoy. The framework outlined in this article can guide institutional designers toward better answers to these questions.

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