Deliberative Politics

Essays on
Democracy and
Disagreement

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Deliberation

Method, Not Theory

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In Democracy and Disagreement, Amy Gutmann and Dennis Thompson address the centrally most difficult problem of democratic theory and government: how to handle deep disagreements. Their resolution is to plump for deliberative democracy. This has been perhaps the single most popular move of democratic theorists in our time, especially theorists under the sway of Jürgen Habermas. But Gutmann and Thompson are not as abstract and vague as Habermas in his prescriptions, which seem to presuppose that disagreements can commonly be bridged if only we talk enough and hold to the "normative prerequisites of discourse," which sound like rules for parlor or academic discussion rather than rules for the political fray of democratic policymaking. Gutmann and Thompson know that some of our disagreements are real and deep and that, in the face of these, deliberative democracy can be defended primarily not for its effectiveness in bridging all conflicts but for its qualities as a procedure in reaching political decisions.

There is one big issue that I wish to raise with their analysis and with their presumptive prescriptions. This issue is the tendency to blur or ignore the difference between direct moral judgments and the nature of institutions for acting on such judgments. This issue has been a central part of debate in political theory, particularly in utilitarian and Rawlsian political theory. In the wake of Rawlsiana that threatens to swamp all shores, there has been surpris-
ingly little institutional design, although one might think that worry about institutions would be the main focus of that literature. Similarly, Gutmann and Thompson do not do much institutional design. Indeed, they say at the end of their book that they do none (358), but leave that to the future, and perhaps to others. In raising this central issue, my purpose is partly to pose an alternative vision of how to justify government and its policies, and my argument will therefore not primarily be a matter of internal criticism of the arguments of Gutmann and Thompson. Rather, it will be driven by the recognition that our theory of justification must be a two-stage theory.

Much of moral philosophy is essentially direct, not two-stage. Intuitionists, many Kantians, some utilitarians, religious ethicists, conventional advocates of "the moral rules," and many commonsense moralists suppose that the whole or the main story of ethics is to tell individuals how to behave without reference to intervening institutional arrangements.

Political theory for a large, complex society must inherently be two-stage rather than direct because government of such a society requires intervening institutions. Principles for how to reach decisions in one institutional setting need not be the same as those in another setting. For example, we might use popular majoritarian procedures to choose an institution that works without the use of popular majoritarian procedures in handling some range of problems. This might be done, for example, in creating a system of courts and in creating many government agencies that do not use entirely open procedures for reaching decisions. Political theory has long been treated as institutionalist and therefore as indirect or two-stage, as, for example, in the works of Thomas Hobbes, David Hume, Montesquieu, and the less philosophical but more pragmatic James Madison. The entire tradition of contractarianism, despite its devastating incoherence, is grounded in two-stage argument. First we supposedly agree on the idea or the general form of government, and then we let government work its wonders without constantly requiring our agreement on its actions and policies.

Gutmann and Thompson call their account of deliberative democracy a theory. Deliberation seems, rather, to be a method for enhancing the prospects of discovery of facts and of policies to address social issues. Natural scientists deliberate as much as any of us in their goal of doing physics, biology, and so forth. They typically even meet Habermas's normative prerequisites of discourse when they do. The reason is that they seek truths, and deliberation with others strengthens their chances of finding them. They would say that deliberation is part of the discovery process, rather than part of the process of justification of their findings or a part of their theories. Similarly, deliberation, or discussion with others, plays an important role in ordinary personal knowledge and understanding. But it is not a theory of such knowledge.

Deliberation in politics has a similar function. It is apt to be quite useful to have input from various people in reaching good decisions. Deliberation in politics commonly has the specific role of helping us understand the interests of others, as well as helping us discover better ways of accomplishing various ends. Hence, it is mostly a pragmatic device, although its use in politics may also benefit us by satisfying those whose policies do not get adopted that at least they have been heard. In this respect, it is not merely part of a discovery process, although it is still not a theory.

Deliberation can be applied to two classes of problems: reaching consensus on values of some kind and reaching effective conclusions on how best to achieve those values. If deliberation is a method, then it can be applied at any point in the chain of political discovery and justification. If it is a theory of government or politics, it cannot be applied at both implementation and institutional design levels. Indeed, if it were a theory, it would lead ineluctably to the two-stage account of the problem of democratic governance. Much of the discussion of deliberation, by Habermas, Gutmann and Thompson, and others, clearly casts it as a method of discovery.

In the past, especially in the first half of the twentieth century, it has been moral philosophers who have ignored the distinction between direct and indirect, because institutional, moral assessments. Yet here we have two political philosophers who generally blur it. To make the issue clear, I will pose the structure of Hobbes's vision against theirs. I use Hobbes here not for the content of his theory but for his great originality in seeing the two-level nature of our general problem of political justification. This is an aspect of Hobbes's account that has received inadequate recognition by subsequent thinkers.

I will then briefly discuss the split between individual-level and institutional-level analysis of politics and, as an example of this, Gutmann and Thompson's criticisms of utilitarianism. My purpose is to address the relation of their theory to the institutions that would have to instantiate it. They discuss this issue in ad hoc ways through many examples. What they miss is the two-stage understanding of the relation of institutions to policies, actions, and outcomes. Their focus is almost entirely at the level of policy deliberation, although their discussions also allow for constitutional deliberation over institutional design.

The Hobbesian Structure of Argument

In his theory of politics, Thomas Hobbes put forward a structure of justification of political institutions that may implicitly parallel the background vision of Gutmann and Thompson. Hobbes supposed that the one value that is prior to all others is survival or life, without which we cannot address any
political order should then also be brought to bear directly on actual policy choices. His political theory is at the level of the structure of the government and not at the level of the actions of the government once it is in place. Hence, his theory might seem to be prima facie objectionable at this level—a point to which I will return below.

Gutmann and Thompson have a very different vision of their enterprise. They can discuss government and specific policies in the same paragraph, as though justifications were the same for both of these. But it is simply in the nature of the case of government in a context in which there is disagreement that this shifting between levels is incoherent for a single justification. If we have institutions, the reason is that they make a difference in what we do or accomplish. Therefore, they act in ways that need not fit the normative principle that justifies them. And the agents of institutions need not act according to the normative principles that ground the institutions but need only act according to the roles assigned to them. In particular, they commonly may be motivated strictly by incentives attached to their roles and not directly by the values or purposes that justified the creation of their roles. (This is a seemingly difficult point that I will discuss below.) It is instructive that, as noted further below, Gutmann and Thompson themselves criticize utilitarianism on these implicit grounds when they suppose that utilitarianism is a theory that must yield the same results no matter at which level we apply it but that it cannot coherently do so. Deliberative democracy cannot yield the same results at both levels, therefore we cannot say that it must or should do so.

It is unclear which way Gutmann and Thompson would prefer to go if they were to grant that their theory should apply only at one of the levels. I think, however, that their best argument would be that deliberative democracy applies not at either the very general level of choosing institutions for making and implementing policies or at the policymaking level, both of which involve actual decisions, although of quite different kinds. Rather, deliberative democracy applies at the level of formulation and justification of policies and constitutional provisions (constitutional provisions are prior to policies in both a conceptual and, usually, temporal sense). It informs decisions but is not a procedure for making decisions. That is, they should take Habermas’s sometime position in arguing for deliberation as a discovery process, not as a theory.

Hence, the commitment to deliberative democracy does indeed cut across the two levels, but in a way that is not incoherent because it does not finally determine anything at either level. Its recommendations at one level cannot come into practical conflict with its recommendations at the other level because its recommendations are not determinate at either level—they are not decisions for action. Deliberative democracy is part of a theory of how to carry on public debate and discovery, not a theory of public choice. The discovery goes in at least two directions: from citizens to officials of various kinds and
from officials to citizens. In this sense, Hobbes was involved in the practice of deliberative democracy in his effort to analyze the nature of a workable government and to publish his insights to others even though his conclusion at the institutional level was not to use democratic procedures for decision-making.

Hobbes’s central value was survival and welfare (survival is clearly a necessary condition for welfare). Government that produces order is a means to these. His judgment of a government therefore would have to depend on whether it produced order. At the policy level and in daily life, we want welfare. Therefore, at the constitutional level we want to create institutions of strong government. Hobbes’s political sociology might be bad, but the structure of his argument is right. Gutmann and Thompson want deliberation in all institutions. Let us try to fit this to the two-level structure of government and life. Clearly, our various governmental institutions have varied purposes, such as criminal justice, redistribution, provision of infrastructures, and so on. It seems straightforward that, in determining these purposes, we should democratically deliberate. Once we have done that and once we bring our best political sociology to bear on determining how to achieve one of these democratically determined purposes, we now design particular institutions.

When we do all of this, it is possible, even eminently likely, that we could deliberatively choose to create some institutions that are not themselves deliberative. Gutmann and Thompson say that “deliberative democracy does not divide institutions into those in which deliberation is important and those in which it is not” (358). Immanuel Kant argued that deliberation should often take place outside various institutions but that role holders within them should do what their roles prescribe. They should behave purely “passively.” For example, a soldier should generally follow orders, a postal clerk should file the mails properly, and so forth. Once we take seriously the two-level division of democratic choice into constitutional and action levels, we cannot insist that deliberation must rule at both levels, because deliberation at the constitutional level can rule out deliberation at the action level. (I will return to this issue below, under “The Scope of Deliberation in Politics.”)

In oral comments, Gutmann and Thompson contend that the real difference between their enterprise and Hobbes’s is that he was doing abstract political philosophy, whereas they are doing theory on the ground of actual policymaking. Hence, even to bring Hobbes up misses their point. But the relevance of this discussion of Hobbes is merely to grasp his structural insight that we first create institutions according to how they can accommodate whatever normative principle drives us. And then we let them run. We cannot trivially, without explanation, thereafter make decisions according to our normative principle independently of the institutions we have designed to accommodate them. Our principle does not make decisions for us; our institutions do.

Utilitarian Political Theory

Gutmann and Thompson say that “utilitarianism, libertarianism, and egalitarianism all imply that democratic decisions are justifiable only if they can be shown to be morally correct on principles determined independently of democratic deliberation” (229). Suppose we have set up institutions to achieve deliberation according to their principles or to achieve utilitarian, libertarian, or egalitarian outcomes and that those institutions happen to be democratic. Now suppose the result in some context is repugnant on one of these moral theories. What have we said? We have said, rightly and beyond criticism, that the result in that context is morally wrong according to our theory. It does not follow that we must therefore conclude that we should violate the democratic result. We certainly cannot conclude that our decisions are justifiable only if they are judged, one by one, to be morally correct. Again, our moral principles cannot make decisions. Only actual people or institutional structures with principles to apply can do so.

Why do we need a two-stage account here? In answer, note first that we need a two-stage account even of such simple matters as economic production of complex goods. Each person in an assembly process is to act according to a specified role that requires certain actions. The process does not require the person to judge the best overall way to accomplish the organization’s production. If everyone acted relatively autonomously according to her own judgment, the result would often be anarchic at worst and sloppily inefficient at best. Government actions are often more complex than those of a firm that produces commodities. The government actions are often subject both to productive, efficiency criteria and to normative criteria. But the individual role holders in various governmental agencies are similar to those in economic organizations. Their task is merely to perform their roles well. Of course, in all kinds of organization, it is possible that people on the line can have ideas for improving what the organization does or how it does what it does and that their advice could improve organizational performance. But to act from my good idea without first getting the organization to accommodate itself to that idea would commonly be harmful to my organization’s purpose: And the claim, perhaps true, that the organization would be better off if it did things my way would not justify my independently doing things my way.

In the background of Gutmann and Thompson’s criticisms is the dreadful debate over the rightness of utilitarianism that Rawls cogently dissected and dismissed in “Two Concepts of Rules.” A standard ploy in the criticism of
utilitarianism was (and, alas, still is) to propose such examples as that a utilitarian sheriff should let a mob lynch an innocent, even perhaps help it do so, if that would quiet the mob and stop it from doing even greater harm. The utilitarian, Rawls noted simply, would not be blamable for its role in help the discretion to act to achieve greatest utility in every action rather than to adhere to the role definition. We need the whole set of roles within the institution of justice because only through their use can we do a good utilitarian job of producing good outcomes. We need police, jailers, lawyers, prosecutors, judges, and maybe even executioners. And we need for each of these people to perform their own tasks as defined by their roles, not to try to achieve the best overall outcome according to some moral theory. For example, we do not want the police to become judges who suppress or contrive evidence to reach the supposedly correct verdict. Individual citizens might engage in civil disobedience to make their moral point against some policy. But officials who do so can properly expect to be sanctioned for their actions.

What can we say about the two levels of direct moral assessment and institutional judgment or decision in utilitarian, libertarian, and other moral theories, we can deduce (using a lot of social science and factual knowledge) how our institutions should be designed to produce results that are, as nearly as possible, moral in the relevant way or ways. Then, as in Rawls’s argument, we may have nothing more to say politically when those institutions produce seemingly less than utilitarian, libertarian, or whatever results. Of course, we can say morally that they have produced a less-than-moral outcome. The only thing more we might have to say politically is that the institutions need revision to make them work better. But we can plump for this only if we think they can in fact be made to work better. In some cases, there may be no ground for such hope. For example, if we have a death (or any other punishment) penalty, we can be sure that it will occasionally be misapplied to innocents. That is a morally bad result, but we cannot create the institution that would be able both to punish some of the guilty and always to avoid punishing the innocent.

Note that utilitarian and egalitarian theories can actually be directed at both the institutional and the policy or outcome levels. For example, strictly utilitarian arguments can be used to design institutions that are expected to have utilitarian outcomes. The connection between the two levels is causal rather than moral. What utilitarians want are utilitarian outcomes. To get them requires institutions of certain kinds. Those institutions, again, need not require, and typically would not expect not to get, their agents to act as utilitarians but only to follow the rules of their positions in the institutions. In this sense, utilitarianism has been both a personal and an institutional theory through most of its history, although it was etheerally misdirected by G. E. Moore early in the twentieth century in a perversely influential but trivializing work. That is to say, it is both a personal moral theory and a political, institutional theory. But even egalitarianism, which is not generally taken to be a personal moral theory, can be applied as a political theory at both the outcome and the institutional levels through a causal theory of how political institutions can be made to produce egalitarian outcomes.

Gutmann and Thompson have a far less nuanced vision of our political world. They directly judge the morality of institutions. While it would be presumptuous to assert very strongly that this is an impossible trick, it is prima facie such a remarkable move that it wants some argument to justify it. While Gutmann and Thompson present extended discussions of their three principles—reciprocity, publicity, and accountability—they do not address the odd move to direct moral assessment of the institutions independently of what the institutions do other than to follow these procedural principles.

Implicitly, they criticize three standard moral theories—utilitarianism, libertarianism, and egalitarianism—for doing what the theories should do: namely, allow for moral judgments. It is, of course, just such judgments that must play a substantial role in the deliberations of their own morally restricted theory. Indeed, Gutmann and Thompson make extensive use of moral claims, especially of utilitarian and egalitarian theories. Such claims are not the only content of democratic deliberation, but they are evidently a very large part of it in many contemporary societies and in Gutmann and Thompson’s view.

Finally, consider a minor but instructive misstatement. Gutmann and Thompson claim that “these perspectives as commonly interpreted imply either that there exists a single correct answer that should . . . trump democratic deliberation, or when their own theoretical principles are indeterminate) that there is no correct answer at all as far as justice is concerned” (229). Before turning to the central claim here, note that the last fillip is trivially and transparently wrong. We can be indeterminate while not concluding that there is “no correct answer at all.” Ordinal utilitarianism and fairness theories commonly lead to assessments that are indeterminate over some restricted range, but the restrictions can be substantial enough to rule out the bulk of all possible resolutions of our problem of the moment.

Now turn to the central claim about how these theories are “commonly interpreted.” I do not know what people “commonly” interpret the theories this perverse way, but this is a bad and incoherent interpretation of them. Dennis Thompson’s Mill did not think of utilitarian political theory this way. If we start from an equally bad interpretation of deliberative democracy, we will similarly conclude that it is a wasteland. My own preferred theory, utilitarianism, does not entail that there must be a single correct answer. Indeed, utilitarian judgment shares with ordinary pragmatic judgment that it must wait for factual analysis and economic, psychological, and sociological theory before it can commend anything at all in most public policy contexts.
Given the severe constraints of limited knowledge under which we make big decisions, utilitarians must therefore often be far from determinate in their recommendations. Commonly, they must recommend something roughly like deliberation as a device for the discovery of relevant causal relationships before they can produce any policy prescription at all.

The Theory of Deliberative Democracy

Other than the literature on distributive justice, which threatens to eat up all the resources we might sooner distribute according to one of the various theories, there may be no recent literature in political philosophy larger than that on deliberative democracy. Despite the vast outpouring of work, however, there is little instruction for the neophyte on how such a theory works on the ground. When one objects that little deliberation of any rich kind can take place between 200 million adult citizens and their representatives, deliberationists retort that there is a lot of it—in the workplace, over dinner, on the bus, in letters to leaders, in legislatures, and so on. This is, of course, what has gone on more or less always in modern democracies. Yet the message of the deliberationists seems to be that we need to revise our politics to be deliberative or to be more deliberative. This is the plea of Gutmann and Thompson (51). So, one may ask, Which is it? Either we have always been deliberative—although theorists have evidently failed properly to describe or label our politics as deliberative—or we need to become deliberative— in which case, again, the objector wonders how this will work for 200 million American adults or more than 40 million French adults or a similarly large number of some other citizenry.

It is hard to avoid the suspicion that deliberative democracy is the “democracy” of elite intellectuals. They sometimes even approximate the Habermasian moral prerequisites of discourse, although less often than one might wish (at least in political science departments at major universities). It is virtually impossible to avoid the suspicion that deliberation will work, if at all, only in parlor room discourse or in the small salons of academic conferences, not in the normal world of rough-and-tumble politics. Far too much of real politics is about winning and losing for the participants to miss opportunities for scoring against potential opponents. The pragmatic bargaining that Gutmann and Thompson disparage as morally inferior to deliberative democracy is often the main event in politics. The participants in such politics are partisans and—often even by their genuinely moral lights—rightly so.

Against the sanguine vision of deliberative democracy, consider two objections from the side of citizens. First, deliberative democracy clearly has the problem that Oscar Wilde saw in socialism: It would require too many evenings, evenings that are in short supply and that are in demand for other worthy activities, such as living. The gloriously politicized society of 1989 Czechoslovakia is very nearly the real-world equivalent of the ideal type of deliberative democracy. That was less than a decade ago, but it is gone. Indeed, both 1989 and Czechoslovakia are gone. Is that a grievous loss? No. If 1989 had been kept alive for half a decade, it would have turned into a nightmare of overzealous politics, indeed, of useless politics for the sake of nothing but politics. At some point citizens want to get on with their lives, and their lives are not primarily the lives of citizenship. Anyone looking back over the twentieth century to assess the merits of various political claims for participation must find the sometimes relatively antiparticipatory stances of Hannah Arendt and Albert Camus very appealing. Arendt and Camus seemed to believe that living our lives should be our main concern and should not often be trumped by politics.

Second, the moral constraints of deliberative democracy should rightly apply primarily to public officials, not to citizens. Officials should be expected to give reasons for their decisions and judgments, but citizens, who make few decisions other than to vote, should not be expected, or at least should not be required, to give reasons, because, for epistemological reasons, they cannot be expected to do so. Two of the three ground principles—publicity, accountability, and reciprocity—of Gutmann and Thompson’s vision apply primarily to officials. Indeed, publicity and accountability are constraints that virtually every standard moral theory would exact of officials. These principles can be inferred from the main classes of moral and political theory in our time: theories based in welfare, fairness, and autonomy. The principles were fundamentally important to John Stuart Mill’s more or less utilitarian vision of representative democracy—his discussion of publicity has not been surpassed. It is hard to imagine a theory of democracy, whether one that is deduced from some prior moral theory or one that is merely posited without being grounded in more general moral principles, that would not require accountability and publicity on the part of officials.

Citizens, however, are arguably more protected from publicity in their act of voting in nations that have a secret ballot. If so, then they may also be generally freed from any requirement of publicity of their views. And it is very difficult to conceive a serious or formative role for general accountability on the part of citizens. Recall the joke of the bumper sticker in the aftermath of Watergate: “Don’t blame me—I’m from Massachusetts.” Massachusetts was the only state in which a majority had voted against President Nixon’s reelection in 1972. The force of the message of the bumper sticker turns on the implication that the Nixon voters in other states had voted for Watergate and therefore could be blamed for it. Yet, of course, such stalwart Republicans as Barry Goldwater were apparently appalled by Nixon’s antics and surely did not vote for Watergate. Some citizens might be held accountable for their
racism, bellicose chauvinism, or other supposed moral failings. But these charges would come from some moral theory or principle outside the democratic system, a principle that need not be democratic. The constraints of publicity and accountability on public officials are, on the contrary, inherent in their democratic positions.

The only one of Gutmann and Thompson's three ground principles that seems to apply to citizens is reciprocity, and even it seems to apply more nearly at the level of groups than of individual citizens. Citizens do not generally make individual requests of government (although in a typical session of the U.S. Congress there are numerous private member's bills to benefit specific, named individuals), and they do not contest with each other over political issues. Rather, they speak as or on behalf of groups. Even for groups, once they are voting, reciprocity has no role. Its role is little more than that of improving open discussion in the debates running up to policy decisions by government and, subsequently, criticizing decisions once they are taken. To use Mill's unfortunate phrase, its role is in the competition of the marketplace of ideas. In that role, even bad ideas are often useful for sparking debate that finally produces better ideas. For citizens, the deliberative theory in deliberative democracy can be little more than Mill's misnamed marketplace of ideas.

Why is "the marketplace of ideas" a bad phrase for what interests us here? There is no analogous role for bad products in the marketplace of products. My bad product is out of the market as soon as your better product displaces it. But bad ideas seem never to leave us, especially bad political ideas. Indeed, it often seems that particularly bad political ideas get transformed into ideologies, which are no longer subject to rational analysis and assessment but simply float above the world they are supposed to affect. Nevertheless, seemingly bad political ideas might eventually be revised or shown to be good ideas. And, at worst, they may be useful as countercall to arguments for other ideas. Merely pointing out that certain political moves have tended to lead to fascism, gross inequality, civil war, or other disasters may be a valuable contribution to public debate and eventual understanding.

The Scope of Deliberation in Politics

In oral remarks, Gutmann and Thompson argue that their vision of democratic deliberation is not analogous to participatory democracy in the way suggested above in the mention of 1989 and Czechoslovakia. But if it isn't, then it is hard to see what its force is. Who are the deliberators? And what are the issues over which they are to deliberate? If citizens are the deliberators and if major public initiatives or failures of initiative are the issues, then it is hard to imagine a meaningful deliberative democracy that is not similar to the visions of advocates of participatory democracy. Let us therefore briefly canvass the role of deliberation in various contexts. Even from the limited survey below, Gutmann and Thompson must assert to giving deliberation roles of varying importance across institutions—perhaps contrary to their claim, cited above, that "deliberative democracy does not divide institutions into those in which deliberation is important and those in which it is not" (358). Let us consider its roles in the central institutions of democratic government.

What democratic institutions should we have, and which of them should be deliberative? Clearly, we need justice, legislative, administrative, and popular or citizenship institutions. In the justice system, juries should be deliberative, but their deliberations arguably should be private and should never be publicized. Courts that are panels of judges can and should be deliberative. After all, the function of both juries and such courts is to assess facts. In much of European practice, such courts do not present their reasons, only their decisions. In higher U.S. courts, reasoned opinions are typically given in support of decisions, even by those who dissent from the majority decision. There are good arguments in favor of either practice. This very fact suggests that general publicity cannot always be democratically desirable. There should even be deliberation among the police and prosecutors, whose task is to discover facts, but this should generally not be public deliberation. Similarly, administrative agencies should often recur to deliberation as they attempt to assess facts and to establish rules. But justice and administration are not the main focus of a theory of deliberative democracy. That focus is legislative and popular deliberation.

Legislatures might well be deliberative on occasion, but at least the American Congress has seen deliberation displaced by public posturing in recent times, in part because statements in Congress are now part of the degrading permanent campaign of American politics. Deliberation often takes place off to the side of the congressional main stage, in staff meetings and in expert panels convened to discover various things and to invent policy options. It is a subordinate activity and an activity that might take place as much in a nondemocratic polity in which the search for good policy is taken seriously.

It is interesting that the decline of deliberation within Congress, if there was much before, is largely a response to the demands of electoral politics, of popular democracy. Popular democracy in a large society with representative government subverts deliberation. In the United States, the subversion results from two related facts. First, posturing is virtually demanded by the effort to reach a large public audience who, rightly, have other things to occupy their time and thoughts and who deal with politics more through catchphrases and slogans than through analysis. It is analysis that requires deliberation. Being mobilized in support of a candidate or a policy requires no analysis. Second, posturing is an inherent part of the unquenchable demand for money for American electoral politics. For raising money from large public interest groups
such as those that support or oppose abortion or immigration, this follows from the nature of mass politics. But even for raising money from concentrated special interests, posturing is often necessary to protect against attacks from larger publics.

Because of the sheer size of the polity, citizens have little interest in participating and, given this fact, even less interest in being well enough informed to participate well.\textsuperscript{18} Joseph Schumpeter’s strictures on democracy are devastating for any claim that citizens should deliberate or enter into deliberative discussions.\textsuperscript{19} This is not merely a matter of Wilde’s complaint against socialism or the implausibility of the continuation of Czech politics much beyond 1989 but also of the intellectual demands that deliberation exacts. Most people cannot be strongly motivated to understand something that they cannot affect or make use of in their lives, especially something as complex and variegated as public policy over most matters.

In sum, we might hope that jurors and many others with more formal roles within the government deliberate, and we might wish that legislators would deliberate more than they seemingly do. But to hope, expect, or wish for citizens to do much deliberating is unreasonable and forlorn. Yet if citizens are not chief among the deliberators, how can we speak of deliberative democracy? Deliberation is very important in politics, but it cannot typically be very democratic. Indeed, if deliberation is primarily within government or within smaller critical communities that might be taken as advisory to government, it can serve as well in a nondemocratic society, as Kant firmly argued in the case of Frederick the Great, his own enlightened monarch.\textsuperscript{20}

Concluding Remarks

The Hobbessian stipulation that we must first survive and then moralize is compelling. It is essentially a pragmatic claim for political order, almost even a conceptual claim. If we want anything, we must have survival. If we want survival, we must have political order. Hence, almost by syllogism, if we want anything, material or moral, we must have political order. The things we might want to secure under government therefore do not trade off against having government. One might argue that there are flaws or objectionable claims in the pieces of Hobbese’s argument, but its structure makes political order almost strictly prior to all else. He leaves us a method for governing.

Gutmann and Thompson make a very different move, although it may appear superficially to be structurally similar. They essentially stipulate that we must first meet the standards of deliberative democracy and then moralize over other matters according to those standards. Their grounding of deliberative democracy is, of course, moral rather than pragmatic. But this means that, if I have moral objections to what the polity chooses to do, I can compellingly argue that my moral concern trumps the morality of deliberative democracy. There is no higher or prior morality or any other consideration in deliberative democracy to shield it from such a claim. Deliberation is not even so much as a method for governing but only a method for discovery and, sometimes but not always, a method for mollifying losers by giving them the sense of at least being heard. These are good things, but they fall far short of being a general theory of democratic politics. They are not even a central part of what makes democracy distinctive.

Deliberative democracy sounds wonderful. But it is a method, and methods are fallible. If it elevates a Hitler to rule in my society, revolution and guns might then seem to be even better methods of achieving our ends. A consequentialist—for example, either a utilitarian or a fairness theorist—might add that what we want in politics are specific outcomes or types of outcome. Procedures and institutions are chosen contingently according to how well they produce those outcomes. They are what we use to get to outcomes, but they do not have either conceptual or moral priority over outcomes. They have merely temporal and causal priority.

The failure to distinguish between institutional design for deliberative inputs to political decisions and the moral assessment of those decisions or the morality of their purpose suggests an oddly apolitical view of the world. We apply an odd kind of morality by brute force to the way we decide, as though we were a wielding a crowbar to achieve an immediate outcome. But what we must surely do is design our institutions to accommodate our moral theories. We must then rely on these institutions for achieving actual outcomes in various policy realms. This is the striking difference between morality for an individual and political theory for a society. When they have criticized moral theories, Gutmann and Thompson have fallen prey to the fallacy, which Raws demolished, of ignoring the necessary role of institutions, especially in their chapter-length criticism of utilitarianism (165–98). Then they have fallen prey to an oddly contrary fallacy of supposing they can judge the morality of institutions directly, as though without attention to the trumping concern of what the institutions actually do.

Political theory cannot be reduced to individual-level moral theory, and political institutions cannot be evaluated or morally judged by brute application of some moral principle to their structure. This is true already for merely causal reasons: Institutions can help us to do things we could not do without them. Indeed, one can argue that institutions, or at least very many of them, are inherently consequentialist in that they are designed to cause or accomplish something. If so, then one must argue backward from their purpose to their structure, and this yields their justification. If an institution’s purpose is moral and if it does not violate morality in accomplishing that purpose, then the institution is morally justified. For many of the most important decision-
making institutions in a democracy, it is incoherent to suppose we need an institution to accomplish some purpose and then to argue as though we could reach direct judgments of the rightness or wrongness of particular institutional actions independently of their fit with the institution's structure. If we need the institution to enable us to make relevant decisions, that is because we cannot make those decisions as well directly.

Gutmann and Thompson implicitly hold deliberative democracy to be a prior value that politically trumps moral values of other kinds. They are most explicit on this point in their chapter on utilitarianism as a public political theory. Making deliberation a political trump may seem analogous to John Locke's argument that toleration must politically trump religious values. But Locke's argument was framed as a causal claim that, without toleration, those with variant religious views could not even fulfill them, so that intolerance was harmful to their own religious views. The most compelling causal claim for deliberation must be that it leads to better results in the sense of helping to discover relevant facts and policies. But this leaves open to analysis whether we should always want deliberation and, at least for citizens, whether it is even possible.

Perhaps a better analog of the role of deliberative democracy is James Madison's more general and more nearly contemporary variant of Locke's view of toleration. In Federalist 49, Madison says, "It is the reason, alone, of the public, that ought to control and regulate the government. The passions ought to be controlled and regulated by the government." Deliberation has its proper role when it is on the side of reason and reasoning about government-about its institutions and its actions. Its greatest value is to help us understand institutions, and its further value is sometimes, but not pervasively, to help institutions and their role holders understand their workings.

Notes

An earlier version of this essay was presented at the meetings of the Pacific Division of the American Philosophical Association, Berkeley, Calif., April 28, 1997, in a session on Amy Gutmann and Dennis Thompson, Democracy and Disagreement (Cambridge: Belknap Press of Harvard University Press, 1996). I am grateful to other participants in that session, especially Gutmann and Thompson, for comments on the essay.

1. I will give page references to this book in parentheses in the text.
4. It would be interesting to understand just how being heard is more satisfying than merely being counted, but that is not part of our discussion here.

10. For example, in Political Equality Beitz concludes, rightly, that if we do our best to set up a fair electoral procedure that gives every voter equal input and that procedure systematically undervalues your vote, we have nothing more to say, within the theory and its institution.
12. For an account of institutional utilitarianism, see Hardin, Morality within the Limits of Reason, chaps. 3 and 4.
13. In a question-begging passage, Gutmann and Thompson grant that deliberative democracy is also indeterminate . . . but . . . for good nonutilitarian reasons" (196).
15. Even game theory is indeterminate because strategic interaction, which is a central and pervasive part of social order and disorder, and causal understandings are indeterminate. Every theory is necessarily indeterminate. See Russell Hardin, "Determinacy and Rational Choice," in Rational Interaction: Essays in Honor of John C. Harsanyi, ed. Reinhard Selten (Berlin: Springer-Verlag, 1992), 191-200.
17. These remarks were made at the American Philosophical Association session in Berkeley for which this essay was originally written.
18. See, further, Russell Hardin, Liberalism, Constitutionalism, and Democracy (Oxford: Oxford University Press, forthcoming), chap. 4; and Hardin, "Democratic Epistemology and Accountability."