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When is Deliberation Democratic?

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When is Deliberation Democratic?

Abstract

"Deliberative democracy" is a compound term. In both theory and practice, it connects deliberative influence through reason giving, reciprocity, and publicity to a family of political systems that broadly enable popular control of the state and government through empowerments such as voting, petitioning, and contesting, as well as the electoral and judicial systems that enable them. These empowerments are democratic when they are distributed to, and usable by, those affected by collective decisions in ways that are both equal and equitable.

While deliberative influence is best protected and incentivized by democratic political systems, not all deliberation is democratic, and not all approaches to democracy are deliberative. We should distinguish and relate these terms: we need to differentiate the practice of deliberation from the contexts of democratic enablements and empowerments in which it occurs. We can then focus on the pre-deliberative conditions that will enable or limit the extent to which deliberation is democratic. Two pre-deliberative democratic features stand out as particularly important in this context: popular participation—how individuals come to have standing and voice as participants, and agenda-setting—how concerns come to be defined as issues. We further argue that since deliberation typically occurs downstream from agenda-setting, and since popular participation both shapes and is shaped by this practice, theorists and practitioners of deliberative democracy should pay close attention to each well before deliberation begins.

To make this case, we first theorize the democratic dimensions of deliberative democracy through the concepts of equity and equality. Second, we focus on agenda setting and popular participation as important, though not exclusive, pre-deliberative determinants of equality and equity during deliberation. Finally, we offer suggestions about how theorists and practitioners of deliberative democracy might think about responding to the challenges generated by the tension between equality and equity prior to democratic deliberation.

Keywords

deliberation, democracy, equity, equality, agenda-setting, justice, fairness

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Equality, Equity, and Deliberative Democracy

Deliberation can be separated from democracy conceptually and practically. There can be deliberation that is not democratic and democratic practices that are not deliberative. For instance, Rawls (2001) considered the United States Supreme Court to be a pre-eminent deliberative body. But the Supreme Court

has an agenda that is limited by judicial process and—though an important part of a democratic system—is remote from democratic control. There are also democratic practices that are not deliberative. These include practices such as aggregate voting and purely strategic uses of words and images in political campaigns.

At a high level of abstraction, we can conceive of the "democratic" part of deliberative democracy as comprised of *equality* in opportunities for participation, and *equity* in processes and outcomes. Within the context of democratic theory, *equality* almost always refers constitutionally to rights and empowerments that attach to citizenship—equal rights to vote, equal protections for speech and association, equal standing before the law, and equal supports for social precursors of participation, such as education. These equal rights and empowerments are justified by moral equality; each person is morally worthy and possessed of equal moral dignity, and assumed to be capable of self-government (Dahl, 1999). In a democracy, these rights, empowerments, and moral assumptions attach to each individual equally, simply by virtue of their citizenship. They do so regardless of actual social and economic inequalities, or inequalities of capacity. They belong to individuals whether or not they are able to make use of them. Finally, these kinds of rights and empowerments are relative to the political units through which they are organized; their effectiveness is conditioned by the control governments exercise over an issue, and by the ways political systems enable citizens to participate in the kinds of control a government might exercise, including (for example) electoral system design.

Equity is a different matter. While equality operates through distributions of rights and empowerments that attach to citizenship, equity requires that each person is given his or her due according to circumstance. Equity considerations draw attention to the highly variable ways in which individuals are situated within social relationships, and to the duties and obligations that individuals have to one another as co-dependents within collectivities. That is, equity reflects considerations of social justice (Pettit, 2012; Rawls, 2001). Thus, while equality may be said to operate on a simple principle—equal provision of formal empowerments and protections—equity is more demanding and less amenable to formalization, as it requires attentiveness to the circumstances of each individual. Ideally, equality enables equity: equal distribution of empowerments such as votes, rights, and opportunities for voice should enable citizens to press for equity, to place equity claims on the

agenda, and to deliberate about what equity requires in the many different kinds of locations that comprise collectivities of interdependent equals. Equality, properly understood, ought to move a society toward equity: when equal empowerments underwrite voice, then deliberative mechanisms should enable finer-grained attentiveness to historical injustices, persistent prejudices, and highly variable starting places in life. But because these kinds of circumstances affect the ways in which citizens are able to use their equalities, questions of equity may also be pre-deliberative; precisely those who are relatively disadvantaged may need additional support, organization, or representation in order to have their voices included in deliberative processes.

Who Gets to Deliberate and about What?

When we convert these ideals into more substantive questions of deliberative democracy, two questions stand out: How are issues placed on deliberative agendas? And who gets to deliberate?

Imagine a (heavily stylized) deliberative cycle that proceeds as follows: first, there is a period during which, in the course of everyday public life in a democracy, an issue emerges and is taken up by an organization or government as an issue fit for deliberation. A deliberative body of some kind is selected and assembled. In the case of a legislature, the body is already chosen by an electorate; in the case of a mini-public, some mechanism or procedure will be required to select who will deliberate.

The deliberation and decisions that follow will be highly conditioned by the way in which an issue has been framed and defined, and also by election or selection of participants. The extent to which deliberation is, initially, "democratic" will be the result of agenda-setting and participant selection. Even in a stylized description such as this one, we can see that political standing is highly contingent. People can use their formal equalities to organize and press issues onto an agenda. One of the most critical functions of a democracy is to enable processes by which public sphere actors can place items on the agenda in a formal political sphere (e.g., the legislature, city council, etc.) and encourage, influence, and bring about policy outcomes that generally reflect the preferences and priorities of an affected constituency. Formal recognition of an issue by (say) a legislature or city council as an agenda item recursively grants political standing to an affected constituency, granting them political status that exceeds, as it were, their formal equalities

by recognizing, from among all the possible issues, a particular issue, around which some group of people has mobilized. Once an agenda is recognized and a constituency mobilized, equity considerations can enter into the political process, particularly when there are deliberative moments that enable people to make their claims. We often fail to conceptualize these formative moments when considerations of equity enter into political processes, shifting from equalities possessed by every citizen to more specific questions of who is affected by an issue, and to what extent. The more general point is that if we fail to ask about both equality and equity in these two formative moments—the moments of agenda-setting and participation/representation, the "what" and the "who"—the "democratic" element of deliberative democracy will be undermined before deliberation even begins. As we suggest below, the relationship between equality and equity is mirrored in an unresolved tension within democratic theory between peoples who have claims to inclusion owing to their formal equalities of citizenship, and those who have equity claims by virtue of their affectedness by an issue or policy (Goodin, 2008; Fung, 2013; Karpowitz & Raphael 2014).

When Equality Isn't Sufficient to Democracy

Formal equalities are essential to democratic deliberation, as they provide the institutional infrastructure that enables publics to form and organize, and issues to be defined. They are essential to moving issues into decision-making venues. And they are essential for accountability. Yet, formal equalities are quite compatible with substantive inequities that can undermine the democratic dimensions of deliberative processes. The sorts of things we imagine as pressing issues tend to be defined prior to any critical evaluation of why *this* issue is considered pressing and *that* issue is not for citizens of some jurisdiction. The ways issues affect people will usually be highly circumstantial. Affordable housing, for example, may not be an immediate concern for most people, but it will be urgent for some. Equal distributions of political rights and supports are insensitive to this kind of inequity. Worse, those most affected are also unlikely to be best positioned to use the political equalities they possess. Some rights—voting in particular—will disfavor disadvantaged minorities. It can often be the case that from an equality-seeking principle that sets aside equity, the agenda issues of the minority will be set aside again and again for some future in which there is more time, more resources, and more magnanimous majorities.

Another equality-based approach to agenda-setting assumes a competitive civil society in which diverse interests vie with one another to get their issues on the agenda—in short, pluralism. An important argument in favor of the pluralist approach is that citizens can gauge the intensity of their preferences themselves and organize accordingly. Each individual is in charge, as it were, of deciding how to translate formal equalities into substantive demands, including demands for equity. There are no good reasons to limit the equalities that enable pluralist politics. However, organization, pressure, and voice that rely on self-selection will tend to mirror social inequalities, favoring those with education, money, and social status. As E. E. Schattschneider famously commented decades ago, "the flaw in the pluralist heaven is that the heavenly chorus sings with a strong upper-class accent" (1960, p. 35). Traditionally marginalized communities face barriers to participation, in part because they tend to acquire and develop the sorts of skills necessary for political engagement at a much lower rate (Brady, Verba, & Schlozman 1995; Gaventa 1980). Considered as deliberative bodies that respond to organized pressure and public discourse, for example, legislatures will tend to mirror these well-known biases. They are sites of deliberation that often fail democracy, both because they lack mechanisms for equity and because formal equalities reflect social inequities. Without addressing inequities in agenda-setting and participation, even highly deliberative bodies are likely to reflect the preferences and priorities of those who have relative advantages.

These are well-developed issues within democratic theory. Less well-developed are the theoretical responses: Can we integrate considerations of equity into an equality-focused set of theories, and then integrate them into deliberative democratic theory? A promising approach within democratic theory—one that could deal with equity considerations—looks at agenda setting and political standing by asking about how and to what extent people are affected by collective issues and decisions. There is now some movement away from strict equality as the most basic measure of democracy, and toward what is now called an “all-affected-interests principle” (Fung, 2013; Habermas, 1996; Young, 2000). If one is affected or potentially affected by collectivities, including structural locations within them, one should have a claim to voice in crafting agendas and a say within deliberative processes. This kind of principle moves us away from building democratic theory on formal equalities alone, and toward thinking about substantive equities. Imagining for a moment individuals who would like to put issues on the agenda, let us assume that each person has a single vote, which they would use

to put forward an issue for deliberation. The principle of equality would give each individual one equal vote. If, for instance, you care about clean energy policy, and each of the authors of this paper cared about health care premiums, then the 2-to-1 vote for setting premiums on the agenda would be decisive. The potential impacts of the issue are not reflected in the outcome. From the standpoint of affectedness, however, things are different. If, for instance, a change in clean energy policy would affect you (and others) significantly (say, by improving air quality and greatly improving your quality of life) while health premium reduction would affect us only weakly (say, by saving us a hundred dollars a year), then the relative weights of our claims should be adjusted. Of course, such adjustments already occur in practice: those who care deeply about an issue can use their formal equalities to try to push it onto the agenda. The results, however, are often inequitable, as this kind of "self-service" democracy favors those with more education, money, and time. It would be better to ask: Who is affected, in what ways, and by how much? Then, perhaps, we could design agendas and participation in ways that processes and outcomes are more likely to be equitable.

Our interpretation of the all-affected-interests principle ties the concept to equity rather than to jurisdiction-based equality. If claims to being affected were to produce *equal* claims to set agendas and participate, then almost any issue quickly comes to include just about *everyone, everywhere* (Goodin, 2008). The results would not just be unworkable, they would be inequitable (and unjust), as those with distant connections to an issue would have the same claims as those who are immediately and dramatically affected. If, however, we couple the principle with equity, then it will result in differential claims to agenda-setting and participation. This characterization of the all-affected-interests principle should cash out in the ways deliberative processes are designed around equity concerns: *What affects me or us most? What is most important to me or to us?* By characterizing the principle this way, and designing deliberation with equity in mind, the impact of outcomes and the participation required of individuals and groups should scale relative to the importance they have for individuals' self-development and self-determination—that is, relative to social justice (Young, 2000). The question about representation in a deliberation thus changes from "Who has a right to be here?" to "How many are here from group X, Y, or Z relative to how much this issue impacts groups X, Y, or Z?" While this kind of approach may seem difficult to justify from the perspective of formal equalities, in fact we already practice many versions that people find intuitively legitimate. For example,

although Canadians have equal rights to health care, the system supplies health care differentially, according to each individual's health needs. And designed processes often target "stakeholders"—which is one way of identifying and recognizing those who are most affected.

Within the context of deliberative democracy, the composition of a deliberative body will likely reflect which concerns are brought to bear, and how the issues are deliberated (Karpowitz & Mendelberg, 2014; Landemore, 2012). Pre-deliberative considerations about equity in terms of the makeup of the group are thus central to outcomes independent of whatever issue it may be that is being discussed. For all these reasons, we should be thinking about techniques of involvement that select participants with consideration for equity.

The all-affected-interests principle provides us with some guidance about how to think about these considerations. Those who are disproportionately affected, especially those who bear the greatest burdens of social inequalities and inequities, should have a place at the table, either directly or through representation. There are several questions we need to ask about the composition of the participant body. Which backgrounds are represented at the table? Which communities? Which kinds of discourses? And what sorts of approaches to deliberation feed inclusions into the deliberative process itself? A properly designed deliberation should aim to balance these and other questions of representation to ensure that a variety of affected communities are represented, and that those communities are given the appropriate opportunity to *substantively engage* in the process in such a way that their participation generates effective inclusion (Karpowitz and Raphael 2014). This requirement brings about a tension between equality and equity when it comes to determining who gets to the table, who gets to speak, and how often. For instance, Karpowitz and Mendelberg (2014) find that in certain settings, deliberations require a disproportionately high number of women compared to men in order to moderate the gendered effects of male participation in discussions. Strictly speaking, this kind of selection requires a *prima facie* violation of the equality principle (assuming the issue at hand affects men and women more or less equally), and instead substitutes an equity principle: a deliberative body should be composed in such a way that the perspectives, concerns, preferences, priorities, and deliberation systems of all genders are substantively included.

The requirement of equity-based, affectedness-sensitive inclusion, as opposed to mere formal opportunities for inclusion, can be applied across genders, ethnicities, linguistic communities, epistemic communities, age groups, socio-economic classes, and others. Since in many cases sub-categories of these groups have faced (and continue to face) impediments that have affected their social and political standing, attention to pre-deliberative equity will be important. For instance, imagine a proposed highway that will cut through a low-income neighborhood. Building the highway will impact the city at large, including economic output and business development, commute time for those living outside the city, expenditure of public funds, and so forth. It will, however, have a much more immediate and direct impact on the residents of the neighborhood in question. Here again, the all-affected-interests principle helps to give definition to considerations of equity. If the population of the city is taken as the category of all affected, then one might presume that each resident or relevant sub-group of residents should, in principle, have an equal opportunity to be represented at the table. And yet if we follow the equity-centric all-affected-interests principle, it is not at all clear that equality provides an equitable process. After all, having one's commute time reduced by 15 minutes a day is *prima facie* not equal to another having their community permanently altered or destroyed. An equity-centric approach to deciding who should be part of the deliberation might then heavily weight the composition of the deliberative body in favor of the residents of the low-income neighborhood, perhaps combined with representatives of broader community interests in the region's transportation infrastructure or any other groups of affected people with equity-based standing. The same approach might be imagined for issues including natural resource development, social programs, public transportation, and so on. Indeed, on this point, democratic deliberations designed through citizen assemblies or other forms of mini-publics might enjoy an advantage when it comes to producing equitable outcomes, since such bodies can be designed to reflect group-based asymmetrical concerns and remain insulated from outside pressure (e.g. moneyed interests) in a way that elected legislatures whose membership is fixed after an election or self-selected bodies cannot.

Responding to Challenges

Rather than beginning with specific practices for enabling more just outcomes from democratic deliberation, our focus is on ways of thinking about the dimensions of process design that such outcomes presuppose. What sorts of

equality and equity considerations need to be built into a process for deliberation to function democratically? We have focused on agenda-setting and participant selection as two areas of importance, since each can have a significant impact on not only the sorts of outcomes that are produced through deliberation, but also on the sorts of issues that are given the status of public issues in the first place.

Using this rough framework, we recommend three commitments to guide agenda-setting and participant selection for democratic deliberation. First, chances to determine an issue *as an issue* for deliberation should be distributed more or less equally throughout a population in such a way that a wide range of communities have the opportunity to deliberate about issues of substantive, and, likely, often asymmetrical importance to them. On balance, this means that, given scarce political resources, there ought to be a roughly rotational cycle of agenda-setting such that no single community gains advantage in determining which issues are fit for immediate deliberation and which are not. This cycle ought to be concerned with equity insofar as it is about ensuring that the sorts of issues that are raised and addressed are dependent on need or merit according to the ends of social justice rather than influence. Such a cycle would require that officials maintain regular contact with a broad and deep plurality of political, social, cultural, ethnic, economic, and geographical groups—some of which will certainly overlap with one another.

Second, the composition of a deliberative body should roughly correspond to the equity principle discussed above. That is, the degree to which a community is affected by an issue at hand should be reflected in the distribution of representation in a deliberation. This commitment requires a balanced and nuanced consideration of the all-affected-interests principle interpreted through the requirements of equity: it should be balanced to ensure that a broad population of those affected by a policy are included in deliberation, and nuanced to ensure that, when warranted, the degree to which some people are affected by a policy compared to others is reflected in the makeup and/or decision-making power of the deliberative body. Focusing on equity in inclusion is one key to addressing structural inequalities and injustices.

Finally, the composition of a deliberative body should take into account the degree to which certain asymmetries will be required in the selection of

deliberators in order to generate democracy within deliberation. For instance, a mini-public might require more women than men in order to offset traditional exclusionary dynamics, or it might require a balance of types of epistemic approaches to reason-giving, requiring additional representation for certain epistemic communities.

Conclusion

While formal equalities designed into political institutions are necessary for functioning deliberative democracy, they are not sufficient. They should be complemented with equity-based considerations, best captured in the all-affected-interests principle of participatory entitlement. This is an important departure from standard democratic theory, but it is not a departure from familiar principles our practices already respect. In the judicial arena, for example, having one's day in court is dependent upon the principle of *standing*; that is, there must be significant harm, and courts aim to address harms equitably. By analogy, political standing should reflect degrees of affectedness. In the political arena, we already tacitly recognize this principle within pluralist politics: the intensity of preferences translates into organized advocacy and pressure, protected by the standard rights of speech and association. We recognize equity in the distribution of welfare goods, such as healthcare, income supports, and education. We are mostly comfortable with "stakeholder" processes that implicitly weight participation by those "who have a stake" in the issue. We are suggesting that we go one step further, designing deliberative processes so they are proactively equity-focused, following the all-affected-interests principle. Without taking these steps, deliberative politics may often reflect the inequalities and inequities solidified within the broader contexts of social structures and institutions.

References

Brady, H. E., Verba, S., & Schlozman, K. L. (1995). Beyond SES: A resource model of political participation. *American Political Science Review, 89*(2), 271-294.

Dahl, R. A. (1998). *On democracy*. New Haven, CT: Yale University Press.

Fung, A. (2013). The principle of affected interests. In J. H. Nagel & R. M. Smith (Eds.), *Representation: Elections and beyond* (pp. 236-268). Philadelphia: University of Pennsylvania Press.

Gaventa, J. (1980). *Power and powerlessness: Quiescence and rebellion in an Appalachian valley*. Urbana, IL: University of Illinois Press.

Goodin, R. E. (2008). *Innovating democracy: democratic theory and practice after the deliberative turn*. Oxford: Oxford University Press.

Habermas, J. (1996). *Between facts and norms: Contributions to a discourse theory of law and democracy*. (W. Rehg, Trans.). Cambridge, MA: MIT Press.

Karpowitz, C. F., & Mendelberg, T. (2014). *The silent sex: Gender, deliberation, and institutions*. Princeton: Princeton University Press.

Karpowitz, C.F., & Raphael, C. (2014). *Deliberation, democracy, and civic forums: Improving equality and publicity.* Cambridge: Cambridge University Press.

Landemore, H. (2012). *Democratic reason*. Princeton: Princeton University Press.

Pettit, P. (2012). *On the people's terms: A republican theory and model of democracy*. Cambridge: Cambridge University Press.

Rawls, J. (2001). *Justice as fairness* (E. Kelly, Ed.). Cambridge, MA: Belknap Press.

Schattschneider, E. E. (1960). *The semisovereign people: A realist's view of democracy in America*. Boston: Wadsworth.

Young, I. M. (2000). *Inclusion and democracy*. Oxford: Oxford University Press.