Reason, Representation, and Participation

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Abstract:
This paper argues that the contrast between direct and representative democracy is less important than that between simple majoritarianism and deliberative i.e. public reason centred, democracy, as only the latter is sufficiently sensitive to the problem of domination. Having explored a range of arguments in favour of direct democracy it is argued that moves in this direction are only warranted when the practice of public reasoning will be enhanced. Both symbolic representation and delegate democracy are rejected in favour of substantive measures to formalise communication between voters and representatives and permit the formal contestation of political decision on the ground that these will provide stronger defences against domination within the political system.

Keywords: democracy, participation, public reason, representation, accountability, domination, majoritarianism, justification

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Since Rousseau, we have been presented with a stark contrast between ‘genuine’ direct democracy and its pale imitation, representative democracy. While the Rousseauan ideal must remain out of reach for modern mass democracies, it nonetheless continues to haunt the agenda for the reform of our democratic institutions: representation may be an immoveable reality, but we should at least try to approximate the ideal of direct democracy as far as possible.¹ In seeking to effect a more favourable compromise between representative and participatory models of democracy, Baker et al. are not alone: deliberative democrats have for a number of years now been exploring ways to open our existing institutions to citizen participation and deliberation.² While Baker et al. are clearly sympathetic to some features of the deliberative project, I will suggest that it requires a less demanding view of popular participation than they envisage, although it involves a richer conception of political equality.

¹ I take it this is consistent with the views of Baker et al. John Baker et al., Equality (Basingstoke: Palgrave, 2004). While the authors make it clear that they take themselves to be arguing for a version of indirect democracy, I will indicate below why I believe the delegate model they adopt is much closer to direct democracy than they believe. John Baker et al., ‘Equality: Putting the Theory into Practice,’ Res Publica 13/2 (2007) p.13

There are both pragmatic and normative considerations which count against the view that we should aim to maximise direct popular participation. The central question is not how directly we participate in decision-making but whether our decision-making procedure exposes us to domination, i.e. arbitrary interference in our lives. I shall suggest in what follows that non-domination through the rule of public reason provides the best available account of political equality and that it requires increased popular participation only to the extent that this promotes the practice of reason-giving. This leads me to question the value of the reforms to representation proposed by Baker et al.: increased representative diversity and, in particular, the move to the delegate model of representation.

**Participatory Democracy and the Procedural Problem**

Participation may be direct or indirect: direct participation involving direct involvement in collective decision-making, while indirect participation may take the form of (1) electing representatives who will themselves participate in

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4 As Pettit has developed his republican conception of freedom, he has come to note its affinities with political liberalism’s conception of public reason. Philip Pettit, 'Deliberative Democracy, the Discursive Dilemma, and Republican Theory,' in *Debating Deliberative Democracy*, James Fishkin and Peter Laslett (eds) (Oxford: Blackwell, 2003) 138-62.
decision-making on one’s behalf, and/or (2) involvement in attempts to influence those representatives during their term of office. While Rousseau envisaged direct democracy requiring citizens to assemble in a particular place for the purpose of decision-making, modern referendums in which dispersed citizens may vote directly on an issue without assembling as a collective also count as a form of direct participation. While the assembly model is clearly not compatible with modern mass democracy, the referendum model may be combined with representative institutions.

This is unlikely to hold much attraction for those who adopt a broadly Aristotelian view of political participation however, nor those who see political participation as a device for increasing civic solidarity and raising social capital, as it dispenses with the civic interaction they prize. For the Aristotelian, direct involvement in public life is first and foremost an ethical matter: the life of the active citizen taking a turn in self-government is the best life, that which enables us to flourish through realising our essential human nature as political animals.

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Any departure from direct participatory democracy will, on this view, have dire ethical results: participation is essential to human flourishing.

The argument from autonomy proceeds from less elaborate premises. When I participate directly in decision-making I am in effect governing myself, whereas, when decision-making is undertaken by representatives, I am governed by others. Representative democracy, on this view, is essentially a form of aristocratic rule, albeit an elective aristocracy, hence Rousseau’s famous claim that the British people were in fact free only during elections when they were afforded the opportunity to elect their masters.⁶

There is a third sort of argument for increased participation, although it differs from the previous two in permitting indirect participation. This is the pragmatic argument, which aims at an economy of effective decision-making. If our concern is to adopt the least costly means for arriving at, and implementing, the best decision, then we should devolve authority, as far as possible, to the level of those concerned by the issue in question. This will effectively tap resources of knowledge present on the ground which centralised decision-makers cannot easily access. However, while making the best use of local knowledge is important, this must be balanced against the need to make the best use of the relevant technical knowledge which may not be easily accessed at local level, and against the fact that resolving some collective action problems requires

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the development of national and international decision-making mechanisms. Environmental pollution, while experienced locally, is a problem which may only be resolved at the international level, for example. The pragmatic argument, which treats democracy primarily as a problem-solving device, suggests that power be devolved away from the traditional state both downwards and upwards, depending on the problem at hand.\(^7\) At best the pragmatic argument licenses limited moves in the direction of direct democracy.

While the ethical defence of direct democracy may be attractive to those who decry the privatised quality of modern life, the claim that there is a uniquely best way to live and that this is the life of the active citizen, conflicts with the characteristically modern ethical view that there are in fact many good ways to live, so that at best, the life of active citizenship may only be one of a variety of ethical projects.\(^8\) If we are committed to respecting the equal freedom of others to choose their own ethical projects then there is an important moral reason for preferring representative democracy to direct democracy. The burdens of direct democracy, not only in terms of time spent in meetings, but also in terms of the time and energy devoted to acquiring the information necessary to make

\(^7\) Pogge suggests this sort of multilayered democracy can provide the basis for a cosmopolitan model of democracy. T. W. Pogge, 'Cosmopolitanism and Sovereignty,' *Ethics* 103/1 (1992) 48-75.

informed decisions, exclude the pursuit of other worthy projects: the device of representation is necessary for the exercise of our moral autonomy, freeing us from politics. This doesn’t mean that we have no political responsibilities, only that we cannot, consistent with respect for equal freedom, adopt a system of government that imposes a particular ethical outlook upon us.

The autonomy argument is also unsatisfactory in that, strictly speaking, it supports anarchy rather than democracy. Once we are committed to collective decision-making with some sort of majority decision-rule then we are committed to a system in which, at least some of the time we shall have to do what others want us to do. In this crucial respect there is no significant difference between direct and representative democracy as both expose me to this hazard. It may be argued that I wield more influence in a direct system, but if the Athenian assembly typically amounted to 6000 citizens, for example, then any direct democracy is likely to be sufficiently large that my individual vote will make no real difference to the outcome.⁹ Whatever the virtues of direct participation, it cannot be argued that is better than any other system at protecting us from arbitrary interference in our lives.

The anarchic version of the autonomy argument fails to justify democracy of any sort. If participation in democratic politics is to count as self-government, 

⁹ Note that if the citizen body consisted of 30,000 men at this time, then participation even in this icon of direct democracy would seem to have been limited. Bernard Manin, *The Principles of Representative Government* (Cambridge: Cambridge University Press, 1997) p. 16.
then, as Rousseau saw, it must be a special sort of self-government: not absolute self-government, but *equal* self-government.\(^\text{10}\) What ensures that democratic government is not subjection to the arbitrary rule of others, whether a minority, or a majority, is the nature of the decision-making procedure itself, which must respect the status of all those who will be subject to its binding outcome, as free and equal persons. Now it might be argued that direct participation in decision-making guarantees respect for my equal status in a way that decision-making by representative does not, but it’s not clear that this is true. While I might have a formally equal say, a majority of voters may consistently disregard my interests and vote for measures which discriminate against me. My physical presence in an assembly affords me no magical protection against this sort of abuse. Having my say is of little value if no-one is listening. A fair procedure should not only offer citizens a formally equal opportunity to influence collective decisions through voting, for this is not enough to guarantee equal concern and respect for their interests.\(^\text{11}\) The right sort of procedure will afford citizens good reason to believe that their equal status as autonomous persons is being respected. Faced with complying with a decision with which we disagree, the *fairness of the procedure* which produced it should provide us with a reason to comply even where we do not find the decision itself rationally compelling, if our compliance

\(^{10}\) We exchange our absolute independence for equal dependence. Rousseau, op. cit. p. 15.

is to be consistent with autonomy. If there is no special link between direct
democracy and equal political autonomy, we need to look elsewhere for an
understanding of the sort of procedure which would give us reason to believe
that we enjoy equal political freedom.

Public Reason and Non-Domination

If our autonomy is to be respected and we are to be secured against domination
from within our political institutions, decision-making must be constrained by
the ideal of public reason, which requires us to refrain from seeking to use our
‘common coercive power’ for private ends.12 Attempts to divert our common
power to private ends treat our fellow citizens as objects to be manipulated
rather than as equals. Manifesting respect for the equal status of our fellow
citizens, on this view, requires us to offer reasons in support of our policy
preferences, and not just any sort of reason, e.g. ‘it’s in my interest’ or ‘it’s God’s
will’ but ‘public’ reasons, i.e. reasons which we can reasonably expect others to
endorse as their own. On the understanding that reasonable people may disagree
on a variety of important moral issues, the public reason constraint rules out
appeal to controversial moral or religious premises, which could reasonably be
rejected by others. Crucially, discriminatory policies, which can reasonably be
rejected by those who might be unfairly disadvantaged by them, cannot be

supported by public reasons. When public policy is not backed by public reasons, then those affected are, in Pettit’s terminology, exposed to domination: the risk of arbitrary interference with their lives.\footnote{Philip Pettit, ‘Deliberative Democracy, the Discursive Dilemma, and Republican Theory,’ in Laslett & Fishkin op. cit., 138-62.}

The traditional liberal fear of arbitrary rule is a worry about rulers acting outside the law and this has prompted the development of safeguards such as the separation of powers and constitutional protections for individual rights. The development of the concept of public reason reflects a growing understanding of the fact that these measures are not sufficient to protect citizens from domination: majorities formed within existing democratic institutions can still employ political power in arbitrary ways. The minimalist interpretation of democratic politics as a matter of party competition for the support of self-interested voters is particularly insensitive to the potential for legislative domination by majorities.\footnote{Cillian McBride, ‘Consensus, Legitimacy, and the Exercise of Judgement in Political Deliberation,’ Critical Review of Social and Political Philosophy 6/3 (2003) 104-28.}

Political equality requires public reasoning and the creation of institutions which promote this practice. On some views, we might seek to restrict the employment of public reasoning to particular areas of policy, e.g. matters of basic justice and constitutional essentials, but it is hard to see how restrictions of this sort might be justified, for on reflection it is clear that the practice of reason-
giving is fundamental to the moral ideal of equality.\textsuperscript{15} To relate to another as an equal is to treat that person as someone capable of responding to reasons, and not merely force or manipulation, and as someone who, in turn, can demand reasons from us.\textsuperscript{16} Egalitarians should, then, want to see the practice of reason-giving extended throughout social life.

When collective decisions are made on the basis of public reasons, the equality of citizens is respected: we are ruled, not by persons, but by reasons.\textsuperscript{17} Talk of the rule of reason(s) may however, suggest a vision of rule by Platonic guardians, whose superior rationality renders democracy redundant. The assumption here, is firstly that the capacity for public reasoning is distributed

\textsuperscript{15} Rawls, of course, suggests that if the argument for public reason is sound with respect to these issues, then it may be extended to other questions. Rawls, op. cit., p. 215.


\textsuperscript{17} This account is primarily procedural, but not wholly exclusive of epistemic considerations: the assessment of the fairness of the procedures cannot at the end of the day be divorced from some assessment of the justice of the outcomes. David Estlund, ‘Beyond Fairness and Deliberation: The Epistemic Dimension of Democratic Authority,’ in James Bohman and William Rehg op. cit., 173-204.
throughout the population and is not restricted to a particular class, and secondly, that reasonable people may still fail to converge: there may be good public reasons for adopting a variety of policies, and having identified these through a process of deliberation, the outcome must be determined by majority vote.\textsuperscript{18} We may rationally dissent from this outcome, but compliance is nonetheless compatible with our autonomy as the procedure is respects our status as free and equal persons.\textsuperscript{19} The idea of being ruled by reasons is directed simply against the danger that private interests may come to capture aspects of the political process and in so doing effectively expose citizens to domination.

Public reason has, of course, a dual aspect. On the one hand, it involves participation in actual dialogue with particular persons in particular contexts, i.e. the practice of reasoning \textit{in public}, while on the other hand it requires an internal process of deliberation, in which one engages in a process of justification to an essentially imagined public. That these two aspects of public reason be kept in tension with one another is vital, for if we focus exclusively on external collective deliberation then we may fall prey to justificatory parochialism, i.e. securing agreement from our interlocutors may take precedence over identifying the

\textsuperscript{18} Rawls, op. cit., pp. 240-241.

\textsuperscript{19} Goodin notes that one problem with some epistemic arguments for greater participation in decision making is that they present dissent as irrational. Robert E. Goodin, \textit{Reflective Democracy} (Oxford: Oxford University Press, 2003) p.132.
appropriate reasons for supporting a given policy.\textsuperscript{20} Here, the imagined public of internal reflective deliberation should remind us of our obligation to take into account the claims and interests of those who cannot be present to engage us in actual dialogue, or whose argumentative skills are poor.\textsuperscript{21} Equally, internal reflective deliberation does not make the actual articulation of our reasoning redundant, for reasoning is difficult and cooperating with others reduces the likelihood of error. Knowledge that one may be called upon to publicly justify one’s course of action also provides a vital incentive for those in public office to act on public rather than private reasons and institutionalising the exchange of reasons therefore serves to justify public confidence that the democratic process is not prey to arbitrariness.\textsuperscript{22}

In designing institutions to facilitate the practice of public reasoning, we will be concerned to expand the contexts in which public reasoning may take place, but we shall also need to take care that these are arranged in such a way as to guard against the ever present danger of justificatory parochialism. Decentralising power may, for example, encourage competition between regions which like other forms of interest group competition may disregard the

\textsuperscript{20} The terminology of internal reflective and external collective deliberation is borrowed from Goodin. Ibid., p.169.

\textsuperscript{21} McBride, op. cit., p. 118.

constraints of public reasoning. Equally, schemes for the inclusion of marginalised groups, e.g. Young’s suggestion that marginalised groups be awarded vetoes on certain issues also fall prey to justificatory parochialism insofar as they effectively seek to establish private authority of over certain areas of public policy.  

Reforming Representation:

Baker et al. suggest two directions for the reform of representation: we should seek to increase the social diversity of our representative bodies, and move towards a strict, delegate, model of representation. The rationale offered for the first of these moves, that it ensures the symbolic inclusion of marginalised groups is not, I shall suggest, persuasive, while the second proposal, which aims at minimising the gap between representative and direct democracy, is both unworkable and undesirable.

Symbolism is undoubtedly an important aspect of politics and we should certainly want to see public institutions stripped of anything that symbolised their capture by private (including majority) interests and the resolve of those

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interests to treat their fellow citizens unequally. However, we should resist the view that political equality may be advanced by the symbolic inclusion of representatives originating from within marginalised groups. Not only can we contrast symbolic inclusion with substantive inclusion, but we may even find that the former is offered in lieu of the latter: the token inclusion of marginalised groups serving to create a false impression of inclusivity and political equality. On the symbolic view, the representative’s primary function is to make the represented symbolically present through their shared social identity, a curiously mediaeval understanding of representation which is at odds with both delegate and agent understandings of the role of the representative. While the authors are clearly keen on reducing the discretion of representatives, one implication of the symbolic model of representation is that consultation between representative and represented is redundant: a De Gaulle, or a DeValera personifying their nation need only look into his own heart to know what is in the national interest. While some citizens may attach a symbolic value to representation, our primary aim should be substantive political inclusion.

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25 The flying Union Flags on public buildings in Northern Ireland, for example, may be interpreted as a symbolic attempt by Unionists to claim the institutions of the state as their own rather than as genuinely public institutions, shared by Unionist and Nationalist alike.


A better, although less exotic, argument for representative diversity is that from equality of opportunity: the social homogeneity of our representatives suggests that members of certain social groups are unfairly advantaged by existing practices and institutions. Some will argue that this neglects the wider problem of political inequality, and that we need to reform representation not for symbolic reasons, nor to ensure equal opportunities for individual group members, but in order ensure that the interests of marginalised groups are properly considered by policy makers. While this clearly addresses the central issue of political equality, I suspect that reform programmes focused on the identities of our representatives are unlikely to make much impact on the issue of substantive political inclusion.

The key assumption behind such programmes is that altering the social mix of those participating in parliamentary deliberations will have an impact on policy outcomes. Significant changes to the parliamentary arithmetic are unlikely, so change must presumably be brought about through parliamentary deliberation as greater diversity will presumably extend the range of views articulated in the chamber and this will facilitate transformations in the views of those present. But can we hope for much deliberative transformation within the formal parliamentary sphere?

Firstly, representatives, as professional politicians will tend to have more in common with each other than they will with their constituents regardless of gender or ethnicity: the iron law of oligarchies suggests that representative
diversity alone will not function as a conduit for the introduction of new perspectives into the parliamentary sphere. Secondly, while effective deliberation requires a certain openness to alternative views and a willingness to revise one’s initial position, the realities of party competition have reduced parliamentary debate to a pantomime in which victory is not produced by the better argument but by the ability of the whips to marshal their troops. Ironically, the more aggressively the news media seek to call representatives to account, the less likely they are to engage in genuine public deliberation, as the media spotlight which magnifies any hesitation into evidence of a policy u-turn simply increases the public defensiveness of the politicians.\(^{28}\) To make more than a merely symbolic impact on representative democracy we should be concerned less with \textit{who} is in parliament, and more with what they \textit{do} to enhance the circulation of reasons between voters and decision-makers.

\textit{Delegation and Participation:}

One reason to favour a delegate model of representation is that the latitude afforded representatives on the agency view introduces the possibility that we shall find ourselves ruled by our representatives rather than ruling ourselves through them. Delegation seems to offer the prospect of a more transparent and

\(^{28}\) Manin, who argues that representation is an essentially aristocratic device, calls this ‘audience democracy’, which rewards politicians for their media skills rather than their wealth, birth, or oratorical talents. Manin, op. cit., p. 223.
accountable form of decision-making as delegates are not free to hammer out deals in smoky rooms far from the scrutiny of their constituents. Also, it is easier to sanction unsatisfactory delegates as the criterion for assessing their performance is clear: deviation from their instructions. By contrast, it is more difficult to determine what is to count as a sanctionable failure on the agency model. A key problem with delegation is that in trying to bring representatives as far as possible under the direct control of the voters, it cannot avail itself of the advantages offered by the division of labour involved in the agency model, while in terms of political equality it is as unsatisfactory as the crudest direct majoritarian procedure.

Delegation fails to get to grips with the problem that voters are not only ignorant of political issues, but, for the most part, rationally so. Given the vast amounts of information required to make informed policy choices, compared with the likelihood of one’s vote having a decisive impact on the policy outcomes, voters rationally choose to remain largely ignorant of these questions. By authorising a representative to take part in political deliberations on their behalf, voters take advantage of the social division of labour to free themselves for other projects. While we might decry the risks involved in the unequal distribution of knowledge this arrangement involves, there are clear limits to how much time and effort it is rational to devote to becoming informed on the range of policies on which one may have to instruct one’s delegate. The delegate model places unrealistic informational burdens on ordinary citizens. Indeed, if
citizens have to shoulder this informational burden themselves, it is hard to see why they should not simply opt for a system of direct referendum democracy, the burdens being exactly the same.

The second problem is that delegate democracy amplifies the defects of simple majoritarianism. Voters, having heroically acquired all the relevant information, would then have to decide, presumably by majority vote on how to instruct the delegate. This system of local majoritarianism, however, will systematically disadvantage geographically dispersed minorities who will be consistently outvoted.\textsuperscript{29} As Madison argued, smaller political units are more prey to demagoguery and majority tyranny, a risk which is diminished in larger states.\textsuperscript{30} In addition, justificatory parochialism may be encouraged by moves to bring representatives under the control of their constituents: the delegate model fosters the view that representatives act primarily for their constituents, rather than in the \textit{public} interest. If we want our representatives to do more than represent local interests, to defend the rights of minority groups for example, then it may be necessary to allow them to exercise greater discretion. Delegation


purports to defend us from inequality of political influence on one dimension, but would increase it on another.

The final problem is that delegation places too high a value on strict accountability. It has been argued against the view that elections enable us to hold representatives accountable, that voters are typically concerned to use their vote to choose an incoming government, not to vote retrospectively to punish or reward the incumbent.\textsuperscript{31} Strict accountability then is frustrated by the complexity of the judgement that voters must make. Even if I wished to punish a government for, say, an unjustified foreign adventure, I would also have to weigh this against their record in adopting policies which I supported. I may also have to weigh my desire to punish the government against my approval, for example, of my local representative, a member of the governing party, but a vigorous opponent of their policy: do I vote this person out in order to send a signal to the cabinet? Punishing the government is all very well, but what if this were to result in the formation of a government composed of parties whose policies are even less appealing than those of the incumbent? Given the

\textsuperscript{31} James Fearon, ‘Electoral Accountability and the Control of Politicians: Selecting Good Types Versus Sanctioning Poor Performance,’ in Democracy, Accountability, and Representation, Adam Przeworski, Susan Stokes, and Bernard Manin (eds) (Cambridge: Cambridge University Press, 1999) 44-68, p. 82.
complexity of the issues to be considered and the bluntness of the instrument at a voter’s disposal, strict accountability seems to be something of a chimera.\textsuperscript{32}

In consequence, it is argued, we should worry less about accountability, and concentrate more on the idea that a democratic government is one which is \textit{responsive} to the interests of the governed.\textsuperscript{33} Suppose, for example that a representative, having been elected on a particular platform, then discovers that actually implementing these policies would either be more difficult than they had previously thought, or that they would in fact harm the public interest in hitherto unsuspected ways. In this circumstance, would it be rational to prefer that the representative stick doggedly to the platform on which she was elected, despite the disastrous results of implementing these policies, or to have the representative abandon their advertised position and adopt a new set of policies that better advanced the public interest? While discretion may allow arbitrary elements to creep into democratic decision-making, the flexibility that it permits may offer a better defence of the interests of the citizen than strict accountability.

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\textsuperscript{32} Bernard Manin, Susan Stokes, and Adam Przeworski, ‘Elections and Representation,’ in Adam Przeworski, Susan Stokes, and Bernard Manin op. cit., p. 49.
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\textsuperscript{33} Fearon, op. cit., p. 59. Pitkin, op. cit., p. 224.
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Deliberation and Contestation:

I am going to conclude by sketching two proposals for democratic reform that will better realise the ideal of political equality as non-domination: The first of these, which involves multiplying the institutional sites of political deliberation, agrees with one of the basic intuitions behind the delegate proposal: that we should be more worried about what representatives do, and in particular in formalising their interactions with their constituents, than with who they are. It was argued above that political equality requires institutions which guard against domination by furthering the practice of public reasoning: participation per se will do little for political equality unless it promotes the rule of public reasons. It was also suggested that the circumstances of parliamentary debate were not themselves conducive to the practice of public reasoning. By contrast, the necessary openness to deliberative transformation is more likely to be found outside the formal parliamentary arena, in the diverse contexts of the informal public sphere, in which participants are free from the discipline of party competition.

Valadez argues that sharing some aspect of one’s identity with one’s representative promotes inclusion because it makes them more approachable, but I would argue that a better way to achieve inclusion is to create more opportunities for voters to deliberate with their representatives. Jorge Valadez, Deliberative Democracy, Political Legitimacy, and Self-Determination in Multicultural Societies (Boulder: Westview, 2001) p. 197.
While the informal public sphere is open to transformation, without expanding the channels of communication between ordinary citizens and the formal public sphere, this will not in itself do much to improve democratic decision-making. At present, the only formal link between citizens and parliament is the vote, which, as indicated above, is not the most transparent of signalling devices. Within the sphere of parliamentary politics, at the same time, the circulation of reasons is directed by party activists, party leaders, whips, lobbyists, and journalists. In order to correct this imbalance and expand the circulation of reasons between citizens and parliament, we might require representatives to participate in periodic deliberative exercises in their constituencies, thus creating a formal space for public reasoning which would serve as a conduit between formal and informal public spheres.

This would provide a much more reliable way of facilitating the flow of perspectives, claims and arguments into formal deliberation than schemes for socially diverse representation, which on their own do nothing to include

35 Habermas’ two-track model of deliberation is attractive, but his vagueness about the connections between the publics is disquieting. Jürgen Habermas, *Between Facts and Norms* (Cambridge: Polity, 1996).

36 While Fishkin argues that such exercises be focused on elections, there are clear advantages to employing them to expand the opportunity for ongoing, if indirect, political participation. Fishkin, op.cit.
marginalised voters in the political process. While at present, representatives tend to meet their constituents as petitioners seeking help with private difficulties, creating a space for public deliberation creates conditions in which private problems may be converted into public concerns, thus facilitating a process of political education and mobilisation. It would also help to ensure genuine responsiveness to the interests of the public, offsetting the risks attached to representative discretion: being regularly called on by voters to defend their judgements (without the intercession of journalists) would incentivize more rigorous deliberation by representatives. Equally, it affords them an opportunity to defend unpopular policies which they believe to be justified in a more open manner than is permitted by the rules of engagement with the news media.

Creating deliberative institutions of this sort creates an opportunity for ongoing indirect participation in decision-making, something which existing institutions make little or no provision for. The institution of representation frees us to pursue our own ethical projects, but if the choice of representatives were to be thought of, as Burke seems to have thought of it, as a time-limited but otherwise total alienation of our political judgements, then it would indeed risk exposing us to domination. While we are afforded the valuable freedom to contest political decisions by engaging in protest, this is a relatively haphazard way of seeking political responsiveness.

One way to guarantee equal participation in these exercises would be to select participants by lot, in the manner of jury selection.
A virtue of protesting, in contrast to voting in an election, is that it allows citizens to focus public attention on a particular issue. This is also a virtue claimed for deliberative exercises, which, it is argued permit voters to unpack issues not only in order to gain a clearer understanding of them, but also in order to guard against the attempts of political elites to manipulate the outcome of votes by bundling issues together. Unpacking, then is a key safeguard against political domination. The second sort of reform which we should seek also permits citizens to home in on particular issues, by expanding the formal opportunities for citizens to contest decisions which have already been taken.

Besides the informal contestation of political protest, existing democracies permit a limited form of political contestation through the courts. Populists have always been uncomfortable with the idea that judicial review may frustrate the ‘will of the people’ as expressed in a majority vote in the legislature, but it is clear that this conception of democracy relies altogether too heavily on a romantic vision of popular unity. The model of democracy as non-domination expressed in the notion of public reason, by contrast is essentially individualist: democratic institutions should be arranged so that all citizens may reasonably regard themselves as participating, however indirectly in a system of self-government. Political equality, on this view requires that citizens be secure against domination by others, regardless of whether those others form a minority or,

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indeed, a majority.\textsuperscript{39} Institutions which guard against such domination, such as judicial review, should not, therefore be regarded as departures from democracy, but rather as necessary elements of it.\textsuperscript{40}

Creating new spaces for public deliberation serves to counter the possibility of domination at the legislative stage of the democratic process, but we should also be sensitive to the possibility that domination may creep in at the implementation stage, when bureaucracies charged with implementing laws must interpret how they are to be applied.\textsuperscript{41} By definition, this problem can only be addressed after the fact, when problems with the way legislation is being implemented become clear to those on the receiving end of it. While protest will always be available as a last resort for those wishing to contest a collective decision, it makes sense to want to incorporate mechanisms for contestation within democratic procedures not only because political stability may be threatened in their absence, but because citizens unfairly disadvantaged by a particular policy will \textit{reasonably} judge that their political institutions do not

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\textsuperscript{41} Henry Richardson, \textit{Democratic Autonomy} (New York: Oxford University Press, 2002).
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adequately protect them from domination if there are no formal means of contesting decisions and seeking revision and redress.

Traditionally, contestation has taken place through the courts, but given the prohibitive costs to individuals of this mode of contestation, this hardly affords citizens an equal opportunity to contest public policy. Devices such as the provision of legal aid, or the creation of statutory bodies, ombudsmen, and commissions, to oversee certain aspects of public policy and sponsor legal challenges to them in the public interest may prove to further equality in this field, but it may also be worth exploring additional ways of institutionalising contestation which impose lower costs on particular individuals and which may also serve to improve the connections between the contestatory process and the legislative moment by way of providing feedback for further legislation. This may be all the more important given that citizens on the sharp end of an unfair policy have a motive to inform themselves about the issues concerned which is otherwise absent, and informational gains here might be valuably fed back into the public sphere enriching deliberation. One way in which this might be done is to institute a device for triggering a review of legislation, including formal public deliberation involving interested parties and the general public, by means of popular petition, which places the power of initiative in the hands of the public, rather than political elites. This, of course, doesn’t amount to placing a veto in the hands of special interest groups, but the desire to avoid such a review would provide a useful incentive to legislators to ensure that their policy is consistent
with the demands of public reason, so that it would serve as a significant safeguard against domination.

In conclusion, then, whether or not political equality is served by moves towards increased direct participation in decision-making, will depend on whether this participation advances or hinders the process of public reasoning. The burdens of active citizenship would be reasonably rejected by most citizens, even if we could find a way to render it compatible with modern social organisation, and the view that representation eliminates our political autonomy simply ignores the problem of legislative domination. To cope with this we need the sort of sophisticated understanding of political equality offered by the notion of democratic rule as non-domination through the rule of public reason. This suggests that the right sort of *indirect* political participation can strengthen the practice of public reasoning and provide citizens with good reason to believe that they enjoy political equality. While less demanding, in some respects, than arguments for direct participation, this view is realistic with respect to civic participation and radical with respect to institutional reform.
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