

WHAT IS NORMATIVE DEMOCRATIC THEORY FOR? BEYOND PROCEDURAL MINIMALISM

Quinlan Bowman

Duke Kunshan University

bq12@duke.edu

ORCID iD: <https://orcid.org/0000-0003-2592-8449>

ABSTRACT: Everyday experience indicates that when we reason intelligently about how to craft a democratic process, which treats persons as “free and equal,” we reason about procedures, virtues, and cultural practices in conjunction. This suggests that normative democratic theory should aid us in so reasoning. Yet, the prominent theories of Robert Dahl, Jürgen Habermas, and Joshua Cohen push us away from this recognition. The explanation for this concerns the procedural minimalism that characterizes each theory and the tenuous relationship each has to empirical inquiry. These criticisms point toward an attractive account of the status and function of normative democratic theory in democratic practice: such theory should *emerge out of lived experience* with the values of “free” and “equal” treatment and should *guide inquiry* into the procedures, virtues, and cultural practices that, in some particular context, are most apt to promote those values. The argument appropriates two ideas from John Dewey. First, our moral or ethical theories should offer interpretations of relevant aspects of “moral or ethical experience,” based on observation of humans *as they pursue certain values in their actions*. Second, we should treat these theories as “tools” for practical reasoning, which function to extend the goods that inhere in the relevant kinds of experience.

Keywords: Robert Dahl, Jürgen Habermas, Joshua Cohen, John Dewey, pragmatism, deliberative democracy, contextualism, practical reasoning, proceduralism

There are values, goods, actually realized upon a natural basis—the goods of human association, of art and knowledge. The idealizing imagination seizes upon the most precious things found in the climacteric moments of experience and projects them. We need no external criterion and guarantee for their goodness. They are had, they exist as good, and out of them we frame our ideal ends.¹

John Dewey, *A Common Faith*

That it [The Golden Rule], or any other rule, may be a workable tool, that it may really give aid in a specific case, it must have life and spirit. What can give it the

life and spirit necessary to make it other than a cramped and cramping petrification except the continued free play of intelligence upon it?²

John Dewey, “Moral Theory and Practice”

Introduction

What should normative democratic theory “do for” – how should it “relate to” – democratic practice? Or, putting the question differently, how are we to think of “the status and function” of normative democratic theory *in* democratic practice? Here, I want to explore two ideas – both associated with the thought of John Dewey – that provide the basis for an attractive response to this question. Broadly, the first is that our moral or ethical theories should offer interpretations of relevant aspects of “moral or ethical experience,” based on observation of humans *as they pursue certain moral or ethical values in their actions*. The second is that we should treat these theories as “tools” for practical reasoning, which can help us to extend the goods that inhere in the relevant kinds of experience.³ Taken together, I submit, these ideas suggest an attractive “philosophic method” for developing a normative democratic theory, understood as one *kind* of moral or ethical theory.

Now, one way to proceed would be to plunge right into an explication of the two ideas. We could begin with a statement of their general form, then indicate how we might deploy them in normative democratic theory. The issue, however, is that unless we appreciate certain problems that arise with approaches that proceed quite differently, we are apt to misunderstand the import and relevance of the two ideas themselves. So, in section 1, I take up three prominent theories which do proceed quite differently, those of Robert Dahl, Jürgen Habermas, and Joshua Cohen. The point is not to consider what each author says about what a “democratic process” should look like; I do not compare their conceptions of democracy itself. Rather, I critically assess selected aspects of how each *develops and presents his theory*, and of what he

¹ John Dewey, *The Collected Works of John Dewey, 1882-1953*, ed. by Jo Ann Boydston (Carbondale: Southern Illinois University Press, 1967-1991), *Later Works*, Vol. 9: 33. Below, I give this edition’s chronological classification (EW=Early Works; LW=Later Works) followed by the volume and page number.

² Dewey, *EW* 3: 102.

³ See Dewey, *LW* 7: 159-310, *LW* 1: 10-41, 295-326; Gregory Fernando Pappas, *John Dewey’s Ethics: Democracy as Experience* (Bloomington: Indiana University Press, 2008).

says about, or what this presentation may be thought to imply about, “the status and function” of normative democratic theory in democratic practice. Thus, the presentation is exegetical here.

Habermas and Cohen are conventionally recognized as theorists of “deliberative democracy,” while Dahl is not. Rightly or wrongly, however, Dahl claims that his theory “incorporates [Cohen’s] notion of deliberation” – indeed, “goes beyond it.”⁴ In any case, each author is evidently after a kind of *procedural minimalism*, which allows for as much moral or ethical pluralism as possible, while still retaining a fundamental commitment to collective choice through democratic decision-making that treats citizens as “free and equal.” And so each develops a kind of “*liberal proceduralism*,” which directs our attention to the usefulness of articulating ideal procedures/procedural criteria. Yet, the three proceduralisms give rise to certain problems, and the Deweyan idea that *our moral or ethical theories should offer interpretations of relevant aspects of “moral or ethical experience” can help to account for them*. For, as we’ll see below, reflection on lived experience indicates that when we reason intelligently about how to craft a “democratic process,” which treats persons as “free and equal,” we recognize the need to reason, or at least the usefulness of our reasoning, about procedures, virtues, and cultural practices in conjunction. And this suggests that the role of normative democratic theory should partly be to help us to engage in such reasoning. Yet, the three proceduralisms push us away from this recognition. So, we explore what, beyond the pursuit of minimalism, the theories have in common that arguably leads them to this result: none of them is explicitly and consistently based on observation of humans as they pursue certain moral or ethical values in their actions.

In section 2, we consider how this critical discussion helps us to develop an attractive account of the status and function of normative democratic theory in democratic practice. Adapting the Deweyan ideas mentioned

above, such theory, I suggest, should start with reflection on *lived experience with the values of “free” and “equal” treatment*. And such reflection indicates that we⁵ apparently do recognize the need to reason, or at least the usefulness of our reasoning, about procedures, virtues, and cultural practices in conjunction. Again, this suggests that the role of normative democratic theory should partly be to help us to engage in such reasoning. Accordingly, I suggest that we present whatever ideal procedures/procedural criteria we do advocate as “*tools for practical reasoning*,” which can guide inquiry into the *procedures, virtues, and cultural practices* that, in some particular context, are most apt to promote the values of “free” and “equal” treatment there. Roughly, this is how I render the idea that, qua one form of moral or ethical theory, normative democratic theory can function as a “tool” that can help us to extend the goods that inhere in the relevant kinds of experience. Crucially, this framing can accommodate the concern for pluralism, while avoiding the discussed problems with the three proceduralisms.

I. Three Varieties of Procedural Minimalism

1.1 Dahl’s Proceduralism

In *Democracy and Its Critics*, Dahl offers a “theory of the democratic process” that articulates “criteria for a democratic process.” The criteria are “standards – ideal standards, if you like – against which procedures proposed ought to be evaluated in any association to which the assumptions [“that justify a *democratic* political order”] apply.” These “criteria specify that citizens ... ought to have adequate and equal *opportunities* to act in

⁴ Robert A. Dahl, “A Rejoinder,” *Journal of Politics* 53, no. 1 (February 1991): 229.

⁵ Empirically speaking, the scope of this “we” should be left open. For present purposes, however, I refer to those with experience with “free and equal treatment” in joint or collective decision-making, which, at a minimum, presumptively includes those with experience with (close or genuine) friendship; see note 122 on friendship as a relationship that characteristically embodies these values. Furthermore, I presume that friendship is something like a cultural universal; see Daniel Hruschka, *Friendship: Development, Ecology, and Evolution of a Relationship* (Berkeley: University of California Press, 2010). In some respects, of course, friendship patterns do vary across cultures, however (expectations regarding material aid between friends vary significantly, for instance; see Hruschka, chap. 7).

certain ways.”⁶ Here, we can already see two important features of Dahl’s proceduralism.

The first concerns his suggestion that the value of the criteria resides specifically in their usefulness in judging alternative “procedures.” Now, Dahl does not explicitly deny that they might be useful for other purposes, say, the one I already suggested (and in section 2 argue) they should serve: helping us to reason about procedures, virtues, and cultural practices in conjunction. But aspects of Dahl’s presentation push us away from recognizing this potential function of the criteria. Clearly, Dahl is after a kind of minimalism: he wants criteria for a “fair” form of collective decision-making that respects pluralism – citizens’ personal and moral autonomy, their freedom to be self-determining.⁷ And to him, talk of “responsibilities,” at least in the criteria themselves, apparently runs against this minimalism.

This becomes apparent when we consider the second feature of Dahl’s proceduralism that is evident above: the criteria are understood as properly articulating – and as only articulating – the “adequate and equal opportunities” that citizens should have in a democratic process.⁸ Dahl recognizes that someone might object that the criteria should specify “duties as well as opportunities – duties of the citizen to participate, to vote, to become informed, and the duty of the demos to determine how the agenda is to be decided.” But he re-

sponds: “While I believe that the democratic process does imply duties like these, they are moral duties. They take their place among an array of obligations, rights, and opportunities that would confront citizens in a democratic order.” Hence, Dahl feels that he “cannot say that it would always be wrong for a citizen to choose not to fulfill the political obligations implied by the criteria of the democratic process.”⁹

Accordingly, he contents himself with: an articulation of the “adequate and equal opportunities” that citizens should ideally be granted; a stipulation that the theory does, however, imply certain “duties”; and a further stipulation that it is best to leave it to citizens themselves to weigh those “duties” against the other “obligations, rights, and opportunities” that they (would) confront in a democratic political order. For they then “have the freedom to choose how they will fulfill their political obligations,” which is more consistent with the values of personal and moral autonomy and the freedom of self-determination.¹⁰ Consequently, the criteria are not to say anything explicit about “duties” or, it seems, “responsibilities” or other cognate terms – as indeed they do not.

Now, keeping these features of Dahl’s proceduralism in mind, observe what results: a lack of attention to the need to reason, and to the usefulness of our reasoning, about virtues and cultural practices in conjunction with the procedural criteria he advocates.

Let me first make the point in general terms. Insofar as there is a lack of conscious, explicit attention to the *responsibilities* that a normative democratic theory implies that participants or others should ideally assume,¹¹ there is likely to be a corresponding lack of attention to the *virtues* that would assist them in assuming (or dispose them to assume) those responsibilities and that they would necessarily exhibit were they to do

⁶ Robert A. Dahl, *Democracy and Its Critics* (New Haven: Yale University Press, 1989), 106, 108-9, 114; Dahl’s italics. The “assumptions” here referenced are the “Idea of Intrinsic Equality,” the “Presumption of Personal Autonomy,” and two “elementary principle[s] of fairness”: first, that “[b]inding decisions are to be made only by persons who are subject to the decisions, that is, by members of the association, not by persons outside the association,” since “laws cannot rightfully be imposed on others by persons who are not themselves obliged to obey those laws”; and second, “that, in general, scarce and valued things should be fairly allocated” (83-105, 107-108). He also posits a set of background assumptions that justifies the existence of a *political order* in general (106-7).

⁷ Dahl, 108, 115.

⁸ Dahl, 114; Dahl’s italics. Consider the criterion of “effective participation”: “Throughout the process of making binding decisions, citizens ought to have an adequate opportunity, and an equal opportunity, for expressing their preferences as to the final outcome. They must have adequate and equal opportunities for placing questions on the agenda and for expressing reasons for endorsing one outcome rather than another” (109).

⁹ Dahl, 115.

¹⁰ Dahl, 114-15; Dahl’s italics.

¹¹ Minimally, any such theory will imply that *participants* should assume certain responsibilities; see section 1.2. Some, at least, will imply responsibilities for others too: e.g., for paying taxes to support a democratic process.

so. For when we reason about virtues in such theory, it typically is *because* we think that participants ought to assume certain responsibilities; thought about, and discussion of, those responsibilities *lead us* to think about “virtues.”¹² For instance, when Gutmann and Thompson suggest that participants should evince the virtue of “civic integrity,” it is evidently because they want participants to assume responsibility for justifying their policy preferences. And the recognition of this “responsibility” is apparently what points them to the need to reason about this virtue.¹³

Of course, we also reason about virtues in order to specify how a democratic process might grant certain *opportunities* to participants, too. For instance, if we suggest that participants should ideally be “open-minded,” it is partly because we want “the process” to grant participants the opportunity “to convince others of their positions,” “to say their piece,” “to have a voice in the process,” and so on.¹⁴ Notice, however, that this is an *indirect* way of saying that we are reasoning about *responsibilities* here. For to say that a social activity should “grant certain opportunities” just is to say that “certain persons should assume certain responsibilities.”¹⁵ And where the

activity in question is a “democratic process,” those persons will often be the participants themselves: for “the process” to grant participants, say, meaningful “opportunities” to “express their reasons for endorsing one outcome rather than another,” the participants, or some number of them, have to assume responsibility for listening to them.¹⁶

These considerations suggest that if, like Dahl, we *forego* a discussion of responsibilities (disavowing their inclusion in our criteria for a democratic process, say), we are likely to be less inclined and perhaps even able to engage in a (productive) discussion of relevant virtues. (Indeed, if we are not careful, we might not even see the point of our doing so.¹⁷) For again, the conscious, explicit recognition of one or more responsibilities is typically what brings our attention to the need to engage in such a discussion in the first place. And indeed, Dahl doesn’t offer a discussion of virtues as these are relevant to the promotion of the responsibilities that are entailed by the “opportunities” that his criteria articulate.

What, though, of the “cultural practices”¹⁸ I have referred to? Parallel remarks can be made here too: insofar as there is a lack of explicit attention to the *responsibilities* that a normative democratic theory implies that participants or others should ideally assume, there is likely to be a corresponding lack of attention to the *cultural practices* that could promote a social climate in which they are more likely to assume those responsibilities. For when we reason about cultural practices in the context of a democratic process, it is often *because* we are concerned with participants or others assuming certain responsibilities. For instance, when Young says that “greetings” can help to create a more “inclusive” process, she is concerned with participants assuming responsibility for treating one

¹² See Alasdair MacIntyre, *After Virtue: A Study in Moral Theory* (Notre Dame: University of Notre Dame Press, 2007). Throughout, I follow MacIntyre’s “partial and tentative definition of a virtue: *A virtue is an acquired human quality the possession and exercise of which tends to enable us to achieve those goods which are internal to practices and the lack of which effectively prevents us from achieving any such goods*” (191; MacIntyre’s italics).

¹³ See Amy Gutmann and Dennis Thompson, *Democracy and Disagreement* (Cambridge: Harvard University Press, 1996), chap. 2, esp. 81-82. “Because the results of democratic deliberation are mutually binding,” they write, “citizens should aspire to a kind of political reasoning that is mutually justifiable” (53). Reciprocity “prescribes accommodation based on mutual respect” (56). When “translated into practices that guide actual political life,” it implies “a family of moral dispositions,” including “civic integrity” (80-81). Among other things, civic integrity involves participants consistently aligning their speech with their action and accepting the broader implications of the principles presupposed by their moral positions.

¹⁴ Hence, Gutmann and Thompson write that cultivating the “virtue of *open-mindedness* ... maintains the possibility that citizens can be convinced of the moral merits of their adversaries’ position” (*Democracy and Disagreement*, 83). In other words, the virtue facilitates participants having the *opportunity* to convince each another of their policy preferences.

¹⁵ See Margaret Gilbert, “Walking Together: A Paradigmatic Social Phenomenon,” *Midwest Studies in Philosophy* 15, no. 1

(September 1990): 1-14.

¹⁶ See Iris Young, *Inclusion and Democracy* (Oxford: Oxford University Press, 2000), esp. 52-80, 108-120.

¹⁷ See note 109.

¹⁸ We can think of “procedures” as just being *relatively formalized* “cultural practices,” just as Mark Bevir and R.A.W. Rhodes say that “the state [itself] is a set of cultural practices” (*The State as Cultural Practice* [Oxford: Oxford University Press, 2010], 198). Still, the categories are useful heuristics.

another with equal consideration, concern, and respect.¹⁹ The explicit recognition of this “responsibility” points her to the need to reason about this cultural practice.

Of course, we often reason about cultural practices in order to specify how “the process” might grant certain *opportunities* to participants, too. When, say, Young suggests that “rhetoric” can sometimes bring much needed attention to un(der)acknowledged grievances, she is partly concerned with “the process” giving participants the opportunity to place issues on the agenda.²⁰ But, as before, this is an *indirect* way of saying that we are reasoning about *responsibilities* here: for instance, participants’ responsibility to listen and give consideration to others’ proposals. And again, these considerations suggest that if we forego an explicit discussion of responsibilities, as Dahl does, we are likely to be less inclined and perhaps even able to engage in a (productive) discussion of the cultural practices that could promote their assumption. (Again, we might not even see the point in doing so.²¹) For the recognition of one or more responsibilities is typically what brings our attention to the need to do so in the first place. And indeed, Dahl offers no such discussion.

1.2 Habermas’s Proceduralism

In “Three Normative Models of Democracy,” Habermas criticizes “two established models” of democratic politics: “the ‘liberal’ or Lockean view” and “the republican view.” He describes them as having certain “opposite features.” After characterizing these “established models,” he introduces “a new proceduralist conception by way of a critique of the ‘ethical overload’ of the republican view.”²² Under the section heading “Proceduralist vs. Communitarian Views of Politics,” he writes:

¹⁹ “No rules or formalities can ensure that people will treat others in the political public with respect, and really listen to their claims. I suggest, however, that situations of political communication, in which participants explicitly acknowledge the other participants [employ “greetings”], are more substantively inclusive than those that do not” (Young, *Inclusion and Democracy*, 57).

²⁰ See Young, 63-67.

²¹ See note 108.

²² Jürgen Habermas, “Three Normative Models of Democracy,” *Constellations* 1, no. 1 (1994): 1.

The republican model as compared to the liberal one has the advantage that it preserves the original meaning of democracy in terms of the institutionalization of a public use of reason jointly exercised by autonomous citizens. This model accounts for those communicative conditions that confer legitimating force on political opinion- and will-formation. These are precisely the conditions under which the political process can be presumed to generate reasonable results. A contest for power, if represented according to the liberal model of market competition, is determined by the rational choice of optimal strategies. Given an indissoluble pluralism of pre-political values and interests that are best aggregated with equal weight in the political process, politics loses all reference to the normative core of a public use of reason. The republican trust in the force of political discourses stands in contrast to the liberal skepticism about reason. Such discourses are meant to allow one to discuss value orientations and interpretations of needs and wants, and then to change these in an *insightful way*.

But contemporary republicans tend to give this public communication a communitarian reading. It is precisely this move towards an *ethical constriction of political discourse* that I call into question. Politics may not be assimilated to a hermeneutical process of self-explication of a shared form of life or collective identity. Political questions may not be reduced to the type of ethical questions where we, as members of a community, ask ourselves who we are and who we would like to be. In its communitarian interpretation the republican model is too idealistic even within the limits of a purely normative analysis. *On this reading, the democratic process is dependent on the virtues of citizens devoted to the public weal.* [QB’s emphasis; the other italics are Habermas’s.] This expectation of virtue already led Rousseau to split the citizen oriented to the common good from the private man, who cannot be ethically overburdened. The unanimity of the political legislature was supposed to be secured in advance by a substantive ethical consensus. In contrast, a discourse-theoretic interpretation insists on the fact that democratic will-formation does not draw its legitimating force from a previous convergence of settled ethical convictions, but from both the communicative presuppositions that allow the better arguments to come into play in various forms of deliberation, and from the procedures that secure fair bargaining processes. Discourse theory breaks with a purely ethical conception of civic autonomy.²³

²³ Habermas, “Three Normative Models,” 3-4. Regarding the “communicative presuppositions” here referenced, see the index entry for “Pragmatic presuppositions of argumentation” in Jürgen Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* (Cambridge: MIT

Now, consider the claim I've italicized. Taken in context, it reads as though Habermas is suggesting that his own "proceduralist conception" is *not* "dependent on the virtues of citizens devoted to the public weal."²⁴

To see this clearly, consider three observations. First, Habermas explicitly aims to "introduce a new proceduralist conception by way of a critique of the 'ethical overload' of the republican view."²⁵ Second, the passage in the block quotation comes, as noted, under the section heading, "Proceduralist vs. Communitarian Views of Politics," clearly suggesting that he wants to highlight a *firm* opposition between his own conception of the democratic process and "the communitarian view."²⁶ Third, the sentence, "On this reading [the "communitarian interpretation" of "the republican model"], the democratic process is dependent on the virtues of citizens devoted to the public weal," is *immediately followed by* the sentence: "*This expectation of virtue* already led Rousseau to split the citizen oriented to the common good from the private man, who cannot be ethically overburdened."²⁷

So, taking these observations together, it is reasonable to read Habermas as implying that his own "proceduralist conception" is *not* "dependent on the virtues of citizens devoted to the public weal."²⁸ Furthermore, it is reasonable to read him as wanting to defend a conception of the democratic process that isn't "dependent on the virtues of citizens devoted to the public weal" precisely *because* he thinks that a conception that *is* so "ethically overburden[s]" or "overload[s]" citizens.²⁹ But the implied claims are at best misleading. That is, it is at

best misleading for Habermas to imply: first, that his own "proceduralist conception" of the democratic process is not, even to some degree, "dependent on the virtues of citizens devoted to the public weal"; and second, that a conception that *is* so ethically overloads or overburdens citizens – and should *therefore* be rejected.

Let us, however, just consider the first implied claim. For if this claim is problematic, so is the second. That is, if Habermas's own conception is, in some meaningful sense, "dependent on the virtues of citizens devoted to the public weal," as I will suggest it is, it wouldn't make sense for him to reject some other conception *because* it is "dependent on the virtues of citizens devoted to the public weal."

So, consider the first claim. First off, it seems that the proper, perhaps even adequate or minimal, functioning of any "democratic process" will be, *in some sense and measure*, "dependent on the virtues of [at least some] citizens [who are at least partly] devoted to the public weal." This "devotion" need not, of course, take the form that Rousseau thought it should. But how could any democratic process "function" – much less function well – if *no* citizen were, in some sense and measure, "devoted to the public weal"? Again, to say that a social activity is to "grant certain opportunities" just is to say that "certain persons should assume certain responsibilities." And any "democratic process" will involve the granting of certain "opportunities for participation." Furthermore, for participants to have such opportunities, certain citizens need to³⁰ assume certain responsibilities that are inevitably *involved in* that "granting." And any time they assume such "responsibilities," they may be said to exhibit a "virtue" or cluster of "virtues." Likewise, unless they do assume certain responsibilities – hence do exhibit certain virtues – the process *won't* grant such "opportunities." Accordingly, I think it should be admitted that the proper, perhaps even adequate or minimal, functioning of any democratic process will be,

Press, 1996), 622. First published in German in 1992, *Between Facts and Norms* is the earlier, extended presentation of Habermas's "proceduralist" conception. But "Three Normative Models" provides a more focused comparison of the three "models."

²⁴ Habermas, "Three Normative Models," 1, 4.

²⁵ Habermas, 1; emphasis added.

²⁶ Habermas, 3-4.

²⁷ Habermas, 4; emphasis added.

²⁸ Habermas, 1, 4.

²⁹ Habermas, 1, 4. See also Habermas's strong criticism of a "deliberative politics" which "depend[s] on the virtues of citizens oriented to the common good" (*Between Facts and Norms*, 277).

³⁰ Or, in non-state associations, "certain members need to..."; see note 119.

in some measure, “dependent on the virtues of [at least some] citizens.”

But if any reader is unsure about this, surely she will admit that the proper, perhaps even adequate or minimal, functioning of Habermas’s own “proceduralist conception” would be so “dependent” – indeed, “dependent,” in some sense and measure, on “the virtues of citizens *devoted to the public weal.*”

Recall that Habermas’s “discourse-theoretic interpretation insists on the fact that democratic will-formation does not draw its legitimating force from a previous convergence of settled ethical convictions, but from both the communicative presuppositions that allow the better arguments to come into play in various forms of deliberation, and from the procedures that secure fair bargaining processes.”³¹ Surely, however, these “various forms of deliberation” depend, *for their actual functioning*, on at least certain participants exhibiting certain “virtues.” For “deliberation” can only happen if at least certain participants assume certain responsibilities, and any time they do so they will exhibit certain “virtues.” Likewise, unless at least some participants do assume certain responsibilities – hence do exhibit certain virtues – the “various forms of deliberation” won’t function as Habermas intends them to function; indeed, won’t “function” at all.

Of course, one might object that these virtues needn’t be those of a citizen who is “devoted to the public weal.” Hence, one might concede that, in some sense and measure, the proper, perhaps even adequate or minimal, functioning of any “democratic process,” including Habermas’s conception, will be “dependent on the virtues of at least some citizens.” Yet, one might object to the suggestion that the actual functioning of any such conception, or at least Habermas’s, would be “dependent on the virtues of [at least some] citizens [*who are at least partly*] *devoted to the public weal.*” For one might reason as follows.

Perhaps the only “virtues” that are pertinent are such as have *not* been traditionally associated with “devotion to the public weal,” or which, in any case, couldn’t reasonably be described as such virtues. For instance, it may indeed be the case that for any democratic process to function, including one that resembles Habermas’s conception, many, perhaps most, citizens, much or most of the time, have to be willing to press their political demands, whenever they do so, through “the democratic process itself,” rather than, say, acts or threats of violence. Presumably, no “democratic process” can function in a *meaningful and sustained manner* where, say, many or at least most citizens primarily or exclusively press their demands through acts or (plausible) threats of violence. Yet, assuming responsibility for not doing so – a “negative responsibility”³² – does not, by itself, necessarily amount to exhibiting any such “virtue” as has traditionally been associated with “devotion to the public weal,” or which could reasonably be described as such. For instance, the assumption of such a responsibility might flow from a simple *indifference* to “the common good,” or “the democratic process,” not from any “devotion” to it.

There is, however, a serious issue with this line of reasoning. First, let us grant that not *all* of the “virtues” that are, or would be, necessary for the proper, or adequate or minimal, functioning of some particular conception of a democratic process will be such as have traditionally been associated with “devotion to the public weal,” or which could reasonably be described as such virtues. On reflection, however, it seems clear that *some* of them could reasonably be described in some such way.

The point can be given a general formulation, but just consider how it holds in relation to Habermas’s normative “model” of democracy.³³ Again, “the discourse-theoretic interpretation” insists that “democratic will-formation” draws “its legitimating force ... from both

³¹ Habermas, “Three Normative Models,” 4. Hereafter we’ll focus on the “various forms of deliberation,” but a parallel argument could be made about the “fair bargaining processes.”

³² I mean, roughly, a responsibility that primarily involves *not* engaging in certain forms of conduct.

³³ Habermas, “Three Normative Models,” 9.

the communicative presuppositions that allow the better arguments to come into play in various forms of deliberation, and from the procedures that secure fair bargaining processes.”³⁴ Surely, however, these “deliberations” are, or would be, dependent, *for their actual functioning*, on the assumption of certain “positive responsibilities”³⁵ on the part of at least some citizens. By appreciating this, we can see how at least *some* of the virtues necessary for the proper, perhaps even adequate or minimal, functioning of Habermas’s conception would be such virtues as have traditionally been associated with “devotion to the public weal,” or which could reasonably be described as such virtues.

Anything like genuine “deliberation” inevitably involves the participants assuming certain positive responsibilities, and not just negative ones.³⁶ For whenever people *actually* so “deliberate,” they do assume certain positive responsibilities in relation to one another: say, for listening to each other and for trying to understand each other’s perspectives on relevant social situations and activities. Furthermore, whenever they do so deliberate, we may therefore say that they exhibit certain “virtues”: like being, to some degree, “patient,” “understanding,” “sympathetic.” Likewise, if they don’t assume *some* such responsibilities, hence don’t show *some* such virtues, we aren’t willing to say they are engaged in “deliberation” (however precisely we define that term). For these reasons, we may conclude that the “deliberations” in Habermas’s “proceduralist” conception are, or would be, *dependent on the virtues of citizens*. What is more, some of these virtues are, or would be, such as have traditional-

ly been associated with “devotion to the public weal,” or which reasonably could be described as such virtues – even if they are not primarily the *result* of it.

As suggested, a genuine attempt to “understand others’ points of view,” for instance, is part of what we *mean* by any kind of moral, ethical, or even practical “public deliberation.” Whenever we say that certain people so “deliberate,” we imply that they make that attempt, which in turn means they exhibit some “virtue,” like “patience” (in, say, trying to understand what others’ concerns are) or “generosity” (in, say, assuming – without having any way of proving – that participants are at least partly sincere in what they are saying). Likewise, unless they do exhibit *some* such virtues, the “various forms of deliberation” simply won’t be reasonably described as such, simply won’t function as Habermas intends them to function, or indeed at all. Furthermore, such virtues are reasonably described as virtues that are associated with *a concern for the good of others*; and when that concern is manifest in relation to a broader public (as it is meant to be in such “deliberations”³⁷), they are reasonably described as being associated with *some* concern for “the common good.” Again, this is true even if the primary motivation for which particular agents show those virtues doesn’t reside in a “commitment” to “the public weal” as such.

Thus, it is reasonable to conclude that Habermas’s implied claim that his “proceduralist conception” is *not* “dependent on the virtues of citizens devoted to the public weal” is at best misleading.³⁸ At least to function well, and arguably even at all, that conception would also be “dependent on the virtues of citizens,” and, to some degree it seems, “dependent on the virtues of [at least some] citizens [who are at least partly] devoted to

³⁴ Habermas, 4.

³⁵ I mean, roughly, responsibilities that primarily involve intentional and overt conduct, e.g. manifestly listening to someone by (say) asking sincere and appropriate questions.

³⁶ The point is suggested by Habermas himself: “Only when at least two people encounter each other in the context of an intersubjectively shared lifeworld with the *goal* [QB’s emphasis] of coming to a shared understanding about something can – and must – they mutually recognize each other as *persons capable of taking responsibility for their actions (zurechnungsfähige Personen)*. They then impute to each other the capacity to orient themselves to validity claims in their actions” (Jürgen Habermas, *Justification and Application: Remarks on Discourse Ethics* trans. Ciaran P. Cronin [Cambridge: MIT Press, 2001], 66).

³⁷ Consider Habermas’s democratic principle of legitimacy (“only those statutes may claim legitimacy that can meet with the assent of all citizens in a discursive process of legislation that in turn has been legally constituted”) and the “ideal role taking” it necessitates; and how “solidarity” is to “develop through ... autonomous public spheres” and “procedures of democratic opinion- and will-formation” (*Between Facts and Norms*, 109-110, 299).

³⁸ Habermas, “Three Normative Models,” 1, 4.

the public weal.”³⁹ Furthermore, taking the above considerations together, it is reasonable to say that in the presentation of Habermas’s theory in “Three Normative Models of Democracy,” there is again a lack of attention to the need to reason, or at least the usefulness of our reasoning, about *virtues and cultural practices in conjunction with the procedural criteria he advocates*. Indeed, the way in which he draws a sharp distinction between his “proceduralist conception” and one that is “dependent on the virtues of citizens devoted to the public weal” directs our attention away from the need for, or at least the utility of, such reasoning.⁴⁰

1.3 Cohen’s Proceduralism

Like Dahl and Habermas, Cohen is concerned with the appropriate way of arriving at collective decisions “under conditions of pluralism.”⁴¹ Hence, in “Deliberation and Democratic Legitimacy,” he presents an “ideal deliberative procedure” for a “deliberative democracy,” con-

strued as a “pluralistic association” whose “affairs are governed by the public deliberation of its members.”⁴²

First off, Cohen agrees with John Rawls that “[w]hen properly conducted ... democratic politics involves *public deliberation focused on the common good*, requires some form of *manifest equality* among citizens, and *shapes the identity and interests* of citizens in ways that contribute to the formation of a public conception of common good.” But he disagrees with Rawls’s way of accounting for “the attractiveness and importance of these three features of the deliberative democratic ideal”: Rawls regards the above three “conditions” as “natural consequences of the ideal of fairness,” but Cohen finds this problematic. For if we follow Rawls in “[t]aking the notion of fairness as fundamental” and in “aiming ... to model political arrangements on the original position, it is not clear why, for example, political debate ought to be focused on the common good, or why the manifest equality of citizens is an important feature of a democratic association.” Indeed, “[t]he pluralist conception of democratic politics as a system of bargaining with fair representation for all groups seems [to Cohen] an equally good mirror of the ideal of fairness.”⁴³

Accordingly, Cohen proposes “an account of the value of [“an association whose affairs are governed by the public deliberation of its members”] that treats democracy itself as a fundamental political ideal and not simply as a derivative ideal that can be explained in terms of the values of fairness or equality of respect.” Moreover, he suggests that “the reason why the three [conditions] are attractive is not [as Rawls suggests] that an order with, for example, no explicit deliberation about the common good and no manifest equality would be unfair (though of course it might be); it is rather that *they comprise elements of an independent and expressly political ideal*,” where the focus is “in the first instance on the appropriate conduct of public affairs...”⁴⁴

³⁹ One reviewer objected that Habermas has a theoretical orientation and is interested in justifying democratic processes, whereas I (with Dewey) have a practical orientation and am interested in their functioning. So, my criticisms are void, because it is illegitimate to criticize Habermas for not doing something he didn’t aim to do, namely, give an account of how democratic processes function. The objection, however, is premised on a peculiar and untenable dichotomy between an interest in “justification” (theory) and an interest in “functioning” (practice). Obviously, to say that a particular process is, or would be, “justified” is also to say that it “functions,” or would “function,” in a particular way *in practice*. See Richard J. Bernstein, *The Pragmatic Turn* (Cambridge: Polity Press, 2010), chap. 8; Richard J. Bernstein, “The Retrieval of the Democratic Ethos,” *Review of Japanese Culture and Society* 7 (December 1995): 1-12. See the latter of these sources for a broader analysis of the problematic way in which Habermas distances himself from appeals to “virtue”; also Gerald M. Mara, “After Virtue, Autonomy: Jürgen Habermas and Greek Political Theory,” *Journal of Politics* 47, no. 4 (November 1985): 1036-1061.

⁴⁰ This analysis supports Warren’s critique of “the strategy of model building” in democratic theory, which “leads us into unnecessary theoretical dead-ends,” encouraging “expansionist claims along single dimensions [e.g. about procedures], de-emphasizing necessary elements of democratic political systems,” such as citizen virtues (Mark E. Warren, “A Problem-Based Approach to Democratic Theory,” *American Political Science Review* 111, no. 1 [February 2017]: 39-40).

⁴¹ Joshua Cohen, “Deliberation and Democratic Legitimacy,” in *Philosophy, Politics, Democracy: Selected Essays* (Cambridge: Harvard University Press, 2009), 26.

⁴² Cohen, 16, 22.

⁴³ Cohen, 19-20.

⁴⁴ Cohen, 16, 21; emphasis added.

So, Cohen articulates a “‘formal conception’ of deliberative democracy,” which has such a focus.⁴⁵ To describe its role in democratic practice, Cohen adopts a metaphor that Rawls employs, but uses it differently. He quotes Rawls as stating: “The idea [of the fair value of political liberty] is to incorporate into the basic structure of society an effective political procedure which *mirrors* in that structure the fair representation of persons achieved by the original position.”⁴⁶ Understanding how Cohen himself employs the “mirror” metaphor will help us to appreciate the character of his procedural minimalism.

First, then, the “formal ideal”:

- D₁ A deliberative democracy is an ongoing and independent association, whose members expect it to continue into the indefinite future.
- D₂ The members of the association share ... a commitment to coordinating their activities within institutions that make deliberation possible and according to norms that they arrive at through their deliberation. For them, free deliberation among equals is the basis of legitimacy.
- D₃ A deliberative democracy is a pluralistic association. ... While sharing a commitment to the deliberative resolution of problems of collective choice (D₂), [the members] also have divergent aims, and do not think that some particular set of preferences, convictions, or ideals is mandatory.
- D₄ Because the members of a democratic association regard deliberative procedures as the source of *legitimacy*, it is important to them that the terms of their association not merely *be* the results of their deliberation but also be *manifest* to them as such. ...
- D₅ The members recognize one another as having deliberative capacities, i.e., the capacities required for entering into a public exchange of reasons and for acting on the results of such public reasoning.⁴⁷

Now consider Cohen’s “ideal deliberative procedure,” which gives “substance to [the] formal ideal by characterizing the conditions that should obtain if the social order is to be manifestly regulated by deliberative forms of collective choice”:

- I₁ Ideal deliberation is *free* in that it satisfies two conditions. First, the participants regard themselves as bound only by the results of their deliberation and by the preconditions for that deliberation. ... Second, the participants suppose that they can act from the results, taking the fact that a certain decision is arrived at through their deliberation as a sufficient reason for complying with it.
- I₂ Deliberation is *reasoned* in that the parties of it are required to state their reasons for advancing proposals, supporting them, or criticizing them. They give reasons with the expectation that those reasons (and not, for example, their power) will settle the fate of their proposal. ... Reasons are offered with the aim of bringing others to accept the proposal, given their disparate ends (D₃) and their commitment (D₂) to settling the conditions of their association through free deliberation among equals. ...
- I₃ In ideal deliberation parties are both formally and substantively *equal*. They are formally equal in that the rules regulating the procedure do not single out individuals. Everyone with the deliberative capacities has equal standing at each stage of the deliberative process. Each can put issues on the agenda, propose solutions, and offer reasons in support of or in criticism of proposals. And each has an equal voice in the decision. The participants are substantively equal in that the existing distribution of power and resources does not shape their chances to contribute to deliberation, nor does that distribution play an authoritative role in the deliberation. ...
- I₄ Finally, ideal deliberation aims to arrive at a rationally motivated *consensus* – to find reasons that are persuasive to all who are committed to acting on the results of a free and reasoned assessment of alternatives by equals. Even under ideal conditions there is no promise that consensual reasons will be forthcoming. If they are not, then deliberation concludes with voting, subject to some form of majority rule. ...⁴⁸

This characterization of the ideal deliberative procedure “links the formal notion of deliberative democracy with the more substantive ideal of a democratic association in which public debate is focused on *the common good of the members*”:

Since the aim of ideal deliberation is to secure agreement among all who are committed to free deliberation among equals, and the condition of

⁴⁵ Cohen, 22.

⁴⁶ Quoted in Cohen, 20; Cohen’s bracketed interpolation and italics.

⁴⁷ Cohen, 22-23.

⁴⁸ Cohen, 23-25; Cohen’s italics.

pluralism obtains (D_3), the focus of deliberation is on ways of advancing the aims of each party to it. While no one is indifferent to his/her own good, everyone also seeks to arrive at decisions that are acceptable to all who share the commitment to deliberation (D_2).⁴⁹

However, Cohen immediately recognizes a potential objection: "While public deliberation may be organized around appeals to the common good, is there any reason to think that even ideal deliberation would not consist in efforts to disguise personal or class advantage as the common advantage?" "There are," he suggests, "two responses to this question."⁵⁰

First, "in my account of the formal idea of a deliberative democracy, I stipulated (D_2) that the members of the association are committed to resolving their differences through deliberation, and thus to providing reasons that they sincerely expect to be persuasive to others who share that commitment." However, the objection is "[p]resumably ... best understood as directed against the plausibility of realizing a deliberative procedure that conforms to the ideal, *and thus is not answerable through stipulations*."⁵¹

This much is unproblematic. The problem concerns the second response, which, given the way Cohen offers it as an alternative to the first response, we are apparently to understand as consisting, or as largely consisting, in an appeal to a set of factual propositions (as opposed to being primarily "stipulative"). In evaluating this response, I can indicate what I find problematic about Cohen's approach to developing and presenting his theory, including the "mirror" metaphor, a key aspect of his procedural minimalism.

"The second response ... rests on a claim about the effects of deliberation on the motivations of deliberators." More specifically:

A consequence of the reasonableness of the deliberative procedure (I_2) together with the condition of pluralism (D_3) is that the mere fact of having a preference, a conviction, or an ideal does not by itself provide a reason in support of

a proposal. While I may take my preferences as a sufficient reason for advancing a proposal, deliberation under conditions of pluralism requires that I find reasons that make the proposal acceptable to others who cannot be expected to regard my preferences as sufficient reasons for agreeing. The motivational thesis is that *the need to advance reasons that persuade others* will help to shape the motivations that people bring to the deliberative procedure in two ways. First, the practice of presenting reasons will contribute to the formation of a commitment to the deliberative resolution of political questions (D_2). *Given that commitment*, the likelihood of a sincere representation of preferences and convictions should increase, while the likelihood of their strategic misrepresentation declines. Second, it will shape the content of preferences and convictions as well. *Assuming a commitment to deliberative justification*, the discovery that I can offer no persuasive reasons on behalf of a proposal of mine may transform the preferences that motivate the proposal. Aims that I recognize to be inconsistent with the requirements of deliberative agreement may tend to lose their force, at least when I expect others to be proceeding in reasonable ways and expect the outcome of deliberation to regulate subsequent action.⁵²

Now, I want to underscore the stipulative aspects of this response, placing them alongside some of Cohen's remarks about the ideal deliberative procedure providing a "model" that "institutions" "should mirror, so far as possible."⁵³

First, notice the phrases I have italicized in the block quotation above. *Each of these is stipulative or refers back to one or more stipulations*. Take the first phrase: "A consequence of the reasonableness of the deliberative procedure (I_2) together with the condition of pluralism (D_3)..." Two stipulations are involved here: that the deliberative procedure is reasonable; and that the condition of pluralism obtains. But just consider the first one.

Notice how this stipulation is doing the bulk of the work in Cohen's second response to the objection in question, in his "claim about the effects of deliberation on the motivations of deliberators."⁵⁴ Again, "[t]he motivational thesis is [precisely] that *the need to advance reasons that persuade others* will help to shape

⁴⁹ Cohen, 25.

⁵⁰ Cohen, 25-26; emphasis added.

⁵¹ Cohen, 26; emphasis added.

⁵² Cohen, 26; emphasis added.

⁵³ Cohen, 29.

⁵⁴ Cohen, 26.

the motivations that people bring to the deliberative procedure in two ways." First, he says, "the practice of presenting reasons will contribute to the formation of a commitment to the deliberative resolution of political questions (D_2)." But this, it seems, is only plausible if there already *is* a sincere commitment to "the deliberative resolution of political questions" on the part of some considerable number of pertinent individuals. If not, the motivational thesis arguably becomes significantly less plausible. Hence why the next line reads: "Given that commitment, the likelihood of a sincere representation of preferences and convictions should increase, while the likelihood of their strategic misrepresentation declines." In other words, Cohen appears to recognize that this aspect of the motivational thesis depends crucially on the prior, "proper" operation of something like the ideal deliberative procedure itself. And the same could be said of his second claim about the anticipated effect of "the need to advance reasons that persuade others": namely, that "it will shape *the content* of preferences and convictions as well." For this claim also begins with a stipulation: "Assuming a commitment to deliberative justification, the discovery that I can offer no persuasive reasons on behalf of a proposal of mine may transform the preferences that motivate the proposal."

Crucially, however, the imagined objection is not (primarily at least) about the effects that we can plausibly expect to emerge once "the procedure" is already up and running. Rather, it is "[p]resumably ... best understood as directed against the plausibility of *realizing* a deliberative procedure that conforms to the ideal, and thus is not answerable through stipulations."⁵⁵ Hence, Cohen's premising of the motivational thesis on a number of clear stipulations is likely to leave the objector unsatisfied.

Now, one might initially think it helpful to respond to the objector's concern by reminding her that the ideal deliberative procedure is meant as a "model for institu-

tions" to "mirror, so far as possible."⁵⁶ Hence, the stipulations in question are not mere stipulations, akin to saying: the beliefs and commitments referenced just *are* present. Rather, they are statements to the effect that *if* certain "deliberative institutions," closely modeled on the ideal procedure, are present, the motivational thesis *then* becomes plausible. But again, the objection is precisely concerned with the plausibility of this (ever) being so. So, a further *stipulation* that it is so would not be persuasive.

Suppose now that we put aside the objector's concern as Cohen imagined it and just consider the second response⁵⁷ on its own terms. Is "the motivational thesis" convincing? Is it convincing to say that "*the need* to advance reasons that persuade others will help to shape the motivations that people bring to the deliberative procedure" in the two ways suggested?⁵⁸

For brevity, just consider the first way: will "the practice of presenting reasons ... contribute to the formation of a commitment to the deliberative resolution of political questions," making it so that "the likelihood of a sincere representation of preferences and convictions should increase, while the likelihood of their strategic misrepresentation declines"?⁵⁹ Well, perhaps so, *given* the "commitment to the deliberative resolution of political questions," as Cohen says.⁶⁰ As a factual premise, however, the claim only seems to have force if: first, we have a fairly clear sense of where that commitment originates, what other already-broadly-held values stand in support of it; and second, we have a fairly clear sense of what "the institutions" look like in which that commitment is widely operative. On both issues, however, Cohen's account strikes me as problematic.

Consider the first issue. The "formal conception of a deliberative democracy" is, Cohen says, "rooted in the intuitive ideal of a democratic association in which the

⁵⁵ Cohen, 26; emphasis added.

⁵⁶ Cohen, 29.

⁵⁷ Again, see the block quotation above, beginning with "A consequence of the reasonableness...", for "the second response."

⁵⁸ Cohen, "Deliberation," 26.

⁵⁹ Cohen, 26.

⁶⁰ Cohen, 26.

justification of the terms and conditions of association proceeds through public argument and reasoning among equal citizens.”⁶¹ Now, this ideal may well be “intuitive” for self-described democrats who strongly endorse not only the equal moral worth of persons (hence support some form of “equal” citizenship or membership) but also the idea that, as a general matter, (adult) individuals ought to be presumed the best judges of, and most reliable and vigilant defenders of, their own good or interests.⁶² For we then arguably have a reasonable way of responding to the inevitable critic of Cohen’s “intuitive ideal,” who may well retort: “Intuitive for you, perhaps, but not for me! Sure, I agree with the ideal of ‘equal citizenship.’ But not all citizens, ‘morally or intrinsically equal’ though they may be, are *equally capable* of engaging in ‘public argument and reasoning’ about the ‘terms and conditions’ of their ‘democratic association.’ Consequently, your ideal seems somewhat *counter-intuitive* to me. In such deeply complicated matters as these, can’t we treat citizens as ‘equals’ simply by having the wiser and more intelligent, or at least the more experienced, give equal consideration to the good or interests of each citizen, much in the way that we allow – and think we should allow – parents to do with respect to their very young children? Why have, say, the significantly less wise, less intelligent, and less experienced deliberate – and on an equal footing?”

Now, if we appeal to (something like) what Dahl calls the Idea of Intrinsic Equality *and* the Presumption of Personal Autonomy,⁶³ we then have grounds for making an appeal to *fairness* in defending the ideal: it may be “fair” to have, say, parents largely determine what decisions are most apt to promote the good or interests of their very young children, but it is not so with adults. For we generally presume⁶⁴ that adults are “autonomous”:

we presume that, as a general matter, they are the best judges of, and most reliable and vigilant defenders of, their own good or interests – not that others are.⁶⁵

Having this appeal available to us, we can plausibly explain why Cohen’s ideal *may* seem “intuitive” to us: *because it broadly comports with “our” actual experiences* of when we think and feel that we are being treated “fairly” qua persons who are (intrinsically) equal *and* “autonomous” (in the above sense), and who view themselves as such.⁶⁶

Yet, Cohen’s account pushes us away from this response. D_5 does specify that members “recognize one another as having deliberative capacities, i.e., the capacities required for entering into a public exchange of reasons and for acting on the results of such public reasoning.”⁶⁷ And Cohen does briefly describe why he thinks his ideal respects members’ “autonomy.”⁶⁸ Nevertheless, the claim about “intuitiveness” would have been stronger had he said: “The notion of a deliberative democracy is rooted in the intuitive ideal, if you like, of a democratic association in which the justification of the terms and conditions of association proceeds through public argument and reasoning among equal *and* autonomous citizens” (not just “equal” ones). Moreover, it would have been stronger had he said that, as a general matter, they regard each other not just as *having* “the deliberative capacities,” as depicted above, but also as *being* “the best judges of, and most reliable and vigilant defenders of, their own good or interests.”⁶⁹ More to the point, however, the claim about “intuitiveness” would arguably be much stronger were it explicitly premised on the idea that those who *are* “equal” and who *are* (presumed to be) “autonomous” (in the above

⁶¹ Cohen, 21-22.

⁶² In other words: for people who endorse not only moral equality but also something like Dahl’s “Presumption of Personal Autonomy” (*Democracy*, chap. 7).

⁶³ See Dahl, *Democracy*, chaps. 6-8.

⁶⁴ Minimally, self-styled democrats typically make this presumption.

⁶⁵ See Dahl, *Democracy*, chap. 7.

⁶⁶ See note 123.

⁶⁷ Cohen, “Deliberation,” 22-23.

⁶⁸ Cohen, 27-28.

⁶⁹ Otherwise, the same inevitable critic might again retort: “Why have, say, the significantly less wise, less intelligent, and less experienced deliberate – and on an equal footing? The members might have ‘the capacities *required* for entering into a public exchange of reasons and for acting on the results of such public reasoning,’ but nothing like ‘equal capacities’! Why not give more say to those who have ‘superior’ capacities?”

sense) *should* be treated “fairly” and with “equal respect.”⁷⁰

Again, however, Cohen distances himself from an appeal to (ideal) “fairness.” Though his critical comments focus on Rawls’s way of “[t]aking the notion of fairness as fundamental,” he apparently wants to avoid an appeal to fairness, or at least ideal fairness, altogether.⁷¹ In part at least, this is because “[t]he pluralist conception of democratic politics as a system of bargaining with fair representation for all groups seems [to him] an equally good mirror of the ideal of fairness,” and he apparently does not want to endorse that conception.⁷² As we saw, he instead proposes “an account of the value of [“an association whose affairs are governed by the public deliberation of its members”] that treats democracy itself as a fundamental political ideal and not simply as a derivative ideal that can be explained in terms of the values of fairness or equality of respect.”⁷³ But in not making *any* appeal to these values here,⁷⁴ he thereby makes it harder to respond to our imagined objector. For we are left wondering: what already-broadly-held values could effectively motivate a sincere and continued “commitment to the deliberative resolution of political questions” – *making it* “intuitive” in the first place and in the face of such objections? Would, indeed, “the practice of presenting reasons” itself contribute to that commitment?⁷⁵

Now consider the other issue I raised concerning the plausibility of Cohen’s “motivational thesis.” Does Cohen’s discussion offer a sufficient sense of what “the

institutions” might look like, where “the practice of presenting reasons” contributes “to the formation of a commitment to the deliberative resolution of political questions” – making it so that “the likelihood of a sincere representation of preferences and convictions should increase, while the likelihood of their strategic misrepresentation declines”? Again, Cohen says that the ideal deliberative procedure is meant as a “model for institutions” to “mirror, so far as possible.”⁷⁶ And in the essay in question, he obviously (and understandably) is not concerned to detail the relevant institutions themselves. But to respond to the above question,⁷⁷ we have to have some sense of what the pertinent institutional setting looks like. And the ideal deliberative procedure is presumably to help us in figuring this out. Yet, a closer look at the “mirror” metaphor renders this problematic.

First, notice that when, in articulating the motivational thesis, Cohen speaks of “*the need* to advance reasons that persuade others,”⁷⁸ he is apparently referring us back to I_2 and D_2 (I_2 : “Deliberation is *reasoned* in that the parties of it are required to state their reasons...”; D_2 : “The members of the association share...a commitment to coordinating their activities within institutions that make deliberation possible...”).⁷⁹ That is, he is apparently referring us back to *these stipulations*. But he is doing more than this: he is also making a factual claim about what is likely to occur given the presence of institutions that *are* “mirrored” on the ideal deliberative procedure. Hence, “*the practice* of presenting reasons will,” he says, “contribute to the formation of a commitment to the deliberative resolution of political questions.”⁸⁰ And it is precisely at this point that we should like to know what the institutions themselves look like (or what that “practice” looks like) – beyond the fact that they (it) simply “mirror(s)” the ideal deliberative procedure. Or, to put the point another way, we should

⁷⁰ See note 123.

⁷¹ Cohen, “Deliberation,” 20; see also 21.

⁷² Cohen, 20.

⁷³ Cohen, 16.

⁷⁴ Elsewhere, however, Cohen does allude to “fair procedure[s] of reason-giving” and “fair conditions of discussion,” as well as to “deliberative arenas” which might “encourage a willingness to treat others with respect as equals” (Joshua Cohen, “Procedure and Substance in Deliberative Democracy,” in *Philosophy, Politics, Democracy: Selected Essays* [Cambridge: Harvard University Press, 2009], 163, 179). See also Joshua Cohen and Joel Rogers, “Power and Reason,” in *Deepening Democracy: Institutional Innovations in Empowered Participatory Governance*, ed. Archon Fung and Erik Olin Wright (London: Verso, 2003), 242.

⁷⁵ Cohen, “Deliberation,” 21, 26.

⁷⁶ Cohen, 26, 29.

⁷⁷ Or, indeed, any other question about the “procedure’s” likely “effects”...

⁷⁸ Cohen, “Deliberation,” 26; emphasis added.

⁷⁹ Cohen, “Deliberation,” 22, 24; Cohen’s italics.

⁸⁰ Cohen, 26; emphasis added.

like to know *what this “mirroring” might consist in and how this bears on Cohen’s motivational thesis*. Taken by itself, however, the mirror metaphor is not very helpful in sorting this out – nor is the fact that Cohen also states that “*the institutions themselves ... determine whether there is equality, whether deliberation is free and reasoned, whether there is autonomy, and so on.*”⁸¹

Take, say, I_2 , which stipulates that participants “are required to state their reasons for advancing proposals, supporting them, or criticizing them” and that they “give reasons with the expectation that those reasons (and not, for example, their power) will settle the fate of their proposal.”⁸² What might it mean to say that some institution “mirrors” these stipulations? Well, with respect to the first stipulation, perhaps it just means that deliberation there is “reasoned” in the sense just specified. In that case, fair enough. But we should then like to know how this is so – what, if anything, it is about “the institution itself” that “makes it so.” Just saying it “mirrors” this stipulation would not give us much to work with here. Indeed, it would amount to just saying that (behavior within) that institution *does* meet the stipulation in question. And parallel remarks could be made with respect to the second stipulation, that participants “give reasons with the expectation that those reasons ... will settle the fate of their proposal.”⁸³

Furthermore, saying that the institutions themselves “determine” whether, for instance, deliberation is “free and reasoned” doesn’t, unfortunately, help us to evaluate the motivational thesis either.⁸⁴ For again, we should like to know what, if anything, it is about some “institution itself” that “makes this so.” Does it “determine” whether, or to what extent, participants “give reasons

with the expectation that those reasons ... will settle the fate of their proposal”?⁸⁵ If so, how? Does it “determine” whether, or to what extent, participants “state their reasons for advancing proposals, supporting them, or criticizing them”?⁸⁶ If so, how?

An institutional format might, say, “require” that participants state their reasons. For again, I_2 says: “Deliberation is *reasoned* in that the parties of it are required to state their reasons...”⁸⁷ Hence, if actual “deliberative institutions” are meant to “mirror” I_2 , it might be thought that they should *literally* “require” participants “to state their reasons...” If so, do we indeed have good reason to expect that “the likelihood of a sincere representation of preferences and convictions should increase, while the likelihood of their strategic misrepresentation declines”⁸⁸ – *simply in virtue of that (literal, institutional) “requirement”*? Why should the mere “requirement” to offer one’s reasons, regardless of one’s antecedent motives, lead to this outcome? Or how might this “requirement,” when combined with other “mirrored features,” lead to it? Or if such reason-giving is not (literally) “required,” what, if any, other “mirrored features” do give us reason to expect that outcome? Further stipulations wouldn’t be sufficient to render the motivational thesis plausible on its face.

Now, these comments underscore certain problems and ambiguities that may arise when we *speak* a certain way – and when, relatedly, the normative theory in question isn’t clearly connected to (observation of) existing and future *practice*. But there is a further, again-related point: as with Dahl and Habermas, the presentation of the theory directs our attention away from the need to reason, or at least the utility of our reasoning, about procedures, virtues, and cultural practices in conjunction.

As suggested, the idea that an institution might “mirror” certain stipulations that are constitutive of a par-

⁸¹ Cohen, 29; emphasis added. See also the weight assigned to “institutional measures,” “institutional issues,” “the proper ordering of institutions,” and the like (29). Elsewhere, however, Cohen takes a broader focus, emphasizing “*the social and political conditions that give a point to joint reasoning*” and provide “some basis for confidence that [it] will actually prevail in shaping the exercise of collective power” (Cohen and Rogers, “Power and Reason,” 249; emphasis added).

⁸² Cohen, 24.

⁸³ Cohen, 24.

⁸⁴ Cohen, 29.

⁸⁵ Cohen 24, 29.

⁸⁶ Cohen 24, 29.

⁸⁷ Cohen, 24.

⁸⁸ Cohen, 26.

ticular “independent and expressly political ideal” is by no means clear.⁸⁹ Furthermore, this is perhaps particularly so, I now emphasize, where *the stipulations in question refer to beliefs, commitments, expectations, and the like* – for instance, the “commitment to coordinating...activities within institutions that make deliberation possible.”⁹⁰ Taken by itself, the idea that *an institution itself* might “mirror” this commitment is ambiguous at best. What is more, speaking as though we *could* (simply) “mirror” such stipulations doesn’t, by itself, bring attention to the responsibilities that pertinent agents would have to assume to “make deliberation possible.” Indeed, it can easily take attention away from the task of judging the specific responsibilities that, in some particular context, participants would have to assume for meaningful deliberation to occur there.⁹¹ And the second way of speaking may do likewise: by speaking of “institutions” as *themselves* “determin[ing]” key outcomes, such as whether or not “deliberation is free and reasoned,” our attention may be drawn away from these tasks.⁹²

For instance, genuine “deliberation” about moral or ethical disagreement surely entails that participants make a sincere attempt to understand each other’s perspectives on relevant social situations and activities. And, to be sure, no “institution” can ensure that they *assume* responsibility for making that attempt. Recognizing this, we are naturally led to such questions as: how, then, might a particular “institution,” in this or that setting, help to *cultivate* the willingness, inclination, ability to assume that responsibility? Practically, what might that mean there? That trained facilitators employ certain well-proven tactics? That certain forms of cultural self-criticism are built into the “public-opinion-formation stage” that precedes decision-making? Or...? Furthermore, what, in some particular context, might it

even *mean* for participants to assume responsibility for “trying to understand each other’s perspectives on relevant social situations and activities”? Challenging their preconceptions? Learning to be more charitable? Such are the questions that we ask when we *do* explicitly discuss and reason about the responsibilities that participants would have to assume for “the institutions” to “make deliberation possible” in some particular context. Equally, however, they are the kinds of questions that we don’t ask when we don’t explicitly discuss and reason about responsibilities – whether because we assume that the “rules” or “procedures” will “make deliberation possible” or otherwise.

But two further results are possible as well. First, in not giving explicit attention to the responsibilities that are specified or entailed by whatever ideal procedures/procedural criteria we advocate, we may give inadequate attention to the virtues that participants would necessarily exhibit were they to assume those responsibilities, and that would arguably assist them in assuming (or dispose them to assume) those responsibilities. Second, we consequently may give inadequate attention to the cultural practices that, in some particular context, could promote a social climate in which participants are more likely to assume those responsibilities and so exhibit those virtues.

Again, the two ways of speaking can generate these results: speaking of deliberative “institutions” functioning properly to the extent that they “mirror” the ideal deliberative procedure; and speaking of “institutions” as “determin[ing]” key outcomes, such as whether “deliberation is free and reasoned, whether there is autonomy, and so on.”⁹³

1.4 The Shared Features and Problems

Below we consider how these critical comments might prompt us to reconstruct our approach to normative democratic theory, offering a more robust and attractive account of its status and function in democratic practice.

⁸⁹ Cohen, 21.

⁹⁰ Cohen, 22.

⁹¹ It isn’t that “theory” should determine this in advance, but rather point our attention to the *need* to determine it – thus underscoring the need for, or utility of, reasoning about virtues and cultural practices too. See section 2.

⁹² Cohen, 29.

⁹³ Cohen, “Deliberation,” 29.

To aid that reconstruction, however, I first underscore the shared features, and so problems, across the presentations.

Clearly, Dahl, Habermas, and Cohen share a fundamental commitment to democratic decision-making that treats persons as “free and equal.” This commitment represents, we might say, the “liberal core” that the theories share.⁹⁴ Inspired by it, each author pursues a kind of *procedural minimalism*, meant to allow for as much moral or ethical pluralism as is consistent with this commitment. Thus, each develops a kind of “liberal proceduralism.”

In doing so, each author points to the usefulness of developing ideal procedures/procedural criteria. But aspects of how each develops and presents his theory push us away from recognizing the need to reason – or at least the usefulness of our reasoning – about procedures, virtues, and cultural practices in conjunction. And beyond the pursuit of minimalism, there is another commonality that arguably accounts for this: none of the theories explicitly and consistently emerges out of – and is presented as emerging out of – observation of humans as they pursue certain moral or ethical values in their actions. Furthermore, this renders it unclear what role, if any, the theory is to have in further empirical inquiry; or, it leads to a problematic suggestion about such inquiry.

To see this clearly, consider the following summary observations about the authors’ respective “philosophic methods.”

Again, Dahl offers “criteria for a democratic process,” which “specify that citizens ... ought to have adequate and equal *opportunities* to act in certain ways.”⁹⁵ Where do the criteria come from? Dahl maintains that they “follow from” the “assumptions that justify the existence of a political order” in general and “a *democratic* political order” in particular.⁹⁶ “When I say that

the process ought to meet certain criteria,” he writes, “I mean that if one believes in the assumptions, then one must reasonably affirm the desirability of the criteria; conversely, to reject the criteria is in effect to reject one or more of the assumptions.”⁹⁷ Recall the criterion of “effective participation,” for instance:

Throughout the process of making binding decisions, citizens ought to have an adequate opportunity, and an equal opportunity, for expressing their preferences as to the final outcome. They must have adequate and equal opportunities for placing questions on the agenda and for expressing reasons for endorsing one outcome rather than another.⁹⁸

Commenting on the criterion, Dahl writes: “not to take [any citizen’s] preferences as to the final outcome equally into account is to reject the principle of equal consideration of interests,” which is “a straightforward application to all the members of the Idea of Intrinsic Equality...”⁹⁹ Whether the criterion “follows from” the assumptions isn’t my concern here. The point to emphasize is that in reasoning about what to *include* in the criteria, Dahl drifts away from a faithful observation and documentation of *action* in accord with those assumptions (values). Take the phrase: “They must have adequate and equal opportunities ... for expressing reasons for endorsing one outcome rather than another.” If no participant (genuinely) listened to any of the other participants, we wouldn’t say that any one of them had a (meaningful) “opportunity” to express their reasons.¹⁰⁰ *Having* this “opportunity” entails that (some number of) other participants *assume* that responsibility. And the same could be said, *mutatis mutandis*, of the other opportunities included in the criterion, e.g., “placing

⁹⁷ Dahl, 108.

⁹⁸ Dahl, 109.

⁹⁹ Dahl, 108-109.

¹⁰⁰ To give an extreme but indicative example: suppose that each participant only attended the “meeting” in question when it was *her* “turn” to speak, leaving each participant with an audience of zero. More broadly, see Scudder’s discussion of the critical importance of participants’ “uptake” of one another’s reasons and perspectives (Mary F. Scudder, “The Ideal of Uptake in Democratic Deliberation,” *Political Studies* 68, no. 2 [May 2020]: 504-522.

⁹⁴ Of course, contemporary republicanism shares this commitment; see, e.g., Richard Dagger, *Civic Virtues: Rights, Citizenship, and Republican Liberalism* (Oxford: Oxford University Press, 1997).

⁹⁵ Dahl, *Democracy*, 108, 114.

⁹⁶ Dahl, 106. See note 6 on these assumptions.

questions on the agenda.” Consequently, the criteria do entail certain responsibilities.

Minimally, however, Dahl’s presentation is misleading on this point. For recall his response to the person who asks:

If the democratic process is desirable, then should the criteria not specify *duties* as well as opportunities – duties of the citizen to participate, to vote, to become informed, and the duty of the demos to determine how the agenda is to be decided? While I believe the democratic process does imply duties like these, they are moral duties. They take their place among an array of obligations, rights, and opportunities that would confront citizens in a democratic order.¹⁰¹

Hence, Dahl feels that he

cannot say that it would always be wrong for a citizen to choose not to fulfill the political obligations implied by the criteria of the democratic process. It seems to me more consistent with the Presumption of Personal Autonomy and with the freedom of self-determination and moral autonomy to ensure that citizens have the freedom to choose how they will fulfill their political obligations.¹⁰²

Accordingly, the criteria do not specify duties (or responsibilities or other cognate terms). As we saw, however, the criteria themselves *entail* responsibilities; so, minimally, Dahl’s response to the imagined objector is misleading here. At best, it simply leaves those responsibilities unspecified. At worst, it occludes the fact that opportunities for “*participation*” necessarily entail responsibilities on some people’s part – in effect, refusing to name them.¹⁰³ Either way, the criteria’s usefulness for *further* inquiry is weakened. For the criteria become less useful, or at least less directly useful, in appraising relevant persons’ behaviors: in appraising the responsibilities (left unspecified) that at least some would need to

assume for “the process” to grant the opportunities specified; and in appraising the virtues and cultural practices that might promote the assumption of those (unspecified) responsibilities, or even be necessary to the granting of those opportunities.

Moreover, the choice not to specify duties or responsibilities is perplexing in light of the stated purpose of the criteria. Again, they

are standards – ideal standards, if you like – against which procedures proposed ought to be evaluated ... They represent ideas of human possibilities against which actualities may be compared. Even if the criteria can never be perfectly satisfied, they are useful in appraising real world possibilities ... Naturally they do not eliminate all elements of judgment in evaluation. For example, the criteria do not specify any particular procedures, such as majority rule, for specific procedures cannot be directly extracted from the criteria. And judgments will have to take into account the specific historical conditions under which a democratic association is to be developed.¹⁰⁴

So conceived, the criteria do not prescribe specific procedures, based on strict rules. Still less do they specify specific “coercive” means for instituting specific procedures. Consequently, it is unclear why, say, specifying “responsibilities” in the criteria would be inconsistent with the Presumption of Personal Autonomy, the freedom of self-determination, or citizens’ moral autonomy. On Dahl’s own construal of the role of the criteria, specifying that citizens should have “adequate and equal opportunities ... for expressing reasons for endorsing one outcome rather than another” is consistent with these assumptions (values). Citizens, for instance, can still decide not to express their reasons at all. On Dahl’s own view, then, why would it be *inconsistent* with the aforementioned assumptions (values) for the criteria to specify, say, that citizens should have “adequate and equal opportunities to listen to each other’s reasons” and should “assume responsibility for doing so”? Citizens, for instance, can still decide not to listen. Wouldn’t the inclusion of said responsibility in the criteria help us to

¹⁰¹ Dahl, 115.

¹⁰² Dahl, 115.

¹⁰³ Neither does Dahl’s reference to (defeasible) “moral duties” (not to be specified in the criteria) clarify the necessary conceptual-practical link between opportunities and responsibilities. Citizens should have equal opportunities to vote, and they should (ideally) vote, he affirms. Likewise, they should have adequate and equal opportunities to participate, and they should (ideally) participate. And so on. Even here, however, there is no apparent recognition of the simple fact that in order for citizens to have the opportunities specified in the criteria, (at least some) citizens *need* to assume certain responsibilities.

¹⁰⁴ Dahl, *Democracy*, 108-109; see also 111.

evaluate, for example, how well different (proposed) procedures (might) promote participants' willingness and ability to assume that responsibility – hence grant each other “adequate and equal opportunities for expressing reasons for endorsing one outcome rather than another”?

Habermas, for his part, makes it clear that his “discourse-theoretic interpretation” of the democratic process is grounded on an analysis of the “communicative presuppositions that allow the better arguments to come into play in various forms of deliberation.”¹⁰⁵ But the stress, notice, is on the *presuppositions* of certain kinds of human action (namely, speech acts), not on observation of humans *as* they pursue certain moral or ethical values *in* their actions – including their linguistic *and* non-linguistic behavior.¹⁰⁶ And this has implications for how the theory is presented – and not presented – in relation to democratic practice.

In the essay in question, Habermas doesn't say anything explicit about the status and function of his theory in further inquiry. But even if one were to point to passages in *Between Facts and Norms*¹⁰⁷ or elsewhere where he does so, the point remains: the conception is here presented as though it is *not* “dependent on the virtues of citizens devoted to the public weal,” directing our attention away from the ways in which it apparently is so.¹⁰⁸ Accordingly, the theory is not presented as a resource that could assist us in conducting inquiry *into* those (or other) virtues, nor into the cultural practices that might promote them. And Habermas's focus on the presuppositions of action can arguably help to account for this. When we focus on deliberation *as an activity* in which we seek to realize certain *moral or ethical values*, we immediately recognize that for anything like genuine “deliberation” to occur, some people have to assume

certain responsibilities. This in turn directs our attention to the virtues and cultural practices that might promote their assumption and/or be necessary for such deliberation to occur. By contrast, when we speak of “*presuppositions* ... allow[ing] the better arguments to come into play in various forms of deliberation” and of “*procedures* ... secur[ing] fair bargaining processes,” our attention isn't directed to the relevant responsibilities with the same clarity, force, and urgency – nor, likewise, to the virtues and cultural practices that might promote their assumption and/or be necessary to the procedure's proper functioning. Indeed, we may not think of these responsibilities, virtues, and cultural practices at all.¹⁰⁹

Finally, Cohen stresses that “[t]he notion of a deliberative democracy is rooted in the intuitive ideal of a democratic association in which the justification of the terms and conditions of association proceeds through public argument and reasoning among equal citizens.”¹¹⁰ Yet, again, he does not indicate why this ideal, or his own version of it, is “intuitive.” Furthermore, his ability to do so is arguably undercut by the way in which he presents it as an “*independent* and expressly political ideal,” which “treats democracy itself as a fundamental political ideal and not simply as a derivative ideal that can be explained in terms of the values of fairness or equality of respect.”¹¹¹ For this undercuts his ability to defend the conception by explicitly referencing the other, already-broadly-held values that may be thought to stand in support of it – that, based on their own lived experiences, many people *do* regard as standing in support of democratic decision-making through public argument and reasoning among equals.¹¹² For instance, it is arguably easier to defend the “intuitive” appeal of his ideal by referencing the values of treating persons as

¹⁰⁵ Habermas, “Three Normative Models,” 4. See also note 138 below and, again, the index entry for “Pragmatic presuppositions of argumentation” in Habermas, *Between Facts and Norms*, 622.

¹⁰⁶ See Bernstein, “Retrieval,” esp. 3-6, 11.

¹⁰⁷ See note 23.

¹⁰⁸ Habermas, “Three Normative Models,” 4.

¹⁰⁹ For such talk may have a bewitching effect, encouraging us to ascribe agency to the procedures or institutions in which people act, rather than to the people themselves. Likewise with talk of “procedures” granting “opportunities” (Dahl, *Democracy*, 112) and “institutions” “determin[ing]” whether “deliberation is free and reasoned” (Cohen, “Deliberation,” 29). In each case, there is a risk of reification.

¹¹⁰ Cohen, “Deliberation,” 21.

¹¹¹ Cohen, “Deliberation,” 16, 21; emphasis added.

¹¹² See note 123.

“free” and “equal,” equally *deserving* of “fair treatment” and “equality of respect.”¹¹³ But Cohen’s presentation pushes us away from this response, both because the ideal is characterized as an “independent” one and because, relatedly, he distances himself from an appeal to “fairness” and “equality of respect” too.¹¹⁴

Again, this is relevant to how the theory is presented – and not presented – in relation to democratic practice. Cohen does not say how, if at all, he regards his theory as emerging out of empirical inquiry. But what he does say has implications for how it is positioned in relation to such inquiry. By itself, the suggestion that the theory is based on, or perhaps articulates, an “intuitive” ideal places it in an ambiguous position in relation to *previous* empirical inquiry. Some things are “intuitive” precisely because they comport with our lived experiences – with our observations of, and reflections on, those experiences. But other things are regarded as “intuitive” quite apart from “experience.” In any case, the way in which he distances himself from an appeal to “fairness” and “equality of respect” means that the theory is clearly *not* presented as emerging out of observations of, and reflections on, *lived experience with these values*. Correspondingly, it is not presented as an articulation of the responsibilities that participants assume when they (try to) instantiate these values – or as a resource that could guide inquiry into the virtues and cultural practices that might promote their assumption. Furthermore, in considering certain problems with the “mirror” metaphor, we saw how, especially when combined with talk of “institutions” “determin[ing]” certain outcomes, that metaphor can direct attention away from the need to inquire into the specific virtues and cultural practices that, in some particular context, are apt to promote meaningful deliberation there.¹¹⁵ Hence, for this reason too, we cannot say that the presentation brings atten-

tion to the idea of using the ideal deliberative procedure as a resource for guiding such inquiry.

II. Toward an Alternative, Anthropological-Interpretive Approach

Taken together, these comments point toward an attractive account of the status and function of normative democratic theory in democratic practice. Again, there are two Deweyan suggestions about moral or ethical theory that can help us to sketch that approach: briefly, that the theory in question should offer an interpretation of relevant aspects of “moral or ethical experience”; and that we should treat it as a “tool” for practical reasoning, which can help us to extend the goods that inhere in the relevant kinds of experience. Correspondingly, my suggestion is that normative democratic theory should *emerge out of lived experience with the values of treating persons as “free” and “equal”* and should *guide inquiry into the procedures, virtues, and cultural practices* that, in some particular context, are most apt to promote the realization of those values. In this sense, normative democratic theory should be “doubly empirical”: self-consciously empirical in its origins (based on observation of humans *as* they pursue certain moral or ethical values *in* their actions); and self-consciously used to guide further such inquiries. That none of the three theories discussed in section 1 is explicitly and consistently so presented and developed is one way of crystallizing the criticisms summarized in section 1.4.¹¹⁶

2.1 Normative Democratic Theory as Empirical Inquiry

Broadly speaking, my suggestion is that we can profitably understand normative democratic theory as an anthropological-interpretive enterprise – as a species of cultural self-reflection that *begins* with an interpretation of the linguistic *and* non-linguistic behavior of those who are to be addressed by the theory and which aims to

¹¹³ We needn’t, however, thereby commit ourselves to defending (deliberative) democracy as being “*simply ... a derivative ideal*” (Cohen, “Deliberation,” 16; emphasis added).

¹¹⁴ See note 74.

¹¹⁵ Cohen, “Deliberation,” 21, 29.

¹¹⁶ See note 137 for an elaboration of this claim with respect to Habermas.

reveal the patterns that structure certain kinds of “moral or ethical experience.”¹¹⁷

Now, by “moral or ethical experience,” I refer broadly to our lived experiences with whatever moral or ethical values are in question. And like Dahl, Habermas, Cohen, and indeed most other democratic theorists, I proceed from a fundamental commitment to treating persons as free and equal; I presume that, as democrats, we *should* proceed from this commitment, for it is arguably what justifies the adoption of a democratic process in the first place. Or, to make a weaker claim that serves the same purpose here, the presumption could be that the values of “free” and “equal” treatment are two values without which it is hard to justify the adoption of such a process.¹¹⁸ So, the appeal to “moral or ethical experience” refers here to lived experience with the values of “free” and “equal” treatment in joint or collective decision-making. Correspondingly, our question is: what does reflection on such treatment indicate, or, what are our “shared understandings” of what it *means* to treat each other this way?

Here, I won’t answer this question directly; doing so would amount to an effort to articulate my own normative democratic theory, while I aim only to sketch a philosophic method for developing such a theory,¹¹⁹

¹¹⁷ On the broad, cultural-anthropological sense in which I intend “experience,” see Dewey, *LW 1*; Michele Moody-Adams, *Fieldwork in Familiar Places: Morality, Culture, and Philosophy* (Cambridge: Harvard University Press, 1997), 169-172; Loren Goldman, “Dewey’s Pragmatism from an Anthropological Point of View,” *Transactions of the Charles S. Peirce Society* 48, no. 1 (Winter 2012): 1-30.

¹¹⁸ Dahl, *Democracy*, chaps. 6-9.

¹¹⁹ More accurately, it would amount to an effort to articulate a generic normative theory for *any* “democratic process” (not just state decision-making processes), and I aim only to sketch a *philosophic method for developing such a generic theory*. (Dahl’s theory is also of this kind; see Dahl, 107.) Such a generic theory puts aside questions of membership and of the proper scope of “democratic decision-making.” For answers to these questions will, and should, vary depending on the type of association. Furthermore, notice that the analogy with friendship (see notes 5 and 120) wouldn’t help much, if at all, with either of these questions. For the criteria governing “friendship” are, and should be, different from those governing whether individuals are, say, citizens of a “democratic” state or members of a “democratic” workers’ cooperative. And the kinds of matters that friends decide, and should decide, together are different from those that other “associations” decide, and should decide,

thereby clarifying its status and function in democratic practice. So, let me stay at a high level of abstraction and just indicate what, at a minimum, I think such a theory *should* articulate.

The first thing to say is that in lived experience with the values in question, we evidently recognize¹²⁰ the need to grant certain opportunities to one another *and* to assume certain (corollary positive and negative) responsibilities in relation to one another. A brief illustration will indicate the contours of my thinking here.

When, for instance, friends aim to treat each other as free and equal in joint or collective decision-making, they recognize the need to grant each other equal and adequate *opportunities*¹²¹ to express their reasons for endorsing some particular outcome among an array of alternatives. For they recognize that their doing so is a necessary¹²² *means* toward the end of giving equal consideration to, and showing equal concern and respect for, the good or interests of each such person; and, in the context of joint or collective decision-making, they regard each other – qua free and equal persons – as

“democratically.”

¹²⁰ This and similar phrases should be taken as invitations and hypotheses: *if* one reflects on one’s own experience with “free and equal treatment” in joint or collective decision-making, or whatever comes closest to it, one is likely to realize the plausibility of the pertinent claim. And again, I take friendship to offer paradigmatic examples of such treatment (see notes 5 and 123) – as, perhaps, Dewey himself did: “To take as far as possible every conflict which arises ... out of the atmosphere and medium of force, of violence as a means of settlement into that of discussion and of intelligence is to treat those who disagree – even profoundly – with us as those from whom we may learn, and in so far, as friends” (*LW 14*: 228).

¹²¹ “Equal opportunities” can, of course, be inadequate for the purposes they are meant to serve. If, say, each person only had one second to “express her reasons,” surely we wouldn’t think that the purpose of each person having that “opportunity” was well served. Hence, though we often do speak simply of “equal opportunities,” we are tacitly endorsing the idea of “equal *and* adequate opportunities” when we do so.

¹²² More accurately, it is *presumptively* “necessary”: there may be cases when it is not so, as when one such person is incapacitated, hence literally incapable of “expressing her reasons.” Still, highlighting this “presumptive necessity” points to the need to craft case-appropriate approximations of, or stand-ins for, the aforementioned opportunity – e.g., allowing someone else to represent, and so offer reasons on behalf of, the party in question. The point generalizes to whatever other “opportunities” a theory indicates that citizens, members, representatives and/or participants should have, where the *literal* granting of those “opportunities” isn’t practically feasible.

equally *deserving* of such opportunities.¹²³ Furthermore, they recognize that in order for each participant to have this opportunity, the others¹²⁴ have to assume *responsibility* for granting it to them. For they recognize that part of the purpose of having this opportunity is to bring the others to understand and to take into account one's perspective. And to do so, the others need to assume certain responsibilities, both "negative" and "positive" in

character.¹²⁵ On the negative side, they need, say, to refrain from certain kinds of interruption when others are trying to communicate. On the positive side, they need, say, to make a *sincere effort* to understand and to take into account the perspective that the communicator is trying to convey in offering her reasons. Otherwise, she may not have a meaningful opportunity "to express her reasons for endorsing some particular outcome among an array of alternatives." Indeed, she may not have that "opportunity" at all.

Now, this much already suggests that in a decision-making process that exhibits equal consideration, concern, and respect for the good or interests of the participants, those persons grant certain (equal and adequate) opportunities to one another *and* assume certain (corollary positive and negative) responsibilities in relation to one another. More specifically, it suggests that they grant such (equal and adequate) opportunities, and assume such (positive and negative) responsibilities, as (they understand) are presumptively necessary to the aim of giving equal consideration to, and showing equal concern and respect for, the good or interests of each of them. My suggestion, then, is that we articulate these opportunities and responsibilities¹²⁶ in our own "ideal procedural criteria."¹²⁷ Furthermore, I propose that we, again, explicitly and consistently: present these criteria as having *emerged out of empirical inquiry*; and use the criteria to *guide further such inquiry*.

2.2 Normative Democratic Theory as Guiding Further Empirical Inquiry

¹²³ Moreover, these values are often accompanied by claims to "fairness." On friendship as a relationship that characteristically embodies these values, see Edward Deci et al., "On the Benefits of Giving as Well as Receiving Autonomy Support: Mutuality in Close Friendships," *Personality and Social Psychology Bulletin* 32, no. 3 (March 2006): 313–327; Hruschka, *Friendship*, esp. 17–75, 121–135; James Youniss and Jacqueline Smollar, *Adolescent Relations with Mothers, Fathers and Friends* (Chicago: University of Chicago Press, 1987), esp. chaps. 1, 6–8, 10; Andrew F. Newcomb and Catherine L. Bagwell, "Children's Friendship Relations: A Meta-Analytic Review," *Psychological Bulletin* 117, no. 2 (March 1995): 306–347; William Rawlins, *The Compass of Friendship: Narratives, Identities, and Dialogues* (Los Angeles: Sage, 2009), esp. chaps. 3, 7; William Rawlins, *Friendship Matters: Communication, Dialectics, and the Life Course* (New Brunswick: Transaction Publishers, 2008), esp. chaps. 1–3; William Bukowski, Clairenige Motzoi, and Felicia Meyer, "Friendship as Process, Function, and Outcome," in *Handbook of Peer Interactions, Relationships and Groups*, ed. Kenneth Rubin, William Bukowski, and Brett Laursen (New York: Guilford Press, 2009); Netta Weinstein, ed., *Human Motivation and Interpersonal Relationships: Theory, Research, and Applications* (Dordrecht: Springer, 2014), esp. chaps. 1–4; Valery I. Chirkov, Richard M. Ryan, and Kennon M. Sheldon, eds., *Human Autonomy in Cross-Cultural Context: Perspectives on the Psychology of Agency, Freedom, and Well-Being* (Dordrecht: Springer, 2011), esp. chaps. 3, 5, 11. On the ubiquity of "fairness" appeals in social life generally, see Nicolas Baumard, *The Origins of Fairness: How Evolution Explains Our Moral Nature*, trans. Paul Reeve (New York: Oxford University Press, 2016); Marc D. Hauser, *Moral Minds: The Nature of Right and Wrong* (New York: Harper Perennial, 2007), esp. chap. 2; Joseph Henrich et al., eds., *Foundations of Human Sociality: Economic Experiments and Ethnographic Evidence from Fifteen Small-Scale Societies* (Oxford: Oxford University Press, 2004). On the relevance of "fairness" appeals to support for democratic decision-making, see Marcia Grimes, "Procedural Fairness and Political Trust," in *Handbook on Political Trust*, ed. Sonja Zmerli and Tom W.G. van der Meer (Cheltenham: Edward Elgar, 2017), 256–269; Rainer Forst, *The Right to Justification: Elements of a Constructivist Theory of Justice*, trans. Jeffrey Flynn (New York: Columbia University Press, 2012), esp. chap. 7. On the link between free and equal personhood and norms of equal consideration, concern, and respect, see Stefan Gosepath, "On the (Re)Construction and Basic Concepts of the Morality of Equal Respect," in *Do All Persons Have Equal Moral Worth? On "Basic Equality" and Equal Respect and Concern*, ed. Uwe Steinhoff (Oxford: Oxford University Press, 2015), 124–141.

¹²⁴ As a regulative ideal, the phrase is appropriate: at times (as when there are two participants), it is the case that for *each* to have some opportunity, *all* must assume certain responsibilities. But this isn't always so; it may just be that some do. But, for simplicity, I will use "the others" and equivalent phrases.

¹²⁵ See notes 32 and 35 on "negative" and "positive" responsibilities, respectively. I do not intend a sharp distinction between "negative" and "positive" responsibilities here. The terms are heuristics; "responsibilities" may have "negative" and "positive" aspects.

¹²⁶ More accurately, *some* of them: abstract "opportunities" and "responsibilities" always entail *more specific* "opportunities" and "responsibilities" in practice, which cannot be fully articulated in advance. Moreover, parsimony is to be valued in the criteria.

¹²⁷ I leave open whether there are responsibilities to be included which are not, or not primarily, "corollaries" to the "opportunities" that citizens, members, representatives and/or participants should have.

Here my argument dovetails with the way in which John Dewey and Nelson Goodman conceive of theories as articulating “standards” that are “internal” to practices.

In Hilary Putnam’s summary:

What we have ... are practices, which are right or wrong [or more or less adequate] depending on how they square with our standards. And our standards are right or wrong [or more or less justifiable] depending on how they square with our practices. This is a circle, or better, a spiral, but one that Goodman, like John Dewey, regards as virtuous.¹²⁸

Treating our ideal procedural criteria in this way, the view I am sketching may be summarized as follows.

We can treat our ideal procedural criteria as “standards” that are “internal” to certain of our moral or ethical practices, namely, those that our shared understandings indicate are presumptively necessary to the aim of giving equal consideration to, and showing equal concern and respect for, the good or interests of the persons in question. Moreover, we can treat these criteria *hypothetically*. This means treating them not as articulating strict rules or principles, or laws or categorical imperatives, but rather as statements of the conditions in which certain results are apt to eventuate – as revisable statements about the conditions in which certain human goods (moral, ethical, cognitive, emotional, aesthetic, and others) are apt to be realized.¹²⁹ (Think of cookbooks; or, replacing the reference to “statements” with “representations,” maps.) Or, to make the same point in the language of problem-solving, it means treating our criteria as articulating hypothetical solutions to a problem of a specific kind: giving equal consideration to, and showing equal concern and respect for, the good or interests of the persons in question. “The introduction” of *these* “social conditions,” those articulated or entailed

by the criteria, is presumptively necessary to resolve or to mitigate *this* problem.

Broadly, then, this is how the criteria can be understood as “guiding further empirical inquiry”: they are summaries of observations about past experiences with certain practices, which direct us, in analogous circumstances, to pursue similar activities in the tentative expectation that (we will observe that) similar goods will result in similar ways.¹³⁰ Treating the criteria in this way, more can be said now about the moral or ethical practices in question and about how the criteria are to “guide inquiry” into such practices.

Now, again, when we aim to treat one another as free and equal, we recognize the need to grant one another certain (equal and adequate) opportunities; say, to express our respective reasons for endorsing some particular outcome among an array of alternatives. And we recognize that to do so, we need to assume certain (corollary positive and negative) responsibilities in relation to one another, such as those mentioned: refraining from certain kinds of interruption when others are trying to communicate and making a sincere effort to understand and to take into account the perspective that the communicator is trying to convey in offering her reasons. Hence my suggestion that our ideal procedural criteria specify certain opportunities *and* responsibilities. Yet, I think that we recognize a number of further things as well, which, taken together, explain my additional suggestion that we use the criteria to reason about procedures, virtues, and cultural practices in conjunction.

First, friends recognize that to effectively grant one another, say, the *opportunity* to express their respective reasons for endorsing some particular outcome and to assume, say, *responsibility* for making a sincere attempt to understand and to take into account one another’s perspectives, they typically (need to) adopt a *procedure* for doing so. (“It’s good always to talk about these things first”; “Everyone should have a fair chance to say their

¹²⁸ Hilary Putnam, *Realism with a Human Face*, ed. James Conant (Cambridge: Harvard University Press, 1992), 304. Hence Dewey affirms that “common experience is capable of developing from within itself methods which will secure direction for itself and will create inherent standards of judgment and value” (*LW* 1: 41).

¹²⁹ See Dewey, *LW* 1: 10-41, 295-326.

¹³⁰ So treated, they become “tools” for practical reasoning. See Dewey, *LW* 7: 278-283.

piece"; "We should talk about whatever people want to talk about"; etc.) But they also recognize that no *one* "procedure," considered in all its details, is best suited to their doing so. Where, say, the stakes are low and in-person communication is difficult, they might have a quick exchange over email, even delegate the decision to just one person. Where the stakes are high and in-person communication is easy, they might deliberate for "however long it is necessary," even insist on consensus.¹³¹

Second, friends recognize that there are certain moral, ethical, and intellectual *virtues* that can assist them in, say, granting the above opportunity and in assuming the above responsibility. Virtues like "patience," "kindness," and "tolerance" can help them to grant each other opportunities to express their respective reasons for endorsing some particular outcome, just as virtues like "self-awareness," "humility," and "open-mindedness" can help them to assume responsibility for making a sincere attempt to understand and to take into account each other's perspectives. But friends also recognize that, in different contexts, different virtues are more and less important to their ability to grant the above opportunity, just as they recognize that different virtues are more and less important to their ability to assume the above responsibility. Where, say, it is difficult for some to express their considered views (perhaps they simply struggle with articulating them verbally), but those views are quite uncontroversial, the virtue of "patience" is likely to be very important for participants' respective capacities to grant each other equal and adequate opportunities to express their reasons in support of some particular outcome, while the virtue of "open-mindedness" is likely to be less so. By contrast,

where, say, participants find their respective views easy to articulate but have highly controversial views, the virtues of "patience" and "open-mindedness" are both likely to be very important to their respective capacities to grant the aforementioned opportunity and to assume the aforementioned responsibility.

Third, friends recognize that there are certain *cultural practices*¹³² that can promote a social environment that is conducive to, say, the effective granting of the above opportunity and the effective assumption of the above responsibility – and so also to the exhibition of the moral, ethical, and intellectual virtues that they would necessarily exhibit were they to grant that opportunity/assume that responsibility. For instance, friends sometimes recognize that other friends tend not to verbally participate in an "equal" fashion when their friendship circle "makes a decision." Perhaps the latter individuals are shy and deferential, or have a history of conflict with others from the group who are more assertive, and so are timid about expressing their opinions. Thus, the former individuals sometimes consult the latter individuals *in advance of the discussion that will decide the matter* to see what their opinions are and to ensure that they get a "fair hearing." This practice can promote, say, the effective granting of the aforementioned opportunity and the effective assumption of the aforementioned responsibility, hence also the exhibition of such virtues as "patience," "toleration," "self-awareness," and "open-mindedness." Friends also recognize, however, that, in different contexts, different cultural practices are more and less important to their ability to grant that opportunity and to promote the assumption of that responsibility. In one context, time set aside for relevant storytelling might be most useful. In another, the practice mentioned above might be so: selective consultation in advance of the discussion that will decide the matter.

Fourth, as friends recognize that different procedures, virtues, and cultural practices are more and less

¹³¹ In a group of friends, of course, much of the "work" involved in collective decision-making may well be highly informal, spontaneous, and fluid in character. However, we are not surprised if/when more "routinized" and "explicit" decision-making practices emerge, indeed, of the kind that start to look like "procedures." In fact, if equal consideration, concern, and respect are to be maintained, surely such "procedures" will develop, even if they remain largely tacit, and all the more so as the "stakes" involved in the friends' decisions rise and the size of the group increases.

¹³² See note 18.

suited to different contexts in this way, so they recognize the need to *inquire* into what specific procedures, virtues, and cultural practices are most suited to those contexts. Often, this “inquiry” may be quite informal, indeed, semi- or perhaps even unconscious. Still, the same social goal isn’t, they recognize, always pursued with the same exact “social means.” And this produces a conscious need to inquire, at least occasionally, into “the conditions” that *are* apt to promote “equal consideration, concern, and respect” in different circumstances, including different procedures, virtues, and cultural practices.

So, taking these considerations together and treating the ideal procedural criteria as hypotheticals in the way suggested, we can summarize the function – or, at any rate, part of the function – of normative democratic theory in democratic practice as helping us to judge the rightness or wrongness, or adequacy or inadequacy, of the *specific* procedures,¹³³ the *specific* virtues, and the *specific* cultural practices that, in this or that particular context, are deployed or on exhibition, or that are proposed for deployment or exhibition, in pursuit of the aim of giving equal consideration to, and showing equal concern and respect for, the good or interests of the persons in question. Or, more succinctly, we can treat the criteria as offering a “tool” for practical reasoning about procedures, virtues, and cultural practices in conjunction.

Crucially, this framing can accommodate the concern for pluralism, while avoiding the discussed problems with the three proceduralisms. For in clarifying that the criteria are to be used as a “tool” in this way, we clarify that we are not offering specific procedures for specific cases, based on strict rules or prescriptions. Furthermore, we clarify that we are not recommending exact means (still less specific “coercive” ones) for granting relevant opportunities or for promoting the assumption

of relevant responsibilities. Yet, we *are* recommending that the criteria *include* certain “opportunities” and “responsibilities,” thereby avoiding the discussed problems with excluding, or at least leaving entirely tacit our conception of, relevant responsibilities. And we are, of course, clarifying the general relevance of procedures, virtues, and cultural practices *to* the granting of those “opportunities” and the assumption of those “responsibilities,” thereby avoiding the discussed problems with treating “procedures” as our primary or exclusive focus.

Conclusion

Aletta Norval has remarked that “it is characteristic of much political theory, and democratic theory in particular, to distance itself from the ordinary practices, commitments and concerns of democratic life.”¹³⁴ “At best,” such distancing “may provide us with the requisite imagination to sustain and deepen democratic life. At worst, it can prevent us from engaging with democratic theory in a way that addresses practical needs.”¹³⁵

Now, it would be quite unreasonable to say that Dahl, or Habermas, or Cohen engages in democratic theory in a way that “prevents us” from “addressing practical needs.” And in each of their theories, I, at least, do find resources to stimulate our democratic imaginations, as I presume many others do too. Nevertheless, each of their theories does, in its own way, distance itself from “the ordinary practices, commitments and concerns of democratic life.” For none of them explicitly and consistently emerges out of – and is presented as emerging out of – observation of humans *as* they pursue certain moral or ethical values *in* their actions. And so none of them leads directly to the recognition that our ideal procedural criteria can and should: articulate opportunities and responsibilities; and help us to reason about procedures, virtues, and cultural practices in

¹³³ This should be understood to encompass questions of membership and of the proper scope of collective decision-making in the specific (kind of) association in question. But I put these matters aside here; see note 119. Correspondingly, I leave open who “the persons in question” are.

¹³⁴ Aletta J. Norval, *Aversive Democracy: Inheritance and Originality in the Democratic Tradition* (New York: Cambridge University Press, 2007), 2-3.

¹³⁵ Norval, 2-3.

conjunction. Indeed, each has features (related to the pursuit of procedural minimalism) that push us away from that recognition.

Of course, in each author's corpus, one can identify passages in which the author emphasizes, or at least intimates, the direct relevance of virtues and cultural practices to the instantiation of certain procedures.¹³⁶ Indeed, each author's normative democratic theory can be *conceived* as offering rich resources for reasoning about the procedures that can deepen and sustain democracy, the virtues that citizens might ideally display when participating in them (or in the broader public sphere), and the cultural practices that could promote those virtues and the instantiation of those procedures.¹³⁷ The critical point, in this connection, concerns the way in which *in presenting his own normative democratic theory*, each author distances himself – in subtle but critical ways – from *lived* experience with the values in question. That is, in his own way, each author distances himself from observation of paradigmatic moments in which, in everyday life, free and equal treatment is instantiated.¹³⁸ For the reasons indicated, this shared

presenting his proceduralist conception, Habermas drifts away from a *faithful observation* of lived experience with “free and equal treatment.”

The point is subtle, but critical. As emphasized, when we focus on deliberation *as an activity* in which we seek to realize certain *moral or ethical values*, we immediately recognize that for anything like genuine “deliberation” to occur, some people have to assume certain responsibilities. This in turn directs our attention to the virtues and cultural practices that might promote their assumption and/or be necessary to their proper functioning. By contrast, Habermas speaks of democratic processes being legitimated by “presuppositions” and “procedures” – not, crucially, by *action* in accord with them: the “discourse-theoretic interpretation insists on the fact that democratic will-formation does *not* draw its legitimating force from a previous convergence of settled ethical convictions, but from both *the communicative presuppositions* that allow the better arguments to come into play in various forms of deliberation, and from *the procedures* that secure fair bargaining processes” (“Three Normative Models,” 3-4; emphasis added). The issue here can't simply be written off as “unclear wording”: for, taken in context, such phrasings are precisely what promote the idea that the processes in question aren't – apparently in any way – “dependent on the virtues of citizens devoted to the public weal” (4). (Recall also Habermas's strong criticism of a “deliberative politics” which “depend[s] on the virtues of citizens oriented to the common good” [*Between Facts and Norms*, 277].)

In actual life-contexts, however, we easily recognize that any “procedure” can go awry, and that participants can always remain unmotivated to follow (or motivated not to follow) its normative “presuppositions.” This is one reason why ethnomethodologists emphasize how “rationality,” “legitimacy,” “fairness,” and so forth are *produced* “in action” (see, e.g., Harold Garfinkel, *Studies in Ethnomethodology* [Cambridge: Polity Press, 1984]). Moreover, to follow a procedure (to act in accord with its normative presuppositions and to know one is doing so) and perhaps even to be motivated to do so, one has to have a knowledge of relevant moral or ethical values; one can't be “reasonable,” “rational,” “respectful,” “sincere,” “fair,” “open-minded” or what have you, and “know” that one is being so, *without knowing what generally counts as an instance of such moral or ethical behavior in a given community* (see Hilary Putnam, *The Collapse of the Fact/Value Dichotomy and Other Essays* [Cambridge: Harvard University Press, 2002]; John McDowell, “Virtue and Reason,” *The Monist* 62, no. 3 [July 1979]: 331-350; John McDowell, “Non-Cognitivism and Rule-Following,” in *Wittgenstein: To Follow a Rule*, ed. Steven H. Holtzman and Christopher M. Leich [New York: Routledge, 2006], 141-62; Charles Taylor, “Language and Society,” in *Communicative Action: Essays on Jürgen Habermas's The Theory of Communicative Action*, ed. Axel Honneth and Hans Joas, trans. Jeremy Gaines and Doris L. Jones [Cambridge: MIT Press, 1991], 23-35; Charles Taylor, “Cross-Purposes: The Liberal-Communitarian Debate,” in *Philosophical Arguments* [Cambridge: Harvard University Press, 1995], 181-203; Charles Taylor, “The Diversity of Goods,” in *Philosophy and the Human Sciences: Philosophical Papers, Vol. 2* [Cambridge: Cambridge University Press, 1985], 230-247). For such reasons, the appeal to the legitimating force of “presuppositions” and “procedures” is problematic: to *some* degree, Habermas's proceduralist conception would seem dependent on “*a previous convergence of settled ethical convictions*” as well (see Bernstein, “Retrieval”; Mara, “After Virtue, Autonomy”; Taylor, “Language and Society”). But Habermas's formulations push us away from – obscure – these everyday observations (see section 2) about when free and equal treatment is instantiated. Hence my claim

¹³⁶ See, e.g., Dahl, *Democracy*, chap. 20, esp. 294-298; Cohen, “Procedure and Substance,” esp. 172-80; and Jürgen Habermas, *Between Naturalism and Religion: Philosophical Essays*, trans. Ciaran Cronin (Cambridge: Polity Press, 2008), chap. 5. Regarding Habermas, however, Bernstein's observation is apt: “Sometimes, Habermas comes very close to admitting that ‘the core of a genuinely proceduralist understanding of democracy’ presupposes a democratic ethos. But more frequently he appears to deny this, and suggests that a discourse-theoretical understanding of democracy is superior to its alternatives precisely because it doesn't make any presuppositions about the democratic virtues of citizens” (Bernstein, “Retrieval,” 4).

¹³⁷ Regarding Habermas, for instance, see Jeffrey Epstein, “Habermas, Virtue Epistemology, and Religious Justifications in the Public Sphere,” *Hypatia* 29, no. 2 (Spring 2014): 422-439.

¹³⁸ The point is perhaps most subtle in relation to Habermas. Habermas's “normative model” is, in its own way, based on lived experience with the values of “free” and “equal” treatment. His “proceduralist” conception of democracy is grounded on a theory of communicative action which reconstructs the first- and second-person standpoints of persons who coordinate their actions through norms whose rightness is presumed to be redeemable in a mutual (free and equal) exchange of reasons (Jürgen Habermas, *Theory of Communicative Action, vol. 1: Reason and the Rationalization of Society*, trans. Thomas McCarthy [Boston: Beacon Press, 1984], esp. chaps. 1, 3); Habermas, *Between Facts and Norms*; Habermas, “Three Normative Models”; James Bohman and William Rehg, “Jürgen Habermas,” *Stanford Encyclopedia of Philosophy* [Fall 2017 Edition], ed. Edward N. Zalta). However, in

feature of the three normative theories *obscures* the various ways in which particular virtues and cultural practices *are* relevant, or even necessary to, particular procedures: to the effective granting of the opportunities that (at a minimum) participants ought to grant one another; and to the assumption of the responsibilities that (at a minimum) they ought to assume in relation to one another. In this way, all three presentations, once more, push us away from the recognition that our ideal procedural criteria can and should: articulate opportunities and responsibilities; and help us to reason

about procedures, virtues, and cultural practices in conjunction. Accordingly, I have briefly sketched an alternative, anthropological-interpretive approach, which clarifies the basis for saying that our criteria can and should be so characterized and used. Such an approach, I submit, provides a firmer, more robust basis for addressing the “practical needs” of democratic life.

Declaration of Interest Statement

No potential conflict of interest was reported by the author.

that in presenting his own normative democratic theory, Habermas distances himself – in subtle but critical ways – from *lived* experience with the values in question.