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## **The Need for Non-Ideal Theory: A Case Study in Deliberative Democracy**

Although there are several ways to characterize the debate between ideal and non-ideal theory (many represented within this volume), it is primarily a methodological question about the correct way to do moral and political theory. Ideal theory seeks to draw political or ethical conclusions from assumptions grounded in the ability and willingness of individuals to uphold the demands of justice. Meanwhile, critics of ideal theory argue that such conclusions often fail to respond to existing injustices or background constraints on individuals' abilities, resulting in idealized prescriptions that generate unjust outcomes in real-world circumstances. In this paper, rather than trying to further clarify the distinction between ideal and non-ideal, I present an analysis of deliberative democratic theory as a case study to illustrate the concerns raised by critics of ideal theory.

An account of democratic legitimacy must provide normative grounding for the claim that citizens are somehow obligated to respect and obey the outcomes of political decision-making, or alternatively, an account of why the state is justified in using its monopoly on coercive power to enforce the rules that it does.<sup>1</sup> The deliberative turn in democratic theory was driven largely by the difficulties that aggregative accounts had in playing this role: aggregation's vulnerability to strategic behaviors and cyclic majorities suggested that it was neither procedurally fair nor somehow more likely to produce substantively better outcomes.<sup>2</sup> Some theorists went so far as to claim that the outcomes of aggregation procedures were ultimately meaningless.<sup>3</sup>

Deliberative democrats sought to fill this gap by emphasizing the idea that collective political decision-making should involve a process of deliberation, conducted among equals who

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<sup>1</sup> Buchanan 2002.

<sup>2</sup> Elster [1986] 2003, Cohen [1989] 1997, Bohman 1998.

<sup>3</sup> Riker 1982.

offer reasons in support of their positions.<sup>4</sup> By ensuring full and equal access to deliberation and selecting outcomes on the basis of discussion aimed at rational consensus rather than inequalities of power or bargaining position, the process of collective decision-making could once again regain a legitimating function.

But the legitimacy-conferring aspects of deliberation are lofty ideals: equal access to the deliberative forum, an equal opportunity to influence political outcomes, and reasonable and rational discussion predicated on the desire to promote the common good. Insofar as we accept this as the ideal for decision-making, the natural implication is that we should seek to move existing democratic political institutions toward a closer approximation of that ideal. If it turns out that the ideal is unreachable, because predicated on unrealistic assumptions about democratic societies and the citizens within them, the relevance of ideal deliberative theory for existing political institutions is unclear. It could neither explain nor ground claims to the legitimacy of outcomes of existing decision-making procedures, nor necessarily serve as the basis for reforms of existing institutions. If deliberative democrats want to say something about the legitimating function of *actual* democracy, then, much will turn on the extent to which the assumptions that deliberative theory makes are consistent with empirical realities regarding citizens of contemporary democracies and their collective decision-making abilities.

I argue that deliberative democracy defended on the basis of idealized assumptions fails to survive confrontation with evidence regarding non-ideal facts about the cognitive, behavioral, and deliberative capacities of individual citizens and deliberating bodies. My goal is to demonstrate that by failing to account at the theoretical level for “can’ts” which exist at the practical level, deliberative theory is unable to ground claims to the legitimacy of deliberative outcomes. In order to perform this legitimating function, a deliberative theory must begin from a

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<sup>4</sup> See, for example, Cohen [1989] 1997, Habermas 1996, Estlund 2008.

standpoint that is more fully informed by the ways in which cultural, personal, social, and economic differences can impact the process and outcomes of group decision-making.

In what follows, I distinguish between substantive and procedural claims of deliberative democrats. I use the term “substantive” to refer to accounts that claim that deliberation generates substantively better outcomes than alternative decision-making procedures (leaving open for the moment what “better” means). Substantive accounts of deliberative democracy are therefore opposed to procedural accounts of deliberative democracy, which locate deliberation’s value in the procedural fairness or equality embodied in the ideal speech situation.<sup>5</sup> This dichotomy is largely artificial, as theorists tend to make claims to both procedural and substantive virtues of deliberation. My goal, however, is to show that claims of neither kind can be substantiated in the context of non-ideal facts about actual deliberation and deliberators, and that therefore appeals to either value as grounds for legitimacy are vitiated, as are mixed accounts that fall somewhere in between. Insofar as actual institutional structures cannot manifest the legitimating factors proposed by deliberative democrats, one of two conclusions must be drawn. Either deliberative theory is the wrong account of democratic legitimacy, or democratic legitimacy is itself an implausible ideal, incapable of generating just democratic outcomes given facts about our world.

Section 1 begins by examining procedural accounts of deliberation and asking whether deliberative procedures can embody a kind of equality that surpasses aggregative conceptions of democracy. In Section 2, I discuss substantive accounts of deliberative legitimacy, and consider the likelihood that public deliberation will generate epistemic or other value in decision-making outcomes. Section 3 goes on to consider the more modest claim that deliberation may generate

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<sup>5</sup> I take it that when Cohen [1996] 2003 refers to “substance” in deliberative democracy, he is referring to substantive restrictions on the outcomes of deliberative procedures. However, we should note that Cohen grounds those substantive restrictions in their ability to be generated by the ideal procedure itself – so that these substantive limits can actually be construed as “procedural” on the dichotomy I am presenting.

outcomes that are better simply on the basis of their greater likelihood of reflecting what might be called the “public will”. Finally, Section 4 assesses the extent to which the substantial body of empirical evidence relied upon in the earlier sections is applicable to actual political deliberations, given the limitations of many of the studies.

### **Section 1: Procedural Equality and Democratic Legitimacy**

According to deliberative democrats, one of the core legitimating functions of deliberation is to ensure that citizens have substantively equal opportunities to influence the outcomes of political decision-making. Recall that the deliberative turn was driven largely by concerns that aggregative democracy is vulnerable to strategic manipulation and bargaining inequalities among participants. Both phenomena seem to undermine the equality of voters in ways that vitiate claims to democratic legitimacy.

Deliberation is meant to mitigate the strategic vulnerability of decision-making and the impacts of socioeconomic inequalities by ensuring citizens an equal opportunity to persuade each other on the basis of reasoned argument.<sup>6</sup> Equal access to agenda-setting and decisions grounded in reasons that are accessible to all are intended to provide at least *ex ante* equal consideration for all proposals. Deliberation is thus putatively able to eliminate the effects of the distribution of social and economic resources on political outcomes by removing opportunities to manipulate and bargain.

However, reliance on the reason-giving requirement to ground political equality means that individuals exercise their equal voice in deliberation through the communication of ideas and reasons with persuasive force. In order to eliminate the effects of socioeconomic disparities, voters must have an equal opportunity to influence deliberative outcomes via this persuasion. A

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<sup>6</sup> Cohen [1989] 1997.

deliberative process that merely replicated inequalities present in aggregative democracy would be no improvement: if a voter cannot effectively participate in the deliberative process, she does not have the requisite equality necessary for the procedural legitimacy of deliberative outcomes.<sup>7</sup>

This section is devoted to a critical examination of the claim that deliberation contributes to legitimacy by virtue of the equality afforded to participants. Even when power differentials are formally barred from deliberation, social, cultural, and economic inequalities can still generate differences that indirectly undermine citizens' equal opportunity to influence the outcomes of deliberation. Take political knowledge for example: in contemporary pluralistic democracies, there is substantial maldistribution of political knowledge which correlates significantly with membership in traditionally underrepresented groups.<sup>8</sup> Across a range of modern democracies women, racial minorities, and blue-collar workers all tend to know substantially less about politics.<sup>9</sup> Such discrepancies have been shown both to impact voting behavior<sup>10</sup> and to correlate to larger susceptibilities to media suggestibility and agenda manipulation.<sup>11</sup> The upshot is that individuals with less political knowledge, often as a result of socioeconomic disadvantage, are less likely to effectively pursue their political priorities in deliberation or voting.

Personality traits can also play a large role in who influences deliberation. Even controlling for socioeconomic factors, it turns out that self-identified extroverts are more likely to dominate discussion, have greater influence on other participants,<sup>12</sup> and assume leadership roles within a deliberating group.<sup>13</sup> Extroverts are also less likely to change their minds after

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<sup>7</sup> Knight and Johnson 1997.

<sup>8</sup> Delli Carpini and Keeter 1996.

<sup>9</sup> Delli Carpini 1999, Tóka 2002.

<sup>10</sup> Bartels 1986.

<sup>11</sup> Iyengar, Peters, et al. 1982.

<sup>12</sup> Anderson and Kilduff 2009.

<sup>13</sup> Judge, Bono, et al. 2002.

deliberation than those who self-identify as “introverts”,<sup>14</sup> so even if introverts share valuable input, deliberative outcomes are more likely to be dictated by the dominant personalities in a group. As the examples of political knowledge and personality traits show, individual and social differences drive significant deviation from deliberative equality.

Such worries have been given significant treatment in the literature, so here I use them only to illustrate one kind of deliberative inequality. The rest of this section considers two phenomena that function to undermine equality of opportunity to influence deliberation in more nuanced ways, specifically: adaptive preference formation and epistemic injustice.

### ***1.1: Adaptive Preferences***

Adaptive preferences are those that are formed or changed as a result of a change in the options available to an agent. Jon Elster used Aesop’s fox as an example: upon discovering his inability to reach some grapes he was hungry for, the fox comes to no longer desire them.<sup>15</sup> On Elster’s account, adaptive preferences are morally suspect because they are unconsciously formed, but many of our preferences are unconsciously formed, without us finding them troubling. An alternative interpretation suggests that preferences are suspect when they are (1) inconsistent with an agent’s basic flourishing, (2) formed under conditions that are un conducive to her basic flourishing, and (3) would likely not have been formed under conditions that were conducive to her basic flourishing.<sup>16</sup> Suspect preferences thus include seemingly problematic preferences that were nevertheless autonomously formed, while omitting preferences that were not autonomously or reflectively formed but which nevertheless are intuitively unproblematic. Preferences that are socially imposed insofar as they conform to social norms and go largely unscrutinized are not

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<sup>14</sup> Gastil, Black, et al. 2008.

<sup>15</sup> Elster 1982.

<sup>16</sup> Khader 2011, 51.

troubling as long as they are consistent with human flourishing, and similarly preferences that appear to be inconsistent with human flourishing but which have been chosen reflectively do not seem to be reason for concern.<sup>17</sup>

Adaptive preferences should be troubling for the deliberative democrat, because they represent a way in which “psychological adjustments to conditions of subordination” are introduced into deliberative outcomes.<sup>18</sup> Preferences that are formed in response to unjust socioeconomic or cultural statuses, such as contentment with lower perceived life chances, can prevent members of traditionally underrepresented groups from expressing dissatisfaction with existing oppressive social norms or accurately communicating the deprivation caused by social and political institutions. Deliberation can thus function to reinforce norms that systematically disadvantage particular subgroups within society, when its stated purpose is to correct for such disadvantages and reduce the influence of socioeconomic inequalities on political outcomes.

Joshua Cohen argues that the reason-giving requirement will help to eliminate adaptive preferences,<sup>19</sup> but it is hard to see how. Even if we accept the implicit claim of many deliberative democrats that deliberation will cause a shift in citizens’ preferences towards the common good,<sup>20</sup> this does not imply that citizens will become more reflective or critical of preferences they hold that are grounded in arbitrary disadvantage. Deliberators with such preferences are unlikely to be in a position to voice dissatisfaction with the social structures that caused those preferences, and thus to bring others to understand their negative impacts.

Compounding worries about adaptive preferences is the concern that public deliberation can itself function to alter self-perceptions and preferences in a similarly suspect way. Susan

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<sup>17</sup> Khader 2009, 47-8.

<sup>18</sup> Cohen [1989] 1997, 78.

<sup>19</sup> Cohen [1989] 1997.

<sup>20</sup> Elster [1986] 2003.

Stokes reports research suggesting that agents sometimes internalize personal narratives generated in political deliberation and ultimately revise their own identities in light of public expectations, so that deliberation actually functions to subvert authentic preferences.<sup>21</sup> This phenomenon is similar to what research has found about stereotype threat, or the effect that knowledge about social stigmas regarding one's group membership can have on performance of cognitive tasks.<sup>22</sup> In both cases, individuals' considered or authentic beliefs and preferences can be suppressed or even corrupted as a result of social expectations and narratives about the particular demographic groups to which they belong.

### ***1.2: Epistemic and Linguistic Injustice***

The potential for testimonial injustice in deliberation likewise highlights its ability to reinforce existing social inequalities. Frequently, underprivileged groups suffer a lack of credibility within the context of discussion.<sup>23</sup> This is sometimes due to implicit bias, when judgments about an individual or her actions are influenced by the unconscious associations others hold of particular demographic features with negative traits.<sup>24</sup> Such bias can cause members of stigmatized groups to be accorded less credibility or suasion than they are due.

But in addition to implicit bias, epistemic injustice can be predicated on or exacerbated by various ways in which we use language. Deliberation is frequently dominated by the social majority, who tend to share a cultural advantage through their privileged access to what Nancy Fraser calls the socio-cultural means of interpretation and communication. This includes things like

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<sup>21</sup> Stokes 1998.

<sup>22</sup> Aronson, Lustina, et al. 1999.

<sup>23</sup> McConkey 2004.

<sup>24</sup> Holroyd 2012.

the officially recognized vocabularies in which one can press claims; the idioms available for interpreting and communicating one's needs; the established narrative conventions available for constructing the individual and collective histories which are constitutive of social identity; the paradigms of argumentation accepted as authoritative in adjudicating conflicting claims; the ways in which various discourses constitute their respective subject matters as specific sorts of objects; the repertory of available rhetorical devices; [and] the bodily and gestural dimensions of speech which are associated in a given society with authority and conviction.<sup>25</sup>

Members of traditionally oppressed groups – women, minorities, and the lower classes – are likely to be less fluent in this dominant linguistic culture. They may communicate in a different vernacular or rhetoric which the majority will tend to discount, or they might attempt to communicate in the dominant frame, but lose effectiveness due to less fluency in the use of that linguistic form. Sociological data suggests that minority participants will more successfully communicate in the dominant paradigm when the discussion feels unthreatening, which in turn causes other members of the group to perceive them as “cooperative, friendly, and effective.” But when threat levels are perceived to be high, they will abandon the majority's linguistic norms and overall levels of productive cooperation decrease.<sup>26</sup> The result is an inequality of deliberative influence that traces not to the quality of reasons on offer, but to a kind of cultural imperialism that forces minority groups to communicate on majority terms in order to be heard, and which can reinforce existing implicit biases when they fail to do so competently.

Members of the majority also frequently encode bias in their own use of language. Linguistic Intergroup Bias (LIB) is a “systematic bias in language use that may contribute in a

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<sup>25</sup> Fraser 1995, 425.

<sup>26</sup> Delli Carpini, Cook, et al. 2004, 327.

subtle way to the maintenance of stereotypes.”<sup>27</sup> Roughly, in groups characterized by a majority (“in-group”) and a minority (“out-group”), members of the majority tend to describe in-group members’ positive actions, and out-group members’ negative actions, in abstract terms such as “altruistic” or “aggressive”, while in-group members’ negative actions and out-group members’ positive actions are more likely to be described in concrete terms, for example “helping” or “hurting somebody”. This linguistic tendency conveys that out-group members’ negative qualities are inherent and that any positive input they offer is merely accidental, while the reverse is true of in-group members.<sup>28</sup>

Both lack of fluency with the dominant linguistic culture and linguistic intergroup bias among privileged deliberators can harm the standing of minorities in the group hierarchy and exacerbate their lack of influence. Deliberators systematically give the least weight to the input of “low-status” members in deliberation, where status may be inferred by fluency in the dominant linguistic culture.<sup>29</sup> And in reinforcing implicit bias, LIB functions to undermine participant credibility, which is crucial to the persuasiveness of individual deliberators.<sup>30</sup>

Such epistemic injustices do not only disadvantage individuals. By disproportionately undermining the credibility of members of traditionally oppressed groups, the unique input that can only be offered from within those perspectives is also deprived of a fair hearing, which can directly impact resulting policy. For example, a recent study utilizing deliberative meetings in different communities in and around Baltimore, Maryland found that discussions conducted within an urban setting characterized by high crime were significantly focused on social justice issues, while suburban discussions were more likely to focus on “logistical and operational”

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<sup>27</sup> Maass, Ceccarelli, et al. 1996, 512.

<sup>28</sup> Mendelberg 2002.

<sup>29</sup> Christensen and Abbott 2000.

<sup>30</sup> Ulbert and Risse 2005.

aspects of the problem being discussed.<sup>31</sup> Such results underscore the importance of ensuring adequate representation and epistemic consideration of diverse social perspectives during policy deliberations, and demonstrate that pervasive social inequalities, rather than being mitigated by deliberative processes, can actually be reinforced.

Both suspect preferences and epistemic injustice suggest that deliberation cannot instantiate the kind of deliberative equality that privileges reason and argument within the current background context of social and economic inequalities. It might be plausible that in some (distant) future world, the background conditions that contribute to the formation of suspect preferences and these kinds of epistemic injustices could be mitigated to such an extent as to strengthen the legitimating function of deliberation in political decision-making. The point here, though, is that assigning a legitimating function to deliberation in the absence of such requisite background conditions can instead serve to entrench or even exacerbate existing injustices, rather than to promote the kind of equality of political influence that deliberative democrats claim to seek. In this way, an ideal account of democratic legitimacy may be not only uninformative, but worse: counter-productive to the aims of deliberative theorists.

## **Section 2: Epistemic Gains and Democratic Legitimacy**

If deliberation fails to instantiate the kind of equality that deliberative theorists hope for, it may nevertheless contribute to political legitimacy if it generates substantively better outcomes than alternative decision-making procedures. Assessing this is difficult, however, given our lack of a procedure-independent standard by which to judge the outcomes of decision-making. Here, I

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<sup>31</sup> Biddison, Gwon, et al. 2014. In both settings, community members were discussing the fair or appropriate allocation of scarce medical resources during a hypothetical pandemic situation.

focus on the mechanisms by which deliberation might be thought to generate outputs superior to mere aggregation to assess its ability to do so.

One suggestion is that deliberation is likely to produce epistemic gains insofar as it allows more knowledge to be brought to bear on a problem. Here, a claim is being made about the *volume* and/or the *diversity* of the inputs to deliberation. An alternative claim is that deliberation leads to better outcomes insofar as decisions are made on the basis of better reasons, where better reasons are those of the type that can be appropriately leveraged in public political deliberation. This is a claim about the *quality* of the inputs to deliberation. Finally, the claim that deliberation produces better outcomes may simply refer to important positive externalities associated with deliberation, or a claim about the *side effects* of public debate and decision-making. The rest of this section is devoted to an assessment of each of these claims in turn.

### ***2.1: The Volume of Inputs to Deliberation***

The first claim is that deliberation produces better outcomes by virtue of the volume of its inputs. Given the natural division of epistemic labor within society, deliberation can ensure that we have access to the largest possible pool of private information and expertise. This is the kind of claim made by David Estlund when he argues that “[m]ore minds will tend to bring more relevant reasons into play, and this (other things equal) has epistemic value.”<sup>32</sup> Supporters of this view might also argue that we can engage in better problem solving to the extent that we can bring more cognitive capacity to bear on a complex question. This is a claim not about the volume of *information*, but about the volume of *cognitive processing*: more brains provide more computational power with which to attack a problem, so there is additive value. But also, more brains may arrive at possibilities that would never have occurred to any individual member in

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<sup>32</sup> Estlund 2008, 181.

isolation, so epistemic gains may be multiplicative.<sup>33</sup> This is the kind of claim made by Hélène Landemore, who argues that the democratic collective is more intelligent due to the cognitive diversity of its members. Larger groups are more cognitively diverse, and therefore more likely to produce epistemically superior decisions than smaller groups or individuals by virtue of the application of a greater variety of perspectives, heuristics, interpretations, and predictive models to political problems.<sup>34</sup>

Note first that the availability of a larger volume of knowledge does not guarantee an epistemic gain. Although discussion can increase the use of novel information, in most instances groups rely heavily on information that is common to all, and pay less attention to unique bits of information shared only by a minority.<sup>35</sup> Nor is it the case that a greater number of participants with more knowledge will necessarily increase the information that is shared at all: individuals may be more or less inclined to reveal what they know, depending on the order in which they first speak or on the decision procedure to be used at the end of deliberation. In particular, when participants bring diverse values and biases to deliberation, there is no voting rule that can ensure that individuals reveal their private information ahead of a vote. In fact, communication of a sequential nature in voting groups tends to depress the level of information shared.<sup>36</sup> Perhaps even more concerning, the order in which individuals speak can change the outcome of deliberation,<sup>37</sup> which leads to a puzzle for claims about the connection between epistemically superior outputs and political legitimacy: If the order of speech can impact the outcome of

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<sup>33</sup> Fearon 1998.

<sup>34</sup> Landemore 2013, 102.

<sup>35</sup> Delli Carpini, Cook, et al. 2004.

<sup>36</sup> Austen-Smith and Feddersen 2009. I say “ahead of a vote” since in the absence of consensus, eventually a vote must take place.

<sup>37</sup> Austen-Smith 1995.

deliberation, then is any outcome that could be produced by some feasible ordering of deliberative contributions legitimate?

In some instances these informational hurdles signal that participants are interacting strategically, but they also occur when participants deliberate in good faith. In small group deliberations, most contributions come from very few members of the group, with “high status” members (i.e. those from higher socio-economic groups) not only contributing more, but also more often perceived to be contributing factually correct or accurate information, regardless of whether they actually are.<sup>38</sup> When multiple participants have already expressed concurring opinions, those with opposing viewpoints or new but contradictory information are less likely to voice their dissent. Overall, participants are more likely to reiterate or voice support for information that has already been shared than to offer new insights.

At least some of this reticence in offering new, private, or contradictory information is perfectly rational: the more people have agreed to a claim that an agent’s private information contradicts, the more reason she has to suspect that others have information she is not privy to, and that her own information is wrong.<sup>39</sup> This kind of rational conformity due to information cascades is thus unique to deliberative forms of decision-making. When decisions are made on the basis of individual inputs *without* prior group deliberation, individuals are less likely to doubt the validity of true reasons that they already hold. Of course, this works both ways: absent deliberation, individuals are also less likely to doubt the validity of their untrue presumptions. The point is that the mere presence of more information across deliberators does not entail that more information will be introduced, nor even that information that is presented will be adequately considered.

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<sup>38</sup> Mendelberg 2002.

<sup>39</sup> Anderson and Holt 2006.

Finally, excess information can introduce significant computational and organizational costs: it is far easier to synthesize a smaller body of potentially conflicting or tangential information than it is to compile and analyze a larger amount of the same, especially when those data are spread across individuals in a group rather than concentrated in one knowledgeable participant. When individual bits of information are distributed across a group and they are asked to solve a problem together, they perform poorly at assembling those bits. This is true even when the members are individually competent to assemble the data if provided all pieces.<sup>40</sup> Thus, not only is a higher volume of input unlikely to produce epistemic gains in deliberation, but so too is a higher volume of cognitive processing.

## ***2.2: The Quality of Inputs to Deliberation***

An alternative claim is that deliberation produces better outcomes because it utilizes better reasons. Some deliberative democrats argue that deliberators should make use only of reasons grounded in the common good, or more conservatively, only those reasons that cannot be reasonably rejected by other parties.<sup>41</sup> The general idea is that the outcomes of deliberation will be improved due to the positive incentives deliberation provides to appeal to the kinds of reasons to which all deliberators can relate. To the extent that such reasoning dominates self-interested motivations in deliberation, any consensus or near-consensus reached is likely to more substantively reflect the common good, conceived of as something different from a mere aggregation of individual preferences. The requirement that such reasons form the basis for public deliberation is a foundational component of many deliberative theories,<sup>42</sup> but the claim

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<sup>40</sup> Stasser and Titus 1985.

<sup>41</sup> Cohen [1996] 2003.

<sup>42</sup> See, for example, Habermas [1988] 1996, Cohen [1989] 1997, Gutmann and Thompson 1996.

that the outcomes of deliberation will be substantively better on that account is an empirically vulnerable one.

The first thing to note is that those participants we would expect to contribute the most value of this kind in deliberation – those who are inclined to carefully consider different proposals and their implications – do tend to participate more and generate better arguments than other participants. However, these same individuals are also the least likely to change their minds on the basis of valid arguments offered by others<sup>43</sup> or to assign credibility to factual evidence that contradicts their pre-deliberative judgments.<sup>44</sup> In fact, those individuals who are best able to interpret and apply quantitative data without bias when relevant to some value-neutral topic are no less likely than relatively unsophisticated quantitative reasoners to erroneously interpret numerical data as supporting their prior beliefs when those data are value-laden or conflict with their overall political outlooks.<sup>45</sup>

Deliberation's ability to track substantively better outcomes is likewise called into question by a large but admittedly inconclusive body of evidence regarding the tendency of group deliberation to push collective decision-making in the direction of the majority's pre-deliberation baseline. In a series of by now well-known publications, Cass Sunstein has argued that polarization effects within deliberating bodies call seriously into question the legitimacy of deliberative outcomes. The label "polarization" can be used narrowly to refer to the tendency of mostly homogenous groups to become more extreme in their shared deliberative outcome than individual members were pre-deliberation, as mutual support and further arguments reinforce pre-deliberative beliefs and build confidence among group members.<sup>46</sup> Absent the tendency to

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<sup>43</sup> Mendelberg 2002.

<sup>44</sup> Kahan, Peters, et al. 2013.

<sup>45</sup> Ibid.

<sup>46</sup> Sunstein 2003.

go to extremes, however, “polarization” has also come to encompass the more general worry that groups more often than not converge on the pre-deliberation majority position than the minority, which seems to undercut claims of deliberative processes to improve upon aggregative procedures. For example, speakers who are “cognitively central” – i.e. share more arguments in common with other members of the group – tend to have the most influence over a group’s decisions, “regardless of their competence or the quality of their arguments.”<sup>47</sup>

Individual participants may be swayed to majority views due either to social and reputational considerations, or to the greater evidential support that tends to be offered for majority positions reinforced by the kind of rational information cascades noted above. Although there is evidence to support each of these interpretations, concerns about social standing appear to be easiest to substantiate in instances when the question under consideration is politically- or value-impinged.<sup>48</sup>

These data suggest that even barring self-interested reasons from deliberation, group discussion-based decision-making is unlikely to consistently result in substantively “better” outcomes than pre-deliberative aggregative procedures. A focus on “common good” reasoning does little to undercut biases that detract from the force of valid argument, statistical reasoning, and factual evidence.

### ***2.3: The Side Effects of Deliberation***

Finally, it might be argued that the beneficial side effects of deliberation contribute to legitimacy. For example, perhaps deliberative decision-making renders resultant outcomes more legitimate in the eyes of the people. This might be a claim about stability: deliberation produces outcomes

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<sup>47</sup> Mendelberg 2002, 164.

<sup>48</sup> Delli Carpini, Cook, et al. 2004.

of which the people approve, and stability ensues. Or it might be a claim about normative legitimacy: to the extent that individual citizens accept the outcomes of deliberation, those outcomes are legitimate.

Supposing deliberation does contribute to political stability, it is unclear what this adds to legitimacy beyond what is conferred by the decision-making process. Absent additional legitimating factors, stability cannot generate political legitimacy: we would not ascribe legitimacy to a powerful and well-armed tyrant who maintained stability via credible threats of violence against political dissidents. So although stability may be a result of legitimacy, the source of that legitimacy is some other feature of the decision-making process. On the other hand, the claim that legitimacy in the eyes of the people amounts to actual legitimacy is problematic for any other than a pure proceduralist who rejects all procedure-independent standards of assessment; surely the most common criticism of proceduralism makes just this point, that majorities may produce outcomes we find morally reprehensible, even if the population is willing to accept the outcome on the basis of the process by which it came about. Moreover, if the source of the people's belief that political outcomes are legitimate is their prior belief that the decision-making procedure imbues it with that legitimacy, the relevant question is: in what feature(s) of that procedure do citizens locate the legitimating force? And does that feature actually exist?

A different approach suggests that deliberation improves the moral or intellectual qualities of participants. At times, this seems an important claim of deliberative democrats. Cohen, for example, seems to think that parties to deliberation will eventually come to internalize the kinds of common good reasons mandated by the ideal deliberative procedure.<sup>49</sup> Mill similarly thought that political discourse would provide a kind of moral education for

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<sup>49</sup> Cohen [1996] 2003

citizens.<sup>50</sup> But these kinds of beneficial side effects cannot be the purpose of deliberation. Suppose that deliberation does have the salutary side effects of helping citizens to prioritize the common good in their political reasoning. It can only have this effect insofar as deliberation is aimed at some good, in particular, producing just political decisions. If there were no inherent advantage to a system of political decision-making in terms of the justice of its procedures or the quality of its outputs, then the fact that the procedure produced positive by-products could not, in itself, suffice to legitimate its outcomes: “if the system has no inherent advantage in terms of justice or efficiency, one cannot coherently and publicly advocate its introduction because of the side effects that would follow in its wake. There must be a *point* in democracy as such.”<sup>51</sup> In other words, in order for deliberation to *have* these kinds of salutary effects on its participants, it must be aimed at political outcomes or goals of some kind, and the enumeration of those goals is what provides the basis for democratic legitimacy.

However we want to characterize the “better” outcomes of deliberation that substantive accounts claim, it must be something more substantial than “better by virtue of being the majority’s predisposition” in order to offer an advantage over merely aggregative accounts of democracy. To the extent that the ability of deliberation to bring more information to bear on decisions is in question, there is reason to be concerned about its epistemic value. And although there are legitimate worries about the applicability of empirical findings on polarization to democratic deliberation (see Section 4), if polarization effects are as pervasive as the empirical data suggest, then we have similarly good reason to question the ability of deliberation to privilege qualitatively better reasons, rather than merely the reasons of the majority.

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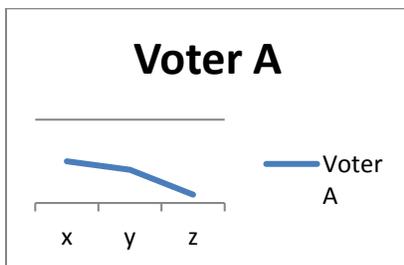
<sup>50</sup> Mill [1871] 1994.

<sup>51</sup> Elster [1986] 2003, 152.

### Section 3: Meaning and Democratic Legitimacy

An alternative interpretation of the claim that deliberation produces “better” outcomes than aggregative accounts is that it can ensure that political decisions reflect some measure of the common will by producing single-peakedness. Recall that a significant concern driving the deliberative turn was the vulnerability of aggregative procedures to cyclic majorities and, consequently, outputs that failed to meaningfully reflect the common will. Some defenders of deliberation argue that by promoting shared understandings of political decisions, deliberation can generate single-peaked preference orderings that lack this vulnerability.

“Single-peakedness” refers to the shape of the curve of a voter’s preferences when graphed according to some ordering of the alternatives. If the curve changes from an upward trajectory to a downward trajectory at most once, it is single peaked. For example, if there are three possible outcomes, and Voter A’s preferences are represented by  $x > y > z$ , the curve of those preferences would be single-peaked if graphed with an x-axis that ordered the alternatives  $x, y, z$  (in this case, the “peak” is at  $x$ ) (see Figure 1).



If the possible alternatives ( $x, y, z$ ) can be placed along the x-axis in some order on which every voter’s preferences when graphed are single peaked, then (assuming an odd number of voters) there is a Condorcet winner. This means there is some alternative that will win a majority of votes when pitted pairwise against every other alternative. Perhaps the most

important implication of this is that the kind of cyclic majorities that are claimed by some to deprive aggregation procedures of their democratic meaning can be prevented.

It has been suggested that in some cases, deliberation may transform initial policy preferences into moral judgments, in which case some preference orderings or alternatives will become obviously morally problematic or narrowly self-regarding. This essentially amounts to relaxing the unrestricted domain requirement and in effect ruling out alternatives that might otherwise disturb single-peakedness.<sup>52</sup> Alternatively, deliberation may help opposing parties to see that they are debating along multiple dimensions. Making decisions along those dimensions separately may contribute to single-peakedness along each individual dimension.<sup>53</sup>

It turns out that there is some early empirical support for the idea that deliberation might generate single-peakedness. That support is minimal, however, and specifically constrained in two ways. In what is thought to be the first empirical study of deliberation's ability to generate single-peakedness, List, Lushkin, et al. found that although single-peakedness was exceedingly difficult to obtain in large populations, deliberation could increase *proximity* to it, which does not preclude cycles but does make them less likely. Even this modest improvement of outcomes was attenuated, however: First, significant proximity gains could only be shown on low- and moderate-salience issues about which participants had not already engaged in significant deliberations, and second, the effect was greatest for those issues that already naturally fall along a left-right ordering.<sup>54</sup> The latter finding – that greater effect sizes occurred on issues naturally organized along a left-right continuum – is simply a reflection of the core finding of Black's original result: when voters share a single continuum along which to organize alternatives, then

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<sup>52</sup> Dryzek and List 2003.

<sup>53</sup> Miller 1992.

<sup>54</sup> List, Luskin, et al. 2013.

regardless of their specific preferences, those preferences when graphed will be single-peaked.<sup>55</sup> And the relevance of the salience finding is that on those issues that are currently most important to citizens based on their position within public discourse – those most salient in social deliberations – significant effects could not be shown. While currently less-salient but important issues may be more susceptible to proximity effects, as these important issues enter the public discourse, they become more salient and thereby, according to this result, less susceptible to proximity effects.

Suppose, however, that deliberation did consistently generate outcomes proximate to single-peaked preference orderings. It is still unclear that it would imply substantively better or more representative outcomes than those generated on the basis of voters' pre-deliberative preferences. Defenders of deliberation's tendency toward single-peakedness readily admit doubt that deliberation increases substantive agreement.<sup>56</sup> And given the tendency of deliberation to privilege the arguments and positions of individuals from certain socioeconomic backgrounds or with certain personality types and to move towards the majority position regardless of its quality, if such outcomes were single-peaked, that fact would contribute nothing to the substantive value of collective decisions. At most, the defender of deliberation might argue that this tendency towards single-peakedness functions to imbue deliberative outcomes with a kind of *meaning* that is missing from merely aggregative approaches that are vulnerable to majority cycles and agenda manipulation.

Even if this is the case, however, that meaning would nevertheless be predicated on and reflect a process in which certain voices were systematically neglected and particular social perspectives never given appropriate deliberative consideration, undermining claims to either

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<sup>55</sup> Black 1948.

<sup>56</sup> Luskin, Fishkin, et al. 2002, List, Luskin, et al. 2013.

epistemic superiority or representativeness. Single-peakedness in the context of adaptive preferences and epistemic injustices would thus seem to offer a particularly impoverished basis for legitimacy.

#### **Section 4: Empirical Salience**

So far I have relied on non-ideal facts about the ways that individuals interact and form preferences to demonstrate that neither procedural nor substantive accounts of deliberation successfully ground claims to legitimacy. Given the massive proliferation of empirical studies and the often unclear or contradictory nature of the resulting data, this final section will consider three potential replies of the deliberative theorist. First, it might be argued that results from many of the social science studies do not generalize to political deliberation, since most of those studies are conducted in small, face-to-face groups, whereas actual political deliberation occurs within large political communities. Second, many of the worst deliberative pathologies are only witnessed in largely homogenous groups, so the heterogeneity of contemporary, pluralistic democracy should cut against the applicability of these results. Finally, the implementation of certain formal deliberative norms or practices might drastically reduce or eliminate deliberative pathologies, contributing to the epistemic value of deliberation. I address each of these replies in turn.

##### ***4.1: Small Group vs. Large Scale Deliberation***

Much of the empirical literature demonstrating pathologies in group decision-making is based on studies conducted in small, face-to-face groups. But as David Estlund points out, the behavior of such groups is not obviously representative of the kind of political discussion generally implied

by “democratic deliberation”. Political deliberation occurs across large groups of citizens, so likely most of what is involved in public opinion-formation cannot be captured by examining behavior in small groups. While small in-person meetings – such as town hall meetings and political conventions – are a part of public political deliberation, they exclude too large a proportion of the population to account for it in its entirety. Therefore, evidence that undermines the virtues of meeting-style deliberation does not necessarily vitiate the virtues of political opinion-formation writ large.<sup>57</sup>

Estlund is correct on two counts: Most public political deliberation is not face-to-face with other deliberators, but mediated through mass communication. And, deliberation does occur across a much broader segment of the population: as many as 68% of Americans self-report engaging in informal conversations about political issues at least a few times a month, and nearly half report trying to persuade others of their views on a public issue.<sup>58</sup> However, he is wrong in the claim that these differences mitigate the findings from studies in small groups. In the context of a mass media that has largely been subsumed by the market economy, mediated political discourse has become merely another commodity, attracting viewers via entertainment value and an ever-increasing polarization of politically salient issues.<sup>59</sup> Couple this with viewers’ tendencies towards selective exposure to media that reinforces their existing biases (see below, Section 4.2), and the mediation of political discussion functions to aggravate rather than alleviate the pathological tendencies of discourse.

Moreover, research into the effects of group size has shown that many pathological tendencies are amplified in larger-scale deliberation. Individuals are more likely to be objective and devote greater cognitive resources to decision-making when they feel accountable for their

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<sup>57</sup> Estlund 2009.

<sup>58</sup> Jacobs, Cook, et al. 2009.

<sup>59</sup> Habermas 2006.

decisions,<sup>60</sup> but they feel less responsible for the outcomes of deliberation in large groups,<sup>61</sup> and are consequently less inclined to voice their opinions.<sup>62</sup> As group size increases, dominant personalities play a larger role, and more apprehensive members feel greater pressure to conform, giving big personality types more authority and producing a net negative effect on the epistemic value of deliberation.<sup>63</sup>

Larger-scale political deliberation also requires greater organization in the informal deliberative process. With full or even majority participation, grouping becomes necessary for more than a small number of participants to be heard. Even in Athens, a relatively small democracy by modern standards, it is likely that most public deliberations were dominated by a very small number of speakers, as there was neither time nor opportunity for each individual to have a say.<sup>64</sup> Thus, deliberation breaks naturally into sub-groups along party, geographic, or other lines. But as individuals segregate themselves into groups, polarization tends to become more extreme. Such deliberative sub-groupings also function to limit the options available to those whose perspectives are not adequately represented by existing conglomerates. Minorities must either join an existing sub-group, sacrificing some considered viewpoints to the majority, or maintain independence and suffer from a marginalized impact on outcomes.

#### ***4.2: Heterogeneity in Political Deliberation***

The other oft-cited limit to the generalizability of findings about deliberative pathologies is that polarization and group domination are significantly reduced when heterogeneity within groups

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<sup>60</sup> Delli Carpini, Cook, et al. 2004.

<sup>61</sup> Latané and Wolf 1981.

<sup>62</sup> LePine and Van Dyne 1998.

<sup>63</sup> Burgoon and Dunbar 2000.

<sup>64</sup> Dahl 1989, 21.

can be increased.<sup>65</sup> Given that polarizing tendencies are strongest within homogenous groups, such findings are not particularly relevant to larger-scale political deliberations within contemporary democracies characterized by value pluralism. Polarization is mitigated, or perhaps eliminated altogether, by considering deliberation in this broader political context.<sup>66</sup>

Unfortunately, heterogeneity within a society does not ensure deliberative interaction across social differences. Individuals tend to sort themselves into like-minded groups. This “homophily principle” applies to every kind of social relationship: individuals seek similarity in friendship, work, family, marriage, social organizations, and even where they live. The upshot is that “people’s personal networks are homogenous with regard to many sociodemographic, behavioral, and intrapersonal characteristics.”<sup>67</sup> This selective exposure to like-minded associates suggests greater vulnerability to polarization effects: studies conducted with deliberating groups in two Colorado towns with known political leanings showed significant ideological amplification in group political deliberation with like-minded people, and concluded that “these effects should be expected when people sort themselves (deliberately or inadvertently) along political lines in purely geographical terms; they should also occur when the sorting occurs through people’s deliberate or inadvertent patterns of reading and other media consumption.”<sup>68</sup> Under such conditions, deliberation is more likely to amplify ideological biases and reduce ideological diversity.

In addition to face-to-face meetings, political deliberation is also characterized by the reception of political information and opinion from sources such the news media, editorials, and

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<sup>65</sup> Sunstein 2000.

<sup>66</sup> Landemore 2013, 138-9.

<sup>67</sup> McPherson, Smith-Lovin, et al. 2001, 415.

<sup>68</sup> Schkade, Sunstein, et al. 2010, 228.

other publications.<sup>69</sup> Some theorists even suggest that the majority of real political deliberation in modern democracies is conducted via mass media.<sup>70</sup> But as mentioned above, selective exposure strongly drives the consumption of mediated political broadcasts. In a recent study, investigators exposed more than one thousand US voters to news stories that were randomly assigned labels of competing news organizations – Fox News, CNN, NPR, and BBC. Conservatives and Republicans exhibited a significant preference to read those stories which were attributed to Fox, while avoiding news stories purporting to come from CNN and NPR, while the reverse trend was witnessed with liberal voters and Democrats. These “source cues” were relevant even to participants’ selection of stories of non-political content (i.e. travel news). The strength of the tendency toward selective exposure varied along with the level of political engagement of viewers, with more politically-inclined participants demonstrating stronger preferences for their favored news sources.<sup>71</sup>

Finally, the tendency toward selective exposure is also strongly manifest in the use of online social networks. As in other contexts, social network users are far more likely to maintain connections with those of similar political leanings. In a study of Twitter interactions in the six weeks leading up to the 2010 US midterm elections, investigators found that “political retweets exhibit[ed] a highly segregated partisan structure, with extremely limited connectivity between left- and right-leaning users”,<sup>72</sup> supporting both the relevance of the homophily principle to online social networks as well as reinforcing concerns about political polarization. Their study also found that the political messages contained in tweets were frequently “more extreme than you would expect to encounter in face-to-face interactions, and the content [was] frequently

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<sup>69</sup> Estlund 2009 thus refers to deliberative “meetings” vs. “broadcasts”.

<sup>70</sup> Page 1996, Habermas 2006.

<sup>71</sup> Iyengar and Hahn 2009.

<sup>72</sup> Conover, Ratkiewicz, et al. 2011, 89.

disparaging of the identities and views” of users of opposing political viewpoints.<sup>73</sup> These findings suggested reinforcement of existing political biases despite an unexpectedly high level of cross-partisan interaction. Users who communicated across partisan lines very rarely shared information from political opponents with other members on their own side of the divide. Other studies have demonstrated that even when exposed to broader viewpoints online, political or value-laden interactions on social networks tended to strengthen and reinforce in-group/out-group association and polarization.<sup>74</sup> These tendencies are likely to only be exacerbated by the speed at which information and opinions are proliferated across online social networks.

Individuals thus tend both to associate in their personal and professional lives with others of similar persuasion, as well as to select information sources that reflect and reinforce the particular political biases they already hold. Thus even in a very diverse society, the types of informal deliberative opinion-formation in which individuals are likely to engage will exhibit significant homogeneity and therefore a strong vulnerability to polarizing tendencies. This likelihood is borne out in studies demonstrating that selective exposure to homogenous social networks and media sources both significantly contribute to polarization.<sup>75</sup>

#### ***4.3: Formal Deliberative Norms***

The kinds of deliberative failures canvassed above might be loosely grouped into three types: epistemic failures of deliberation, inequalities arising out of social injustices, and inequalities arising out of epistemic injustices. There may be some overlap between these types – we might consider inequalities arising out of epistemic injustices a natural subset of those arising out of social injustices, for example – but the typology is only a heuristic and nothing hangs on it. It is

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<sup>73</sup> Ibid. 95.

<sup>74</sup> Yardi and Boyd 2010.

<sup>75</sup> Stroud 2010.

clear, however, that deliberative failures that might be called epistemic failures can be at least partially mitigated by instantiating procedural norms for deliberation or designing appropriate deliberative contexts. In joint deliberations regarding international treaties, for example, the use of formal norms governing the structure of discussion has been shown to bolster the argumentative and persuasive strength of individual participants.<sup>76</sup> Jon Elster's studies of formal assemblies demonstrated that the quality and type of deliberative interaction varies along with several variables, including group size, the level of publicity, and the level of participant interest (although in many cases the deliberative characteristics associated with the best outcomes were those we would generally consider to be the most hostile to democratic ideals, such as secrecy).<sup>77</sup> Perhaps most impressively, James Fishkin has demonstrated in a series of polls that exposing random population samples to balanced, accessible information about political topics as well as clearly enunciated conflicting viewpoints can lead to genuinely productive discussions in which participants actually change their minds and appear to avoid polarization.<sup>78</sup> The upshot of these and other findings is that with structures in place to neutralize or limit informational and reputational aspects of social influence, a greater level of deliberative productivity seems to manifest. Formalized methods such as "red teaming" or other means of forcing competitive analysis can likewise increase epistemic gains.<sup>79</sup>

I have until now discussed deliberation in rather vague terms, assuming only that it is a process of collective political decision-making intended to privilege reasoned consensus as the basis for policy outcomes rather than the influence of socioeconomic disparities or bargaining. Based on this discussion, one might assume that "deliberation" refers to a single, monolithic

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<sup>76</sup> Ulbert and Risse 2005.

<sup>77</sup> Elster 1998.

<sup>78</sup> Fishkin and Luskin 2005.

<sup>79</sup> Landemore 2013, 122.

process, but this is an over-simplification. Habermas distinguishes between two levels of deliberation: informal public opinion-formation, and formal will-formation – the former referring to the everyday political talk that occurs in households, workplaces, and bars and the latter referring to the formal processes in place for the creation of legislation.<sup>80</sup> Per Habermas, informal opinion-formation should function to constrain the possible outcomes of formal will-formation by establishing a kind of feedback to legislators regarding their policy decisions and the range of acceptable social options. A more nuanced distinction is offered by Jane Mansbridge, who refers to empowered deliberation, such as legislative bodies with the power to enact policy on the basis of deliberative outcomes; consultative deliberation, such as deliberative polls to which legislators may turn for policy guidance; and public deliberation, which includes “everyday talk” such as the political discussions we might have inside our living rooms.<sup>81</sup>

Looking at formal deliberative norms in the context of this distinction is illuminating insofar as it allows us to distinguish between those settings in which such norms can be applied effectively, and the informal deliberation that constitutes most political discussion. Although the application of formal norms to consultative deliberation – especially when constrained by a moderator empowered to enforce those norms and maintain topical focus – is particularly effective, that effectiveness appears to break down when deliberative bodies are empowered and aware that their decision on an important issue will be enacted.<sup>82</sup> And such formal norms seem completely inapplicable to the informal, public deliberations that comprise the bulk of political discussion. Although some theorists argue that small, consultative bodies can function as representative samples of the broader population,<sup>83</sup> others point out that such consultative bodies

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<sup>80</sup> Habermas 1996.

<sup>81</sup> Cited in Steiner 2012, 8.

<sup>82</sup> *Ibid.*, 43.

<sup>83</sup> Fishkin 2009.

fail to provide adequate access to all citizens, thus sacrificing full participation for deliberation.<sup>84</sup> Moreover, such bodies are most effective at reducing pathologies when moderated, but the more empowered the moderator, the greater the potential for deliberation to be manipulated.<sup>85</sup> Given that most all theorists agree that “deliberation should, ideally, be open to all those affected by the decision” and that deliberators “should have equal opportunity to influence the process [and] equal resources”,<sup>86</sup> the ability to instantiate productive deliberation within small groups does not appear to confer legitimacy on the outcomes of small-group deliberation to the exclusion of a legitimate role for the kind of everyday political talk that comprises the majority of deliberation.

It is also important to point out that while formal deliberative norms within appropriate contexts may substantially reduce epistemic failures of deliberation, their effectiveness in addressing deliberative inequalities arising out of social and epistemic injustices is less clear. While the procedure may become more amenable to rational discussion of opposing arguments, forms of inequality grounded in adaptive preferences, cultural and linguistic biases, and interpersonal differences are more likely to survive deliberation since many of the effects of these phenomena occur at an unconscious level. The random sampling that is crucial to Fishkin’s deliberative polls to avoid self-selection biases is intended to ensure the representativeness of small-group consultative deliberation, but it does nothing to address the kinds of underlying biases which contribute to epistemic injustices.<sup>87</sup> Little research has been conducted on deliberation’s ability to overcome such biases, but there is some evidence suggesting that asking individuals to suppress implicit biases once they have been identified can have a rebound effect, such that the intentional suppression of biases leads to those biases

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<sup>84</sup> Mansbridge 2010.

<sup>85</sup> Steiner 2012, 52-54.

<sup>86</sup> Mansbridge, Bohman, et al. 2010, 65.

<sup>87</sup> Sanders 2010.

becoming more extreme and engrained over the long run.<sup>88</sup> And even to the extent that mechanisms could be put into place to suppress or counter the effects of epistemic injustices, this would not address the underlying social injustices that can lead to suspect preference-formation.

Finally, the importance of good information to well-functioning deliberation cannot be over-stressed. Fishkin's deliberative polls were characterized by the provision of accessible, balanced, and complete information to participants. Results reported by Robert Goodin on a citizens' jury assessment carried out in Australia similarly emphasize the important role that full information and understanding played in producing epistemic benefits.<sup>89</sup> Such findings only amplify the importance of the tendency toward selective exposure and the role played both by the media within contemporary democracies, but also our other information sources. This importance leads to one final, but no less weighty, concern: the role of online social networks in the communication and proliferation of political information.

The upshot of this analysis is twofold: On the one hand, the evidence about deliberative breakdowns and cognitive biases seems to generalize quite well, both due to certain features of large-scale deliberation that exacerbate or compound many of these tendencies, and also because of individuals' proclivities toward selective exposure to political information. On the other hand, much of the evidence available about the best ways to improve deliberative outcomes seem particularly ill-suited to broad-scale political deliberation, as there is little we can do to ensure particular structural features of an inclusive public discourse, nor is it clear that we would want to. Informal political opinion-formation will remain a fundamental component of democracy regardless of the infrastructure that is built up around it. What remains is to determine the extent to which pervasive social and deliberative inequalities can be accommodated within a legitimate

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<sup>88</sup> Holroyd 2012.

<sup>89</sup> Goodin 2008, 42-52.

democratic framework versus the extent to which the existence of a legitimate democratic framework is itself predicated on the abolition of such inequalities.

## **Conclusion**

The deliberative ideal is just that: an ideal. But if deliberative democrats want to ascribe a legitimating function to the role of deliberation in a democracy, that ideal must be interrogated to determine the extent to which it can serve this purpose in the context of real features of democratic publics. An ideal political theory might play two (non-exclusive) roles in the design and assessment of existing political systems. First, the ideal might serve as a tool by which to assess the quality and legitimacy of democratic practices within existing polities. And second, the ideal might serve as a goal at which social planners ought to aim in the design and construction of social and political institutions.

But note that the ideal can only play either of these roles if it can plausibly be reached. Use of the ideal as a tool for assessment implies that the instantiation of deliberative processes within the current context of social, cultural, and economic inequalities would be legitimacy-bestowing, while the evidence regarding the impacts of those inequalities on effective deliberative participation argues otherwise. What's more, there's reason to think that in some instances, seeking to get closer to the ideal when the ideal is infeasible may actually result in less just outcomes.<sup>90</sup>

We might take these findings to imply that the deliberative democrat's real concern ought to be in determining what social conditions would need to exist in order to ground the legitimacy of deliberative outcomes, and in addressing the social context within which democracy is established. However, a full interrogation of the deliberative ideal suggests that certain

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<sup>90</sup> Gaus and Hankins 2015.

components of that ideal may be at best distant possibilities. The nature and extent of the deviations discussed above provide real reason to think that by blindly seeking to approximate the ideal, deliberative institutions and practices actively function to exclude certain segments of the population from effectively contributing to the decision-making process, and will continue to do so regardless of any plausible short-term social and institutional changes that can be brought about.

The explosion of social science literature questioning the epistemic and other virtues of deliberation has drawn attention from deliberative democrats, who at times have characterized the field as both “ambivalent” about democracy and harboring a preference for some form of elitism.<sup>91</sup> But one need not be a skeptic of democracy to be concerned about the power of deliberation to effectively disenfranchise the very minorities and underprivileged for whom it ought to serve the most good, nor to be concerned about its tendency to generate outcomes dictated largely on the basis of an uninformed majority’s unconsidered judgments. If democratic legitimacy is indeed predicated on some combination of procedural fairness and the acceptability of outcomes to all reasonable citizens,<sup>92</sup> this body of evidence should be extremely distressing. Procedural fairness needs to comprise more than mere formal equality of access to deliberation, especially when considered in the context of deeply-rooted cultural disparities that undermine the value of that access for those who cannot easily exploit dominant cultural norms. And all reasonable members of society are in a position to question the value of a process whose outcomes are affected by existing biases, unfounded majority opinion, and forms of epistemic injustice that cannot easily be prevented from impacting political discussion.

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<sup>91</sup> Estlund 2009.

<sup>92</sup> Estlund 2003.

Given the preceding analysis, we ought to be wary of deliberation's ability to contribute to democratic legitimacy, and question the growing emphasis that is placed on deliberative methods. And this tells us something about ideal political theorizing more generally: we should at least in some cases question its background assumption that once the ideal is identified, all we need do is figure out how better to approximate it. Such assumptions are just as likely to blind us to the pervasive impact of existing injustices as to aid us in addressing them.

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