

Political Concepts

Committee on Concepts and Methods Working Paper Series

11

November 2006

Measuring Democratic Deliberation

Hans Agné

Stockholm University

(hans.agne@statsvet.su.se)



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ABSTRACT

This paper engages in current attempts at operationalising deliberative democracy. What political behaviour should we look for in order to assess the level or quality of deliberation? What institutions are relevant to study? Must the cognitive or psychological inside of people be accounted for? May standards of deliberation vary across institutions? How can empirical and normative research benefit from the results of each other? The paper identifies vulnerable points in arguments recently made in relation to these and related issues while suggesting directions in which the discussion can be developed. The aim of the paper is to identify general problems which must be resolved before empirical and theoretical research on deliberative democracy can be satisfactorily integrated.

In a survey almost ten years ago James Bohman found that “[t]empered with considerations of feasibility, disagreement and empirical limits, deliberative democracy has ‘come of age’ as a practical ideal.” (Bohman 1998: 422) Since then research on deliberative democracy has continued to focus on political realities. Most notable today is perhaps the emergence of advanced empirical analyses of the preconditions and effects of deliberative democracy (Bächtiger and Steiner 2005).

This development has brought new attention to theoretical issues with clear implications for empirical research. What political behaviour should we look for in order to assess the level or quality of deliberation? What institutions are relevant to study? Must the cognitive or psychological inside of people be included in descriptions of deliberative democracy? May standards of deliberation vary across institutions? Can empirical and normative research benefit from the results of each other? These questions are important since, if current research is not based upon compelling answers to them, the results of burdensome empirical investigations will be of minimal interest to the exponents of the democratic theory which inspired those investigations in the first place.

This paper makes a brief survey of arguments recently made in relation to the questions mentioned. It also identifies vulnerable points in different positions and suggests directions in which the discussion can be developed. It aims at identifying general problems which must be resolved before empirical and theoretical research on deliberative democracy can be satisfactorily integrated.

Normative and empirical research

There *are* ways in which empirical research can serve the development of normative theory on deliberative democracy. So far there appears to be agreement in the literature (for example Eriksen 2000; Naurin 2004; Steiner *et al.* 2004; Chambers 2005; Rosenberg 2005; Neblo 2005; Vifell 2006). Most evidently, empirical research can be used to test claims concerning valuable effects. To the extent that normative theories value deliberative democracy because it produces certain effects, an empirically grounded rejection of the effect must serve as a reason to reconsider the normative theories. For example, if serious attention to public arguments is found valuable because it is believed to enlarge public support and to increase policy efficiency the value of *serious attention to public arguments* is based on an empirical premise which can indeed be tested (for lists of valuable presumed effects of deliberative democracy, see Rosenberg 2005: 219 and Neblo 2005: 175). This appears to be fairly uncontroversial.

A more difficult question, which has been met with less agreement in the literature, concerns the capacity of empirical research to contribute to normative theory by investigating deliberative democracy itself, rather than its dependence or effects on other phenomena. It is obvious that the capacity of empirical research in this regard is to some extent limited. For example, deliberative democracy is often construed as an ideal which does not have to be realised to have its moral or cognitive status confirmed (for example Kuper 2004: 54; Steiner *et al.* 2004: 18). Nevertheless, some contributions come close to deriving values from facts. For instance Eriksen and Fossum (2000: 2) argue that “innovations” such as the European Union should be accompanied by a “re-examination” of “standards” of “democratic quality” and, furthermore, that “[t]he particular nature of supra-nationality [in the European Union] ... *points us* in the direction of the discourse theoretical perspective of deliberative democracy ...” (Eriksen and Fossum 2000: 4, my ital.). One may notice that in order to *point us* in the direction of this specific theory, empirical observations must come first. Hence partly because

the European Union functions as it does, deliberative democracy appears to be an interesting normative theory in this context, according to these authors.¹

In some sense, this kind of argument may assume that an *is* implies a *should*, though the assumption is of course never stated as simple as that: no one is willing to defend the consequence that everything which exists should exist. Less problematic, and more common among authors wishing to integrate normative and empirical research, is the Kantian notion that a *should* implies a *can* (for example Wheale 1999: 8-9; Lord 2004: 7; Goodin 2005: 182; cf. Beetham 2003: 149). Here the idea is that moral reasoning is about shaping the conditions of real life, not about stipulating thought experiments which can never be put into practice. With the same aim of reconciling normative and empirical analyses, Neblo prefers to rely on a less demanding notion of practical usefulness: “[w]hile an ‘ought’ may retain its validity without even an approximate ‘can’, it loses much of its extra-academic significance.” (Neblo 2005: 172).

Neblo does not explain why he is hesitating to assume that *should* implies *can*, but perhaps he is uncomfortable with a certain tendency among political scientist to blur the distinction between *is* and *can* and, as a consequence, to commit another fallacy, namely to proposed that a *should* implies an *is*. This would mean that the universe of what should be done is restricted to what exists now. Weale (1999) does not defend such an argument, but he comes close enough to illustrate the risk inherent in the *should-implies-can* position:

if we hold on to a principle that a certain set of institutions ought to be maintained or brought into being, then we are committed to saying that such institutions can be feasibly maintained or introduced (...) thus we should need to ensure that our principles of democratic theory were consistent with what political science currently thinks to be feasible. (Weale 1999: 8-9)

One notices how the argument slides. It is first pointed out that the moral “ought” commits the author to say also that certain institutions “can” be feasibly maintained; and then in the second part of the citation the word “can” is omitted and a much stronger point is made, namely that “principles of democratic theory” imply that “political science” considers the relevant institutions to be “feasible”. This comes very close to disregarding utopian thinking altogether, and hence to reducing normative democratic theory to a comparison of the values of *existing* institutions which can be *described feasible by political science!*

Moreover, the difficulty facing the *should-implies-can* position cuts deeper than its tendency of sliding from one concept to another. To explain how moral claims may be rejected on empirical grounds, it is strictly speaking useless. For how could one by empirical methods ever establish that something – anything – is impossible? Empirically to justify a claim that something cannot exist would ultimately require an empirical observation of that which cannot exist, and that is itself impossible.

In an effort to rescue the usefulness of the *should-implies-can* assumption, it could perhaps be argued that one may empirically observe that the preconditions of an action are absent. For example, some may argue that the United Nations cannot become a deliberative democracy since there is no sufficiently common language and understanding among the member peoples. However, to claim that deliberative

¹ Had Eriksen and Fossum pursued a parallel examination so as to conclude that no other normative theory is possible to realise in the Union, their argument could have been interpreted as being based on a *should-implies-can* assumption. However, the book chapter referred to here does not assess the realism of other theories.

democracy is impossible because of absent preconditions, one must entertain some theory concerning what preconditions would permit the United Nation to become a deliberative democracy, and such a theory cannot itself be empirically confirmed in impossible cases. Hence this methodology does not in any definite way bring empirical research into the analysis.

Another effort at rescuing the *should-implies-can* position would be to define “impossible” in somewhat less strong terms. However, there are clear limitations as to how far we could go along that road. For example, one cannot declare an ideal impossible because a sufficient amount of people does not support it. The whole project of developing normative theory is premised on the possibility that actions can be normatively justified even if there is disagreement *and hence a need to argue* about them. This would seem to imply that deadlocks among political parties, limitations in amendable constitutional structures, or tendencies in social behaviour, could not be used as evidence that an ideal is impossible to realise. What could perhaps qualify as such obstacles as deprive an ideal of its moral value are limitations in material resources and, of course, logical contradictions. On the other hand, the main difficulties in the realisation of deliberative democracy are not evidently caused by a shortage of material resources – and the identification of logical contradictions is not a matter of empirical analysis. Hence the potential of the *should-implies-can* assumption to reconcile empirical and normative research on deliberative democracy still appears to be very limited.

This shortcoming is worth taking seriously. Beyond the argument mentioned in the beginning of this section, the absence of a more generally applicable reason why normative and empirical research should be integrated hampers the capacity of political scientists to design strong research projects (in contexts where combination of empirical and theoretical works is considered a strength). Before abandoning the idea that empirical and normative research actually can be fruitfully combined, which if nothing else is a working premise of much research on deliberative democracy today, I would propose the development of the following three ideas.

First, empirical research can (and should therefore be designed so as to) help directing normative theory to action alternatives which people actually face and may need guidance about, in contrast to hypothetical and less engaging action alternatives. Under this interpretation empirical research never tests moral ideals, but forces normative theory to ask new questions (cf. Goodin 2005: 193).

Secondly, while empirical research may be unable to establish that an action is impossible, empirical research is indeed able to reject false claims that something is impossible – to which a single example is sometimes sufficient. One may notice that this capacity of empirical research is by no means unimportant. Some theorists reject deliberative democracy as a normative theory on the ground that it is impossible to realise (as for example Kuper 2004 does in the context of international relations). This is, then, a normative proposition open for empirical inquiry. Empirical research may also help identifying new matters or distinctions which have been ignored rather than explicitly denied in earlier normative theory (Chambers 2005), though it takes more than identifying something to establish its normative significance.

Thirdly, empirical research can contribute information regarding how likely or unlikely a desired social behaviour is and what measures are required to achieve it (cf. Neblo 2005). To accomplish this task is more than a technical issue of what means lead to

what ends. Normative theory must balance different values against each other. Scarce resources, imperfect institutional conditions, limitations in personal energy and time, necessitate that everything desired cannot be maximally realised at the same time. Hence if empirical observations establish that deliberative democracy have become increasingly difficult to realise, for example as an effect of globalisation or privatisation, the normative conclusion must be, for the purpose of protecting as much as possible the originally valued balance of different ideals, that extra weight, in comparison with other values, be put on the realisation of deliberative democracy. And the other way around. If empirical observations establish that deliberative democracy has become easier to realise than it used to be, a proper normative theory will relieve us of some earlier efforts to uphold deliberative democracy and instead compel us to use the energy, time and resources freed by the improved conditions for deliberation in accordance with our overall allocation of efforts among different values. Hence empirical evidence can yield compelling reasons for altering not ideals but propositions on what should be done.

Vulnerable points in the operationalisation of deliberative democracy

The last decade of attempts at operationalising deliberative democracy has left plenty of suggestions, for example: the number and quality of justifications; the content of arguments; the tendency of performing speech acts such as *claim*, *establish*, and *assume* rather than *demand*, *offer* and *suggest*; the setting forth of compromise suggestions; the difference in opinion before and after a discussion; the voting rules of an institution; the legal justifications of a decision; verbal politeness; expertise among policy-makers; the forming of opinion to the advantage of others; the tendency to answer questions; publicity and transparency of institutions and documents; the density of ideas and information in public debate; the development of party and mass-media structures.

However, not all of these indicators are equally helpful for all purposes, and some appear not to be helpful at all. The operationalisation of a concept may fail either because it captures too much, and for that reason can be regarded as *misleading*, or because it captures too little, and for that reason can be regarded as *insufficient*. Both of these failures may be differently severe. If a misleading operationalisation captures the opposite of what should be captured (for example bargaining instead of deliberation), the failure is more severe than if capturing a likely precondition or effect of deliberation (for example wide circulation of newspapers or a certain sense of political community). Likewise, if an insufficient operationalisation fails to capture something in the core of the concept of deliberative democracy (for example a communicative rationality which is fair to everyone), the failure is more severe than if failing to capture something less central (for example certain deep levels of expertise).

Being sensitive to research purposes

One may distinguish between *comprehensive* and *focused* operationalisations of deliberative democracy. A comprehensive operationalisation is one aiming at covering the whole, rather than some selected aspects, of the phenomenon as defined in theory. There are several examples of comprehensive operationalisations in the literature (for a list of some of them, see Janssen and Kies 2005: 325-26). For the purpose of analysing mainly the content of documents or debates, Steiner *et al.* (2004) uses an index composed by the following indicators: participation free from interruption; level and content of justifications; respect toward the groups which should be helped; respect toward demands; respect towards counterargument; constructive politics in the sense of

submitting alternative or mediating proposals. For the purpose of analysing mainly international institutions, Nanz and Steffek (2005) assess the access to meetings of civil society organisations; the transparency of background and policy documents to civil society organisations; the responsiveness of state actors to the positions of civil society organisations; and institutionalised measures to safeguard inclusion of all voices.

In contrast to such methodologies, a focused operationalisation is one which aims at capturing only some selected aspects of a concept as defined in theory. For instance, an analysis may choose to study only the reciprocity dimension of deliberative democracy, and let this quality be indicated by the extent to which questions posed to other deliberators are answered (Agné 2004; for the use of this indicator, see also Janssen and Kies 2005). Or to take another example, one may focus on the content of arguments, and let deliberative democracy be indicated by the use of other- and ideal-regarding arguments, rather than self-regarding ones (Naurin 2004).

Janssen and Kies (2005: 331) seem to believe that the best operationalisations of deliberative democracy are always comprehensive in the above sense. A generally applied methodology may facilitate the accumulation of knowledge from one individual study to another. However, to choose between comprehensive and focused operationalisations without even considering the wider purpose of research may be too simple. There are reasons to suspect that focused operationalisations are generally stronger if we aim at *testing hypotheses*, while comprehensive operationalisations are correspondingly stronger when it comes to *exploring* unpredicted relationships. It would also appear that comprehensive operationalisations are more often preferable in normative than in empirical research (regardless of whether the empirical research is of a hypothetical-deductive, an explorative or some other kind).

Hypothetical-deductive research seems to fit better with a focused approach to operationalisations for the sake of generosity to hypotheses. When we aim to test a hypothesis concerning the causes or effects of deliberation, generosity towards the hypothesis requires that we investigate deliberation in the sense inscribed into this hypothesis, and this sense can be less general than the concept as a whole. Let me illustrate this point with an example from my own research.

In theory driven analyses it is commonplace to suggest that internationalisation – globalisation, European integration – may undermine a sense of political community which is necessary for the functioning of deliberative democracy within existing nations. However, if looking at the argument why this development may be expected, we find that it does not assume just any element or precondition of deliberative democracy to be negatively affected by globalisation. Rather the argument is concerned with some of the more social aspects of deliberative democracy, namely the “mutual understanding and responsiveness” (Goldmann 2001: 152) of deliberators, their propensity to “respect one another’s good faith in searching for ground of agreement” (Miller 1995: 98), or, more generally, the “integration of citizens into the nation-state” (Habermas 1999: 48). In terms of a taxonomy used by Janssen and Kies (2005: 326), which is preferred also by Habermas (2005), the most relevant categories of deliberation for capturing the content of this hypothesis would then not appear to be Sincerity, Reflexivity, Autonomy from State and Economic Power, or even Discursive Equality, but rather what is referred to as Inclusion, Ideal role taking, and, indeed, Reciprocity. If we would investigate whether globalisation weakens deliberative democracy within existing nations, generosity towards the hypothesis should then lead us to focus on its tenability among the latter, rather than the former, categories of deliberation. That is to

prefer a focused operationalisation, for the purpose of avoiding *misleading* indications derived from comprehensive operationalisations.

Of course, if we test the hypothesis across all the dimensions of deliberation, it may happen that we come across a relationship outside what has been predicted by theories. Such findings may be an important contribution to our *exploration* of new relationships. But any failure of the hypothesis to predict in accordance with empirical observations must in such cases not count against the validity of the hypothesis, since it was not constructed to cover what was investigated. If, on the other hand, we do not aim to test a specific hypothesis, but to explore whatever causal connections deliberative democracy has to other phenomena, then a comprehensive operationalisation will be the more ambitious option which, depending on what resources are available in the research project, can be preferable to a more focused methodology.

What then about the difference between normative and empirical research? If the purpose is to give a value judgement of politics, or a judgement regarding its possible legitimacy, as it often is, it is absolutely crucial that the operational benchmark captures the essence of normative theory. It would be gravely superficial to blame a political institution for a defective quality of deliberation if the empirical bases for this judgement do not include all of that which is normatively essential for the institution at issue. Likewise, on the basis of selected empirical dimensions one can never make a conclusive justification of politics. It is always possible that the severest injuries are found where one chose not to look. Hence it appears that purposes of assessing the legitimacy or justifiability of existing politics are best met with comprehensive operationalisations of deliberative democracy. Focused operationalisations would be *insufficient*, sometimes gravely.

If, on the other hand, the overarching purpose is limited to establishing some empirical result (hypothetical-deductively, exploratively, or in some other way), there is neither gain nor loss from operationalising deliberative democracy so as to capture what is normatively essential. No harm is done to positive democratic theory by learning about phenomena of little or unknown moral value. To illustrate with a development of the example used above, one may imagine some extreme globalists arguing that deliberation within existing nations is of no normative interest, since nations have vanished from the scene of major political actors and no study of powerless deliberators, however sophisticated, can yield conclusions regarding politics as we actually experience it. Nevertheless, for testing the hypothesis at issue it is wholly irrelevant if the result is of little normative interest. The hypothesis makes a claim about deliberation within nations, however insignificant it may be from some normative viewpoint, and not about global deliberation. Indeed, to focus on deliberation in a global context the direction of the hypothesis would be inverted: by enabling the creation of global forums and communities, globalisation is expected to *strengthen* global deliberation. This should illustrate that non-normative empirical research does not lose quality by focusing on normatively unimportant aspects of deliberative democracy, while comprehensive operationalisations might indeed be *misleading*.

We may now return to Janssen and Kies (2005) who appear to draw a different conclusion, namely that research on deliberative democracy should generally make use of comprehensive operationalisations. Differences in methodology, and less than comprehensive operationalisations, can yield differences in results, which Janssen and Kies find problematic in face of a literature where “[f]indings differ enormously” (2005: 331). Indeed, if empirical studies in a given area applied the same conceptualisations

and operationalisations, scholars would know more easily what had been investigated, what results had been achieved; and they could pay more attention to consider why results differ among studies. However, to compile the largest possible archive of data cannot be our only aim. There are also hard practical and theoretical problems to be solved: What preconditions and kinds of deliberative democracy promote social justice? What efforts should be allocated to realise deliberation and what efforts should be allocated to other values? How does differences such as public/secret, national/international, elite/popular affect the prospects of deliberative democracy and calculus of what should be done? What politics is legitimate? How could we identify the emergence of such legitimacy crises as result in social instability and violence? To come to grips with this kind of issues it actually seems counterproductive simply to use one and the same methodology across the board, whatever greater mass and comprehensiveness of data may grow out of it. What is needed is a close fit between empirical observation and theory, which will require different operationalisations depending on the purpose of research.

Being sensitive to institutional environment

A study of deliberative democracy must begin with a selection of political institutions. However, to select an institution may also have implications for what normative standards politics should be held to, and hence what operationalisations capture the normative content of deliberative democracy. In recent contributions it is commonplace to conceive of deliberative democracy as a set of functions which can be allocated to different institutions (for exceptions see Schwarzmantel 2003; Chambers 2005 263). Habermas argues that, if general elections is determined by deliberatively formed opinions, it is in accordance with “a discourse theory of the constitutional state” that the “power of democratically elected majorities cannot *easily* be counteracted by deliberation” (Habermas 2005: 390, ital. in orig.). Hence if people have deliberated already, their parliament need not deliberate to the same extent or in the same way as if the people had not deliberated. Goodin (2005: 190) outlines a “distributed” model in which the various ingredients of the discourse quality index by Steiner *et al.* (2004) are performed in four institutional settings: Caucus room, Parliamentary debate, Election campaign, and Post-election arguing and bargaining. For still one example of distributed models, see Neblo (2005).

As these authors make clear, elements of deliberative democracy are unequally distributed among institutions. Moreover, the legitimacy of a polity depends on “the deliberative virtues coming in the right combinations and the right order” (Goodin 2005: 193). However, apart from the idea that all institutions need not necessarily fulfil all criteria of deliberative democracy, there is a striking lack of arguments as to what institutions should be held to what standards. This omission, one must emphasise, is quite significant. It leaves us in the position of not knowing at all what we should require in terms of deliberative democracy from a particular institution, let alone how deliberative democracy should be operationalised when the purpose is to consider the normative justifiability of political institutions.

One approach to remedy this situation would be to distinguish between two ways of changing political positions. The first one, which may be referred to as psychological or cognitive, assumes that positions change through *processes within individual subjects*. This is certainly the dominating approach to deliberative democracy in research today. Many theorists even define deliberation as, among other things, the tendency of parties to alter their preferences (for example Eriksen and Fossum 2000: 16), or at least their

commitment to doing so, in the light of a better argument. The second way of changing political positions, which may be referred to as collective, assumes that positions change through *processes of electing and replacing political representatives*. This is surely the more common method of making public opinion in present-day politics. Would politicians not convince a sufficient number of people that their positions should live on in public debate, representative democracy operates by letting them – politicians and their positions – be replaced by others.

I believe there are reasons to accept the second, collective way of changing positions even as an element of deliberative democracy. First, the difference between the two models is one of means, not one of ends. At the level of citizens, political positions should still be changed by psychological or cognitive processes. Hence the collective way of changing positions aims no less than the psychological one at protecting the capacity and the responsibility of persons to submit to the better argument. Second, accepting the collective way of changing positions will widen the theory's field of application. A new area of political practice, namely the procedures for electing and replacing representatives, can be assessed in terms of more or less deliberative democracy. Third, the distinction indicates what institutions should be held to what standards of deliberative democracy and hence what operationalisations should be employed in different institutions. I will develop this last point.

Depending on whether an institution is representative or holds another institution accountable, there are reasons to believe that different standards of deliberative democracy should apply. Most importantly, all proxies for *ability of individuals to change political views in the light the better arguments* risk being not only insufficient, but also *misleading* indicators when applied to representative institutions (for example the ones aiming at capturing *constructive politics* and *respect*, as construed by Steiner *et al.* 2004). If the principal responsibility of altering the composition of arguments, or truth claims, is conferred to an institutionally external power – a citizenry, a parliament, a party group, or even the massmedia – the most deliberative action may well be to facilitate the performing of this function, and to this effect it can even be necessary to *polarise* positions, in order to facilitate for the external power to decide who and what arguments should live on in the debate.

According to this line of reasoning, the willingness to follow the force of the better argument should be attributed to such institutions as hold others accountable. Several institutions may aspire to this position, but the generally most important of them is the people electing a parliament. Since the people electing a parliament never assemble as a unitary institution, indicators constructed to capture deliberative behaviour in face-to-face situations will be insufficient. The ultimate unit of analysis must not be arguments, words, justifications, or speech acts within enclosed debates or meetings, however necessary it may be to study such things as well, but rather such interaction among institutions which decides what persons and arguments will continue to play a role in the discussion. As a consequence, studies concerned with the content of utterances or documents (for example Steiner *et al.* 2004; Holzinger 2005) will see their indicators relegated to a second order position. What needs to be developed is, among other things, a way to estimate the ability of individuals to vote in accordance with the better argument even as arguments are formulated mainly by distant elites. Some significant steps towards a study of this kind have been taken by Hanspeter Kriesi (2005) in a study of Swiss referendum campaigns. As it stands today his research appears not to have distinguished between different kinds of arguments, wherefore its relevance to theories

of deliberative democracy is limited. Nevertheless, the ambition to capture the tendency among citizens to vote in accordance with rational arguments represents an important step forward. More than any other research considered in this paper it conforms to a distributed model of deliberative democracy. What it would need, in order to contribute to contemporary theories of deliberative democracy, is the kind of indicators developed by Steiner *et al.* (2004) for representative institutions. There would be much to gain from a joint project of these researchers.²

In the prolongation of this approach to deliberative democracy one should also recognise the prevalence of institutions which are accountable to some while holding others accountable. The typical example would be a parliament, which is accountable to the people while holding the government accountable. This means that some institutions should observe different standards of deliberation at different occasions, depending on what they currently do. When a parliament holds its government accountable its members should be engaged in changing political positions in a psychological sense, but not when the parliament is itself an actor whose decisions will be judged by the people. Here then is a possible problem: What if the people want to hold their parliament accountable in view of how the parliament has held the government to account? In such cases there is no optimal solution, though the best solution would surely be that the parliament acts as to facilitate for the people to influence its holding of the government to account, i.e. the parliament should – if necessary for the people to make its choice – polarise positions even when it holds another institutions accountable. The reason why deliberation of the people is preferred to the deliberation of the parliament is simply that democratically speaking the people is the more fundamental unit.

Being sensitive to social differences

For deliberative as well as any other social theory it is important to recognise that people are different. Some are rich, others are poor. Some are women, others are men. Some have friends, others have none. Some can speak, others cannot. Differences such as these are valuable in many contexts, but they can also produce unjustifiable inequalities among people. Deliberative democracy, it has often been argued, is particularly well suited to solve such problems. Having resembled deliberative democracy to a forum and competitive democracy to a market, Elster argues that since politics is concerned with “creating justice”, the “principles of the forum must differ from those of the market” (Elster 1986: 111). Steiner *et al.* (2004: 96) hypothesise that “egalitarian decision outcomes are more likely when there is a high level of parliamentary deliberation”.

To promote justice it would seem that deliberative democracy must in some sense recognise social differences. The experiences of disadvantaged groups must be made public. Political procedures must be sensitive to differences in needs and resources. This is required not only to produce just outcomes, but also to satisfy definitional criteria of a deliberatively democratic procedure: “[e]veryone with the deliberative capacity has equal standing at each stage of the deliberative process” and “the existing

² For a continued discussion one may also consider the relation of individual sensitivity to factors such as freedom of opinion and press; personal integrity regarding political opinions and loyalties; level of education; social security; access to public spaces; citizens right to political initiatives; reliability of mass-media and official information; transparency of political procedures; common frameworks of reference and understanding. Some of these conditions may be best conceived of as discrete phenomena whose causal effect on deliberative democracy can be investigated, but others may be interpreted as inherent in the individual freedom to form political opinions.

distribution of power and resources does not shape their chances to contribute to deliberation” (Cohen 1997: 74). At an operational level of analysis this may require conditional coding criteria: whether the use of self-interested arguments is interpreted as a defect of deliberative democracy depends on whether it reveals an unjust situation from the reasoned perspective of all.³ If it does, it should not be interpreted as a defect of democracy, lest we prefer a conceptualisation of deliberative democracy that illegitimizes the voice of people directly affected by injustice. On the other hand, if a self-interested argument does not reveal injustice, it should indeed count as negative for deliberative democracy. This conclusion is derived more easily from another principle found in most theories of deliberative democracy, namely that deliberators “must attempt to offer reasons persuasive to all” (Kuper 2004: 56).

In the world of ideals it does not appear overly difficult to reconcile the accommodation of differences with an equal treatment of people and the use of arguments that are persuasive to all. The recognition of differences can serve as a means to both ends. Regarding the equality requirement one may argue in the following way: since people are different to begin with, to apply the same standards of deliberative behaviour to every individual may not allocate an equal opportunity to everyone in the political process. And regarding the persuasiveness-for-all requirement one may argue like this: to voice concerns of injustice with self-experienced concrete examples is a means of communicating *to all* the importance of taking political action. However, it is less evident how these ideas can be accounted for in political practice. Two arguably inseparable requirements may be used in this evaluation.

- An operationalisation must recognise as positive for deliberative democracy that publicly used arguments conform to a reasoned perspective of all. Any failure in complying with a reasoned perspective of all must count as a defect in deliberative democracy.
- An operationalisation must recognise as positive for deliberative democracy that efforts are made at voicing injustices, including such efforts as are expressed by people who are directly affected by them and therefore speak out of self-interest. Any failure to voice injustices must count as a defect in deliberative democracy.

Let us consider how a few existing operationalisations measure up to these points. We have come across already a relatively positive assessment of deliberative democracy in the European Union. One of the grounds for this assessment is that political interaction is “governed by legal norms” and that “parties have to raise *claims to correctness*” (Eriksen 2000: 57, ital. in orig.). Because EU-legislation is famous for striking down at discrimination among nationalities, it could perhaps be argued that this indicator conforms to both of the above points. The legal justifications that govern the process refer to a constitutional structure which has been ratified by all member-states; independent supra-national bodies monitor both the observance of legal principles within political procedures and the compliance with legal norms in the society at large.

However, this interpretation may be too generous. First, it appears to be quite an exaggeration to conclude that arguments are generally persuasive simply because they derive from the much contested body of European legislation. Secondly, in analogy with the arguments of difference among people, deliberative democracy does not

³ I use *justice* here as a generic term to cover any of those notions which deliberative democrats use to define the content of deliberatively legitimate arguments, be they inherent in an ideal speech situation or in rational discourse, in a pre-political conception of the common good, or in some constitutional principles of private and public autonomy.

preclude the favouring of one particular nation, as long as the nation in question has some problem which it does not share with other countries. Since all countries do not experience the same problems, deliberative democracy may indeed require discrimination among counties, though in an ideal situation – where all countries are in the same situation to begin with – all should be treated equally. Measured against the two points above, the operationalisation is *misleading* with regard to the first one. Actions justified within European primary or secondary legislation need not accord with a reasoned perspective of all. With regard to the second point, the operationalisation will also be *insufficient*. Not only is it excessively optimistic to assume that a European or any other political process by its very existence guarantees that relevant injustices are voiced, but this legislation also has the power of silencing such injustices as have not been inscribed into the European legislation.

At the very least, what must be required for an analysis of arguments to be sensitive to social differences is that individual arguments be described and, depending on how complete the description is, what the situation of the speaker is. To some extent this is provided in another study of deliberative democracy in the European Union (Naurin 2004), which indicates deliberation, or arguing, by the use of ideal- and other-regarding arguments, in contrast to self-regarding ones. Since this operationalisation is focused on capturing the content of a certain hypothesis, it runs a considerably smaller risk of being misleading. Neither is it obviously insufficient in relation to the hypothesis it sets out to test, namely that publicity and transparency increase arguing at the expense of bargaining. One of its difficulties, nevertheless, is to recognise as positive for deliberation such self-interested arguments as accord with justice for all. However, qualitatively the study considers motives why certain arguments are preferred to others, observing for instance that “[t]he reason why self-regarding arguments are the least preferred ... is [that] they are *not persuasive*” (2004: 70, ital. in orig.) so as to indicate that a certain dominance of ideal- and other-regarding arguments may not indicate deliberative democracy in a psychological interpretation of the term.⁴ This illustrates a possible way of distinguishing legitimate and illegitimate versions of arguments: the key is to get a sufficiently complete description of the argument, its underlying premises and further implications.

This idea could perhaps be put into systematic use if reconstructing the indicators of number and content of justifications used by Steiner *et al.* (2004). As the combination of these indicators presently stand they assign no value of deliberative democracy if a proposal is justified in terms of a group interest, while assigning a maximal value if a proposal is sophisticatedly justified in terms of the common good. This is insufficient in regard to the second of the two points above, namely that injustices may indeed express itself through self-interest in a way that should count as positive for deliberative democracy. As a partial remedy of this weakness one may count as positive for deliberative democracy the articulation of (i) a possible concrete injustice, regardless of whether airing it serves one’s self-interest, (ii) the abstraction of this concrete injustice into general moral principles, and (iii) the relation between concrete and abstract statements of the injustice.

⁴ It could however be discussed if inquires into underlying motives of explicit arguments are ever relevant to an assessment of deliberative politics in contexts where public opinion and will formation occur through collective processes of electing and replacing political representatives. It could then be argued that only public statements matter, since it is on such statements alone that an external actor – such as the people on the Election Day – will make their contribution to the deliberative process.

It can be noted also that none of the studies commented on here succeeds or intends to capture the negative side of the second point, namely *failure* to voice injustices. For empirical research to keep pace with normative claims of deliberative democracy to accommodate differences and promote social justice, further methodological development on this point is urgent indeed. Useful ideas for this purpose may include counterfactual analysis as proposed by Lukes (1974) to analyse oppression in the third dimension of power, opinion surveys comparing views of citizens and representatives, anonymous accounts of positions that people does for some reason not voice in public, and (as a development of Eriksen's idea commented above) the capacity of authorities or ombudsmen to identify injustice affecting citizens.

Being sensitive to the conditions of verbal communication

To some extent deliberative democracy is a verbal practice and must as such be studied on the basis of meaningful entities. The methods used to study deliberative democracy must therefore not transform the material into pieces which are unable to contain any meaning, or whose meaning is utterly difficult to identify and communicate. To be sure that we are still investigating deliberative democracy, its meaning entities must be respected.

But what entities are meaningful? A word? An argument? A speech? The discourse of a person, party or society? Or the language as a whole? Arguably, qualitative researchers prefer larger containers of meaning while quantitative researchers prefer smaller ones. However, the greater sensitivity of qualitative research in this regard cannot compensate for corresponding limitations in quantitative analyses. As a minimum requirement for how far discourse can be divided into smaller pieces, one may consider the following criterion: The units must be such that real world deliberators are able to communicate and respond to them. I think this is a sufficient requirement in the sense that it protects as much as we can surely know about language, namely that people are able to conform to its recognisable rules of interaction. Deeper notions of what it means to understand something or someone – for example to experience a certain state of mind – are notoriously difficult to capture by empirical methods and may also lead on to philosophical difficulties.

While units such as arguments and justifications would pass this test, some of the distinctions made to differentiate them quantitatively are more problematic. It is not evident that real world deliberators will differ in their responses between a case where a reason Y is given why action X should be done, without explaining the linkage between Y and X, and a case where a reason Y is given for X *and* the linkage between Y and X is explained. In some contexts the linkage between Y and X can be very obvious, perhaps because everyone have just heard the speaker making the same point on the television news, and then actually to supply the linkage may appear an unfit contribution to a rational debate. And still, different degrees of deliberative democracy are assigned to these cases (Steiner *et al.* 2004). One way of investigating whether this distinction is too fine, as I suspect, or adequately sophisticated, as the authors would argue, is of course to test whether debaters in any way respond to the difference, which would represent an important validity assessment of the index.⁵

⁵ The significance of this point is extra-academic. If debaters do not in any way respond to the analytical distinctions imposed on their utterances, it is unlikely that they will ever learn or in any way change their behaviour or institutions in the light of the results obtained in research.

A more difficult question is how one should regard the in many ways impressive research on speech acts conducted by Katharina Holzinger (2005). The group of researchers classifies a large number of different speech acts in two overarching categories, bargaining and arguing, by answering four different questions in the light of individual utterances and a wider context: What can be said? What social preconditions must apply? What must one assume the speaker's motivation to be? What does the action consist of? Speech acts inherent in bargaining are, for example, *to demand, to call for, to desire, to offer, to suggest, to accommodate, to accept, to take back, and to concede*. Speech acts inherent in arguing are, for example, *to claim, to establish, to mention, to assume, to ask, to inform, to conclude, to approve, to contradict, and to reject*, according to Holzinger. Two problems may be considered in relation to this method.

First, the classification of speech acts in terms of arguing or bargaining appears to be heavily dependent on the delimitation of the utterances which constitute speech acts. An utterance confined to one or two grammatically complete sentences may be sorted into the bargaining category, while at the same time it can function as a sub-ordinate element of a ten page long utterance which as a whole fits better into the arguing category. Members of a national parliament may well deliberate over how their government should act in international politics and support their respective positions by premises which at the same time perform bargaining actions vis-à-vis other actors. A phrase such as "our currency is badly undervalued and we will soon have to take measures" may then be interpreted as a bargaining action vis-à-vis financial market actors, but as an element in a larger utterance it could also serve as a reasonable argument why the country at issue should not enter an international exchange rate system. To solve this problem it would seem that one must construct some hierarchy of what utterances are primary to others, or some hierarchy of what relations among actors are primary to others. But what evidence should one bring up in favour of a particular hierarchy? It is not evident that a compelling answer could ever be found.

Second, while deliberation is a collective feature requiring at least two persons in order to exist, the speech act analysis may focus too much on what single deliberators do. Of course, all speech acts are addressed to someone, but no response from persons to which speech acts are addressed appears to be necessary to conclude their existence. It would then seem empirically possible to conclude a maximal level of deliberation in an assembly with no dialogue and only monologue. There are several possible dialogical indicators, such as the answering of questions (Agné 2004), payment of respect and the putting forth of mediating proposals (Steiner et al. 2004). Not to assume any indicator of that kind in a comprehensive operationalisation would appear problematic in the case of at least some research purposes.⁶

⁶ An attractive feature of this method is that it seems to bypass a number of difficult methodological problems, such as the assessment of sincerity of preferences, the interpretation of self-interested expressions of injustice, and the judgment of stability in preferences despite new and developing arguments. However, somewhat aside of the general problem dealt with in this section (i.e., methodological constraints imposed by the fact that deliberation is an activity of verbal communication), the first difficulty of this method is whether precisely those problems are avoided or rather concealed. The classification of a certain speech act as a deliberative *claim* is only as sure as the coder could be that the speaker did not strategically disguise his or her bargaining intention to *demand*, or so one could argue. Similar questions could be posed regarding the other, avoided or concealed, difficulties (self-interested expressions of injustice and judgments of stability in preferences).

Summary conclusion

In this kind of paper there are no definite results, but a number of arguments have been made and can be summarised.

- On the question of how normative and empirical research could generally benefit from each other the jury is still out. While a simple assumption that *is-implies-should* is untenable, the main alternative, *should-implies-can*, is in practice difficult to separate from another flawed assumption, namely *should-implies-is*. Furthermore, it is far from evident how empirical methods could ever confirm that an action is impossible. In the light of these difficulties to integrate normative and empirical research, one may feel comfort in the less controversial ideas that empirical research can test hypotheses of good effects and reject false propositions that some practices are impossible. One may also seek to develop new ideas. Perhaps empirical research can help directing normative theory to action alternatives which people actually face. Perhaps empirical research can identify what efforts should be allocated to realise what values under different conditions.
- Neither comprehensive nor focused operationalisations of deliberative democracy are generally preferable. What approach should be used depends on the purpose of research. Hypothetical-deductive research is generally better conducted with focused operationalisations, while explorative research may, depending on what resources are available, be more rewarding if using comprehensive operationalisations. Normative research, moreover, appears generally to sit better with comprehensive operationalisations.
- Distributed models of deliberative democracy – in which different deliberative functions are performed by different institutions – have recently gained popularity. However, there has been a striking lack of arguments specifying what institutions should be held to what standards – and hence what operationalisations should be employed in different contexts. One approach to this problem is to distinguish between preference changes within individual subjects and preference changes in political procedures of electing and replacing representatives. So doing the benchmark of what standards should apply depend on whether an institution under study is representative or one which holds representative institutions accountable. To facilitate preferential change through political procedures it may be necessary to restrain some deliberative behaviour within representative institutions.
- Empirically there is still a great challenge to capture such elements of deliberative democracy as accommodate difference and promote justice. The best option to date appears to be detailed analyses of arguments and their contexts. However, there is an urgent need to develop indicators for capturing *failures* to voice injustice.
- Deliberative democracy is to some extent a verbal practice and must as such be studied on the basis of meaningful entities. Though in many ways helpful and impressive, some content analyses make rather fine distinctions of unclear meaning, and speech act analysis leaves many questions unanswered. As a consequence, there are method-induced constraints on the possibilities of communicating back to the context of real deliberations results obtained in research.

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