The Jimmy Reid Foundation

Final Report of the Commission on Fair Access to Political Influence

Annex Document

October 2013

Annex A: Summary of The Silent Crisis (Reid Foundation, 2012)

Introduction

Scotland, with its many diverse communities, is a nation with a rich and diverse local tradition. However, this thriving 'localism' is not matched by a thriving local democracy; in fact, quite the opposite is the case.

It is time we fully recognised the state of democracy in Scotland. Below the national level, Scotland is the least democratic country in the European Union; some have argued that it is the least democratic country in the developed world. We elect fewer people to make our decisions than anyone else and fewer people turn out to vote in those elections than anyone else. We have much bigger local councils that anyone else, representing many more people and vastly more land area than anyone else, even other countries with low density of population. In France one in 125 people is an elected community politicians. In Austria, one in 200. In Germany one in 400. In Finland one in 500. In Scotland it is one in 4,270 (even England manages one in 2,860). In Norway one in 81 people stand for election in their community. In Finland one in 140. In Sweden one in 145. In Scotland one in 2,071. In Norway 5.5 people contest each seat. In Sweden 4.4 people. In Finland 3.7 people. In Scotland 2.1. In every single indicator we were able to identify to show the health of local democracy, Scotland performs worst of any comparator we could find.

In most of Europe community politics is 'normal' – people you know, your friends and family or neighbours will routinely contest elections to represent your community. In Scotland we have created a system where community politics is 'strange and distant' – you probably don't know many (if any) people who are involved in local politics. You probably don't vote. You certainly end up with a council which is by far the most distant and unrepresentative of your community of any comparable country. And you wonder why confidence in local democracy is low?

This is an existential crisis for local democracy. If we do nothing to address this very clear problem we will end up with a nation in which politics is the preserve of a tiny cadre of professional politicians who are separate from the rest of society. We will continue to live in a country where professional managers make decisions *for* your community with little reference *to* your community, and they will continue to do it in 'job lots' – not building a school for you but building half a dozen schools for a standardised notion of what a community is. And these blanket policies applied across diverse communities will simply dilute diversity and create homogenous 'clone towns'. Disillusionment and alienation will continue to rise and the gap between politics and the people will continue to widen.

In Scotland we have been kidding ourselves on that a few successful audits of local authority bureaucracy have shown there is no problem. But worse than that, the letters pages of many newspapers suggest that we aren't even widely aware of our status as the least locally democratic nation in the developed world. This cannot be allowed to continue indefinitely.

So there are three core conclusions from this report:

- Local democracy is important in principle and in practice
- There is a clear democratic deficit in Scotland at the local level
- To resolve this the Scottish Government should set up a Commission to devise a layer of democracy which can be established below the level of the existing local authorities

In considering how that might be done the report recommends:

- There is no justification for any major restructuring of the administrative bureaucracy of existing local authorities; what is needed is not an extra layer of bureaucracy but an extra layer of democratic decision-making to guide and instruct that bureaucracy
- There are some core principles that must be adhered to in devising that layer of democracy, central among which is that democracy must be universal and not 'voluntarist'
- The proposals should be bold in following the principle of subsidiarity – we should trust communities to make as many as possible of the decisions which impact on them themselves, which means making sure they have the maximum possible power
- However, it is important to also make clear that national government does have an important role in establishing national policy frameworks and in ensuring national minimum standards.

It also seeks to set the debate in context:

- Cost should not be seen as a deterrent: as there is no proposal for restructuring the administrative function of existing local authorities the cost of introducing democratic councils should be no more than a few tens of millions of pounds at most
- Fear of 'competence' must not inhibit the debate: the tendency of some professional politicians and administrators to assume communities are not capable of managing their own affairs is clearly contradicted by the experience from across Europe
- This is not a low-priority issue: the current structure which sees politics and decision-making take place distant from and with little reference to the people the decisions affect lies at the very heart of many of the major problems of disillusionment with democracy that are regularly identified in Scotland and the UK as a whole

We believe that this is a matter that should command strong cross-party support and urge politicians of all parties to support these calls for reform.

Is there a problem?

Local government is a combination of two elements:

- Effective representation of the hopes, views and needs of the population served in the development of actions and strategies
- Efficient and transparent achievement of those actions and strategies

If the latter is not in place you risk corrupt and inefficient government which fails to secure the confidence of the population and fails to deliver. If the former is not in place you risk a managerialist

administration which fails to reflect the interests and views of the population, also leading to a lack of confidence in government. This report will refer to these as the *democratic element* and the *administrative element*.

We accept the conclusions of the Audit Scotland reports on local government in Scotland that the administrative element of Scottish local authorities is broadly efficient and transparent and functioning pretty well (with the caveat that while this is true of many services there are failings in some areas, such as the management of PFI contracts). We do not believe there is any justification for any major restructuring of the administrative element of local government in Scotland.

But all the evidence suggests that the democratic element is failing badly. To set the context, attempt the following 'thought experiment':

> Think of your community, however you define it. Think of something your community might want to achieve. Imagine that every single person in your community agreed. Now try to think of any way in which you could use even a unanimous democratic vote to achieve that universally shared goal.

It is almost impossible to resolve this thought experiment because decision-making takes place so far from any identifiable communities that the voice of a single councillor elected by that community is largely ineffectual. In a democracy, people can demand action; in Scottish local democracy at best you can plead for it.

If local democracy is indeed failing you would expect to see three main indications:

- A weak culture of debate and discussion of community issues and low levels of expectation of what local government will achieve
- A low level of public interest in local politics
- A poor rate of people standing for local elected politics

To test this, we examined seven indicators to assess this picture: population size of local authority area; geographical size of local authority area; turnout (as a proxy for the interest in local democracy from local people); numbers of local and regional tiers of governance; number of electors per local elected official; number of candidates as a proportion of the population (indicating public interest in getting involved in politics); number of candidates contesting each seat (as a measure of how plural 'competitive' local democracy is). As can be seen, Scotland comes bottom of every measure.

	Average Population Size	Average Geographical Size (sq km)	Turnout at Local Election	Number of sub-national governments			Ratio of Councillors to Citizens
				Local	County	Regional	
Austria	3,560	36	73%	2,357	99	9	1 : 200
Denmark	56,590	440	69%	98	5	-	1 : 2,000
Finland	15,960	1,006	61%	336	2	-	1 : 500
France	1,770	17	64%	36,697	101	27	1 : 125
Germany	7,080	31	60%	11,553	301	16	1 : 400
Italy	7,470	37	75%	8,094	110	20	1 : 600
Spain	5,680	62	73%	8,116	52	17	1 : 700
UK	152,680	601	39%	406	28	3	1 : 2,860

Scotland	163,200	2,461	54%	32	-	-	1 : 4,270
EU Average	5,630	49	-	-	-	-	-
Note that because Scotland has held its last four local elections on the same day as the national election this is widely accepted to have artificially boosted the turnout for Scottish local elections. Even so, Scotland is still worse than any country other than England.							

	Proportion of the population standing in local elections	Number of candidates contesting each seat
Finland	1 in 140	3.7
Norway	1 in 81	5.5
Baden-Württemberg	1 in 141	3.6
Sweden	1 in 145	4.4
Scotland	1 in 2,071	2.1

While none of these measures on their own conclusively 'prove' anything, the cumulative impact is quite clear: there is no indicator this report was able to identify which *did not* suggest that Scotland is Europe's least democratic nation at the local level. And this appears to demonstrate that the chain of consequences outlined above is indeed demonstrated – there *does* appear to be a weak culture of debate and discussion of community issues, there *does* appear to be a very low level of interest in local politics and the population as a whole *does* appear to be removed from active local politics.

Does local democracy matter?

There has been a tendency to conclude that since no-one seems to be interesting in local democracy this must imply that there is no problem. Much mainstream debate has been captured by the twin ideas that 'there is no appetite for restructuring' and 'the last thing the public wants is more politicians'. Both these concepts are deeply flawed; would 'no appetite for tackling poverty' equate to no problem? Does the fact that people don't like their electricity supplier mean they don't want electricity? If local administration is working while local democracy is failing, does this collectively amount to a problem that requires action? After all, one of the fashionable viewpoints of recent politics is that 'what matters is what works' – if people are getting the services that they want, how those services are specified and delivered doesn't matter. We would put forward seven important reasons why local democracy very much does matter:

- **Perspective.** Administrators see communities from outside – without the perspective of local democracy it is simply impossible to make any meaningful, rounded judgement on whether local government is working for local people.

- **Effectiveness.** Effectiveness is a combination of doing the right things and doing them well; doing the wrong thing well is not effectiveness. Both public and private sector administration is littered with actions that proved to be pointless because they bore no relation to the interests of the 'customer'. To tackle this the private sector has business failure; in the public sector there is only democracy.

- **Efficiency.** Likewise, doing something in an efficient manner that produces the wrong result is not efficient. Local democracy is the crucial way of ensuring that the care that is put into financial management is matched by adequate care in specifying projects in a way that means they will function for the community when completed.

- **Localism.** Local democracy (and powers which reside locally) is the only way to ensure

there is an inclusive expression of what is genuinely different and unique about a local area. Without it there is only central planning by professional administrators.

- **Pluralism.** Creativity comes from the 'battle of ideas'. Public sector managers deliver, they do not create big ideas. Local democracy encourages pluralist debates about what to do and how to do it which generates creative and innovative thought. If we lose the pluralism, we lose the creativity – and the ability of people to express their own views.

- **Political resilience.** Without lively community and local politics the next generation of national politicians will inevitably come from 'within the system'. This does not offer a resilient structure for refreshing and renewing national politics. If elected politics is distant, disconnected and insular, then we should expect distant, disconnected and insular politicians.

- **Principle and precedent.** Above all, if we are to accept the argument that 'yes, this is a democratic failure but we've learned to live without democracy', where does the argument end? With a minority of the population expressing a meaningless say in national government which is run by professional classes on the basis of their own priorities? Democracy must be protected for its own sake. The alternative is not attractive.

A democratic structure for Scotland

A brief look at international comparators shoes that there is a wide range of options for exactly how a new layer of local democracy might be implemented and many valid arguments one way or the other on each. It is for this reason that this report recommends that a Scottish Government commission should be established to resolve these and develop a complete proposal. However, it is possible to outline the skeleton on which a new structure should be devised, outline some key principles on which it should be based and to identify some of the main questions that must be resolved.

There is no major and consistent failing in the way that existing local authorities operate (other than in failing to reflect the diversity of local democratic opinion). Any reorganisation that resulted in upheaval of infrastructure or employment would be massively costly, time-consuming and demoralising; since there is no evidence of administrative failure, even attempting that sort of wholesale reorganisation is entirely unjustified.

However, wholesale reorganisation is not what is required to address the issue. What is needed is a more democratic means of informing the operation of local government. It is therefore entirely possible to maintain the existing structures of administrative delivery but to increase the democratic means through which that function is specified and monitored. What is required is a layer of democracy below the current local authority level. It would require little additional bureaucracy; rather, the existing bureaucracy would simply be governed by different elected bodies according to the allocation of powers and functions.

There are many options for organising a new layer of government and that layer will itself be diverse – the right 'local council' for a collection of rural villages will be different to that for a large regional hub town (and the council structure in the big four cities currently look not unlike their European counterparts). But there are some basic principles that should apply to the development of a new system:

- Above all it is imperative that local democracy should be **universal** and not reliant on a community 'opting' for democracy. A 'voluntarist' approach favours communities where people have time, self-confidence and experience – often this means affluent communities.

- There must be a clear recognition that **elected politicians are central to democracy**; while modern technologies may offer new ways to gauge public opinion they do not offer a means of holding democratic institutions to account.

- Ultimate **responsibility must lie with the democratic body** and not with paid officials. The instinct of professionals to prevent elected officials 'making mistakes' must be curtailed; communities must be free to make their own decisions and live with the consequences.

- We should accept that **consistency is not the primary goal** and that different kinds of democratic bodies suited to different areas and communities is fine.

- Similarly, **diversity of outcome is an inevitable and desirable result of democracy** and 'managing out' difference should be avoided wherever possible

- The assumption that homogeneity and size are synonymous with efficiency must be rejected. **Outcome must come first**; the role of efficiency must be in delivering democratic outcomes as well as is possible.

- **The principle of subsidiarity should be adhered to**; powers should lie as close to the affected communities as is possible.

- However, it must also be recognised that there will also be a right to expect some national standards of quality and that the **nationally elected government has a clear locus to set national priorities and policy frameworks**

- **Local units of democracy should not undermine the principle of collective social cohesion** and must not become a means of promoting greater inequality between poorer and richer communities. As in long-establishrd precedent, a mechanism for redistribution according to social need must be a central part of the system.

The main report then contains detail of the sorts of issues a Commission would need to resolve, such as the structure of new democratic councils, the numbers of community politicians, should there be 'elected provosts' and how can minimum standards of service be ensured.

The question of how financial arrangements might be structured is considered. The conclusion is that the current system of local government finance in Scotland is widely considered to be seriously flawed and in need of reform. It is outside the scope of this report to address the issue of overall local government finance, but it concludes that funding a new layer of democracy from within the current arrangements is perfectly possible, so long as effective means of transfer according to social need is devised.

The question of how powers would be allocated is also considered. Two starting-points are proposed. First, there should be a power of General Competence – all elected bodies should be able to do anything they want within the law other than where they are expressly forbidden. And second, a policy of subsidiarity should be accepted (as highlighted in the principles above).

Cost

Finally, as there are many options for how a new layer of democracy might be organised there is a range of possible running costs. However, at this point it is important to stress once again that this report does not propose restructuring of existing local authority administration; no jobs will be changed or moved. The cost is simply the cost of establishing and maintaining democratic forums at the local level which would then instruct the existing administrative organisation. The main report models what it might cost to run a Scottish version of the system which operates in the Baden-Württemberg Länder of Germany (which has one of the most comprehensive and extensive local democratic structures among the comparator examined). It concludes that even such a 'top end' solution might cost in the order of £19m to run annually. And while there might be some knock-on administrative costs, it is reasonable to argue that these would be off-set by better government and a greater responsibility of communities to raise money or reprioritise budgets to pursue their own priorities.

Conclusion

The question of Scotland's failing local democracy is sharply highlighted by the lacklustre campaign for the 2012 elections. Barely one in three people is expected to vote and more or less one in two candidates will be elected from a tiny pool of talent. This is not good enough for a country like Scotland, and the lack of awareness of this very real problem among both the political classes and the general public is a further sign of a striking democratic deficit.

Put simply, Scotland must drag itself off the bottom of the league table of locally democratic developed countries. Strengthening community councils or imposing elected provosts may offer a stop-gap solution or form part of a bigger solution, but they are certainly not a solution in themselves. A problem of this magnitude can only be resolved via a major national commission. Scotland should not have to go into another local election on the basis of such a hollow and ineffective local democratic structure.

Annex B: Democratic Governance

The following is an adapted extract from the Reid Foundation's paper ***Democratic Universities***

There are a number of different ways that models of governance can be defined. The following list outlines a number of different approaches;

- **A democratic model:** here governance takes place via open elections on the basis of one person one vote with pluralism (i.e. that representatives will represent different interests), accountability to the electorate and the separation of elected members, who make policy, from the executive, who implement policy decisions.

- **An agency model:** here 'owners' of an institution and those that manage it will have different interests so the owners use corporate governance arrangements as a 'compliance model' to ensure that management acts in the best interests of shareholders

- **A stewardship model:** here it is assumed that in general managers want to do a good job and will act as effective stewards of an organisation's resources. As a result senior management and governors are better seen as partners. Hence, the main function of the board is not to ensure managerial compliance but to improve organisational performance. The role of the board is primarily strategic, to work with management to improve strategy and add value to top decisions.

- **A resource dependency model:** this is a co-optation model which views organisations as interdependent with their environment. Organisations depend crucially for their survival on other organisations and actors for resources. As a result they need to find ways of managing this dependence and ensuring they get the resources and information they need. From this perspective the board is seen as one means of reducing uncertainty by creating influential links between organisations through for example interlocking directorates. The main functions of the board are to maintain good relations with key external stakeholders in order to ensure the flow of resources into and from the organisation, and to help the organisation respond to external change.

- **A stakeholder model:** this is based on the premise that organisations should be responsible to a range of groups (or stakeholders) other than just an organisation's owners or mandators. By incorporating different stakeholders on boards it is expected that organisations will be more likely to respond to broader social interests than the narrow interests of one group. This leads to a political role for boards negotiating and resolving the potentially conflicting interests of different stakeholder groups in order to determine the objectives of the organisation and set policy.

- **A managerial hegemony model:** this is a 'rubber stamp' model where governance control has been ceded to a new professional managerial class and the role of governance is to approve the decisions of management unless there is serious concern about decision.

There is an argument that in some cases public sector governance will benefit from 'stewardship' and 'stakeholder' models of governance. However, these can be accomodated within a democratic model and only the democratic model has an in-built means of testing whether governance is wroking for the community it serves.

Annex C: The basis of principles and premise of an 'independent public consultation unit'

The Consultation Institute is a not-for-profit organisation which seeks to promote the highest standards of public, stakeholder and employee consultation. While it is only one organisation dealing with 'ethical consultation', it works according to a series of principles which would be appropriate to an independent consultation unit.

The Consultation Institute have come up with a 'Consultation Charter' (http://www.metafaq.com/resources/hdieurope/TCI_General/Charter) for best practise in public consultation. Any independent public consultation unit would of course have to adapt its consultations based on the specific circumstance, but the 'Consultation Charter' provides a useful code of best practise to follow in consultation. The charter is based on seven 'best practise principles':

Principle 1: The Integrity of Consultation - The process must have an honest intention. The Consultor must be willing to listen to the views advanced by consultees, and be prepared to be influenced when making subsequent decisions. If the decisions subject to consultation have already been taken, it is a waste of consultees' time and a fraud upon all participants to undertake a purposeless exercise, and breaches the principle of Consultation Integrity

Principle 2: The Visibility of Consultation - All those who have a justifiable right to participate in a consultation should be made reasonably aware of the exercise. For closed consultations, this will be less demanding than for open consultations. Visibility is also important for decision-makers who should have full awareness of any consultation exercise which is relevant to decisions they are about to take.

Principle 3: The Accesibility of Consultation - Consultees must be able to have reasonable access to the exercise. This means that the methods chosen must be appropriate for the intended audience, and that effective means are used to cater for the special needs of hard-to-reach groups and others with special requirements. New technology offers an ever-wider choice of consultation mechanism, but consultors must always ensure that the Digital Divide does not disenfranchise citizens or stakeholders.

Principle 4: The Transparency of Consultation - Many Consultations are highly public, and rightly so. Indeed the principle of Transparency and the Freedom of Information Act 2000 requires that stakeholder invitation lists, consultee responses and consultation results be published. But this should only occur with the express or implied consent of participants. Consultors who intend to publish details of respondents and their responses have a duty to ensure that this is understood by all participants. Consultation submissions will be publicised unless specific exemptions apply. Freedom of Information Act requests can now be used to disclose data previously kept hidden.\ Information gathered under Consultation processes, and organisations responsible for gathering, processing and storing such information must also comply with Data Protection legislation applicable in whichever country this takes place. For the UK, the Data Protection Act 1998 applies.

Principle 5: The Disclosure obligations in Consultation - For consultation to succeed, and to encourage a measure of trust between the parties, it is important to provide for reasonable disclosure of relevant information. Consultors are under a duty to disclose information which could materially influence the nature and extent of consultees' responses. In particular, areas where decisions have effectively been taken already, and where consultee views cannot influence the situation, should be disclosed. Consultees are also under a duty to disclose certain information. If a representative body expresses a view on behalf of its members, it should inform the consultor of the presence of any significant minority opinion within its membership, and be prepared to estimate the extent to which it is held.

Principle 6: The Fair Interpretation of Consultation - Information and viewpoints gathered through Consultation exercises have to be collated and assessed, and this task must be undertaken objectively. Only in exceptional circumstances should the decision-makers themselves be involved with primary assessment of the data, and the use of external assessors has many advantages. Where consultors use weighting methods to assist in the assessment process, this must be disclosed to participants and to decision-makers relying on the consultation output.

Principle 7: The Publication of Consultation - Participants in a consultation exercise have a proper expectation that they will see both the output and the outcome of the process. Except in certain Closed or Internal consultations, the assumption should be that publication in a form accessible to the consultee will follow within a reasonable time after the conclusion of the exercise. Where no publication is intended, it is the duty of the consultor to disclose this when initially inviting stakeholders or the public to participate.

We would add to this set of principles the importance of deliberation in consultation through the use of 'mini-publics' as outlined in practical and cost terms in Appendix D.

An independent public consultation unit should also tasked with framing questions in as neutral a manner as possible in order to minimise the possibility of 'leading' in language and other suggestive forms that can influence decision-making

An independent public consultation unit should also not simply take its mandate from the government's proposed policy portfolio. It should be able to take proposals from the public and public bodies on issues of concern/interest to the public at large.

Annex D: Mini-Publics in Scotland

Stephen Elstub, School of Social Science, University of the West of Scotland

Oliver Escobar, Academy of Government, University of Edinburgh

Background

This is proposal for the use of mini-publics to increase opportunities for citizens to deliberate together, become increasingly informed about public policy issues and to influence public policy in Scotland. The idea of mini-publics was first proposed four decades ago by political scientist Robert Dahl (1989). Inspired by democratic ideals and social science principles, Dahl envisioned an innovative mechanism for involving citizens in dealing with public issues. He called it 'minipopulus': an assembly of citizens, demographically representative of the larger population, brought together to learn and deliberate on a topic in order to inform public opinion and decision-making.

A growing number of research and democratic innovations have flourished around the world based on this idea, from the Citizen Jury, to Planning Cells, Consensus Conferences, Deliberative Polls and Citizen Assemblies (see Table 1). They have been used to deal with topics ranging from constitutional and electoral reform, to controversial science and technology, and myriad social and policy issues (e.g. health, justice, planning, sectarianism).

What is a mini-public?

Mini-publics are made up of randomly selected citizens, for instance, chosen by lot from the electoral roll or a similar source that may function as a proxy for the relevant population. The principle here is that everyone affected by the topic in question has an equal chance of being selected, and this underpins the arguments that can then be made about its legitimacy. Participants are typically selected through stratified random sampling, so that a range of demographic characteristics from the broader population are adequately represented –e.g. age, gender, ethnicity, disability, income, geography, education, religion, and so on. The purpose is to use social science methods to assemble a microcosm of 'the public', a mini-public, with each citizen having an equal chance of being selected. Smaller mini-publics are not intended to be statistically representative of the population, but are still demographically diverse. Participants are remunerated, the discussions are facilitated, and experts provide evidence and advocacy of relevant information and positions and are then cross-examined by the lay citizens. They are usually issue specific, and dissolved as soon as the issue has been deliberated (Dryzek 2010: 59). Despite these common features, there are a variety of types of mini-public including citizens' juries, planning cells, consensus conferences, deliberative polls and citizen assemblies. Each is covered briefly in turn below.

Citizens' Juries

Citizens juries (CJs) were first established in 1971 in the USA by Ned Crosby of the Jefferson Centre before the deliberative turn started, but have been employed in many other countries since then including the UK, Netherlands, Ireland, France and Australia. They cost approximately £16,000 to £30,000. Approximately, 12-25 randomly stratified selected participants are assembled for 4-5 days to discuss an issue and produce a collective recommendation. According to its originators, CJs are designed to provide jurors with some control over the process including facilitation, choice of witnesses, and the nature of interaction with the witnesses.

Consensus Conferences

The Danish Board of technology devised Consensus Conferences (CCs) in the late 1980s just as the deliberative turn started. Although they were originated in Denmark, and the vast majority of CCs have been held there, they have been employed in a number of countries including Australia, Argentina, New Zealand, Korea, Israel, Japan, Canada, UK and the USA. They cost between US $70,000 and $200,000. Danish consensus conferences, are divided into two stages. 10-25 citizens are selected by stratified random sampling. Firstly the citizens 'meet for two prepatory weekends to learn about the topic, the process, and the group' which involves selecting the experts and interest groups from a list to advise and present to the citizens in the second stage of the conference. The second stage of the conference lasts four days and the citizens hear the presentations from their selected advocates and experts before questioning them and then compiling a collective report which outlines their collective decision. Both consensus conferences and CJs (at least in the USA) use an external advisory committee that selects the citizens, compiles the list of experts from which the citizens choose, develops information packs and selects facilitators. This committee tends to be made up of academics, practitioners, issue experts, and even interest group representatives.

Planning Cells

Planning cells (PCs) originated in Germany and were created by Peter Dienel, of the Research Institute for Citizens' Participation at the University of Wuppertal in Germany in the 1970s, before the deliberative turn started. PCs have predominantly been held in Germany but also in Austria, Switzerland, Spain and the USA. They cost between US $180,000 and$240,000. A series of Planning cells, usually 6-10, with about 25 citizens participating in each run concurrently on the same issue for about four days, usually resulting in 100-500 citizens participating in total. This is not exclusive to PCs as CJs have also been run concurrently on the same issues, but where it is the norm with PCs it is an exception for CJs. They are also facilitated differently to CJs and CCs, with the facilitators more likely to be issue than process specialists. The planning cell convenors then aggregate all the preferences across all the cells into a report, which is then approved by a selection of the citizens from the various cells, before being published and distributed to relevant decision-makers and stakeholders.

Deliberative Polls

The deliberative poll was first set up by James Fishkin and the Center for Deliberative Polling in 1988 in response to the deliberative turn. A deliberative Poll (DP) with its more representative 130-500 sample 'is designed to show what the public would think about the issues, if it thought more earnestly and had more information about them' (Luskin et al. 2002: 258). The first ever DP in the world was held in the UK in 1994, since then they have been run in many countries including Canada, USA, Denmark, Hungary, Bulgaria, Greece, Brazil, Australia and China. They cost approximately £200,000.The process involves taking a probability sample of voters, surveying their opinions on an issue, sending them balanced information about the topic in question, gathering them together to discuss the issues with each other in small groups and with a balanced range of experts in plenary sessions, and then surveying their opinions again. Ideally they are televised, or at least receive broad media coverage to contribute to informing the broader. The participants' preferences are aggregated, as they are not required to come to a collective decision themselves, through deliberation, as in CJs and CCs.

Citizen Assemblies

Citizen Assemblies (CAs) are the newest (since 2004) and potentially the most radical and democratically robust of all the mini-public types developed to date They are difficult to

assess as there have only been three cases in British Columbia, Ontario (both in Canada) and the Bungerforum in the Netherlands, and all three have addressed the issue of electoral reform. The two Canadian cases preceded a referendum on electoral reform, for which the assembly determined the options on the referendum, as well as making recommendations for the referendum outcome. In the Dutch case the citizens' recommendation was passed to the government for consideration. An assembly will last months or even a year. The three cases so far have assembled 100-160 participants. In all the assemblies the citizens were selected randomly from the electoral register, a further random selection is then made from those who express an interest in participating, meaning they are not strictly a random sample. Nevertheless, it is still considered that all three assemblies were representative of the broader population in terms of age, gender and geographical location. The process progresses in three phases: the learning phase which takes six weekends and enables the participants to get to grips with the complexities of the different electoral options, the consultation phases where the randomly chosen citizens run public hearings in their local constituencies to gather information and opinions from other members of the public, and the deliberative phase when the citizens discuss the issue and agree their final proposal. Following the deliberation, a vote amongst the participants was conducted to decide a final outcome of the assemblies.

Table - Key features of mini-publics

	Citizen juries	**Planning Cells**	**Consensus conferences**	**Deliberative polls**	**Citizen assemblies**
Developed by (first instance)	Crosby (USA, 1971)	Dienel (Germany., 1970s)	Danish Board of Technology (1987)	James Fishkin (USA, 1994)	Gordon Gibson (Canada, 2002)
No. of citizens	12-26	100-500	10-18	100-500	103-160
No. of meetings	4-5 days	4-5 days	7-8 days	2-3 days	20-30 days
Selection method	Random selection	Random selection	Random + self-selection	Random selection	Random + self-selection
Activities	Information + deliberation	Information + deliberation	Information + deliberation	Information + deliberation	Information +consultation +deliberation
Result	Collective position report	Survey opinions + Collective position report	Collective position report	Survey opinions	Detailed policy Rec-ommendation
Destination of proposal	Sponsor and mass media	Sponsor and mass media	Parliament and mass media	Sponsor and mass media	Government and public referendum

Source: Elstub, S. (2014) in Elstub, S. and McLaverty, P. (Eds.), *Deliberative Democracy: Issues and Cases*, Edinburgh University Press. (Table based on Fournier 2011: 11)

How does it work?

Typically a mini-public comprises five stages:

1. Planning and recruitment. Ideally, a Stewarding Committee oversees the whole

process to ensure its quality. For instance, in the Canadian Citizen Assemblies on Electoral Reform, the Committee included academics and public figures from a range of backgrounds and opposing views. Often, mini-publics deal with divisive topics, and thus their legitimacy and impact hinge on the buy-in from a range of voices across various divides –as well as the public standing of their guarantors, stewards and funders.

2. Learning phase. Participants are supported to learn about the topic from diverse perspectives. This can be done by combining time for individual learning (e.g. they receive information packages agreed by the Stewarding Committee), with time for group learning. During the latter, they are exposed to a range of evidence, views and testimonies covering the topic from various angles. Depending on the topic, this may include experts, officials, politicians, activists, and stakeholder representatives of various sorts (e.g. business, third sector, communities). Participants are empowered to interrogate these 'witnesses', and sometimes to choose them from a list prepared by the Stewarding Committee –who oversees that the mini-public is exposed to a balanced range of evidence and views.

3. Deliberative phase. Aided by impartial facilitators and recorders, participants then engage in small group face-to-face deliberation where they reconsider their initial ideas on the topic in the light of the evidence and testimonies from the learning phase, but also with respect to the arguments and experiences of their fellow deliberators.

4. Decision-making phase. The learning and deliberative work from previous stages enables participants to engage in considered judgement and informed decision-making. Depending on the topic, and the type of mini-public, this may lead to a particular recommendation or decision, which must be articulated through reasoned arguments in the final report or statement. That is the case in consensus-oriented mini-publics such as Citizen Juries –which, like court juries, respond to a 'charge'- as well as Consensus Conferences and Citizen Assemblies. In research-focussed mini-publics, such as Deliberative Polls, the aim is not to necessarily reach consensus, but to measure through pre- and post- surveys how citizens' preferences may change through learning and deliberation.

5. Follow up. The focus in this stage is impact. Ideally, the mini-public has already been in the 'public eye' from its inception. One way to ensure this is to involve key public figures and broadcasters in the process and Stewarding Committee. In this final stage, the outcomes and outputs of the mini-public are shared through all relevant networks, thus informing broader public deliberation and decision-making.

What is the point?

Mini-publics seek to answer a fundamental question: How would 'the public' deal with an issue if they had the time and resources to learn and deliberate about it in order to reach an informed decision?

As a method, it counters the criticism that survey research only provides snapshots of uninformed opinion by members of the public who may know little about an issue, or may not have even thought about it. Surveys are excellent to aggregate individual knowledge and opinion, but don't help researchers to learn about ways of fostering evidence-informed public deliberation, nor provide insight into the development of citizenship skills and social learning.

Furthermore, by creating an experimental space characterised by interpersonal dynamics, mini-

publics treat participants as agents situated in collective contexts –rather than as mere individuals with fixed preferences. The social imaginary behind this research process is, therefore, that of the 'citizen' who negotiates the meaning of the 'public good' by participating in the 'demos', rather than the 'consumer' who shops in the 'market of ideas' according to preformed individual preferences.

Mini-publics can also avoid some typical pitfalls in public engagement processes, including:

- Self-selection and lack of representativeness. Most engagement methods attract self-selected participants of certain demographic characteristics, and struggle to reach a cross-section of the population.

- Poor quality of interaction and communication. In mini-publics, expert facilitation is instrumental to avoid the usual problems of many forums: dominant voices, silenced views, confrontational dynamics, lack of thinking time (reflex responses), shallow exchanges, rehearsed monologues, pre-packaged arguments, lack of opportunities to learn about diverse views, and so on.

- Need for division of labour. Not everyone can participate in everything all the time. Mini-publics can function as proxies for the broader public, and citizens can use them as points of reference for their deliberations, e.g.: 'I don't have the time to engage substantially with this issue, but these recommendations were prepared by citizens like myself, so…'

Mini-publics can also contribute to the development of a range of other dimensions such as encouraging longer term levels of civic engagement; developing the capacity (self-efficacy) of 'ordinary' citizens to learn, deliberate and decide on complex issues; and providing an opportunity for citizens to learn and consider evidence on complex public policy problems.

Using mini-publics for political influence and impact in Scotland

We believe that the range of mini-public types offer an excellent array of options to provide citizens with a meaningful and equal opportunity to participate in the public policy process in Scotland. Different types of mini-public could be used in different contexts for example different policy types or various stages of the policy process. In particular we hope that this brief helps to imagine the research potential of facilitating a mini-public in the context of both the independence and constitutional debates in Scotland. Of all the mini-publics held around the world, this would be the first one on this topic –and the first ever large-scale mini-public held in Scotland. We would argue that this might be the only way to answer the following question: How would an informed cross-section of the public address this issue after balanced learning, substantial deliberation and considered judgement?

This is not to suggest that mini-publics are the only relevant type of institution that can deepen democracy in Scotland and open up opportunities for citizen influence on public policy. Nevertheless, they do provide distinct and unique advantages and could be used in combination with other new and traditional forms of participation and representation that already exist in Scotland.

In terms of broader impact, a mini-public can contribute to raise the level of public dialogue and deliberation in various ways. In the constitutional debate, it is common to hear concerns about the 'uninformed public', the 'distorting media context', and the lack of opportunities to 'get a fair hearing' for all perspectives. Furthermore, citizens can also feel uninspired to engage with

the issue due to a lack of safe spaces for learning and deliberation, and the absence of new and trusted points of reference to guide their judgements. A robust mini-public can provide that 'safe space' and 'trusted point of reference'.

Furthermore, the impact of a mini-public is not necessarily limited to the selected citizens, those involved through internet channels that feed into the process, or those reached by outputs or through the media. There is a 'capacity-building' dimension that can further multiply the effects of a mini-public process. For instance, everyone involved (participants, organisers, experts, witnesses, etc) can learn new ways of working through collaborative inquiry and deliberative communication, and take that back to their respective worlds. In particular, there is scope for including a training programme in facilitation skills not only for the facilitators but also for everyone involved. In the British Columbia Citizens Assembly on Electoral Reform, for example, the selected citizens were encouraged to facilitate public hearings in their communities –spread across the province- so that they could then bring a range of other views to inform deliberations at the Assembly.

All in all, with hundreds of millions of pounds spent on public engagement and consultation across policy areas in Scotland, there is a clear need for robust evidence and meaningful experimentation. Mini-publics are innovative in their principles, methodology, outcomes and outputs, and have the potential to offer unique opportunities for21st century politics, policy and citizenship engagement and influence.

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Annex E: A case study of participatory budgeting

Why Participatory Budgeting?

The UN-HABITAT (United Nations Human Settlements Programme) describe a participatory budget as "a mechanism (or process) through which the population decides on, or contributes to decisions made on, the destination of all or part of the available public resources." This is a very general description as participatory budgeting has varied from place to place, with differing degrees of civic input and economic power.

The UN-HABITAT argue that the input of poor residents in participatory budgeting is: "not only a right, but is also instrumental in achieving greater effectiveness in the implementation of public policies". Civic rights and budgetary effectiveness are seen as complimentary: the former makes the latter more likely.

Porto Alegre is seen as the most succesful model of participatory budgeting through deliberative democracy. Hernandez-Medina (2010) argues that "according to observers, this model has delivered three critical outcomes: a significant decline in 'corrupt behavior and administrative malpractices'; a similarly impressive reduction in clientelism through the pressure on city councilors and potential candidates exerted by a more 'demanding and informed population'; and an important increment in progressive redistribution achieved through allocations in the city budget (Navarro, 1998: 68–71). Abers (1998: 12–13) emphasizes three key strategies implemented in Porto Alegre: an explicit emphasis on mobilizing 'the unorganized and the poor'; the transformation of the state bureaucracy so that it is 'capable of custom tailoring projects to participant demands and of disseminating information and skills to ordinary citizens'; and a concerted effort to elicit a wide base of political support across sectors."

Evidence proves that the input of minority groups into discussions improves the likelyhood of all participants exerting "more cognitive effort, attend to more aspects of the situation, think in a divergent way, and are more likely to detect novel solutions or come to new decisions." Mannix and Neale (2005: 47). This usually requires a critical mass of minority participation for them to feel confident to express themselves freely, around 30-35%.

Citizen-participation can be defined in three ways: "(1) 'exclusion', defined as the total absence of civil society and other actors from decision-making processes for formulating and implementing urban policy; (2) 'mediated' participation where citizens have to resort to more sporadic modalities such as demonstrations, clientelistic networks or mere consultations; and (3) 'synergistic'participation, which would be the ideal (yet relatively rare) type of interaction, implying a regular and collaborative space between citizens and policymakers that ensures mutually beneficial policy outcomes for both sides." (Hernández-Medina, 2008)

Sao Paolo: participatory budgeting in a divided city

Sao Paolo is an important case study of participatory budgeting as unlike Porto Alegre it is a city of sharp political and economic polarisation with a huge population. It is a city of 20million people, home to a large share of Brazil's trade and is the base for many global corporations operating in Latin America. The cities inequality is huge, especially between centre and periphery. The periphery recieve a massively reduced level of public services, despite harbouring the majority of the city's population:

"Whereas in the central district (Centro) 1.3 percent of the domiciles lacked water, 4.5% lacked sewage treatment, 1.7 percent lacked paving, and 0.8 percent lacked garbage collection, in Itaquera, a new district in the eastern periphery, 89.3 percent of the domiciles lacked water, 96.9 percent lacked sewage services, 87.5 percent lacked paving, and 71.9 percent lacked garbage collection (Caldeira, 2000: 228)." (Hernandez-Medina, 2010)

Sao Paolo has been politically characterised by polarisation between reformers and conservatives for decades.

Participatory budgeting was introduced in Sao Paolo in 2001 by the new Workers Party administration, it amounted to 5% of the city's budget and this rose to 8% by 2004. Consequently it has never been the kernel of city planning and infrastructure, something which was contested within the Workers Party on its introduction, but has had significant power nonetheless. In the year 2003 the budget in monetary terms was US $366.67 million (Sánchez, 2004).

Importantly, 62-64% of the city's investment budget was decided by participatory budgeting (PB). This investment was largely about providing public services to marginalised communities. Indeed, evidence shows that the most peripheral communities in Sao Paolo recieved the biggest investment by the PB's (Hernandez-Medina, 2010).

Structure of PB's

PB's were structured into three levels: regular participants, delegates and councillors (see table 2 below). Each level had different powers and different responsibilities:

- Regular participants were ordinary citizens who attended PB assemblies at the beginning of the PB cycle from January-April. These assemblies were entirely open to the public. Many of those involved in the assemblies were amongst the poorest in Sao Paolo and 78% were regularly involved in neighbourhood associations and social movements.

- Delegates formed the first level of representation in the PB. One delegate was elected per 20 assembly participants. Delegates held regional forums throughout the year to keep assembly members informed of how the decisions made at the assemblies were being undertaken and the progress that was being made. These became an important source of accountability from below for the PB's.

- Councillors were elected amongst the delegates to form the second level of representation. They were the ultimate decision-making bodies of the PB's, as policy was adopting at PB councils which took proposals from local PB's and from city government and put it forward to be made law in the annual budget.

Levels of participation and representation in the PB in São Paulo

Year	No. of Participants	No. of Delegates	No. of Councilors	No. of Assemblies
2001	34,000	1,076	112	191
2002	55,000	1,134	139	386
2003	80,000	2,131	216	450
2004	82,000	2,219	241	653

Source: Derived from COP (2004a) (Hernandez-Medina, 2010)

Overview of PB cycle in São Paulo (2004 round)	
Period	**Actions**
January–February	Publication of Plan of Works and Services and reporting on outcomes from previous year; 'thematic cycle' starts
March–April	'Territorial' and 'segment' delegates are elected
May	'Intermediary' round of preliminary negotiations between delegates and public officials about which proposals are technically feasible
June	Continuation of 'territorial' cycle and election of councilors by and among the delegates
July	PB Council (CONOP) starts to operate
August–September	CONOP deliberates with city government about proposals presented by citizens in the PB for next year's budget
October–December	CONOP follows up on decisions and negotiations
Sources: Derived from COP (2004a) and Sánchez (2004) (Hernandez-Medina, 2010)	

Participatory budgeting in action: housing

One area the Sao Paolo PB put alot of work into was housing. The 2001 city housing strategy was co-ordinated by 16 pre-conference which involved 22,330 people in local assemblies. They elected delegates (1 in 10) to the bi-annual city housing conference which finalises the housing budgets. The priorities were ranked as the following:

> "regularization of favelas, upgrading of favelas, mutirões self management of projects, housing program for the central area, interventions in settlements located in hazardous zones, completion of mutirões projects underway, social location projects, improvement of public facilities in housing conjuntos, special programs for street and disabled persons, popular participation processes, and technical and legal assistance." (Ibid, 2001)

This wide-range of objectives was not simply wishful thinking as they had a serious budget to back it up. They budgeted that in 2002 they would implement:

> "In addition to working on slum upgrading in 30 slums...31,000 housing units in 2002 distributed as follows: 9,000 mutirões, 3,000 city center projects, 3,000 risk zones, 1,000 social locations, 5,000 state program, and 10,000 federal program." (Ibid, 2001)

Affirmative action and Socially vulnerable segments

The Sao Paolo PB is the only one recorded to have combined affirmative action principles and participatory mechanisms. They were concieved of as 'a mechanism of social inclusion' so that 'human rights have a concrete channel of expression in the PB.' They targeted nine disadvantaged minority groups: 'Afro-Brazilians, senior citizens, children and adolescents, youth, the GLBT community, women, indigenous groups, the homeless and people with disabilities.' Overall it contributed significantly to increasing the participation of minority groups over time barring those with disabilities and LGBT people.

Whereas most delegates needed twenty votes, if you were disabled, homeless or indigenous you needed one vote and if you were any of the other minority groups you needed five votes. This affirmative action system was based on public self-identification as being part of one of

these groups. These delegates were described as 'segment delegates', as opposed to 'territorial delegates' based on geographical area and 'thematic delegates' based on policy area. Segment delegates were responsible for giving:

> "...visibility to issues relating to the following social segments, regardless of whether they belong to organized groups or not: women, blacks, senior citizens, people with disabilities, youth, indigenous population, the homeless, GLBT . . . (COP, 2004b: 28; my translation)."

They were expected to:

> "participate, debate, preserve and guarantee the inclusion of ideas and proposals that reflect the social inclusion of those segments through attitudes of respect, [and] tolerance to difference with regard to origin, sex, [skin] color, age, physical disability, sexual and cultural diversity, in defense of [the concepts of] non-discrimination and non-prejudice in all PB spaces (ibid)." (Hernandez-Medina, 2010)

Reports from the PB Council's show that this was effective in highlighting systemic discrimination in Sao Paolo against these communities (www.prefeitura.sp.gov.br). Overall PB participants found it useful to "tie the city" together as it was less based on geographical areas than the other delegates and took up issues the PB wouldn't neccessarily otherwise consider.

It's common for affirmative action processes to be recieved with a certain degree of reluctance by participants at first, and Sao Paolo was no different as people were worried about some getting elected with less 'effort'. But overtime the usefulness of it convinces the initial dectractors. The table below shows the extent to which minority communities became a key part of the PB over time.

Delegates by segment in the PB in São Paulo 2003 and 2004

Segment	No. of Delegates 2003	No. of Delegates 2004
Women	174	275
Afro-Brazilians	76	99
Homeless population	30	53
Youth	108	253
Indigenous population	11	40
People with disabilities	57	58
Senior citizens	132	200
GLBT	3	12
Total	620	990
% of total	29% (620/2,131)	44.6% (990/2,219)

Sources: Derived from COP (2004) and Sánchez (2004) (Hernandez-Medina, 2010)

Many of the socially vulnerable segments participated in the PB as a strategy for raising issues of concern, alongside others like protest and occupations. However, over time as they engaged in a process of deliberation and engagement with public officials and other citizens, it became more about representation of their community, and a certain 'pride' developed in ones position within the PB. They believed they were part of a relationship of 'equals among equals', one LGBT councillor said the PB was:

> "...a space where you have all the freedom as gay, or as a lesbian, or as a bisexual within the PB. We have liberty, respect and recognition. The first public space where I felt really [acknowledged] as a person was within the PB."

Conclusion

Participatory budgeting in Sao Paolo has suffered since the Workers Party administration were defeated in 2004. The difficulty with a civic democracy being too closely associated with one party is obviously an important lesson to learn from if PB's are to have longevity. But from the experience of 2001-2004 we can draw positive conclusions:

The PB achieved its purpose of improving investment in public services amongst the poorer communities on the periphery of Sao Paolo. The fact that the assemblies which were the base of the PB were overwhelmingly led by poor people can be seen to directly contribute to this outcome.

The affirmative action model of the PB to increase the participation of socially vulnerable segments and make their issues part of the fabric of public policy was also indisputably succesful. There was a major increase in participation from minority groups right the way through the levels of representation of the PB system; all participants in the PB accept that minority group issues became entrenched in the work of the PB and minority participants themselves felt that the PB made them feel represented in the governance system and as an 'equal amongst equals'.

The Sao Paolo example shows it is possible to extend democracy in urban environments with deep political and economic polarisation. The point of this is not just self-fulfilling, however. A quite clear relationship can be identified between increased participation by budgetary users and increased performance of budgetary effectiveness. There is a very simple logic to this which is that those who use services or suffer from discrimination are much more likely to know what needs improving, where resources should be allocated, etc, as long as they get the time to thoroughly deliberate with their fellow citizens and hold their representatives to account.

Web: www.reidfoundation.org

Phone: 0845 557 6844

Email: contact@reidfoundation.org

The Reid Foundation
PO Box 8781
Biggar
ML12 9AG