

5 **Less than meets the eye**

Democratic legitimacy and deliberative theory

Michael Saward

Deliberative models have dominated democratic theory for the past ten years. This chapter argues that, in some prominent versions at least, these models are fundamentally flawed. Criticism of the deliberative model is not new; however, few critics challenge the most basic assumptions of that model, preferring to argue on the ground set out by the deliberationists themselves. My aim is to suggest that deliberative theory lacks basic coherence and consistency, and that it contains worrying elitist threads. The major shortcomings that I focus upon are: the models' claims to legitimacy; their reliance on metaphor; and their exclusiveness. I proceed by examining, in turn, legitimacy, the siting of deliberative democracy, the work of Cohen, and the Schumpeterian problem (especially as it is raised in the work of Offe).

First, a word about the context of this critique. My present task is a negative one: elucidating the flaws in deliberative democracy. For my part, the more positive side of the story lies in regarding direct democracy as the best, most defensible aspiration for the democratic future. If we, as democrats, are to take citizenship seriously and treat citizens equally, then democratic legitimacy can only properly be conceived of as voting for the outcomes one prefers in the context of an 'open society'. Of course, appropriate deliberation is a good thing, useful within a larger framework facilitating direct participation and decision. However, that deliberation is democratically secondary, a (difficult, complex) matter of tweaking more fundamental features of a defensible conception of democracy (see Saward 1998 for an elaboration of this view, and Budge 1996 and in this volume for compatible arguments).

Deliberative democracy and political legitimacy

The deliberative model's proponents – even some relatively critical ones – display a profound confidence in its theoretical and political importance. In my view, this confidence is displayed most clearly in the connections commonly made between deliberation and political legitimacy. To cite some prominent examples: Manin (1987: 351–2) argues that 'the source of legitimacy [of political decisions] is not the predetermined will of individuals . . . , but rather the process of its formation, that is, deliberation itself'; Bohman and Rehg (1997a: ix), in their introduction to

a major volume on this model, state baldly that '[b]roadly defined, deliberative democracy refers to the idea that legitimate lawmaking arises from the public deliberation of citizens'; Joshua Cohen, in what may be the most-cited article in the deliberative canon, is even more forthright when he claims that 'outcomes are democratically legitimate if and only if they could be the object of free and reasoned agreement among equals' (1989); and Benhabib argues that 'legitimacy in complex democratic societies must be thought to result from the free and unconstrained public deliberation of all about matters of common concern' (1996a: 68). These are major, powerful claims. Are they warranted?

Voting and aggregation

Even the most convinced deliberationists concede that voting (and some version of majority rule) will play a role in deliberative democracy. Cohen notes – briefly, *en passant* – that '[e]ven under ideal conditions there is no promise that consensual reasons will be forthcoming. If they are not, then deliberation concludes with voting, subject to some form of majority rule' (1989: 23). The concessions, when they come, are so muted that we could forgive Przeworski his comment that 'deliberation theorists . . . wish away the vulgar fact that under democracy deliberation ends in voting' (1998: 141; see also Miller 1993a; Elster 1998a: 14).

Regarding voting as a significantly lesser source of political legitimacy than deliberation (of a certain type) is mainstream for deliberationists and highly marginal in more full-blown and influential accounts of political legitimacy. I suggest that its mainstream status is in large part the product of the blinkered, artificially self-contained character of the 'deliberative model', which in turn is the product of the terms in which a good deal of influential deliberative theory is produced (see the detailed discussion of the example of the work of Cohen, below).

Voting and elections are subsumed by deliberationists under the 'aggregative' model of democracy. This aggregative model variously involves: atomistic (liberal) individualism; secret voting on the basis of 'pre-given', 'non-deliberative' preferences; self-interested voting; and the absence of consideration of the 'common good'. It is standardly presented as a black-and-white contrast to the deliberative model, with one model unambiguously good, the other bad.

However, there is a sleight of hand involved in this. For example, Benhabib (1996a) begins her analysis with 'the deliberative model of democracy'. Tagging 'democracy' to 'deliberative' by initial stipulation immediately brackets off liberal, individualistic and majoritarian – 'aggregative' – ways of thinking about democracy. It does so in a way that implies that the deliberative model is self-sufficient – that deliberation of a certain sort could indeed be the major ingredient in an ideal but fully functioning and practical democratic system.

Whatever the merits of the specific features of the deliberative models they advocate, writers such as Benhabib and Cohen not only under-rate considerably the basic fact that majority votes must decide democratic outcomes where, even after deliberation, views conflict; more broadly, they do not appear to take sufficiently on board the fact that the modern state is inevitably, structurally

hierarchical, secretive, and unequal in the resources it grants to participants in and against its processes. While deliberation may well be an ideal part of democratic processes, it can only be a part; it can be seen neither as the totality of a democratic decision-making process, nor appropriately practised in any and all key institutions in a democratic system. In short, this is not properly a ‘model of democracy’, but rather a desirable ingredient within a larger theory of democracy; an element within a more encompassing, more complex system of democratic structures – many of them ‘aggregative’ – rather than a self-contained substitute for some other, inherently separate model of democracy.

The overdrawn contrast between aggregative and deliberative models also lumps together factors that operate to the detriment of voting as a legitimating mechanism in democracies. The key point here is that voting, and preparing to vote, in elections or referendums need not be tarred with the brush of ignorant, isolated individualism. Can we not ‘deliberate’ in private – by reading, listening and thinking; by mulling over desirable candidates or outcomes? Responding to the maximalist claims about legitimacy that many deliberationists make, Fearon asks: ‘does deliberation [have] to involve discussion rather than being a solitary affair? Surely it is possible to deliberate privately, weighing reasons and arguments in a mental dialogue, even if this might not be as consequentially effective as deliberation via discussion?’ (1998: 61). In other words, could not circumstances quite different from, and more realistic than, idealized free, reasoned, uncoerced deliberation among equals in public, be an important contributor to political legitimacy? Indeed, I will suggest that key deliberationists themselves rely in their arguments upon the reasoning capacities of abstract, isolated individuals; implicitly, these writers provide ‘aggregationists’ with much unintended support.

So, deliberation-as-legitimacy is mainstream for deliberationists in part because of under-defended assumptions about what can correctly be loaded into an ‘aggregative’ category, and in part due to the linguistic slipperiness involved in positing the deliberative model as a self-sufficient model of democracy.¹

The broader view of political legitimacy

Deliberation of a certain kind may well contribute to the legitimacy of outcomes; it is not my intention to argue that the deliberationists have nothing useful to say on the matter. But surely a three-dimensional view of what may produce legitimacy must take (much) more into account. The absence of recognition of this basic point in the deliberationists’ writings highlights the curiously hermetic nature of deliberative theory. Without wishing to go into this point too far, let me suggest Beetham’s (1992a) account of ‘the legitimation of power’ as a suitable counterpoint. Beetham argues, in my view convincingly, that political power can be legitimized by (1) its being exercised according to legally valid rules, (2) the grounding of those rules in terms of shared beliefs (about the source of authority and the structuring of the system so it might serve the common good), and (3) its being the product of express consent. Each of these is no doubt vital, but imagine in particular that the third criterion is absent – there is little evidence of

(genuine, equal, universal) express consent, that is, actual consent by at least a majority of those subject to the laws of a political community. Ultimately, can democratic legitimacy exist absent fair popular voting on the basis of universal adult suffrage, in principle regardless of the extent to which the preferences or interests that inform people's votes are shaped by deliberative procedures? If deliberationists answer no – if they give the democratic answer – they undermine their grand claims about deliberation producing legitimacy. If they answer yes, then profound questions must be asked about the democratic credentials of 'deliberative democracy'. This is a vital theme, to which I shall return in a brief discussion of the work of Claus Offe in a later section.

There might be a deliberationist response to this challenge, along the following lines: in advanced societies, democracy can and should mean more than the aggregation of preferences, however vital the latter remains as a democratic baseline requirement. Preference aggregation is the first step on the democratic ladder, deliberative forums a later, compatible, desirable development. This view has a reasonable hue about it, but note that it is not one that, to my knowledge, deliberative theorists have articulated. Even then, thin ice abounds. This amounts to an argument that non-democracies, and as yet unconsolidated democracies, must innovate as 'we' did before they can innovate as we ought. There are powerful echoes here with the arguments of John Stuart Mill in *Considerations on Representative Government* (1975), who argued that certain backward peoples were not yet ready for 'real' democracy (and even at 'home', plural voting should be employed to factor in differential degrees of readiness for active democratic citizenship). Powerful reminders too of the parochial nature of much deliberative theory despite the universal-sounding language of its proponents (in the literature, only Gutmann and Thompson (1996) explicitly acknowledge that they are writing about processes appropriate to one country, the US).

In sum, the surprising parochialism, assumed universality and assumed superiority of the 'deliberative model' feed into a highly inadequate account of legitimacy – an account that lies at the heart of the deliberationists' concerns. But that is not all.

Differential legitimacy

According to the deliberationists, political legitimacy is (above all) a product of deliberation. But what does it mean to 'deliberate'? Cohen writes that:

When properly conducted . . . democratic politics involves *public deliberation focused on the common good*, requires some form of *manifest equality* among citizens, and *shapes the identity and interests* of citizens in ways that contribute to the formation of a public conception of the common good.

(1989: 19)

This conception may represent an 'ideal', which we can only try to 'mirror' as best we can in real procedures. Presumably, 'fully legitimate' policy (or candidate

election) would result from an accurate mirroring of the ideal in practice. But how then do we account for less-than-fully legitimate outcomes, which are the product of less-than-ideal deliberative procedures or forums? On the presumption that no deliberative theorist would want to say that a real procedure that is more than a marginal deviation from the ideal results in clearly non-legitimate outcomes, we must be prepared to entertain the notion of differential degrees of legitimacy flowing from differing degrees of approximation of actual procedures to the ideal. But how many degrees, how many categories of semi-legitimacy, must we allow between the near-ideal and the wholly non-deliberative? Who is to decide?

The answer must be that it is a subjective matter, akin in some ways to efforts in democratic theory to pin down measures of preference intensity. Given its subjectivity, we can expect reasonable disagreement on the measures (even if we do not demand of them categorical precision; cf. Dryzek, this volume), raising major doubts about basic ideas of democratic legitimacy. And all that is premised upon a single dimension of degrees of differential approximation to the ideal. If, more realistically, we allow for multiple dimensions (as suggested in Cohen's remarks, quoted above), we find ourselves in even murkier depths. Consider: deliberation involves discussion, but what sort? Among how many people? On what range of issues must it be repeated? Over what time frame? Must opinions change? (How much appropriate deliberation took place in the long, slow-moving voting queues across South Africa in its first democratic elections in 1994?) Each question would have many answers, some 'better' and some 'worse' from a deliberative perspective. Tracing the potential variants from answers to one question to answers to the others will rapidly result in hundreds if not thousands of possibilities. Thus, on a realistic view, the deliberationist claims about democratic legitimacy descend into unworkable meaninglessness.

Siting deliberative democracy

Even there, I have set aside one crucial question: where does or should deliberation occur? Within this volume, we have discussions of deliberation in (among others): especially constructed micro-forums such as 'deliberative opinion polls' and citizens' juries (Fishkin and Luskin, Smith); supra-national committee networks (Eriksen); civil society broadly speaking (Rättilä); and associations (Herreros). For Rawls (1993), 'public reason' is best exercised by the Supreme Court. Others, such as Mansbridge (1996: 57) and Benhabib (1996a), evoke a broad 'public' sphere of 'protected enclaves' or 'subaltern counterpublics'. In the words of Mansbridge,

Interest groups, political parties, and social movements, as well as churches, workplaces, ad hoc political collectives, and consciousness-raising groups, provide different forms of protected enclaves, in which members legitimately consider in their deliberations not only what is good for the whole polity but what is good for themselves individually . . . and for their group.

(1996: 57)

Table 5.1 A typology of deliberative forums

<i>Deliberative forum</i>	<i>Formal</i>	<i>Informal</i>
<i>Representative</i>	A Parliament and linked institutions such as Select Committees; deliberative opinion polls linked to referendums or initiatives?	B Deliberative opinion polls which are not state-sponsored; citizens' juries; some 'focus groups'
<i>Non-representative</i>	C Supreme or High courts with constitution-interpreting functions; cabinets in appointive systems (e.g. US)	D Associations (state-sponsored or otherwise); political parties (state-funded or otherwise, especially in multi-party systems); 'protected enclaves'; 'subaltern counterpublics'; 'discursive designs'

Benhabib (1996a) also reminds us that traditional parliaments must be a key part of the picture. Most interestingly, Cohen goes part way down a similar route. In his earlier comments on deliberative democracy, Cohen cites publicly-funded political parties as the desirable potential forums for deliberative democracy in practice; parties, he contends,

can provide the more open-ended arenas needed to form and articulate the conceptions of the common good that provide the focus of political debate in a deliberative democracy. . . . The question is how we can best approximate the deliberative conception. And it is difficult to see how that is possible in the absence of strong parties, supported with public resources.

(Cohen 1989: 32)

Later, he writes how the use of public power to 'encourage the development of the right kinds of secondary association' could facilitate the creation of new 'deliberative arenas', or 'schools for deliberative democracy' (Cohen 1996: 110–13).

The issue of siting raises many fascinating theoretical and institutional issues. I confine myself here to comments that pertain to democratic legitimacy; if deliberation is to make a (the?) major contribution to political legitimacy, then the prominence and inclusiveness of the site(s) for deliberation are clearly vital. First, consider a simple typology of possibilities (see Table 5.1).

The formal or informal dimension concerns whether or not the forum has any constitutionally stipulated political function such that the outcomes from an institution's deliberations become, or must formally be taken into account in the making of, government policy. The representative or non-representative dimension concerns whether or not some plausible claim to be broadly representative of the wider population of the 'master' political community is tenable (in either elective or statistical terms).

Among more influential deliberative democrats, for example, Rawls sites deliberation in C, Fishkin primarily in B, and Cohen, Benhabib and Dryzek in D. Those who make the most expansive claims about political legitimacy site deliberative forums in Box D. But institutional designs in Box D are not decisive of the content of government policy and can make no significant claims to be representative of the wider community (unless via some democratically dubious claim of 'virtual representation'). To focus on Cohen's views, neither political parties nor secondary associations as sites for deliberation (focused on the public good, etc.) can possibly provide the level and depth of legitimating force the whole thrust of his theory requires. Parties are partial – they represent members' views, and are animated by sectional interests (one need not be an out-and-out Downsian to accept this). As far as I can see, the only type of political party that could in theory approach the role Cohen asks of it would be the single party in a one-party state; in the words of Julius Nyerere, '. . . where there is one party, and that party is identified with the nation as a whole, the foundations of democracy are firmer than they ever can be where you have two or more parties, each representing only a section of the community' (quoted in Nursey-Bray 1983: 105).

Much more should be said on this point, no doubt. However, I shall merely put the question: if deliberation is so vital to legitimacy, why not formalize it and put it on a representative basis? Surely any reasonable claim to legitimacy rests upon such moves. This is not to say that informal, societal deliberation is not a good thing; by and large, I do not see how it could be otherwise. However, despite the crucial nature of deliberation to democracy according to the model's advocates, the non-state is preferred to the state (Dryzek 1990) and the local and partial to the general (Barber 1984; Cohen 1989 and 1996). This in turn raises the key issue that leads us to the next section.

The undermining metaphor: a critique of Cohen

In my view, to put the point too bluntly, the foundations of the 'deliberative model' are in fact non-deliberative. I am not referring here to the temporal argument that any deliberative procedure must in practice have non-deliberative origins (see Michelman 1998) – I take that to be self-evident and uncontroversial. Rather, that a certain style of political theorizing – Rawlsian theorizing – provides both the unacknowledgeable architecture and the metaphorical force for the deliberative model. One upshot of this is that the deliberation that is general, inclusive, universal, equal, face-to-face, and the source of political legitimacy is only expressible as such because it is purely hypothetical, and it is so because the Rawlsian 'original position' (Rawls 1972) – apparently now an historical curiosity among theoretical devices, and downgraded in significance by Rawls himself (Rawls 1993) – lives on, all the more powerful for its being unsaid. Further, the basis of the definition of the original position in the Rawlsian idea of 'reflective equilibrium', and the closely linked notion of the 'four-stage sequence', provide further unacknowledged metaphors at the heart of the architecture of the

deliberative model which (respectively) (a) undermine claims that proper deliberation must be collective, and (b) highlight the intrinsic elitism and dislike of politics that characterize the 'deliberative model of democracy'. These are large claims, and I now turn to close examination of features of the influential work of Cohen in an effort to make good on them.

In his oft-cited essay 'Deliberation and Democratic Legitimacy' (1989), Cohen places at the core of his model of deliberative democracy the idea that people are 'committed' to deliberation: '. . . the aim of ideal deliberation is to secure agreement among all who are committed to free deliberation among equals . . .' (1989: 23); a commitment to deliberation 'carries with it a commitment to advance the common good and to respect individual autonomy' (1989: 23). Where does this commitment come from? Clearly it is crucial, since on the face of it those who are uncommitted stand in danger of playing no part in deliberative democratic procedures.

The answer is that it comes from a barely-disguised original position, in the form of a 'formal conception of deliberative democracy', whose explicit differentiation from the original position serves only to highlight its original-position-like qualities and status in Cohen's work.

Let us look in a little more detail at this argument. One way of cementing into place the commitment levels any fully deliberative democracy would require is to argue a motivational case: if people become accustomed to 'presenting reasons' in deliberative forums, then their commitment will be enhanced. If and when people feel more committed in this way, they will be less likely strategically to misrepresent their view in the deliberative forum (1989: 24). However, I suggest this particular argument depends on hope rather than conviction, and that it cannot do the work Cohen needs it to do for his strong view of commitment.

Accordingly, Cohen must fall back on his alternative (and main) argument for (universal) commitment. But this alternative argument assumes universal commitment merely by stipulating it. Cohen does this as part of his 'formal conception of deliberative democracy' – a spelling out of an 'intuitive ideal' of a deliberative association (1989: 21). In this formal conception, Cohen stipulates that the members of an association share 'a commitment to co-ordinating their activities within institutions that make deliberation possible and according to norms that they arrive at through their deliberation' (1989: 21).

What is the status and origin of this 'formal conception'? Consider: Cohen begins his piece by citing Rawls. Drawing the view that 'When properly conducted . . . democratic politics involves public deliberation focused on the common good, requires some form of manifest equality among citizens, and shapes the identity and interests of citizens in ways that contribute to the formation of a public conception of the common good' (1989: 19) from *A Theory of Justice*, Cohen endorses Rawls' 'informal' argument for ordering political institutions, which holds that as far as is feasible actual arrangements should 'mirror' the ideal conditions of the original position. He then appears to distance himself from this derivation of key features of deliberation from the original position. He writes that the three key features he gets from Rawls

comprise elements of an independent and expressly political ideal that is focused in the first instance on the appropriate conduct of public affairs – on, that is, the appropriate way of arriving at collective decisions. And to understand that ideal we ought not to proceed by seeking to ‘mirror’ ideal fairness in the fairness of political arrangements, but instead to proceed by seeking to mirror a system of ideal deliberation in social and political institutions.

(1989: 20)

In other words, this is not mirroring the arrangements of the original position, but rather mirroring a different, deliberatively democratic, ideal. My suggestion is that this move in the argument does not work – and it is important to see that it does not. By invoking Rawls and the original position, by deriving directly his key features of deliberation from Rawls, by talking within the theoretical mind-set of *A Theory of Justice* (‘mirroring’ of ‘ideals’ that are ‘intuitive’), by not specifying the status of his intuitive ideal except by immediate comparison with Rawls’s original position, by expecting that the very status of his construct as an intuitive ideal makes it theoretically compelling – Cohen betrays the origins of his ‘formal conception’. Further, the construction of the details of the formal conception gives the game away: it posits, for example, an ‘independent association’ that is to ‘continue into the indefinite future’ (you do not know your generation behind the veil of ignorance?); self-interest does not exist, or if it does it is wholly subsumed under common commitments; the parties recognize each other as equals. More broadly, the ideal deliberative model acts as a metaphor for the original position in its ‘nowhereness’, its face-to-face assumption, the ‘clean slate’ quality of what it must consider, the fact that people are ironed-out, bloodless and neutral, and that all people are ‘there’ nonetheless. In short, Cohen’s formal conception and the ideal deliberative procedure derived from it gain whatever theoretical power they have by invoking key features of the original position, by being presented in juxtaposition with the original position, and by doing the work of the original position. It is the original position, hypothetical, non-deliberative (all are the same, therefore all are one – the Rousseauian Lawgiver?) unless solitary-deliberative, and – above all – an escape from politics whether deliberative or otherwise.

Cohen’s deliberative model represents democratic theory in Rawlsian thrall. Rawls, via the device of the four-stage sequence, effectively rules important, constitutional, issues out of ordinary politics; Cohen appears to invert the four-stage sequence by placing a democratic ideal (the formal conception) in place of the original position, but as I have suggested he does not in fact do this. The architecture of the argument remains the same – the formal conception substituting for the original position. Therefore, Cohen (in line with the Rawlsian four-stage sequence) too leaves little space for ordinary citizens to get their hands dirty with difficult, important political questions. What is unsaid can be as eloquent as what is said; Cohen can hardly avoid the solitary deliberation of reflective equilibrium, though given the effort to distance himself from Rawlsian techniques it is perhaps not surprising that he leaves the status of his intuitive ideal floating, unsupported by some functional substitute for reflective equilibrium.

Why does this matter? First, it tells us that much of the supporting framework Cohen employs is non-deliberative – possibly anti-deliberative. Second, it vastly narrows the scope for deliberation, a point which (alongside those made earlier) sits very uncomfortably with the idea that deliberation is the source of legitimacy in politics. Third, it leaves Cohen with no real body which could possibly mirror his ideal – we cannot all meet and deliberate face-to-face – which helps to explain the hasty dive from the great heights of the theory to the advocacy of deliberation in political parties and secondary associations (see above). And fourth, if the foundations for ‘commitment’ are inadequate, it opens Cohen’s model to major charges of elitism, and anti-democracy: are the uncommitted – the unconvinced – to be excluded? On this point the mask rarely slips, but when it does it is revealing, as in an admission in Cohen’s later work: ‘Perhaps an ideal deliberative procedure is best institutionalized by ensuring well-conducted political debate among elites’ (1996: 107). Many of the considerations I have sought to sketch here point to the fact that if democratic theory is in Rawlsian thrall it stands in danger of undermining itself:

Rawls’s political interest is . . . reflected in the virtual absence of any discussion of democratic processes. He has less to say about the working of deliberative assemblies than he does about economic institutions and the agencies of the state that regulate them.

(Esquith and Peterson 1988: 322)

Further, as Walzer comments, this may be because the Rawlsian style is that of the ‘withdrawing and retiring’ philosopher. Particular people in particular democratic communities will – and will have the right to – decide on the uses of the philosopher’s systems. Walzer writes: ‘[t]he philosopher himself . . . is the only actual inhabitant of the ideal commonwealth, the only actual participant in the perfect meeting’ (1981: 389). To my mind, this describes at one and the same time both Rawls’s original position and Cohen’s ‘formal conception’².

Deliberative democracy and exclusion: the Schumpeterian question

As is well known, Schumpeter (1976) advocated a minimalist model of democracy; on his view, ordinary citizens so lacked a capacity for rationality and autonomous thought that, realistically, democracy could only mean elite rule and occasional choices among competing elites by citizens. A key charge thrown back at Schumpeterians has been: if the people are so irrational that it would be foolish and dangerous to have them participate politically more than the bare electoral minimum, how is it that they are worthy of having the vote at all? Ian Budge (1996, and this volume) reminds us eloquently that arguments against direct democracy – or, for present purposes, for less democracy – stand in danger of becoming arguments against democracy of any sort.

It is here that the final theme I wish to develop against deliberative models of

democracy comes in. The logic of these models is exclusive rather than democratically inclusive. Claus Offe (1997), in one of the most effective discussions of deliberation and democracy, expresses considerable concern about the exclusive implications of the deliberative model. He is prepared to accept arguments that we might discount people's preferences in democratic politics where those preferences would not serve the welfare of the people concerned. However, he argues, it is quite another thing to downgrade, exclude or ignore preferences because of their origins, rather than their content:

No doubt, as it is imprudent in terms of individual and collective welfare to pursue preferences that violate standards of welfare, government is free to ignore or to actively try to change such preferences. But is this also true regarding preferences which are quite neutral in terms of their welfare effects, but just happen to differ from those that disinterested and virtuous citizens might adopt as the outcome of a deliberative collective judgement? I doubt it. (1997: 98).

He goes on to argue that 'the division of the universe of human preferences into those that are "prepolitical" and those that originate from "citizens" in the fullest sense of the word' is both exclusive (anti-egalitarian) and arbitrary (1997: 98).

Just what do deliberative democrats propose to do with non-deliberative preferences – and to the political rights of those who persist in holding them? At a basic democratic level, if you exclude arguments you exclude people. Perhaps this is one reason deliberationists do not talk much about voting; they are not too keen on the idea that (mere, non-reflective, non-deliberative, prepolitical preference-based) votes should be decisive. But surely equal votes of equal value for equal citizens is a non-optional democratic baseline? Surely, too, because we cannot rely on a deliberative consensus, we must recognize that 'the everyday institutions of democratic rule such as voting are . . . the heart of democracy, for they define how the umpire operates' (Gaus 1997: 234)? And, contrary to the deliberationist thrust, it is voting that authorizes government composition and action (Przeworski 1998: 142).

Conclusion

Much more would need to be said fully to substantiate the critique offered here; to that extent my comments are suggestive. That said, the arguments do suggest that the 'deliberative model of democracy' has involved some careless, overblown claims about democratic legitimation; that core threads of that model rely on a metaphorical architecture which serves directly to undermine a range of core claims; and that (to say the least) advocates have paid insufficient attention to exclusivist, rather than democratically inclusive, implications of the model.

Perhaps the overarching point to be made in this context is that there is no such thing – there can be no such thing – as 'the deliberative model of democracy'. Deliberation, of a certain kind, is of course a desirable feature of a healthy,

functioning, dynamic democratic system. But such systems – to state what ought to be obvious – also require much more: constitutional structures; formal (and to some degree hierarchical) organizations; voting and other decision mechanisms that can be decisive in the last instance; and institutionalized equal respect for all citizens regardless of (for example) their willingness or even capacity to engage in deliberation or other distinctive forms of political participation. Does this mean that democratic decisions can be wrong, ill-informed, misguided, reflective of non-deliberative preferences? Of course. Perfectionist desires cannot make that fact go away. In the end, as Dahl says, democracy is a ‘gamble that a people, in acting autonomously, will learn to act rightly’ (Dahl 1989: 192).

One last point: surely a key response to deliberative concerns about ill-informed preferences lies in inclusive voter education, rather than in the elitist, exclusive threads of the ‘deliberative model’. Life-long learning, citizenship education in schools, new ‘enabling’ institutions, creative use of the media – these are some of the routes by which democracy might be brought to the people. I see no reason why, for example, the deliberative polls of Fishkin and Luskin (Chapter 1) should not play a part. Once we have set aside the ‘deliberative model of democracy’, we can begin to take seriously how structured deliberation between real citizens might be a revitalizing element of a more democratic future.

Notes

- 1 Key deliberationists are subject to the criticism that Sartori (1987) effectively aimed at ‘participatory democrats’ such as Peter Bachrach, namely the contrast of a real system (in our case, aggregative) with an ideal one (deliberative). The ideal will inevitably come out shining in any such contrast, less for its substantive superiority and more for the way the contrast is set up in the first place.
- 2 Clearly, this critique of Cohen only works as a critique of deliberative democracy more generally if Cohen’s approach is in key senses representative of the broader canon. Fishkin (1991, and this volume), for example, makes fewer claims about legitimacy, and so is less vulnerable to this critique. I would argue that Benhabib (1996a) is vulnerable, with her expansive claims about deliberation and legitimation. Though more would need to be said to substantiate these points, I hope to have shown at least that many deliberative democrats have a case to answer.