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Open Government and the B.C. Citizens' Assembly: A Comparative Analysis
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**Abstract**

On his first day in office President Obama ordered each department of the executive branch to ensconce principles of collaborative governance into their operations by developing, through experimentation, internet-based citizen-participation platforms. Five years earlier the province of British Columbia experimented with citizen-based collaborative governance, through a practical application of principles of deliberative democratic theory, to draft a proposal for electoral reform. This paper compares the two cases, in a best-practices approach, showing the ways in which the British Columbia case is an example for collaborative governance in the US executive branch.

**Introduction**

"We think in America that it is necessary to introduce the people into every department

of government as far as they are capable of exercising it, and that this is the only way to insure a

long-continued and honest administration of its powers" (Jefferson 1789, quoted in USDA Open

Govt. Plan 2010).

This paper evaluates the potential for online citizen participation and deliberation to

influence the actions of federal agencies. Development of information communications

technologies (ICT) has created the potential for widespread citizen participation in government.

Recognizing this potential, President Obama has issued several orders to executive agencies

regarding his Open Government initiative (OG). Open Government seeks to advance three goals

for executive agencies, using the internet as a platform: increase transparency, institutionalize

citizen participation, and strengthen collaboration in regulatory affairs (Open Govt. Memo 2009).

To accomplish these goals, each department of the executive branch has experimented with its

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own citizen participation website to evaluate the usefulness of participation in policy making. In some cases, the executive departments have incorporated citizen-generated ideas, originating on their websites, into public policy.

In 2004, the British Columbia (BC) provincial government experimented with citizen participation. The BC experiment sought citizen input on electoral reforms. BC convened a Citizens' Assembly (CA) consisting of 160 citizens who met several times over the course of a year to learn about and debate various electoral reform alternatives. The results of the citizen deliberation were very promising, although the policy recommendation of the assembly was not ultimately adopted.

This paper presents a comparative case study of the CA and the OG. Specifically, each case will be compared on the tenants of participatory and deliberative democratic theory. This paper will argue that the CA is an ideal model of citizen participation in government which should serve as a benchmark by which future citizen participation should be judged. The OG, representing the latest innovation in a long institutional history of citizen participation in federal agencies, shows great potential as a practical application of participatory and deliberative democracy. However the OG should be improved using the lessons learned from the CA.

This paper will proceed by first discussing extant theory literature on participatory and deliberative democracy; second, by presenting the BC citizens' assembly; third, by discussing the history of citizen participation in agency governance; fourth, by presenting observations and findings of the OG experiments; fifth, by comparing the BC citizens' assembly and the OG experiment; and conclude by sketching a plan for future research.

**Participatory Democratic Theory**

Democratic theory comes in many forms, ranging from the most skeptical views of citizen participation, to the most optimistic. Skeptical theories of citizen participation, such as elite democratic theory, question the ability of average citizens to contribute anything meaningful to the policy making process except votes during periodic elections. Elite theory argues that "the management of public affairs requires special aptitudes and techniques and will therefore have to be entrusted to specialists who have them" (Schumpeter 1943, 250). Minimalist theory goes one step further arguing that popular participation is dangerous, first because the electorate has belief systems which are inconsistent, unstable, and based on minimal levels of political knowledge and comprehension (Converse 1964); second, because lower socioeconomic groups, who tend to be the least politically active, also tend to have the most authoritarian personality types (Pateman 1970, 10, characterizing Dahl 1956).

Participatory democracy argues against the skeptical assumptions of elite theory, holding that average citizens have an immense capacity to contribute to their own governance, if they are given the opportunity to try. The optimistic view of participatory theory is based on three beneficial functions of participation: education, protection of general interests and legitimacy of rules.

In the narrowest educative sense, through participation, individuals can come to know more about themselves. "[N]o one is capable of forming his own opinion without the benefit of a multitude of opinions held by others" (Arendt 1977, 217). Indeed, "as the individual listens to arguments formulated by others, he broadens his own point of view and becomes aware of things he had not perceived at the outset" (Manin 1987, 352). More broadly, when an individual participates politically with others, "he finds that he has to take into account wider matters than his own immediate private interests if he is to gain co-operation from others, and he learns that

public and private interests are linked" (Pateman 1970, 25). Similarly, "He is called upon, while [publicly] engaged, to weigh interests not his own, to be guided… by another rule than his private partialities; to apply… principles and maxims which have for their reason of existence the common good" (Mill 1948, 217).  Even broader still, when citizens participate in local politics they "learn democracy" (Pateman 1970, 31; Mill 1948, 356-359).

For Mill, local democratic participation is a necessary precursor for national participation because of the educative function. Pateman equates Mill's theory of local geographical participation with G.D.H. Cole's theory of industrial citizen participation to have the same educative effect (Pateman 1970, 35). Moreover, Pateman goes one step further arguing that Mill's theory "could be generalized to cover the effect of participation in all lower level authority structures, or political systems" (Pateman 1970, 35).  An interesting query is whether online participation may be similarly generalized in its likelihood of producing an educative effect? More broadly, does online participation have an educative effect, and if so, how does it compare with Mill's educative effect?

For classical democratic theorists like Mill and Bentham, democratic participation can also serve a protective function. In political struggle between the narrow elite, and the numerous classes, "democratic participation ensures that the private interests of each citizen, and the universal interest [an amalgamation of private interests] is protected" (Pateman 1970, 20; brackets mine). For Rousseau, the protective function works best "where no organized groups are present, just individuals, because the former might be able to make their particular wills prevail" over the general will (Pateman 1970, 24).  This latter point is interesting in the online participation context where people are presumably alone at their computer when participating. A

future analysis, outside the scope of this paper, could ask whether people organize into online groups and support one another on internet discussion fora.

Additionally, participation can result in an increased measure of the legitimacy of rules in the minds of the participants.  When individual citizens, or people like them, have a say in rulemaking, as opposed to having rules imposed by the government or elites, the citizens have a more positive attitude toward the rules, and comply with the rules in greater measure (Ostrom 2000, referencing Bardan 2000). Legitimacy is particularly important in the context of federal agency regulations because agency heads are not popularly elected. "To the extent that [agency] rulemaking has political legitimacy, it derives from the right of affected interests to present facts and arguments to an agency" (Harter, 1982). A particular means by which participation can lead to legitimacy is through deliberative democracy.


**Deliberative Democracy**

Proponents of deliberative models of democracy hold that participation through deliberation creates legitimacy. "A legitimate decision is one that results from the deliberation of all" (Manin 1987, 352). Moreover, "the fundamental source of legitimacy is the collective judgment of the people. This is to be found not in the expression of an unmediated popular will, but in a disciplined set of practices [procedures] defined by the deliberative ideal" (Gutman & Thompson 2004, 9). Deliberative democracy, as it pertains to the analysis herein, will be introduced through a discussion of varying views of its procedures. One view of how deliberative procedures ought to be constructed, the Anglo-American view, assumes the autonomy of individual participants from sociohistorical constraints, and focuses on establishing procedures which will facilitate democratic legitimacy (Rosenberg 2007; Benhabib 1996, 70-71).

The establishment of the right procedures can allow individual citizens to communicate with one another, based on reason, on fair and equal terms, and come to an agreement on what laws should be adopted and what rights should be granted (Gutman & Thompson 1996, 12-13). More specifically: the deliberation must involve issues of politics or policy, the process must be open to free and equal citizens, all participants must have the right to question the agenda, all participants must have the right to question the procedural rules, and deliberative outcomes should be open to reevaluation (Benhabib 1996, 70; Gutman and Thompson 2004, 3-12). Anglo-American deliberative theorists split, however, on the question of what types of claims and arguments participants should be allowed to bring.

Rawls argues that participants should uphold the public good through arguments based on public reason and personal rationality, not narrow comprehensive doctrine (2005, 144). Comprehensive doctrines are arguments made on the basis of personal interest, partisanship, religious belief and ideology (Rawls 2005, 13). For Rawls, the ideal public deliberation is restricted to constitutional issues, where participants argue from the "original position" which ignores their cultural background, socioeconomic status, and religious beliefs. Adherence to these restrictions supposedly creates a deliberative environment which will maximize public reason.

Critics of Rawls argue that a broader set of claims should be allowed in deliberation. "Legitimacy in complex democratic societies must be thought to result from the free and unconstrained public deliberation of all about matters of common concern" (Benhabib 1996, 68). Mansbridge takes the argument further than other Anglo-American proceduralists, arguing that unconstrained "everyday talk" is as valuable to deliberation as more formal communication (1999). Sanders goes even further, criticizing the entire deliberative endeavor, by arguing that

deliberative systems which are too stringent about structure and about the types of claims that can be made unfairly quell participation by minorities and socioeconomically disadvantaged groups (1997). In particular, Sanders is skeptical of theories which look down on testimony and story-telling, in comparison to moral reasoning, as a form of deliberative participation (1997).

Rawls insistence on the exclusion of comprehensive doctrines points to an important distinction between deliberative and aggregative democracy. Mill, in contrast to Rawls, argues that the aggregation of individuals' self-interest, or comprehensive doctrines if we choose to think of them that way, is the same thing as the universal interest.  In this way, Mill justifies claims which appeal to any belief system (Pateman 1970, 30; Mill 1948, 217). In an online context such as the OG, where interests can easily be aggregated and contradictory ideologies can be cancelled out, it is not clear whether Rawls or Mill have the better argument.

The Continental European view focuses not only on the procedures of deliberation, but also on the social conditions of value and opinion formation (Rosenberg 2007, 11).  This view recognizes that the values, opinions, cognitive, and deliberative capacities of democratic participants are generated in the context of society as a whole. Therefore, continental theorists argue, "deliberation must be institutionalized so as to address limitations that inhere in the construction of how citizens engage one another" and "how they may be influenced by some form of pedagogically and democratically oriented facilitation" (Rosenberg 2007, 14).

In order to design institutions which address the participants' inherent inequalities, it is important to understand the context in which opinions and values are formed. For Manin, "it is the process by which everyone's will is formed that confers its legitimacy on the outcome, rather than the sum of already formed wills" (Manin 1987, 352). Similarly, Dewey argues that knowledge of the conditions of public debate and public persuasion are necessary precursors to

understanding public will (Dewey 1927, 207-208). Habermas picks up on the will formation

thread arguing that socioeconomic equality measures must be incorporated in a discursive model:

> The informal public sphere must enjoy the support of a societal basis in which equal rights citizenship have become socially effective. Only in an egalitarian public of citizens that has emerged from the confines of class and thrown off the millennia—old shackles of social stratification and exploitation can the potential of an unleashed cultural pluralism fully develop—a potential that no doubt abounds just as much in [class] conflicts as in meaning-generating forms of life (1996, 308).

For the continental view, inequality in socioeconomic status will corrupt citizen opinion

formation and discursive capacity, and cause unequal power relationships to pervade in the

deliberative environment.  One remedy for continental deliberative theorists is the concurrent

establishment of communitarian economic and deliberative institutions.

Of course, such radical proposals are a bit far afield for the purposes of this paper.  In

taking a more moderate tack, this paper will accept the equality assumptions implicit in the

Anglo-American view, and focus the case analysis on deliberative procedures, as opposed to will

formation contexts.  Recall however that in the participatory democratic theory, the educative

function of participation makes up for the initial knowledge inequality of the participants.

Many of the principles of participatory and deliberative democratic theory explained

above are observed in the OG experiments. Before analyzing the OG experiment using this

theoretical framework, the paper will first look at a benchmark of these theoretical principles in

practice, from the British Columbia Citizens' Assembly.

**British Columbia Citizens' Assembly**

In 2003 the government of BC instituted the CA with the instrumental purpose of

reviewing the single member plurality (SMP) electoral system, and recommend a new system if

they believed it necessary (Warren & Pierce 2008).  The academic, ancillary, benefit of the CA is

that it was an experiment in participatory democracy, with the added benefit that the

participatory outcome was a tangible policy recommendation. The history and description of the proceedings of the CA is now presented.

**Assembly Selection**

The BC provincial government's first step in establishing the CA was the appointment of Gordon Gibson, "a prominent British Columbian with extensive experience in the areas of public policy, governance, federalism, and aboriginal relations, to make 'recommendations for the appointment, size, composition and administrative structure of the Citizens' Assembly'" (Technical Report 2004, 23). The government adopted most of the recommendations which Gibson drafted in his "Report on the Constitution of the Citizens' Assembly on Electoral Reform," submitted in December 2002 (Technical Report 2004, 23). The legislature convened the Special Committee on the Citizens' Assembly on Electoral Reform, to appoint assembly Secretariat Staff and oversee its progress (Technical Report 2004, 23). Thirteen full time staff members made up the Secretariat Staff, who would conduct a search for assembly members, organize meetings, conduct other necessary administrative tasks (Technical Report 2004, 24-26).

The CA itself consisted of 160 citizens. The group was chosen in the following manner: a random selection of 26,500 citizens were invited to participate, 964 citizens attended the selection meetings, 158 were chosen from that group by lot, and 2 indigenous citizens were specially selected (Final Report 2004, 10; Warren & Pearse 2008). The group was sufficiently, although not perfectly, descriptively representative with respect to gender, region, education level, employment type, and race (James 2008).

**Learning Phase**

After group selection, the CA process was divided into three phases. The first was the learning phase, consisting of six weekend sessions (Final Report 2004, 11). During this phase,

the members learned about electoral systems from experts, academics, electoral literature, internet resources, and discussion groups (Warren & Pearse 2008). During the first weekend, the participants were introduced to the idea of a citizens' assembly, and citizen deliberation. The assembly developed a set of shared values to facilitate the deliberative process. The values include: respect for people and their opinions, challenge ideas not people, listen to understand, commitment to the process, focus on preparedness, use clear and concise communication, respect inclusivity: all members are equal, have a positive attitude, have integrity (Final Report 2004, 65). These values mimic and interestingly are only slightly more platitudinous than the procedural norms advocated by serious deliberative theorists.

During each weekend of the six weekend learning phase, three sessions were held. Each session followed the same procedure: a plenary meeting with a lecture from an expert, discussion groups, and a second plenary session where the groups presented the results of their deliberations. The discussion groups numbered 12, the members randomly assigned to each, and the membership changing each weekend (Technical Report 2004, 66). The group agendas were organized around specific questions raised during the lectures. The discussion in each group was facilitated by a political science graduate student (Final Report 2004, 11).

Although the assembly consisted of an exclusively chosen group of citizens, openness to the general public was an important aspect of the process. The plenary sessions were open to the general public, taped and broadcast repeatedly on the provincial legislature's TV service, and webcast. "Judging by the download activity on the site, the webcasts were widely circulated" (Technical Report 2004, 67).

In addition to the public availability to assembly lectures and materials online, the Assembly created a members-only website. The members-only website offered additional skills

training sessions; and a discussion forum to facilitate deliberation among members between meetings. Of the 160 member Assembly, 126 members joined the website (Technical Report 2004, 67).

A survey was conducted at the end of the learning phase asking the members to rate the usefulness of each activity to their own learning. Interestingly, the discussion on the web forum was rated last (3.9 out of 7), below conversation with family and friends (4.7), and informal conversations with other members (5.3). This statistic bodes poorly for the comparison to the OG on the educative criteria. The plenary lectures by Assembly staff were rated highest at 6.3 (Technical Report 2004, 69).

### Public Hearings Phase

The goal of the public hearings phase was to consult the public at large, and to facilitate public participation in the CA's electoral reform process. During this phase, CA members hosted 50 public hearings around BC; in total 360 presentations were made to nearly 3,000 people (Final Report 2004, 12; Warren & Pearse 2008). The hearings included a presentation on issues related to electoral systems, a panel discussion from assembly members, followed by a Q & A with the public (Final Report 2004, 12).

In order to encourage continued public participation through written submissions, the CA collected submissions on its website. The website processed and indexed the submissions into nine categories based on content: Citizens' Assembly process, democratic elections, democratic government, electoral system change, electoral system no change, links to other resources, minority representation and regional representation (Technical Report 2004, 84). Over 1600 public submissions were processed during 2004. The submissions were reviewed by the assembly members and extensively referenced by members during the deliberation phase

(Technical Report 2004, 86). The submissions were also available to the general public;

eventually newer submissions referred to previously posted submissions, "creating a running

dialogue" (Final Report 2004, 12). Interestingly, this kind of running dialogue among website

participants is also observed in the OG.

### Deliberation Phase

The CA concluded with the deliberation phase. During this phase the assembly met for

four weekend sessions. These sessions, like the learning phase sessions, included formal

'plenary' meetings and smaller group discussions. During the learning phase, the results of the

group discussions were presented by a group representative, chosen by the group, to the follow-

up plenary session. During the deliberation phase, the members agreed to amend this procedure

in favor of having individuals present their own views at the plenary meeting to ensure that

minority opinions were not suppressed (Technical Report 2004, 90).

The assembly designed two electoral systems to compete with the existing one. The

alternatives were designed according to three fundamental values, which had also been agreed

upon by the assembly. The electoral system should: achieve fair electoral results, effective local

representation, and greater voter choice (Technical Report 2004, 91; Warren & Pearse 2008, 12).

The assembly designed a single transferable vote (SVT) system, and a mixed-member

proportional (MMP) system. Following extensive deliberation, the assembly made its final

decisions by secret ballot, three questions in total. The assembly favored the STV over MMP by

123-31. The assembly voted to replace the current system by 142-11. Finally, the assembly

voted to recommend STV to the people of British Columbia in a referendum by 146-7 (Technical

Report 2004, 93). Following the final decision, two further sessions were held to review the

STV design, and to draft the final report.

**Analysis of the CA**

Despite the CA's legacy as a kind of deliberative experiment, the CA was established to solve a real problem of Canadian democracy. By the late 1990's, the Canadian government was becoming aware of a widening disconnect between the electorate and the political parties (Warren & Pierce 2008). The parties were focusing on geographic regions where political support was denser, ignoring the other regions (Warren & Pierce 2008). Moreover, there was a declining trend in voter turnout and other measures of political participation (Warren & Pierce 2008). The CA was not Canada's first response to the democratic predicament. Warren and Pierce point out that five Canadian Provinces established reform institutions and commissions to issue proposals (2008).

There are two reasons why citizens, and not elected officials, should choose an electoral system. The first reason is legitimacy. As we have seen, rules issued by elites and government officials suffer from lack of legitimacy in general (*e.g.* Ostrum 2000; Harter 1982). The problem is compounded when the rules are about the election of elites and government officials specifically. "If citizens have the right to choose representatives, then they have the right to choose the system by which they choose representatives" (Thompson 2008, 20). It logically follows from these premises that the interest of legitimacy is best served when a body of citizens recommends changes to the electoral system.

The second concern is that when elites or elected officials write the rules governing elections, they are in a position to 'stack the deck' in their favor to maintain political power. This tendency is evident in the debate over partisan versus non-partisan redistricting in the United States (*e.g.* Brunell 2006; McDonald 2006). Mill's protective function of participatory

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democracy implicates this concern. To the extent that the citizen body represents the general interest of the people, the protective function will operate to ensure some level of fairness, among competing party interests, in the electoral rules (Warren 2008; Pitkin 1967).

Simply because citizens are in a better position to maximize the legitimacy of electoral reform proposals, it does not necessarily follow that any citizens assembly will be legitimate. There are issues about how representative the CA is descriptively, as briefly discussed above (*see* James 2008), and democratically (Warren 2008). Democratic representativeness is important for legitimacy and the protective function because even though the CA members are citizens, as opposed to professional politicians, they are still acting as representatives of the people-at-large.

Accountability to the public is questionable for CA members because they are not elected, nor re-elected, but empowered by appointment. Warren identifies four metrics of accountability: 1) the relationship between interest and value representation, 2) discursive accountability to constituents (the means by which representatives and constituents communicate justifications and interests, respectively), 3) institutional capacity to produce compromises and brokered solutions, 4) institutional capacity to justify decisions (2008, 61). Warren found that metrics 1 and 4 are met because CA proposal must be approved by the electorate with a 60% majority (2008, 62). Metric 2 is met during the second phase of the CA, where CA members held "town hall" like meetings with members of the general public (Warren 2008, 62). Metric 3 is met during the deliberation phase due to an institutional design which sought, although did not perfectly achieve, consensus in decision making (Pearse 2008). Interestingly, when the assembly designed the alternative electoral systems, they did so using consensus in small discussion groups. However, when it came to a final recommendation by the whole assembly, the decision

was made by plebiscite. The final recommendation was uncontroversial because it was approved

by overwhelming majority, with only a few in decent. It is not clear what the assembly would

have done if the election result was closer to 50-50.

Unlike the BC citizens' assembly, touted as the first in history (Warren & Pearse 2008),

the OG experiment is the latest addition to a long evolution of institutions of citizen participation

in US agency governance. In order to place the OG experiment in historical context, a brief

history of citizen participation in federal agencies is now presented, followed by a description of

the OG experiment.

**History of Citizen Participation in Federal Agencies**

Citizen participation in federal agency regulation has a long history, pre-dating the

widespread regulatory expansion of the New Deal (Ag. Comm. Report 1941). In 1939, President

Roosevelt established the Attorney General's Committee on Administrative Procedure to study

existing agency procedural practices, with the goal of curing deficiencies and recommending

improvements (AG Comm. Rept. 1941, 1). The Committee report included a bill proposal which,

among other things, recommended "improving the rule-making process by emphasizing the

importance of outside participation prior to the issuance of rules, and by permitting interested

persons to petition for rules or for amendments" (1941, 6). The committee bill proposal laid the

foundation for the Administrative Procedures Act (APA) of 1946 (Kerwin and Furlong 2011).

With the APA, Congress mandates that executive and independent federal agencies

publish notice of rulemaking, and receive public comments (Kerwin and Furlong 2011). Since

the enactment of the APA, Congress has passed numerous additional procedural mandates aimed

at increasing transparency and public participation in regulatory affairs, including: the Freedom

of Information Act of 1966 (DOE 1999), the Government in the Sunshine Act of 1976 (Conf.

Comm. Report 1976), and the E-Government Act of 2002 (Comm. on Govt. Reform Report

2002).

In addition to direct citizen participation, the federal agencies and Congress have

institutionalized advisory committees to ease regulatory information gathering.  Advisory

committees comprise a group of citizen stakeholders, experts, and corporate representatives who

inform federal agencies regarding the consequences of new rules (Cordozo 1981).  Although

informal advisory committee practice can be traced back to the American Revolution, it was not

until 1972 that Congress standardized the practice with the Federal Advisory Committee Act

(FACA) (Cardozo 1981). FACA set standards for advisory committee creation and operation and

required that the committee membership, cost, and deliberation be made public (Comm. on Govt.

Ops. 1972).

By 1990 open meetings, publicity mandates, and advisory committees had made the

agency rulemaking process more open, but it remained highly adversarial among the

stakeholders invited to participate.  To address the adversarial "malaise" that was hindering the

rulemaking process, the Congress adopted the Negotiated Rulemaking Act of 1990 (NRA)

(Coglianese 1997).  The NRA is a supplement to the APA, and FACA.  The NRA permits

agencies to establish negotiation committees comprised of representatives of regulated firms,

trade associations, and citizen groups (Coglianese 1997).  The committees negotiate early in the

rulemaking process and if they reach consensus on a proposed rule, the agency adopts the

consensus rule (Coglianese 1997).  The status of a negotiated consensus rule is not higher than a

normal proposed rule; it must still follow the traditional APA procedures of notice and comment

(Coglianese 1997).

The proliferation of information and communications technologies [ICT] has prompted Congress to move certain notice, publishing, and comment procedures of the APA to an online format. The E-Government Act of 2002 aimed to integrate ICT with agency rulemaking by "promot[ing] the use of the internet and other information technologies to provide increased opportunities for citizen participation in government" (Comm. on Govt. Reform Report 2002). Now most APA notice and citizen comments can be accomplished online. The latest push toward the inclusion of public participation in agency action comes from President Obama, who has consistently urged executive agencies to develop online platforms for participation, dating back to his first day in office (Open Govt. Memo 2009; OMB Directive 2009; Exec. Order 13563 2011).

**Open Government**

First, this section will provide a brief background of the OG experiment. Second it will explain the methodology used to collect and analyze data. Third, it will present observation and findings in with regard to: idea character, deliberativeness, and agency recognition.

### Background

On President Obama's first full day in office he signaled his commitment to OG. The memorandum of January 21, 2009, broadly mandated that each department begin studying and advancing three goals of OG: transparency, participation and collaboration (Open Govt. Memo 2009). On December 8, 2009, the Office of Management and Budget, the government accountability office of the executive branch, issued a directive to the heads of all executive departments and agencies, setting a timeline for the accomplishment of the Presidents' OG goals (Directive 2009). Among these deadlines included the publishing of OG websites by each department and agency, the establishment of online public discussion fora for the collection and

public deliberation of ideas, and publishing a plan outlining the steps each department has taken, and will take, to accomplish the President's goals (OMB Directive 2009).

In accordance with the OMB Directive, each department of the executive branch has experimented with online public participation applications. For two months, between February and April 2010, each department sponsored its own online participation website using an application developed privately, in partnership with of the General Services Administration, called Ideascale. Ideascale allows participants to register, and to post ideas, comments and vote on ideas already submitted. The purposes of the experimental Ideascale fora were to collect citizen input about how to comply with the President's OG initiative.

The executive departments specifically sought advice from citizens on the three goals of OG. Regarding transparency, the departments were looking for opinions about what kind of data sets they should release, how to prioritize the declassification of documents, and how to streamline FOIA requests (Open Government Dashboard). Regarding participation, the departments were looking for ideas about how the public can get involved, and how the agencies can deal with the volume of comments received (Open Government Dashboard). Regarding collaboration, the departments were looking for ideas about how federal agencies can collaborate regulatory enforcement with local and state agencies (Open Government Dashboard). In some cases citizen ideas were incorporated into departmental OG Plans.

**Methodology**

In order to evaluate each department's experiment, I recorded data from the Ideascale websites, and analyzed the departmental OG Plans. Each department of the executive branch, with the exception of Housing and Urban Development, Health and Human Services, and Labor, saved the final results of their Ideascale deliberation for future reference. Additionally, each

department published its OG Plan on its website. From the Ideascale websites, I collected data on the ideas posted, votes received per idea, comments posted about ideas, and number of participants. This data is presented, per department, in Table 1.

In order to determine the deliberativeness of the participation, I reviewed the comments posted to the three most popular ideas of each department. This data is presented in Table 2. The "Comments" column represents the number of comments posted per idea. The "Deliberative" column scores comments 2 for highly deliberative, 1 for off topic or ad hominem comments, zero for cases where there were not enough comments to evaluate.

In order to determine whether the agencies responded to the ideas, or incorporated the ideas in their plans, I compared the Ideascale website data to the plans. A summary of this data is reported in Table 3. The "Included in plan" column scores a 1 for specific inclusion in the plan, 0 for not included. The "Recognition in plan" column similarly scores a 1 for agency recognition in the plan, 0 for none. Note, an idea can be recognized in the plan, and not specifically incorporated into the plan for that department's open government website going forward. Recognition as used here simply means that the agency mentioned an idea in the plan as having originated from Ideascale. For instance, the Department of Homeland Security responded to several of the most popular ideas from the discussion in its open government plan, however, it did not incorporate those ideas in its plan (*e.g.* Open Homeland Security 2010, 33-43).

**Idea Character**

The topic of each Ideascale discussion was supposed to be about compliance with the three goals of the OG initiative. A small fraction of all ideas posted were directly on topic. This is an indication that citizens were availing themselves of the opportunity to voice an opinion about policy in general, rather than open government specifically. This trend is positive in that it

bodes well for the concept of citizen participation; people want to have a voice.  This trend is

negative in that participants are likely to stray from the topic at hand.

In some cases, ideas presented represented the particular agenda of a single participant.

For instance, one participant, whose online name is "jaorangemen" posted the exact same idea on

every department Ideascale website. His idea is to require agencies to webcast their meetings

live. This idea was frequently among the most popular ideas in each department submitted, *see*

Table 2, note how often "Live webcast all meetings" is in the top 3.  With the exception of the

Department of Agriculture, which agreed to webcast *some* meetings, the idea was completely

ignored in the plans. A second example comes from "megan.eskey" who posted ideas on several

department Ideascales encouraging the departments to take an "open social" and "holistic"

approach to technology, and she included links to her own "webinars."  It was obvious that she

was promoting her own business.  However, she succeeded in the Department of Transportation

who acknowledged her idea in their official OG Plan (Open Transportation, 6). Despite these two

exceptions, most ideas posted were in the general interest of the public, and of the agencies.  This

finding supports Mill's protective function of citizen participation.

### Deliberativeness

Deliberativeness is determined by looking at whether the comments posted about an idea

are responsive to the idea, and respectful to other participants. This measure is a simplified form

of the Discourse Quality Index (DQI) developed by Steenbergen et. al. (2003).  The DQI is

theoretically grounded in Habermasian discourse ethics, which argues that discourse should

follow these rules: open participation where every competent individual can introduce any

assertion, be able to express his/her attitudes, desires, and demands, and be free from coercion

when doing so (Steenbergen et. al. 2003, 25).  The DQI measures deliberation on the following

characteristics: freedom of participation, level and content of justification, respect for others',

their demands and their counterarguments, and whether participants modify their positions in

response to others' arguments (Steenbergen et. al 2003, 27-30).

The measurement model used here is simpler, as there is not enough data to do a

complete analysis using DQI. However, the measurement used here follows the color, if not the

letter of DQI, assigning higher scores for greater levels of responsiveness and respect to others'

ideas. Almost all of the comments reviewed were responsive in that they discussed the idea put

forward. Most comments were positive about the idea. In cases where the comments were

critical of an idea, the comments were mostly constructive in nature, pointing out nuances or

complexities that might not have been contemplated by the idea poster.

The Department of Defense provides an example of this kind of constructive criticism.

One popular idea posted, number 3 on the DOD list, requested that the department keep the

forum open permanently so that citizens could help the department brainstorm about weapons

technologies or military strategies. One user commented that this idea is good in theory, but

dangerous in that it is an open forum and the ideas can be accessed by foreign governments

(Keep Ideascale Open, comment by carl).

Only in a few cases were comments random, or off topic. In no cases were comments of

an ad hominem nature. Of course, this optimistic portrait might reflect some monitoring and

censorship by the departments. Unfortunately, data on this last point is not available at the

present time.

**Agency Recognition**

Responsiveness is measured by comparing the departmental plans with the citizen ideas,

comments and votes received. There are three levels of recognition. The first level, specific

recognition, is when the plan refers to an idea directly as having been received by a participant, or in reference to an idea's popularity.  This occurred in the following departments: Commerce, Defense, HHS[2], Homeland Security, Justice, Labor[3] and Transportation. The second level, general recognition, is when the plan refers to ideas received generally, such as the Education Plan which states: "Every idea was reviewed by a senior staff member and incorporated or aligned to existing projects into the plan" (p. 62). This type of response was observed in nearly all cases, including the cases where a first level response was also noted. Treasury and Veterans Affairs responded at the third level, that is no recognition.

One notable exception to this typology is the Department of Agriculture; its citizen participation forum is fully functional. Presently, ideas are submitted by participants and the ideas are responded to by departmental employees.  In one case, a popular idea asked the department to upload resources for farmer's markets.  This idea was responded to by a departmental employee who explained online the department's efforts underway in this area. The Department of Agriculture and its relatively active constituency of farmers present a unique and interesting case, which warrants more research and analysis beyond the scope of this paper.

**Case Comparison**

This section compares the OG experiment with the BC citizen assembly with regard to the functions of participatory democracy (education and protection), legitimacy, deliberativeness, and recognition. Generally speaking, there are several reasons these cases are comparable.  The first reason is that both cases involve direct citizen input in government policy. Of course, it is debatable whether the choice of electoral system is a matter of policy, but a more fundamental choice of how representatives are chosen.  The second reason is that both attempt to achieve

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[2] HHS's Plan directly referred to ideas received from Ideascale, but this could not be confirmed because HHS's ideascale is no longer available.
[3] Same problem as HHS.

some measure of deliberation on the part of the participants. Neither case is simply about the aggregation of citizen preferences. Both cases encourage citizen deliberation about ideas presented. Of course, a question remains whether online discussion can ever be as deliberative as face to face discussion (Witschge 2004). The third reason is that both cases call for citizen driven ideas, rather than citizen evaluation of government driven ideas. The fourth reason is that both cases utilize an internet platform for collecting public ideas and serving as a discussion forum.

There are also several reasons why these cases might not be comparable. The CA is specifically about reforming the electoral system generally; the OG is about ongoing participation in  specific department rulemaking. The CA participants were all citizens, chosen from the population at-large using at least some random selection.  It is unclear who the OG participants are; they could be executive department employees, lobbyists, Congressional Staffers, and the like.  Moreover, the OG participants are completely self-selected, and probably from the same demographic groups that are overrepresented in political participation generally, those with greater resources, such as psychological engagement with politics, and access to recruitment networks (Verba, Schlozman & Brady 1995).

According to the theory presented above, citizen participation in rulemaking provides three broad functions: education, protection, and legitimacy. Regarding education, there is presently no data available on the OG experiments.  If there was data available, it would be difficult to imagine the OG participants becoming as educated about policy issues as the CA participants about electoral systems.  The CA has the benefit of structured and systematic education replete with resources ranging from academic lecturers, to print materials. There is no comparison with the OG, which only strives to make information widely available.  The OG has potential for producing an educative benefit. For instance, in the context of Mill and Pateman's

theories, the OG could be very instrumental in helping citizens understand the link between their personal interest and a broader general interest, particularly when the complete OG websites are up and running. It is notable that in at least one observed case, an idea requested that the department make instructional videos available online (Commerce, 3$^{rd}$ Idea).

Regarding the protective function, each case presents optimistic results. The CA is protective of the general interest in that it tried to keep the electoral rules fair and provide for maximum representation of citizens' interests in its recommendation of SVT. Unfortunately, the CA was a one-time experiment and has not yet been replicated for general public policy issues. The OG is protective in that it establishes a forum where citizens can monitor agency action, and object when an agency acts on behalf of a narrow interest to the detriment of the general public interest. However, it is not clear that participants on the departmental websites will be representative of the public at-large or only representative of narrow interests from which participatory theory seeks protection. Moreover, there is probably not a "critical mass" of general citizen interests to check narrow interests (*cf.* James 2008).

Regarding the legitimacy function, each case presents optimistic results. The CA, by its very design, seeks to establish the legitimacy of the electoral reform proposal. As we have seen, elected officials are in no position to decide the rules by which they are elected. Citizens are in a better position, as long as institutional design promotes accountability through deliberative rationale, access to expertise, and popular acceptance by vote. The OG, by its design, seeks to establish the legitimacy of agency regulations through democratic accountability. The OG is the latest in a long institutional evolution of democratic accountability procedures. The OG is well suited to maximize citizen participation due to its informal character, iterated nature, and ease of access. Unlike formal APA participation, one does not need an attorney, or a firm grasp of the

nuances of administrative law to sign-on and weigh-in on policy debates. Time will tell whether the OG imparts more real democratic accountability onto executive agencies, at this point there is only potential.

Regarding deliberativeness, there is almost no comparison. The CA is specifically designed to maximize the deliberative potential of the members to learn about, debate, and decide the issues at hand. It is a model, and benchmark, by which all other citizens' assemblies should be judged. The OG is no-where nearly as deliberative because it does not include the same procedures to ensure equality and thoughtfulness in structured discourse. Admittedly, the OG has a different standard due to its online nature. The OG does meet some of the deliberative procedural requirements such as discussion about policy and theoretical equality of participation. However, in practice, equality among participants may be elusive. The demographic make-up of the participants is unknown and there is no reason to assume that the participants are not overly represented with regard to resources, psychological engagement with politics, and access to recruitment networks (Verba, Schlozman & Brady 1995). The OG does show promising results with regard to deliberativeness based on the content of the comments users posted to ideas. In only a few observed comments, or ideas, were users espousing narrow or personal interests. Instead most of the participation appeared to promote the general good.

Regarding recognition, the CA resulted in a detailed recommendation for BC to adopt a SVT electoral system. The referendum failed in a general election (Carty, Cutler and Fournier 2009). The OG showed a surprising level of recognition by the executive departments. However, the positive recognition shown in the OG might be overly optimistic due to several factors. First, the OG experiments were specifically designed to solicit citizen input regarding the design of the OG portals going forward. Second, the experiments were under close scrutiny

from the White House in order to ensure departmental compliance with the OG order.  It is not clear that the White House will continue to maintain scrutiny over the ongoing OG operations once they are in place.  Third, because OG has not been institutionalized beyond Presidential prerogative, it is not clear that the OG will survive a future change of administration.  That being said, the departments with up-and-running OG portals are already showing some promising results, *e.g.* the USDA.

**Conclusion**

This paper has compared President Obama's OG experiments with the BC CA experiment to determine the potential of the former to promote the goals of participatory and deliberative democracy, most important among these is democratic legitimacy.  The CA experiment is a much stronger example of participatory and deliberative democracy. It is important to note that the OG case presented was only from the testing phase, and a more complete analysis must stem from a full-functioning OG institution. The OG shows a lot of potential, but because only a few departments have fully functioning OG forum, it may be some time before a more complete evaluation is possible.

The OG is most notable for its potential.  Executive agencies are instituted to benefit their constituents.  For instance, the Department of Housing and Urban Development benefits urban populations with support and subsidy programs, and regulations to ensure that housing is in adequate supply and fairly allocated.  In order to maximize the benefit to urban populations, it is first essential to understand their needs.  The OG could prove indispensable in this regard by opening an unrestricted channel of communication between constituent populations and the executive agencies which support them.

**Table 1: Descriptive Statistics – Number of Ideas, Comments, Votes, Users**

| Ideas and Comments by Agency | | | | | | | |
|---|---|---|---|---|---|---|---|
| AGENCY | Citizen Ideas | Agency Ideas | Votes Top 10 | Comments Top 10 | Users | Votes | Comments |
| USDA | 171 | 10 | 23 to 11 | 17 to 6 | | | |
| DOE | 63 | 6 | 34 to 10 | 9 to 1 | 263 | 571 | 74 |
| ED | 109 | | 118 to 40 | 9 to 4 | 476 | 2067 | 213 |
| COMM | 38 | | 31 to 10 | | 169 | 351 | 169 |
| DOD | 123 | | 39 to 19 | 12 to 4 | 431 | 1387 | 238 |
| HHS | | | | | | | |
| DHS | 98 | | | | 179 | 174 | 76 |
| HUD | | | | | | | |
| INT | 91 | | 76 to 37 | 24 to 6 | 472 | 2310 | 299 |
| DOJ | 66 | | 56 to 27 | 28 to 5 | 366 | 1357 | 299 |
| LABOR | | | | | | | |
| STATE | 52 | | 82 to 13 | 12 to 1 | 393 | 690 | 93 |
| DOT | 103 | | 62 to 20 | 21 to 1 | 772 | 1746 | 200 |
| TREAS | 55 | | 21 to 6 | 4 to 1 | 145 | 275 | 71 |
| VA | 186 | | 64 to 36 | 10 to 5 | 603 | 3126 | 448 |
| | | | | | | | |
| WhiteHouse | 4205 | | 1184 to 555 | 810 to 88 | 15,000 | 348,000 | 27000 |

**Table 2**               **Participant Response to Open Government Ideas**

| Department | Top 3 Citizen Ideas | Votes (+/-) | Comments | Deliberative |
|---|---|---|---|---|
| **Agriculture** | 1. Live webcast all meetings | 23 | | 2 |
| | 2. Train for collaboration | 18 | 10 | 2 |
| | 3. Encourage farmer's markets | 16 | 2 | 2 |
| **Energy** | 1. Hold solar power conference | 34 | 2 | 2 |
| | 2. Live webcast all meetings | 30 | 3 | 2 |
| | 3. Encourage local/neighborhood green energy | 14 | 0 | |
| **Education** | 1. Live webcast all meetings | 53 | 0 | |
| | 2. Use open source software | 29 | 1 | |
| | 3. Public access NAEP data | 36 | 1 | |
| **Commerce** | 1. Live webcast all meetings | 31 | 1 | |
| | 2. Release USPTO data free | 23 | 5 | 2 |
| | 3. Release dept. training videos | 23 | 1 | |
| **Defense** | 1. Est. civic volunteer network | 32 | 3 | 2 |
| | 2. Est. disability resource database | 31 | 1 | |
| | 3. Keep ideascale open | 29 | 10 | 1 |
| **Home. Sec.** | 1. Reciprocity with public security info | 42 | 7 | 2 |
| | 2. More disaster preparation info | 35 | 9 | 2 |
| | 3. Public awareness of threats | 34 | 7 | 2 |
| **Interior** | 1. Allow dept. experts to speak to public | 76 | 2 | |
| | 2. End BLM culture of secrecy | 66 | 7 | 2 |
| | 3. Live webcast horse and burro roundups | 57 | 24 | 1 |
| **Justice** | 1. Disclose FARA data | 56 | 1 | |
| | 2. Access to previously FOIA'ed docs | 52 | 0 | |
| | 3. Est. FOIA "dashboard" | 44 | 0 | |
| **State** | 1. Disclose benchmarks on Sudan progress | 82 | 3 | 2 |
| | 2. Live webcast all meetings | 25 | 4 | 2 |
| | 3. Access to family-based visa action | 23 | 2 | |
| **Trans.** | 1. Live webcast all meetings | 38 | 5 | 2 |
| | 2. Solicit citizen input on infrastructure | 34 | 21 | 2 |
| | 3. Vet. DOT fund projects online | 31 | 1 | |
| **Treasury** | 1. Live webcast all meetings | 21 | 1 | |
| | 2. Open source software platform | 13 | 1 | |
| | 3. Transparency in govt. spending | 9 | | |
| **Vet. Af.** | 1. Publish benefit guide onlnie | 64 | 6 | 2 |
| | 2. Track claim status online | 57 | 1 | |
| | 3. Save vet. Documents online | 55 | 4 | 2 |

**Table 3          Agency Response to Open Government Ideas**

| Department | Top 3 Citizen Ideas | Included in plan | Recognition in plan |
|---|---|---|---|
| Agriculture | 1. Live webcast all meetings | 1 | 1 |
| | 2. Train for collaboration | 1 | 1 |
| | 3. Encourage farmer's markets | 1 | 1 |
| Energy | 1. Hold solar power conference | 0 | 0 |
| | 2. Live webcast all meetings | 0 | 0 |
| | 3. Encourage local/neighborhood green energy | 0 | 0 |
| Education | 1. Live webcast all meetings | 0 | 0 |
| | 2. Use open source software | 1 | 1 |
| | 3. Public access NAEP data | 0 | 0 |
| Commerce | 1. Live webcast all meetings | 0 | 0 |
| | 2. Release USPTO data free | 0 | 0 |
| | 3. Release dept. training videos | 0 | 0 |
| Defense | 1. Est. civic volunteer network | 0 | 0 |
| | 2. Est. disability resource database | 0 | 0 |
| | 3. Keep ideascale open | 1 | 1 |
| Home. Sec. | 1. Reciprocity with public security info | 1 | 1 |
| | 2. More disaster preparation info | 1 | 1 |
| | 3. Public awareness of threats | 1 | 1 |
| Interior | 1. Allow dept. experts to speak to public | 0 | 0 |
| | 2. End BLM culture of secrecy | 0 | 0 |
| | 3. Live webcast horse and burro roundups | 0 | 0 |
| Justice | 1. Disclose FARA data | 0 | 0 |
| | 2. Access to previously FOIA'ed docs | 0 | 1 |
| | 3. Est. FOIA "dashboard" | 1 | 1 |
| State | 1. Disclose benchmarks on Sudan progress | 0 | 0 |
| | 2. Live webcast all meetings | 0 | 0 |
| | 3. Access to family-based visa action | 0 | 0 |
| Trans. | 1. Live webcast all meetings | 0 | 0 |
| | 2. Solicit citizen input on infrastructure | 1 | 1 |
| | 3. Vet. DOT fund projects online | 0 | 0 |
| Treasury | 1. Live webcast all meetings | 0 | 0 |
| | 2. Open source software platform | 0 | 0 |
| | 3. Transparency in govt. spending | 1 | 1 |
| Vet. Af. | 1. Publish benefit guide onlnie | 0 | 1 |
| | 2. Track claim status online | 0 | 1 |
| | 3. Save vet. Documents online | 0 | 0 |

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