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Theoretical Models of Deliberative Democracy: A Critical Analysis

Abstract: My paper focuses on presenting and analyzing some of the most important theoretical models of deliberative democracy and to emphasize their limits. Firstly, I will mention James Fishkin's account of deliberative democracy and its relations with other democratic models. He differentiates between four democratic theories: competitive democracy, elite deliberation, participatory democracy and deliberative democracy. Each of these theories makes an explicit commitment to two of the following four "principles": political equality, participation, deliberation, non-tyranny. Deliberative democracy is committed to political equality and deliberation. Secondly, I will present Philip Pettit's view concerning the main constraints of deliberative democracy: the inclusion constraint, the judgmental constraint and the dialogical constraint. Thirdly, I will refer to Amy Gutmann and Dennis Thompson's conception regarding the "requirements" or characteristics of deliberative democracy: the reason-giving requirement, the accessibility of reasons, the binding character of the decisions and the dynamic nature of the deliberative process. Finally, I will discuss Joshua Cohen's "ideal deliberative procedure" which has the following features: it is free, reasoned, the parties are substantively equal and the procedure aims to arrive at rationally motivated consensus. After presenting these models I will provide a critical analysis of each one of them with the purpose of revealing their virtues and limits. I will make some suggestions in order to combine the virtues of these models, to transcend their limitations and to offer a more systematical account of deliberative democracy. In the next four sections I will take into consideration four main strategies for combining political and epistemic values ("optimistic", "deliberative", "democratic" and "pragmatic") and the main objections they have to face. In the concluding section, I will argue that any theoretical model is confronted with the "the

paradox of democratic deliberation": the legitimacy of political decisions demands for the 'raw' opinion of the citizens, while the epistemic rightness of political decisions demands for a 'filtered' public opinion. And, I my opinion, this paradox reveals a deep inconsistency in the core of the deliberative model which suggest that the deliberative procedure should not be conceived as an authentic alternative to the classical theories of democratic legitimacy.

Keywords: theoretical models, deliberative democracy, epistemic values, political values, paradox of democratic deliberation.

1. Introduction

Contemporary theory of democracy took a „deliberative turn": from the classical models of democracy, based on voting and representation, to a model that promotes the ability of all citizens affected by a collective decision to engage in a process of deliberation concerning that decision. Hence, according to this view, a political decision is legitimate if it was established by a deliberative procedure (Dryzek 2000, 1). However, although the majority of contemporary philosophers have adopted the deliberative model, there are still many controversies regarding the concept of deliberative democracy itself. The followers of the deliberative conception often disagree about the proper way to combine the deliberative and the democratic dimensions, about the proper relation between various fundamental values, about the way they conceive the principles governing the deliberative procedure as substantial or procedural and so on. And their disagreements are evident even from the expressions they use when they describe the deliberative model which they favor: *communicative democracy* (Iris Marion Young); *politic of presence* (Anne Philips); *dialogical democracy* (Robert B. Talisse); *discursive democracy* (John Dryzek); *epistemic conception* of deliberative democracy (Jose Luis Marti); *proceduralist-deliberative democracy* (Jürgen Habermas and Seyla Benhabib); *substantial deliberative democracy* (Joshua Cohen) and so on.

If we also take into consideration the historical evolution of this orientation[1], the complex relations and controversies between these

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[1] For a clear introduction in the history and the evolution of deliberative democracy see *Deliberative Democracy: Essays on Reason and Politics* edited by James Bohman and William Rehg (1997, IX-XXX). For a comprehensive presentation of the most important

theories, we understand how complex is the work of the exegete who tries to find a principle of order in all this diversity. Although, I acknowledge the difficulty of this task, my main objective in this paper is to analyze some of these theories in a systematic manner and by the means of a systematic characterization of the notion of deliberative democracy. And I will start by presenting four theoretical models of deliberative democracy and by revealing their virtues and limitations.

2. Four theoretical models of deliberative democracy

In his book *When People Speak*, James Fishkin differentiates between four democratic theories by taking into consideration their different position concerning the following four "basic principles": *political equality*, *participation*, *deliberation* and *non-tyranny*. The democratic theories are: competitive democracy, elite democracy, participatory democracy and deliberative democracy. Each theory makes an explicit commitment to two of the basic principles mentioned above and remains "agnostic" in relation with the other two.

	Competitive democracy	Elite deliberation	Participatory democracy	Deliberative democracy
Political equality	+	?	+	+
Participation	?	?	+	?
Deliberation	?	+	?	+
Non-tyranny	+	+	?	?

Fig. 1. *James Fishkin's view about democratical teories and their "basic principles"* (Fishkin 2009, 65).

In his opinion, the representatives of competitive democracy are authors like Joseph Schumpeter and Richard Posner. Their conception is committed to political equality in the context of competitive elections and to non-tyranny, but it is agnostic in relation to deliberation and mass participation. The example of elite democracy he mentions is the view of

procedures for implementing deliberative democracy see *Deliberative Democracy Handbook: Strategies for Effective Civic Engagement in the Twenty-First Century*, edited by John Gastil and Peter Levine (2005).

the Founding Fathers of American democracy who were committed to deliberation between the representatives of the citizens and to avoiding the tyranny of majority, but disregarded mass participation and political equality. The supporters of participatory democracy are primarily concerned with mass participation and political equality, but they offer no significant role to deliberation and non-tyranny. Finally, deliberative democracy is explained as an attempt to combine political equality with deliberation by the people themselves, but is agnostic in relation with mass participation and non-tyranny (Fishkin 2009, 80).

He understands political equality "as a value that combines equal voting power with an effective political competition that excludes predictable political coalitions which will create permanent minorities". By political participation he means "behavior on the part of members of the mass public directed at influencing, directly or indirectly, the formulation, adoption, or implementation of governmental or policy choices" (Fishkin 2009, 44-45). Non-tyranny is identified with the avoidance of tyranny: of the situation in which a winning coalition imposes avoidable severe deprivations on a losing one (Fishkin 2009, 64).

Finally, Fishkin defines "deliberation" as the process by which individuals sincerely weigh the merits of competing arguments in their discussions. In his view, the quality of deliberations is influenced by five conditions: *Information* - the extent to which participants have access to accurate information relevant to the respective subject matter; *Substantive balance* - the extent to which reasons provided by one side are answered by arguments offered by the other side; *Diversity* - the extent to which all significant positions in the public are represented; *Conscientiousness* - the extent to which participants honestly assess the merits of the arguments; *Equal consideration* - the extent to which reasons are considered on their merits regardless of who are the participants that presented them (Fishkin 2009, 33-34).

The second theoretical model of deliberative democracy I will mention is the one defended by Philip Pettit in the paper *Deliberative Democracy, the Discursive Dilemma, and Republican Theory*. In Pettit's opinion, although there are many differences between various conceptions of deliberative democracy, there is also a significant degree of consensus regarding the main features of what he calls "the deliberative-democratic ideal". And he explains this ideal in the terms of three "constraints". First, he mentions the *inclusive constraint* according to which all members should be equally entitled to vote on how to resolve relevant collective issues. Secondly, he explains the *judgmental constraint* in

terms of the need for deliberation (before voting) based of common concerns regarding the best solution. Finally, the *dialogical constraint* is understood in terms of the need for an opened and unforced dialogue between the members of a democratic society in centralized or decentralized contexts.

Philip Pettit adds that these constraints also serve to distinguish between deliberative democracy and other similar democratic arrangements. The *inclusive constraint* means that deliberative democracy is to be differentiated from elitist or authoritarian schemes, including the ones in which deliberation and dialogue play an important role. Direct participation by all members will be preferred to indirect representation. The *judgmental constraint* has two different sides. First, it requires voters to think about how they should vote, not just vote in an unreflective manner. And second, it requires voters to deliberate about how they should vote on the basis of considerations concerning common interests. The model of voting suggested under this constraint can be described as "judgment-voting" rather than "preference-voting". And, in his view, the *dialogical constraint* rules out the sort of plebiscitarian arrangements in which each participant privately forms his or her opinion about common interests, rather than doing so in dialogue with others, and then votes on the basis of that conclusion (Pettit 2003, 139-140).

Another conception regarding the main features of deliberative democracy is the one defended by Amy Gutmann and Dennis Thompson in the book *Why Deliberative Democracy?* According to their conception, the main "requirements" of deliberative democracy are*:* the *reason-giving* requirement, the *accessibility of reasons*, the *binding character of the decisions* (for a period of time) and the *dynamic nature* of the deliberative process. The *reason-giving* requirement is understood as an obligation for citizens to appeal to principles that individuals who are attempting to find fair terms of cooperation cannot reasonably reject. Therefore, in Gutmann and Thompson's view the moral basis for this reason-giving process is the principle according to which people should be treated "not merely as objects of legislation, as passive subjects to be ruled, but as autonomous agents who take part in the governance of their own society, directly or through their representatives" (Gutmann and Thompson 2004, 3).

The second feature of the deliberative process, the *accessibility of reasons* is closely related to the first one. This requirement is based on the idea that in order to justify imposing his will on others, every citizen must give reasons that are at least comprehensible to them. And Gutmann and Thompson affirm that a precondition for the accessibility of reasons is

their public character. This means, on one hand, that the deliberation itself must take place in public, not in the privacy of one's mind, and, on the other hand, that the content of the arguments should be public: everyone must be able to understand and evaluate their content. For example, the appeal to the authority of revelation is not accessible in this sense (Gutmann and Thompson 2004, 4).

The third requirement of the deliberative procedure is that it produces a decision which *is binding for some period of time*. The deliberation shouldn't be conceived as a purely theoretical discussion, but as a process of arriving at real-life political and governmental decision However, in their opinion, no solution and no decision established by the means of the deliberative procedure should be regarded as definitive and justified once and for all. And this leads to the fourth and final characteristic of the deliberative procedure: its *dynami*c nature. The possibility of a future debate on that subject must be kept open. Every solution should be conceived as merely provisional, imperfect and open to future challenges (Gutmann and Thompson 2004, 5-7).

The final theoretical model of deliberative democracy I will mention is the one defended by Joshua Cohen in the article *Deliberation and Democratic Legitimacy*. In this paper he presents the main features of what he calls the „ideal deliberative procedure": it is *free*, *reasoned*, *equal* and it *aims for rational motivated consensus*. In Cohen's view, ideal deliberation is *free* in that it satisfies the following two conditions. First, the parties regard themselves as committed only to the results of their deliberation and by the preconditions for that deliberation and they are not constrained by the authority of prior norms or requirements. Second, the parties believe that they can act from the results, taking the fact that a certain decision has resulted from their deliberation as a sufficient motivation for complying with it (Cohen 1997, 74).

He explains the fact that ideal deliberation must be *reasoned* by appealing to the idea of Jürgen Habermas according to which in deliberation no force should be imposed except that of the better argument. Hence, the participants must present their reasons for supporting or for criticizing the proposals with the hope of convincing others to adopt their perspective. The accepted proposal should be conceived as the one supported by the best reasons and not as the one which corresponds to the preferences and interests of most citizens (Cohen 1997, 74).

The next feature refers to the *equality* of the participants in the deliberative process which is explained both in formal and substantial

terms. The formal aspect of equality concerns the fact that the procedure does not single out any individuals. All citizens with deliberative capacities have equal standing at each stage of the deliberative process: they can put issues on the agenda, suggest solutions, and provide reasons in support of or in criticism of proposals. And each has an equal voice in the decision. The substantial aspect of equality refers to the fact that the existing distribution of power and resources does not affect their chances to contribute to deliberation or their authority in the deliberation (Cohen 1997, 74).

The final characteristic of ideal deliberation is the fact that it *aims to arrive at a rationally motivated consensus*: to find reasons that are persuasive for all the parties. However, Cohen acknowledges the fact that, even under ideal conditions, consensus will be very difficult to obtain. And when consensus will be unreachable, some form of majority rule should be applied. Nevertheless, he believes that this will not eliminate the difference between deliberative and non-deliberative procedures: the solution will be obtained based on rational exchange of reasons and not on the aggregation of preexisting preferences (Cohen 1997, 74-75).

3. Virtues and limits of the four models. Suggestions for a more systematic account of deliberative democracy

Analyzing the four theoretical models, we are puzzled by the variety of the characterizations offered for deliberative democracy, by the heterogeneity of the features, by the impression that some of the features are more important than others or are derivable from others, but also by the impression that important characteristics are missing. Moreover, it seems hard to understand on which criteria the distinctions were made and if they were applied in an orderly and logical manner.

The model developed by James Fishkin seems to be the most systematic one. He carefully distinguishes between types of democracy and types of principles, and tries to establish the correspondence between the two categories. Nevertheless, there are some important questions that could be raised. Firstly, the distinction between the four "principles" (political equality, participation, deliberation and non-tyranny) is problematic. If political equality and participation could be considered political values (although the term "participation" suggests more an activity than a value, and therefore I prefer the expression "political inclusion"), it is obvious that deliberation is more an epistemic practice than a value. In relation with non-tyranny, I think we can say that it is

derivable from the value of political equality. Hence, it is obvious that heterogeneous categories belonging to the political and the epistemic dimension are not properly differentiated. Secondly, the correspondence between "principles" and types of democracy is questionable. In particular, it is not clear why deliberative democracy should be committed only to deliberation and political equality and not also to the other two principles.

The heterogeneity objection could be raised against all the other models. The three "constraints" mentioned by Philip Pettit (inclusive, judgmental and dialogical) do not belong to the same domain, although the relation between them has a certain logic to it: inclusion is a political feature, judgment is an epistemic method and dialogue is more of a method designed to create a link between the other two. But, a reasonable question will be why he does not mention other epistemic values like informativity, equal consideration for reasons, reasonableness, or political values like equality, freedom, representativity and so on. The model defended by Gutmann and Thompson is also characterized by heterogeneity of its "requirements": two of them are partially epistemic and partially political standards (reason-giving and accessibility) because they contain references to both dimensions, and the other two are features of the deliberative procedure itself (the stability of the result and its dynamic nature). Moreover, we must notice that the accessibility requirement is not autonomous: it is just an explanation of the reason-giving requirement. Finally, Josua Cohen's model has the virtue of being more complete: it includes freedom, equality, reason and the aim of attaining rational consensus. However, heterogeneity is also manifest: freedom and equality are political values, reason is an epistemic value and the "aim to rational motivated consensus" is explained as partially epistemic and partially political (it presupposes some kind of voting procedure). There are also suspicions about the completeness of the model. Again, we could ask: why does he not mention informativity and equal consideration for reasons, or political values like inclusion and representativity?

The first suggestion for a more systematical account of deliberative democracy is to distinguish the epistemic dimension of deliberation from the political dimension of democracy. Moreover, we should also differentiate between political values and epistemic values and between political procedures and epistemic procedures. And we will have to choose the most significant kind of epistemic and political category (values, procedures, and so on) in a manner which will increase the degree of homogeneity of the model. In my opinion, the most relevant type of category is the *axiological* one: the one who speaks in normative

terms about *what should be done*, what *values* must be fulfilled, and not in descriptive terms about *what* and *how* is done. So, we should refer to political and epistemic values and to the relations between them.

The second suggestion is to use a unique and clear criterion (which will be *the type of essential value)* for distinguishing between the epistemic values and between the political values and to justify the inclusion of each one in the respective lists. An important step will be to exclude those values which do not belong to the respective (political or epistemic) domain. So, we will have to resist the temptation to include values specific to other normative spheres: moral values like goodness, rightness, responsibleness; economic values like efficiency and so on. It is also significant to include values that are independent form one another and to worry about the completeness of the respective list. Finally, it is important to specify what political and epistemic notion will be primarily characterized by means of those values. In other words, we will have to answer the question: epistemic or political values specific to what? In my opinion, the political values should be used to characterize the democratic decision making process and the epistemic values to characterize the deliberative epistemic process.

Hence, based on all the arguments I mentioned above, I think that the main political values should be: *political inclusion* (all citizens should have the opportunity to participate in deliberative decision-making procedure); *political freedom* (citizens must be free in choosing if they want to participate or not and in choosing the proposals they support or reject), *political equality* (citizens must enjoy an equal political status regardless of the existing inequalities); *political pluralism* (citizens must be free in expressing social, economic, religious or cultural differences which they perceive as being essential to their identity) and *political representativity* (the political decisions which are established by means of the deliberative procedure should represent the will of all or at least the majority of citizens from that political community).

The main epistemic values for an authentic deliberative procedure should be: *epistemic informativity* (the feature of proposals and reasons which enhance relevant knowledge on the subject of deliberation), *epistemic freedom* (freedom in advancing and criticizing proposals and reasons), *epistemic equality* (equal consideration for reasons regardless of their proponents), *epistemic publicity* (the characteristic of reasons and proposals which can be expressed in public terms: in terms which are understandable and acceptable for others) and *epistemic reasonableness*

(the attribute of proposals which are supported by the best available reasons at the moment and in the context of the public deliberation)[2].

Obviously there will be some questions about the presence and especially about the absence of some values in the aforementioned lists. For example, someone could ask why I did not include autonomy or legitimacy on the list of political values. My reply will be that autonomy is a more complex value derived from political freedom and equality and that democratic legitimacy is even more complex: it is a kind of meta-value which will presuppose the fulfillment of all the other democratic values. Similarly, others could ask why I did not include epistemic rightness or the diversity of reasons. The response will be that epistemic rightness is implausibly strong and that what is epistemically relevant in the diversity of reasons is already expressed by the value of informativity. In my opinion, the two lists presented above contain the most important basic values specific to the epistemic and the political domains. Other values are either derivable from them or are specific to another normative sphere even if they have some kind of epistemic or political relevance. However, I know that this does not answer all the questions, but a more extensive analysis is beyond the scope of this paper.

Finally, the third suggestion is to analyze the mutual compatibility of these categories belonging to the two different dimensions after we systematically differentiated them. We cannot just assume in an uncritical manner that they can be combined in a unique procedure. And this analysis of the compatibility between the two dimensions should take into consideration all the possible ways of combining them. In my view, there are four basic strategies of realizing that link. First, there is the "optimistic" strategy to maximize the fulfillment of both types of values. I will dedicate the next section to its presentation and I will show that it leads to various types of antinomies. Secondly, there is the "deliberative" strategy to subordinate political values to the epistemic ones and to create a link between the two sets of values that puts the accent on deliberation. Thirdly, there is the "democratic" strategy to subordinate the epistemic

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[2] An interesting approach regarding the list of essential features for deliberative democracy form which I selected some of the aforementioned values is the one presented by Gheorghe-Ilie Fârte in his paper, *Some Libertarian Ideas about Human Social Life*. He combines the contributions of John Gastil and Iris Marion Young about deliberative democracy mentioning (and criticizing) the following set of essential features: (1) inclusion, (2) political equality, (3) reasonableness or enlightened understanding, (4) publicity, and (5) participation opportunities (Fârte 2012, 15).

values to the political ones and to emphasize the priority of democracy. Finally, there is the "pragmatic" strategy of trying to optimize the fulfillment of epistemic and political values. I will indicate the difficulties each of these strategies has to face. Excepting the first strategy, which is more of a theoretical possibility than a theory defended by real supporters of deliberative democracy, I will illustrate the analysis of these strategies by referring to theories developed by some of the prominent representatives of this conception, most of them coinciding with the proponents of the theoretical models mentioned above.

4. The "optimistic" strategy: the process of maximizing the fulfillment of epistemic and political values and its antinomies

The main objective of any defender of deliberative democracy is to argue that there is a necessary connection between the epistemic values associated with deliberation and the political values associated with democracy. However, as Cristina Laffont claims in her article *Is The Ideal of a Deliberative Democracy Coherent?*, the coherence of this ideal should not be taken for granted. There are deliberative procedures which are not democratic and there are democratic procedures which are not deliberative. Hence, sometimes there is a conflict between the deliberative and the democratic dimensions of deliberative democracy. They represent different sets of "virtues" of deliberative democracy. The deliberative dimension illustrates the "epistemic virtues" associated with the epistemic rightness of the solution. It leads to outcomes which are in favour of all the citizens (*for the people*). The democratic dimension exemplifies the "democratic virtues" of deliberative democracy associated with the voluntary consent of citizens for those solutions (*by the people*) (Laffont 2006, 3-6).

Following this suggestion, I will argue that any attempt to combine a political and an epistemic value in a unique deliberative and democratic procedure will have to face difficult problems. If we analyze each of the 25 possible combinations between the two sets of values we will observe that we will have to face the same kind of predicament in every single case. It is a kind of "methodological antinomy" (in the terms of the Romanian logician Petre Botezatu): any gain on the attempt to fulfill one type of value will be followed by a loss on the effort to fulfill the other type of value from that particular combination. In a summarizing manner, all these combinations and all the corresponding antinomies are contained in the following table:

Deliberation "for the people" / Democracy "by the people"	Epistemic Informativity	Epistemic Freedom	Epistemic Equality	Epistemic Publicity	Epistemic Reasonableness
Political Inclusion	Exclusion of non-informative positions	Exclusion of the epistemic passive	Exclusion of the epistemically gifted or challenged	Exclusion of reasons difficult to express in public terms	Exclusion of what is perceived as unreasonable
Political Freedom	Restraining the expressions of non-informative solutions	Restraining of epistemic passivity	Restraining the epistemically gifted or challenged	Restraining reasons difficult to express in public terms	Restraining the unreasonable
Political Equality	Favoring informative over non-informative	Favoring epistemic activity over passivity	Favoring epistemic mediocrity	Favoring public over non-public reasons	Favoring reasonable over the unreasonable
Political Pluralism	Limiting the diversity of non-informative	Limiting differences associated with epistemic passivity	Limiting differences specific to the epistemically gifted or challenged	Limiting non-public diversity	Limiting unreasonable diversity
Political Representativity	Non-representativity of the informative	Non-representativity of the epistemically active	Non-representativity of the epistemically gifted or challenged	Non-representativity of reasons expressed in public terms	Non-representativity of reasonable solution

Fig. 2. *The antinomies corresponding to the 25 combinations between political and epistemic values*

If defenders of deliberative democracy will try to combine political inclusion with epistemic informativity, he will soon realize that any progress in his effort to increase the informativity of solutions and reasons will be followed by a decrease in the degree of inclusion. In a similar manner, if he tries to combine political inclusion and epistemic freedom, he

will realize that not all the parties in that public debate will have an authentic opportunity to exercise their epistemic freedom and that the procedure will tend to exclude epistemic passive citizens, namely those who choose to remain passive and those who are less efficient in the process of advancing positions and reasons. And if he strives to enhance the degree of political inclusion, then the opportunities for an authentic exercise of epistemic freedom will diminish: the epistemic passive citizens will be constrained to become actively involved and the epistemic active citizens will have fewer opportunities to get involved. The effort to promote both political inclusion and epistemic equality will generate a similar predicament: it will tend to exclude (at least partially) citizens who are epistemically gifted or challenged. The attempt to mix political inclusion with epistemic publicity will result in the exclusion of those who are unable to express their positions in public terms. The combination between political inclusion and epistemic reasonableness would fail because a progress in advancing reasonableness will be followed by the exclusion of those who are perceived as unreasonable.

Similar problems become manifest when one tries to combine the other sets of political and epistemic values. With political freedom and epistemic informativity the problem will be the fact that the expression of non-informative solutions will be restrained. Although the mix between political freedom and epistemic freedom seems to be "natural", the risk of restraining epistemic passivity is rather high: if political freedom is exercised only trough epistemic initiative, then people who choose or are forced to remain passive by their lack of epistemic abilities will have virtually no opportunity to exercise their political freedom. In the next couple of values, any progress in promoting epistemic equality will result in restrictions imposed on the epistemically gifted or challenged citizens. When political freedom and epistemic publicity are combined, the restrictions will be imposed on reasons which are difficult to express in public terms. The link between political freedom and epistemic reasonableness will fail because the insistence on the reasonableness will restrain the expression of reasons and positions perceived as unreasonable. In the connections between political equality and each one of the epistemic values, the perseverance to fulfill the epistemic value will cause a specific form of political inequality: favoring informative over non-informative positions; favoring epistemic activity over passivity; favoring epistemic mediocre citizens over the epistemically gifted or challenged; favoring public over non-public reasons; favoring reasonable over unreasonable positions. Similarly, the insistence in achieving the epistemic goals, when

we try to combine political pluralism with all the epistemic values, will determine some kind of loss in political diversity: limiting the diversity of the non-informative; limiting differences associated with epistemic passivity; limiting differences specific to the epistemically gifted or challenged; limiting non-public diversity; limiting unreasonable diversity. Finally, the determination to accomplish the epistemic objectives in the combinations between political representativity and the epistemic values will produce some sort of deficit in political representativity: non-representativity of the informative; non-representativity of the epistemically active; non-representativity of the epistemically gifted or challenged citizens; non-representativity of reasons expressed in public terms; non-representativity of reasonable solutions.

We have to notice that the reciprocals are also true for every combination. For example, if we try to combine epistemic informativity and political inclusion and insist in fulfilling the political value of inclusion, we will observe a decrease in the level of informativity. Similarly, for the combination between political inclusion and epistemic freedom, if we try to maximize the inclusion of every citizen, regardless of their epistemic abilities, we will diminish the epistemic freedom of epistemically gifted or challenged citizens. And the same kind of problem would manifest for each one of the 25 combinations.

5. The "deliberative" strategy: subordinating the political values to the epistemic ones

The most common type of solution to the aforementioned antinomies which are adopted by the defenders of deliberative democracy is to "bite the bullet", so to speak, and to accept that the two sets of values should not be treated equally. Some of them choose to subordinate the political dimension to the epistemic one. For example, this is the solution adopted by Jose Luis Marti, in the article *The Epistemic Conception of Deliberative Democracy Defended*. In this paper, he defines the epistemic conception as follows:

> "Deliberative democracy is justified and thus political decisions made through a deliberative procedure are legitimate because democratic deliberative procedures have more epistemic value than the other *democratic alternatives*. And this means that decisions made by such procedures are more likely to be right *in general* – whereas rightness must be some process-independent and intersubjectively valid standard – than decisions made by other democratic procedures" (Marti 2006, 33).

In his view, there are two basic theses of the Epistemic Conception:

Ontological thesis: One or several standards of rightness of political decisions exist as something at least partially independent, both from the decision-making procedure and from the participants' beliefs and desires. And this standard is knowable.

Epistemological thesis: Democratic deliberation is, in general, the most reliable democratic procedure used to identify correct political decisions, and therefore it is an adequate method to make legitimate political decisions.

As I have argued in a previous paper (Ţuţui 2012b, 45-65), there are several objections against the epistemic conception and its theses. First, the very existence of the so called "standards of rightness of political decisions" is problematical, to say the least, especially if we consider the pluralism of contemporary society (but also Marti's extremely vague characterization of the standards). Second, as Cristina Laffont underlines, the epistemic objective could be better accomplished in a non-democratic framework, like the one she calls "epistocracy" - the regime in which all the political decisions are taken by the experts in the field (Lafont 2006, 11-12). This would presuppose the commitment to a non-democratic regime and to the problematic idea that there are moral experts. However, it is more naturally to assume that every individual knows better that any expert what are in his/her interests. Furthermore, even if we ignore this problem and assume that such experts do exist, this would lead to another, more severe problem, namely the problem of the authorization to make that decision for all the others: "Even if someone could know better than me which political decisions are in my own interest, this does not mean that *anyone could be better than me at giving my own authorization* to act on them" (Laffont 2006, 11-12). Hence, the subordination of the political values to the epistemic ones leads us to abandon the commitment to democracy in favor of some sort of "epistocracy", an elitist regime in which the political consent of ordinary citizens would have no real significance. So, they would not have an authentic political autonomy. The autonomy can be preserved if we assume that legitimacy is not an epistemic, but a political matter: a decision is legitimate if citizens give their consent for it based on their own reasons (Ţuţui 2012a, 75-76).

An obvious reply to these objections could be that the main difficulty is caused by the commitment to the existence of epistemic

standards which lead us to the problem of the existence and of the privileged status of moral experts. But, maybe it is possible to assume a much weaker version of the epistemic conception, namely one that will not be committed to this controversial thesis. This is precisely the strategy adopted by another prominent defender of the epistemic version of deliberative democracy, Robert B. Talisse. In his book, *Democracy and Moral Conflict,* he tries to develop a deliberative model which is not based on some problematic moral principles or on so-called "principles of rightness", but on a set of epistemic principles which are held even by ordinary people. Hence, he sustains that there is an epistemic analogue to the folk psychology from the philosophy of mind: folk epistemology. And he mentions five principles of folk epistemology:

> To believe some proposition *p* is to hold that *p* is true.
> To hold *p* true is generally to hold that the best reasons support *p*.
> To hold that p is supported by the best reasons is to hold that *p* is assertable.
> To assert that *p* is to enter into a social process of reason exchange.
> To engage in a social process of reason exchange is to at least implicitly adopt certain cognitive and dispositional norms related to one's epistemic character (Talisse 2009, 87-88).

In his view, the aforementioned principles are implicit in the ordinary practice of political discourse of rational beings and this commitment is the basis for another commitment to democratic political norms and institutions. This kind of democratic design is specific to what he calls "dialogical democracy".

Nevertheless, the problem with this weak version of the epistemic conception is the fact that its success depends on whether or not we could derive normative conclusions about how the practice of reasons exchange must be, from premises about the "first-persons epistemic point of view" or "the subjective commitment to proper believing", as Talisse calls it. This feature of his theory is what distinguishes it from the theory of Habermas about the "intersubjective conditions of communication", conditions which are contestable is Talisse's view (for example because they force religious people to translate their reasons into secular ones). However, as I argued in a previous paper, Talisse confuses two dimensions of the reasoning process: the general and formal rules which prescribe the conditions of *properly believing* something and substantial epistemic standards that prescribe the conditions which govern the *correctness* of the content of the respective belief. The five principles of

folk epistemology belong to the first set of standards, the ones which prescribe only if some individual's "first-person epistemic point of view" counts as an authentic belief. But, the standards which govern the *correctness* of the content of the respective belief are established only from an intersubjective epistemic perspective. It is the difference between *correctly believing something* and *believing something that is correct*. But, if this is right, then Talisse will be forced to admit that the existence of intersubjective standards governing the practice of public reasoning, and his theory will be vulnerable to the same objection he raises against the conception of Habermas (Țuțui 2011b, 76-77).

6. The "democratic" strategy: subordinating the epistemic values to the political ones

Another kind of strategy adopted by other supporters of deliberative democracy is to subordinate the epistemic dimension of deliberation to the political dimension of democracy, and to sustain some version of the thesis according to which the epistemic rightness or reasonableness of a political decision derives from the fact that it is established by the means of an adequate democratic procedure. In other terms, a decision will be the right one not because it corresponds to some independent standards of epistemic correctness, but because it is the result of the "right" type of democratic procedure.

A representative of this conception is Joshua Cohen with his theory mentioned above about the „ideal deliberative procedure" (which should be free, reasoned, equal and should aim to rational motivated consensus). In his opinion, the "ideal procedure" plays the role of providing a model for deliberative institutions: it makes deliberation possible. In Cohen's opinion, free deliberation cannot proceed in the absence of the adequate institutions: "The institutions themselves must provide the framework for the formation of the will; they determine whether there is equality, whether deliberation is free and reasoned, whether there is autonomy, and so on" (Cohen 1997, 78-79). Hence, in his view, the very possibility of deliberation depends on the existence of adequate institutions specific to a democratic regime whose members are committed to respecting the political autonomy and equal status of others and to promote common good.

Cohen acknowledges the fact that there are several objections that could be raised against this theory. First of all, his view might be considered as "sectarian": it privileges some conceptions about "good

human life" or "common good". Cohen's reply is that his theory is not committed to any particular conception regarding what is "common good". The content of this notion will be established by the means of what he calls "the political justification through free deliberation among equal citizens" (Cohen 1997, 81). Hence, it would reflect a content which will be agreed upon and not a predefined conception specific to a dominant group.

The second objection concerns a possible incoherence of the theory. He claims that institutionalizing deliberative democracy requires a decision-making rule short of consensus, like majority rule. However, majority rule is unstable and its results will not be determined by the preferences of the citizens, but by the particular institutional constraints under which they are made. So, instead of being governed by themselves, the citizens will be governed by the institutions. Cohen's reply is that his conception denies that the relevant preferences are the individual preferences which are prior to free deliberation. The relevant preferences are precisely those that could be expressed in free deliberation. Hence, institutional arrangements should not be considered as "exogenous constraints" imposed on the aggregation of preferences: they help to shape their content and the way that citizens choose to advance them (Cohen 1997, 81-82).

The third objection refers to the suspicion that the status reserved by his theory for basic rights and liberties, like freedom of expression, is not acceptable because it makes them dependent on the decisions of the majority. But, the majority could decide precisely to restrict those basic liberties. Cohen's response is that his theory offers a privileged status to such liberties: they are considered to be preconditions of the institutional framework that makes free deliberation possible. So, they are not dependent on the unstable result of the majority rule (Cohen, 1997, 83-84).

The fourth and final objection he mentions is about the fact that public deliberation could be considered as irrelevant to modern political conditions which make direct democracy impossible. Cohen's strategy for answering this objection is to deny that there is a necessary connection between direct democracy and deliberation. On the contrary, direct democracy might prove to be inappropriate for public deliberation if it does not encourage participants to regard one another as free and equal parties and makes room for various kinds of inequalities. Therefore, he believes that deliberative arenas organized exclusively on local, sectional or issue specific lines should not play an essential role in institutionalizing deliberative democracy. A more prominent role should be played by parties

and other political organizations supported by public funds which can help overcome these kinds of inequalities (Cohen 1997, 85-86).

In my opinion, Cohen's replies to the aforementioned objections are not satisfactory. For example, I believe he overlooks the fact that his response to the *first* objection contradicts another important feature of his theory: the commitment to pluralism. As it is usually understood, political pluralism signifies precisely the respect for citizens' interests and preferences that are prior to the deliberation process. But, if the "relevant" preferences for his theory are only those which result from the deliberation, it means that any prior preferences should be considered "irrelevant" and unworthy of respect. And this difficulty is closely related to the one which affects his answer to the *second* objection. If pluralism is indeed important, then prior preferences are also worthy of respect. But, if this is right, then the institutional arrangements associated with the unstable outcomes of the majority-rule might be understood as "exogenous constraints", especially by those who feel that their interests and preferences were neglected. This is the kind of objection raised by Iris Marion Young against deliberative democracy: the norms of deliberation privilege the better educated white middle class people, and privilege speech that is formal and general, dispassionate and disembodied. And these norms will exclude those that cannot fulfil them to the required degree (Young 2006, 122-124).

Cohen's response to the *third* objection is also problematic and for two different (but close related) reasons. First, if indeed the basic rights and liberties establish the framework of free deliberation among equals, we must ask on which foundation they will be based. Is there another and more important source of agreement between citizens than the free deliberation among equals? Unfortunately, Cohen doesn't even mention any alternative source of agreement. Second, we should also ask if the status reserved for the basic rights and liberties is substantial enough in order to guarantee that all citizens will understand them in the same way and no significant variation in their interpretation will be possible. Because, if these rights and liberties are really supposed to play that important role (of establishing the framework of free deliberation), then they must be interpreted in a unique or at least convergent way. But how will Cohen explain the convergence of the interpretations? He offers no explanation for it.

Finally, regarding the answer to the *fourth* objection, I will begin by saying that it is more a sketch of a solution than a proper response to the objection. His description of the process of institutionalizing deliberative democracy is unsatisfactory, to say the least. Nonetheless, leaving the vague nature of his description aside, I will refer to the aspects he does

reveal about this process. And one thing he said seems clear enough: there is no need for direct deliberation; the traditional political representation in which political parties and other organisations play a decisive role seems to be more appropriate. However, in my opinion, this answer is not satisfactory because there is a significant difference between the traditional *political mandate* of the political representatives of ordinary citizens and the kind of *deliberative mandate* which will be needed in a public deliberation. And it has to do with the *special nature* of this deliberative mandate. First, in order to be an authentic "deliberative mandate" it would have to be *open-ended*: since the result of any deliberation is not pre-determined, the citizens would have to agree to any result of the deliberation that would be accepted by their representatives, whatever this result might turn out to be. Second, the open-ended character of the mandate makes *political responsibility* impossible: the deliberative representatives have no determinate responsibility towards the citizens since they did not have a pre-determined and specific mandate (Ţuţui, 2012a, 76). Therefore, I think it is safe to say that the deliberative mandate is impossible.

A similar conception regarding the priority of the democratic deliberative procedure over any of its particular epistemic results is defended by Amy Gutmann and Dennis Thompson. As I was mentioning above, they believe that deliberative democracy is characterized by the following "requirements": the *reason-giving* requirement, the *accessibility of reasons*, the *binding character of the decisions* and the *dynamic nature* of the deliberative process. Hence, they also sustain that the epistemic dimension of deliberation should be subordinated to the political dimension represented by the ongoing procedure of making political decisions by the means of a process of exchanging reasons among equals.

Nevertheless, there is also an important difference between their conception and that defended by Cohen: they address the problem of the status reserved for basic rights and liberties. They acknowledge the fact that the main controversy on this subject is between pure proceduralism, according to which "whatever emerges from the procedure is right" and substantialism, according to which there are independent substantive principles which must guide and constrain the deliberative procedure and its results. But, pure proceduralism is highly controversial because it offers no guarantee that basic rights and liberties will not be severely restricted by the procedural decision of the majority, and substantive theories are problematic because of their "sectarian" character: they tend

to privilege some set of substantive principles held by a dominating group over all the others.

Understanding the difficulties of these theories, Gutmann and Thompson try to formulate a solution that will have the virtues of both conceptions and none of their limitations. And the solution they support has to do with the provisional nature of the results of deliberation. They insist that both types of principles (procedural and substantive) should play a role in the deliberative procedure, but none of them should have any kind of priority. They must be treated as morally and politically provisional: "Procedural and substantive principles should both be systematically open to revision in an ongoing process of moral and political deliberation" (Guttmann and Thompson 2004, 26).

Although this solution seems promising, I believe that it remains problematic. They suggest that democratic deliberation contains something like a mechanism of *self-correction*: the substantive principles that have governed one deliberative event are revisable by means of a future deliberation. So, the ongoing process of deliberation seems to have priority over each one of its particular outcomes. They even talk about "the circularity of justice": substantive justice depends on establishing a just procedure, and a just procedure depends on establishing the substantive justice of the process. But, in their view, this circularity is not a defect of deliberative democracy but rather one of its virtues. Their solution is also the priority of the ongoing process of deliberation: "But the force of the objection is reduced when we observe that deliberative theory itself has the capacity to question the background conditions, and to show why its own deliberative processes may therefore have produced unjust outcomes" (Gutmann and Thompson 2004, 42).

However, I believe that they overlooked an important problem: how is the future deliberation supposed to revise the standards of past deliberation? Public deliberation is, in itself, nothing more than a forum for public reasoning: it provides the opportunity for public reasoning, but not the standards of epistemic rightness themselves. When we decide by means of a future deliberation that some standards should be revised, we should base our decision on another set of meta-standards which tells us that the previous set is not acceptable anymore. And, the validity of this set of meta-standards should not be evaluated only in the context of a single deliberative event: they should also govern the transition from previous to future deliberations. But, if this is right, then the ongoing process of deliberation should not be considered as prior to any set of

standards. On the contrary, this process must have an evolution guided by a set of principles independent of the process itself (Ţuţui 2011a, 20-21).

7. The "pragmatic" strategy: optimizing the relation between epistemic and political values

The final type of strategy available for the defenders of deliberative democracy is to try to optimize the relation between political and epistemic values. An important representative of this orientation is James Fishkin. As I already mentioned, in Fishkin's opinion, deliberative democracy is associated with a commitment to political equality and deliberation. Acknowledging the fact that an authentic deliberation is more than public consultation or public communication, he understands that it will have to take the form of face-to-face argumentation between members of small groups of citizens. However, this demands for "microcosmic" deliberation in which a small number of participants will represent the entire community. But, this condition will impose significant restrictions on the degree of political inclusion and, as a consequence, on the degree of political equality as well: if the deliberation will include only a small number of participants, presumably they will also have a much greater influence on the political decisions.

Therefore he looks for solutions which include both genuine argumentation and mass participation. The first step is to create, by the use of social science, small panels of citizens which will be representative for the entire community: "social science must form the basis for defending the inference that a given design is producing its conclusions through the normatively appropriate deliberative processes (questions of internal validity) and that it is in principle generalizable to the larger population (questions of external validity)" (Fishkin 2009, 98). The next step will be to assure that the deliberative procedure leaves room for an authentic reason-exchange process. And this will require applying the five criteria mentioned above: information, substantive balance, diversity, conscientiousness, and equal consideration. He recognizes that present research provides clear evidence only for some of these criteria in real life deliberation, but he expresses his optimism about the prospects of social science to help improve the quality of future deliberations. For example, he argues that even worries about the dominant position of some participants (white, male, better educated, wealthier citizens) could be significantly reduced by carefully designing the procedure in order to eliminate the influence of these dominating groups (Fishkin 2009, 100-101).

Nevertheless, this helps to eliminate only a part of the doubts concerning the political equality of citizens: if the influence of dominant groups of citizens is significantly reduced then we might hope that the parties in the deliberation process will be treated equally. But, what about the rest of the citizens, namely those who will not participate? His answer to this question is to plead for a national deliberative event, called Deliberation Day. This would be a new national holiday (organized ten days before major national elections), dedicated to the simultaneous applying of deliberative polls in local deliberative forums organized all over the country. In his opinion, citizens would be called for two days in small groups of 15 and large groups of 500 to discuss the essential problems of the campaign. Of course, this will not be sufficient to assure the national character of the deliberation, but it will be achieved through media coverage. The result of this major event will be that politicians will be forced to adapt to a more informed public, and that the people would vote with a better chance of knowing what they wanted and which candidates were more likely to pursue the popular mandate (Fishkin and Ackerman 2005, 6).

The first problem with Fishkin's theory is that it takes for granted the thesis according to which all it takes for optimizing the relation between political and epistemic values is to increase the degree of mass participation and the quality of deliberation. But, he overlooks one of the main difficulties associated with mass participation mentioned by Guido Pincione and Fernando Tesón in the book *Rational Choice and Democratic Deliberation: A Theory of Discourse Failure*. They claim that ordinary citizens lack the resources which are necessary in order to understand the complex political problems of contemporary society. Therefore, if they will participate in a deliberative procedure, they usually suggest solutions that are wrong or even inept. And this is not a type of ignorance that can be easily overturned, because it is caused by citizen's *choice* to remain ignorant on these political matters. And they usually make this choice because they understand the high cost they have to face in order to become familiarized with reliable social science and they are aware of the fact that each individual vote is non-decisive on the outcome of an election. Consequently, their *rational choice* would be to remain ignorant. Another reason is the tendency of politicians to take advantage of the ignorance of the ordinary citizens for political and personal gain. The third reason is the existence of wide redistributive state powers governed by majority rule, and the incentive of the government to

continue to use these powers in order to promote their interests (Pincione and Tesón 2006, 15-18).

Fishkin's response could be that the solutions he suggested could improve the democratic environment by educating ordinary citizens and by forcing politicians to adapt. In the end this is the main objective and the spirit of his optimizing solutions. Therefore, we will have to argue that, in principle, this optimization process is questionable. One argument in this line is provided by John Parkinson in the book *Deliberating in the Real World: Problems of Legitimacy in Deliberative Democracy*. In Parkinson's view, the motivation which is necessary for participation in the deliberative process has to do with the disposition of ordinary citizens to change their interests and preferences. But, this motivation could contradict their initial motivations for getting involved in political activity, which presumably will be related with precisely the desire to promote personal interests and preferences (Parkinsonn 2006, 5). And I believe we should develop this objection by asking: How can we transform people's motivation without altering their political autonomy? Can we tell them: you can participate in public deliberation, but only if you abandon your personal interest and choose to adopt whatever solution will be established by means of the public debate? I believe it is obvious that the answers should be negative.

Another problem has to do with his solutions for bringing deliberative democracy to a scale. As I already pointed out, the deliberative mandate is impossible due to the open-ended character of the deliberation. Moreover, the using of social science doesn't help very much because we cannot confuse *sociological representativity* with *political representativity*. Furthermore, Fishkin's attempt to bring deliberative democracy to scale makes it lose all its argumentative virtues by transforming it into a public communication procedure (Parkinson 2006, 5). People will not have the possibility to hear and be heard by every other participant, to present their solutions and objections on the subject, to cast their vote in a reflective manner in favor or against a decision, and so on (Țuțui 2012a, 77).

8. Conclusions

From the argumentation developed in the previous sections we can conclude that the more systematic account of deliberative democracy I suggested and the analysis of the four strategies for combining the epistemic and the political values offer us an even clearer perspective on

the difficulties this orientation has to face. If its defender tries to maximize the fulfillment of the two sets of values, he is confronted, for every combination, with an antinomy: any gain in achieving one type of objective is associated with a loss in achieving the other type of objective. Similarly, the investigation of all the other main strategies ("deliberative", "democratic" and "pragmatic") reveals serious problems: we cannot subordinate political values to the epistemic ones without affecting the political status and the autonomy of ordinary citizens, we cannot subordinate epistemic values to the political ones without reducing the chances for justifying the democratic procedures and institutions themselves, and, finally, we cannot succeed in optimizing the fulfillment of the two sets of values without either an important compromise on the quality of the deliberation or a dangerous restriction imposed on citizens political autonomy.

Nevertheless, a persistent critic could object that our argumentation did not exhaust all the possibilities for combining democracy and deliberation: maybe there are other ways of subordinating one set of values to the other, or to optimize this combination that I did not take into consideration. Hence, I would have to argue that, in principle, this combination is not possible. I will try to formulate such an argument following a suggestion offered by Robert B. Talisse in his book *Democracy and Moral Conflict*. In his opinion, any defender of democracy has to face a paradox which affects the core principles of contemporary democracies, *the paradox of democratic justification*:

> "The core democratic idea that legitimacy of the democratic state rests upon the consent of those governed by it requires us to articulate principles that supply the justification for our government; however, the fact that citizens are deeply divided over fundamental commitments renders any such principles essentially contestable, and, therefore, unlikely objects of widespread agreement. It seems, then, that the very liberties that constitute the core of democracy render the democracy's own conception of legitimacy unsatisfiable. This is the paradox of democratic justification" (Talisse 2009, 15).

Meditating on this idea I have asked myself if a similar problem could explain the source of the conflict between the deliberative and the democratic dimensions of deliberative democracy. And I understood that it has to do with the impossibility of creating a deliberative and democratic design that could provide both epistemic correctness and democratic legitimacy for the political decisions. This is what I called

"the paradox of democratic deliberation" (Ţuţui 2012a, 79). If we want to obtain the epistemically right decision by the means of deliberative democracy we cannot rely on the "raw" opinion that the common citizens have on that matter. We will need a "filtered" or "refined" public opinion that could be acquired only in an authentic argumentative process. But, if we want to establish the legitimate decision we would have to rely precisely on the "unfiltered" or "raw" political opinion of all the citizens. Hence, the design of the democratic deliberation procedure should rely on a public opinion that must be "filtered" and "unfiltered" in the same time. In my opinion, this reveals the deep internal inconsistency of any theory of deliberative democracy. Therefore, this model should not be conceived as an authentic alternative to the classical theories of democratic legitimacy.

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