

# Newcastle University e-prints

---

**Date deposited:** 17<sup>th</sup> April 2013

**Version of file:** Author final

**Peer Review Status:** Peer reviewed

## Citation for item:

O'Flynn I. [Deliberating About the Public Interest](#). *Res Publica* 2010, **16**(3), 299-315.

## Further information on publisher website:

<http://link.springer.com>

## Publisher's copyright statement:

The final publication is available at link.springer.com at:

<http://dx.doi.org/10.1007/s11158-010-9127-x>

Always use the final version when citing.

## Use Policy:

The full-text may be used and/or reproduced and given to third parties in any format or medium, without prior permission or charge, for personal research or study, educational, or not for profit purposes provided that:

- A full bibliographic reference is made to the original source
- A link is made to the metadata record in Newcastle E-prints
- The full text is not changed in any way.

The full-text must not be sold in any format or medium without the formal permission of the copyright holders.

**Robinson Library, University of Newcastle upon Tyne, Newcastle upon Tyne.  
NE1 7RU. Tel. 0191 222 6000**

## Deliberating About Public Interest

*Ian O'Flynn*<sup>1</sup>

*Newcastle University, UK*

**Abstract:** Although the idea of the public interest features prominently in many accounts of deliberative democracy, the relationship between deliberative democracy and the public interest is rarely spelt out with any degree of precision. In this article, I identify and defend one particular way of framing this relationship. I begin by arguing that people can deliberate about the public interest only if the public interest is in principle identifiable independently of their deliberations. Of course, some pluralists claim that the public interest is an implausible idea, which casts doubt on the idea that there might be something for people to deliberate about. Yet while, following Brian Barry, we can get around this problem by defining the public interest as an interest in which everyone shares *qua* member of the public, what still needs to be explained is why people should be prepared to privilege this particular capacity. I argue that the account of political equality with which deliberative democracy is bound up offers a compelling explanation of this sort, even if it also gives rise to some difficult questions of feasibility. I conclude by considering the charge that any political scheme that framed the relationship between deliberative democracy and the public interest in this way would be undesirable.

**Keywords:** deliberative democracy; the public interest; Brian Barry; representative government.

‘The public interest’ is both an old and a familiar topic.<sup>2</sup> Yet it is not a topic on which much has been written by political philosophers in recent decades. In one sense, it is not hard to understand why the idea of the public interest has dropped out of fashion as an object of philosophical concern. Usually, ‘the public interest’ is taken to describe a good that is common to an entire society, rather than to some particular section of it. But in a world in which people differ among themselves so greatly, one might naturally want to question whether people can share an interest so described. Yet while the public interest may be a highly problematic, even deeply dangerous,

idea, there remain good reasons for persisting with that idea, even in the face of all the difficulties that attach to it.

Political theorists have long stressed the extent to which democracy requires us to take a broader view of public issues than simply focusing on our own special interests in them (e.g., Mill 1991 [1861], p. 428). In particular, they have stressed the extent to which it requires each of us to develop a more mature sense of responsibility for our actions, including a greater willingness to reflect on and take into account the consequences of those actions for others. Recent political experience certainly seems to bear these theorists out. For example, our recent economic predicament is in no small measure the result of a failure to take a larger or more encompassing view of the lives of rich and poor alike. Something similar might be said of our current environmental plight or of our contemporary multicultural predicament. In short, since many of our political problems stem from the failure to appreciate the manifold ways in which our lives are intertwined, there is every reason for thinking that ‘the public interest’ should, at any rate in principle, be made more central to democratic life.<sup>3</sup>

Of course, a democratic government may decide to pursue the public interest for prudential or pragmatic reasons—most obviously, to stave off challenges to its legitimacy or to avoid the danger of political instability. But the public interest is fundamentally a moral idea, one that is principally concerned with the proper conduct of political life in general and the proper ways of making collectively binding political decisions in particular (Diggs 1973, p. 284; cf. Douglass 1980, pp. 104-105). A government whose decisions about important matters of law and public policy are

driven by a concern for the good of society as a whole is a government that respects our standing as political equals. At the same time, ordinary people who give their support to such governments not only recognise what they owe to one another as fellow citizens, but also something of the larger goals and purposes to which their democracy ideally should be put.

In this article, I therefore propose to take a fresh look at how ‘the public interest’ might be identified and pursued by viewing it through a deliberative democratic lens. In a nutshell, the basic claim that I wish to defend is that deliberative democracy is well placed to deliver the public interest. Although deliberative democracy is an outlook composed of different strands, all deliberative democrats can agree that important decisions about matters of law and public policy should ideally be decided not by force of numbers but by the force of the better argument (Habermas 1984, p. 25). To this end, many deliberative democrats maintain that arguments should be couched in terms that are accessible to everybody and could in principle be accepted by anyone (e.g., Gutmann and Thompson 1996; but see Bohman and Richardson 2009). So, while the deliberators may disagree about the meaning of those terms or about what they imply for the choice of one law or policy over another, they must still pay attention to one another’s arguments and respond to them rationally. Of course, the deliberators need not be indifferent to their own special interest in the decision; on the contrary, the fact that they have a special interest may be what motivates them to deliberate in the first place (Manin 1987, p. 353; Christiano 1997, p. 260). Yet insofar as they are willing to reflect seriously on what others have to say, and hence to take a broader view in making political decisions than simply consulting their own interests, the results of their deliberations may have a good claim to be in the public interest.

That, at least, is the basic idea. However, as we will see throughout this article, the relationship between deliberative democracy and the public interest is far more complex than one might think. In the opening section, I tackle one potential source of confusion. Some deliberative democrats argue that deliberation ought to focus on the public interest. But since that commits us to the view that the public interest is independently identifiable, the public interest cannot be merely whatever deliberation delivers. Of course, some pluralists claim that the public interest is an implausible idea, which then casts doubt on the idea that there might be something for people to deliberate about. I take up this issue in the second section, where I follow Brian Barry in arguing that the public interest needs to be defined as an interest in which everyone in society shares in his or her capacity as a member of the public. In the third section, I seek to extend Barry's argument. I start by defending the normative claim that people ought to approach important decisions of law and public policy in their capacity as members of the public, before discussing how, in practical terms, a well designed deliberative democracy might bring this about. Finally, in the last section, I consider the charge that any political scheme that required people to focus on the public interest would be undesirable. In response, I suggest a number of reasons why this charge does not, in fact, hold.

### **Deliberative democracy and the public interest**

Many deliberative democrats characterise their position in terms of a contrast between a politics of pluralistic competition, in which it is assumed that people seek what is best for themselves, and a politics of the common good, in which it is assumed that

people seek what is best in the public interest. Although ‘the public interest’ tends not to be explicitly defined, deliberate democrats typically equate the term ‘public’ with all the members of a society, or with its citizens, and the term ‘interest’ with something that is beneficial (be that something like the good of living in a clean atmosphere or the policies that might secure such a good). Yet although the idea of the public interest features prominently in many discussions of deliberative democracy, the relationship between deliberative democracy and the public interest is sometimes cast in very different ways—and, it should be said, the differences between them are rarely marked with any great degree of precision.

For example, Seyla Benhabib, in her treatment of the idea of the public interest, ‘proceeds not only from a conflict of values but also from a conflict of interests in social life’ (Benhabib 1996, p. 73). Yet while people may disagree about all manner of things, she maintains that agreement can nevertheless be sought at the level of democratic procedure (but see Cohen 1994, 1996; Mansbridge 1998, p.10). So, while people may start from their own special interests, the hope is that those interests can be filtered and transformed through a well designed deliberative process so that the decisions that emerge will be in the public interest. On this pluralist view, therefore, deliberative democracy is treated as *definitive* of the public interest—i.e., the public interest cannot be determined until deliberation concludes and a decision has been reached.

The view that we will be concerned with in this article is of a rather different sort, however. That view also starts from the assumption that democratic deliberation will normally begin from a conflict of interests. To this extent, it takes pluralism

seriously. But the aim remains that of getting people to privilege those goods they share in common, or the many ways in which their lives are intertwined, despite the many other things that divide them. On this (much more weakly pluralist) view, the public interest is not merely whatever deliberation delivers; it is not reducible to the outcome of a well designed deliberative procedure. Instead, the public interest is, at least in principle, identifiable independently of our deliberations.

We can begin to gain a better understanding of this latter view by considering Joshua Cohen's claim that, when properly conducted, 'democratic politics involves public deliberation focused on the common good' (Cohen 1989, p. 19). But Cohen also wants to claim that 'the interests, aims, and ideals that comprise the common good are those that survive deliberation' (Cohen 1989, p. 25). Taken on its own, this second claim might be taken to suggest that, for Cohen just as for Benhabib, the deliberative process is definitive of the public interest. Yet although Cohen does not explicitly link his two claims together, the logical implication is clear enough. One cannot claim that the deliberative process is definitive of the public interest while at the same time claiming that deliberation should focus on the public interest. Having deliberated, we may have a better insight into what the public interest really is; in this sense, one could say that the public interest is whatever deliberation delivers. Yet while our appreciation of the public interest may change on hearing what others have to say, the fact remains that we can only deliberate about the public interest if the public interest is, at least in principle, identifiable independently of our deliberations. In other words, to say that deliberation should focus on the public interest is to suppose that people will already have some idea of what the public interest is.

Of course, someone might respond that people cannot know what the public interest is until they have revealed their preferences and deliberated about them. Yet what that response implies for the claim that people can deliberate about the public interest only if the public interest is independently identifiable will depend on where one stands on the broader philosophical debate concerning the proper relationship between preferences and interests. It is generally agreed that preferences involve wants.<sup>4</sup> Yet some political philosophers also seek to identify preferences or wants with interests. Here the claim can be of two different sorts. It can be the empirical claim that, although logically we can distinguish a person's interests from his or her preferences, nevertheless each person is still the best judge of his or her own interests—so that, for practical purposes, we can equate preferences and interests (e.g., Mill 1991 [1861], pp. 245-246; Dahl 1989, pp. 102-103). But it can also be a more conceptual or logical claim—a person's interest consists in nothing other than the person's preferences and the satisfaction of his or her preferences; any attempt to impute an interest to a person, that is other than the person's preferences, must be bogus.<sup>5</sup>

If preferences are identified with interests, the claim that people cannot know what the public interest is until they have revealed their preferences and deliberated about them will effectively amount to the view that the public interest is whatever the deliberators eventually say it is. Here, the idea that people can deliberate about the public interest only if the public interest is independently identifiable has no place. Yet, as has often been argued, preferences need not be identified with interests. Indeed, Peter Jones argues that 'the refusal to distinguish interests from preferences is grossly implausible' (Jones 1998, p. 17). For instance, we may all agree that there is a public interest in economic recovery, but even after deliberation we may still not have a clear



preference about the matter. Or, having deliberated, we might have a clear preference for a particular economic policy, but that policy might still turn out not be in the public interest (see Barry 1964, p. 5; Barry 1990 [1965], p. 181).

These commonplace examples suggest that interests are not necessarily reducible to preferences. They also enable us to make sense of the idea that people cannot deliberate about the public interest unless the public interest is independently identifiable. The point might be put like this. It may be that we cannot know what the public interest is until people have revealed their preferences and deliberated about them; only once we know that can we move to the next stage and deliberate about the goods or policies that would best satisfy those preferences. But that second stage is the stage at which we are deliberating about the public interest and what policies would best serve that interest. It is not another round of preference expressions since, although deliberation may help us to better understand what we want or why it is reasonable to want it, we may still misjudge the public interest or the policies most likely to secure it.

This means, of course, that the public interest may be controversial—with all the best will in the world, different people may arrive at different conclusions about what is best for the entire society. Yet while there is no Platonic form of the public interest that experts can ‘know’ and use to judge the correctness of our decisions, the fact that the public interest may be controversial does not undermine view that people can deliberate about the public interest only if the public interest is independently identifiable. That view does not deny that people may get it wrong (i.e., the laws or policies upon which we decide may turn out not to be good for some or all). It merely

denies that the public interest is reducible to whatever the deliberators say it is. There is a parallel here with John Rawls's distinction between 'imperfect procedural justice' and 'pure procedural justice' (Rawls 1971, pp. 83-90). In imperfect procedural justice, we know from the outset that there are independent criteria for the right outcome, and we design procedures to deliver that outcome. Yet at the same time we recognise that no procedure will be perfect in this regard. In the case of pure procedural justice, however, an outcome is just if and because it is the outcome of a just procedure and there is no way of identifying a just outcome independently of the procedure.

In sum, while some deliberative theorists think of the link between deliberative democracy and the public interest as if it were like the case of pure procedural justice, the account with which we are concerned in this article is more like the case of imperfect procedural justice. Admittedly, this distinction does not settle anything. One can agree that people cannot deliberate about the public interest unless the public interest is, in principle, independently identifiable. Yet it remains to be shown that, in a modern pluralistic society, people can actually share a public interest. I take up this issue in the next section, where I follow Brian Barry in defining a public interest not just as an interest in which everyone shares, but as an interest in which everyone shares *qua* member of the public. In later sections, much of what I will have to say will concern the fact that the public interest can be controversial or that people can be wrong about it.

### **The public interest and political disagreement**

So how might one characterise the public interest so that the deliberators actually have something to talk about? In practice, democratic governments frequently appeal to the idea of the public interest in defending their decisions. They usually do so as if the public interest were an objective phenomenon. Yet very often the thing that is said to be in the public interest is not, on the face of it, in the interest of some people. For example, while the government may claim that a pleasant natural environment is in the public interest, the owners of a polluting factory may argue that environmental protection policies are not in their interest because their profits will fall. Or while the government may claim that social cohesion is in the public interest, some ethnic groups may argue that policies that aim at greater levels of social integration are not in their interest because those policies make it harder for them to preserve their distinct way of life.

Disagreements of this sort can attach to the adoption of almost any public policy, so much so that the idea of public interest can begin to look rather implausible. Yet at the same time it would seem rather odd to say that a public interest in, for example, peace and security is defeated simply because society happens to contain an arms manufacturer who would do very well out of a civil war, especially if he or she could get out of the country in time. Of course, we may think that public interests should sometimes yield to special interests. But the mere existence of a strong private interest does not seem sufficient grounds for rejecting the idea of the public interest out of hand (Goodin 1996, p. 338). Nor does the mere fact of disagreement suffice to show that the idea of the public interest is implausible. For example, everyone may want secure external defence, but some may think that holding nuclear weapons promotes that goal, while others believe that holding those weapons imperils it. Here

the two parties do not have conflicting interests; they simply disagree about the best strategy for promoting something that is in their common interest. And yet the trouble is that the disagreements with which we began this section (the owners of a polluting factory concerned about profits or the members of an ethnic group concerned about the preservation of their distinct way of life) are not of this sort: they are not about the most effective means to fairly obvious common goals but instead involve genuine conflicts of interest. A different line of argument is therefore required in order to show that something can be in the public interest while still arousing opposition from some.

As Brian Barry points out, instead of simply saying that a policy is in our interest, we will often specify some role or capacity in which it is of benefit to us: as a parent, as an employer, as a house owner and so on (Barry 1964, p. 14). Sometimes, however, a policy that is in our interest in one role will not be in our interest in some other role—for example, as a pedestrian, lowering the speed limit is in my interest, but as a motorist, I have reason to oppose the policy. What Barry asks us to see is that disagreements about the public interest can be explained in just the same way. One of the roles in which everyone sometimes finds himself or herself is that of ‘a member of the public’. In that capacity, we will naturally tend to favour goods or policies that are in the interest of everyone in society, rather than goods or policies that benefit us in some more particular role (Barry 1964, pp. 14-15; see also Douglass 1980, p. 111).<sup>6</sup> Thus, *qua* member of the public, I share an interest with everyone else in society in living in a clean atmosphere. But *qua* owner of a polluting factory, I share a special interest with my fellow factory<sup>7</sup> owners in opposing costly proposals to cut harmful emissions. Etc.

By drawing our attention to the different roles or capacities in which we sometimes find ourselves, Barry shows that the idea of the public interest does not have to exclude the possibility that some people whom a public interest encompasses may have other interests that conflict with that public interest. We do not need to articulate a sophisticated ontology to understand what is at issue here. The feeling of being role conflicted in the way Barry describes is a fairly commonplace experience. But even so, his defence of the idea of the public interest takes us only so far. Analytically, Barry demonstrates that ‘the public interest’ is not an implausible notion—a public interest is an interest that attaches to a role or capacity in which each of us shares *qua* member of the public, and hence in principle can be identified independently of our deliberations. Normatively, however, his argument stops at precisely the point at which matters become really interesting. In particular, it does not explain why the public interest in a decision should be prioritised or why democratic institutions should be designed in ways that encourage people to take the broader view.

Some issues, Barry argues, will allow a policy to be produced that will affect everyone only in his or her capacity as a member of the public. (Although Barry does not provide an example, a change to the age at which someone is entitled to vote might be the sort of thing that is at issue here.) Yet as he also argues, other issues will lack this simplicity, because some of us will be affected in some other capacity as well. This may not present much of a problem as long as our net interest continues to be affected in a positive direction. But it may well become a serious problem if the overall balance of our interest starts to tip the other way (Barry 1964, p. 15). In such cases, Barry simply concludes that ‘the public interest has to be balanced against the

special interests involved and cannot therefore be followed exclusively' (Barry 1964, p. 16).<sup>8</sup> Yet insofar as democracy really does require us to broaden our perceptions and expand our sympathies, then it is clear that things should not be left at that.

Barry is right, of course, to say that a balance may sometimes need to be struck. But what he does not tell us is how, normatively speaking, that balance ought to be struck or what weight we ought to give to things. In our world today, people often seem to give more weight to their own special interests than to the public interest; special interests weigh more heavily in the balance for them. But, as I suggested earlier, there are good reasons to seek to tip the balance back the other way, toward the public interest. In what follows, I argue that deliberative democracy justifies and brings further clarity to the view that people should be more willing to approach important decisions of law or policy in their capacity as members of the public. But as we will also see, the connection between deliberative democracy and the public interest is far more complex, both in theory and in practice, than one might initially think.

### **Deliberative democracy and the pursuit of the public interest**

Up to this point, I have argued that, logically, people can deliberate about the public interest only if the public interest is identifiable independently of their deliberations. Following Barry, I have also argued that one of the ways in which we might think about the public interest as being something that is independently identifiable is by seeing it as attaching to a particular social role. But none of this shows that deliberative democracy is well placed to deliver the public interest. We can begin to make that case by seeing how the particular account of political equality with which

deliberative democracy is bound up obliges us to approach important matters of law or policy in our capacity as a member of the public rather than from some other, less encompassing or partial perspective.

In any free society, people will tend to arrive at different conclusions about such things as the place of religion in their lives, the value of material possessions or the importance of tradition or culture to living a worthwhile life (Rawls 1996, pp. 54-58; Cohen 1996, p. 101). This variation in human outlook is perfectly natural, as is the more general societal pluralism that results. But, for deliberative democrats, it carries with it particular normative implications for how we should relate to one another as fellow members of society. On a deliberative understanding, recognising others as equals in political argument means recognising that those others can have reasons to hold their views as firmly as we hold ours. Hence, if we do not listen respectfully to what they have to say, try to see things from their perspective, or couch our own argument in terms that they could accept, we fail to respect their standing as political equals.

Deliberative democracy therefore obliges us to take a broader or more encompassing view of important decisions of law or policy than merely consulting our own special interest in them. In other words, it requires us to approach matters of common political concern in our capacity as a member of the public, rather than in some more particular capacity (Mill 1991 [1861], p. 255). In our capacity as a member of the public, we will naturally tend to pursue those things that are good for everybody in society, rather than those that are only good for some. Of course, it may sometimes be very difficult, perhaps even impossible, to make this shift in role perspective.

Much will depend on the particular policy issue. But the particular account of political equality with which deliberative democracy is bound up offers a ground for arguing that we ought to at least try to make this shift—and to try to do so as often as possible, even when our net interest seems to point the other way.

So described, deliberative democracy seems well placed to deliver ‘the public interest’, albeit somewhat indirectly. For Benhabib and others who think that deliberative democracy is definitive of the public interest, the hope is that deliberation will transform special interests into public interests. But on the view under consideration here, the hope is that deliberation will lead people to shift from one role into another—as such, the emphasis in the first instance is not on preference transformation but on role transformation. In asking people to make this shift, the aim is not to belittle special interests, as if those special interests were inherently suspect, but to give greater weight to those interests that we hold in common with everyone else *qua* members of the public. In other words, the aim is to remind us of the many ways in which our preferences stand to affect others in society and of what the proper, moral response should be to the many ways in which our lives are intertwined.

Again, however, the trouble is that matters may not turn as planned. Take an everyday bargain—you give me something that I want, and I will give you something that you want in return. An agreement of this sort might serve each of our special interests but it would not serve the public interest in Barry’s sense. In other words, we may have a shared interest in a decision, but that interest need not be an interest that we have *qua* members of the public. In response, one could insist that, whereas we can agree to a bargain for different reasons, an agreement reached through



deliberation ‘must rest on identical reasons that are able to convince parties in the same way’ (Habermas 1996, p. 166). Yet one still cannot say that an agreement reached on that basis is necessarily in the public interest. Suppose that each and every one of us enjoys eating greasy food once a week; but suppose that diet leads to increased health-care costs to the national health service which we all bear *qua* members of the taxpaying public. So, we have a special interest in eating greasy food once a week, but a public interest (*qua* members of the taxpaying public) in our not doing so. Suppose we like eating greasy food more than we dislike paying the (small) extra amount of taxes that that entails; so the upshot of our deliberations on the topic leads to our agreeing to let each other eat greasy food once a week. We have deliberation in that decision. And the decision was driven by the same reason for everyone. But that reason spoke to our special interest, not the public interest.

We can never be sure that people will deliberate wisely or that they will seek anything more than the satisfaction of their own special interests in cases where a public interest could also have been pursued. But there are still things that we can do, practically speaking, to increase the chances not just that the better argument will win the day, but that people will approach important matters of law and policy in their capacity as members of the public. That is, there are still things that we can do to try to ensure not just that people agree for the same reasons, but that those reasons support the public interest in a decision (cf. Goodin 1996, pp. 339-341; Pettit 2004, pp. 165-169). By way of illustration, consider parliamentary debates within representative institutions.

Many deliberative democrats argue that representative institutions should be as open or transparent as possible. The driving assumption here is that, in an open policy debate, it is pragmatically impossible to argue that a given solution should be chosen merely because it is good for oneself, since to do so would excite ridicule or contempt (Goodin 1992, pp. 124, 132). Rather, having to argue in public forces representatives to defend their policy proposals from the broader perspective of a member of the public, whether they like it or not (see Elster 1998, pp. 109-111). Unfortunately, the empirical evidence does not seem to support this assumption. As Jürg Steiner and his colleagues show, in open parliamentary debates, especially when the issue is contentious, representatives will usually offer coherent arguments, but they rarely show any willingness to reflect seriously on the arguments put to them by others (Steiner et al. 2004). At least on this evidence, parliaments seem extremely vulnerable to partisan behaviour. Of course, partisanship may genuinely be partisanship over what the public interest is. So the objection to partisanship need not be that it is 'special' rather than 'public' in perspective. Yet either way, the fact remains that, although parliaments may be open to public view, they seem not to be particularly conducive to good quality debate designed to reach the best possible understanding of the public interest.

In short, it is not enough to say that parliaments should be open or transparent. If we wish to increase the pressure on representatives to take the broader view, parliaments must be open or transparent in the right way. Since parliamentary behaviour is often driven by a concern for re-election, electoral reform is one obvious possibility. There are numerous options here (see James 2004; O'Flynn 2010). But since our concern is with promoting thinking in terms of the public interest, the obvious assumption is that

candidates and parties should be accountable to the entire society at election time—and unambiguously so. For example, Andrew Rehfeld has recently argued that the best way to focus minds on the public interest during the course of an election is to have voters randomly assigned to constituencies (as opposed to the more familiar territorial approach whereby voters are assigned to constituencies on the basis of where they happen to live). Since each voter has an equal chance of being assigned to any one constituency, each constituency will end up looking (largely) like the entire society, albeit in microcosm. Moreover, since, on Rehfeld's scheme, voters are to be assigned on a permanent basis, they cannot simply move to a constituency that they find more congenial or where they might find it easier to protect their own special interests.

Rehfeld expressly intends his scheme 'to be a contemporary way to institutionalise James Madison's thoughts on defeating factionalism' (Rehfeld 2005, p. 212). But he also expressly notes that there are problems with it. If, for example, a society contained a stable majority and a stable minority, the majority might not have any particular incentive to care about the views of the minority; insofar as the party system reflected that same cleavage, it is not clear why the parties of the majority would be willing to pursue the public interest once returned to power. In the face of this sort of difficulty, it is curious that Rehfeld should persist in arguing that majority rule is the natural 'default position'. Rehfeld claims that the problem here lies not with majority rule but with an underlying failure of social justice (Rehfeld 2005, pp. 205, 231-232).<sup>9</sup> Yet while majority rule may not be the root cause of the problem, it certainly compounds the problem.

Arguably, proportional representation (PR) systems are much more in tune with the idea of assigning voters randomly to constituencies that majority rule. As the term suggests, PR systems tend to reduce disproportional vote-to-seat ratios. But they also tend to multiply political parties which can turn an election into a highly uncertain or competitive affair—even large parties may need to care about how they are perceived generally, perhaps forcing them to look beyond their own core supporters for at least some votes (Taagepera Shugart 1989). Crucially, in order to win those votes, they might have to appeal to interests shared by the entire electorate *qua* members of the public—that is, they might have to couch their arguments in terms of the public interest. Of course, things might always play out that way in practice.

Representatives might not be able to justify a policy simply by pointing to how it serves the special interests of some particular individual or group, but it need not follow that representatives need always appeal to the public interest: in some cases, they might be able to justify their proposals by appealing to a range of different special interests. However, a combination of randomly assigned constituencies and PR might significantly reduce the scope for this sort of behaviour. Under PR systems, every vote counts, at least in the sense that every vote adds to a party's or a candidate's overall percentage share of the vote. So, while candidates or parties might in theory be able to appeal to every special interest in the entire society, in practice they might find it a great deal easier to appeal to the public interest.

### **The question of desirability**

Even allowing that that questions of institutional feasibility can be overcome, the normative question still remains as to whether any of this is actually desirable. In

obliging us to approach important questions of law and policy in our capacity as a member of the public, deliberative democracy seems to require us to sacrifice our own special interests for the sake of the greater good, whenever the two conflict. And in requiring us to privilege those goods which we share in common *qua* members of the public over goods that we might favour in some other, more particular capacity, it seems to curtail individual freedom or autonomy. However, while deliberative democracy is strongly perfectionist, it does not suppose that the public interest must, or indeed can, always win the day.

As we have seen, the particular account of political equality with which deliberative democracy is bound up obliges us to pay attention to those things that we share in common *qua* members of the public. Yet in some cases, the better arguments may turn out to be on the side of the special interest: the public interest might be ‘thin’ whereas the particular interest might be ‘thick’. Suppose that (for ‘geopolitical’ reasons) we think that national service is in the public interest because it secures external defence. However, our deliberations might lead us to the conclusion that exemptions should be made for the conscientious objector whose special interest in living as a pacifist conflicts with national service. External defence remains in the public interest. But on the ground that failing to provide exemptions would place an intolerable burden on some people, our deliberations might nevertheless lead us to support the special interest at least in some cases. As such, one might say that deliberative democracy is well placed not just to deliver the public interest, but also to identify those exceptional cases where a special interest justifiably overrides a public interest.

Perhaps more obviously still, deliberative democracy does not suppose (à la Rousseau) that there is, or must be, a public interest in every decision. In some cases, people will simply have conflicting interests. Disputes between private individuals or factions are often of this sort. But so, too, are many of the larger controversies or divisions in a society—for example, the ongoing dispute in Britain about whether hunting with dogs should or should not be banned. In such cases, there is no clear public interest, or no good that is common to the entire society, at stake in the decision. Yet even here deliberative democracy continues to ask us to take the broader view. One usual way of resolving conflicts of interest is to bargain. Yet as Jürgen Habermas argues, this does not authorise us to take advantage of those whom life has dealt a weaker hand. Rather, bargaining should follow procedures that treat everyone fairly and that aim at compromises that leave everyone better off than before (Habermas 1996, pp. 165-166). In other words, once located within the theory of deliberative democracy, bargaining should follow procedures that are themselves mutually justifiable or based on common ground. It should, moreover, do so for the reason that this is what the political equality of democracy demands.

As such, I agree with Jane Mansbridge that bargaining can, and indeed should, be regarded as a legitimate component of deliberative democracy (Mansbridge 2006; Mansbridge et al. 2010). I also agree with her that, under free and fair conditions, bargaining can help secure many of the goods that deliberative democrats typically prize—it can help clarify disagreement, increase levels of mutual understanding and respect and increase levels of solidarity. But when it comes to the pinch, the vital issue is not whether there should be more bargaining in deliberative theory, but whether there should be less bargaining in the real world. As I have argued, in cases

where there is both a public interest and a special interest in a decision, the account of political equality with which deliberative democracy is bound up implies that everyone should be prepared to take the broader view; that is to say, we should be prepared to approach important matters of law or policy in our capacity as members of the public rather than from some other, partial perspective. Again, as I mentioned earlier, this is not to deny that deliberation will often proceed from expressions of special interest; and as I also noted, the public interest may itself be controversial. But in a world in which scant attention is paid to the many ways in which our lives are intertwined, we should try to make every effort to tilt our deliberations more in the direction of the public interest and away from the special interest when both are present within a decision. There can be no guarantees of success. Yet there are still good moral reasons why, in Rawlsian terms, we should try to be a bit more ‘reasonable’ and a bit less ‘rational’, and strive to design our democratic institutions to that end.<sup>10</sup>

There is, however, one further worry that needs to be addressed. On the face of it, one basic difficulty with what I have said so far is that it assumes that public interests can be clearly distinguished from special interests. Yet if we have learned anything from the vast literature on the distinction between ‘the public’ and ‘the private’, we have learned that what can appear to be in the interest of ‘the public’ often turns out to be merely in the interest of its dominant members. Feminists have long been alive to worries of this sort (e.g., Pateman 1970; Young 1990). Of course, to say that the boundaries of the public and the private may be unjustly drawn is not the same as saying that the distinction should be abandoned. Some things are rightly private matters, just as other things are rightly matters of public concern. Still, the boundaries

between the public and the political should always be open to criticism, in principle from any quarter. Thus, in this vein, Iris Young maintained that ‘a democratic public sphere should provide mechanisms for the effective recognition and representation of the distinct voices and perspectives of those of its constituent groups that are oppressed or disadvantaged’ (Young 1990, p. 165).

Now, I have argued that deliberation can focus on the public interest only if the public interest is, at least in principle, identifiable independently of our deliberations. But I have also argued that this commits us to a particular view of the relationship between deliberative democracy and the public interest, one which is more like a case of imperfect procedural justice than like a case of pure procedural justice. Hence, one can consistently claim both that the public interest is in principle identifiable independently of our deliberations and that we, the deliberators, may get it wrong. In our capacity as members of the public, we may misjudge our (public) interest or the laws or policies intended to secure that interest (much as a jury might convict the innocent or free the guilty). Yet by the same token, deliberative democracy might just as easily help us to revise our list of public interests in ways that correct for old mistakes or historical injustices. Having listened to and reflected on the arguments made on all sides, we may come to realise that some of the things we thought were in the public interest benefit merely some, just as we may come to realise that some of the things that seemed to benefit merely some are good for the entire society. There can be no guarantees of success here—just as we saw in the last section, a great deal will turn on our ability to institute deliberative democracy so that the broadest possible range of views and opinions are genuinely taken into account and weighed in the balance. But, theoretically at least, the point remains that there is nothing about



the view that we have been exploring in this article that precludes the possibility of revising our understanding of the public interest or, by extension, our understanding of where the boundary between the public and the private ought, for now, to lie.

Thus, it seems that many of the worries that might lead one to question the desirability of the relationship between deliberative democracy and the public interest as I have described it in this article do not (or at least need not) hold. Indeed, deliberative democracy can itself be thought of as a public interest, albeit of a second order kind. As members of the public, we have a common interest in ensuring that bargains are conducted under mutually justifiable conditions, just as we have a common interest in knowing that decisions about important matters of law and policy can be revisited and revised. But as members of the public we also have a common interest in ensuring that minority voices are included. Unless those voices are included—unless the public interest is itself treated as a site of contestation (Mansbridge 1998)—our understanding of what it means to be a member of the public may stagnate, just as our understanding of what is or is not in the public interest may become a source of unjustified oppression. Neither stagnation nor injustice would serve us well as a democratic society.

### **In conclusion**

It is true that the idea of the public interest itself does not specify how particular public interests might be best interpreted or secured. Nor does the idea provide any help when the pursuit of one public interest conflicts with the pursuit of another. Democratic governments will only ever have limited resources at their disposal,

which inevitably means that conflicts of this sort will ‘require tricky judgements about priorities and trade-offs, which the goals themselves don’t reveal’ (Dahl 1989, p. 285). Yet the fact that the pursuit of one public interest may in practice conflict with the pursuit of another does little to undermine the idea of the public interest per se. After all, the values of freedom and equality can also conflict. But no one seriously suggests that we should give up on those values simply because of the many tensions that can arise between them. So, while it is true that goals like a clean environment or an efficient transport network will not determine collective decisions, at least they provide a basis for collective decisions.

What ultimately matters is not that ‘tricky judgements’ will have to be made—that much is both obvious and largely unavoidable—but how they are made. The choice seems clear enough, at any rate in principle. Either we can approach political decisions as they might be approached by someone in his or her role as a member of the public, or we can approach them in some other role. As I have argued in this article, the particular account of political equality which deliberative democracy is bound up says that we should try to privilege the first of these two roles. In other words, it says that we should try to take a broader or more encompassing view of public issues than simply consulting our own special interests in them. Of course, there are no ‘quick fixes’ here. But things can be done to change the character of democratic politics—by way of illustration, I pointed to the possibilities of electoral reform for improving the quality of debate within representative institutions. Insofar as suggestions of this sort can be implemented, there is reason to think that deliberative democracy is well placed to deliver the public interest, not just in theory but in practice as well.

## References

- Barry, Brian. 1964. The public interest. *Proceedings of the Aristotelian Society* 38 (supplementary volume): 1-18.
- Barry, Brian. 1990 [1965]. *Political argument: A reissue with a new introduction*. New York: Harvester Wheatsheaf.
- Benhabib, Seyla. 1996. Toward a deliberative model of democratic legitimacy. In *Democracy and difference: Contesting the boundaries of the political*, ed. Seyla Benhabib, 67-94. Princeton: Princeton University Press.
- Bohman, James and Henry Richardson. 2009. Liberalism, deliberative democracy, and 'reasons that all can accept'. *The Journal of Political Philosophy* 17(3): 253–274.
- Christiano, Thomas. 1997. The significance of public deliberation. In *Deliberative democracy: Essays on reason and politics*, ed. James Bohman and William Rehg, 243-277. Cambridge: The MIT Press.
- Cohen, Joshua. 1989. Deliberative democracy and democratic legitimacy. In *The Good Polity*, ed. Alan Hamlin and Phillip Pettit, 17-34. Oxford: Blackwell.
- Cohen, Joshua. 1994. Pluralism and proceduralism. *Chicago-Kent Law Review* 69(3): 589-618.

- Cohen, Joshua. 1996. Procedure and substance in deliberative democracy. In *Democracy and difference: Contesting the boundaries of the political*, ed. Seyla Benhabib, 95-119. Princeton: Princeton University Press.
- Dahl, Robert. 1989. *Democracy and its critics*. New Haven: Yale University Press.
- Diggs, B.J. 1973. The common good as reason for political action. *Ethics* 83(4): 283-293.
- Douglass, Bruce. 1980. The common good and the public interest. *Political Theory* 8(1):104-105.
- Elster, Jon. 1998. Deliberation and constitution making. In *Deliberative Democracy*, ed. Jon Elster, 109-111. Cambridge: Cambridge University Press.
- Estlund, David. 2007. *Democratic authority: A philosophical framework*. Princeton: Princeton University Press.
- Goodin, Robert. 1992. *Motivating political morality*. Oxford: Blackwell.
- Goodin Robert. 1996. Institutionalising the public interest: The defence of deadlock and beyond. *American Political Science Review* 90(2): 331-343.

Gutmann, Amy and Dennis Thompson. 1996. *Democracy and disagreement: Why moral conflict cannot be avoided and what should be done about it*. Cambridge: Belknap Press.

Habermas, Jürgen. 1984. *The theory of communicative action vol. 1: Reason and the rationalisation of society*, trans. Thomas McCarthy. Cambridge: Polity Press.

Habermas, Jürgen. 1996. *Between facts and norms: Contributions to a discourse theory of law and democracy*, trans. William Rehg. Cambridge: Polity Press.

Held, Virginia. 1970. *The public interest and individual interests*. New York: Basic Books.

James, Michael. 2004. *Deliberative democracy and the plural polity*. Lawrence: University Press of Kansas.

Jones, Peter. 1998. Intense preferences, strong beliefs and democratic decision-making. *Political Studies* 36(1): 7-29.

Manin, Bernard. 1987. On legitimacy and political deliberation. *Political Theory* 15(33): 338-368.

Mansbridge, Jane. 1998. On the contested nature of the public good. In *Private action and the public good*, ed. Walter Powell and Elizabeth Clemens, 3-19. New Haven. Yale University Press.

Mansbridge, Jane. 2006. Conflict and self-interest in deliberation. In *Deliberative democracy and its discontents*, ed. Samantha Besson and José Martí, 107-132.

Aldershot: Ashgate.

Mansbridge, Jane with James Bohman, Simone Chambers, David Estlund, Andreas Føllesdal, Archon Fung, Cristina Lafont, Bernard Manin and José Martí. 2010. The place of self-interest and the role of power in deliberative democracy. *The Journal of Political Philosophy* 18(1): 64–100.

Mill, John Stuart. 1991 [1861]. Considerations on representative government. In *John Stuart Mill: On liberty*, ed. John Gray, 203-467. Oxford: Oxford University Press.

Miller, John. 1962. *The Nature of Politics*. London: Duckworth.

O'Flynn, Ian. 2007. Review article: Divided societies and deliberative democracy. *British Journal of Political Science* 37(4): 731-751.

Pateman, Carole. 1970. *Participation and democratic theory*. Cambridge: Cambridge University Press.

Pettit, Phillip. 2004. The common good. In *Justice and Democracy: Essays for Brian Barry*, ed. Keith Dowding, Robert Goodin and Carole Pateman, 150-169. Cambridge: Cambridge University Press.

Rawls, John. 1971. *A theory of justice*. Cambridge: Harvard University Press.

Rawls, John. 1996. *Political liberalism*, second ed. New York: Columbia University Press.

Rehfeld, Andrew. 2008. *The concept of constituency: Political representation, democratic legitimacy and institutional design*. Cambridge: Cambridge University Press.

Steiner, Jürg, André Bächtiger, Marcus Spörndli and Marco Steenbergen. 2004. *Deliberative politics in action: Analysing parliamentary discourse*. Cambridge: Cambridge University Press.

Sunstein, Cass. 1993. Democracy and shifting preferences. In *The Idea of Democracy*, ed. Jean Hampton, and John Roemer, 196-230. Cambridge: Cambridge University Press.

Taagepera, Rein and Matthew Shugart. 1989. *Seats and votes: Effects and determinants of electoral systems*. New Haven: Yale University Press.

Young, Iris. 1990. *Justice and the politics of difference*. Princeton: Princeton University Press.

---

<sup>1</sup> Earlier drafts of this article were presented at conferences in Southampton and Glasgow. I learned a great deal from audience members on each occasion. For insightful written comments, I am indebted to Peter Jones, Stephen Elstub, David Russell, the editors of this journal and anonymous reviewers.

<sup>2</sup> For the purposes of this article, I take it that ‘the public interest’ is the same as ‘the common good’, ‘the public good’, ‘the general interest’, ‘the national interest’ etc. For of a discussion of the various distinctions that might be drawn between these concepts, see Douglass 1980; Barry 1990 [1965]. As I suggest in the main body of the text, as they are typically defined, the basic feature of these concepts is their describing a good that is common to an entire society. For a discussion of alternatives to this ‘common to all’ approach to the definition of ‘the public interest’, see Held 1970.

<sup>3</sup> One might naturally wonder about the status of the claim that ‘our lives are intertwined’. The thought here appeals to a familiar ‘golden rule’: insofar as our decisions have implications for others, we should be careful not to treat them in ways that we ourselves would not like to be treated. Of course, this injunction can itself be understood in moral or prudential terms, which will colour how we understand the idea of the public interest (see Douglass 1980). The argument of this article is primarily moral, as should be clear from the main body of the text.

<sup>4</sup> Deliberative democrats argue that preferences or wants should not be taken simply as given, but should instead be shaped through discussion and debate. Still, deliberative democrats typically define preferences as wants, even if they think that the only wants that are relevant to democratic decision-making are those that can be justified in open political debate (e.g., Sunstein 1993).



---

<sup>5</sup> Brian Barry imputes this later view to John Miller (Barry 1964, p. 2; ref. to Miller 1962, p. 40). Although Barry does not elaborate, this view seems to have been fueled by the nefarious ideological purposes for which the notion of ‘real interests’ has been used. In particular, liberals (or economics of a liberal bent) are generally wary of separating interests and preferences too much, since that separations seem to ‘imply a decision-maker who stands outside and apart from the people whose interests he is assessing’ (Jones 1998, p. 18; for a general discussion, see Douglass 1980).

<sup>6</sup> Even here, of course, there may be scope for disagreement: people may reasonably disagree in their over-arching role as members of the public about what is in the public interest. But the point remains that different interests attach to different roles, even if that in itself does not settle all disagreements (see Goodin 1996, p. 339).

<sup>7</sup> As Robert Gooding puts it, ‘How extensive such shared concerns may be varies from place to place and waxes and wanes with time’ (Goodin 1996, p. 339).

<sup>8</sup> Virginia Held argues that Barry’s ‘approach appears to have serious difficulties, as it assigns no role in evaluations of the public interest to anyone’s net interest, which would seem to be what any individual asserting his interests in a set of activities would actually and justifiably ground them upon’ (Held 1970, p. 118). This criticism is unjustified, since Barry clearly says that where our special interest outweighs our share of the public interest, the public interest may have to give way. What Barry fails to explain, however, is whether balancing acts of this sort need to be based on pragmatic considerations only, or whether normative considerations also come into play (and, if so, which ones).

<sup>9</sup> Rehfeld offers a second defence of majority rule, based on the median voter thesis, which essentially says that in a two party system with many floating voters, candidates and parties will seek to please as many people as possible by moving to the

---

middle of the political spectrum (Rehfeld 2005, pp. 226-227). Those conditions might obtain in the case on which Rehfeld focuses—the United States—but there are also many cases where they do not obtain. Even where they do hold, catering to the middle of the political spectrum might leave many minority interests unrepresented (i.e., parties might move closer together, but some sections of society might remain just as far apart as ever).

<sup>10</sup> In concluding their defence of the place of self-interest within deliberative democracy, Mansbridge and her co-authors ask: ‘Will legitimating self-interest, even in constrained form, undermine the capacity of the democratic deliberative ideal to inspire transformations in the direction of the common good? In practice, perhaps yes’ (Mansbridge et al. 2010, p. 78). Ultimately, it seems that Mansbridge is more concerned with taking pluralism seriously than with advancing the public interest in a decision.