

A Conception of Deliberative Democracy

By

Waleed Mebane

Submitted to

Central European University

Department of Political Science

In partial fulfillment of the requirements of the degree of Master of Arts

Supervisor: Andrés Moles

Budapest, Hungary 2012

Abstract

In this thesis I develop a conception of deliberative democracy together with the conditions for it to command acceptance on the basis of producing good outcomes while safeguarding essential rights and liberties. I assert conditions of fairness, diversity and inclusion that are necessary to achieve the best outcomes, and I elaborate a cognitive approach to differentiated roles for citizens according to their expected competences. By reference to empirical studies and analysis of the conditions for successful deliberation, I explore cognitive and informational problems for successful deliberative outcomes and their resolution through the use of a controlled deliberative environment in microcosmic assemblies.

Table of Contents

Introduction.....	1
Chapter 1. A conception of deliberative democracy.....	3
1.1 The value of democracy.....	3
1.1.1 Epistemic democracy.....	4
1.1.2 The Condorcet Jury Theorem.....	5
1.1.3 The value of truth.....	6
1.1.4 Freedom (as non-domination).....	7
1.1.5 Safeguarding essential rights and liberties against error.....	8
1.2 The value of deliberation.....	13
1.3 Against ‘Normative Epistemic Authoritarianism’ (epistocracy).....	16
1.4 Diversity, fairness, and epistemic fairness.....	18
Chapter 2. Cognitive and informational issues.....	25
2.1 A cognitivist account of representative (deliberative) democracy.....	25
2.2 Inputs from civil society.....	28
2.2.1 Rational ignorance.....	30
2.2.2 Cognitive and information problems.....	31
Chapter 3. Participatory concerns and policy recommendations.....	37
3.1 Microcosmic deliberative assemblies.....	37
3.2 How microcosmic deliberative assemblies could help solve rational ignorance.....	39
3.3 Philip Pettit’s argument for depoliticization.....	41
3.4 Duties of citizens and government.....	42
3.5 Against an epistocracy of microcosmic deliberative assemblies.....	44
Conclusion.....	47
Reference list.....	48

Introduction

This thesis presents a conception of deliberative democracy with attendant roles for citizens. In particular, this thesis argues that the value of deliberation and of democracy suggests the need for diverse voices as inputs into the deliberative process and the need for broad participation. The arguments proceed as follows, beginning by establishing the value of deliberation and the value of democracy.

In the first chapter of this thesis, the theoretical foundations for a conception of deliberative democracy are elaborated. The conception developed here takes the primary value of deliberation to be constructing policies together with reasons to accept such policies and providing part of a reason for a minority to accept the decisions of a majority. This is an epistemic good, and justification through deliberation is also to be valued for its potential to improve outcomes according to objective or intersubjective standards of justice, fairness, or of the public good. Beyond making good outcomes more likely, it is considered that a form of government that could be reasonably acceptable should avoid the worse outcomes, infringements on essential rights and liberties. Finally, conditions of fairness and of inclusiveness that seem to be necessary to ensure good outcomes are elaborated.

In the second chapter, I consider a cognitive account of deliberation. The ability of deliberation to produce results described in the first chapter is related to the cognitive assets available to the community and how they are used. Since citizens can be expected to have different cognitive capabilities, a cognitive division of labor should be possible. One such division might be between citizens at-large and their elected representatives, in which the biasing effects of self-interest on elected representatives are counterbalanced by their expectation of being held accountable by

citizens. Cognitive and informational problems that may interfere with citizens in their role of holding representatives accountable are presented.

In the final chapter, I suggest a solution to the problems presented in the second chapter. I argue for microcosmic representation as a complement to, but not as a replacement for, elected representative bodies.

The goal of this thesis is to offer an account of deliberative democracy that brings the epistemic implications of deliberation into view, and to show that roles and duties for citizens and government are supported by the value of good outcomes within the framework of a certain conception of deliberative democracy.

Chapter 1. A conception of deliberative democracy

1.1 *The value of democracy*

This thesis presents a conception of democracy as purely instrumental. A conception of democracy is to be valued that is best on average as an epistemic process that results in normatively good political judgment and decisions. On this view, if another form of government were better at producing outcomes it should be preferred. In fact, it is easy to imagine some candidates—rule by the wisest, for example. I offer two additional reasons why we should prefer democracy, nonetheless: 1) because any acceptable form of government ought to preserve individual liberty, and 2) because democracy has salutary effect on the development of individual autonomy, an important, but not overriding value.

It is often claimed that democracy has intrinsic value due to its unique association with political equality. Political equality is a constitutive component of democracy, it is thought, but does not seem to be a feature of any other form of government. In contrast to such views, I hold that democracy has only instrumental value, and the conception of democracy advanced in this thesis rests on a purely instrumental justification of democracy. A conception of democracy has value according to its strength as an epistemic process for discovering a certain kind of truth. While it may be that some non-democratic form of government is better on average than any conception of democracy at finding truth (see Martí 2006, 33), such forms of government fail to adequately safeguard individual freedom. In an authoritarian form of government, for example, some such deviations from the average could be nasty abuses of power, even atrocities, or the like, as history has repeatedly demonstrated. For that reason, democracy is to be preferred.

1.1.1 Epistemic democracy

The conception of democracy developed in this thesis is an epistemic conception. An epistemic conception of democracy makes use of a democratic process to aggregate beliefs rather than preferences (see Martí 2006, 31). These beliefs are beliefs about political truths relevant to policy or about the best policies. Knowledge about such truths is taken to be the output of the process, and a good epistemic process therefore also provides a reason for the minority to accept the decision of the majority. The reason is that the decision is based on the truth or knowledge of the truth. But in as much as any epistemic process that we might design is imperfect, minorities also have a reason to doubt the decision of the majority. The decision of the majority may sometimes be in error, but the process is designed to make good judgments more likely, so that it is, in general, to the benefit of all.

Some theorists have noted that there may be some issues that are not sensitive to knowledge of the truth (or for which knowledge of the truth does not have much relevance to taking decision). In a paper supporting democratic instrumentalism, Steven Wall refers to these as ‘aggregation issues’ (2007, 427, 428, 436, and 437).¹ An aggregation issue is one on which the correct decision depends only on aggregation of preferences. Wall offers a decision among friends about whether to go to dinner or to go to the movies as an example (427). It should be noted that there may be prior issues to be decided which are sensitive to political truths about such things as justice. Returning to the analogy, three friends might decide several times, based on preference to go to dinner, as a two to one decision, but eventually decide

¹ Dworkin calls these issues ‘choice sensitive’ issues in his discussion of political equality, in *Sovereign Virtue* (2002, 204). Steven Wall’s presentation, since it is in the context of democratic instrumentalism, is more immediately relevant.

based on fairness to go to a movie sometimes. Similar less trivial situations could occur with permanent minorities seeking provisions that would afford them fair access to opportunities: the building of new schools or libraries in an underserved neighborhood, rather than the building of a convention center or municipal golf course elsewhere in a city, for example. Nevertheless, if there are issues that are dependent only on aggregation of preferences, it is compatible with the arguments presented here. A separate procedure may be provided for only those issues. As Wall writes, in support of democratic instrumentalism, “it is a mistake to assume, as the problem of entrenched minorities all too often reveals, that a fair aggregation always results when each citizen is given equal political power to determine political outcomes.” (437).

1.1.2 The Condorcet Jury Theorem

The Condorcet Jury Theorem says that given certain conditions, if each member of a group has a greater than fifty percent chance of being correct, then together their chances of being correct are better still and improve as their numbers increase (see Martí 2006, 39-41; Landemore 2008, 21-8).

Unfortunately we have no way of knowing if members have a better than fifty percent likelihood of being correct on any given issue. The average person may only be thirty percent likely to be correct, for example. The Condorcet Jury Theorem cannot offer us any guarantee because we have no way of knowing who (if anyone) is more than fifty percent likely to be correct on a given issue (after deliberation); we have no independent access to the truth.

The jury theorem does give us one reason why a democratic procedure *could* be a good epistemic procedure and, especially, better than non-democratic ones, however. It is through the power of large numbers. Furthermore, as we will see,

deliberation should help to raise the level of information and reduce misinformation and bias, improving the likelihood that the jury theorem might apply.

1.1.3 The value of truth

The kind of truth that I will be concerned with here is the truth about what is politically best for a given political society. These are truths that encompass correct notions of justice, freedom, and the like, our political ideals. It is important to note that truth is not in conflict with these values, but rather includes them. We cannot conceive of a truth that does not include fairness and justice and other important values, at least in some best-possible trade-off. That is, at least if we have discovered a sufficiently encompassing truth. There may be separate truths about individual liberty and about community responsibility which seem to be in conflict, but the conflict is due to not knowing the relevant truth about how the separate *parts* of the more encompassing truth fit together, or what is true about what trade-offs should be made between competing values. If we knew the ‘whole truth’ we would find nothing to contradict it, and all rational persons should consent to be governed by such truth. The claim is that a government by sufficiently encompassing truth is the best government. Rational persons ought to consent because it is the best that they could do. A further claim is that government by truth inherits the moral authority of truth, when that truth is the ‘whole truth’ or a truth sufficiently encompassing so that it is not in conflict with any moral truths about our political community. If there is a sense in which there is a ‘best’ for a person that is better than being governed by a sufficiently encompassing truth, it entails impermissibly immoral ways of life.²

² This is not to enter into disputes about neutrality versus perfectionism. If it is true that government ought to be neutral toward conceptions of the good then that is part of the ‘whole truth’ about political society, and one will not be governed in a way that requires a judgment about the morality of one’s conception of the good unless it is in some aspect toward which no political community can remain neutral. If, instead, some comprehensive conception of the good is true, then the ‘whole truth’ might

Unfortunately we have no reasonable expectation of finding the whole truth. Instead what we are looking for are reasons which persuasively justify policies, and we are looking for good policy proposals. Both of these are supposed to embody political truths to some extent. The extent to which they do is the extent of the success of this conception of deliberative democracy as an epistemic process. The aggregate judgment of voters as to the how persuasive reasons and proposals are characterizes the democratic part of the process. The fact of being concerned with reasons and persuasion characterizes the deliberative part of the process.

1.1.4 Freedom (as non-domination)

The concept of freedom that I will endorse in this conception is the neo-republican concept of freedom as non-domination. There is a debate about whether neo-republican freedom can be reduced to liberal freedom, or whether, alternatively, the supposed benefits from obtaining republican freedom are actually fully available by obtaining a relevant degree of liberal freedom. I will not engage in that debate. What I would like to include in the concept of freedom that I defend in this thesis is a robust assurance of freedom. I adopt the republican concept of freedom as non-domination, in part, to signal that commitment. A republican understanding of freedom as non-domination has it that freedom should not be dependent on the whim of others who have the ability to interfere arbitrarily with one's actions, even if they do not exercise that ability, and even if they are very unlikely to exercise that ability. Philip Pettit compares this requirement to a widely accepted liberal requirement articulated by Isaiah Berlin. Berlin characterizes liberal freedom such that there can

be that one should be governed by it, but that need not be the 'whole truth'. Such a truth might need to be weighed against the problems that would arise if such truth could not be known to be truth. Such problems might be riots and disorder, or suffering on the part of those who rebel (for good reason as far as they know). When the negative consequences of imposing a (by hypothesis) true comprehensive conception outweigh the positive it is hard to see how imposing it nonetheless could be the mandate of the 'whole truth' rather than some less encompassing truth.

be no increase in freedom due to adaptation of preferences to match constraints in the environment; such constraints still count as limiting freedom in spite of the individual's disposition, after having adapted her preferences, not to act in any way that is actually constrained (Pettit 2008, 212). Pettit adds that it cannot be counted as an increase in freedom that an individual has charmed or duped those who have the ability to interfere, so that they are no longer inclined to interfere, but retain the ability to do so and to do so arbitrarily (2008, 216). It may be that the distinction is adequately captured by the idea of interference as being very unlikely. The stance that I take is that there should be adequate institutional safeguards against arbitrary use of the political power of coercion. It is not enough that those holding power be beneficent so long as we have in place no institutional mechanism for ensuring that a change in that disposition (even in a somewhat distant but imaginable future) does not result in arbitrary use of that power. Non-arbitrary use of power entails that reasons be provided. When no reasons are provided or those reasons do not accord with law, they should be able to be contested, for example, in courts.

1.1.5 Safeguarding essential rights and liberties against error

We are concerned with improving the quality of political outcomes by constructing an epistemic democratic process which generates knowledge about the best policies for our political society or allows us to identify the best policy from a range of alternatives, yet we have no assurance that our process will enable us to construct or identify the best policies. Our process enables us to improve the likelihood of good results, on average, when compared with alternative forms of government. We also cannot always say confidently that knowledge of a partial truth, because it is in some way as close as we can get to knowledge of the whole truth, will enable us to produce good outcomes. This may especially be the case when such

truth is poorly applied. The epistemic process is a kind of experimental procedure that has both failures and successes, and falsehoods can be incorrectly taken to be truth, as well.

For these reasons, government by truth is not realized by government by an epistemic process alone. Such a process though designed to track truth is inevitably imperfect. There is a need to safeguard valuable basic goods such as freedom and a robust conception of justice from an uncertain fate under the government of a fallible process. Therefore the process should be governed by a constitution.

When a minority is able to trust that the procedure is the best for tracking the relevant truths and, thereby, for constructing and selecting the best policies, those in such a minority have a reason to accept the decision of a majority even when they disagree. At least that is the case as long as such decisions do not seriously threaten their basic liberties. When decisions of the majority seriously threaten basic liberties, they need not be accepted, even though the provenance of the decision in a good epistemic process offers a reason to believe that it may be in some sense a correct decision. For example, a decision which temporarily trades off liberty in favor of some other valuable good or to realize some other valuable ideal is suspect. There is a possibility that a trade off may be best in terms of substantive outcomes, as I argued in my discussion of partial truths. An understanding of a more encompassing truth or of the whole truth reveals how the parts fit together, possibly entailing that some parts are irrelevant or less indicated at certain times or in certain circumstances. But given that we have no way to know when we are making such a trade off correctly rather than in error, we should prefer not to curtail basic liberties in any serious way. To do so on the basis of untruth would be to compound the problem of epistemic error with the problem of injustice toward some citizens and possibly great suffering. If it is

supposed to be weighed against even greater suffering in the case that the majority is correct, the gravity of the consequences creates an argument for something like a unanimity rule. On the one hand, a consequentialist approach (to understanding our moral obligations to individual persons) would seem to indicate that greater certainty be sought. On the other hand, a nonconsequentialist approach might, if it allows such a trade off at all, at the very least require that those affected be willing to make the sacrifice. Such considerations might further result in sacrifices being distributed more fairly among members of a community.

A constitution based on the conception of deliberative democracy described in this thesis will include assurance of non-domination, but assurance of non-domination as such only requires that liberty not be interfered with *arbitrarily*. Additional constitutional details are necessary to set out what constitutes valid reasons or a valid process supporting government actions that interfere with individual liberty, with which types of liberty can government interfere for the sake of benefit to the community and under what circumstances, and also which basic or fundamental liberties are those with which government may never interfere. The rules instituted and the principles endorsed in the constitution provide the basis for successful contestation of ordinary statutes, and of government decrees or actions as to whether they are arbitrary in the sense given (only superficially adhering to constitutional rules or principles) and as to whether interference on the basis of reasons given by the government are indeed valid. To be sure, there are reasons which might count as arbitrary even though sanctioned by a constitution. The conditions for adoption of a constitution will likely minimize the inclusion of such rules, limiting them to errors of judgment. The creation of a constitution is not an infallible process, but it is one that principally concerned with the limited domain of the fundamentals and essentials of

just institutions. The full realization of justice is an ongoing concern, but one which can be significantly advanced by establishing a constitutional regime with even imperfect (but basically sound) protections for rights and liberties.

As we will see later, the epistemic goals of deliberative democracy under the conception presented here are supported by certain requirements of diversity, and those requirements are at odds with laws and government actions which would tend to exclude some groups, either by disenfranchising them or by making access to basic goods, necessary for their participation in civil society, difficult. It further supports distribution of resources to make such participation by underprivileged groups possible. However, the diversity requirements are grounded in the epistemic usefulness of diversity. There are concerns of justice which are available to strengthen our commitment to safeguarding rights for minorities. Minor compromises that might be thought not to interfere with the epistemic accuracy of the process might nevertheless yield a process under which minorities have strong reasons to reject decisions. Those are 1) a reason of justice in the case of epistemic error, and 2) a reason of epistemic concern in the case of epistemic error. In the first case, as we have said, minorities have a reason to accept decisions which they have strong reasons to believe are wrong when they know that it was the result of a process that is the best among alternatives at improving the quality of outcomes and when they know that their rights and liberties are secure against the inevitability of failures in that process. Therefore the enumerating and securing of essential rights and liberties is prior to considerations about the effectiveness of the process (for example, vis-à-vis diversity). That is, unless we believe that by attending to concerns about the effectiveness of the process we could design an infallible or practically infallible process—one that could always command support—we should first consider what

would be necessary to give an imperfect epistemic procedure authority. Increased likelihood of truth has to be balanced against likelihood of error, and the *significance* of the error. Errors regarding essential rights and liberties may be of great or even grave significance. These errors cannot, as far as we know, be reduced to insignificance by improvements in the process. This is the most important reason. A second reason also argues against accepting an epistemic process which makes minor compromises regarding the conditions of diversity that do not affect the accuracy of the process. That is that inclusion of enough minority voices ought to mitigate the severity of potential problems, for minorities, with erroneous decisions because their presence ought to support the construction of alternative policies, all of which are milder in their implications for minorities than those which would be constructed with less minority contribution. This could be considered an aspect of accuracy, but, again, a constitution offers rules and principles governing how one aspect of accuracy ought to be weighed against others. In this case, it should mandate robust protection for minority rights and liberties.

The conception of deliberative democracy developed here makes a place for constitutional considerations beyond those supporting its procedural epistemic goals and its principled commitment to the ideal of freedom as non-domination. There are considerations of justice which we presume will be a part of (and a very important part of) any correct understanding of a sufficiently encompassing truth or of the ‘whole’ truth regarding our political society. We do not discard the conclusions of our moral and political philosophy, thus far, in favor of an imperfect epistemic procedure. Rather, we attempt to ensure that these important considerations are part of substantive outcomes by including legal safeguards in the constitution and institutional safeguards, likely in the form of separation of powers and constitutional

courts.³ When there is a reliable epistemic process and good reason to believe that it is the best such process, or on average best, and it is joined with assurance of the protection of rights and liberty in the case of error, there is a reason to prefer government by such a process, just as there is a reason to prefer the best government over any lesser government. There are reasons to prefer the expected outcomes of good judgment when paired with a very small likelihood of significant counterbalancing reasons to fear outcomes of bad judgment.

1.2 The value of deliberation

The primary purpose that I claim for deliberation is to justify policies by giving reasons. Giving reasons has the potential to justify policies to others who do not initially share those reasons precisely because the reasons are chosen for their supposed persuasive power. Persuasion, here, is not intended to mean inducement, coercion, or manipulation. It is not persuasion due to threats or incentives. That is bargaining. Deliberation occurs over reasons which are persuasive to rational individuals due to their normative force, and so it entails that if they are, indeed, persuasive, they could be voluntarily accepted as normatively justifying a policy.

Deliberation has a second value that Fabienne Peter refers to as its ‘constructive function’ (2009, 38, 64-5; based on Amartya Sen). Deliberation has the potential to reveal options that were not previously considered. Policies under consideration can be discarded and different, less objectionable, policies considered, instead. Deliberation has the potential to reveal amendable problems with policies, so that such policies come to be amended (rather than discarded). For the purpose of this

³ From some perspectives, the addition of a constitution that goes beyond specification of democratic rules and procedures to ensuring rights and liberties makes a polity less democratic (see, e.g., Arneson 2009, 199). The idea is that some things are removed from democratic control. This need not create a tension in the context of democratic instrumentalism.

exposition, I will combine this with justification and give the value of deliberation as generating policies together with normatively justifying reasons.

Normative standards embodied in reasons given as justification of policies are external to the process of deliberation; they are either wholly or partly objective or intersubjective, where the process through which they arose cannot be duplicated merely through deliberation.⁴ Individuals are not taken to have independent access to the truth about these standards and how they are to be applied to the policy under consideration. Deliberating about reasons, so as to attempt to find the best or most persuasive, justifying reason is an epistemic process, as persons come to be persuaded by believing that a reason or reasoned argument is superior to some opposing alternative.

Deliberation, then, is valuable in two important ways, (1) giving reasons to justify a policy, and (2) as an epistemic process that likely improves the quality of decisions, when quality is measured by how well they adhere to normative standards. If a process improves the quality of a decision, that is a benefit whether or not the decision is ultimately justified.

Under deliberative scenarios that fall short of unanimous consensus, we need to consider how a justification accepted by a majority gives a minority a reason to accept a policy (Lafont 2006, 18-2). We have already explored that issue somewhat. As an epistemic process it gives minorities a reason to adjust their beliefs to the extent that the process is agreed to be reliable. In addition, under our conception, minorities will be assured of constitutional protection for their essential rights and liberties. But

⁴ A purely intersubjective constructivist interpretation of normatively justifying reasons might be possible (see Marti 2006, 30n5), but I take truth to be independent of the deliberators (except that the relevant truths that they find will be appropriate to the circumstances of the political community). It is troubling that truth could be (wholly) relative to a given group at a given time and whatever the right epistemic procedure identified as truth counted as truth. If such a procedure fails to identify injustices then it suggests that they are not really injustices, or do not matter.

an epistemic conception is ultimately grounded in its ability to produce accurate judgments. There could still be difficult policies for minorities to accept as being truly justified. Lafont asks why a minority that may be deeply opposed to a policy (for example, on the grounds that it is unjust) should accept a policy. A justification with which the minority did not agree does not seem to have any force in that regard. She mentions but immediately rejects the possibility that they could agree for different reasons. If they agree to the same policy but for different reasons then what was the value of deliberation, understood as ‘tracking the force of the better argument’? Deliberation seems to add nothing (Lafont 2006, 16-7, 16n23, 17n24). I believe this is too severe of an assessment. Deliberation could have consolidated opinions into fewer views all of which offer reasons separately justifying a policy, or it could have made deliberators aware of multiple good reasons that separately justify a policy (i.e., related to the constructive function). When there is no overlapping consensus and the issue cannot be decided by constitutional principles, the question remains.

As the reason the minority should defer to the judgment of the majority, Lafont says that it is a matter of recognizing where the burden of proof lies at the given moment (2006, 19). The minority recognizes that they have failed to bring sufficiently persuasive reasons by the time the deliberation was ended for the practical reason of taking a decision, but they may be able to do so in the future and be in the majority (19). Under this account the minority’s deference need not imply that the judgment of the majority was correct or that it gives them a sufficient reason to change their minds, as to the truth; instead, they acknowledge that the majority did a better job of providing persuasive reasons (19). I find her account convincing, but the minority must think that the reasons and the process have some epistemic value even

if it does not rise to the strength necessary to require them, rationally, to change their minds; otherwise, they would have grounds to object that the idea of a ‘better’ argument is meaningless as a basis for preferring one decision over another and could not, in any case, meaningfully justify anything. Justification under this conception comes from the general reliability of the epistemic process and its robustness in terms of reliably resisting unjust outcomes, even in the cases of errors in the judgment of majorities, due to constitutional protection and the institutional design for contestation. Having reasons which can be taken to justify a decision implies that any interference with individual liberty was non-arbitrary⁵ and does not impinge on republican freedom, and having those reasons also allows them to be scrutinized with regard to consistency with constitutional principles so as to make robust the assurance of constitutional protection for rights and liberty. The process together with constitutional and institutional assurances is expected to be as reliable or more reliable than competing processes, including competing conceptions of deliberative democracy.

1.3 Against ‘Normative Epistemic Authoritarianism’ (epistocracy)

José Luis Martí (2006) raises the concern that an epistemic conception of democracy which treats democracy as instrumental to some epistemic goods suggests

⁵ The ‘discursive dilemma’ presents a problem for justifications of policy. In a case in which decision must be made by majority rule, the majority (collectively) can disagree on premises necessary to justify a conclusion while agreeing on the logical conclusion from those premises (or vice-versa). A conclusion cannot be said to have been rationally justified (by a majority) if the majority does not accept the necessary premises (see Pettit 2004). Philip Pettit takes this irrationality to be a sign of arbitrariness (2004, 101-2); however, it is important to note that if the conclusion is agreed to it could be a sign of overlapping consensus (Gold 2004, 110-11). If the underlying reasons are not known, reasons that could have supported a decision can still be inferred from the contents of the deliberations, and decisions can still be contested, either on the basis of their being evidently arbitrary or on the basis of being incompatible with constitutional principles. Thomas Schmitt writes, “the group’s verdict can be contested in another sense: ... all group members *individually* can accept both the group’s verdict and the group’s reason for it” (2004, 161). When the dilemma surfaces procedures can be designed to rationalize the results by taking additional votes with different voting rules (Pettit 2004, 98) (even though an ‘impossibility’ result due to Christian List shows that no *general* solution exists [List and Pettit 2002]).

that the right to govern should be restricted to the most competent, so as to improve the likelihood of good outcomes. Estlund calls this ‘Normative Epistemic Authoritarianism’ (1993). Estlund’s answer is that we cannot ‘know the knowers’, those who know who is most cognitively fit (Estlund 1993, 84-9). Even if we could select the most cognitively fit there would be no way to publicly justify our selection because “people reasonably disagree about controversial political matters” (Martí 2006, 49). Martí points out, however, that we might be able to identify those who are certainly not the ‘knowers’, who at least do not contribute to the search for the public good and in the worst case tend to derail the search. He writes, “Although we cannot know who the 0.1 per cent wisest are to govern us, we surely can identify the more ignorant or incapable 20 or 10 per cent and leave them out of the political process” (Martí 2006, 50). Martí’s answer, with which I agree, is that leaving some people out of the process of making decisions implies that they will be dominated by the other part. He writes, “to be dominated does not imply to be actually oppressed, pursued or interfered with, but to be in a situation that makes this possible” (50).

I would like to add a reason related to the concern about domination which is the lack of an ability for excluded citizens to join in an effort to hold the governing majority accountable--to, as Philip Pettit colorfully puts it, “keep the bastards honest” (1997, 6). Lack of domination is not necessarily a unique feature of democracy, but it seems to be a major part of what is objectionable about epistocracy. Consider the possibility that absolute assurance of non-domination could be given, perhaps by some kind of procedure or an external agency, such as a supranational tribunal backed by executive force. In that case, the system could still be objectionable on the grounds that some might be denied equal dignity on account of having been denied access to political power. This objection could be countered by

changing the scenario to one in which there is equal opportunity for access by going through some form of educational program that is genuinely open to all.⁶ We might say that participation of all is has epistemic value due to the inclusion of diverse views (as I will be arguing in this thesis); however, we could imagine a more or less homogenous society in which it does not seem so dangerous to leave the hard work of governing to others. That is to say, there might be some small set of unusual circumstances in which democracy, as such, was not the best form of government. This is a consequence of democratic instrumentalism, but a form of government such as this still does not stray too far from a democratic ideal, and some theorists may not consider it undemocratic at all. In larger, more heterogeneous political societies, such as are predominant in the world today, there are instrumental reasons to prefer democracy.

1.4 Diversity, fairness, and epistemic fairness

A fair process would include everyone in the process of governing, including exchanging reasons by which a policy along with a normative justification is chosen. In that way, their concerns have an equal chance of coming to be embodied in the policy decision. In the epistemic conception developed here we are concerned about a different notion of fairness. Concerns ought, rather, to have a chance of being embodied in a decision in proportion to their bearing on the political truths relevant to the matter(s) under consideration. In her book, Fabienne Peter, writes about a kind of fairness that is she deems beneficial to deliberative democracy thought of as an epistemic process: epistemic fairness (2009, 133). Peter writes, “a fair procedure should ensure that everyone is able to participate in the process as an equal” (2009,

⁶ This example is taken from Dworkin (2002, 201). Dworkin does not think that lack of strictly equal voting disqualifies a government from being considered democratic, but his is probably an instrumentalist view.

133). A parallel concept of the value of diversity in deliberation is due to Iris Marion Young, who also points out, would-be deliberators with widely divergent viewpoints do not necessarily start from shared bases when they come to deliberate. A procedure which is epistemically fair must, therefore, not privilege a certain set of starting assumptions if doing so would result in according less epistemic value to the contributions that some bring to the discussion. Not all assumptions which produce such effects have been discovered, so Peter would make that part of the epistemic process. In her view, background assumptions must be a part of the discussion. Including diverse viewpoints thus serves two purposes. One is to provide inputs into the process that enable the discovery of knowledge essential for good policy judgments. The other is in order to ensure that discursive practices are chosen that do not prejudice some viewpoints over others such that outcomes potentially come to be biases in the direction of favored views or the views contributed by favored persons. Discursive practices that are unfair in such ways are expected to be challenged by those with the appropriate points of view from which to recognize problems with background assumptions that, if left uncovered, threaten to compromise the overall epistemic fairness of the process and taint the result.

Peter writes this about why we should expect a procedure embodying epistemic fairness in this sense to resist unjust (in this case, sexist) collective decisions:

If the procedure is genuinely fair, one would thus not expect a sexist proposal to go through. Conversely, if a sexist proposal goes through, is this not likely to be the result of unfair procedures, in which women may have been nominally treated as equal, but not effectively so? I find it difficult to see how a deliberative process can be called fair if deliberation over policy alternatives leaves unchallenged background assumptions that undermine the equal standing of all participants. (2009, 134)

Similarly, Young writes about what she calls ‘internal’ exclusion: “the terms of discourse make assumptions some do not share, the interaction privileges specific styles of expression, the participation of some people is dismissed as out of order” (2000, 53). So there are two levels at which diverse viewpoints contribute to good outcomes. The first is in ensuring the condition of epistemic fairness. The second, given an epistemically fair process, is in the search for the best policy. At the level of ensuring epistemic fairness, it does not seem as though, for example, being left-handed⁷ might put one in a position of having her views taken less seriously. At that level, the chief concern of even *epistemic* fairness would seem to involve social disadvantage, just as in Young’s view. Persons with other forms of disadvantage may be able to contribute to the epistemic process of uncovering such background assumptions because of a greater ability to empathize or because an interest in solidarity makes them more receptive to the claims of others who are disadvantaged. However, at the level of deliberation about the best policy, Peter’s ideal seems more obviously broadly inclusive than Young’s. It is not just social perspective (especially of members of affinity groups) which is valued as a resource for deliberation; it is the full spectrum of diverse perspectives.

Young lists three ways we should expect inclusion of diverse social perspectives to improve the results of deliberation:

- 1) Confrontation with different perspectives, interests, and cultural meanings teaches me the partiality of my own, reveals to me my own experience as perspectival.
- 2) Knowledge that I am in a situation of collective problem solving with others who have different perspectives on the problems and different cultures

⁷ Here I allude to an example used by Jane Mansbridge. She quotes James Morone and Theodore Marmor: “Common sense rebels against representing left-handers or redheads. What of Lithuanians? Italians? Jews? The uneducated? Mirror views provide few guidelines for selecting which social characteristics merit representation” (Morone and Marmor 1981, 437; quoted in Mansbridge 1999, 634). She goes on to argue, in opposition to their view, that: “This analysis allows us to conclude that perspectives and interests of left-handers should be represented in deliberation when their perspectives are relevant to a decision (e.g., in decisions regarding the design of surgical instruments). . . . Similarly with redheads, Lithuanians, Italians, Jews, the uneducated, and all other groups” (1999, 635).

and values from my own, and that they have the right to challenge my claims and arguments, forces me to transform my expressions of self-interest and desire to appeals to justice.... 3) Expressing, questioning, and challenging differently situated knowledge, finally, adds to the social knowledge of all the participants. (1997, 128)

The same benefits could be attributed to the epistemic procedure, but we can also consider that there are benefits possible by broadening our conception yet further to include *diversity* generally: diversity of opinions, interests, knowledge, and skills, in addition to perspectives, as such. In this case we might consider that each brings information to the discussion that they can use collectively to augment their knowledge and to judge the value of policy proposals. We need not naïvely suppose, however, that diversity alone is enough to produce good deliberative outcomes. Some theorists, in fact, suggest that some amount of commonality may be necessary for productive communication. Communication in the presence of difference can result in divergence of views or in polarization rather than in convergence of views toward a common understanding (see, e.g., Sunstein 2003). This can especially obtain when groups have been divided by bitter conflicts. Young's prescriptions for the broader problem of inclusive communication, the use of greeting, rhetoric, and narrative, are also offered with the idea of helping to facilitate communication under some such difficult situations (2000, 78-9). Certain requisites of productive communication, such as demonstrating respect for the other or ensuring a safe environment, for instance, may be prior to epistemic considerations such as the questioning of background assumptions.

Viewed in a different way, deliberators bring to their deliberations certain cognitive features which either contribute to or detract from the generation of knowledge. Each will have certain cognitive capabilities, the strength of their reasoning skills, for example, cognitive resources of prior knowledge and expertise,

and also cognitive biases. Strong interests can be biasing to the extent that they tend to override a concern for others or for the common good along the dimension of interest.⁸ This view of deliberation will be further elaborated in the next chapter. Dogmatically held beliefs, feelings of superiority, and the actual fact of power or of powerlessness can produce bias. In considering the epistemic value of difference, Peter identifies social perspectives as a kind of bias, but asserts that these biased views have the potential to counteract or compensate for one another (2009, 134-35). From a certain biased view, the social perspective of being a woman in a male dominated society, sexist assumptions stand out more readily and can be more effectively challenged, for example. If this view is correct, then we need as much diversity as possible to ensure that biases balance out rather than accumulating. This is in addition to the role of diversity in adding inputs to the cognitive process in the form of additional information and pieces of the ‘truth’. Certain biases seem unlikely to help. We need a commitment to epistemic fairness, so power and powerlessness do not seem helpful. We might like to recognize them in advance and mitigate their effects. On the other hand, if there are powerful people who also have a strong interest in justice, or people with less power but with a propensity for ‘speaking truth to power’ then we can see how, at least in theory, biases could balance out. A full catalog of biases with something like opposite polarity and similar strength needs to be present. In this view biases are noise which cancels out or which will be eclipsed by the clear signal of true knowledge. This is not entirely plausible, but it is enough to illustrate the potential benefits and shortcomings of the theory and to acknowledge that additional measures might be needed to mitigate the effects of some biases.

⁸ See Hurley (2000, 192-98) for a cognitivist approach to democratic theory, which is also further discussed in the next chapter.

I believe that Young focuses on social perspective as the dimension of difference to conceive as a resource for deliberation because, in pluralist societies⁹, social justice is generally the important issue for public policy. Social perspective is the kind of perspective most likely to contribute to the realization of justice improving policies when it is present as a resource for deliberation within deliberative governing bodies. Furthermore, in the context of representation, there is a fundamental limit on how many different perspectives can be included and that is the size of the representative body. It would be impossible to have all perspectives represented. It may not even be possible to always have all social perspectives optimally represented. This analysis supports quotas for inclusion of minorities in legislatures, subject to practical considerations regarding how they should be implemented to best effect; however, inputs from civil society are necessary to augment the knowledge and information and the perspectives that representatives possess amongst themselves.

Aside from its benefit to fairness and the likelihood of fair and, even, just outcomes, diverse inputs would seem to be important for improving the quality of outputs since the likelihood that the best reasons would be found would increase as the range of possible reasons to draw from increases. The information available and the angles of view from which things have been or possibly can be considered would tend to increase. Too little information might mean that crucial information regarding the justification of a policy would simply be missing. Therefore a fair process and diversity of inputs should be considered necessary to improve the epistemic value of a deliberative democratic procedure.

Peter poses a dilemma for deliberative democrats that she calls the ‘political egalitarian’s dilemma’. Substantive measures to assure fairness are a prerequisite for

⁹ Young uses the United States as her primary frame of reference, as she explains in her introduction, but most of her ideas have broader applicability (see Young 2000, 14-5).

good epistemic outcomes of deliberative democracy. Such substantive measures might be controversial and yet are not subject to democratic decision (Peter 2009, 75-81). It might be that previously unfroneted biases have lead to the entrenchment of standards or measures that, in fact, undermine epistemic fairness in some subtle ways. I believe that Gutmann and Thompson offer a convincing solution to the dilemma, “a dynamic deliberative process in which there is a continuous revision of both procedural and substantive considerations” (Peter 2009, 73). Revisiting procedures is not to say modifying constitutional principles upon which support for the epistemic process rests (i.e. those principles which protect minority rights and liberties). Rather, it is to refine procedures so that they better embody epistemic fairness. An imperfect and evolving procedure is only a true dilemma when constitutional provisions and principles are in error, due to errors in judgment made at the time of constructing the constitution. But we prescribe the most exacting procedures when deliberating and deciding on the constitution so that we produce the best possible outcome within the limits of human judgment.

Chapter 2. Cognitive and informational issues

2.1 A *cognitivist account of representative (deliberative) democracy*

Differences in cognitive assets between citizens make it possible to consider a cognitive division of labor (see Hurley 2000, 179, 192, 194). What I mean by cognitive assets is a combination of cognitive capability and prior knowledge or expertise. Cognitive capability is the strength of one's ability to discover new knowledge when so motivated. It is not necessarily independent of knowledge or expertise, but not all forms or amounts of prior knowledge or expertise are equally helpful, and it is also possible to imagine someone who has a lot of factual knowledge but has difficulty making cognitive use of it. Others may be able to make use of their knowledge; therefore, their knowledge is a cognitive asset even though it only becomes cognitively useful in cooperation with others.

A plausible division of labor is between citizens at-large and their elected representatives. On the job experience as government officials has the ability, over time, to improve the likelihood of good cognitive performances. This ability is due to increasing the relevant knowledge and expertise of the official about policymaking. I am assuming here that they have the necessary resources to do the job well, within reasonable budget constraints and within their abilities. For example, they will have access to experts in various fields relevant to the policies they are considering. Even though citizens may be unable to identify reliable indicators of competence and select on those bases, representatives who are in office for several years, possibly spanning multiple terms, should be expected to develop expertise that is likely to improve their job performance. Professional norms and expectations develop which can help guide their behavior, sometimes even when there is no expectation of

accountability. That representatives voluntarily choose to serve implies a certain commitment and what is missing can be supplied by the expectation that they will be held accountable at the next or at a subsequent election (for those who intend to serve more than one term or to have a career in politics). Citizens at-large merely select officials based on their apparent preparation for the job: education, past achievements, accumulated skills, relevant expertise, and apparent dedication.

This does not guarantee better than average cognitive assets will be present in the representative governing body. The best we can do is to try to make it more likely that we include such people in the representative body. We need not worry that we cannot judge competence on moral matters. This first role of the citizen at-large is not especially demanding. The cognitive assets needed by the representative, in this conception, come primarily from their professional development, with a modest role for selection. Additional benefits may come from the small size of the groups and the possibility of face-to-face discussions. A second, more demanding role, for citizens is holding representatives accountable to act in the public interest.

When cognitive biases are known, steps can be taken to avoid them or neutralize their effects. When unconscious biases of *perspective*, ‘blind spots’ and the like exist, diversity and epistemic fairness as argued by Peter is likely to be the solution. The solution counteracting the biasing effects of conscious abuses of power is accountability.

An epistemic approach to deliberative democracy is necessarily cognitive. Deliberators must use their cognitive faculties to discover knowledge about political truths. Likewise, a cognitive process is an epistemic one in the sense of both being processes by which knowledge is generated. But strictly speaking, the knowledge we seek is a veritistic or truth oriented knowledge. A cognitive approach need not be

about truth. An orientation toward truth is not incompatible with a cognitive approach but might be viewed as superfluous.

In particular, Susan Hurley offers a cognitive account of democracy. In her view, a ‘cognitivist’ approach avoids ‘pre-judging’ truth (2000, 197). In this sense, her account is purely cognitive requiring no orientation toward truth or any other value besides the value of accurate knowledge. The approach of this thesis fixes some substantive conclusions at the outset, including them in a constitution. Since our belief is that these reflect partial truths (about the important value of freedom, and so forth), we could be thought to be biasing our future deliberations, optimistically we could say, in the direction of truth. That is incidental and not our purpose. Our purpose is to ensure rights and liberties against the likelihood of error in the epistemic process. We do not know the relation these partial truths bear to more encompassing truths or to the ‘whole truth’ so we do not say that they unequivocally bias our process in the direction of truth. (Epistemic fairness, on the other hand, could be thought to bias the process in the direction of fairness, somewhat.)

Hurley’s motivation in avoiding pre-judging truth is to respect reasonable disagreement. The conception in this thesis is not incompatible with Hurley’s cognitivist approach. Deliberation over constitutional essentials could be designed so that it can be concluded without any remaining *reasonable* disagreements, according to a template of overlapping consensus such as developed by Rawls. Still I will say that the conception developed here is not purely cognitivist, in Hurley’s sense, since it (incidentally) includes some pre-judgment of truth as a fundamental part of the conception. With that qualification in mind, in this chapter we take a cognitive view. We are concerned here with the cognitive demands that we might make on deliberators given a suitable division of cognitive labor, and we are concerned to

recommend a division which allows us to avoid, neutralize, or compensate for biasing influences.¹⁰

2.2 Inputs from civil society

In Young's vision persons in a society who are in need of special representation first form groups based on affinity and articulate some justice based claims (or claims that come to be recognized as having such bases). It is within those groups that the social perspectives relevant to justice improving deliberative outcomes are to be found. Persons having such perspectives should then be included as representatives in legislative bodies, where the most important policy deliberations take place, and where the direct outcomes of such deliberations are the enforceable policies themselves. They should also be represented in executive offices, regulatory bodies, commissions, at public hearings, and the like. But some of the perspectives (as well as the interests, opinions, knowledge, and skills) which could usefully contribute to good deliberative outcomes—whether in terms of justice or of some other social good—will only be present, or only present in sufficient numbers, outside of those representative bodies. So I am interested in how diversity, and especially diversity conceived more broadly, can be harnessed through the deliberations that take place in civil society at-large, the knowledge thus gained becoming available as inputs to the deliberative processes in representative bodies.

¹⁰ There is a distinction to be drawn between those sincerely seeking truth, whose judgment is biased by self-interest, and those who are simply not concerned with truth. Those in the first category mistakenly believe that the public interest is closer to their own interest than is truly the case. For example, one sincerely seeking truth, could believe that it is in the interest of the public that her party remain in power or that she remain in power, since she naturally believes that she and her party are more competent or more right than their opponents. On such bases, in a two party system, she may, for example, oppose a change from a first-past-the-post electoral system to a proportional electoral system because it would expose her dominant party to more competition, even if it would otherwise be a good outcome. In the case of officials consciously pursuing self-interest over the public interest, e.g. corruption, it would be strange to speak of their inappropriate conscious disposition toward self-interest as a cognitive bias. Nevertheless, their presence in the system can still be said to bias the outcome or to bias the epistemic process.

Diversity of knowledge and of perspectives is important to recognizing good, especially fair and just, policy proposals or for recognizing those that are not good. Some viewpoints can be represented in a representative legislature but not all. This is simply due to the practical size constraint. Not all available information will be immediately accessible to representatives amongst themselves. The situation calls for deliberation within society at-large, from within which a broader range of viewpoints can be given a chance to influence the deliberations and a broader base of prior knowledge can contribute to the process. The content and results of these conversations can then be considered by the representative body, as inputs to the deliberative process there.

A problem for deliberation in civil society at-large, and one recognized by Young, is a problem of low participation (see 2000, 185). It is a problem of low participation but also of the way in which that participation comes to be organized. Many are organized into affinity groups, but many are not, including some who may have important unarticulated justice-based claims. Affinity groups may exist, yet their voices could be weak due to lack of participation by similarly situated would-be members. Young gives some reasons of economic justice coming from a deep critique of the economic organization of many advanced democratic societies.¹¹ She writes:

Many unemployed people are so worried about survival that they have little time and energy for volunteer contributions to their communities, and many employed people also lack the time. Many currently employed people live at the edge of economic insecurity. (2000, 185)

Beyond the economic and other possible sociological causes of low participation, there is the problem of low effective participation. Those organized into groups may

¹¹ Similar observations about the health of civil society, specifically in the U.S., have been made by Robert Putnam. In *Bowling Alone* (2000), he reports on his empirical investigations of some possible reasons, going beyond the economic one I mention here, as given by Young.

still not be able to make their voices heard. A cacophony of voices, some, unfortunately, intended to mislead or manipulate, may crowd out the voices of small or less well organized groups and drive up the cost of communicating their ideas effectively.

If some have perspectives, interests, and the like but are not given to activism their contributions may be missing from public deliberations. If some important groupings are not realized because of various problems of collective action, their contributions may, likewise, be missing. Even if their voices are contributed through the activism of others—for example, by others with similar perspectives or through the study of uncoalesced groupings by social scientists (who may or may not qualify as ‘activist’)—the rule of dominance by the loudest, most well funded parties favors, an aggregative logic of bargaining over interests and not a deliberative logic of inclusive dialogue.

2.2.1 Rational ignorance

People often know a great deal about issues they care about and are rationally ignorant about other issues, particularly when they are in a minority regarding their concern about such an issue (Lohmann 2003, 306-7). The reasoning here follows Olson’s ‘logic of collective action’: the benefits to be gained from action taken on behalf of interests shared with a small group will be divided into fewer shares than those to be gained from action taken on behalf of a large group interest or the general interest. Furthermore, if the benefit is gained, those who do not contribute, free riders, cannot be excluded from sharing the benefit (Olson 1982, 18). Ignorance is rational in this sense because the estimated potential benefit from gathering the information is less than the estimated cost of gaining the amount of information that might be needed. For some interests information may be very detailed and require

specialized knowledge to understand, so that even those motivated by concern for the general interest may find the cost of understanding the information prohibitive, in more absolute terms; they may simply not have enough time to review the available information in a meaningful way (see Lohmann 2003, 307, 315). On the other hand, the success that special interests have in obtaining benefits reinforces the information gathering habits of special interest group members; the better informed they are about their interest, the better advocates they will be for it (Lohmann 2003, 312, 315). This difference in relative knowledge has the potential to bias decisions when knowledge is held disproportionately by some groups due to collective action problems. Even when those groups vote according to their beliefs about what is the best policy they do so with an informational advantage over those who would seek to persuade them of alternative perspectives.

2.2.2 Cognitive and information problems

Roger Congleton explored the effect of information problems and rational ignorance on voter evaluation of candidate quality or policy effectiveness by using simulated elections to aggregate voter evaluations according to majority rule. His purpose was to examine the effect of the jury theorem under some hypothetical but typical conditions of voter information. A need for such simulations is due to criticisms of the likely effectiveness of the jury theorem due to the concern that assumptions under which the jury theorem holds may be very demanding (Congleton 2007, 335). Congleton found that when all voters were assumed to be only ‘slightly informed’, that is, possessing “a small amount of information about the observable indices of candidate quality” (337), they were able to do very well in aggregate. He showed that the median quality estimate could “accurately assess the *true* underlying quality of the [candidate]” (339).

In additional simulations, even small electorates (low participation), with limited information, showed a high frequency of accurate and near accurate results (341). Samples as small as 11 voters were simulated, illustrating the power of the jury theorem (341). These results rest on the condition of ‘complete’ though limited information. Voters are taken to have enough knowledge even though that knowledge is shallow. When voter ignorance, characterized by ‘incomplete’ information, is more common the effect of the jury theorem declines in the simulation (345). This can be either rational or natural ignorance. Ignorant voters can make their estimates according to information sets missing large subsets of relevant data, biasing their estimates. They could also make their estimates on the basis of “other variables uncorrelated with performance in office” such as “region, religion, race, accent, height, hair, eye color, or hobbies” (344). This, again, produces biased estimates. A third possibility is that they vote randomly and do not bias the estimates systematically, but nevertheless contribute to error (344).

The solution to such ignorance problems, according to Congleton, is public education and increased information. Information sources must be independent in order to avoid bias, and information policies and institutions should favor transparency and free speech. It is to these last two features, relatively much more common in democracies, that he attributes the good functioning of democracies in spite of wide spread ignorance (348). He writes:

[They are] prerequisites for majority rule to produce tolerable policy outcomes. Without the relatively low information costs produced by public education, a free press, government statistics, and the publication of legislative decisions, the data base used by voters would be even more narrow than survey evidence indicates to be the case, and far more selection mistakes would be made. (348)

Undoubtedly, government transparency and freedom of speech serve in some ways to make the existence of the well or even adequately informed voter possible.

However free speech in and of itself, or together with competition and independence of information sources, does not consistently work to lower information costs. This is because in some information environments there is too much information with too little indication about which is of value. As a result a ‘complete’ data set (even a shallow one) can be difficult to obtain even though information is not difficult to obtain. Rather, information is abundant, but reliable information about what information is of value is scarce. Voters with limited resources of time and attention may respond to this situation with rational ignorance, as well. Alternatively, they may gather information representing an incomplete range of data and have their beliefs biased as a result. If all biases obtained at random, they might not cause error in the aggregate result with any high frequency; however, when some views are able to dominate (perhaps only a bit) due, for example, to having much more money than others have to spend on access to media sources, information uptake can be biased. Also elected officials have privileged access to information and have incentives to withhold information that would contribute negatively to assessments of their competence and to exaggerate with regards to information that is likely to contribute positively to such assessments. Both politicians and special interests take advantage of the rational lack of vigilance to critically examine claims in relation to independent sources of evidence that the average voter displays due to his limited resources.

Freedom, Franz, and Goldstein report that, “cognitive resources necessary to receive information from [political] advertising are ... much less than might be assumed for other types of political messages” (2004, 726). This is due to their being “attractively (and expertly) packaged, simple to comprehend, easy to digest” (726) and covered in an “emotional coating” (725). They suggest that “ad exposure can facilitate the use of the *likeability heuristic*, by which people make informational

inferences on the basis of their likes and dislikes” (725).¹² They assume that biasing effects would cancel out and they favor such advertising for its ability to engage voters’ attention (730-31, 734-35). For our purposes the potential biasing effects should not be so casually dismissed. Sophisticated, shallow, and misleading messages occur with enough frequency that they can crowd out information that is of real value in a search for knowledge regarding good political policy judgments and judgments of candidate competence. In assessing the importance of knowledge creation to First Amendment, free speech, jurisprudence in the United States, Professor Robert Post points out that:

The creation of new knowledge which often goes under the appellation of the ‘marketplace of ideas,’ is a process that requires both freedom of thought and disciplined application of existing standards. Freedom of thought by itself creates merely anarchy. (2011, 478)

And, “creation of knowledge depends ... upon practices that continually separate the true from the false, the better from the worse” (Post 2011, 479). It is precisely such epistemic mechanisms which are missing from an unregulated ‘marketplace of ideas’.

The foregoing could support an argument for regulating some forms of speech. Campaign spending on advertisement could be restricted, for example, so as to allow for fairer competition. Other kinds of restrictions could be considered, as well. However, Estlund offers an argument for “division of labor between the informal and formal political spheres” (2008, 203) in which restrictions are considered to be desirable in the formal sphere but not the informal. Estlund takes up Habermas’ notion of an ideal deliberative situation, or an ideal practical deliberation, but observes that such situations are unlikely to obtain in a civic public sphere, taken as a whole (188-89). It would be undesirable, he argues, to restrict many kinds of speech which are political, but which are designed to move opinion without rational

¹² They cite Sniderman, Brody, and Tetlock (1991) regarding this suggestion.

argument; theater and other performance art, visual arts, satire, and protests, to name a few, may be found in this category. Even if we believed that these had biasing effect and were not therefore valuable as political speech (and perhaps could be considered detrimental), these forms of speech have value besides any political value they may have, value from which their political effect cannot be disentangled. Drawing the line between political speech and nonpolitical expression is difficult and content-based restrictions could have a chilling effect reducing the prevalence of valuable forms of expression (190). However, Estlund goes further to defend speech that is unambiguously political, which yet violates norms of ideal deliberation. There is what he calls a “problem of second best” (190). “Even if it would be desirable for the deliberative norms to be respected by all in the informal political sphere,” he writes, “nothing even approximating this is likely” (190). If it were possible, it would be desirable, but, in the, so called, ‘real speech situation’ it might be necessary for deviations by some to be countered by deviations by others—let us call that effective communication (190-91).

I believe this is fairly convincing, but I would emphasize a different reason, which is an imbalance in power or a defect in epistemic fairness that has yet to be fixed. Recall that background assumptions that epistemically privilege some group over others or over another must be questioned with a commitment to embody epistemic fairness in deliberations and that this is an ongoing process of successive refinement. It is in some ways a demanding process. Iris Marion Young criticizes models of deliberative democracy that, in her words, privilege argument (2000, 37). She writes: “A lack of shared premises or discursive framework for making an argument about a need or injustice, however, does not imply that there are no ways to communicate the need or injustice to others” (37). While I believe that at some point

arguments need to be given and evaluated, there is a role for polemic embedded in various forms of art and protest. That role is to break down barriers to a shared understanding that have their basis in deeply held, but erroneous assumptions. A division of labor is appropriate for this task. The cognitive resources available to deliberators in a formal setting allow for controlled deliberation and the avoidance of bias; it is where the argumentative groundwork laid through inputs from civil society is sharpened through rational argumentation and deliberation.

This is not to say that a clear line could not be drawn regarding restricting some forms of speech in the civic public sphere, but it is to make note of the fact that much greater control over the environment of deliberation can be had in formal deliberative settings. This analysis and the idea of accepting different standards in formal and informal deliberative environments supports the suggestion that I will make in the next chapter regarding a further division of cognitive labor. Citizens can be randomly selected to deliberate in formal deliberative assemblies on matters over which self-interest may be expected to exert a biasing influence on professional legislators and in order to educate and provide high quality information to a less engaged public at-large.

Chapter 3. Participatory concerns and policy recommendations

3.1 *Microcosmic deliberative assemblies*

Fishkin's deliberative polls seem to be the most well constructed model of microcosmic assemblies for the purpose of deliberation, and as Jane Mansbridge points out they "have already developed a notable track record in practice" (1999, 632n5). Deliberative polls are designed as a kind of social science field experiment. A random, representative sample of a population is selected to participate in deliberation over a weekend. The participants are polled beforehand about their opinions on policy issues to be discussed, and after the deliberations they are polled a second time. The experiment is to see if the treatment, the deliberation, has an effect on the opinions of the participants, and a broader purpose is to determine under what conditions of microcosmic representative deliberation might the theorized ideal deliberative outcomes be achievable. The results suggest that people do change their opinions and that there is a small tendency for opinions to converge under the deliberative conditions Fishkin has designed. There was no tendency toward group polarization even though opinions sometimes diverged after deliberation (Fishkin 2009, 131-32).¹³ In addition to the polling, the discussions are recorded which allows for qualitative analysis regarding the quality of discussion, whether, for example, some dominate others in subtle ways. Participant self-reports preserve the participants own opinions about the process and outcomes.

Fishkin gives this description of the conditions of the deliberations:

...they are given carefully balanced and vetted briefing materials to provide an initial basis for dialogue. They are randomly assigned to small groups for discussions with trained moderators, and encouraged to ask questions arising from the small group

¹³ In addition to Fishkin's empirical evidence, Hugo Mercier and Helene Landemore provide analysis suggesting that polarization occurs when there is not sufficient diversity in a deliberating group that would enable them to overcome confirmation bias (2010, 14, 18-9). As diversity is a key element of our conception, we can hope to avoid polarization.

discussions to competing experts and politicians in larger plenary sessions. The moderators attempt to establish an atmosphere where participants listen to each other in a safe public space and no one is permitted to dominate the discussion. (2009, 26)

In addition, participants are paid a modest sum for their time and are reimbursed for their travel expenses so as to make it possible for those with less financial means to participate once they have been selected in an initial random sample. Special efforts have been made to ensure that those selected could attend, so as to maintain the randomness of the sample and avoid self-selection bias. Fishkin writes:

We called employers to try and get permission for participants to take time off from work. One woman had a small farm and there was no one to milk her cow. So we made arrangements for someone to come out and milk her cow while she was gone. Other cases involved payment for child care... (2009, 114)

Whereas conventional opinion polls measure what Fishkin calls, “top of the head” attitudes, with deliberative polls Fishkin intends to try to evaluate the counterfactual: What would public opinion be under ideal conditions for deliberation (Fishkin 2009, 26-7)? His approach is intended as an empirical test of normative ideals of deliberative democracy.

We can recognize in the conditions of deliberative polls as a cognitive system, some desirable cognitive properties. Special attention is paid to the randomness of the sample, ensuring diversity and inclusiveness, or at least an equal chance for representation without systematic biasing of the samples. The cognitive resources of experts and politicians are harnessed. Moderators attempt to limit the effects of some known bad biases, especially the tendency of a few to dominate discussions. Vetting of information bypasses control of information by the more well funded, the more well organized, and those exploiting the appeal of emotional content or exploiting common cognitive biases in potentially manipulative ways. His quasi-experiments seem to empirically establish the value of such an approach to achieving good deliberative outcomes.

While it is true that some points of view should be statistically expected to be missing (a small proportion should be expected), this method of representation provides a good approximation to the conditions of diversity argued for by Fabienne Peter. Everyone has an equal chance of participating, and over repeated applications of the process more and more viewpoints and combinations of viewpoints, in dialogue, should in all likelihood come to be a part of the conversation. None are systematically excluded on the basis of selection, and an attempt is made to avoid effective exclusion due to the effects of power relations and other potentially biasing factors. What remains to be considered is the possibility that participants may be incompetent or lack a commitment to the public good. Of this Fishkin writes:

The picture that emerges from Deliberative Polling and indeed from other deliberative consultations is that the public is indeed capable of dealing with complex issues, once it believes its voice matters, once it believes that there is reason to spend time and effort in public discussion, listening to alternative points of view. (2009, 119)

Recasting these concerns, however, in terms of the value of professionalism in a legislature and the value of accountability allows us to look at the relative strengths of elected legislatures versus deliberative microcosmic assemblies and to see how they should complement each other.

3.2 How microcosmic deliberative assemblies could help solve rational ignorance

The value of deliberation in a deliberative microcosmic assembly is intimately tied to the processing of information. Even if legislators are in general more competent and have greater expertise, access to and a clear understanding of the, sometimes technical, issues involved may be necessary for citizens to hold legislators accountable. Non-partisan, non-professional periodically assembled bodies lack the kind of self-interest bias I described

above¹⁴ and can credibly assert the broader public will as a counterbalance to the biasing effect of self-interest in professional governing bodies.¹⁵ I do not say that microcosmic representative bodies should make laws. This would expose them to similar biases as I described for legislatures, perhaps made worse through the lack of accountability.

One function of microcosmic assemblies is to create a demand for high quality information and to hold governments accountable for omissions when they can be identified. An epistemic purpose is to process information and communicate to the public at-large what that particular mini-public thought of the information and so to help the public become better educated. In contrasting modern representative with ancient direct democracies, Nadia Urbinati writes, “for contemporary democrats it [democracy] has become the name of a good society we can still have, provided we interpret it as a ceaseless process of political education in citizenship” (Urbinati 2000, 758)¹⁶. Participation in deliberative microcosmic assemblies could certainly be described as part of a *practical civic education*. Over time such education should be expected to improve the competence of the average citizen, improving the epistemic properties of the system vis-à-vis the jury theorem.

An additional benefit regards the trustworthiness of the information. In the case of the British Columbia Citizens’ Assembly on Electoral Reform, researchers, Cutler, *et al.*, showed that voters used information about the expertise and presumed trustworthiness of the

¹⁴ They may be individually self-interested, but there is no reason to think that they share an interest that is not shared by the general public.

¹⁵ In Oregon state, a kind of microcosmic representation is being tried in conjunction with initiative and referendum. Citizens’ juries will review ballot measures to avoid capture of the process by well funded interests which have sometimes been accused of manipulating the process by funding a petition drive to put their measures on the ballot and subsequently funding, possibly, misleading information campaigns to secure the passage of those measures by a presumably poorly informed public (or, similarly, defeating grass-roots organized measures with well funded campaigns of misinformation).

¹⁶ I take her to mean that education and citizenship are needed for representative governments to approximate direct democracy with its straightforward approach to the ideal of political equality. For the purposes of this conception that is what is also needed for a properly functioning epistemic process and for good outcomes. In the notion of representative democracy we see the deviation from political equality that is ordinarily allowed in noninstrumental approaches to democracy. Representatives have much greater political power than other citizens, yet it is usually not taken to be a problem for the realization of the ideal of political equality.

Assembly as part of their evaluation of the policy proposal; and belief in those facts made them more likely to vote in favor of the reform (2008, 179-80, 186).

Also examining the British Columbia Citizens' Assembly, John Ferejohn points out that this feature suggests the possibility that the Citizens' Assembly (CA) could be a model for public deliberation, substituting expertise and deliberation on the part of a representative and trustworthy 'mini-public' for the lack of the same in the public at-large; thus it could address one of the major criticisms leveled against referendums—the lack of deliberation (2008, 202-3). Again, the availability of trustworthy information has the potential to improve the ability of citizens at-large to hold elected officials accountable and to overcome problems of rational ignorance.

3.3 Philip Pettit's argument for depoliticization

In "Depoliticizing Democracy", Philip Pettit (2006) gives an account of the problem of self-interest as it affects elected representatives, leading them to act against the common good. He presents three types of policy situation that predictably engage electoral self-interest in opposition to the common good: situations of popular passion, of aspirational morality, and of sectional interest. In each case he recommends that policy decisions regarding the relevant type of policy be removed, or partly removed, from legislative control, 'depoliticized'. Rather than being under the control of legislatures, control would be given to independent commissions or, in one case, a deliberative poll would be used to guide policy.

The example of popular passion that Pettit gives is of a policy of criminal sentencing which is lenient, but works well, avoiding costly incarceration and reducing crime, but when an inevitable repeat offense is committed by a criminal who was given a lenient sentence, popular passion can be inflamed by politicians seeking electoral advantage. By portraying themselves as 'tough on crime' they may gain an advantage, win re-election, and change a generally good policy for the worse (Pettit 2006, 95-6).

In the case of aspirational morality, politicians denounce good policies as immoral, and in the case of sectional interest, narrow special interests are favored over the general interest because of the relative advantage they have organizing (due to Olson's logic of collective action, described earlier) (Pettit 2006, 96-8).

The implications for our division of labor are that some specific policy areas may be found that are more likely to benefit from oversight by citizens to guard against the biasing effects of self-interest in legislatures. Of course, in the first two examples the public is also affected by bias. The legislators merely exploit it to gain electoral advantage. These are situations that might benefit from microcosmic deliberative assemblies, and I would add electoral system reform as another category. On the other hand, we can identify areas of policy which require less oversight. Such considerations can help to guide deliberations.

3.4 Duties of citizens and government

The arguments of this thesis support an institutional role for deliberative microcosmic assemblies. It is a responsibility of government to ensure the good epistemic properties of the process and system. Government provision bypasses some major barriers for citizens to entry to the deliberative process: the economic barrier, as articulated by Young, and the problems of unequal access due to need to compete to be heard. To these, Fishkin adds the problem of apathy and the problem of collective action, as articulated by Olson. Of the problem of apathy, Fishkin reports, regarding deliberative polls, that: "The weekend is organized so as to make credible the claim that their voice matters. They overcome apathy, disconnection, inattention, and initial lack of information" (2009, 26). In addition to communicating that everyone's voice matters, in this way, (modest) incentives are paid and special efforts made, as needed, to enable everyone selected to attend, as described above. Participants need not be skilled at organizing or view themselves as activists or be

comfortable in unstructured communication in order to have their viewpoints contribute to the epistemic success of the process.

In order to produce the best epistemic outcomes, citizens should take it as their duty to become informed and they should also take it as their duty to participate in assemblies. When holding representatives accountable, they need to do so in the right way. That is, recognizing which areas are areas of legislative competence and which areas are areas of potential bias, and scrutinizing for potential bias more closely. Legislators must communicate their competence, and they are able to do so even when issues are highly technical, by making their case before microcosmic assemblies which have the dedicated time and resources to examine the evidence carefully. The duties indicated for citizens need to be considered in light of the cognitive demands that they place on citizens, and institutions, such as the those supporting the cognitive distribution of labor, designed to support their meeting demands. Recognizing such needs in his own theory of deliberative democracy, Habermas wrote:

In agreement with republicanism, it gives center stage to the process of political opinion- and will-formation, but without understanding the constitution as something secondary; rather it conceives the principles of the constitutional state as a consistent answer the question of how the demanding communicative forms of a democratic opinion- and will-formation can be institutionalized. (1994, 7)¹⁷

And he went on to write, "...through legally institutionalized procedures.... It should gain the strength to hold its own against the two other mechanisms of social integration – money and administrative power" (1994, 8). I follow Habermas in asserting the need to ground the realization of the ideals of deliberative democracy in institutional practice. It has already been shown that assemblies are capable of supporting citizens in becoming informed. The controlled conditions of deliberation and the resources available to evaluate highly technical information also support citizens in maintaining the cognitive division of labor by holding

¹⁷ I believe Habermas is referring to civic republicanism (or civic humanism), here, and not to neo-republicanism, from which I have taken the concept of freedom as non-domination endorsed in this thesis.

representatives accountable in the right way. Inflamed emotions and lack of information may sometimes dispose citizens to want to remove representatives from office on the basis of decisions that those representatives have made in their areas of competence when there is no reason to suspect bias. Citizens simply believe that the representatives are wrong and would substitute their own judgment though it may be biased and uninformed. In his slightly different context of arguing for depoliticization (mentioned in the last section), Pettit gives the following example. He writes:

The problem with popular passion can be illustrated in the area of criminal sentencing policy. Imagine that a certain pattern of policing and sanctioning is working quite well across a broad range of criminal activity, and working in such a way that imprisonment is not often imposed; community service is the sanction of first resort....

No matter how well the criminal system is working in a polity, there is always going to be a case, sooner or later, where a convicted offender who received a relatively light sentence ... had they actually been put in prison. The later crime may involve some horrific event, like an attack on a child or a brutal rape or an armed assault. (2006, 95)

In Pettit's example an opportunistic politician seeks to gain electoral advantage by denouncing the lenient policies and inflaming popular passion. Review by microcosmic deliberative assemblies, if it confirms the judgment of the legislative body, may give citizens an additional reason to trust such judgment.¹⁸

3.5 Against an epistocracy of microcosmic deliberative assemblies

The basis of my conception of deliberative democracy, in democratic instrumentalism, taken together with the claims I have made about the epistemic value of microcosmic deliberative assemblies suggests a reopening of the issue of epistocracy. If citizens are, in large part rationally ignorant, or otherwise lack sufficient competence to compete epistemically with smaller representative samples of citizens under the right controlled deliberative conditions, why not give the franchise only to those participating in the microcosmic assembly at a given time? By doing that, we would provide both the

¹⁸ Pettit's solution is to remove criminal sentencing issues from control of the legislature and put them in the hands of independent commissions of experts and representatives of the public (2006, 96).

necessary diversity and improved individual voter competence. By hypothesis the improved competence is more than enough to make up for the smaller numbers when considering the epistemic properties of the group based on something like the jury theorem. Although imbalances in the composition of the microcosmic assemblies could occur by chance, such that in some assembly some minority group is entirely unrepresented, the risk of domination would seem to be small. An over-represented majority or majority coalition could not alter the constitution so as to permanently exclude some minority. Let us assume this is because some constitutional provisions or principles are unalterable. They should expect that, also by chance, at some point those minorities may come to be over-represented. Long-term self-interest would therefore work against the biasing effects of short-term self-interest.¹⁹ Furthermore, the professional legislature and the courts with their different cognitive competencies should be expected to provide a ‘check’ against abuses of power that tend to skew away from the goal of good judgment.

There are two reasons not to prefer such an epistocracy. One is that we are interested in improving the cognitive competence of citizens at large. We do this by engaging them in the political process, and by improving their access to good quality information. Citizens could still learn from a political process they only engaged in occasionally, but we should expect better results from more regular engagement, and consequently, also, benefits to individual autonomy. Further, we expect that over time the competence of the average citizen improves so that it tends to converge with that of the average citizen at a time of actual participation in a microcosmic assembly. This reduces the epistemic case for excluding citizens, possibly to the point of undermining it if the benefit of large numbers

¹⁹ There could be permanent minorities despised by all other reasonably likely majority coalitions or whose interests are treated with indifference by such likely coalitions. If such minorities are small enough it may be extremely unlikely that they ever come to be over-represented to the extent necessary to make any difference. But this is no different from what can happen in the general population, except that the microcosmic assembly provides the deliberative conditions along with institutionalized commitment to epistemic goals, via inclusiveness, that I have argued should serve to counteract tendencies of bias in the direction of mistreatment of minorities.

(with sufficiently improved competence) eventually overbalances the benefit of controlled deliberative circumstances, (at least in the taking of the decision, though perhaps not in the constructive function of deliberation and in the evaluation of evidence and improved provision of information). I do not say that this necessarily happens.

A second reason not to prefer an epistocracy of professional legislatures plus deliberative microcosmic assemblies is the possibility of collusion between a self-interested professional legislature and a small microcosmic assembly which can be offered some *quid pro quo* in exchange for relaxed standards of accountability. Diversity of the assembly offers some protection against such a possibility, as does the controlled deliberative environment. A publicity requirement, that the contents of deliberations be made public, offers some protection. Even though members of the public at-large would have no political power to hold assembly members accountable, those members must return to their communities and possibly face social sanctions. Nevertheless, these conditions weaken the commitment to non-domination for which I have argued and suggest a less effective cognitive division of labor.

Conclusion

In this thesis, I have developed a conception of deliberative democracy that should be preferred for its expected ability to produce good outcomes. This expectation is based on epistemic properties of democracy due to: 1) large numbers and diversity, 2) assurance of non-domination through the allocation of some political power to all citizens, 3) the further assurance of protections for rights and liberties which can be considered to bias the process in the direction of just outcomes, 4) the ability to harness cognitive assets and avoid the biasing effects of self-interest through a suitable division of cognitive labor, and 5) the ability to address cognitive and informational problems.

This conception makes demands on citizens that should be met not only through civic spiritedness and a sense of duty on the part of citizens but also through institutional design. In particular, this thesis recommends an institutional role for microcosmic deliberative assemblies. Such assemblies provide a controlled environment for deliberation, and they allow for a division between public spaces of more or less uncensored speech and a formal deliberative public space of moderated speech. The processing of information in such a space and the deliberation over policies or about candidate competence and performance in such a space yields results which should enrich the deliberative processes in legislatures and in the broader public.

The view of democracy that I have developed and defended in this thesis is a purely instrumental one. Purely instrumental reasons were given to value democracy as an epistemic process, and purely instrumental reasons were given to prefer democracy to the most plausibly competitive non-democratic alternative, epistocracy.

Reference list

- Arneson, Richard J. 2009. The Supposed Right to a Democratic Say. In Christiano, Thomas and John Christman, eds. *Contemporary Debates in Political Philosophy*. Malden, MA: Wiley-Blackwell.
- Congleton, Roger D. 2007. "Informational limits to democratic public policy: The jury theorem, yardstick competition, and ignorance." *Public Choice* 132:333-352.
- Cutler, Fred, Richard Johnston, R. Kenneth Carty, Andre Blais, and Patrick Fournier. 2008. Deliberation, information, and trust: the British Columbia Citizens' Assembly as agenda setter. In Warren, Mark E. and Hilary Pearse, eds. *Designing Deliberative Democracy: The British Columbia Citizens' Assembly*. Cambridge: Cambridge University Press.
- Dworkin, Ronald. 2002. *Sovereign Virtue: The Theory and Practice of Equality*. Cambridge, MA: Harvard University Press.
- Estlund, David. 1993. Making the Truth Safe for Democracy. In David Copp, Jean Hampton, and John E. Roemer, eds. *The Idea of Democracy*. Cambridge: Cambridge University Press.
- Estlund, David M. 2008. *Democratic Authority: a philosophical framework*. Princeton: Princeton University Press.
- Ferejohn, John. 2008. Conclusion: the Citizens' Assembly model. In Warren, Mark E. and Hilary Pearse, eds. *Designing Deliberative Democracy: The British Columbia Citizens' Assembly*. Cambridge: Cambridge University Press.
- Fishkin, James S. 2009. *When the People Speak*. New York: Oxford University Press.
- Freedman, Paul, Michael Franz, and Kenneth Goldstein. 2004. "Campaign Advertising and Democratic Citizenship." *American Journal of Political Science* 48(4):723-741.
- Gold, Natalie. 2004. Collective Rationality: A Dilemma for Democrats with a Solution through Deliberation? In Van Aaken, Anne, Christian List and Christoph Luetge. *Deliberation and Decision*. Hants: Ashgate Publishing Limited.
- Habermas, Jürgen. 1994. "Three Normative Models of Democracy." *Constellations* 1(1):1-10.
- Hurley, S. L. 2000. Cognitivism in Political Philosophy. In Roger Crisp and Brad Hooker, eds. *Well-Being and Morality*. Oxford: Clarendon Press.

- Lafont, Cristina. 2006. Is the Ideal of a Deliberative Democracy Coherent? In Samantha Beeson and José Luis Martí, eds. *Deliberative Democracy and Its Discontents*. Hampshire, England: Ashgate Publishing Limited.
- Lohmann, Susanne. 2003. "Representative Government and Special Interest Politics (We Have Met the Enemy and He Is Us)." *Journal of Theoretical Politics* 15: 299-319.
- Martí, José Luis. 2006. The Epistemic Conception of Democracy Defended. In Samantha Beeson and José Luis Martí, eds. *Deliberative Democracy and Its Discontents*. Hampshire, England: Ashgate Publishing Limited.
- Landemore, Helene. 2008. "Democratic Reason : The Mechanisms of Collective Intelligence in Politics." http://streamer2.cerimes.fr/canalu/documents/cerimes/UPL55486_LandemoreFinal.pdf. Accessed March 11, 2012.
- Mansbridge, Jane. 1999. "Should Blacks Represent Blacks and Women Represent Women? A Contingent 'Yes'." *The Journal of Politics* 61(3): 628-57.
- Mercier, Hugo and Landemore, Helene E. 2010. "Reasoning is for Arguing: Understanding the Successes and Failures of Deliberation." SSRN. <http://ssrn.com/abstract=1707029>. Accessed May 11, 2012.
- Morone, James A. and Theodore R. Marmor. 1981. "Representing Consumer Institutions: The Case of American Health Planning." *Ethics* 91: 431-50.
- Olson, Mancur. 1982. *The Rise and Decline of Nations*. New Haven and London: Yale University Press.
- Peter, Fabienne. 2009. *Democratic Legitimacy*. New York: Routledge.
- Pettit, Philip. 1997. *Republicanism*. Oxford: Clarendon Press.
- Pettit, Philip. 2004. A Dilemma for Deliberative Democrats. In Van Aaken, Anne, Christian List and Christoph Luetge, eds. *Deliberation and Decision*. Hants: Ashgate Publishing Limited.
- Pettit, Philip. 2006. Depoliticizing Democracy. In Samantha Beeson and José Luis Martí, eds. *Deliberative Democracy and Its Discontents*. Hampshire, England: Ashgate Publishing Limited.
- Pettit, Philip. 2008. "Freedom and Probability: A Comment on Goodin and Jackson." *Philosophy and Public Affairs* 36(2):206-220.
- Post, Robert. 2011. "Participatory Democracy and Free Speech". *Virginia Law Review* 97(3):477-489.
- Putnam, Robert D. 2000. *Bowling Alone*. New York: Simon and Schuster.

- Schmidt, Thomas. 2004. Deliberative Democracy and Collective Truth Tracking: A Comment on Luc Bovens and Wlodek Rabinowicz. In Van Aaken, Anne, Christian List and Christoph Luetge, eds. *Deliberation and Decision*. Hants: Ashgate Publishing Limited.
- Sniderman, Paul M., Richard A. Brody, and Philip E. Tetlock. 1991. *Reasoning and Choice: Explorations in Political Psychology*. Cambridge: Cambridge University Press.
- Sunstein, Cass R. 2003. The Law of Group Polarization. In Fishkin, James S. and Peter Laslett, eds. *Debating Deliberative Democracy*. Malden, MA: Blackwell Publishing Ltd.
- Urbinati, Nadia. 2000. "Representation as Advocacy: A Study of Democratic Deliberation". *Political Theory* 28(6): 758-786.
- Wall, Steven. 2007. "Democracy and Equality". *The Philosophical Quarterly* 57(228):416-38.
- Young, Iris Marion. 1997. Difference as a Resource for Democratic Communication. In Bohman, James and William Rehg, eds. *Deliberative Democracy: Essays on Reason and Politics*. Cambridge, MA: The MIT Press.
- Young, Iris M. 2000. *Inclusion and Democracy*. Oxford: Oxford University Press.