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[Deliberative Pragmatic Equilibrium Review: A Framework for Comparing Institutional Devices and their Enactment of Deliberative Democracy in the UK.](#)

British Journal of Politics and International Relations 2014, 16(3), 386-409

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This is an author's accepted manuscript of an article that was published in its final definitive form in *British Journal of Politics and International Relations* 2014.

DOI link to article:

<http://dx.doi.org/10.1111/1467-856X.12000>

Date deposited:

02/03/2016



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Introduction

As deliberative democracy enters its third generation (Elstub 2010a) research in this area is increasingly focused on institutionalisation (Warren 2007, 272; Dryzek 2010) leading to an institutional turn (Bohman 1998; Dryzek 2010). Moreover, these debates are being enlightened by evidence from practice as the study of deliberative democracy also takes an 'empirical turn' (Dryzek 2010). Indeed there have been an increasing number of attempts in public administration to approximate the norms of deliberative democracy, through a variety of institutional structures, at various levels of governance throughout Europe, the USA, Australia, South East Asia, and South America, making the institutionalisation of deliberative democracy an issue of international importance. These debates are also central to considerations about democracy and governance in the UK as (Davidson and Elstub) clearly establish in this issue. There have been numerous attempts in the UK, with a range of institutional innovations, to approximate deliberative democracy like citizens' juries (Delap 2001), deliberative opinion polls (Luskin et al 2002), and participatory budgeting (Blakey 2008). In addition, existing UK parliamentary institutions have been examined on their deliberative potential (Steiner et al 2004; Davidson and Stark 2011). These experiments are occurring despite the absence of a comprehensive and systematic comparison of the problems faced for each mechanism, co-ordinated understanding of what each mechanism could realistically achieve, and information about how these various mechanisms relate to each other. This comparative analytical gap is impeding further developments in, and academic understanding of, deliberatively democratic governance: 'an extraordinary feature of the literature on deliberative democracy has been its unwillingness to take an encompassing view of democratic sites, institutions and procedures' (Saward 2003, 166; see also Thompson 2008, 500).ⁱ It is likely that no one institution can achieve all of the norms of deliberative democracy at the same time and in the same place (see also Smith 2009, 20; Warren 2007, 287). Enactment of the norms of deliberative democracy will vary across key contexts like the different decision-making stages and levels of governance, due to varying features of complexity. Goodin agrees, but suggests this is normatively acceptable as long as all the elements of deliberative democracy are enacted within a decision-making sequence. However, the extent that a given sequence is acceptable 'depends on the deliberative virtues coming in the right order' (Goodin 2005, 193). Therefore, a framework for

comparison of institutions and their relationship to deliberative democracy is now imperative.

To help fill this gap, this paper constructs a framework for comparing various micro institutions and their ability to enact deliberative democracy. The framework is the 'Deliberative Pragmatic Equilibrium Review' (DePER) and its application will enable a deeper understanding of what different institutions can give to the institutionalisation of deliberative democracy. The application of the DePER comparative framework will make getting the 'right' sequence of institutions easier as it will advance empirical and normative understanding of what deliberative tasks can be achieved by different institutions at various stages of decision-making and levels of governance. Due to space limitations the DePER framework is outlined in this paper, but is not employed to actually compare institutions. The DePER framework is applicable to all political systems, but here it is explicitly tailored for the UK. Fig.1 below demonstrates the processes and elements of the 'deliberative pragmatic equilibrium review'. Firstly, a type of micro institutional device is selected. Through a dialectical relationship between the available empirical evidence on the institutional device and normative theory, the enactment of a deliberative interpretation of four democratic principles is considered (inclusion, popular control, considered judgment, transparency), at varying levels of governance (local, regional, national, transnational, and global) and different stages of decision-making (agenda-setting, debate, decision-making, implementation and review). The process is then repeated for an alternative institution which allows for a comparison to be made.

INSERT FIG.1 HERE

The paper explains each element of the DePER framework in turn. Section one outlines the analytical approach at the heart of the framework, Fung's (2007a) pragmatic equilibrium. It combines empirical evidence with normative theory to create a dialectical relationship between the institutions being compared and the theory of deliberative democracy, to facilitate the revision of both. Section two specifies the domains of democracy that the comparative approach will most fruitfully be applied to, concluding that micro deliberative

devices will be most suitably compared. The democratic principles that need to be enacted by these institutions are covered in section three. The subsequent section considers the transferability of these institutions across different decision-making stages and levels of governance. Here the DePER framework is specifically tailored to the comparison of institutions in the UK political system. Having laid the groundwork for the elements of the framework in the previous sections, the framework is then clarified and it is explained how through DePER analysis more appropriate sequences of institutions can be established to institutionalise deliberative democracy.

Pragmatic Equilibrium: Combining Empirical Evidence and Normative Theory

The analytical and comparative approach at the heart of the DePER framework is Fung's (2007a) 'pragmatic equilibrium' which offers an appropriate balance between empirical evidence and normative theory in reviewing the institutionalisation of democracy. Ultimately the process of comparing institutions from a deliberative democracy perspective through the DePER framework is an attempt to realise the aim of Thompson (2008, 500) 'to understand better the extent to which the values posited by deliberative theory can be realised under not only current but also potential conditions', through the coming together of empirical and normative theory. This section sets out the importance of combining both, before outlining how pragmatic equilibrium achieves this, and can be tailored to deliberative democracy in the DePER framework.

The key to the comparative analysis of DePER is to assess which institutions can enact the core values of deliberative democracy most successfully in different contexts. When comparing devices it is necessary to systematically review the available, and relevant, secondary empirical evidence, in order to map the relevant devices and their relationship to democratic principles. This process should be reflexive as the relationship between normative principles and the institutions that enact them is constantly changing. Saward argues that all principles and institutions contain varying 'bundles' of interpretations, but it is institutions and devices that enact these interpretations. The institutions being compared should therefore be judged on their performance (Saward 2003, 164).ⁱⁱ Without this

empirical evidence we will be unaware of the conditions that the institutions can operate effectively in, and the tensions that exist between the democratic principles being enacted. Moreover, empirical evidence is also required to ensure the critical edge of deliberative theory is realistic and practically grounded, as it demonstrates which unfavourable features of current democratic practice can be changed (Thompson 2008, 500). As Goodin explains 'philosophers must always remember that 'ought' implies can. Moralising can only sensibly occur within the limits of what empirically can be done' (Goodin 2005, 182; Elstub 2010c). Consequently, empirical evidence on deliberative democracy gives us 'a sense of what may work, how, when, and why- and what may be difficult' (Dryzek 2007, 240).

Although there are many claims imbedded in the theory of deliberative democracy that can and must be empirically tested in practice, there are also normative claims to legitimacy that cannot be. The practical issues that are integral to the ability of institutional devices to enact deliberative democracy raise normative questions that must also be resolved. As Thompson (2008, 498) argues empirical research must be 'directed toward the core problems in deliberative theory'. In terms of institutionalising deliberative democracy, normative theory is vital to the puzzle of identifying the core problems of how different institutions can enact different democratic principles, to which empirical evidence can provide answers (Thompson 2008, 500). To institutionalise deliberative democracy, trade-offs will inevitably be required, and the answers to how trade-offs should be made between these devices and concepts ultimately needs to be determined by normative theory (Thompson 2008, 500, 513; Steiner et al 2004, 42; Habermas 2006; Chambers 2003, 320). Moreover, normative judgements are essential when reviewing institutions to place boundaries and limits on the number of relationships between institutions and deliberative principles that are seen as desirable and appropriate in a deliberative system. Indeed, only so much can be gained from consulting empirical evidence as a critical distance is required to advocate the combinations of devices that we should be seeking: 'theory challenges political reality. It is not supposed to accept as given the reality that political science purports to describe and explain. It is intended to be critical, not acquiescent' (Thompson 2009, 499; Elstub 2010c). Therefore the DePER comparative framework would be substantially hindered by an absence of explicitly normative theorising. Indeed it would be naive to presume that it is possible to study

democracy in a manner free of normative assumptions (Gerring and Yesnowtiz 2006; Dryzek 2007; Thompson 2008).

Fung's (2007a) attempt to bring together normative theory and empirical evidence in relation to democracy is 'pragmatic equilibrium'. Pragmatic equilibrium is based on a dialectical relationship between empirical evidence about the 'consequences' of institutional devices and the normative theory of democracy that prescribes these institutions. Fung (2007a) himself demonstrates how pragmatic equilibrium can be applied to minimal, aggregative, deliberative, and participatory democracy. Within the DePER framework it is applied to deliberative democracy. In this instance the ability of institutions to enact a deliberative interpretation of democratic principles at different levels of governance and stages of decision-making is the focus. Deliberative democracy would be in pragmatic equilibrium if 'the consequences of the institutions that it prescribes realize its values well and better than any other feasible institutional arrangements over a wide range of problems and contexts' (Fung 2007a, 445). As discussed above, because 'ought' implies 'can' the principles and values of deliberative democracy must be regulated by the results of the institutions. If deliberative democracy is not in equilibrium with its advocated institutions, practical reasoning on the relationship between institutions and democratic values should be invoked to modify the theory of deliberative democracy so that it gets closer to pragmatic equilibrium. However, this revision is not just applied to the interpretation of democratic values, but to institutions as well, and includes normative theorising (Fung 2007a, 446).

Different equilibrium points will be arrived at from different models of democracy, as the 'consequences acceptable to one, will be rejected by the other' due to divergence in moral values (Fung 2007a, 444), because deliberative democracy has different equilibrium points to other models of democracy. Pragmatic equilibrium must then be narrow and focus on a specific model of democracy, like deliberative democracy and be explicitly focused on how institutions specifically enact bundles of a deliberative interpretation of democratic concepts.

Saward is critical of such 'narrow', model specific, and deductive approaches to institutional design with respect to democracy, where a 'model' or preferred approach to democracy is

set out, and institutions designed to achieve it. Saward (2003, 161) therefore encourages democratic theorists and practitioners to take a reflexive approach and to move away from thinking of contrasting democratic models, towards a more 'ecumenical' understanding of democracy that is 'sensitive to context, open-ended, productive, and adaptable'. Smith (2009, 11) agrees and suggests a focus on deliberative democracy cannot answer all our questions; in fact, no one 'theory can give us all the resources necessary to evaluate different democratic innovations'.

The argument here is that because these distinct approaches to democracy do exist, and have these competing interpretations of democratic principles, and varying equilibrium points it is legitimate, indeed important, to study whether institutional devices can enact a specific meaning of these principles that is compatible with a particular model of democracy. Saward himself acknowledges that a review of how institutions can 'strengthen particular interpretations' of democratic principles is useful (Saward 2003, 165). Applying Pragmatic Equilibrium to deliberative democracy is then warranted. As Warren explains 'centering democratic theory on deliberation as a medium of decision-making and organisation produces a distinctive and normatively powerful approach' (Warren 2007, 273). Although, more recently, Warren has started to sympathise with Saward's ecumenical approach and urges us to think about democracy 'as any set of arrangements that enables people to develop into self-developing, self-governing beings,' when considering institutionalisation, as we are doing in the DePER framework, he maintains we must be specific about the conception of democracy being considered (Warren 2010, 11).

Saward (2000) is sceptical as he questions whether deliberative democracy really is a distinct model of democracy given its widely accepted inability to result in consensus, and consequent need for voting and aggregation (Saward 2000, 67-8). Saward is certainly right that deliberation is not sufficient to make democratic decisions, and many other institutional devices are essential to promote democracy.ⁱⁱⁱ Nevertheless, despite its reliance on voting, Chambers argues that because deliberative democracy is 'talk-centric' it is different to and has replaced voting-centric democracy as it 'focuses on the communicative processes of opinion and will-formation that precede voting' (Chambers, 2003, p. 308). Therefore, Thompson is justified in asserting that the role of these other institutional

devices should be justified from a 'deliberative perspective' in a deliberative democracy (Thompson, 2008, 513 & 515). Furthermore, as Elstub (2008, 63-5) and Thompson (2008) argue there are theories of democracy that are based on power and self interest and that see no role for deliberation like rational choice theory, social choice theory, competitive pluralism and elitism. Other important distinctions between deliberative and other models of democracy follow. Warren argues that democratic theories like direct, participatory, representative and pluralist democracy focus on institutions that facilitate 'the rule of the people', while classical republicanism focus on ethical goals. However, the theory of deliberative democracy in contrast aims to 'advance a particular medium of political conflict resolution and organisation- that is communicative influence' (Warren 2007, 273). This means that deliberative democracy is not 'on the same plane of analysis' to these other approaches to democracy. Deliberative democracy, therefore, requires us to judge and compare institutions 'by whether they serve to enable the medium of deliberation' (Warren 2007, 274), but this is not the case with the other approaches to democracy.

Macpherson suggests that a democratic 'model' should explain structural relations and have a distinct normative element which offers a 'model of man' and an 'ethically justificatory theory', and provide a critique of other models of democracy (Macpherson 1977, 2-6). Elstub (2008) argues that a deliberative approach to democracy fulfils these requirements of a democratic 'model' because deliberative democracy would produce differing structural relations to other approaches to democracy due to the privileged role afforded to public reason. It also has a distinctive explanatory and normative approach as it does not accept participants predetermined preferences as a legitimising force, even if they do need to be aggregated for decision-making. The deliberative model sees the formation of these preferences as crucial to legitimacy, resulting in competing objectives with some models e.g. participatory democracy and fundamental theoretical clashes with others e.g. aggregative models (Papadopoulos and Warin 2007, 450). In terms of the critiquing the other models, this critique only need to be aimed at part of the preceding model and can therefore embody 'substantial elements of an earlier' model (Macpherson 1977, 8), which accounts for why aggregation is still present in the deliberative approach. The different equilibrium points of deliberative democracy are further illustrated later in the article when we consider its distinct interpretation of key democratic principles.

Pragmatic equilibrium should also be wide by drawing on empirical evidence from a broad range on contexts: 'Democratic theorists should widen their sources of inspiration and constraint to include the disciplined consideration of the consequences of the fullest range of institutional alternatives for collective decision-making and action' (Fung 2007a, 456). In the DePER framework inspiration and constraint relate to the varying levels of governance, stages of decision-making, policy areas and range of institutional mechanisms. Therefore, when comparing the institutions we should consider as much relevant evidence as possible from these contexts. However, as the DePER framework is not a method to generate new empirical evidence on deliberative democracy, but rather to review existing empirical evidence, we are dependent on the evidence that is produced by other researchers from their case studies of institutions.

As deliberative democracy has taken an 'empirical turn' (Dryzek 2010) there is now plenty of empirical evidence available to help us do this, but some institutional devices will inevitably have greater amounts of relevant empirical evidence available than others. Nor is all the empirical evidence on deliberative democracy equally relevant to institutional comparison. Chambers (2003, 318) places the empirical evidence on deliberative democracy into three categories: 'social, psychology, jury research, and public opinion research', 'designing and running experiments especially geared to test claims of deliberative democratic theory', and 'real world cases'. As the DePER framework is an attempt to understand the extent institutional devices actually enact a deliberative interpretation of democratic principles, the latter category of evidence should be privileged in this analysis. As Chambers (2003, 319) explains 'political reality is no more like a controlled experiment that it is like the ideal speech situation'. There will also always be limits to the amount of empirical evidence researchers can review. However, the more that can be considered the more thoroughly pragmatic equilibrium can be achieved. For all these reasons the DePER framework is an ongoing review, and not a process with an end point.

Comparing Micro Institutional Deliberative Devices

Now we have established the comparative analytical framework employed in the DePER, we need to consider what type of institutions and devices it can compare, which will be the focus of this section. The specific micro institutional devices that the DePER framework can be used to compare, and the institutional domains they are located in, are then detailed below.

The DePER framework is designed to compare how institutional devices enact the democratic principles at the various stages of decision-making and levels of governance. It starts from Saward's premise that all principles and institutions contain varying 'bundles' of interpretations, but it is institutions and devices that enact these interpretations. A 'device' is defined as a 'mechanism that plays a part in constituting a more or less formal procedure by which binding decisions are reached for a political community' (Saward 2003, 167). Chambers (2003) is critical of this institutional trend in deliberative democracy, as she argues that a more comprehensive focus on political systems is required to truly achieve the ambitions of deliberative democracy. This point is accepted but it is still maintained that institutions are pivotal elements of political systems, and as Saward (2003) argues, essential to the enactment of democracy. As Dryzek acknowledges, 'contemporary political systems do of course feature multiple interacting parts...across the layers of multilevel governance' (Dryzek 2010, 7). By comparing the extent different institutional devices can enact bundles of democratic principles the DePER framework contributes to our understanding of the role institutions can, and should, play within policy sequences, and political systems as a whole. The DePER framework is adapted to the particular context of the UK political system in the next section.

It is certainly the case that within a political system, deliberation should and will occur outside of institutions. However, the distinct nature of this 'macro' deliberation in comparison to 'micro' deliberation which is more likely to occur in institutions (Hendriks 2006; Chappell 2010) suggests that an alternative comparative framework is required to analyse these deliberative types. Micro deliberative democracy focuses on ideal deliberative procedures, within small-scale structured arenas within the state, orientated to decision-

making, with participants deliberating together in one place and at one time. Alternatively, macro deliberative democracy favours informal and unstructured, and spontaneous discursive communication that occurs across space and time, aimed at opinion formation, within civil society, outside and often against the formal decision-making institutions of the state, with partisan deliberators (Elstub 2010a). It is considered that both types of deliberation are required to approximate a deliberative system (Hendriks 2006; Parkinson 2006; Elstub 2008). It is therefore essential that macro processes are not ignored in the study, as they also 'frame' and interact with micro devices. However, the principle focus of the DePER framework is on micro devices. Due to the unstructured and amorphous nature of macro processes, they are incredibly difficult to compare (Dryzek 2010, 9). Macro deliberation includes 'every-day talk' (Mansbridge 1999) which includes discussion at 'kitchen tables and coffee shops' (Parkinson 2009, 7). This deliberation is incredibly difficult to empirically analyse and there is little existing empirical evidence here (Parkinson, 2009), although there are exceptions (Mutz 2006). The 'empirical turn' that Dryzek (2010) mentions has then been predominantly micro focused, and this empirical evidence needs to be subject to comparative analysis. The DePER framework contributes to filling this gap.

Moreover, as Parkinson appreciates macro deliberative democracy provides 'distinct empirical cues' to the micro approach: 'the macro vision directs us to examine the processes of public claim generation and claim making in a society, the processes of transmitting those claims to formal public spheres for action; and the processes of law and policy making- of governance- that determine precisely which claims, and which elements of claims, are translated into acts of governing' (Parkinson 2009, 6). Six features of a 'deliberative system' are identified by Parkinson (2009) and include the agents who deliberate, the sites of deliberation, the entities that are discussed and transmitted, the method of transmission, the translation of entities in policy and law, and implementation of these policies and laws. Most of these elements are relevant to comparing micro institutions too, and are consequently included in the DePER framework e.g. inclusion of agents, the sites of deliberation, the entities, translation and implementation. However, it is transmission of discourses from site to site that is key to macro deliberation, but does not concern micro deliberation, due to the immediacy and face-to-face nature of these devices and the deliberation within. Therefore the context of macro deliberation is very different to the

micro alternative and it therefore requires a related, but different, comparative framework. Parkinson (2009, 14) suggests that for comparing macro deliberation, we need to compare societies rather than institutions, and consider 'the degree of power concentration or dispersal'; 'norms of public versus private life'; 'media technology, political economy and culture'. This is clearly a vast project, one which the DePER framework could not achieve alone, but can contribute towards. Therefore, the DePER framework is not sufficient for a comprehensive understanding of how deliberation can and should operate in different political systems, but given the vital importance of institutions to any system, it does fulfil a necessary role.

We still need to determine what devices to compare in the DePER framework. According to Fung (2007a) pragmatic equilibrium should be employed on the institutions particularly advocated by a model of democracy. For deliberative democracy mini-publics have dominated institutional debates (Goodin 2008) and have been one of the main mechanisms used to promote deliberative democracy in the UK (Davidson and Elstub). These types of institutions should then be the initial subject of DePER. However, Saward (2003) is right to suggest that a review must consider a range of institutions, not just those that have been favoured by advocates of a particular model of democracy, such as deliberative democracy. As Mclaverty and Halpin (2008) appreciate 'deliberative drift' results in a range of institutions being able to contribute to the enactment of deliberative democracy. DePER can then be applied to institutions not explicitly connected to deliberative democracy, and different UK parliaments and committees in Westminster and Holyrood have already been reviewed on their deliberative potential (Steiner 2004; Davidson and Stark, 2011)

Democratic institutional devices are distinguished by a number of dimensions. The first dimension relates to the 'space' where institutions are found. Institutions can be primarily located in the state which invokes bureaucratic power; in the market which is organised through money; and in civil society which is organised through influence (Warren 2010, 4; Habermas 1987; Parsons 1971). Within democratic institutions located in the state we can further distinguish between elected and non-elected and direct and representative institutions (Warren 2010, 4). The second dimension to distinguish between devices is institutionalised and non-institutionalised (for example social movements and civil society

organisations) (Warren 2010, 4). Institutionalised devices can also be ‘centred’, which means they ‘receive input, process it, issue authoritative decisions, and then organise collective actions.’ Or they can be ‘devolved’ and ‘reflexive’, which means they ‘develop the conditions under which parties to a conflict can work out their differences and monitor solutions more directly’ (Warren 2010, 5). These domains and the devices that are categorised by them are highlighted in the table in figure.2. The devices suitable for comparison by the DePER framework that have micro deliberative potential are highlighted in blue. This is not meant to be an exhaustive list. Other institutions could be located within these institutional domains, and reviewed through the DePER framework.

INSERT FIGURE 2 HERE

A Deliberative Interpretation of Democratic Principles

Having now established which micro devices we are comparing, the next step is to consider what criteria we are comparing them on. Smith (2009) has identified a set of democratic principles, that we can compare the capacity of institutional devices to enact in different contexts: inclusiveness, popular control, considered judgement and transparency. Despite the focus on participatory institutions in his own study, for Smith, these principles are ‘fundamental to any theoretical account of the democratic legitimacy of institutions’ (Smith 2009, 12) although neither is it meant to be a definitive list of democratic goods (Smith 2009, 20), but rather just significant ones. As set out earlier, the contention here is that this comparative framework needs to take an explicitly deliberative approach if we are to advance understanding about the institutionalisation of deliberative democracy per se. As Smith admits ‘democratic goods can be realised in compelling combinations that embody the ambitions of different theories of democracy’ (Smith 2009, 192). Smith has done such an analysis for participatory democracy. A related, but distinct approach is required for deliberative democracy (Papadopoulos and Warin, 2007). The following discussion outlines Smith’s interpretation of these principles, but also demonstrates how each is interpreted differently from a deliberative perspective, with distinct equilibrium points between theory and practice to other approaches to democracy.

Inclusiveness

Inclusiveness relates to political equality of voice and presence (Smith 2009, 20-2) and consequently input legitimacy (Papadopoulos and Warin 2007, 453). For Saward (2003, 162) inclusion follows from political equality, but is more realistic than equality and still normatively acceptable. So to be democratic institutions must ensure inclusion through participatory and representative mechanisms. Inclusion has a distinct equilibrium point between theory and practice in deliberative democracy. For example it is more complicated for deliberative democrats to achieve, especially in a global era, as for deliberative democrats all affected should be included through participation or representation in decision-making. Once those who are going to contribute to the different stages of a decision have been determined, inclusiveness also requires that we ensure that they get to contribute. From a deliberative perspective there needs to be equal opportunities for all to express their views in a manner acceptable to others, but also for their views to be listened to. Other approaches to democracy do not carry this same burden and interpretation of inclusiveness. Deliberative democracy therefore requires distinct political obligations to other models of democracy (Festenstein 2002).

Popular Control

Popular Control requires influence in the decision-making process. For Dryzek (2007, 243) this is one of 'the standard central desiderata of democracy'. Here Smith talks of control over output rather than determining decisions, as institutions may not actually lead to decisions. However, even if an institutional device does not lead to a decision, its output can have varying degrees of influence on decisions as the link between institutions and decision-making is far from being an all or nothing affair, but is scalar and an issue of proximity (Chambers 2009). We might argue that this is the case for all conceptions of democracy, nonetheless, the degree of proximity of an institution to a decision affects deliberation itself. For example, the more proximate a decision is to deliberation the greater the incentive to attempt to persuade other participants with reasons (Walsh 2007; Elstub 2010b). The need for a decision to be reached when deliberating can also make preference differences seem 'less germane' (Cohen 2007, 224), while an unproximate decision can

'exacerbate divides' (Walsh 2007, 24). Ultimately deliberative democracy is best understood as a decision-making mechanism: 'Deliberation, generically understood is about weighing the reasons relevant to that decision with a view to making a decision on the basis of that weighing' (Cohen 2007, 219). We must then assess the extent institutional devices enable those participating in them to determine a decision (Elstub 2010b).

Considered judgement

Considered judgement relates to the understanding of the technical details of the decision and preferences of other relevant citizens and determines throughput legitimacy. For deliberative democrats the best way to achieve this is through collective and public debate (Papadopoulos and Warin 2007, 453). This is because for deliberative democrats considered judgement cannot be secured privately: 'public deliberation of free and equal citizens is the core of legitimate political decision-making and self-government' (Bohman 1998). It is therefore crucial for deliberative democrats for preferences to be reflected upon, to be informed and to reflect the interests and beliefs of other citizens. The criteria for ensuring that judgements are 'considered' are then very different in a deliberative version of democracy in comparison to other democratic approaches. Fung (2007b) provides criteria of publicity, rationality and reasonableness to 'guide the empirical examination' of deliberation in institutional devices in terms of the quality of deliberation. Goodin argues that realistically these deliberative tasks must be distributed amongst different agents and devices, with each being judged on 'different deliberative standards', as it is too demanding for one device to enact all these elements together (Goodin 2005, 182). The key to institutionalising deliberative democracy is then to sequence these devices and actors so that all the components of deliberation are included in the decision-making process as a whole. The intention is that the DePER framework will contribute to this understanding.

Transparency

Transparency is the extent of openness of the decision-making process to participants and the public. As Saward explains (2003, 162) the democratic principles must be seen to be enacted. This is essential for scrutiny, accountability and trust and throughput legitimacy.

However, it is particularly essential to deliberative democracy, to ensure the process is genuinely 'public'. This then encourages decisions to be made in the common good and 'public reason' to be offered. It is then essential for transparency in a deliberative democracy to know not just what decision was reached, but also the reasons why that decision was reached (Smith 2009, 176). This aspect of transparency is not as vital to other approaches to democracy.

Transferability of Institutional Devices in the UK

The capacity of different institutional devices to enact a deliberative interpretation of these democratic principles is determined by many contextual factors, or what Saward (2003) terms 'natural constraints'. These constraints influence the transferability of the devices to enact these norms in a range of contexts (Smith 2009, 26-27), which is why the sequencing of institutions is ultimately required, with different institutions being apt at relevant enactment of specific democratic principles in different contexts. Once again though, transferability is dependent upon the type of participation and the relevant form of representation, so we need an explicitly narrow focus on deliberative participation and representation in democratic institutions in the DePER framework. The key contexts that the DePER framework must take account of include features of social complexity, combinations of which will vary at different levels of governance, decision-making stages, and the national context. Here the nature of the national culture and the political system, and the extent of path dependency are crucial. This is why the DePER framework, although applicable to any national context, must be specifically tailored to specific political systems and here it is tailored to the UK.

Features of Complexity

It seems apparent then that features of complexity affect the efficiency and transferability of deliberative democracy in different ways to other models of democracy. We can see this through Femia's (1996) analysis of the relationship between complexity and deliberative democracy. Complexity is associated with the 'number and variety of elements and interactions' present (Femia 1996, 360). For Femia the features of complexity that have the

most detrimental effect on the efficiency and transferability of deliberative democracy are size of area, the number, plurality and inequality of citizens, and the need for technical and professional expertise. These aspects are intensified by globalisation, which further contributes its own aspects of complexity.

Diversity is currently increasing in most contemporary societies, and indeed has been for some time. Indeed the UK is a multicultural and diverse society and this increased pluralism makes enacting deliberative democracy more challenging, as attaining consensus on a common good becomes more difficult. Furthermore, the inclusion of all relevant views in public debate becomes harder to attain.. Complexity is also heightened by scale. Ensuring all relevant citizens meet together and deliberate together, is an empirical impossibility, and including all relevant representatives in in-depth debate is also logistically challenging (Bohman 1996, 2). There are over 60 million people in the UK, dispersed across the nation, making inclusion, particularly, though clearly not uniquely challenging. All societies are plagued by inequalities of the resources and deliberative skills that are required to participate effectively, and the UK is no exception. However, as deliberative democracy involves reasoned debate, the threshold of participation is higher than in other forms of decision-making, these inequalities can be further accentuated. It is important to the institutionalisation of deliberative democracy in the UK that these skills be distributed widely and reasonably equally. The relevant democratic capacities include civic capacities, such as civic consciousness and trust. The deliberative skills, include listening and analysing the assertions of others, and rationally forming and expressing one's own preferences in light of available information, in a manner that will be persuasive to others. Complexity is further enhanced by a need for greater levels of specialism in making decisions due to the emergence of new problems arising through rapid social change driven by technological development. This dynamic has been prevalent in the UK (Stoker 2006), and has meant that increasingly problems require technical solutions and, therefore, decisions are thought to require high demands of expertise (Femia 1996, 365; Bohman 1996, 151-2). The final feature of complexity that Femia highlights is globalisation which has led to, and been caused by, increasing global competition and integration, increasing technological diversity and rapid change and increased dispersion of the labour market, all of which have again been prevalent in the UK. This has intensified problems of scale, as it is thought that many

decisions now need to be made at a transnational, or even international level, and the UK is heavily involved in the levels of governance. Correspondingly the plurality of those affected by decisions, and therefore of those who should be included, either directly or indirectly, in decision-making has been expanded beyond the UK borders, which in turn means that identifying the relevant actors more challenging, and makes it more likely that there will be greater inequalities in relevant capacities and skills (Elstub 2007). Together, these aspects of complexity provide significant barriers to the enactment of the principles of deliberative democracy and the efficiency and transferability of institutional devices providing this enactment, across all political system including the UK.

Levels of Governance

The transferability of institutional devices is also affected by the levels of governance as the features of complexity vary at these different levels meaning that different institutions will enact different bundles of the democratic principles at different governance levels: 'The future of democratic governance institutions rests on building a more complex, multilevel architecture for decision-making in which citizens can be engaged' (Stoker 2006, 174). These levels of governance interconnected in a variety of ways and are structured by 'framing devices', such as federation and confederation which in-still a requirement for democratic sequencing over the multi-levels of governance e.g. local, regional/ subnational, national, transnational, and global. The UK is certainly a multilevel governance political system, with local government; devolved regional assemblies in Scotland, Wales and Northern Ireland; a national legislature in Westminster; transnational membership of the European Union and NATO; and global membership of the G8, G20 and United Nations, to name but a few. It is suggested that globalization has led to the need for transnational and global institutions, but also increased the importance of local governance in the multilevel system (Stoker 2006, 175; Heinelt 2010, 103-4). The features of complexity discussed above that determine the transferability of institutions to enact a deliberative interpretation of democratic principles vary across these levels of governance. With respect to the transnational and global levels of governance, language becomes a factor, pluralism is increased further, and the logistical problems of scale are intensified. As a result inclusion becomes harder to achieve in non-territorially bound units as it is less likely that citizens will see each other as equals in

determining collective decisions (Heinelt 2010, 95). There are then significant challenges to achieving legitimacy in such compound polities (Bader 2010), of which those applying the DePER framework must take account.

Broadly conceived, there are two ideal types of multilevel governance. Type I systems are based on territorial, ethnic or cultural communities with a shared identity. Type I systems share characteristics such as 'general purpose jurisdictions', 'a limited number of jurisdictional levels', 'non intersecting memberships' between levels of governance, and 'a system-wide durable architecture' that promotes regionalisation and interaction (Hooghe and Marks 2003; see also DeBardeleben and Hurrelmann 2007). Type II systems are developed around particular problems amongst people who share a geographical or functional space that requires making of collective decisions. Here the relationships between levels of governance are more 'flexible, task-specific, intersecting and variable in number' (DeBardeleben and Hurrelmann 2007, 4). These two types then relate to Hirst's (1994) distinction between communities of fate and choice. Type I multilevel systems are communities of fate, while type II systems are communities of choice: 'Type I jurisdictions [at least at the level of the nation states] choose citizens, while citizens choose Type II jurisdictions' (Hooghe and Marks 2003, 241). The question of which type is preferable is a normative question, with each having different values and benefits, meaning each type will vary in their suitability for enacting deliberative democracy within each type, as they will bring different types of complexity and different types of institution. Nevertheless, the type of jurisdiction does not need to be a different dimension of analysis in the DePER framework as ultimately Type I and II jurisdictions will co-exist in the same multilevel governance system to form a 'flexible political geometry' (Heinelt 2010, 116). Indeed both types are present in the UK, although both it and the EU are mainly Type I (Hooghe and Marks 2003). It just then needs to be a factor we are aware of when reviewing and comparing institutions.

Stages of Decision-Making

There are also several stages of decision-making, at each level of governance, which affect the transferability of the institutions in enacting bundles of democratic principles. Again different institutional devices will enact different combinations of the democratic principles

at the different decision-making stages. Saward focuses on four stages of decision-making: agenda-setting, debate and discussion, the moment of decision-making, and implementation. As Smith argues this is 'a highly stylized' account of decision-making, but does act as a 'useful heuristic' (Smith 2009, 23). In DePER review of the decision after it has been implemented needs to be added as a fifth stage. Of the decision-making process because deliberative democracy is not a decision-making mechanism that leads to 'final' decisions, as the process often reveals deeper problems than had been anticipated, preferences continue to change in light of new information arising, and change participants change over time. Therefore, it is necessary to ensure that all decisions remain contestable (Pettit 2003, 156; Niemeyer 2004, 364; Elstub 2010b).

National Context

National contexts can influence the manner in which institutions enact democratic principles as even new institutions are influenced by 'the pre-existing institutional contexts and political traditions' (Papadopoulos and Warin 2007, 448). Therefore, in applying the DePER framework to analyse institutions it is vital to focus on specific nations, in this case the UK, and to acknowledge the influence of political culture on the success of democratic institutions. Indeed 'a specific type of political culture seems to be an essential precondition of effective democracy' (Inglehart and Welzel 2003, 62). In this respect 'democracy is an attribute of nations' (Inglehart and Welzel 2003, 66). According Inglehart and Welzel there are a number of phenomena that need to be present in a culture for democracy to flourish which include self-expression, tolerance, trust, life satisfaction and participation (Inglehart and Welzel 2003). Sass and Dryzek claim that in Inglehart's analysis of culture is therefore simply a 'distribution of subjective values, attitudes, and beliefs' and therefore lacks explanatory use. Although still relevant, it's certainly not sufficient to measure deliberative democratic culture and 'any failure by deliberative theory to give an account of culture means that the scope and depth of systematic empirical studies inspired by that theory remain limited' (Sass and Dryzek 2011, 2). For Sass and Dryzek (2011) deliberative culture, relates to a continuum of 'public language'. One dimension of the continuum is who should be included in deliberation, and this ranges from exclusive to inclusive. The other dimension is 'the symbolic structure of interactions' and ranges from reciprocal to hierarchical. The

implications of this continuum mean different political practices will have varying significance for people in different national contexts. These cultural variables affect the extent institutions operating in these cultures can generate the norms of deliberative democracy discussed above, and is therefore highly relevant to the DePER framework. However, little research has been conducted on deliberative cultures in general, including the UK. However, the inclusivity element of the continuum can be explored further.

Dryzek categorises political systems into three broad types, based upon two types of dimensions: whether states are inclusive or exclusive in terms of integrating social interests into the policy process and whether inclusivity and exclusivity is active or passive. Inclusive states accept a myriad of social interests in the policy process, while exclusive states limit the interests that are seen as legitimate participants in the policy process. States that are actively inclusive, e.g. Denmark, 'intervene in civil society to manage the pattern of interest organization, and also construct formal channels of participation that organize these interests into the state' (Dryzek 2010, 171). If states are passively inclusive, e.g. the USA, channels exist for civil society to be involved in the policy process e.g. lobbying, legal action, consultation, political party activism, but their inclusion is not actively sought. States that are passively exclusive, e.g. France, only enable a few select groups to participate in the policy process. Actively exclusive states 'intervene in civil society to try to undermine the basis for the organisation of social interests' (Dryzek 2010, 171). These inclusivity/exclusivity dimensions of a political system then significantly affect the transferability of institutional devices in enacting deliberative democracy, especially those devices located in the domains of society and non-elected institutions (see fig.2). As Dryzek's discussion of mini-publics in these different types of state indicates, institutions will inevitably operate in different ways within these different types of political system (Dryzek 2010). The UK, during the 1980s under the Thatcher led government, was an example of an actively exclusive state, but currently is mixed; largely passively inclusive, but with tendencies to be actively inclusive, and with variations across the devolved regions, and the make-up of government (Davidson and Elstub). This indicates that the UK political system is relatively flexible, with the ability to change its relationship to these categorising dimensions. Moreover, given that the DePER framework has a highly normative element, it is still possible to consider how the institutions could enact the principles of deliberative democracy if the system was actively

inclusive, which Dryzek's analysis suggests is the political system most conducive for the use of mini-publics (Dryzek 2010). However, when applying the DePER framework in the UK the nature of the system as predominantly passively inclusive must still be considered, and the resultant role we can expect from the different institutions should be judged in this context. A passively inclusive political system does not prevent deliberative democracy from being enacted, but rather means that certain institutions will have to be sequenced in different ways than in other types of political system, as their enactment of democratic principles is affected by the nature of the political system.

We must also take account of the history of the institutions, which the DePER framework will compare, in the particular nation (in this case the UK), as the history of these institutions can affect the possible future developments of these institutions. The phenomenon that past legacies determine the future of institutions is 'path dependency': 'A process is path dependent if initial moves in one direction elicit further moves in that same direction; in other words the order in which things happen affects how they happen; the trajectory of change up to a point constrains the trajectory after that point' (Kay 2005, 553). Path dependency makes institutional change difficult and inflexible, as it 'suggests that the changes it is sensible to introduce into a political system will depend upon what has happened before, and that fundamental constitutional changes are rare, seismic events' (Weale 2007, 17). Moreover, path dependency can affect institutions at each level of governance (Gains et al 2005; Kay 2005), and is then clearly an important dimension that must be taken seriously, when advocating institutional reform on normative grounds, which is a significant element of pragmatic equilibrium, and the DePER framework as a whole.

At the same time, neither is path dependency a law, institutional and policy changes still occur due to power, which 'can lock a certain way of proceeding but equally it can be argued that at certain times, the employment of power may push for change in a certain direction...The institution that seemed set in concrete may not be able to defend itself from attack' (Gains et al 2005, 28). Broadly institutional change can occur through 'exogenous shocks' or gradually through 'layering' as new elements like rules, policy processes or actors are attached to them (van der Hiejden 2011). Furthermore, institutions reproduce themselves, and this reproduction initiates change: 'An institution is always likely to be open

to change as actors explore the space created through the dynamics of reproduction and act strategically in order to enhance their influence' (Gains et al 2005, 29). Indeed normative ideas and discourses themselves, such as deliberative democracy, can be an impetus for change, which ultimately means that institutional change is more agent-centred than path dependency theory allows for, even though historical patterns can frame the discourse and ideas: 'these discursive abilities represent the logic of communication, which enables agents to think, speak, and act outside their institutions even as they are inside them, to deliberate about institutional change rules even as they use them, and to persuade one another to change those institutions or to maintain them' (Schmidt 2008, 314). Some political systems will suffer from path dependency more than others, and some will be more open to change through discourse than others (Schmidt 2008). Evidence from the UK (Kemp 2001; Greener 2002; Kay 2003; Gains et al 2005, 43) suggests that although path dependency is a constraining factor on institutional change in the UK, dynamic and corrective processes 'driven by value commitments and short term desires to claim credit for radical or structural reform' still operate that, on occasion, push institutional changes through (Gains et al 2005, 43). As the UK is a 'simple' and relatively 'unitary' political system, even post devolution, with a majoritarian and statist policy-making political system, legitimating communicative discourses to the public are paramount if protest, loss of public confidence and electoral defeat are to be avoided, and are the most likely to lead to institutional change (Schmidt 2008). As deliberative democracy is a theory on how to improve democratic legitimacy, there is then hope for those sympathetic with deliberative democracy in the UK. We therefore must take account of the history of an institution in the UK political system, but not let this prevent us from advocating normative changes to the use and practice of the institution.

Therefore factors of national culture, inclusivity of the political system and extent of path dependency should feature in the DePER framework as part of the dialectical relationship between the empirical evidence and normative theory.

Analysis in the DePER Framework

The DePER framework represents an overarching approach to comparing the deliberatively democratic potential of micro institutions rather than being a precision instrument. This is necessarily the case given the array of institutions that need to be compared, the diversity of contexts that these institutions are being reviewed in and the significantly different types of evidence available for each institution. Indeed a precise comparative instrument would not be adaptable enough. Nonetheless, as argued in this paper, some form of systematic framework is required if the review of these institutions is to be comparative. The DePER framework enables this while remaining adaptable to the vast array of contexts.

The table in fig.3 then demonstrates how the relevant information can be processed and the institutions compared. It requires one to categorise the ability of an institutional device to enact a deliberative interpretation of a democratic principle at each level of governance at each stage of decision-making. This categorisation should be the result of a dialectical relationship the empirical evidence and normative judgement. The suggested categories are low, low-moderate, moderate, moderate-high, high. These categories of the level of enactment are sufficient in number to ensure we can genuinely distinguish between the institutions being reviewed, while simple enough to ensure easy comparison. Exactly what level of enactment should be classed as 'low' or 'high' or in between is difficult to determine specifically here. As there is no absolute standard to judge by, it is necessarily a relative comparison. Specifying the 'level' of enactment is also difficult as the DePER comparison will draw on a range of quantitative and qualitative empirical data, which is not easy to combine and reconcile. Moreover, normative judgement is also being applied to this evidence. The danger is then that the comparison descends into complete relativism. However, it is the responsibility of whoever applies the DePER framework to justify their normative judgements and low to high categorisations.

INSERT FIG.3 HERE

Once this categorisation is complete, we can then compare institutional devices, relatively to each other, in relation to the level of governance and stage of decision-making they optimally enact each of the democratic principles. We can see how this comparative analysis can be conducted in the cube in fig.4 below.

INSERT GIG.4 HERE

By enabling a deeper understanding of what democratic principles each device can optimally enact at various stages of decision-making and levels of governance in a political system it becomes possible to determine the most desirable sequence of institutions in a decision-making process from a deliberative democracy perspective. At this stage of the analysis the specific features of the UK political system and their effects on institutional performance must again be considered to devise the most appropriate sequence for the political system being considered, in this case the UK.

Conclusion

In order to understand how political systems can move closer to approximating deliberative democracy, we need comparative analysis of institutional devices and their ability to enact bundles of democratic principles that relate to deliberative democracy, across different decision-making stages and levels of governance. In order to achieve this, the DePER framework adopts Fung's pragmatic equilibrium as an analytical approach that focuses narrowly on deliberative democracy, while considering as wide as possible the relevant empirical evidence, which is combined with normative theory to form a dialectical relationship to revise both the theory of deliberative democracy and the institutions reviewed, until equilibrium between the two is achieved. The DePER framework necessarily represents an overarching approach to comparing the deliberatively democratic potential of micro institutions rather than being a precision instrument. However, it still enables systematic comparison of institutions, while remaining adaptable to the vast array of contexts that determine the transferability of institutions. The DePER framework can be tailored to any political system, but here it is adapted specifically for the UK. Application of the DePER framework will then result in a deeper understanding of what different institutions can realistically achieve in relation to enacting deliberative democracy. In turn this will improve our ability to sequence institutions in a manner compatible with the norms of deliberative democracy.

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Notes

ⁱ Steiner et al (2004) have compared deliberation in parliaments, and developed the Discourse Quality Index (DQI) to enable them to do this. This has become an invaluable resource for comparing the quality of deliberation in micro institutions, such as parliaments. However, we need to compare institutions on other factors than purely deliberative quality to fully understand the role that they could play within a deliberative democracy.

ⁱⁱ See also Heinelt (2010) for a contextual and reflexive approach to examining the policy process.

ⁱⁱⁱ This is why, although the DQI is an indispensable tool for comparing the quality of deliberation in institutions, it is not sufficient for comparing the extent institutions enact deliberative democracy per se.