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Constitutional Design

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Final Report

This semester in our Plan II Constitutional Design seminar, we learned about the history of constitutions in the United States and abroad, drafted contracts for our households using constitutional design principles, and explored avenues for contemporary constitutional reform in the United States. Prior to each class, we read a relevant book chapter, journal paper, or article and composed a short response. In this report, I've compiled my responses, with light annotations, edits, and modifications to incorporate what I've learned from subsequent readings and class meetings.

We began the course by reading a short, recent journal paper by Professor Elkins on the history of the twenty-seventh amendment. By chance, its ratification was prompted by a final paper written by a former UT student, making it a relatable way to begin the course. Although we did not write a response paper, it fulfilled its goal of introducing us to the topics at hand and getting us into the mindset of thinking about constitutional design and reform.

We then read two selections intended give us an overview of the social science methodologies used in this class. The first, also a paper written by Professor Elkins, walks through the process of conceptualization, used to taxonomize collections of things so they can be analyzed as categories rather than individual objects. Although I found the idea interesting, I was skeptical,

believing that this process of structuring knowledge might be done too finely or limit our imagination:

I'm intrigued by the push to categorize everything. Personally, I am a big sci-fi fan, and I enjoy doing this kind of conceptualization with movies and episodes from TV shows to draw out the underlying common (political, social, and ethical) themes. I recently watched *Severance* and *Westworld*, and these (late *Westworld* notwithstanding) are rich with messages, so it's nice to see how these compare to other science fiction works I've read/watched. It is definitely very fun to categorize things, especially when these things appear to have little in common at the outset of the exercise.

But I do have a few reservations about the general idea of conceptualization.

First, I wonder if conceptualization narrows our scope and deters us from finding unorthodox and/or possibly revolutionary ideas. If we start with an existing set of concepts, are we less likely to seek out or stumble upon ideas that don't fit within any of these existing concepts? In other words, does the existence of a set of concepts bias us towards searching only for new ideas that fit within these existing concepts? How do we train ourselves to identify ideas that would belong in their own new concepts? (Is it okay for an object to be the only instance of a concept, or does this defeat the purpose of concepts? Do these kinds of ideas even exist or does everything truly repeat itself?)

Second, are there any worries that we are over-fitting our concepts to the existing data? How can we evaluate whether our set of concepts is a good model for all possible items (not just our current ones), or whether it's too granular of a partition? Additionally, how do we find the balance between under- and over-conceptualization?

After our class discussion, I concluded these worries were valid but could be mitigated. Since we use conceptualization as a springboard to analyze existing and seek new ideas, our conceptual analysis will be useful provided we carefully choose our concepts and include how we chose them in the analysis. The paper mentions that each person will taxonomize a collection differently – hence, the choosing of concepts may be just as important as the grouping of items. From a practical perspective, it is also unreasonable to think through every single item independently – some groupings are eventually needed, so the reasonable conclusion is that we should be deliberate in creating these groupings.

The second reading from the social sciences portion of the course was a chapter from a book coauthored by Professor Elkins and his codirectors at the Comparative Constitutions Project, explaining how to apply conceptualization to the study of constitutions. The idea behind the chapter and the underlying project is to find underlying threads among international constitutions so we can find generalizable conclusions. I chose to apply this strategy to categorize constitutions by the identity of the drafter. I briefly wrote about an example (Occupied Japan) where the drafters' identities were relevant and conjectured that it might be useful to do this for constitutions written in other times and places.

One point for future study regarding constitutional change and regime change is how much it matters who writes a constitution. The course descriptor for this class mentioned Brazil's constitution as one with an inordinate number of involved parties (delegates, interest groups, and the public). On the other hand, the United States constitution was drafted by a committee (of elites) on the order of 50 members. In Occupied Japan, the constitution was written by Allied/American officials who were overseeing the provisional government, so it (as expected) closely models foundational US documents in many respects. I assume that the identity of the drafters is strongly correlated with the kinds of ideas that are emphasized in the document; I am curious to see if there are any additional interesting connections/relationships between drafter identity and content.

On a different note, this chapter sets 1789 and the US Constitution as the starting point for analyzing the outgrowth of constitutions and constitutionalism. In my geography class, a recent reading described the 1770s – 1820s as the first wave of global declarations of independence, occurring primarily in North and South America (also starting with the United States). In hindsight, this connection seems intuitive – I tend to associate the United States' Declaration of Independence with its Constitution as two documents written in the late 1700s by the Founding Fathers. This would support the idea that the US's historical progression served/serves as a roadmap for newly independent countries through the late 18th century, early 19th century, and beyond.

Although we did not delve deeper into the notion of drafter identities in this part of the course, it played a larger part of the next section of the course, in which we read three chapters from Dr Jill Lepore's award-winning American history book, *These Truths*. The second portion of this

response discusses the influence of the US constitution on foreign revolutionaries, which became relevant to our discussion when we read Dr Linda Colley's book, *The Gun, the Ship, and the Pen*.

As a primer on American constitutionalism, we read several chapters from *These Truths* by Dr Jill Lepore. This book provided a unique perspective on American history from the revolutionary era to the present, but we focused on the sections that concerned constitutional design, democracy and republicanism, public discourse, and mass media. Notably, all these issues, incredibly relevant at various points in history, have resurged in significance in recent years.

We began by reading the fourth chapter, which explored the Constitutional Convention of 1787 (which resulted in the United States Constitution) by looking at the stories and work of various major players. Lepore walks us through all the dialogues, debates, compromises, and controversies that constituted the convention. I explored two main points within the fourth chapter, namely the role of the "meta-constitutional" writing (the Federalist and Anti-Federalist and other papers arguing about constitutional ratification) in international politics and the stability of institutions versus the population.

We have talked a bit about (and I have commented a couple times on) how the US Constitution was a catalyst and model for future founding documents. Was the surrounding analysis also as influential? Particularly, were the Federalist Papers or the Anti-Federalist papers ever cited during the construction of any other global Constitution? Clearly, these were influential documents throughout the United States during the ratification debates. But so far, I've been unable to find any information on the global fallout of this "meta-constitutional" writing.

One of Madison's main points in his "Vices of the Political System of the United States" (1787) was that "honesty, character, religion ... were not to be relied upon" and that a steadfast Constitution was the only force that could withstand the "tyranny of the people." Did Madison ever consider the possibility that either these institutions might lack the enforcement power to protect the

country at some point in the future, or that people would lose faith in these institutions? I think something like the Capitol Riots in January 2021 would have been inconceivable to most people in that time-period, but Shays Rebellion would have been in recent memory (within the previous year), so I find it unlikely that he would be unaware of what a popular/populist uprising might be able to do. And it's not hard to imagine future defunding of the government resulting in subsequent anarchic movements.

As mentioned above, the answer to the first question is that the United States Constitution was highly impactful in shaping future constitutions abroad. Although specific Federalist papers may not have been cited, the guiding principles and ideas inspired many revolutionaries and drafters, especially in Latin America. Much of this outgrowth can be viewed by looking at the global constitutions from a comparative framework and seeing commonalities with the United States.

Since I mentioned I was interested in the Federalist Papers, Professor Elkins recommended that I read *An Argument Open to All: Reading "The Federalist" in the 21st Century*, a book written by Professor Sandy Levinson of Texas' law school which inspects the modern relevance of the Federalist Papers, as the book's byline suggests. Over the past few days, I've finally found some time to start working through the book, and I look forward to hopefully meeting Dr Levinson at a future date.

The second point I made in my response concerned the stability of institutions to resist public pressures or even outright violence. We briefly discussed this in class and there does not seem to be a catch-all solution to harden institutions to public dissent without making them authoritarian. Unfortunately, this means they will always be vulnerable to populism. The obvious liberal solution is to encourage increased civic participation. We discussed this near the end of the course when we learned about deliberative polling. But it is ultimately impossible to prevent people from withdrawing faith if the democratic values of freedom are upheld. Perhaps

Jefferson's (seemingly impractical) idea of constitutional replacement every nineteen years would be helpful to ensure that more people held a stake in the outcome and therefore felt inclined to participate.

Related to the topic of institutional strength, the next chapter we read was about the institutions that formed and solidified in the early days of the United States. Although the chapter covered everything including elections and the electoral college, congressional representation, and slavery, I chose to focus on the judiciary branch and how it obtained its legitimacy and authority. Although the role of the executive and legislature are "clearly" defined in the constitution, the judiciary was left relatively vague, leaving lots of room for politics and other undefined behavior. Luckily this means there is a substantial potential for analysis.

I am interested in two points relating to the judiciary branch in this era.

The first relates to term limits / appointments / accountability. An interesting starting point is the question, "to whom are judges accountable?" The chapter discusses early disagreement over lifetime appointments. Since SCOTUS justices don't need re-appointment, they (hopefully) aren't bound by the politics of those who appointed them. Instead, they should (hopefully) hold themselves accountable to the principles of the Constitution. (There are some clear/obvious parallels to academic freedom here – the success of the academic system depends on researchers maintaining an interest in pursuing truth and knowledge.)

Today, we have seen the erosion of certain "assumed rights" by a Supreme Court that has been described as quickly losing legitimacy/credibility. It seems that certain Justices have taken to ignoring the Constitution in favor of what they think is politically useful or self-serving. Are there (m)any historical justices who were just as corruptible (and simply flew under the radar), or is this newer phenomenon resulting from ideological polarization in the interpretation of the law (caused by groups such as the Federalist Society)?

In the chapter, Justice Marshall argued that "the deliberations of the Supreme Court ought to be cloaked in secrecy. He also urged the justices to issue unanimous decisions—a single opinion, ideally written by the chief justice—and to destroy all evidence of disagreement." I want to investigate Marshall's judicial philosophy further, specifically regarding unanimous decisions and

stifling/muting dissent. Was his statement truly in service of raising the legitimacy of the Court, or was it more self-serving, given that he was the Chief Justice who would have been writing those 9-0 majority opinions?

There is probably also some interesting comparative work on perceptions of legitimacies of courts compared to the amount of conformity. If a country's court of last resort only had X-0 decisions, even on constitutionally controversial problems, I would assume the court lacks legitimacy and that some other authority was telling it what to publish. On the other hand, constant split decisions would signal extreme polarization or worse.

The final point I make here ties us back to our comparative framework. Ultimately, all courts must prove their legitimacy, and analyzing the results of court cases is an effective proxy for measuring legitimacy.

The final chapter we read from *These Truths* was on the development of radio and its implications for mass communication. I was interested to explore how radio was used to inform the public, giving politicians and public figures a direct line to households (as a sort of precursor to FDR's fireside chats).

As a microwave and radio frequency engineer myself, I enjoyed reading the profile on Hoover, especially how his engineering background informed his decision-making. He was influential in accelerating the adoption of the radio industry and creating many of the regulatory and corporate structures that persist today.

It was interesting to understand how the radio – the “broad”-cast – connected the country and allowed for national political candidates to speak to the nation in one shot. I knew a lot about President Roosevelt and the fireside chats and how they had given him a direct line to the nation, but I did not know how Hoover was in many ways responsible for catalyzing this industry.

As an engineer, I'm highly interested in the societal and political impact of my field. Right now, we are witnessing a proliferation of a particular type of artificial intelligence, which can generate “fake” images from a prompt. This has the potential to be highly damaging for society because anyone with access to these models can create any fictitious image and broadcast it, perpetuating disinformation and confusion.

Many of the engineers behind these developments have been criticized for absolving themselves of any moral responsibility when they declare “it's just

technology.” It’s interesting to see these complaints about misinformation through mass media being voiced almost a hundred years ago. Clearly, these problems continue to be significant, but very few people pay attention. I plan to research these themes further (either for a Plan II thesis or during future graduate studies). In any case, it’s important to have ethicists in the field, as we can see through our historical example of mass hysteria via radio, and our contemporary example of mass dis-information via AI models.

As a technologist and ethicist, I am especially interested by how the evolution of technology over the past ninety years has resulted in changes to how mass communication, propaganda, and misinformation operate. Although radio has been surpassed by television and then Internet, the profound (negative) impacts on society persist. As we discussed in class, social media has had a huge impact on polarization. Formerly, these messages were all broadcasted uniformly to the public; now, algorithms tailor the message to the audience member. The evolving technologies in the coming decade will certainly improve the ability of companies and governments to surveil and target the masses on an individual basis.

This section of the course (reading *These Truths*) was punctuated by a lunchtime visit to our class by Dr Lepore and an invited lecture she gave to the greater UT Austin community.

As the final part of this unit, we proposed our own possible 28th amendments to the United States Constitution. First, we searched through the Constitute Project database to understand the various categories of constitutional provisions. As a scientist, I have taken an interest in recent debates on open access and scientific publication, so I searched for provisions about the right to enjoy the benefits of science. I found language in Poland’s constitution to this effect.

Found in Poland’s 1997 constitution (last amended in 2009)

Topic: Culture and Identity // Social Rights // Right to enjoy the benefits of science

Text:

CHAPTER II. THE FREEDOMS, RIGHTS AND OBLIGATIONS OF
PERSONS AND CITIZENS

Article 73

The freedom of artistic creation and scientific research as well as dissemination of the fruits thereof, the freedom to teach and to enjoy the products of culture, shall be ensured to everyone.

Although this is not a constitutional provision, the Biden administration recently announced that all federally funded research must be published in open-access journals, fulfilling the spirit of Poland's provision.

Next, we searched through a database of all proposed amendments to the United States Constitution. I circled on one proposed by Justice Stevens after his retirement, which removes sovereign immunity of states, state agencies, and state officers from federal laws.

Year: 2014

Topics: fedsep (National vs subnational laws)

Text:

Neither the Tenth Amendment, the Eleventh Amendment, nor any other provision of this Constitution, shall be construed to provide any state, state agency, or state officer with an immunity from liability for violating any act of Congress, or any provision of this Constitution.

(Proposed by Justice John Paul Stevens)

I was fascinated by this provision because it was proposed by a former Supreme Court justice, which I believe makes him a qualified person to understand the constitution and its limitations. In practice, the role of the judiciary has been to interpret the constitutionality of laws, and justices who overstep this norm have been derisively referred to as "legislating from the bench." Given that justices are nominally experts in the law, I think they too might have (legislative) insight on constitutional shortcomings, despite pushback from legislators that they should stay in their lanes. I have a blog post in the works on this topic.

After completing our constitutional amendment proposals, we moved on to reading *The Gun, the Ship, and the Pen* by Dr Linda Colley. This book took an international approach to constitutions, analyzing various constitutions throughout history and the historical context that shaped them. Through the reading, we learned that there were some constitutions that preceded the American one and that many early constitutions were undemocratic.

Our idyllic notion of a Constitution is a document (written by “we the people” if our American document is to be read literally) that enshrines certain rights and liberties for the citizenry and sets bounds on acceptable behavior by the government. In theory, this means that the power to rewrite or update constitutions lies with the citizenry. So, I was most surprised to read about how Constitution-(re)writing has instead often been used as a tool by governments to (re)assert their power. Rather than the people establishing limits, governments (democratic or not) have used Constitutions as a means of reaffirming legitimacy either among their populations or on the global scale. The whole process could be characterized as a sort of controlled democratization, in which each time the population grows angsty and rebellious, the government repeatedly agrees to compromise (but only makes piecemeal changes). And just because it’s called a “Constitution” doesn’t necessarily mean it’s good for the people – governments might try to hide behind “the law says so” instead of having to justify their practices.

There’s an old Eddie Izzard standup bit in which a colonizing army dismisses the indigenous population’s claims to the land with the inquiry, “but do you have a flag?” Similarly, the idea of non-Western governments adopting constitutions-as-form to confirm their own legitimacy in the eyes of Western powers is an interesting idea because it highlights the narrow-mindedness of imperial powers in their definitions of statehood. In my critical geography class, we have been discussing the interplay among topics such as nationality, empires, and state formation. If legitimate (but different) forms of governance and territorial boundaries/borders were considered unfamiliar, inferior, and therefore fit for Western colonialism, this reading would suggest that non-Western powers realized they had to “play the game” to prevent this from happening.

The first chapter of the book focused on the Corsican and Haitian revolutions and the similarities and differences of the respective processes. The chapter chronicled the life of important players, and I was interested to learn more about how the childhood experiences of one founder, Pasquale Paoli, influenced his later revolutionary work.

I knew a kid in middle school who would always talk about his family's recurring vacations on a French island called Corsica, but besides it being the birthplace of Napoleon Bonaparte, I didn't know much else about this island. So, I was pleasantly surprised to read through this chapter and get a snapshot of Corsica's early role in Constitution-making. I found the character background of Pasquale Paoli, a major player in Corsica's declaration of independence from Genoa and establishment of (the first) democratic government, to be both independently enjoyable and informative for understanding what inspired his viewpoints. Two things are particularly striking: first, his father, Giacinto Paoli, had deliberately exposed his son to these ideas from an early age, and second, his father had also experimented with Constitutional design thirty years prior. It almost seems natural or predetermined that he eventually grew up to implement these changes himself! I was also fascinated by Giacinto Paoli's ideas about publicly burning the old Genoan governing documents. It makes sense that one would want to associate the symbolic destruction of the old regime with the physical renouncement of it.

I also enjoyed reading about the political tensions induced by increased pressures to maintain military supremacy. I'm currently inching through a history book on the construction of the US Navy's original six frigates and some of the initial obstacles faced in constructing and financing the ships and maintaining full crew complements. It was interesting to read here how similar struggles faced by the European powers (Britain, France, and Spain) manifested in different ways from one another.

My reaction note has been somewhat anecdotal, so I'll end with a slightly academic discussion question: how did these failures by major European powers influence the way the US government (maybe not in the early years but perhaps starting with the era of Manifest Destiny and beyond) went about strengthening its own military and building its own empire?

On the second point, building and maintaining a fleet is a substantial engineering challenge which has always fascinated me. Through the semester I've been working through Ian Toll's book *Six Frigates*, which describes the politics and history of the early United States Navy and how it came to achieve international naval supremacy. This chapter discussed the various challenges faced by European powers and how these challenges came to result in their imperial declines. On the other hand, United States imperial power, both naval and terrestrial, has continued to grow in strength. Clearly, the United States did not succumb to these same pressures. I believe this can partially be attributed to the United States' colonial project being oriented westward, rather than depending solely on non-adjacent colonies. Again, the unique

location of the United States (not locked between other imperial powers; lots of space to colonize with minimal pushback) was helpful.

Before international supremacy comes international legitimacy, and the third chapter of the book discussed how fledgling countries come to achieve legitimacy and recognition in the international community. The main mechanism discussed in the chapter was the printing press, which allowed constitutional designers to print copies and send them far across the globe to elicit support for their new countries. I drew parallels to modern preprint servers frequently used in the sciences for disseminating work prior to publication.

I was intrigued by the discussion early in the chapter about how the United States broadcasted its printed Constitution to convince foreign entities of its legitimacy. It seems akin to putting one's research on a pre-print server and sending advance copies to leading researchers in the hopes that one of them will think it's worth something. Based on the chapter, this was effective for some groups, but not for others (Cherokee, Venezuela). The United States was lucky as an early mover and a beneficiary of friendly geopolitics. Colley discusses this in the context of Americans still having access to British printing networks and the vast shipping networks that British maritime power enabled.

I thought the part about fledgling states publishing their own constitutions alongside collections of existing ones was a brilliant move. What better way to signal that you're legitimate than to simply state so without proof? "Act like you belong" seems to be the philosophy here.

In today's technology age, where mass media is king, I wonder how we would perceive a similar move by a fledgling country (with updated modes of communication). For example, how would we all react if the Kurdistan nation mass-emailed everyone or mass-tweeted its proposed constitution and declared itself to be independent. Would we be sympathetic? Would we be supportive? What about if an existing country did the same with a new constitution – would we perceive it as state propaganda?

A second obvious connection to the reading comes from my critical geography class, in which we read about several invisible countries, polities which are self-governing but lack international recognition. As social media maintains its stronghold in political communication and messaging,

I am interested to see how these “imaginary countries” use social media to align the Internet-using masses to their causes and possibly leverage this support to obtain official recognition.

One example discussed in the book regarding broadcasting a constitution to gain legitimacy is Japan’s constitution in the late 1800s.

Japan provides another example of the first mover advantage in establishing or broadcasting a constitution. As described in the chapter, the framers wanted to write and publish their Constitution quickly “before dissident and rival groupings in Japan gained momentum and became unstoppable” (377), so the bureaucrats try to “beat them to the spot” before getting scooped. I wonder how many successful Constitutions did not win the first-to-publish race in their localities.

Hearing about the provisions in this Constitution was quite interesting because, at least on a textual basis, there were a lot of similarities to the Paoli Constitution presented in the first chapter. For example, the Emperor is given power to do certain things, such as proposing amendments, but the Diet (parliament) has the ultimate power to vote on these. In Corsica and Japan, at least on paper, it seems that the checks and balances were robust.

One detail that was briefly slipped into the chapter that I thought was worth mentioning is the idea that the Japanese government subsidized/sponsored newspapers in other Southeast Asian countries in exchange for favorable coverage. I find this idea of directly buying influence so interesting because it seems countries picked up early on that controlling information is highly effective for maintaining support. One can read about Russian and Chinese state-backed technology corporations and the controversies they face in US markets today surrounding data privacy, algorithmic manipulation, etc.

Many of the themes discussed here, including biased news sources, are quite important in our modern political landscape.

After we finished reading these chapters from Colley’s book, we moved on to another of Professor Elkins’ research interests, drafting contracts for organizations such as households. We read an article by Linda McClain which gave an overview of household constitutions and some analysis of when and how they can be effective. Although my household did not have a complete

constitution, I had some practical experience with short-term household contracts growing up, so I described my experiences, explained what purposes they could serve, and thought about some possible limitations.

Before I was born, my mom was a practicing lawyer, so throughout my childhood she would often go back to her legal foundation and have my sister and me sign short-term contracts. If there was some sort of goal that I was working towards (usually violin-related) we would (collectively) determine rules for what we would need to do, set limits for our media time and other privileges, and make any other provisions as required.

In my experience, this kind of contract-writing is typically a way for the parents to get the kids to organically come to the same values by reasoning through a line of principles. For example, whenever I wanted to extend my media time, my mom and I would discuss the effects of using the computer too much or how I would get too aggressive after losing too many times on Madden. Although I was resistant in the earlier years, by high school I think a lot of these principles were instilled in me with a strong personal grounding.

I think the core distinction (that McClain makes) is that fundamentally (at least in my experience) the idea of family constitutions is very much an overloading of the word “constitution” because the government is (theoretically) decoupled from the people it comprises. On the other hand, if the parents are unified then there is really no oversight or enforcement body to make sure their power is constrained.

With this foundation, we spent the next several lectures crafting our own household constitutions and presenting them to our classmates.

Once we finished our household constitutions unit, we returned to the social sciences to discuss ontologies and taxonomies for organizing information. Ontologies are effective, especially compared to relational databases, because they allow for rich, unrestricted expressions of relationships between objects. Given my background in databases, especially relational ones, I was intrigued by the idea of a taxonomy as a super-database and approached the article with great interest.

As a web developer who frequently uses databases, I was excited to progress through this article and see all these familiar computer science concepts used in a different setting. I guess it is kind of trivially obvious that such an ORM (object-relational mapping) would be useful in any context where relationships between objects are important (it's in the name). In any case, I'm excited to see where this goes.

Sometimes, I've hit obstacles where, midway through a project, the prototype database schema I designed at the beginning is now incapable of supporting the features I need. I wonder if this happens frequently outside of the programming context.

Common topics in household constitutions:

1. Chore allocation
2. Conflict resolution
3. Quiet hours
4. Fiscal policy
5. Footwear
6. Immigration / guests
7. Well-being
8. Cooking
9. Cleaning / cleanliness / maintenance
10. Amendment process

The key is that objects and relationships are of equal importance. One place where this ontology system is widely used is in Wikidata, Wikimedia's "central storage for the structured data," because it allows both for machines and humans to easily understand relationships between objects.

The final part of this response involved going through the household constitutions we created and creating a list of concepts for the provisions. Each constitution had each concept in different amounts, reflecting that each person's household priorities vary – in my case, cooking and fiscal policy were overrepresented.

Returning to our political science focus, we read a 2005 journal paper by Fishkin and Luskin on deliberative polling, a political process for getting citizens to learn about and discuss important political issues.

Interesting article. Notably, it was written five years before *Citizens United v. Federal Election Commission* and *SpeechNow.org v. FEC*, which seem to have drastically changed the landscape by allowing corporations and lobbying groups to push political narratives with minimal oversight. In any case, Fishkin and Luskin briefly address some of the criticisms, but I think they underestimate the impact of communication styles and what I call the “assertiveness superpower / tentativeness disability.”

Communication styles are vastly different across cultures – in some cultures, arguing over politics and religion is considered a community activity that conveys respect and group membership, and others are highly non-confrontational, such that arguing in public over politics is highly taboo. These communication styles may clash and undermine the very purpose of the debate, because people representatively sampled from a diverse population may focus more on being inoffensive rather than deliberative.

In fact, communication styles vary vastly from person to person, which leads to what I’ve named the “assertiveness superpower / tentativeness disability.” As a highly outgoing, assertive person, I have observed that I have an unusually strong track record getting things to go my way. I don’t really have any fear of asking questions and making requests to people (including adults/administrators), and I feel very comfortable publicly defending my opinion. By no fault of their own, my more tentative friends lack the self-confidence (or brashness, perhaps) to make the same kinds of broad claims I do. People tend to take what I say seriously, regardless of how true it is, so I’ve tried to be temper myself lest I start accidentally spreading some fake news or force my assumptions and perspectives onto everyone else. Deliberative pollsters would need to work very hard to make sure that people like myself don’t (accidentally or deliberately) bias the other participants.

One problem I project with this scheme is what it would look like in our modern mass media landscape. To maximize viewership by the public (a good goal), it is easy to see this model turning into a reality TV show, complete with social media engagement, etc. While the goals of the showrunners may be noble and democratic, the very goals of the deliberative polling may be diverted as soon as it becomes a profitable entertainment venture.

Although I thought this idea was highly novel and interesting, I felt like the authors failed to answer several criticisms with the process. Particularly, I am interested in understanding how communication styles and personality styles affect how people perceive one another and evaluate

their arguments. People with more self-confidence and rhetorical experience will typically be more persuasive to a general audience (regardless of the truth of their argument), symptomatic of what I call the “assertiveness superpower / tentativeness disability.” I think the deliberative approach is flawed unless people all have similar rhetorical ability and confidence levels. Additionally, the paper itself is around fifteen years old and the concept closer to thirty-five, so some of the process would need to be better tailored to our modern era. Nevertheless, deliberative polling is an interesting idea.

Our penultimate unit revolved around design thinking and methods for thinking about problems and problem-solving. We read an article from a Design Thinking consultancy founder on why the design thinking methodology is useful. As someone who has done various contracted software projects, I thought the author’s analysis matched up with my experiences, though there were a couple of points of skepticism I expressed.

This is interesting, but obviously we should treat it with a grain of salt because the author is pitching his design thinking consultancy.

In any case, the design thinking mentality is interesting because it respects the idea that you should fully understand your client and more broadly the problem you are attempting to solve. I think it’s effective because you immerse yourself in the ecosystem and engineer a solution that attacks the root of the problem.

This reminds me of the XY problem, the popular phenomenon where a question-asker (on a Q/A forum, for example) asks how to do Y, where Y is the solution to the to a problem X that the asker faces. This is unproductive because often Y is not even the best way to solve X. The user would be better served by asking how to solve X, the root of the problem, so that they get a full spread and comparative discussion of solutions, rather than being scope-limited by answers that only refer to Y.

Design thinking seems well-suited to attack the XY problem by its vertical and human-centered integration. I think the observation aspect is underrated because if done carefully it can help identify deeper and deeper roots of the problem, rather than engineering a solution for a single level.

As the author indicates, this “design thinking” mindset is effective for creating sellable product, but my initial reaction was skepticism over whether it’s an effective strategy for creating good product. I think the important consideration here is that it’s possible to engineer a solution for a problem that doesn’t exist and then overhype the problem until people start to be affected by it. The balancing act is then finding the true “inefficiencies” (as the economists might describe them) and solve them and legitimately sell them, without relying too hard on advertising/sales to manufacture interest.

Because our market economy encourages people to sell their solutions, there is always a risk that problem-solvers manufacture or exaggerate an insignificant problem to construct a target audience for their product. Design thinking is a viable (and indeed powerful) problem solving strategy, but the key point I wanted to highlight was the importance of identifying a legitimate problem.

Our final assignment was writing option reports for ideas to be incorporated into the United States Constitution. We identified an area of the constitution that could be improved, researched provisions from the database of existing constitutions that addressed the problem in other countries, and provided recommendations for changes that would be effective in the United States. We ceremoniously concluded the course with several days of presenting our option reports to our classmates.