

CHAPTER 1

Democracy and Justice

Democracy is hard to love. Perhaps some people enjoy making speeches, or confronting those with whom they disagree, or standing up to privileged and powerful people with claims and demands. Activities like these, however, make many people anxious. Perhaps some people like to go to meetings after a hard day's work and try to focus discussion on the issue, to haggle over the language of a resolution, or gather signatures for a petition, or call long lists of strangers on the telephone. But most people would rather watch television, read poetry, or make love. To be sure, democratic politics has some joys: the thrill of being part of a crowd of thousands marching down the street chanting and singing for a cause we believe in; the sense of solidarity with others as we work in a campaign; the excitement of victory. Defeat, co-optation, or ambiguous results are more common experiences than political victory, however. Citizens must often put in a great deal of time to gain a small reform. Because in a democracy nearly everything is revisable, and because unpredictable public opinion often counts for something, uncertainty shadows democracy.¹

If democracy is such a lot of trouble for uncertain results, then why do so many people value it? Some political theorists praise democracy for its intrinsic values—the way it enlarges the lives of active citizens, develops capacities for thought, judgement, and co-operation, and gives people opportunities for glory. There are real intrinsic values of democracy. It is not clear, however, that these rewards outweigh the pleasures of rewards forgone in order to engage in democratic practice. Nor is it obvious that the intrinsic values of democracy compensate for the angers, frustrations, fears, uncertainties, drudgery, disappointments, and defeats that are democratic daily fare. Most honest folk

must admit, then, that if democracy is valuable at all, it is for instrumental reasons primarily. We believe that democracy is the best political form for restraining rulers from the abuses of power that are their inevitable temptations. Only in a democratic political system, furthermore, do all members of a society in principle have the opportunity to try to influence public policy to serve or protect their interests. Judging from the claims often made in public debates, finally, we also believe that democratic process is the best means for changing conditions of injustice and promoting justice. Individuals and social movements frequently appeal to governments and their fellow citizens that they suffer injustice, or that some proposals would produce injustice or fail to challenge injustice, and they expect democratic publics and governments to redress injustices.²

This chapter explicates a normative theoretical connection between democracy and justice. To do so I rely on the approach to democratic theory and practice usually called deliberative democracy. After reviewing criticisms of the aggregative model of democracy, I formulate an account of the model of deliberative democracy that emphasizes the ideals of inclusion, political equality, reasonableness, and publicity. I show that this model supports a tight theoretical connection between democracy and justice; under ideal conditions of inclusive political equality and public reasonableness, democratic processes serve as the means of discovering and validating the most just policies.

Ours is not the ideal society, however, in the sense prescribed by the theory. In the real world some people and groups have significantly greater ability to use democratic processes for their own ends while others are excluded or marginalized. Our democratic policy discussions do not occur under conditions free of coercion and threat, and free of the distorting influence of unequal power and control over resources. In actually existing democracies there tends to be a reinforcing circle between social and economic inequality and political inequality that enables the powerful to use formally democratic processes to perpetuate injustice or preserve privilege. One means of breaking this circle, I argue, is to widen democratic inclusion. Democratic political movements and designers of democratic processes can promote greater inclusion in decision-making processes as a means of promoting more just outcomes. The model of democracy

² Ian Shapiro conceives of democracy as what he calls a 'subordinate good', where its role in promoting justice is primary. See *Democratic Justice* (New Haven: Yale University Press, 1999). See also Philippe Van Parijs, 'Justice and Democracy: Are they Incompatible?', *Journal of Political Philosophy*, 4/2 (June 1996), 101–17.

¹ See Mark Warren, 'What should we Expect from More Democracy? Radically Democratic Responses to Politics', *Political Theory*, 24/2 (May 1996), 241–70.

many theorists call deliberative democracy provides important ideals for such inclusive practices.

While my theoretical starting-point is this model of deliberative democracy, I nevertheless find several shortcomings with some formulations of the model. Some proponents of the model tend to assume that proper settings of deliberation are face to face; others focus on argument as the primary form of political communication. Some advocates of deliberative processes, moreover, claim that democratic commitment requires attending only to a common good, and some assume norms of orderliness which can, in my view, be exclusionary. I argue that a theory of inclusive democratic interaction and decision-making should attend to important functions that forms of communication additional to argument sometimes serve. The model should be applicable to mass society, moreover, which means theorizing the meaning of inclusive representation. Finally, in my conception, a communicative model of democratic inclusion theorizes differentiated social segments struggling and engaging with one another across their differences rather than putting those differences aside to invoke a common good.

1. *Two Models of Democracy*

In contemporary political theory two models of democracy stand centre-stage, often called aggregative and deliberative. Both models share certain assumptions about the basic framework of democratic institutions: that democracy requires a rule of law, that voting is the means of making decisions when consensus is not possible or too costly to achieve, that democratic process requires freedoms of speech, assembly, association, and so on.³ The models focus less on institutional frameworks of democracy than on the *process* of decision-making to which the idea of democracy refers. I call these 'models' to suggest that each functions as an ideal type; each picks out features of existing democratic practices and systematizes them into a general account of an ideal of democratic process.

³ James Bohman suggests that formulations of the model of deliberative democracy have not always accepted the institutional assumptions of liberal and representative institutions, and that more recent theorizing is close to the assumptions of liberal pluralism in these respects. See, 'The Coming of Age of Deliberative Democracy', *The Journal of Political Philosophy*, Vol. 6, No. 4, December 1998, pp. 400–425.

The Aggregative Model

The first model interprets democracy as a process of aggregating the preferences of citizens in choosing public officials and policies. The goal of democratic decision-making is to decide what leaders, rules, and policies will best correspond to the most widely and strongly held preferences. A well-functioning democracy allows for the expression of and competition among preferences, and has reliable and fair methods for adding them to bring a result. Jane Mansbridge describes this model of democracy as follows:

Voters pursue their individual interest by making demands on the political system in proportion to the intensity of their feelings. Politicians, also pursuing their own interests, adopt policies that buy them votes, thus ensuring accountability. In order to stay in office, politicians act like entrepreneurs and brokers, looking for formulas that satisfy as many, and alienate as few, interests as possible. From the interchange between self-interested voters and self-interested brokers emerge decisions that come as close as possible to a balanced aggregation of individual interests.⁴

The aggregative model describes democratic processes of policy formation something like this. Individuals in the polity have varying preferences about what they want government institutions to do. They know that other individuals also have preferences, which may or may not match their own. Democracy is a competitive process in which political parties and candidates offer their platforms and attempt to satisfy the largest number of people's preferences. Citizens with similar preferences often organize interest groups in order to try to influence the actions of parties and policy-makers once they are elected. Individuals, interest groups, and public officials each may behave strategically, adjusting the orientation of their pressure tactics or coalition-building according to their perceptions of the activities of competing preferences. Assuming the process of competition, strategizing, coalition-building, and responding to pressure is open and fair, the outcome of both elections and legislative decisions reflects the aggregation of the strongest or most widely held preferences in the population.⁵

⁴ Jane Mansbridge, *Beyond Adversary Democracy* (New York: Basic Books, 1980), 17.

⁵ The model I am calling aggregative is similar to the way of thinking about democracy that some have called pluralist or interest group pluralist. I choose to use the term 'aggregative' instead of 'interest group pluralist' because I find neither pluralism nor the promotion of legitimate interests objectionable or incompatible with a deliberative interpretation of the democratic process. The features of this model that are most objected to by deliberative theorists are those that tend to interpret democratic political processes as like market

This preference aggregation model of democracy has several problems, especially for a theoretical stance that aims to flesh out the intuition that democratic process ought sometimes to be connected to an interest in justice.⁶

First, in this description of democratic process, we take individuals' preferences, whatever they happen to be, as given. There is no account of their origins; they may have been arrived at by whim, reasoning, faith, or fear that others will carry out a threat. While some preferences may be motivated by self-interest, others by altruistic care for others, and still others by a sense of fair play, the aggregative model offers no means of distinguishing among such motives. There are no criteria for distinguishing the quality of preferences by either content, origin, or motive. Where common sense might be inclined to rank some preferences as more intrinsically valuable than others because of their reflective origins or comprehensive content, this model values some more than others only extrinsically according to how many or few hold them or how strongly. Because preferences are conceived as exogenous to the political process, furthermore, there can be no account of how people's political preferences may change as a result of interacting with others or participating in the political process.⁷

On this understanding, furthermore, democracy is a mechanism for identifying and aggregating the preferences of citizens, in order to learn which are held in the greatest number or with the greatest intensity. Citizens never need to leave the private realm of their own interests and preferences to interact with others whose preferences differ. This model lacks any distinct idea of a *public* formed from the interaction of democratic citizens and their motivation to reach some decision. Thus there is no account of the possibility of political co-ordination and co-operation.

A third problem with the aggregative model of democracy is that it carries a thin and individualistic form of rationality. Each political actor may engage in instrumental or strategic reasoning about the best

economic processes, and the reasoning of political actors as analogous to strategic reasoning in a competitive market context. For some summaries and critiques of this model, see C. B. Macpherson, *The Life and Times of Liberal Democracy* (Oxford: Oxford University Press, 1977), ch. 4; Thomas Christiano, *The Rule of the Many* (Boulder, Colo.: Westview Press, 1996), 133–50; David Ingram, *Reason, History and Politics* (Albany: State University of New York Press, 1995), ch. 1.

⁶ For criticisms of the aggregative model in addition to the above, see Benjamin Barber, *Strong Democracy* (Berkeley: University of California Press, 1984), esp. 132–43; John Dryzek, *Discursive Democracy* (Cambridge: Cambridge University Press, 1990), esp. ch. 1.

⁷ See Cass R. Sunstein, 'Preferences and Politics', *Philosophy and Public Affairs* 20 (Winter 1991), 3–34.

means of realizing their preferences, but the aggregate outcome has no necessary rationality and itself has not been arrived at by a process of reasoning.⁸ Indeed, the aggregate outcome can just as easily be irrational as rational, even measured in terms of the preferences themselves; preference orderings when aggregated may yield a different ordering than those the individuals hold singly.⁹

The aggregative model of democracy, finally, is sceptical about the possibility of normative and evaluative objectivity. It denies that people who make claims on others about what is good or just can defend such claims with reasons that are objective in the sense that they appeal to general principles beyond the subjective preferences or interests of themselves or others.¹⁰ On this subjectivist interpretation, if people use moral language, they are simply conveying a particular kind of preference or interest which is no more rational or objective than any other.¹¹ Although in everyday political life sometimes people do claim that certain policies ought to be put in place because they are right, the aggregative model of democracy offers no way to evaluate the moral legitimacy of the substance of decisions. Without any notion of normative reasons in the process, there is also no basis for normatively evaluating the substance of the result.

The model therefore offers only a weak motivational basis for accepting the outcomes of a democratic process as legitimate. If even at its best democracy is simply a mechanism for aggregating preferences which are subjective and non-rational, and if the fair outcome reflects which preferences are more widely or strongly held, then there is no reason why those who do not share those preferences ought to abide by the results. They may simply feel that they have no choice but to submit, given that they are in the minority.

The Deliberative Model

The model of democracy as a process of aggregating preferences does loosely describe some aspects of democratic process in the world today, and also expresses the way many political actors think about democracy. Not only political scientists and economists, but many journalists, politicians, and citizens, implicitly share the assumptions

⁸ Thomas Spragens, *Reason and Democracy* (Durham, NC: Duke University Press, 1990).

⁹ See David Miller, 'Deliberative Democracy and Social Choice', in David Held (ed.), *Prospects for Democracy* (Oxford: Polity Press, 1993).

¹⁰ See Dryzek, *Discursive Democracy*, 125.

¹¹ Mansbridge, *Beyond Adversary Democracy*, 18.

of this model that ends and values are subjective, non-rational, and exogenous to the political process. Consequently, they believe that democratic politics is nothing other than a competition between private interests and preferences. The operation of liberal democratic politics corresponds to these assumptions. Voting—the expressing of preferences among a list of candidates or referendum choices—is the primary political act. The democratic process consists in various groups putting out their interests and competing for those votes. Such a mass plebiscite process treats citizens as atomized, privately responding to itemized opinion poll questions.¹²

Even in our imperfect democracies, however, another model of democracy lies in the shadows. Wherever the democratic impulse emerges, many people associate democracy with open discussion and the exchange of views leading to agreed-upon policies. In parliamentary discussions participants often claim that theirs is the most just and reasonable proposal. Most democracies contain other institutions and practices of political discussion and criticism in which participants aim to persuade one another of the rightness of their positions.

Contemporary political theorists usually call this alternative model deliberative democracy. A number of important theories of deliberative democracy have appeared in recent years, sparking a renewed interest in the place of reasoning, persuasion, and normative appeals in democratic politics.¹³ In the deliberative model democracy is a form of practical reason. Participants in the democratic process offer proposals for how best to solve problems or meet legitimate needs, and so on, and they present arguments through which they aim to persuade others to accept their proposals. Democratic process is primarily a discussion of problems, conflicts, and claims of need or interest. Through dialogue others test and challenge these proposals and arguments.

¹² On the idea of and for a critique of plebiscite democracy, see James Fishkin, *The Voice of the People* (New Haven: Yale University Press, 1991).

¹³ Among the writers whom I include as theorists of deliberative democracy are Joshua Cohen, 'Deliberation and Democratic Legitimacy', in Alan Hamlin and Philip Pettit (eds.), *The Good Polity* (London: Blackwell, 1989); Spragens, *Reason and Democracy*; Barber, *Strong Democracy*; Cass R. Sunstein, *The Partial Constitution* (Cambridge, Mass.: Harvard University Press, 1993), esp. ch. 8; Frank Michelman, 'Traces of Self-Government', *Harvard Law Review*, 100 (1986), 4-77; Jane Mansbridge, 'A Deliberative Theory of Interest Representation', in Mark P. Patracca (ed.), *The Politics of Interest: Interest Groups Transformed* (Boulder, Colo.: Westview Press, 1992); Dryzek, *Discursive Democracy*; James Bohman, *Public Deliberation* (Cambridge, Mass.: MIT Press, 1996); Fishkin, *The Voice of the People*; Jürgen Habermas, *Between Facts and Norms* (Cambridge, Mass.: MIT Press, 1996); Amy Gutmann and Dennis Thompson, *Democracy and Disagreement* (Cambridge, Mass.: Harvard University Press, 1996); Christiano, *The Rule of the Many*, esp. ch. 3; Ingram, *Reason, History and Politics*.

Because they have not stood up to dialogic examination, the deliberating public rejects or refines some proposals. Participants arrive at a decision not by determining what preferences have greatest numerical support, but by determining which proposals the collective agrees are supported by the best reasons. This model of democratic processes entails several normative ideals for the relationships and dispositions of deliberating parties, among them inclusion, equality, reasonableness, and publicity. These ideals are all logically related in the deliberative model.

Inclusion. On this model a democratic decision is normatively legitimate only if all those affected by it are included in the process of discussion and decision-making. This simple formulation opens many questions about the way in which they are affected, and how strongly; it might be absurd to say that everyone affected by decisions in any trivial way ought to be party to them. To limit this question somewhat, we can say that 'affected' here means at least that decisions and policies significantly condition a person's options for action. As an ideal, inclusion embodies a norm of moral respect. Persons (and perhaps other creatures) are being treated as means if they are expected to abide by rules or adjust their actions according to decisions from where determination their voice and interests have been excluded. When coupled with norms of political equality, inclusion allows for maximum expression of interests, opinions, and perspectives relevant to the problems or issues for which a public seeks solutions.

Political equality. As a normative ideal, democracy means political equality. Not only should all those affected be nominally included in decision-making, but they should be included on equal terms. All ought to have an equal right and effective opportunity to express their interests and concerns.¹⁴ All also ought to have equal effective opportunity to question one another, and to respond to and criticize one another's proposals and arguments. The ideal model of deliberative democracy, that is, promotes free and equal opportunity to speak. This condition cannot be met, however, without a third condition of equality, namely freedom from domination. Participants in an ideal process of deliberative democracy must be equal in the sense that none of them is in a position to coerce or threaten others into accepting certain proposals or outcomes.

While I have distinguished the terms 'inclusion' and 'political equality' in order to specify their normative import, for the rest of this book

¹⁴ For a comprehensive theory of political equality in the deliberative mode, see Charles Beitz, *Political Equality* (Princeton: Princeton University Press, 1990).

when I refer to a norm of inclusion I shall understand it to entail the norm of political equality. In real political conflict, when political actors and movements protest exclusion and demand greater inclusion, they invariably appeal to ideals of political equality and do not accept token measures of counting people in. When discussion is inclusive, in this strong sense, it allows the expression of all interests, opinions, and criticism, and when it is free from domination, discussion participants can be confident that the results arise from good reasons rather than from fear or force or false consensus. This confidence can be maintained, however, only when participants have a disposition to be reasonable.

Reasonableness. In the context of the model of deliberative democracy, I take reasonableness to refer more to a set of dispositions that discussion participants have than to the substance of people's contributions to debate. Reasonable people often have crazy ideas; what makes them reasonable is their willingness to listen to others who want to explain to them why their ideas are incorrect or inappropriate. People who think they know more or are better than others are sometimes too quick to label the assertions of others as irrational, and thereby try to avoid having to engage with them. Since reasonable people often disagree about what proposals, actions, groundings, and narratives are rational or irrational, judging too quickly is itself often a symptom of unreasonableness.

Reasonable people enter discussion to solve collective problems with the aim of reaching agreement. Often they will not reach agreement, of course, and they need to have procedures for reaching decisions and registering dissent in the absence of agreement. Reasonable people understand that dissent often produces insight, and that decisions and agreements should in principle be open to new challenge. While actually reaching consensus is thus not a requirement of deliberative reason, participants in discussion must be *aiming* to reach agreement to enter the discussion at all. Only if the participants believe that some kind of agreement among them is possible in principle can they in good faith trust one another to listen and aim to persuade one another.

Thus reasonable participants in democratic discussion must have an open mind. They cannot come to the discussion of a collective problem with commitments that bind them to the authority of prior norms or unquestionable beliefs.¹⁵ Nor can they assert their own interests above all others' or insist that their initial opinion about what is right

¹⁵ Cohen, 'Deliberation and Democratic Legitimacy', 22-3.

or just cannot be subject to revision. To be reasonable is to be willing to change our opinions or preferences because others persuade us that our initial opinions or preferences, as they are relevant to the collective problems under discussion, are incorrect or inappropriate. Being open thus also refers to a disposition to listen to others, treat them with respect, make an effort to understand them by asking questions, and not judge them too quickly. A reasonable respectful process of discussion exhibits deliberative uptake; when some speak, others acknowledge the expression in ways that continue the engagement.¹⁶

Publicity. The conditions of inclusion, equality, and reasonableness, finally, entail that the interaction among participants in a democratic decision-making process forms a public in which people hold one another accountable.¹⁷ A public consists of a plurality of different individual and collective experiences, histories, commitments, ideals, interests, and goals that face one another to discuss collective problems under a common set of procedures. When members of such a public speak to one another, they know they are answerable to that plurality of others; this access that others have to their point of view makes them careful about expressing themselves. This plural public-speaking context requires participants to express themselves in ways accountable to all those plural others. They must try to explain their particular background experiences, interests, or proposals in ways that others can understand, and they must express reasons for their claims in ways that others recognize could be accepted, even if in fact they disagree with the claims and reasons. Even when they address a particular group with a particular history, as is usually the case, they speak with the reflective idea that third parties might be listening.¹⁸ For the content of an expression to be public does not entail that it is immediately understood by all, or that the principles to which argument appeals *are* accepted by all, but only that the expression aims in its form and content to be understandable and acceptable. Deliberative exchange thus entails expressions of puzzlement or disagreement, the posing of questions, and answering them.

¹⁶ Of deliberative theorists, Bohman has made the most of this idea of uptake; *Public Deliberation*, 58-9, 116-18.

¹⁷ Publicity and accountability are the core of Amy Gutmann and Dennis Thompson's conception of deliberation. See *Democracy and Disagreement*.

¹⁸ See Jodi Dean, *Solidarity of Strangers* (Berkeley: University of California Press, 1994). Dean develops an idea of a universalist open relation of solidarity among particular group members, where they are united by their relation to a 'hypothetical third'. Some writers put this publicity condition in terms of Kantian universalizability, but I think that this is a mistake, because it removes the discourse from its situatedness. See Bohman, *Public Deliberation*, 35-47.

The Adequacy of the Deliberative Model

Though both models rely on the actual experience of democracy, the deliberative model is more adequate to the set of commitments that bring us to value democratic practice than is the aggregative. The latter model responds primarily to democracy's purpose as a protection against tyranny and the ability of individuals and groups to promote and protect their interests in politics and policy. The deliberative model responds to these purposes, but also corresponds to other purposes people express for valuing democracy, such as promoting co-operation, solving collective problems, and furthering justice.

The interactive aspect of this model accounts for its greater comprehensiveness. In the deliberative model political actors not only express preferences and interests, but they engage with one another about how to balance these under circumstances of inclusive equality. Because this interaction requires participants to be open and attentive to one another, to justify their claims and proposals in terms acceptable to all, the orientation of participants moves from self-regard to an orientation towards what is publicly assertable. Interests and preferences continue to have a place in the processes of deliberative democracy, but not as given and exogenous to the process. Most proponents of deliberative democracy emphasize that this model conceptualizes the process of democratic discussion as not merely expressing and registering, but as *transforming* the preferences, interests, beliefs, and judgements of participants. Through the process of public discussion with a plurality of differently opinioned and situated others, people often gain new information, learn of different experiences of their collective problems, or find that their own initial opinions are founded on prejudice or ignorance, or that they have misunderstood the relation of their own interests to others'.¹⁹

I endorse the basic outlines of the model of deliberative democracy as I have formulated them here. It is the best way to think about democracy from the point of view of an interest in a politics of inclusion and promoting greater justice. Some formulations of the model should be criticized, however, and the model also needs refinement in several respects in order to serve a theory of inclusive democratic process.

¹⁹ Most deliberative theorists thematize this transformative aspect of discursive interaction. See e.g. Barber, *Strong Democracy*, 136–58; Jane Mansbridge, 'Self-Interest and Political Transformation', in George E. Marcus and Russell L. Hanson (eds.), *Reconsidering the Democratic Public* (University Park: Pennsylvania State University Press, 1993).

2. An Ideal Relation between Democracy and Justice

People value democracy, I have suggested, at least partly because we believe it is the best political means for confronting injustice and promoting justice. Are there grounds for this belief? Experience offers many counter-examples. Certainly many democracies have enacted unjust laws or sanctioned the performance of unjust actions. Even when democracies do not directly enact injustices, their processes and policies often reinforce or fail to change social and economic injustices they have not created. Democrats nevertheless persist in the faith that there is a connection between democracy and justice. I will return to consider the problem that the democratic processes we know too often produce or reinforce injustice in the societies. Now I will elaborate how the ideals of deliberative democracy give theoretical support for the persistent faith that democratic procedures are likely to promote the most just policies.

I assume a polity within which there are differences and conflicts, problems that the collective must face in order to get on with their individual business and collective project of living with one another. A polity is a collective whose members recognize themselves as governed by common rule-making and negotiating procedures. The ideal model of deliberative democracy says that all those whose basic interests are affected by a decision ought to be included in the deliberatively democratic process. Democratic theory does not often raise the question of whether the scope and membership of the *actual* polity dealing with specific problems corresponds to the scope of what the polity *ought* to be if the discussions are to include all those affected by decisions. A theory of democratic inclusion, however, must consider the question of the correspondence of the polity with the proper moral scope of the issues of justice that arise. Chapters 6 and 7 of this book deal explicitly with this question. For now I leave it aside, and simply assume polities whose decision-making procedures consider questions that the collective faces. On this general account a polity need not be a legally defined state, but may refer also to non-state governing bodies in private businesses, universities, churches, and other such institutions.

In addition to the question of who is included in deliberation, we need to know what is the object of their discussion. The object of their discussion is contested problems. People who live and work together face some problems, whether external or internal, which can best be addressed by some co-operative action. The problems may be as limited as where to locate a school and how it should be designed,

or how to divert traffic around the city centre without harming the businesses there. Or the problems may be as protracted as how to resolve long-standing disputes over land distribution among persons and groups of differing historical origins with complex histories of conflict, or how to design a tax system that is fair, generates sufficient revenue, is difficult to cheat, and is easy to administer. A useful way to conceive of democracy is as a process in which a large collective discusses problems such as these that they face together, and try to arrive peaceably at solutions in whose implementation everyone will co-operate.²⁰

The problems that collectives face for which they seek solutions through a political process usually have both a technical and a normative aspect. They concern not only accomplishing some ends in the most efficient manner, but also, in the process, not wrongfully burdening some members of the polity or undervaluing their rights and interests. Seeking a solution to problems a large collective faces, that is, always entails considerations of justice, even though it usually entails other considerations as well. Often the problems are posed as issues of justice directly; they arise because some individual or group claim they suffer injustice and call upon the polity to enact measures to redress or eliminate such injustices.

Importantly, however, the problems a collective faces and seeks to solve through a democratic process rarely, if ever, receive the formulation that philosophers often give to issues of justice: what are the two or three principles of justice that right-thinking polities ought to accept to guide their decision-making? Constructing the problem in this way invites us to imagine a more abstract and comprehensive decision situation than politics usually exhibits. Even during those rare moments when politics engage in constitutional discussions, the object of their discussion is not to reach agreement on principles of justice, but rather to agree on the design of institutions. Most political decisions, however, are more specific and contextualized than such constitutional decisions. The outcome of political discussion and decision-making is almost never some conception of justice, but rather a

²⁰ Defining democracy as a method of collective problem-solving recalls John Dewey's approach to democratic theory and practice; see Dewey, *The Public and its Problems* (Chicago: Swallow Press, 1927). For two rather different recent interpretations of a deliberative understanding of democracy along Dewey's lines, see Hilary Putnam, 'A Reconsideration of Deweyan Democracy', *Southern California Law Review*, 63/6 (Sept. 1990), 1671–97; and Axel Honneth, 'Democracy as Reflexive Cooperation: John Dewey and the Theory of Democracy Today', *Political Theory*, 26/6 (Dec. 1998), 763–83. Honneth gives an account of Dewey's conception of democracy as an alternative both to an aggregative conception and to Habermas's overly procedural conception.

particular judgement about what actions and policies *this* collective should adopt to address *these* circumstances.²¹

This does not mean that there is no role for principles and theories about justice in political discussion. On the contrary, to the extent that people require justification from one another for their claims and proposals, they must often appeal to principles and values of justice. To the extent that some people doubt or disagree with the principles that others appeal to, reasonable political discussion also calls for justifying principles, theorizing their coherence with one another, or arguing that some take precedence over others. Appeals to principles of justice have a more pragmatic function in political interaction than many theories of justice attribute to them. Where practical judgements are the result at which discussants aim, appeals to principles of justice are steps in arguments about what should be done.

Members of a polity, then, need not seek and arrive at agreement on a general conception of justice in order to argue productively about their problems and come to morally legitimate resolutions. Recognizing this can make political agreement seem less intractable than is sometimes supposed; it is often easier for people facing shared problems or conflicts to agree on a particular judgement about ways to address those problems than to commit themselves to a set of general principles to apply to all their collective dealings. While considerations of justice are nearly always morally at stake in political decision-making, justice 'in itself' is a limit concept at which we always aim as the moral horizon of our political dealings.²²

We can now return to the major point at hand: What are the theoretical reasons for thinking that a democratic political process is likely to promote the most just outcomes? The argument assumes the ideal conditions I specified above for the model of deliberative democracy. If all significantly affected by problems and their solutions are included in the discussion and decision-making on the basis of equality and non-domination, and if they interact reasonably and constitute

²¹ Contemporary moral and political theorists pay too little attention to judgement as the conclusion of moral reasoning, as distinct from a general theory or set of principles, and particular statements or actions that follow from these. Charles Larmore is one moral theorist who recommends judgement; see *Patterns of Moral Complexity* (Cambridge: Cambridge University Press, 1987), esp. ch. 1; Jennifer Nedelsky reflects on the role of judgement in Kant and Arendt to develop an account useful for democratic theory; see Jennifer Nedelsky, 'The Problem of Judgment', unpublished manuscript, University of Toronto.

²² See Jacques Derrida, 'Force of Law: The "Mystical Foundation of Authority"', in Drucilla Cornell, Michel Rosenfeld, and David Gray Carlson (eds.), *Deconstruction and the Possibility of Justice* (New York: Routledge, 1992).

a public where people are accountable to one another, then the results of their discussion is likely to be the most wise and just.

A process of public deliberation under these ideal conditions provides both the motivation to take all needs and interests into account and knowledge of what they are. The conditions of equal opportunity to speak and freedom from domination encourage all to express their needs and interests. The equality condition also requires a reciprocity such that each acknowledges that the interests of the others must be taken into account in order to reach a judgement. Knowing that they are answerable to others, and that they are mutually committed to reaching agreement, means that each understands that his or her best interests will be served by aiming for a just result. Each is thus motivated to express her interests or preferences in terms that aim to persuade others that they are compatible with justice in this case, which is to say that they do not seek to ignore or cancel the legitimate interests of others. Since individuals and groups often initially construct their interests and preferences in ways that cancel out or ignore the legitimate interests of others, this accountability to others means that they must often transform their interests and preferences, so that they can be publicly expressed as compatible with justice.²³

The structure and norms of ideal deliberative democracy, furthermore, provide the epistemic conditions for the collective knowledge of which proposals are most likely in fact to promote results that are wise and just. If discussion reflects all social experience, and everyone can speak and criticize freely, then discussion participants will be able to develop a collective account of the sources of the problems they are trying to solve, and will develop the social knowledge necessary to predict likely consequences of alternative courses of action meant to address them. Their collective critical wisdom thus enables them to reach a judgement that is not only normatively right in principle,

²³ I mean this paragraph to echo the pragmatic theory of rightness expressed in discourse ethics. On this theory a norm is valid if it is the result of free discussion and agreement under circumstances of inclusive equality. See Jürgen Habermas, *Moral Consciousness and Communicative Ethics* (Cambridge, Mass.: MIT Press, 1990), esp. chs. 3 and 4. In earlier formulations Habermas says that the dialogic process sifts out interests that are generalizable from those that are not. I interpret 'generalizable' here to mean not that they are interests that everyone shares (which is one interpretation Habermas has given to the idea), but rather interests that can be promoted in public in the sense that others can recognize those interests as legitimate without denying their own legitimate claims to self-determination and self-development. In later formulations Habermas attends more to the way that preferences and experiences of concrete particular subjects in a discursive situation become transformed towards a more objective constitution of a social perspective. See Habermas, 'A Genealogical Analysis of the Cognitive Content of Morality', in *The Inclusion of the Other: Studies in Political Theory* (Cambridge, Mass.: MIT Press, 1998).

but also empirically and theoretically sound. I will elaborate this function of democracy to produce social knowledge more in Chapter 3.²⁴

3. *Ideals of Self-Determination and Self-Development*

This book reflects on the conditions of inclusive decision-making that might help bring about more just and wise political judgements. What counts as a just result is what participants would arrive at under ideal conditions of inclusion, equality, reasonableness, and publicity. A comprehensive theory of justice is neither necessary nor appropriate for thinking about deepening democracy. In the same manner that ideas of justice must arise in the middle of discussing particular political problems in practice, however, so appeals to some notions of justice are unavoidable in political theorizing. At several points in the chapters that follow I appeal to two ideals of social justice that I believe in this general form are fairly uncontroversial, but which I should state explicitly as assumptions. I call these values self-development and self-determination. As I understand them, these two general values correspond to two general conditions of injustice: oppression, institutional constraint on self-development, and domination, institutional constraint on self-determination.²⁵ I shall briefly elaborate on each of these general notions of social justice, as they have been theorized by others.

I interpret the value of self-development along lines similar to the values Amartya Sen calls equality as capabilities. Just social institutions provide conditions for all persons to learn and use satisfying and expansive skills in socially recognized settings, and enable them

²⁴ I am relying here on what many writers call an epistemic interpretation of deliberative democracy. If the model of deliberative democracy interprets democracy as a form of collective practical reason, then the outcome of deliberation has a 'truth' value. Deliberators make claims and arguments in order to find the best judgement. In *On Liberty* J. S. Mill expresses the classic argument that freedom of deliberation is more likely to lead to wise conclusions. For discussions of epistemic virtues of deliberative democracy, see Joshua Cohen, 'An Epistemic Conception of Democracy', *Ethics*, 97 (Oct. 1986), 26–38; David Estlund, 'Making Truth Safe for Democracy', in D. Copp, J. Hampton, and J. Roemer (eds.), *The Ideal of Democracy* (Cambridge: Cambridge University Press, 1993); Estlund, 'Beyond Fairness and Deliberation: The Epistemic Dimension of Democratic Authority', in Bohman and Rehg (eds.), *Deliberative and Democracy* (Cambridge, Mass.: MIT Press, 1996); Bohman, *Public Deliberation*, 27; Christiano, *The Rule of the Many*, 31–7.

²⁵ See Iris Marion Young, *Justice and the Politics of Difference* (Princeton: Princeton University Press, 1990), 33–8. Carol Gould develops a thorough account of freedom as self-development; see Gould, *Rethinking Democracy: Freedom and Social Cooperation in Politics, Economy and Society* (Cambridge: Cambridge University Press, 1988), esp. 40–1.

to play and communicate with others or express their feelings and perspectives on social life in contexts where others can listen.²⁶ Self-development in this sense certainly entails meeting people's needs for food, shelter, health care, and so on. With Sen, however, I find focus on distribution of goods or income *per se* too limited a way of evaluating justice or well-being.²⁷ Because of their differing attributes or situation, some people need more or different kinds of goods to enable equal levels of capability with others. Perhaps more importantly, there are aspects of this value of self-development which are only accidentally related to goods or income. Using satisfying skills and having one's particular cultural modes of expression and ways of life recognized depend on the organization of the division of labour and the structures of communication and co-operation. While the distribution of resources and positions is a central issue for the value of self-development, this value also raises questions about the institutional organization of power, status, and communication in ways not reducible to distributions.

Self-determination, the second aspect of justice as I understand it, consists in being able to participate in determining one's action and the condition of one's action; its contrary is domination. Persons live within structures of domination if other persons or groups can determine without reciprocity the conditions of their action, either directly or by virtue of the structural consequences of their actions.²⁸ Philip Pettit offers a useful political theory of freedom as non-domination. A person is free if she is able to pursue her life in her own way. Pettit disagrees, however, with an interpretation of autonomy in this sense as reducible non-interference. The ability to follow one's own pursuits in one's own way is often restricted not only by direct interference by other agents, but more importantly by institutional relations, including those that award differential power to some agents to constrain the choices and actions of others. These are institutional relations of domination. Real freedom means the absence of such relations of domination. Pettit argues that institutions should promote

²⁶ Young, *Justice and the Politics of Difference*, 38.

²⁷ Amartya Sen, *Inequality Reexamined* (Cambridge, Mass.: Harvard University Press, 1992), esp. ch. 2; see also Sen, 'Justice: Means versus Freedoms', *Philosophy and Public Affairs*, 19 (Spring 1990), 111–21; for a comprehensive reconstruction of Sen's theory of justice as the conditions for capability, see David Crocker, 'Functioning and Capability: The Foundations of Sen's and Nussbaum's Development Ethic', in Martha Nussbaum and Jonathan Glover (eds.), *Women, Culture and Development: A Study in Human Capabilities* (Oxford: Oxford University Press, 1995); see also Young, *Justice and the Politics of Difference*, ch. 1.

²⁸ Young, *Justice and the Politics of Difference*, 37.

and preserve non-domination for everyone. To do so they must sometimes regulate and interfere with actions in order to restrict domitative power and promote co-operation. To arrive at a concept of self-determination, I add an element that Pettit does not emphasize, namely participation in making the collective regulations designed to prevent domination. Democracy in that respect is entailed by self-determination, though the value of self-determination does not reduce to democratic participation.

I define social justice, then, as the institutional conditions for promoting self-development and self-determination of a society's members. This expresses an ideal of justice which is even more abstract than a set of principles. The ideal may be controversial, but at this level of abstraction I will assume in this book that it is not enormously controversial. Interpretation and application of these ideals in a particular political situation, however, is always controversial. We may agree on goals and values in this most abstract sense, but disagree strongly on what are the best means of promoting these values in that context, what are the acceptable priorities and trade-offs, and so on. We may disagree about what actions and institutions will in fact further these ideals, or just how the interests of different social segments are served or how they conflict. Political judgements concern resolving those particular and contextual disagreements. At several points in the coming chapters I invoke these general ideas of justice to discuss issues of inclusion and democracy in particular contexts.

4. *Democratic Theory for Unjust Conditions*

I have explained how the theory of deliberative democracy supports the intuition that democratic processes are most likely to undermine injustice and promote justice. Before continuing, the problem of the logical circle in this theory should be addressed. As ideal, the theory expresses conditions that often operate as implicit regulative norms guiding social co-operation, but which are never perfectly realized. The model of deliberative democracy assumes that participants in a decision-making process are not pressed for time, and that they can concentrate significant energies to their discussion. It rules out the influence of prior commitments, unconscious prejudices, and authority which often colour even the most well-intentioned deliberations in actual democracies. The theory says that justice is nothing other than what the members of an inclusive public of equal and reasonable citizens would agree to under these ideal circumstances.

Put this way, the connection between democracy and justice appears circular. Ideal processes of deliberative democracy lead to substantively just outcomes because the deliberation begins from a starting-point of justice. All potentially affected persons are included in the discussions, and all are able to speak freely and criticize, under circumstances where no one is in a position to threaten or coerce others into accepting their proposals. Such conditions would seem to exist only within just institutions that enable the self-development of everyone and where no one is subject to domination by others.

No existing democracy is as just as that. Our democracies contain structural inequalities—for example, inequalities of wealth, social and economic power, access to knowledge, status, work expectations. These structural inequalities are unjust to the extent that they help produce or perpetuate institutional conditions which support domination or inhibit self-development. We are all dismally familiar, moreover, with many of the ways that social and economic inequality produces political inequality. Money often has greater influence than open debate in determining the outcomes of elections, referendum campaigns, or legislative battles. Economic power and the interests of financiers often operate to confine alternative policy proposals to a narrow set.²⁹ The harms of poverty, or exploitative overwork, or domestic violence, or racial prejudice often inhibit the political participation of some citizens with formally equal rights at the same time that they relatively empower others. Structural social and economic inequalities thus often operate to exclude or marginalize the voice and influence of some groups while magnifying the influence of others.

So we have a different circle: Where there are structural inequalities of wealth and power, formally democratic procedures are likely to reinforce them, because privileged people are able to marginalize the voices and issues of those less privileged. Because these are some of the realities of democracy under conditions of structural inequalities, some theorists of deliberative democracy claim that a political process can only be properly democratic if the society in which it takes place is free of domination, especially that produced by economic power.³⁰

²⁹ See Adam Pzeworski and Immanuel Wallerstein, 'Structural Dependence of the State on Capital', *American Political Science Review* 82 (1989), 11–29.

³⁰ See Joshua Cohen, 'The Economic Basis of Deliberative Democracy', *Social Philosophy and Policy*, 6/2 (Spring 1989), 25–50. Gutmann and Thompson build the meeting of an economic minimum into their conception of deliberative democracy; *Democracy and Disagreement*. See my essay 'Justice, Inclusion and Deliberative Democracy', in Stephen Macedo (ed.), *Deliberative Politics: Essays on Democracy and Disagreement* (Oxford: Oxford University Press, 1999), 151–8.

For democracy to promote justice it must already be just. Formally democratic processes in societies with structural inequalities seem as likely to reinforce injustice as to promote greater justice. Must we accept these circles? They seem to imply that real-world political actors cannot use democratic means to seek greater justice. But what alternatives are there for those who seek social change to bring about more just institutions and relations?

Political actors can try to impose their idea of more just conditions through authoritarian or revolutionary force. I would not say that trying to do so is always wrong, but only rarely is it a live option. The use of undemocratic means to try to create conditions of greater freedom from social and economic domination and possibilities for self-development for more people, moreover, itself carries risks of producing or reinforcing injustice. Organizing and political mobilization within formally democratic institutions and norms is usually the only realistic option for oppressed and disadvantaged people and their allies to improve social relations and institutions.³¹

Democrats believe that the circles can be broken. In formally democratic societies with serious injustices it must be possible to promote social changes towards greater justice through democratic means. The history of many societies offers inspiring examples of social movements and government reform efforts that have indeed undermined injustices by democratic means. Such efforts rely on what Frank Cunningham calls a 'democratic fix' for social harms and problems; impediments to the ability of democracies to enact more just policies are best addressed by deepening democracy.³²

Political practice guided by norms of deliberative democracy that I have articulated above can deepen democracy to make it more inclusive of plural claims and perspectives and empowering for less privileged participants. Proponents of the application of a model of deliberative democracy to actual political processes in imperfect democracies with injustices suggest that the more that public life and political decision-making motivate political actors to justify their claims and actions and be accountable to their fellow citizens, the more the arbitrariness of greed, naked power, or the cynical pursuit of self-interest can be exposed and limited. When public debate gets beyond soundbites and manipulated opinion polls, issues often are seen as more complex and less polarized, and thus more open to minority voices. Relatively small or weak social segments have more

³¹ Compare Van Parijs, 'Justice and Democracy: Are they Incompatible?'

³² Frank Cunningham, *The Real World of Democracy Revisited* (Atlantic Highlands, NJ: Humanities Press, 1994), esp. chs. 2 and 3.

chance of influencing political outcomes in a process where people are expected to justify their opinions and actions and listen to others than in a competition that aggregates pre-existing preference. Increasing opportunities for serious and plural public debate that both holds powerful actors accountable and is connected to institutional or policy outcomes, then, may be a means by which democratic processes in a society with structural social and economic inequalities can address some of their injustices.

In existing democracies there is more agreement on the norms of inclusive democracy than there is agreement on whether social and economic arrangements are just. Even many who do not agree that the economic inequalities of these societies are unjust, for example, nevertheless criticize moves by the economically and socially powerful to avoid public scrutiny, buy influence, or exclude individuals and groups from participation. Many democracies have some provisions for confronting the ways in which the socially privileged sometimes exclude others from influencing policy outcomes. Campaign finance regulation, lobbying regulation, corruption investigation, rules for hearings, procedures for public comment, and so on, all attempt to regulate decision-making processes to make them more inclusive. Accusations of exclusion or marginalization often send political leaders and movements scrambling to become more inclusive, or at least to appear to be. In taking up the task of deepening democracy, then, citizens must struggle to ensure such measures are enacted and enforced.

5. *Limitations of Some Interpretations of the Deliberative Model*

Because inclusion is a basic and widely accepted condition of legitimacy in democratic politics, it can be a tool to break the circle by which the political inequality produced by social and economic inequality reinforces those inequalities. While full political equality requires conditions of social justice, political inequalities can nevertheless be attacked directly, and institutions and actors can be effectively criticized for excluding or marginalizing some members of the polity. The model of deliberative democracy offers a useful beginning for criticizing exclusion and offering a vision of the meaning of inclusion. Certain interpretations of the model of deliberative democracy, however, make it too narrow or itself exclusionary to aid the task of deepening democracy in mass societies with structural injustices. While these assumptions are not shared by all promoters of the delib-

erative model, they are held commonly enough by both advocates and detractors to warrant their examination.

Privileging Argument

In some formulations of the model of deliberative democracy argument constitutes the primary form of political communication. By argument I mean the construction of an orderly chain of reasoning from premises to conclusion. While argument is an important contributor to political discussion, there are reasons to be suspicious of privileging argument, and especially certain interpretations of what good argument means, over other forms of communication. On these accounts, deliberation cannot proceed unless there are some premises that all the discussants accept, and a generally accepted conceptual and normative framework for framing the issues. Discussion should proceed, this interpretation assumes, by identifying such mutually accepted premises and frameworks, and should aim to base arguments on them. Given the heterogeneity of human life and the complexity of social structures and interaction, however, the effort to shape arguments according to shared premises within shared discursive frameworks sometimes excludes the expression of some needs, interests, and suffering of injustice, because these cannot be voiced with the operative premises and frameworks. Jean-François Lyotard calls this the problem of the 'differend', or

the case where the plaintiff is divested of the means to argue and becomes for that reason a victim. If the addressor, the addressee, and the sense of the testimony are neutralized, everything takes place as if there were no damages. A case of differend between two parties takes place where the 'regulation' of the conflict that opposes them is done in the idiom of one of the parties while the wrong suffered by the other is not signified in that idiom.³³

Silencing some problem or experience is an ever-present danger in communication, and no general rules or practices of discussion can ensure against it. Inclusive democratic communication, however, should be alert to the possibility that a public that appears to have shared understandings might exclude some needs which do not find expression within those shared understandings. A lack of shared premises or discursive framework for making an argument about a need or injustice, however, does not imply that there are no ways to communicate the need or injustice to others. Such communication,

³³ Jean-François Lyotard, *The Differend: Phrases in Dispute* (Minneapolis: University of Minnesota Press, 1988), 9.

however, must be more particularistic than argument from shared premises can be.

Even where participants in political discussion do share premises and idiom of discussion, the norms that practices and theories of deliberation often assume can privilege some and disadvantage others. In particular, expectations about norms of articulateness and dispassionateness sometimes serve to devalue or dismiss the efforts of some participants to make their claims and arguments to a political public.

Being reasonable in a discussion means being open to listening to others and having them influence one's views, and expressing one's own claims upon them in ways that aim to reach their assent or understanding. The desire and ability to be reasonable in this sense lies in the practices of communicative action themselves, in so far, as when people talk, they aim to understand one another.³⁴ Being reasonable in this sense requires no special education or training beyond the significant demands of co-operative social interaction.

Often, however, norms of speaking that I bring under the label 'articulateness' privilege the modes of expression more typical of highly educated people. Spoken expression that follows the structure of well-formed written speech is privileged over other modes. Speech or writing framed as straightforward assertion is privileged over more circuitous, hesitant, or questioning expression. The norms of deliberation also often privilege speech that is formal and general. They value expression that proceeds from premiss to conclusion in an orderly fashion, formulating general principles and applying them to particular cases.³⁵

Unlike a norm of reasonableness, which is a general norm of communicative action that aims to reach understanding, these norms of 'articulateness' are culturally specific. Those who exhibit such

³⁴ Here I appeal to Habermas's notion of communicative action. Habermas theorizes communicative interaction, that is, language as practice, as itself a process implicitly guided by regulative norms of respect and reasonableness. To be sure, humans are horribly selfish, irrationally hateful, and violent. Everyday communication, however, also frequently exhibits a desire on people's part to understand one another and affirm that we understand one another's meanings and intentions, and this effort of co-ordination is no small achievement. See Habermas, *The Theory of Communicative Action*, i (Boston: Beacon Press, 1984).

³⁵ See Susan Bickford, *The Dissonance of Democracy* (Ithaca, NY: Cornell University Press, 1996), 97–8. Compare Nancy Fraser, 'Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy', in Bruce Robbins (ed.), *The Phantom Public Sphere* (Minneapolis: University of Minnesota Press, 1993). Fraser argues that social inequality often surfaces within contexts of deliberation that claim to have bracketed such inequalities in the modes of speaking of different groups. She claims that theorists of the public sphere often assume that public discussion is culturally neutral when in fact some cultural styles are more valued than others.

articulate qualities of expression are usually socially privileged. Actual situations of discussion often do not open themselves equally to all ways of making claims and giving reasons.³⁶ Many people feel intimidated by the implicit requirements of public speaking; in some situations of discussion and debate, such as classrooms, courtrooms, and city council chambers, many people feel they must apologize for their halting and circuitous speech. While all of us should admire clarity, subtlety, and other excellences of expression, none of us should be excluded or marginalized in situations of political discussion because we fail to express ourselves according to culturally specific norms of tone, grammar, and diction.³⁷

Thirdly, some interpretations of norms of deliberation privilege speech which is dispassionate and disembodied. Defences of these norms tend to presuppose an opposition between reason and emotion. They tend falsely to identify objectivity with calm and the absence of emotional expression. For those suspicious of emotion, expressions of anger, hurt, or passionate concern taint whatever claims and reasons they accompany. Wide gestures, movements of nervousness, or bodily expression of emotion, furthermore, are taken as signs of weakness that cancel out one's assertions or reveal a person's lack of objectivity and control. Some advocates of deliberative norms privilege 'literal' language over figurative language that uses metaphor, hyperbole, and so on. An appropriate conception of democratic communication should reject this opposition between reason and emotion, literal and figurative. As I will discuss more in the next chapter, emotional and figurative expression are important tools of reasonable persuasion and judgement.³⁸

The privileging of allegedly dispassionate speech styles, moreover, often correlates with other differences of social privilege. The speech culture of white, middle-class men tends to be more controlled, without significant gesture and expression or emotion. The speech culture of women, racialized or ethnicized minorities, and working-class

³⁶ Compare Lynn Sanders, 'Against Deliberation', *Political Theory*, 25/3 (June 1997), 349.

³⁷ Compare Stanley Aronowitz, 'Is a Democracy Possible? The Decline of the Public in the American Debate', in Robbins (ed.), *The Phantom Public Sphere*. Aronowitz argues that a disdain for 'mass' culture has underlain some democratic theory. While endorsing inclusion and political equality in principle, writers such as Walter Lipmann tend to reserve political participation for those educated in high culture. Aronowitz claims that a truly egalitarian approach to democracy must cease to privilege literacy and education in this way.

³⁸ See Jane Mansbridge, 'Activism Writ Small, Deliberation Writ Large', Paper presented to the American Political Science Association, Washington, Sept. 1997.

people, on the other hand, often is, or is perceived to be, more excited and embodied, values more the expression of emotion, uses figurative language, modulates tones of voice, and gestures widely.³⁹

A conception of discussion-based democracy that emphasizes inclusion as a means for enlarging the ability of opinions and experiences to be voiced in public should be careful not to assume too restrictive a notion of legitimate political communication. Because for many the term 'deliberation' carries connotations of the primacy of argument, dispassionateness, and order in communication, for the rest of the book I will often use the term 'communicative' democracy instead, to denote a more open context of political communication.

Privileging Unity

For many theorists of deliberative democracy, the subject of public discussion is the common good. According to Thomas Spragens, the idea of the common good functions for the public reason of democracy as the ideal of truth functions in theoretical disciplines.⁴⁰ The idea of the common good *can* be interpreted simply as the addressing of problems that people face together, without any assumption that these people have common interests or common way of life, or that they must subordinate or transcend the particular interests and values that differentiate them. Some theorists adopt the stronger traditional interpretation of the idea of the common good, however, to imply that the members of the polity have common interests and agreement on principles and policies. I see two distinct approaches in deliberative theory to the assumption of commonness for a deliberative public. Either theorists assume such commonness as a prior condition of deliberation, or they see it as a goal. Both approaches are problematic.

A number of writers with a generally deliberative approach to democracy appear to think that a successful democratic process

³⁹ Jane Mansbridge cites studies that show that female state legislators speak less than their male counterparts, and that in public meetings women tend more to give information and ask questions, while men state opinions and engage in confrontation. Mansbridge, 'Feminism and Democratic Community', in John W. Chapman and Ian Shapiro (eds.), *Democratic Community*, NOMOS 35 (New York: New York University Press, 1991). Anthony Cortese argues that the model of moral reasoning presupposed by Kohlberg and Habermas is ethnocentric and culturally biased, and tends to locate Chicano speaking and reasoning styles lower in his scale; see *Ethnic Ethics* (Albany: State University of New York Press, 1990). Charles Henry discusses the tendency of African Americans more than whites to couple emotion and anger with argument, influencing African American styles of public debate; see *Culture and African American Politics* (Bloomington: Indiana University Press, 1990).

⁴⁰ Spragens, *Reason and Democracy*, 120.

depends on a prior unity among its participants. Michael Walzer, for example, argues that the effective social critic locates and appeals to a community's prior 'shared understanding' in levelling her or his criticism.⁴¹ A people has a core of shared values and traditions, he says, which can be renewed and reinvented to motivate reflective social critique and action. Even more strongly, David Miller argues that only the sense of commonality provided by nationality can support the trust and mutual respect necessary for deliberation to begin.⁴² Though not appealing to commonality of culture or nation, in *Beyond Adversary Democracy* Jane Mansbridge suggests that a participatory democratic forum that relies on discussion applies only in contexts where people already share many goals, interests, and premisses, and much life experience. Where these are not shared, she suggests, an adversary democracy is more appropriate.⁴³

There are at least two problems with the assumption that deliberative democracy must proceed on the basis of common understanding. First, in pluralist societies we cannot assume that we sufficiently share understanding to which we can appeal in many situations of conflict and solving collective problems. Most political units, even at a local level, are multicultural. Every political unit has gender differences, moreover, that are sources of different social experience and often different interests. Differences of class and/or occupation importantly separate experience and culture in most societies. Under circumstances of pluralism, appeals to supposedly shared understandings may be completely fair; on the other hand, they may exclude or marginalize some people or groups. This assumption of commonality constructs the political public as enclosed, implicitly saying that we can co-operate with each other only if we distinguish ourselves together from outsiders whom we define as different.⁴⁴ A political theory more useful to the realities of plural and structurally differentiated societies, and which furthers a norm of respect and co-operation, should give an account of the practice and function of openness to difference. This will be my task in Chapter 3.

⁴¹ Michael Walzer, *The Company of Critics: Social Criticism and Political Commitment in the Twentieth Century* (New York: Basic Books, 1990).

⁴² David Miller, *On Nationality* (Oxford: Oxford University Press, 1995), 96–8.

⁴³ Mansbridge, *Beyond Adversary Democracy*.

⁴⁴ See Chantal Mouffe, 'Democracy, Power and the "Political"', in Seyla Benhabib (ed.), *Democracy and Difference* (Princeton: Princeton University Press, 1996), 255; William Connolly, *Identity/Difference* (Ithaca, NY: Cornell University Press, 1993), 93; Iris Marion Young, 'The Ideal of Community and the Politics of Difference', in Linda Nicholson (ed.), *Feminism/Postmodernism* (New York: Routledge, 1990).

Another problem with the assumption of a common good or shared understanding prior to or as a condition of political communication is that it obviates the need for the transformations from self-regarding to enlarged thought which I earlier argued is an important aspect of a discussion-based model of democracy. If dialogue succeeds primarily when it appeals to what the participants all already share, then none need revise their opinions or viewpoints in any serious way in order to take account of other interests, opinions, or perspectives. Beyond this, even if we understand that we need others to see what we all share, it can easily happen that we each find in the other only a mirror for ourselves.⁴⁵

Recognizing these problems, some theorists of deliberative democracy conceptualize unity not as the starting-point but as a goal of political dialogue. On this view, participants transcend their subjective, self-regarding perspective on political issues by putting aside their particular interests and seeking the good of the whole. While participants in a democratic dialogue often begin with differences of culture, perspective, and interest, the goal of discussion is to locate or create common interests that all can share. To arrive at the common good it may be necessary to work through differences, but difference itself is something to be transcended, because it is partial and divisive.

Benjamin Barber is particularly strong on how processes of public discussion move people from private interests to common interests.

It is as a citizen that the individual confronts the Other and adjusts his own life plans to the dictates of a shared world. *I* am a creature of need and want; *we* are a moral body whose existence depends on the common ordering of individual needs and wants into a single vision of the future in which all can share.⁴⁶

This understanding of the deliberative process as seeking a common interest or common good regards differences of identity, culture, interests, social position, or privilege as something to be bracketed and transcended in public discourse and decision-making. Differences of experience, interest, group solidarity, and social perspective are merely private. Asserting them and seeking their recognition in public political debate, on this view, only serves to divide people, produce unworkable conflict, and remove the possibility for a genuinely public discourse in which people look beyond their private interest and

experience. This view sees the only alternatives as either a process of aggregation of preferences in which each interest competes with the others to get the most for themselves, without concern for others, or a public-spirited dialogue which puts aside private interests and affiliation.⁴⁷ In Chapter 3 I argue that this is a false dichotomy.

I find three problems with the view that the goal of public discussion ought to be the identification and implementation of a common good or interest that transcends the particularities of interest, experience, and affiliation in the society.

First, under circumstances of social inequality, the idea of a common good or general interest can often serve as a means of exclusion. Assuming a discussion situation in which participants are differentiated by social position or culture, and where some groups have greater symbolic or material privilege than others, or where there are socially or economically weak minorities, definitions of the common good are likely to express the interests and perspectives of the dominant groups in generalized terms. The less privileged are asked to put aside the expression of their experience, which may require a different way of speaking, or their grievances and demands must be suspended for the sake of a common good whose definition is biased against them.⁴⁸ The idea of a generalized and impartial public interest that transcends all difference and division makes it more difficult to expose how the perspective of the privileged dominates the public agenda than it is when people believe that politics is nothing but the naked competition of interest.

Putting such a premium on a common good in the sense of values and interests we all agree we share, furthermore, is liable to narrow the possible agenda for deliberation and thereby effectively silence some points of view. A deliberative process will be a sham if participants are not committed to trying to come to an agreement about how to address collective problems. People can aim at agreement in the sense of being open to changing their positions as a result of discussion, however, without acceding to the claim that there is a single set of interests and order of goods to which they can all agree. Agreement is best reached when it is treated as a means of co-operation and of addressing collective problems which is situation-specific, thus not binding for further problems, and thus provisional and renewable. Agreement on ways of addressing specific problems, moreover, can

⁴⁵ See Iris Marion Young, 'Asymmetrical Reciprocity: On Moral Respect, Wonder and Enlarged thought', in *Intersecting Voices: Dilemmas of Gender, Political Philosophy and Policy* (Princeton: Princeton University Press, 1997).

⁴⁶ Barber, *Strong Democracy*, 224.

⁴⁷ Jean Elshtain, *Democracy on Trial* (New York: Basic Books, 1995), esp. ch. 3.

⁴⁸ See Young, *Justice and the Politics of Difference*, ch. 4.

leave intact differences of affiliation and perspective, and even give them prominence in discussion.⁴⁹

Although the ideal of aiming to reach agreement normatively regulates meaningful dialogue, conflict and disagreement are the usual state of affairs even in a well-structured deliberative democratic setting. Dialogue participants open to and aiming for agreement must nevertheless acknowledge that conflict and disagreement are frequent, and not be frightened away from democratic practice by their emergence. Too strong a commitment to consensus as a common good can incline some or all to advocate removing difficult issues from discussion for the sake of agreement and preservation of the common good. Sometimes those difficult issues matter deeply to one group because they perceive themselves as suffering a basic injustice, but they are the sources of deep disagreement because others in the society perceive rectifying this alleged injustice as coming at too great a cost to them. Deep disagreement can also arise when various groups have very different values, perspectives, and assumptions they bring to the issue. In both of these sorts of situations—of basic conflict of interest or value—the sources and terms of disagreement are exactly what everyone should come to understand if they are to do justice. Serious and open public dialogue is more likely under these circumstances to reveal differences than a common good.⁵⁰ A discussion is liable to break down if participants with deep conflicts of interest and value pretend they have common interests, because they are unable to air their differences. If, on the other hand, they mutually acknowledge their differences, and thereby mutually acknowledge that co-operation between them requires aiming to make each understand the others across those differences, then they are more likely to maintain co-operation and occasionally arrive at rough-and-ready provisional agreement. Where there are structural conflicts of interest generating deep conflicts of interest, processes of political communication are more about struggle than agreement.

Assuming Face-to-Face Discussion

Many contemporary theorists of deliberative democracy at least implicitly assume that deliberations occur in a single forum where

deliberators face each other directly, whether in small civic settings or in legislatures. Jane Mansbridge looks to the New England town meeting and small co-operative service-providers for her theorizing an alternative to interest-based adversary democracy. Benjamin Barber recommends neighbourhood meeting groups as the basis of strong discussion-based participatory institutions. While he thinks that discursive designs should extend to global as well as local issues, John Dryzek rejects representative institutions from the ideal of discursive democracy.⁵¹ James Fishkin proposes a 'deliberative opinion poll' as a means of adapting the requirement of small-group face-to-face discussion and decision-making to the context of mass democracy.

Without question, democracy cannot function well unless there is freedom of association and civic culture that encourages people to meet in small groups to discuss the issues that press on their collective life. A discussion-based democratic theory will be irrelevant to contemporary society, however, unless it can apply its values, norms, and insights to large-scale politics of millions of people linked by dense social and economic processes and legal framework. The major problems and conflicts that face most democracies now appear within the context of large-scale mass society, indeed global society: how to get relief to victims of disaster thousands of miles away; how to structure the relations of millions of people from diverse ethnic and religious groups densely packed in the neighbourhoods of a city so that there will be less violence and more co-operation among them; how to organize and finance a national retirement system most prudently and justly. Transportation, communication, and economic interdependence have made it unlikely that we could reverse the process of the globalization of societies. Democratic politics must respond to this scale, and thus must involve millions of people related to one another through democratic institutions. The challenge for a theory of discussion-based democracy is to explain how its norms and values can apply to mass politics where the relations among members are complexly mediated rather than direct and face to face. This requires, among other things, a political theory of representation consistent with those norms. Chapter 4 proposes some elements of such a theory of representation.

Bewitched by the image of small-group face-to-face interaction, a model of deliberative democracy often implicitly assumes what Jürgen Habermas calls a 'centred' image of the democratic process.⁵² In this image a single deliberative body, say a legislature or a constitutional

⁵¹ Dryzek, *Discursive Democracy*, 41.

⁵² Habermas, *Between Facts and Norms*, 296–307.

⁴⁹ I take this to be the spirit behind Rawls's notion of an 'overlapping consensus'. See *Political Liberalism* (New York: Columbia University Press, 1993).

⁵⁰ See Jack Knight and James Johnson, 'Aggregation and Deliberation: On the Possibility of Democratic Legitimacy', *Political Theory*, 22/2 (May 1994), 277–98. Mansbridge makes a similar point in her essay 'Activism Writ Small, Deliberation Writ Large'.

convention, can take the society as a whole as the object of its deliberations, and discuss the best and most just way to order its institutions and make its rules. While the decision-making process takes place over time, it is a single process with a beginning and an end. The centred image of deliberative democracy implicitly thinks of the democratic process as one big meeting at the conclusion of which decisions are made, we hope justly. In contrast to this image, with Habermas I advocate a 'decentred' conception of politics and society. According to this concept, we cannot conceive of the subject-matter of democracy as the organization of society as a whole. Society is bigger than politics and outruns political institutions, and thus democratic politics must be thought of as taking place within the context of large and complex social processes the whole of which cannot come into view, let alone under decision-making control.

In a decentred model of deliberative democracy, moreover, the democratic process cannot be identified with one institution or set of institutions—the state, or legislative bodies, or courts, etc. Rather, the processes of communication that give normative and rational meaning to democracy occur as flows and exchanges among various social sectors not brought together under a unifying principle.⁵³ While there are meetings and discussion in this process, there is no final moment of decision, such that the democratic forum can itself come under review. The norm-guided communicative process of open and public democracy occurs across wide distances and over long times, with diverse social sectors speaking to one another across differences of perspective as well as space and time. As I will elaborate in Chapter 5, such a decentred view of the democratic process gives more prominence to processes of discussion and citizen involvement in the associations of civil society than do most theories of deliberation. On this conception, democratic communication and influence flows between non-state institutions of civil society and state institutions.⁵⁴

The notion that democracy is *decentred* differs from saying that its jurisdictions and authority are *decentralized*. Democracy is decentralized, as I understand that term, when its policy-making and enforcement authority is dispersed among small, relatively unco-ordinated jurisdictions. These two concepts are independent. A decentralized democracy is likely to be centred in the sense that Habermas and I

reject; people often advocate decentralization, that is, because they desire or have an image of authentic democratic process as occurring in a single face-to-face forum. As I will discuss in Chapter 6, the virtues of localism should be rethought precisely in light of the facts of interdependent mass societies.

Assuming a Norm of Order

None of the theoretical advocates of a model of deliberative democracy explicitly specify that deliberation carries particular norms of order. Nevertheless, in everyday political contexts the invocation of deliberative norms frequently appeals to the good of deliberation as a means of discrediting or excluding modes of political communication deemed disorderly or disruptive. Not infrequently those who assume a stance of rational deliberators in public discourse invoke a narrow image of 'civility' that rules 'out of order' forms of political communication other than prepared statements calmly delivered. On this view, rowdy street demonstrations where thousands of people carry funny or sarcastic banners and chant slogans directed critically at powerful actors, which disrupt normal traffic and force bystanders to listen and look at their signs, go beyond the bounds of deliberative civility. Such an attitude that equates deliberation with orderliness similarly condemns and excludes actions like unfurling banners or displaying symbolic objects with the intent of disrupting bureaucratic or parliamentary routines in order to call attention to issues or positions that those performing the acts believe have been wrongly excluded from a deliberative agenda.⁵⁵

These examples refer to the way that critics sometimes bring their issues before a public. Ideas of deliberation, reasonableness, or civility are often used to locate some people as temperate and to label as 'extreme' others who use more demonstrative and disruptive means. An opposition between 'moderate' and 'extreme' often appears as a description of views expressed, moreover, and not merely their manner of expression. In this construction, orderly deliberation stays within a certain 'moderate' range of assumptions, alternatives, or forms of expression. Those who question those assumptions or the range of alternatives dominant discourse offers for addressing an issue are labelled 'extreme'. The label suggests that the people who hold those views are unreasonable, and excludes their views from consideration without giving them any hearing.

⁵³ See Claude Lefort, *The Political Forms of Modern Society* (Cambridge, Mass.: MIT Press, 1986), chs. 9 and 10; see also Chantal Mouffe, 'Democratic Citizenship and the Political Community', in *The Return of the Political* (London: Verso, 1993).

⁵⁴ See Jean Cohen and Andrew Arato, *Civil Society and Political Theory* (Cambridge, Mass.: MIT Press, 1992); Bohman, *Public Deliberation*, ch. 4.

⁵⁵ Compare Sanders, 'Against Deliberation', 361.

are serious conflicts that arise from structural positions of privilege and disadvantage, and/or where a subordinated, less powerful or minority group finds its interests ignored in public debate, members of such groups do not violate norms of reasonableness if they engage in seriously disruptive actions, or express their claims with angry accusations. Disorderliness is an important tool of critical communication aimed at calling attention to the unreasonableness of others—their domination over the terms of debate, their acts of exclusion of some people or issues from consideration, their use of their power to cut off debate, their reliance on stereotypes and mere derision.⁵⁶

Both here and in some of my earlier criticisms of some accounts and images of deliberative democracy⁵⁷ I aim to challenge an identification of reasonably open public debate with polite, orderly, dispassionate, gentlemanly argument. As against this image of a normative ideal of democratic politics I join with several other contemporary political theorists in endorsing a more 'agonistic' model of democratic process.

According to Chantal Mouffe, for example, some theories of liberal democracy attempt to resolve social pluralism into a political unity in a manner that subordinates political expression to an overly rationalistic set of normative requirements and thereby theorizes away antagonism and contestation as endemic to the process of democratic politics. Mouffe proposes an 'agonistic pluralism' as constitutive of modern democracy. Modern societies are rife with conflict deriving from injustice, greed, bias, and value difference. Democracy is a set of institutions that transforms mere exclusion and opposition to the other into engaged antagonism within accepted rules. A pluralistic democratic order

is based on a distinction between 'enemy' and 'adversary.' It requires that, within the context of the political community, the opponent should be considered not as an enemy to be destroyed, but as an adversary whose existence is legitimate and must be tolerated. We will fight against his ideas but we will not question his right to defend them.⁵⁸

⁵⁶ Holloway Sparks proposes an idea of 'dissident' citizenship in which disorderly expression sometimes has a role but which nevertheless preserves the possibility of ongoing debate and disagreement; 'Dissident Citizenship: Democratic Theory, Political Change, and Activist Women', *Hypatia: Journal of Feminist Philosophy*, 12/4 (Fall 1997), 74–109.

⁵⁷ Iris Marion Young, 'Communication and the Other: Beyond Deliberative Democracy', in Seyla Benhabib (ed.), *Democracy and Difference* (Princeton: Princeton University Press, 1996).

⁵⁸ Mouffe, *The Return of the Political*, 4. For such an 'agonistic' view of democratic politics, see also Connolly, *Identity/Difference*; Wendy Brown, *States of Injury* (Princeton: Princeton University Press, 1995); and Bonnie Honig, *Political Theory and the*

To the extent that norms of deliberative democracy oppose disorderly, demonstrative, and disruptive political behaviour or label a certain range of positions extreme in order to dismiss them, such norms wrongfully exclude some opinions and modes of their expression. A discussion-based model of democracy must not devalue public political demonstration in particular, which is usually disorderly and disruptive to some degree, and whose planners sometimes aim to maximize its disruptiveness. Public demonstration is a most important and often effective mode of expressing opposition and criticism, and of calling powerful actors to account. Without creative protest action and mass mobilization, a democracy is insipid and weak. Yet many whose voices and opinions would receive more attention by means of public demonstration decline to engage in or support such actions, for fear of being thought uncivil and unreasonable.

In criticizing an implicit norm of orderliness I do not mean to suggest that in politics anything goes. As I articulated it earlier in this chapter, the norm of reasonableness is central to political communication that aims to solve collective problems and promote justice. There I specified that being a reasonable citizen means pressing one's claims on others with the conviction that they are just claims. The reasonable person is therefore obliged to try to persuade others of the justice of his or her claims and to exhibit a willingness to be persuaded by them. Being reasonable thus entails non-violence: one does not attempt or threaten to harm or eliminate those with whom one disagrees, or those who challenge one's privilege, or those one believes are dominative or oppressive, or just plain wrong. Some images of civility, however, tend to categorize as a weaker form of violence certain forms of protest or demonstration that aim to make a point to others, call attention to issues, or otherwise address others in a rowdy and insistent way. What are the appropriate limits to demonstration and protest is surely contestable, but in a deep democratic society the presumption should be in favour of the protesters that their purpose is to persuade.

Being reasonable, furthermore, entails expressing persuasive disagreement in terms of basic respect: one cannot express disagreement with, or criticism and judgement of, the actions and opinions of others in terms that imply that one's opponents are less than human or that their views do not deserve an equal hearing because of who they are—as long as they are willing to listen in turn. Thus 'hate speech' aimed at denigrating the persons or affiliations of some members of the polity, or which threatens them with violence or aims to incite violence against or harassment of some members of the polity, is rightly condemned as 'uncivil'. Especially under circumstances where there

I prefer to call to the normal condition of democratic debate a process of *struggle*. In a society where there are social group differences and significant injustice, democratic politics ought to be a process of struggle. Far from a face-off in enemy opposition, struggle is a process of communicative *engagement* of citizens with one another. People of differing social positions or interests must struggle to raise issues because others may be threatened by those issues or they may simply think that different issues are more important. Once the issues that concern them are on the agenda, citizens must struggle with others over the terms in which they will engage the issue, they must struggle to get their views heard, and must struggle to persuade others. The field of struggle is not level; some groups and sectors are often at a disadvantage. Fair, open, and inclusive democratic processes should attend to such disadvantages and institutionalize compensatory measures for exclusion. Because disadvantaged and excluded sectors cannot wait for the process to become fair, because there are often so many contending interests and issues, oppressed and disadvantaged groups have no alternative but to struggle for greater justice under conditions of inequality. The process of democratic struggle is an attempt to engage others in debate about social problems and proposed solutions, engage them in a project of explaining and justifying their positions. Disorderly, disruptive, annoying, or distracting means of communication are often necessary or effective elements in such efforts to engage others in debate over issues and outcomes.

In response to this depiction of democratic process as agonistic, a process of engaged struggle, one might raise the following question. How is this endorsement of institutionalized conflict and struggle different from the aggregative model of democracy I rejected at the beginning of this chapter? The aggregative model, you recall, understands democracy as a process of competition among divergent policy preferences, where the preferences held by the majority wins the policy battle. I criticized this model of democracy because it has no way of distinguishing normatively legitimate outcomes from the will of the powerful, and makes no distinction between subjective preferences and more objective judgements of justice or rightness.

Displacement of Politics (Ithaca, NY: Cornell University Press, 1993). Both some of those who promote this agonistic interpretation of democratic politics and those suspicious of it suggest that such an interpretation is incompatible with an attitude of reasonableness where participants aim at agreement even as they are willing to uncover disagreement. Maria Pia Lara argues, however, that a robust communicative democracy contains both agonistic and consensual moments; see Lara, *Moral Textures: Feminist Narratives in the Public Sphere* (Cambridge: Polity Press, 1998), introd.

Some of those political theorists who express an agonistic model of democratic politics do not express a view very different from a model of interest group competition in which aggregated might makes right. They decline to endorse norms of either justice or legitimacy, and indeed some argue that appeals to justice or rightness function as mere ideology.

The model of democratic process I advocate here, however, retains deliberative democracy's account both of communicative orientation towards normative reason and of the transformation of private, self-regarding desire into public appeals to justice. In democratic struggle citizens engage with others in the attempt to win their hearts and minds, that is, their assent. To do so they should be open and reasonable, and be prepared to challenge others through criticism and not merely the assertion of opposition. One should therefore be wary of political moves to restrict discourses or their mode of expression to formal argument, appeals to a common good, or to those that some label as moderate and civil.