

NB. This paper is a first draft. Thanks for your patience. The full version is long (12,000 words) – to keep it shorter, I’ve cut out most notes and some parts of the main text, especially in Section 2, as signalled below.

## What is the point of democratic deliberation?

### 1. Introduction

My hope is that in answering the title question, we can answer a question that seems logically prior to it: what exactly democratic deliberation is, that is, what exactly distinguishes communication that counts as democratic deliberation from other kinds of activity. By getting clear on the point of democratic deliberation, we will get clear on the norms that define it: the norms which, if one’s communication falls under them, make it count as democratic deliberation. I think we will thereby also get clear on the nature of democratic citizenship. Just as we find out what a doctor or teacher is by getting clear on their point (one is a doctor or teacher iff one is governed by certain demanding norms, respect for which makes one serve health or education vocationally), we find out what a democratic citizen is by understanding democratic citizenship’s point - and deliberation is a central part of its point: to be a democratic citizen is to be governed by certain norms of deliberation which, if respected, constitute one and one’s fellow norm-respecters as an informed, self-legislating body, a free collective agent (Gould 1988, Rostboll 2015).

Really, my title should be ‘What is the point *necessarily served* by democratic deliberation?’. Forms of communication within a democracy – including those that count as deliberation, and many that do not (e.g. advertising, negotiation, education, exhortation, apology) – often contingently serve important ends: they help voters form more true beliefs about empirical and moral matters, resulting in better decisions at the ballot box (Condorcet in Goodin & Spiekermann 2018); they establish particular positions as salient coordination points to solve group action problems; they alert voters to rights violations (Sen 2001). Often communications within a democracy serve these ends. But sometimes they do not (compare Pevnik 2019). When they do not, they fail to serve ends which give an instrumental point to permitting, promoting or engaging in such communications. In such a situation, can communications within a democracy nonetheless be justified on democratic grounds, despite the communications’ failing instrumentally to serve the goals listed? *Permitting* such communications might well be justifiable on human rights grounds to do with freedom of communication; but this is to permit such communications *despite* their conflicting with democratic values. When communication does not serve the kind of epistemic ends outlined, can it nonetheless be defended as necessary for democratic legitimacy? I argue that sometimes – when it counts as democratic deliberation – it can.

Approaches to democracy based purely on the value of *equality* (Christiano 2008) famously struggle to explain why majoritarian voting should be favoured over lottery voting or a coin toss (Estlund 2008). I think these struggle even more to explain on non-instrumental grounds why *deliberation* – within an open public sphere – is necessary for democratic legitimacy. Yet it seems clear that simple voting, without any open public deliberation in advance, is not genuinely democratic, and that governments or policies chosen in this way lack legitimacy securable by voting following open deliberation. (Compare Soviet voting or the voting in what the Democracy Index calls ‘flawed democracies’ – *some* legitimacy is secured by the

vote but significantly more would be secured if open deliberation had happened.) Why? If we overlook its contingent instrumental value, why is deliberation needed for democratic legitimacy?

## 2. Democratic deliberation's epistemic point

I think democratic deliberation plays two necessary valuable roles: (1) in the current section I argue that deliberation is epistemically necessary for collective decision-making; (2) in section 3, I argue that deliberation is non-instrumentally necessary in order to constitute democratic participants' decisions as autonomous, collective self-legislating decisions – as free decisions in the group context.

**[CUT paragraphs arguing that deliberation is necessary for a collective decision to count as minimally based on evidence and hence a real decision rather than a pseudo-choice. Along the way I argue against civility as a norm on deliberation, and argue for norms of honesty, openness and a Shared Reason norm (repeated on p. 6 below).]**

But why think that deliberation governed by the just-listed norms of coherence, honesty and openness, involving putting forward claims about what should be equally the proposer's and the recipient's reason, constitutes *the bringing to bear of relevant available evidence*? Suppose I am utterly confident in the truth and relevance of a controversial piece of evidence. Wouldn't everyone's decision be more informed (and hence enforcing the decision be more legitimate) if I manipulated them, hiding countervailing considerations, employing charismatic 'thought leaders' on my view's behalf (John 2018)? Perhaps it won't count as deliberation if I do this, but won't it still make for greater legitimacy – at least along the *epistemic* dimension (no. 1)? Here I find the analogy with individual reasoning illuminating. Even if I am utterly confident that one of my beliefs is true, and is of central relevance to my decision, I still shouldn't hide myself from countervailing considerations, or trick myself into ignoring them, or let one part of myself take charge of other parts rather than bringing all parts into harmony (insofar as this is possible). The case for manipulating oneself emerges only in scenarios in which the beliefs that I know are relevant are somehow vulnerable to being overlooked on arational grounds (bias, wishful thinking etc). Without such arational factors around (that is, in scenarios where I am unbiased etc), I should stay open to as many of my relevant beliefs as possible, if I want to make a well-informed decision. The same is true in the collective scenario, where deliberation constitutes the collective as well informed.

But even if this is plausible, why is it true? In particular, why does a group's or an individual's being well-informed, attentive to relevant evidence/reasons, require that its internal deliberative proposals offer reasons that *both* the proposer and any recipient could equally take as *their* reasons for belief, feeling or action? Why can't one part of a decision-maker manipulate or trick other parts into attending to evidence/reasons? Isn't this still attention to evidence/reasons? Perhaps it is, *if the trick is common knowledge*, as in cases where we consciously manipulate ourselves to overcome bias. But if it is a concealed trick or manipulation, then some relevant evidence/reason has been concealed: the fact of the trick or the manipulation. (And note that in a large disparate group without authority structures – like 'citizens' – it will often be hard to participate in a successfully manipulative or tricking way while at the same time making the fact of the trick common knowledge.) Evidence of such tricks or manipulation is, I propose, necessarily relevant to decisions they affect. That is why, even before we get to considerations of freedom (Section 3 below), decision-making requires

open deliberation in which participants put forward proposals as both their own and their recipients' reasons. Anything else keeps some relevant evidence/reasons out of the picture.

But we might still ask why. Knowing that some reasons have been concealed is often contingently instrumentally useful: it involves finding out evidence or reasons that might have swung one's beliefs, feelings, or decisions in a different direction. But I claim that access to intentionally concealed factors is *necessarily* relevant to collective decision on a given issue, when the concealment would otherwise prevent speaker and recipient believing, acting or feeling for the same reasons (and when this is not itself known and justified). Underpinning this, I suggest, is a notion of 'common human reason': the idea that whatever *your* concealed reasons are (and your reasons for concealing them) could in principle count as reasons *for me* as recipient of the partial or manipulative claim – but I have been denied access to them. This is not to say that every reason must be a reason for everyone (Duff 2011, p. 358). It is just that any reason for a given person could *in principle, in the right context*, be a reason for anyone else. That is enough to make intentionally concealed reasons necessarily relevant to those from whom they are concealed: what extra do you know about the partial reasons you are presenting, that stops them being your reason to do PHI or alters your attitude to PHI – given our 'common human reason', wouldn't access to those extra factors quite possibly stop it being my reason to PHI too? Whatever your reasons are for concealing the reason in question are – just by being your reasons for concealment – necessarily factors that could be relevant to my part in our decision, given our common human reason and the absence of justified authority structures.

**[CUT paragraphs arguing that deliberation constitutes the collective's attention to evidence, rather than simply being a necessary means for such attention]**

### **3. Democratic deliberation's role in constituting collective autonomy**

In this section, I argue (a) that democratic deliberation is an activity that, if done well, results in its participants collectively acting on the basis of genuine normative reasons: that is, successful democratic deliberation results in the collective's motivating reasons being genuine normative reasons, which have been chosen autonomously rather than forced on it. (b) I also argue that even if done badly or unluckily, democratic deliberation constitutes the collective as autonomously acting on 'its' reasons rather than others'.

Initially, one might wonder why autonomy requires deliberation or voting, or indeed anything democratic. One might think that my autonomy will be secured in any state that respects fundamental individual rights, including the right to choose my own profession, pursue my own religion, associate with (and love) whom I want. Non-democratic states could, in appropriate contingent circumstances, robustly protect these freedoms that are sufficient to enable me to act on my own reasons rather than others' reasons unendorsed by me.

The shortcomings of non-democratic liberalism, in terms of its failure to respect autonomy, are outlined by Rostboll, in highlighting the implications of the fact that law and government are human creations:

It is fundamental to freedom not merely to respect citizens' moral personality as autonomous beings seen as subject to law, but to respect them as capable of being the *actual* authors of the laws they live under. When citizens regard the principles that are

binding on them as the product of collective self-legislation, then they award each other a certain standing; they respect the status of each as co-author of common principles (2015, p. 273).

He goes on:

If we accept that citizens act on each other through the government [because the government is not a natural fact of the world independent of human agency], we need to consider what is required for this interaction to respect their autonomy. For this, we need more than the negative idea of not having another person as a master. I propose the idea of treating others as deliberating agents who can jointly decide for themselves rather than being decided for by others, as a candidate in the same spirit as not having another person as a master, even if it is not directly implied by the latter. (Rostboll p. 273).

What is the relevant idea of *joint decision based on deliberation* here? It cannot be the kind of decision made by a ‘corporate group’ with a life independent of its members, and an established authority structure – even though many see these as the only kinds of group capable of autonomous decision-making (List & Pettit 2011, p. 8). For no necessary value attaches to the interests or freedom of a group of this corporate type in itself – so there is no necessary reason to respect its autonomy (though there might sometimes be instrumental reasons to do so: for example, we have strong instrumental reasons to respect the autonomy of such group agents as states and market businesses). Furthermore, such a structured group is like a problematically self-dominating or pathological individual: one part of them is in charge of the rest. We don’t want this for ourselves as individuals (Laden 2012). Similarly, we don’t want this for citizens, where instead we want each part to be able to have equal say. As Raz notes with his idea of exclusionary reasons, corporate and authority structures require that some factors be hidden or overlooked in deliberation: that is part of what practical authority consists in (Raz 1975). In the context of democratic deliberation, where citizens make the fundamental decisions that will establish such authority structures or tell such established structures what to do, there should be no prior practical authorities and thus the democratic citizenry in its fundamental formation cannot be structured like a corporate group. This is not to deny the value of authority: exclusionary reasons are often very useful. They also constitute our fundamental rights. But, aside from the latter, they cannot structure relations between citizens in deliberation. The only justification for their doing so would be if there were natural pre-political practical authority structures, which there are not. Instead, the only reasons, if any, which citizens should exclude from their deliberations are those which they are told to exclude by others’ rights and duties.

If autonomously building our own laws is not a matter of a corporate group exercising autonomy through established control structures, is it instead a matter of each individual autonomously building the law on their own? Clearly not. For moral reasons no individual should be able to do this on their own even if they could, as it would involve dominating everyone else.

The two models just mentioned - a corporately structured group or an individual choosing for themselves on their own - suit a model of autonomy in which a decision springs primarily from a chooser’s true self rather than from distracting factors such as external power or internal uncontrolled desires etc (Frankfurt 1971, Wolf 1990). But the collective of citizens is, in its fundamental moral formation, simply a collective and has no true self beyond the

highly disparate members that make it up. So the model of autonomy we need for this unstructured group is not that of action conducted by a true self – a model which, incidentally, runs into trouble even for such seemingly uncontroversial ‘selves’ as a particular individual – but rather the negative one of a decision made without being caused by external power (where this might include internal passions). Of course, simply being uncaused by external power is not enough to make a decision autonomous. Trees allowed to grow unconstrained are not autonomous, nor are water wheels that run freely (compare Kant’s concern about theories of free will that deliver only the ‘freedom of a turnspit’ 1788, 5: 96). The negative model needs a further component: the idea of causation by reasons alone. This form of autonomy is attainable even by an unstructured collective, so long as it engages in deliberation before deciding. If the decision - reached via some decision procedure such as a vote – is truly caused by or reflective of the deliberation, where this means it is caused by the reasons and reasoning process constituting the deliberation, then it is an autonomous decision. It is an autonomous decision even if the reasons causing it are not genuine normative reasons, but simply believed to be such (what are sometimes called ‘motivating’ reasons). Just as an individual is autonomous when her actions are caused by her reasons and not by independent factors, so an unstructured collective is similarly autonomous when its actions are caused by its reasons - as revealed or constituted by deliberation.<sup>1</sup>

Is this a romanticisation of reason? No. Normative reasons are simply facts (including evaluative facts) relevant to a decision (or belief or emotion). ‘Relevant to’ in the sense of resulting in a decision that serves or respects or responds rightly to what is objectively important or valuable. Motivating reasons are what the agent believes to be normative reasons, and that cause her action. The distinction between decisions based on such things, and decisions based on power or on unassessed or unendorsed desire is a real distinction. (Or if it is not, then we can give up on autonomy.)

We could try to ensure an unhierarchical collective acts on its reasons by introducing a unanimity requirement, rather than seeing open deliberation as sufficient. A simple unanimity requirement aimed at ensuring all decisions are autonomously chosen by each individually would give a veto to unreasoned contributions that should not be respected. But what about a *deliberative* unanimity requirement? That is, a requirement that any group action not be dissented from for reasons that themselves qualify as appropriately deliberative and open? I return to this idea, in discussing when an outvoted minority should respect a majority decision - which in my view, is when the decision follows genuine open democratic deliberation, and is itself open to continued deliberation.

Instead of insisting on unanimity, the picture I favour says that deliberation constitutes the collective’s reason, and when - following a voting procedure - that deliberation is acted on, the collective is acting on its own reason as its cause, and hence acts autonomously. It is only reasons for action, of course, that require action from the collective. Reasons to believe or feel can and should be subject to deliberation, but - except insofar as this bears on action (which it often does) - there is nothing beyond deliberation needed for the collective to qualify as believing or feeling autonomously. But to qualify as acting autonomously, the collective needs to have reasons on which it acts. My suggestion is that a process of

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<sup>1</sup> Because motivating reasons are thought-to-be-normative reasons, this picture only makes sense if there really can be reasons for relatively unstructured (but communicating) collectives to act. And if there can be such reasons, I would think there can also be duties for unstructured collectives. Many dispute this (Collins 2019).

deliberation that respects the Shared Reasons Norm, plus a Response Norm, will necessarily constitute the collective's reasons. This approach identifies a collective's reasons with the reasons at play in a process that relates individuals to each other, rather than with beliefs in the minds of these individuals: the dialogic process of deliberation. On this approach, public debate is analogous to individual conscious attention: it is the collective's attention. Just as the executive, attentive part of an individual does not have its own desires separate from or in conflict with those of other parts of the individual (except in pathological cases), so deliberation does not involve a distinct executive with its own concerns.

I will here restate **[from the cut section]** the:

Shared Reason Norm: in offering reasons (for those with whom one deliberates) to believe, feel or act a certain way, the offeror must offer broadly the same reasons on the basis of which they themselves will believe, feel or act – *ceteris paribus*. The offer should be an invitation for both parties (offeror and offerees) to believe, feel or act on the same basis.

And I add a:

Response Norm: Laden offers three types of case in which it is appropriate for me to reject reasons offered to me in deliberation:<sup>2</sup>

- (a) the reasons do not fit cogently with the other reasons I take us to share
- (b) the reasons were not offered as part of the activity of reasoning (eg. they offer no room for criticism, or were offered without any concern for uptake, or were offered as a command)
- (c) taking up your proposal will undermine my ability to treat other things offered to me as reasons in future (Laden 2012, p. 206).

For our purposes, (a) and (c) are the interesting cases. Scenarios in which (b) holds will not count as deliberation. But (a) and (c) will, so long as the rejection of a proposal on the basis of (a) or (c) is explained publicly - by someone, not necessarily the rejector - to its proposer. I would add:

- (d) duty to take up your proposal if I judge it to be a good reason for us (to base our act, belief or feeling on), in light of what else I believe (including evaluative beliefs and epistemic/moral norms to which I am committed).

The Shared Reason Norm along with (a) and (d) means that over time we might – if normative reasons were monistic, and our ‘faculty of human reason’ could be relied upon to track them – approach unanimity as our evidence base expands. But they aren’t and it can’t. Again here the analogy with the individual is close: normative reasons’ plurality, our changing evidence, and our not-wholly-reliable faculty of reason means that even an individual will rarely speak in a single voice their whole life long – will rarely be committed to the same motivating reasons over time. So we cannot expect unanimity from several individuals at one time. Deliberation is not a means to unanimity; rather, it constitutes the group knowing its mind. This is not the case if the group’s internal communications are primarily strategic interactions in which particular reasons are hidden.

I have just outlined some norms on communication which, I suggest, partially constitute it as democratic deliberation. In addition to the Shared Reason Norm and the Response Norm, I implicitly appealed to a Publicity Norm, and the invitation idea in the Shared Reason Norm we can take to entail a ‘No Command’ Norm. I am tempted to argue that we can get a lot of

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<sup>2</sup> He actually offers four, but two are captured in (b).

norms, including ‘publicity’ and ‘no command’ ones, from the Shared Reason Norm. The basis for all of these norms should be that they specify the kind of activity which, if governed by such norms – and if largely if not entirely respectful of them – will constitute the reasons for action, belief, and feeling, seen by individual members, as the reasons *of* an unstructured collective made up of those members. Communication governed by these norms is deliberation.

Now of course if each member of a collective individually took up one of their participants’ proposals for a shared reason, then the reason would be unanimously shared and in that sense it would be the collective’s reason. But often, this is not going to happen.<sup>3</sup> When a given reason is not unanimously adopted, why do I say that its involvement in the deliberative process will nonetheless constitute it as part of the collective’s reason? My thought is that the collective’s reason *just is* the deliberative process: this process or activity is the collective’s beliefs. Individuals’ beliefs, including with conflicting content, will be part of this process. The norm-structured inclusion and assessment-by-members of these beliefs is all there is to the collective’s having reason.

I don’t mean this too literally: a collective is different from an individual. But I present this as an attractive model of what self-government as opposed to government by another is in the collective context. Other models might be possible, but it is hard to see how any could give such a central place to each individual’s reason as an actual cause of the collective’s action. Deciding by coin toss (e.g. a weighted coin or weighted lottery reflecting the number of proponents for each view) would leave many people’s reasons out as not an actual cause (because defeated in the lottery). Natural authority would be even worse, always leaving some out. What is especially good about the deliberative model is that even those reasons that are not acted on are nonetheless in a sense acted on: they play a causal role in the deliberation from which the action emerges. And it is not just any old random causal role (we could imagine a tyrant making sure that she laughs at the opposition’s proposals before acting - that would be some sort of causal role for the alternative views). Instead, it is a causal role in a process governed by our common, open and inclusive human reason, and not by authority relations. My reason, even if in a minority, has been given not just ‘a chance’ (it has ‘a chance’ in a shouting match, a set of rival misleading advertising campaigns, or a lottery), but a chance *within everyone’s reasoning*: it has been heard by and responded to by each with their faculty of ‘common human reason’.<sup>4</sup>

I am not saying that the autonomy that this delivers for the collective is the autonomy of a corporate group (I have mentioned this before but it bears repeating). Nor have I said that it is the autonomy of each individual: if I am in a minority, then my proposal will end up overridden by someone else’s, and my life will be governed by the majority’s view of what reason requires in this case, not mine. My claim is that there is nonetheless a distinctive form of autonomy involved in, and only in, decisions made following deliberation. This is the autonomy of the collective of which I am part, and even if I am in a minority I am still more autonomous individually in virtue of my collective’s being autonomous than I would be if deliberation had not taken place and the collective of which I am a part was therefore not autonomous. My reason’s defeat only by the Habermasian ‘unforced force’ of others’ reasons

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<sup>3</sup> Note, however, there are some such shared reasons: unanimous moral, mathematical and logical convictions - including some that cannot really be rejected even if one claims to reject them.

<sup>4</sup> Deliberation is also necessary for the self-consciousness required for the kind of reflexive intention involved in the exercise (even by a collective) of a normative power (Chang 2020).

is central to this. If it had been defeated by their interests or their power, then I really would not be autonomous.

This is autonomy in the group context. It is tempting to say it is the ‘closest we can get’ to such autonomy, but this might suggest contingent impediments to something closer - perhaps unanimity. I doubt these impediments are contingent in an interesting sense – cf. Rawls’s ‘fact of reasonable pluralism’ (1996).

I have argued that deliberation is necessary if the decision-making of an unstructured collective (one with no justified pre-deliberation authority relations) is to fulfil two conditions: (1) being minimally informed, so that its members attend to (what they take to be) the reasons bearing on how they as a collective should act, and (2) autonomous, so that its members act on these reasons rather than factors that are not the collective’s reasons (such as individual interests and powers). Without deliberation governed by the norms outlined, a collective’s members have necessarily failed collectively to consider the reasons on which they should act, and are hence unable as a collective to act on them. Even if a non-deliberating collective is led by some well-informed majority and does what its reasons require of it (e.g. imagine a wise but non-deliberating majority forcing through appropriate measures to tackle climate change without debate), the collective as a whole will not have attended to its reasons, nor acted on them. The majority will have acted on what it takes to be the collective’s reasons, but the action of the collective as a whole will have been caused by the power of the majority, rather than by the reasons of that collective as a whole. (But, as the example shows, collective autonomy and the legitimacy it secures is not everything. In extreme scenarios, less-than-fully legitimate solutions might be justified.)

#### **4. Outvoted people**

Suppose deliberation has taken place in accordance with the norms outlined: parties have honestly proposed as reasons for others to think, feel or act the very reasons that they themselves believe they should think, feel or act on with others; and parties have openly taken up such proposals when they judge them to give the reasons on which they should think, feel or act with others. Suppose that following this open process a vote has been held, and I find myself in the minority. Voting has favoured the wrong action in my view. Unlike in the case of belief and feeling, I cannot just stick with my own action: sometimes we need collective action and the collective will force me to play my part. The collective will go ahead and act against my view of what to do. In this imagined ideal scenario, the action will not ‘draw a line under the issue’ - so the issue will remain open to revision, unless this is impossible to avoid. (For example, Brexit remains open to revision; a decision to do nothing about climate change might not be open to revision.)

What should my attitude be to this decision? I have argued that in this scenario, because of the deliberation, the decision qualifies as collectively informed, and as collectively autonomous. But can I really see the majority’s forcing me to go along with its will, against my judgement on what we should do, as my own autonomous action? What magic has deliberation performed to make this the case? And is this the same magic that generates a ‘political obligation’, justifying my going along with the chosen proposal?

Often in such a case, I think that I will actually suspect that the norms of deliberation have been violated: either by me (perhaps I did not do enough to put my case in the public forum),

or by others (who should have been more persuaded, or who engaged in strategic power play or manipulation). But sometimes we can envisage a scenario in which we are confident deliberation has taken place according to the norms, and yet we end up in a minority. For example, suppose the majority holds some religious outlook that transforms their view relative to mine (and is nonetheless compatible with the inclusive equal deliberative participation required by the norms). In this scenario, in what sense does my outvotedly going along with the majority qualify as autonomous, or possibly even a ‘political obligation’?

First, we should remember that we are not saying that this is individual autonomy for me. That would require something different: that I act on my true self’s reasons. In the collective context, this will often not be possible. Instead, the key is the thought that my fellows’ choice deserves respect because it was based on reasoned deliberation in which I and each of them held status as equal reasoner and equal voter (i.e. equal determiner). The norms of deliberation ensure that each of us was deciding on the basis that each had something to offer as a common human reasoner, on fundamentally equal terms. Those with whom I disagree would have respected the choice on the same basis if it went my way.

Now, a vote without prior deliberation or any other discussion should perhaps still count as something that I should respect, out of respect for my peers as equal choosers. (I don’t think this holds for votes preceded by manipulation or power play: I might have prudential reason to go along with them, but not reason – or less reason – based on respect for my peers as equal choosers. But equal voting unpreceded by manipulation, but equally unpreceded by deliberation, does deserve respect out of respect for my peers.) But pure equal voting without deliberation beforehand has given nobody the chance to bring their own reasoning to bear on the reasoning of others. As noted earlier, outvoted purported reasons will have played no causal role in the decision-making (except the hypothetical role of things that would have been acted on if the vote had gone the other way). By contrast, deliberation ensures that outvoted purported reasons have played their distinctive role as *considerations bearing on the choice, considered as reasons with weight and inferential relations to other things people believe* in the thinking of everyone, including the majority who was unpersuaded. This, I suggest, does make my going along with the majority more autonomous, but only in the precise sense of ‘autonomy in the collective context’: the decision in which I am playing my part was not a result of power play or the overlooking of important factors, but simply the result of my peers’ common human reason, operating on factors *that include my contribution*, but with different experiences and different reasoning principles brought to bear, taking them a different way from mine. Respect for my fellows as common human reasoners working with my contribution and theirs is ultimately what generates the political obligation here, and makes my action in the relevant sense autonomous. (Note again that ‘my reason’ can play its part in the public sphere without *my* introducing, articulating and defending it, so long as someone – perhaps a media organisation – does this.)

But I suspect that most real cases in which people find themselves in a minority are not like this. Misleading political advertising, and our long human history of violations and injustice, mean that a failure to live up to the norms of deliberation is the common case. What attitude should minority voters have then? This is a topic for a different paper. But it is worth pointing out now that none of what I have said should be taken to make strategic, negotiated, or force-based contributions to the public sphere unjustified. If one has suffered oppression or injustice, this is often enough to entail that the actions resulting in such oppression and injustice were generated by decisions that failed to live up to the deliberative standards. (Not always: minor injustice – e.g. underfunding higher education – can be endorsed by open

deliberation in a legitimating way.) And even independently of these standards, oppressive unjust policies clearly failed further standards which already licence or require their victims not to adopt the behaviour of ideal circumstances.

## 5. Common Human Reason

Suppose you make a proposal in the public sphere – perhaps you argue in favour of voting ‘Remain’, on the basis of the importance of international fellow-feeling – and I respond entirely randomly: your proposal leads me to adopt the belief that duck eggs have red yolks, say. Perhaps on this basis I then advance an alternative proposal, again entirely randomly, caused by but rationally unrelated to the prior discussion: e.g. a proposal for a new transparent flag to be flown on Tuesdays, in recognition of the size of the moon. I genuinely think I am respecting the norms outlined earlier: the Shared Reason Norm and Appropriate Response Norm. It might well be that in a literal sense I really am respecting these norms: my flag proposal invites everyone to adopt it on the basis of the merits of the moon-size reason I offer, independently of strategic individual prudential considerations. And my duck egg belief reflects my considered judgement in response to your proposal about Remain. Nonetheless, if most of our interactions were like this then our collective decisions would not be minimally well-informed, and you would not be achieving autonomy in the collective context. Neither would I.

The example reveals that respect for the norms outlined is insufficient to make a collective decision well informed, and to secure its members’ autonomy in the collective context. Such goods also require that participants respond in some sense ‘rationally’ or ‘appropriately’ to each other’s proposals, and indeed to their own beliefs, feelings and actions. Only then will the individual’s own proposal have played the distinctive role of *a reason* within the deliberation. The example reveals that to play this role, the proposal or purported reason must do more than have a causal relationship to outcomes. As the literature on “reasons as causes” affirms, it must have the right sort of relationship: a rational one. Otherwise, the resulting action will not be based on thinking in which that reason figures *as a reason*, and hence will be neither informed by that reason, nor allow the reason’s proposer to regard the relevant action as autonomously responsive to their contribution.

What *exactly* it means for a contribution to be treated as a reason is beyond the scope of this paper, but there are some things to say. First, we should resist the view that there is a universal and precise canon of ‘human reason’, comprising many specific principles that must be respected, if a response to a proposal is to treat it as a reason. There might be some principles of inference to which any human must subscribe if they are to count as having the faculty of reason: perhaps something like modus ponens and universal instantiation. Or perhaps the principles listed by Skorupski (2010). But we should be open to the possibility of radical variation in reasoning principles, all of which nonetheless qualify as exercises of reason. Still, we do need some very broad way of drawing the distinction between reasoned and unreasoned responses to proposals, in order to explain why the duck egg example above does not qualify as reasoning. And we then need to add the claim that most people *will* qualify as reasoning when they operate in the public sphere according to the Shared Reasons Norm and the Response Norm. That is, we need to assume that most deliberation by most people within the public sphere, no matter how different and disparate they are, will qualify as reasoned according to whatever the relevant broad account of ‘common human reason’ is. This underpins the possibility of autonomy in the collective context.

[CUT recap]

## 6. Public justification and public reason approaches

I have argued that some legitimacy is conferred on a decision made by vote following democratic deliberation. Such deliberation necessarily makes the decision qualify as minimally well-informed and autonomous. Without deliberation - but, for example, with more strategic negotiation or manipulation<sup>5</sup> - the decision will not result from a process in which each agent's reason for the group to make a decision was able to play its distinctive role as *a reason* within reasoning from which the decision emerged. Instead, some reasons will have been hidden or unresponded to. For example, in a negotiation reasons proposed by a weaker party will potentially have not received full consideration simply due to the party's weakness, rather than being considered as possible reasons on their own merits.

An outvoted citizen has reason to respect the majority decision following *deliberation* because the decision reflects her peers' use of 'our common human reason' in assessing her proposed reason and everyone else's on their own merits as reasons for belief, feeling, or action – and the decision was therefore collectively autonomous. We should respect our peers' judgement as a way of respecting them as human reasoners - so long as we have all really engaged in deliberation (if not, then we have not all been respecting each other as reasoners working together).

This picture is similar to but also distinct from public justification and public reason approaches. I take these approaches to maintain that the use of force is legitimate only when it is justifiable to those over whom it is exercised on the basis of reasons that in some sense they could endorse. In the Stanford Encyclopedia of Philosophy, there are two relevant entries. On 'public reason', Quong writes:

Public reason does not aim either at consent or truth. Public reason instead requires that our moral or political principles be justifiable to, or reasonably acceptable to, all those persons to whom the principles are meant to apply. An account of public reason must find some way of giving the perspective of individual persons a significant role, without allowing this to collapse into consent: public reason is not simply a way of identifying those principles to which people already consent. But equally, public reason must not define those principles that could be justified to, or be acceptable to, each person as simply those principles that are true. In either case, the idea of public reason would do no independent work.

And on 'public justification', Vallier writes:

*The Public Justification Principle (PJP)*: A coercive law  $L$  is justified in a public  $P$  if and only if each member  $i$  of  $P$  has sufficient reason(s)  $R_i$  to endorse  $L$ .

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<sup>5</sup> There is a kind of negotiation that satisfies the norms I have given for deliberation: a kind in which each party presents their own individual interests as reasons for action, but also presents higher-order reasons for all the parties together to do something joint, namely reach a compromise. When this negotiation form proceeds without anything being hidden or manipulated, I am happy to see it as qualifying as deliberation.

Both these quotations show an interestingly isolated, passive picture of the individual: they require that reason be *given* to ‘each member’, reflecting ‘the perspective of individual persons’. And this gets fleshed out in a content-related way: each person has to be given a reason that in some sense they either do or could endorse, from their own background. This is different to the importance of deliberation as a process or activity in my approach. There are two key differences: (1) A public reason standard typically focuses on the citizen’s reasoning as passive and hypothetical, requiring that laws or policies be *justifiable to* them if they are to meet the standard - whereas my approach highlights the citizen as actually (non-hypothetically) active, in the sense that to qualify as autonomous in the collective context, the citizen’s own reasons need to have been actually active in the process of deliberation, even if these reasons were proposed by other people who gave the relevant citizen a voice. (2) The public reason approach requires policies to be justified by a *narrower* canon of reason than the principles of common human reasoning that characterise deliberation on my approach: some reasoning that I allow to qualify as ‘our common human reason’ will not ‘be public reasoning’, for example if it is based on metaphysical or theological premises. Two further differences are (3) Rawls’s claim that a public reason standard applies only to deliberation about constitutional essentials (Peter 2009, p. 98) – in what follows, I consider this standard for ordinary political decisions as well as constitutional essentials. (4) Vallier presents public justification as specifically concerned to justify the use of *force* in upholding a decision - so far my discussion has been broader: I have argued that deliberation can give an outvoted person reason to go along with a decision, but I have not yet clarified whether this includes permission for others to force the relevant person to go along with it.

To satisfy a public justification standard, a decision, principle or policy has to be in some sense related to my own background and concerns, without having to be endorsed by me. And the same has to be true of its relation to most other people’s background and concerns. There are different conceptions of this relation (Vallier mentions intelligibility, accessibility and shared reasons standards) and I will not adjudicate between them here. How does the fact that a decision, principle or policy is publicly justifiable confer legitimacy on it? One answer is this: because the decision, principle or policy is supported by reasons that are connected in the relevant way to my own background and concerns, this legitimates enforcing the decision, principle or policy on me. Another answer highlights the collective rather than individual aspect of public reason: because the decision, principle or policy is supported by reasons that are in the relevant way connected to *everyone’s* own background and concerns (including mine), this legitimates enforcing the decision, principle or policy on us all.

I do not dispute either of these claims. It seems to me that when a decision or principle satisfies a public reason or justification standard, this does confer some legitimacy on its enforcement. Instead of questioning this, I claim that this is just one possible source of legitimacy among others. The epistemic and autonomy-based virtues of deliberation-before-voting, outlined earlier, are an alternative source of legitimacy. And no one of these sources is either necessary or sufficient on its own in all contexts to legitimate the use of force. This is important partly because the public justification approach is problematically exclusionary, while deliberation-conferred legitimacy is not.

Before defending that last claim about public justification’s exclusionariness, let’s consider again the position of the outvoted person. Suppose a new law is adopted, which I voted against. Suppose that the relevant law has been adopted following open deliberation of the kind outlined in this paper, deliberation in which I (or others) offered my own reasons for us all to reject the law, reasons which were considered by everyone on their own merits

independently of my or anyone else's power. Suppose, furthermore, that the law is not one that satisfies a 'public reason' standard relative to me: given my distinct perspective and background, the law is not in the relevant sense 'justifiable to' me. (Perhaps the law is grounded in a religious conception of the good life which I reject.) What should we say about this scenario? I propose that in such a scenario, so long as the law meets minimum standards of justice, the fact that it emerged from a process of open deliberation in which my own reasons were considered by others' reason – combined with the fact that we need to make a joint decision here – give me some reason to go along with the decision. Despite the fact that I have been outvoted, my reasons have had their day in the court of our 'common human reason' about what we should do, and respect for my fellow voters gives me some reason to accept and obey the new law.

Do we still need a public justification criterion to justify *enforcing* the decision on me? Perhaps, but this is not specifically because of some special importance attaching to public justification. It is rather that we need as many subject-focused legitimating factors as possible to justify force. Justifying forcing someone to go along with a democratic choice is much harder than simply justifying that person's own decision to go along with the policy. Such force needs as much subject-focused support as we can give it. By 'subject-focused', I mean a reason to use force on someone that does not advert simply to what this force does for others beyond the person subject to it. Reasons based solely on the serving of others would use the force-subjected person as a 'mere means' for the relevant others. Instead, justifications for using force must focus at least in part on the person who is subject to the force. Public reason approaches do this, by justifying force as justifiable in a manner connected to the enforced person's own reasons. But public reason approaches are just one way to justify force in a subject-focused manner. We could alternatively use paternalistic justifications, in which force is used for the *good* of the person subject to it. Or - importantly - the approach sketched in this paper is also subject-focused: the use of force on someone is justified by the fact that that very person's reason played an actual role via the deliberative process in the decision to use force. (This is true even if the person opposed the decision to use force: their reason still played an actual causal role as a reason in deliberation from which the decision emerged.) So: public justification is one subject-focused factor that can help support the use of force, but so is the autonomy conferred by the deliberative participation that I have outlined. So, furthermore, are other more instrumental considerations (e.g. Hobbesian worries about the terrible results for everyone of freedom uncoordinated by force). Public reason or justification is a factor here, but not a special one.

Now let us invert the 'outvoted person' situation. Again, the law has been adopted even though I voted against it. Suppose that the law satisfies some public reason standard relative to me, but has not been adopted as a result of deliberation. Perhaps I had no chance to put my own 'case against' in the public sphere, or perhaps I did this, but it was treated as a form of strategic negotiation, rather than a genuine deliberative proposal. Nonetheless, the law is, let us suppose, 'justifiable to' me in some relevant sense, given my perspective and background. In this scenario, there is a trivial sense in which I have reason to respect the law – the sense captured by its meeting the public reason standard. But my having been unable to put my reasons in the public sphere (and others' inability similarly to put my reasons forward there), mean that the law is *causally* unrelated to my *actual* reasons, even if their content means that in some sense I have reason to respect the law. By contrast, in the deliberation case the outcome of the vote was a causal result of a collective reasoning process in which my reason played an actual part as a reason. Instead, in this case under consideration now, my reason to respect the law is simply its relation to my own (and others') perspective(s); the actual

reasoning processes undertaken by me and my fellows are largely independent of my reason to respect the law. I think some legitimacy is conferred on the law by its meeting the public justification standard, but more would be conferred if it had also been subject to open deliberation.

One might try to combine the two standards, by asking why the collective's deliberation on my reasons *simply using their 'common human reason'* (in line with the Shared Reason and Response Norms), is enough to make their relationship to the relevant collective decision appropriately autonomous. Why not insist on a stronger *public* reason standard to be used in deliberation, for example a standard that excludes metaphysical premises, or that rules out principles of inference based on revelation or intuition? Such a public justification standard will, I think, exclude many contributions: as the age of social media has revealed, there are few 'plain truths now widely accepted' (Rawls 1996, p. 225). The relevant exclusions look to me morally unjustified: consider someone who argues for a particular policy on the basis of theological premises, and whose argument meets my Shared Reasons and Responsiveness Norms. To satisfy these norms, the argument has to be inclusive of all citizens, and responsive to evidence. Perhaps the argument is premised on the importance of respect for all humans as 'God's children'. The public reasons approach (at least on some versions) would rule out such an argument as inadmissible in democratic deliberation, because of its 'comprehensive' metaphysical content. This seems epistemically and morally unfair, to me, if the relevant deliberator is genuinely making their contribution in an open spirit committed to furthering the cause of collective action, in the manner outlined earlier. Do we really have epistemic or moral reason to exclude such contributions to deliberation because their bases are insufficiently shared (i.e. insufficiently tightly connected to enough people's current background reasons)? If the contribution is a genuine attempt to engage in a 'common human reason' deliberation about how we should live together, then it will connect with everyone else's position via our common human reason. To insist that contributions must involve a tighter connection to everyone else's position seems unjustifiably exclusionary.<sup>6</sup> It is one thing to say that the fact that reasons can be offered for a policy in a way that connects with my and everyone else's background concerns in a 'public justification' way *counts in favour of enforcing the policy*. It is quite another to *exclude or demote* deliberative contributions that respect the norms of deliberation and respect rights, simply because they fail this 'public justification' standard. Excluding such contributions excludes their proponents from attaining autonomy in the collective context, as I have outlined it – by disallowing their reasons from playing the role of reasons in public debate. The exclusion seems unjustifiable.<sup>7</sup>

## 7. Conclusion

I have argued that deliberation governed by appropriate norms is necessary to ensure that democratic decisions are minimally well-informed and involve a collective autonomously acting on its own reasons. Having one's own reason play a part in such deliberation is necessary for one's autonomy in the collective context. In the foregoing section, I offered

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<sup>6</sup> This is not to say that 'anything goes'. I have already noted that our fundamental rights, and (which overlap with these) the conditions necessary for the continuation of inclusive deliberation, need to be respected by deliberators, if deliberation is to confer its autonomy and epistemic benefits.

<sup>7</sup> By contrast, excluding metaphysical or theological contributions from Supreme Court judgements (Rawls 1996, p. 231) might well be justifiable. But this is because such a court, and the laws it is to apply, are our democratic creation, embodying conferred authority. This differs sharply from deliberation among citizens in their non-hierarchical, equal fundamental moral formation.

some reasons for the thought that pre-vote deliberation does more to legitimate the enforcement of a decision than can be achieved by a public reasons standard.

I end by sketching three implications. One concerns the importance of the media and other means of voicing citizens' views in a mass democracy. On the approach outlined, it is important that my reasons get considered in public deliberation, and thereby play a causal role in the ensuing decision. But it is not important that I am the one who voices my reasons. It is more important that the reasons I endorse get an appropriate hearing within an appropriately open form of deliberation. In a mass democracy, the media has a duty to secure such a hearing for everyone's views - insofar as they satisfy the relevant norms. I think this supports structures and institutions that, in particular, will elevate marginalised voices, and supports structures and institutions that do more than simply provide mouthpieces for particular views, but rather facilitate deliberation about them. It is not clear to me that this points towards impartial journalism, as opposed to media diversity (including online). Furthermore, we should recognise the limitations of both traditional and new media. Because reasons are individuated by their content, not their proponent, it seems *in principle* possible for the media to give anyone's reason its place in public debate. But, as Fricker 2007 and Langton 2009 (among others) show, culture and history can make a given linguistic expression unable to say what some try to say with it, and can also make important truths unsayable. This is a major impediment to the ability of the UK media - even democratised social media - to voice everyone's reasons, and is to that extent a major impediment to democratic legitimacy.

Secondly, it is not clear to me that my argument applies narrowly to the state alone. Instead, it seems relevant to any aspect of life in which there are authority structures conferred on the basis of a fundamental pre-authority equality. Thus I think it is relevant to the decisions and ensuing actions of unstructured groups in all sorts of contexts. Theorists who are sceptical of the idea that unstructured groups have duties sometimes base their scepticism on the thesis that unstructured groups cannot really make decisions (see discussion in Collins 2019). By contrast, my argument is meant to suggest that open democratic deliberation is always available as a means for any human group to think through what to do. Insofar as being well-informed and autonomous matters, any unstructured group should therefore use deliberation. (Note, of course, that sometimes the relevant epistemic and autonomy values will be outweighed by urgency or other factors.)

Thirdly, there is an important question to be answered about the relationship between my arguments in this paper, and the systems approach of theorists like Mansbridge and Parkinson, who write:

'Two venues, both with deliberative deficiencies, can each make up for the deficiencies of the other. Thus an institution that looks deliberatively defective when considered only on its own can look beneficial in a systemic perspective. Conversely, an institution that looks deliberatively exemplary on its own, such as a well-designed minipublic, can look less beneficial in a systemic perspective when it displaces other useful deliberative institutions, such as partisan or social movement bodies' (2012, p. 3)

They go on:

'partisanship may appear to undermine deliberation at a micro level but not at a systems level' (p. 7).

Is this correct? In particular, can systems in which people participate in ways clearly in violation of the Shared Reasons and Appropriate Response norms nonetheless qualify as deliberating, at a systems level, in a way that constitutes the exercise of common human

reason sufficient to confer collective autonomy on the decision, and to make contributors' participation constitute autonomy in the collective context?

I suspect the answer is 'no'. This is partly because current systems for managing partisanship or negotiation replicate open reasoning only by chance, and not systematically. But furthermore, I cannot really see what a system would look like in which each person's reason plays a genuine role *as a reason* within deliberation, and yet each person participates in a non-deliberative (e.g. partisan, negotiating, manipulative) way. But there is more work to be done here.

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