

## Week 6. Deliberative Democracy

### 1 Models of Democracy

A question we have not tackled so far: what form should democracy take? What is the central aspect of democracy? Possible answers:

- deliberation (deliberative democracy)
- voting (aggregative democracy)
- representation (representative democracy)
- regular change of power (minimal democracy)
- ...

*Models of democracy* often fulfil several roles at once. They are meant to be

- *normative* – they describe how our political institutions ought to be;
- *realistic* – they take into account political, social and cultural constraints, and provide a feasible alternative;
- *partially descriptive* – they identify some features of actual democracy, and how these features work together.

Accordingly, there are three ways to criticise a model of democracy:

- *normatively undesirable* – the type of political institutions described by the model would be undesirable, or less desirable than some other model;
- *unrealistic* – it is not feasible to realise the model (or very costly to do so)
- *inaccurate* – the model does not adequately capture how democratic institutions actually work, and/or fails to take into account important social, cultural and economic forces.

### 2 Deliberation & Public Justification

What is *deliberation*? Deliberation must be different from mere talking to fulfil the important role that deliberative democrats want. Good deliberation requires certain standards and conditions:

- Mutual respect for others
- No extreme power imbalances
- Everyone has an equal chance to be heard
- ...

We can distinguish the *scope* of deliberation (how many people deliberate in how many contexts) from the *quality* of deliberation (the degree to which deliberation fulfils said conditions). As Lafont points out, these two dimensions often conflict.

What is the *aim* of deliberation? An underlying ideal for many deliberative democrats is the idea of *mutual* (or public) *justification*. Here we must distinguish between

- *Actual* justification: justification to people as they are
- *Hypothetical* justification: justification to people as they are, but without actually engaging them
- *Idealised* justification: justification to people as they could be, if they were more reasonable and better informed

Some proposals to realise deliberative democracy:

- “Mini-publics”
- Deliberative polling
- Deliberation days
- ...

### 3 Gutmann/Thompson, “What Deliberative Democracy Means”

#### What Is Deliberative Democracy? (3)

Elements in deliberative democracy:

1. Requirement to *give reasons*: citizens should rely on the power of arguments.
2. Reasons should be *accessible*: the given reasons must be comprehensible to others (4).
3. Deliberation aims for *binding decisions*: not just idle talk.
4. Deliberation is *dynamic*: all results are provisional.

*Questions for Discussion.* (i) What does it mean for reasons to be “accessible”? (ii) Do reasons need to be accessible to everyone? What about psychopaths or dehumanizing views? (iii) What are the conditions for realising a deliberative process of this type?

#### How Democratic is Deliberation? (8)

Deliberation is democratic to the degree that it is inclusive.

#### What Purposes Does Deliberative Democracy Serve? (10)

1. Legitimacy: helps dissenters to accept government policies.
2. Public-spirited perception of public issues.
3. Respectful Decision-making: recognize moral merit in the claims of opponents (11).
4. Correct Mistakes: improves both self-understanding and understanding of others (12).

#### Why Is Deliberative Democracy Better Than Aggregative Democracy? (13)

Two versions of aggregative democracy, (i) market-like conceptions, (ii) more elitist, expert-based conceptions.

These conceptions share several weaknesses: (i) they take preferences as given (15); (ii) they prioritize certain types of (economic) preferences; (iii) they are non-dynamic, and fail to react to the (changing) concerns of actual citizens—ex. Oregon health reform (17).

#### What Kind of Deliberative Democracy? (21)

*Instrumental or Expressive? (21)*

Is the value of deliberation merely instrumental, or expressive as well? Deliberation has both. It’s likely to promote better outcomes, but it also treats us as “subjects, not merely objects” (22).

*Procedural or Substantive? (23)*

Do principles of deliberative democracy merely describe procedures, or do they describe outcomes as well? G/T: they should describe both.

*Consensual or Pluralist? (26)*

Should deliberation achieve consensus on a common good, or merely aim for grounds that are acceptable to a pluralist audience? G/T lean towards pluralism.

*Questions for Discussion.* (i) What is the difference between the instrumental/expressive and the procedural/substantive distinction? (ii) What would speak in favour of a consensual account of deliberative democracy?

## How Far Should Deliberative Democracy Reach? (29)

### *Representative or Participatory? (30)*

On what level should people deliberate? Is this mostly on the level of representatives, or individuals? G/T reject direct democracy, though they sympathetically mention Fishkin's deliberative polling.

### *Government or Civil Society? (31)*

Does the duty of public deliberation apply to government only, or much more widely? G/T think that deliberation should be more extensive—e.g., it should extend to corporations (34).

## How Can Deliberative Democrats Respond to Theoretical Objections? (40)

### *The Priority of Justice (40)*

Justice has no special priority over deliberation. At the same time, we should admit that deliberation is not a panacea.

### *The Circularity of Justice (42)*

What if the background conditions of deliberation were itself unjust? G/T: the deliberative process has the power to turn its attention to those background conditions themselves.

### *The Redundancy of Deliberation (43)*

Raz: a law is justified to people just in case good reasons support it; justification adds nothing. G/T: Raz fails to see the difference between public and private morality (44). Respect requires that representatives publicly justify their views (45).

### *Primacy of Power (46)*

Fish: politics is all about power. Deliberative democrats ignore this reality. G/T: deliberation itself can unmask cynical ways in which

people use deliberation. Also, some reasons are better than others; not everything is power.

## How Can Deliberative Democrats Respond to Practical Objections? (48)

### *Deliberative Biases (48)*

(i) Where money affects politics, it is likely to distort deliberation. G/T: but deliberative democracy is its own best cure. Ex. campaign finance (49).

(ii) Deliberation seems to disfavour marginalised groups (49). G/T: To remedy these effects, these groups need more power. They will often use emotional rhetoric to achieve these aims (50), but that is compatible with deliberative democracy (50-1).

(iii) Deliberation seems to disadvantage religious groups, as they will find it harder to comply with standards of public reason (51). G/T: standards of public reason are desirable; they do not *unfairly* burden the religious.

<p><i>Questions for Discussion.</i> (i) Are Gutmann/Thompson's claims about campaign finance reform convincing? (ii) Should we see civil disobedience as a form of practicing deliberative democracy?</p>
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### *Undesirable Consequences (53)*

Critique: Deliberation undermines political stability. G/T: this overstates how destabilising deliberation will be; also, opening everything to deliberation is a good thing (54).

## 4 Lafont, “Deliberation, Participation, and Democratic Legitimacy”

Starting point: how can we make our societies more deliberative? One proposal: use mini-publics to realise deliberative democracy. Lafont will argue that mini-publics undermine, rather than increase, legitimacy.

The problem is that the mini-publics are either superfluous for legitimacy (if their role is indirect), or they violate the deliberative criterion of legitimacy (if their role is direct).

*Questions for Discussion.* How would “mini-publics” practically work?

### I. The Tension between Deliberation and Participation: Two Views (42)

There is a conflict between deliberation and participation. How should we resolve it?

*Shortcut View* (Fishkin): the values conflict, so we should focus on what matters—deliberation. This shortcut is achieved through deliberative polls.

*No Shortcuts View* (Cohen): both values are irreducible and equally needed (44).

### II. Mutual Justification as a Criterion of Democratic Legitimacy (45)

Different theories of deliberative democracy are unified by adhering to the same criterion of legitimacy. According to this criterion,

public deliberation contributes to democratic legitimacy to the extent that it enables citizens to endorse the laws and policies to which they are subject as their own. [...]

To the extent that citizens can mutually justify the political coercion they exercise over one another, they can achieve political autonomy or non-domination [...]. (45)

For deliberation to fulfil this function, it needs to satisfy certain standards, such as reciprocity and equality. Improving the quality of deliberation thus contributes to legitimacy.

We can now explain the conflict between deliberation and participation: if more participation undermines the quality of deliberation, then there is a trade-off. This explains different proposals for micro-deliberation, like mini-publics, citizen juries, etc. (47).

*Questions for Discussion.* (i) Explain the origin of the trade-off. (ii) What is needed to “mutually justify” a policy?

### III. Should Deliberative Democrats take the Micro-Deliberative Shortcut? (47)

A first objection: micro-publics start to look like elite democracy, the theory that deliberative democracy was meant to overcome.

*A. Against the Elitist Objection: Ordinary Citizens to the Rescue* (48)

Reply: micro-publics are randomly sampled. So they represent the people, not the elites.

*B. The Mirror and The Filter* (49)

Let us accept that the deliberators in the mini-publics mirror the general population. The problem is that deliberation also *transforms* their views. (This is supported by empirical studies.)

But then the opinions of the deliberators are no longer the opinions “of the people”! What distinguishes them from experts now? (50)

Return to the deliberative principle of legitimacy. What matters is that decisions are justified to citizens—actual citizens, not as they could be (51). Fishkin himself implicitly accepts that. So the legitimacy of mini-publics is highly questionable.

*Questions for Discussion.* (i) Consider cases of actual vs informed views in other areas of moral and political philosophy. Can we find similar problems there? (ii) Given that actual citizens are often very badly informed, does this speak not in favour of mini-publics?

Furthermore, there is no “bond” between the deliberators and actual citizens. They enter as purely private citizens. So they have no duty to represent the general population (52).

#### *C. A Counterfactual Scenario (53)*

Imagine that we have scientific evidence that mini-publics reliably track the opinion of the general population.

Even then, this would violate the deliberative criterion of legitimacy. What matters is that public policies are justified to everyone—that they have insight and understanding. Mini-publics cannot bring this about. (54)

*Questions for Discussion.* (i) What might a defender of mini-publics reply? (ii) Is this not an overly demanding view of what justification requires?

#### *D. Should the people blindly defer to their better selves? (54)*

But why should we not trust our “better selves”? After all, they know more. Reply: if it is rational to follow your better self, it’s not clear that you should follow a randomly selected better-informed majority (55).

#### **IV. No Shortcuts: The Return of the Macro-Deliberative Strategy (58)**

Fishkin: the mini-publics need to be re-embedded into the wider culture – e.g., their deliberations need to be made available through public media etc.

However, here we just return to macro-deliberation, re-introducing all of its problems. So ultimately, it seems that our only hope is to try to improve the quality of deliberation on the macro-level.

#### **V. Conclusion (59)**

Lafont summarises her argument,

If the democratic legitimacy of political decisions depends upon their ability to track the perceived interest and ideas of those subject to them, deliberative democrats cannot abandon actual public opinion. They should support institutional innovations geared towards transforming actual public opinion into considered (better informed, more reflective) public opinion, but not those geared towards letting a proxy of the latter shape public policy while bypassing the requirement to first transform the former accordingly. Deliberative democrats should endorse the use of mini-publics for shaping public opinion, not public policies. (59-60)