

Tolerance and Deliberative Democracy¹

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The issues of tolerance and intolerance are very much on national and global agendas. What does and might toleration mean and what does it imply for policy and practice? What are the nature, justifications, and limits of tolerance between, for example, Albanians and Serbs in Kosovo or between Hindus and Muslims in Gujarat? Should U.S. citizens tolerate the actions of their government in holding U.S. citizens as “enemy combatants” without charge or legal consul in Guantánamo, Cuba? Should U.S. citizens tolerate the teaching of “creation science” in science courses in public schools? Should those in favor of and those repelled by gay marriage tolerate each other and their respective beliefs? Was French president Jacques Chirac expressing unjustifiable intolerance when he proposed a ban on students wearing head scarves and other large religious ornamentation in French public schools? Is Martha Nussbaum justified in calling “dangerous” a “religious intolerance” fostered by the idea “that the state and private citizens should coerce people into adhering to the ‘correct’ religious approach?”² Should Arab countries, such as Saudi Arabia, tolerate women’s political participation, wider employment opportunities, and refusal to wear the veil? Should citizens in pluralist democracies, such as India, Argentina, and the U.S., tolerate public discourse that employs religious justifications for policy proposals?

In this paper I aim to explore the conceptual and practical connections between the ideal and practice of tolerance³ and a relatively new and much discussed model of

democracy – that of deliberative democracy. As a working – but not uncontroversial – definition of deliberative democracy I follow John Rawls:

The definitive idea for deliberative democracy is the idea of deliberation itself. When citizens deliberate, they exchange views and debate their supporting reasons concerning public political questions. They suppose that their political opinions may be revised by discussion with other citizens; and therefore these opinions are not simply a fixed outcome of their existing private or nonpolitical interests. It is at this point that public reason is crucial, for it characterizes such citizens' reasoning concerning constitutional essentials and matters of basic justice.⁴

Given the aims, ideals, background conditions, and processes of the deliberative conception of democracy, how might toleration be understood and what might it contribute to strengthening deliberative democracy and democratic citizenship? A question that I will not address is whether a deliberative democracy is needed to realize the ideal of toleration

In recent years the deliberative democracy literature—both for and against—has become a cottage industry. It is a heterogeneous literature that sports both different versions and diverse criticisms of deliberative democracy, and some of the former have been formulated to meet some of the latter.⁵ In the present paper I have insufficient space to analyze in a systematic way the merits and weaknesses of the various versions or criticisms, although occasionally I will take sides in particular controversies. Rather, my aim here is to identify several key ideas in the deliberative democracy movement and, at each point, ask how we might understand the nature and value of tolerance in the context of deliberative democracy.

Deliberative Aims. A popular conception of both actual and ideal democracy is that democracy is a government that holds regular, competitive elections in which the candidate or issue with the most votes wins. A somewhat more robust, but still

minimalist, definition conceives democratic politics as entailing “a rule of law, promotion of civil and political liberties, free and fair election of lawmakers.”⁶ The general task of deliberative democrats is to start with the idea that democracy is rule by the people and then deepen and broaden the conception of “rule” by stressing a kind of inclusive and public discussion and by extending popular rule to at least some nongovernmental associations. Deliberative democrats are convinced, in the words of Amartya Sen, that “the struggle for democracy around the world . . . is the most profound challenge of our times”⁷ but that the conception of democracy is often excessively narrow. In addition to balloting, which can be an enormous achievement, Sen contends democracy should be understood, following John Rawls, as “the exercise of public reason.” Sen continues that “this more capacious concept [of democracy] includes the opportunity for citizens to participate in political discussions and so to be in a position to influence public choice.”⁸

If such is the goal of deliberative democracy, how do its proponents understand the aims of deliberative discussion and decision-making? The end is to provide a fair way in which free and equal members of a group can come to a decision about how to act collectively. Deliberative democracy is a collective device to make decisions and to make them fairly. Here fairness means that *each* member is treated with respect in that each member has the right to make his voice heard and to contribute to the final decision.

A group informed by this aim contrasts with a group in which many – the poor or ethnic majorities or minorities -- are excluded from the decision-making process. A deliberatively democratic group also contrasts with a group that practices a democratic procedure that is merely aggregative. In aggregative democracy, preferences or interests are formed in private and then expressed and added together in public. The aim of

aggregative democracy is to elicit these private and unscrutinized preferences and additively combine them. If all the members prefer the same policy or objective, everyone gets what they want. In the usual cases where group members differ – sometimes radically – in their preferences, mere aggregation means either that the majority (or option with the most votes) wins or there is no non-arbitrary winner due to voting “cycles.”⁹ In the former case, minority views lose out altogether and irrationality, in the sense of inconsistency, reigns. In the latter case, the lack of a non-arbitrary winner seems to doom democracy and lead to some kind of authoritarianism. Aggregative social choice, as Sen sees it, seems to be “inevitably arbitrary or irremediably despotic.”¹⁰

In the version of deliberative democracy that I favor, the focus of collective choice is not on preferences (what members want to do) or beliefs (what members believe about the world) but on joint and shared intentions to strive for certain goals and enact certain policies.¹¹ The point of deliberation is to provide a fair way for roughly equal group members to cooperate together and forge – through the give-and-take of proposals, reasons, and criticisms – a reasoned agreement about their goals, values, and policies. As a result, deliberative democracy publicly “transforms”¹² rather than merely aggregates preferences. Or, more accurately, in order to solve a common and practical problem, group members together make and rationally scrutinize competing proposals for goals and respectfully hammer out mutually acceptable intentions.

Deliberative democracy assumes that citizens disagree – sometimes deeply and bitterly – about what is to be done. It offers public deliberation as the process by which citizens – who initially disagree and may continue to do so – may generate a social choice. As Gutmann and Thompson put it, “Recognizing that politics cannot be purged of

moral conflict, it [deliberative democracy] seeks a common view on how citizens should publicly deliberate when they fundamentally disagree.”¹³

What does tolerance add to deliberative democracy’s aim of a procedure for fair social choice among citizens who disagree? A central feature of one idea of tolerance is “the refusal, where one has the power to do so, to prohibit or seriously interfere with conduct one finds objectionable.”¹⁴ More generally, in order to include toleration of beliefs as well as conduct, we can say that a tolerant person has a negative attitude toward an attitude, idea, or action and yet restrains herself in acting on this attitude.¹⁵ The idea of tolerance makes explicit that citizens, while strongly disapproving of the beliefs, proposals, and conduct of their fellow citizens, try to accommodate their fellow citizens – within limits set by the intolerable – with respect to what should be done. Even those of whose lives and ideas we disapprove should be included in the public use of reason. As Sen remarks:

The ideal of public reasoning is closely linked with two particular social practices that deserve specific attention: the tolerance of different points of view (along with the acceptability of agreeing to disagree) and the encouragement of public discussion (along with endorsing the value of learning from others).¹⁶

Deliberative Ideals. Gutmann and Thompson propose three moral principles that should regulate collectively reasoned agreements about public policy: reciprocity, publicity, and accountability. I add a fourth, inclusion (following Iris Young), and a fifth, toleration. The latter could be seen as a specification of both reciprocity and inclusion, but I make toleration a separate ideal. I do so because of its importance for deliberation among citizens who accept each other as fellow group members and partners in

deliberation even though they not only disagree but often strongly disapprove of each others proposals, justifications, and ways of life.

The ideal of reciprocity regulates public reason by prescribing that each group member makes proposals and offers justification in terms others can understand and could accept: “Deliberative democracy asks citizens to justify public policy by giving reasons that can be accepted by those who are bound by it.”¹⁷ Each would do so knowing that the others will do likewise. Reciprocity is an apt term, for it suggests that each makes an appropriate or proportionate response to a good received:¹⁸

The ‘good received’ is that you make your claims on terms that I can accept in principle. The ‘proportionate return’ is that I make my claims on terms that you can accept in principle.¹⁹

The aim, presupposing that the group involves cooperation among equal and free members, is to form an agreement that is mutually acceptable. Ideal deliberators build on common commitments they already share or come to share in order to reduce their disagreements. In such reciprocity, each does more than put up with or grudgingly forbear the, perhaps despised, views of others, for each critically engages with the others, making accommodations and sometimes deep compromises in order to fashion something all can endorse. Although this notion of critical engagement and joint fashioning is a rendering of the ideal of reciprocity, I shall specify the practice as toleration when it occurs in relation to deliberation proposals or reasons of which one strongly disapproves.

The ideal of publicity is likewise important, and Gutmann and Thompson’s formulation of this ideal helps us flesh out Sen’s frequent reference to *public* discussion and the importance of “rich” information for rational choice. Publicity demands that each member is free to engage (directly or by representation) in the deliberative process, that

the process is transparent to all (rather than being done behind their backs), and that each knows that to which she is agreeing or disagreeing. Sometimes, of course, publicity must be set aside in favor of secrecy, but publicity should be the presumption and any *general* limits to publicity should issue from public deliberation.

A third ideal for deliberation is that of accountability. Each group member is accountable to all (and not to herself alone) in the sense of giving acceptable reasons to the others. It should not be thought that deliberative democracy concerns only face-to-face groups in which all are directly present in the give-and-take of reasons. In larger scale deliberative forums, representatives, officials, or leaders “who make decisions on behalf of other people, whether or not they are electoral constituents, should be accountable to those people.”²⁰ Although constituents do not directly participate in the course of deliberation, they rightly hold accountable those who represent them and directly participate in the deliberative process of forming joint intentions. Moreover, due to publicity, constituents can both monitor the course of deliberation and the group’s eventual decision, and through their representatives intervene in the former and challenge the latter.

The ideal of accountability also can be formulated as an ideal of inclusiveness – extending the notion of citizen participation to (almost) all members of the society, regardless of their race, gender, ethnicity, sexual preference, or religion. As Scanlon puts it: “all members of society are equally entitled to be taken into account in defining what our society is and equally entitled to participate in determining what it will become in the future.”²¹

Toleration is worth articulating as an ideal distinguishable from inclusive accountability, for it stresses that those whom each citizen should view as entitled to participate in deliberation on public policy include even those whose basic beliefs or conduct one finds repellent and would not want to see become dominant in society. Tolerance requires, as Scanlon remarks, that we restrain “our desire to prevent those with whom one disagrees from influencing the evolution of society.”²² Doing what tolerance enjoins can be, Scanlon rightly insists, “difficult.” Not only do we not (within limits set by moral and legal rights) legally restrict their speech and conduct, but – argues the deliberative democrat -- we positively engage with fellow citizens in a critical give-and-take of proposals and reasons to generate a policy that (almost) all can accept (or we deliberatively agree to disagree).

At this point it is helpful to distinguish this robust ideal of toleration suitable for and contributory to democratic deliberation from thinner ideals of toleration. Here I follow Hans Oberdiek’s helpful distinction of “shades of tolerance.”²³ Oberdiek distinguishes all shades of tolerance from indifference and proposes that we understand the varieties as falling between, on the one hand, complete acceptance and, on the other hand, no-holds-bared opposition. In *bare* tolerance, one moves decisively beyond the latter and puts up with or endures one’s neighbors, refrains from interfering with their actions or ideas (even though one disapproves or finds them disgusting), and minds one’s own business. In *mere* tolerance, one has the attitude of “live and let live.” Acknowledging the other’s freedom to live differently, the merely tolerant person doesn’t ignore the “other” but complacently believes the other is inferior and not worth trying to engage or learn from. Although still disapproving of and perhaps criticizing some of the

another person's beliefs or conduct, a person practices *full* tolerance when she relates to the other in what Oberdiek calls "critical engagement."

Suppose my fellow citizens are members of the Old Order Amish. I disapprove of many aspects of the Amish way of life because, among other things, its members are obedient to authority rather than critical thinkers or autonomous authors of their own life. Yet I find much to admire in Amish life, such as its work ethic, commitment to simple living, and practice of mutual aid within an Amish congregation. Moreover, I affirm what William Galston calls "principle of expressive liberty": "the robust but rebuttable presumption in favor of individuals and groups leading their lives as they see fit, within a broad range of legitimate variation, in accordance with their own understanding of what give life meaning and value."²⁴ Negatively, *full* tolerance certainly requires that I not "gratuitously hinder"²⁵ the Amish in their chosen way of life. Here I agree with William Galston that "toleration means . . . a principled refusal to use coercive state power to impose one's views on others, and therefore a commitment to moral competition through recruitment and persuasion alone."²⁶ But, positively and going beyond Galston, the fully tolerant person may also aid the Amish by urging local authorities to pave the shoulders of highways traveled by Amish horses and buggies.²⁷ Positive engagement, argues Oberdiek, may go even further, for I should seek to learn from the Amish concerning their conception of the good life and to share mine with them:

Tolerant members of societies shaped by substantive liberalism will not shy from engaging those with whom they disagree. They will not do so in a hectoring way. They will do so mainly to understand and appreciate the value others find in their ways of life, beliefs, attitudes and practices. Mutual discussion and exploration, will often be vigorous and contentious, as they should be when matters of substance are at stake.²⁸

An interesting and important example of this sort of “culture of tolerance” occurred in Cordoba and other cities of Medieval Spain during the rule of the Islamic Umayyads:

This was the chapter of Europe’s culture when Jew, Christians, and Muslims lived side by side and, despite their intractable differences and enduring hostilities, nourished a complex culture of tolerance, and it is this difficult concept that my subtitle [*How Muslims, Jews, and Christians Created a Culture of Tolerance in Medieval Spain*] aims to convey. This only sometimes included guarantees of religious freedoms comparable to those we would expect in a modern “tolerant” state; rather it found expression in the often unconscious acceptance that contradictions – within oneself, as well as within one’s culture – could be positive and productive.²⁹

Although Oberdiek’s notion of full tolerance (and the example of medieval Cordoba) is very attractive, something is missing. It is not that Oberdiek fails to recognize that further dialogue may lead the liberal outsider to conclude that some Amish practices are unacceptable if not intolerable – for example, the status and treatment of women. Rather, what is missing for our purposes is Oberdiek’s almost complete neglect of the nature and role of toleration *in the context of collective choice* when both Amish and non-Amish come together to solve a practical problem that affects both groups or the larger region of which both are a part. Slow horse-drawn buggies with no electric turn signals or tail lights pose a problem for automobiles on state highways. Likewise, speeding and horn-honking car drivers jeopardize Amish horse-drawn travelers. Oberdiek proposes a solution in which “the state” widens the highways in Amish country, lowers (I would add) the auto speed limit, and yet requires for everyone’s safety (nonstandard?) electric lights on buggies. What I find missing in Oberdiek’s account is how “the state” makes this decision or what role the Amish and their non-Amish neighbors have in forming a policy that accommodates each side. To his credit Oberdiek comes, at one point, very close to affirming the deliberative process: “All will be subject to give-and-

take as tolerant and tolerated alike struggle to find principled ways of accommodation, ways that understand and respect the moral demands of the other.”³⁰

Deliberative democracy digs in precisely at this point and urges that Amish and non-Amish come together, perhaps under the auspices of the state, county, or municipal government, to hammer out a policy that most find acceptable. More than a dialogue to *understand*, deliberative practice – guided by the ideals of reciprocity, publicity, accountability, inclusion, and toleration – aspires to a fair social choice procedure that results in a decision on policy and action. The “critical engagement” that full tolerance requires is one in which each citizen is both tolerant and tolerated as each enters into critical interchange to fashion what all or almost all can accept.

Enabling Conditions. It is all well and good to affirm ideals for democratic deliberation. If, however, the ideals are to be realized or even approximated, certain background and institutional conditions are presupposed by – or, better, conducive to – a group’s democratic deliberation. Henry Richardson has helpfully identified what he calls “institutions needed to preserve the background justice of democratic deliberation,”³¹ especially with respect to the normative equality (to be discussed presently) of deliberators within or between groups. Where these conditions do not exist—be they in dictatorships, racist and anti-poor oligopolies, or failed states beset by civil war—democratic deliberation may still exist in underground venues but be exceedingly vulnerable. What, then, are the background conditions that contribute to democratic deliberation?

(1) Equal Political Liberty. Equal political freedoms, contends Richardson, means among other things that “each citizen is to enjoy the same freedoms of speech,

assembly, and political participation.”³² These freedoms contribute to deliberator equality and deliberative democracy in local, national, and global venues. These liberties or civil and political rights must be protected and not merely be part of the legal code. Sen concurs: “one of the strongest arguments in favor of political freedom lies precisely in the opportunity it gives citizens to discuss and debate – and to participate in the selection of – values in the choice of priorities.”³³

(2) Equality Before the Law. This condition affords the same fundamental constitutional rights to each citizen, regardless of ethnicity, religion, class, education, or sexual preference. More generally this background condition means that no one is justified in claiming to be above the law and no one is beneath the protection of the law. This condition has been and continues to be especially important in the practice of religious toleration.

(3) Economic Justice. Economic poverty, inequality, and concentration of wealth can impede if not doom people’s freedoms. Hence, it is important to create just conditions and protect social and economic rights that enable people *individually* and *collectively* to choose the lives they want to lead. As Jean Dréze and Sen argue:

Large sections of the population have very limited opportunities to speak for themselves. The daily struggle for survival leaves them with little leisure to engage in political activity, and efforts to do so sometimes invite physical repression. Lack of formal education and access to information restricts their ability to intervene in public discussions and electoral debates, or to make effective use of the media, the courts, and other democratic institutions. Lack of adequate organizations further enhances this political marginalization.³⁴

(4) Procedural Fairness. Richardson’s final background condition for equality among deliberators and deliberative democracy is that “the process of democratic debate and decision must itself be structured so as to allow each person a fair chance to

participate and to counteract to a degree the potential influence of disparities in economic and political power.”³⁵ Different measures—to provide fair chances and reduce the threat of elite capture—will be appropriate in different contexts. Campaign finance reform and an abolition of the U.S. Electoral College will lessen inequality in U.S. national elections. Requiring that one third of members of Afghanistan’s legislature be women is an egalitarian institutional device. Enforced limits on deliberator speaking time is yet another.

An objection might be made to the appeal to these four background conditions in the ideal theory of deliberative democracy. First, it might be argued that if these conditions must be in place *before* deliberative democracy is possible, then deliberative democracy is unreasonably utopian, for the conditions are either impossible or unlikely to obtain.

How might this charge of unrealistic utopianism be answered? It should not be thought that Richardson’s background conditions are fully obtainable or must be fully in place before roughly free and equal group members can engage in deliberation. In spite of political and economic inequalities, with the help of “self-conscious intentional design efforts,”³⁶ such as training in public speaking and reason giving, people *in and through* the deliberative process may reduce or fairly accommodate their differences as they together forge an answer to a practical problem. They may learn (to deliberate) by doing (deliberating).³⁷ Gianpaolo Baiocchi submits evidence that participatory budgeting in Porto Alegre, Brazil has had this outcome:

Despite significant inequalities among citizens, the didactic features of the [Porto Alegre] experiment have succeeded in large part in offsetting these potentials for domination. This confirms the expectations of democratic theorists who, while assuming that persons may come to deliberative

settings with certain inequalities, expect that over time participation will offset them.³⁸

The Porto Alegre experiment also seems to show that the participatory budgetary exercise itself has been “highly redistributive,”³⁹ contributing to the conditions that in turn help make deliberative democracy possible. Deliberative democracy often results in the bringing about of conditions that in turn contribute to more egalitarian deliberation. This point reinforces and extends Drèze and Sen’s point that there is a “virtuous circle” of “achieving greater equity” and citizen participation or “democratic practice”: “A reduction of inequality both contributes to democratic practice and is strengthened by successful practice of democratic freedoms.”⁴⁰ The conditions for deliberative democracy can be built through democracy.

Let us now turn to the deliberative process itself and explore how the ideal toleration is both realized and enriched in this four step sequence.

The Process of Deliberative Democracy. One of Richardson’s innovative contributions to deliberative democracy is to recast the understanding of the deliberative democratic process from a focus on preferences – regardless of whether simply aggregated or transformed through discussion – to a focus on partially joint intentions and shared ends for concrete action. One advantage of the intention/action perspective is that it enables us to see deliberation as a kind of practical reasoning in the sense that deliberators reason together about what the group (and they as individuals) ought to do. The aim is to agree on, or fashion together, a plan or policy (end plus means) to which all can agree and act to realize.

I turn now to Richardson’s modeling – in terms of reasoning about and deciding on partially joint intentions – of “collective, political deliberation by individual reasoners

with potentially distinct views.”⁴¹ Joint intentions are the outcome of a four stage process of “formulating proposals; discussing their merits; coming to an informal agreement; and converting informal agreement into official decision.”⁴² It is appropriate that Richardson designates each stage with a gerund, for public deliberation is a practice or complex action, structured by norms, whose outcome is a joint intention to act (or an agreement to disagree).

(1) Formulating Proposals. If, instead of deliberating, social choice were merely the aggregating of private preferences, we might just vote or consult (or express preferences in) a relevant focus group. Or we might collect our preferences and those of others, ask about willingness to pay for a benefit, and accept compensation for a burden. Or we might forsake mere aggregation and either defer to some wise man or expert or obey a dictator with respect to what the group should do. If we had nothing but a fair procedure, each of us might try to outdo other group members by influencing them more than they influence us.⁴³ Finally, a group might try to eliminate deliberation by uncritically appealing to the constitution or its judicial interpreters.

Richardson, however, reframes our group task as that of reasoning together to fashion an answer to what we collectively ought to do. We begin when one (or a subgroup) among us makes a proposal to the rest. It is an individual—and not some big collective deliberator or general will—that makes the proposal. Although it may (or may not) also express private preferences or desires, the act of proposing what *we* ought to do is a *public* act, the performance of which the others are aware and the content of which others can grasp. Each and every group member is free to make proposals, for each has equal status as a source of claims and as a group member. I face other group members

not (merely) as enemies to be hated, or persons to be disapproved of, or rivals to be bested but (also) as fellow citizens in a cooperative scheme. In spite of our differences, the ideal of reciprocity, as well as my respect for each member's dignity and autonomy, demand that what I propose to others is something that they understand (no foreign languages in the absence of translators) and either do or could accept (given appropriate reasons). I also would require the same from them.

Finally, although my proposal is about what we should do together, to make the proposal honestly is also to indicate my willingness to do my part in carrying out the plan and my promise to do so if my proposal gains acceptance. The making of such a promise, of course, would be contingent, negatively, on encountering no unforeseen obstacles as well as, positively, on others (who accept the proposal) freely agreeing to do their parts. The making of one proposal often results in the making of additional proposals, whether they are modifications of the first or rivals to it. This brings us to stage two.

(2) Arguing the Proposals' Merits. In deliberative democracy, those who make proposals give reasons for the actions or policies they favor, and the members engage in a deliberative give-and-take to identify the strengths and weaknesses of the proposal. Here it is important to connect the notion of a proposal with the concept of intention as a sort of means-end package.

In making a proposal I offer reason for its acceptance (and perhaps reasons for my reasons). Other group members do not just listen to or record my proposals (as vote counters might register my vote, as interviewers might record my expression of willingness to pay, or as focus group members might acknowledge my opinion). Rather, each member has the opportunity to scrutinize rationally both means and ends. Others

may defend my proposed action but as a means to additional or alternative ends; they may reject it in favor of what they take to be a better means; they may reject my intention altogether and propose different actions and ends. Agreeing with Jürgen Habermas, Richardson criticizes exclusive reliance on instrumental thinking that takes ends as given and reasons only about the most efficient or effective means. Practical reasoning should assess ends, for we often differ on and decide not only about “know-how” but also on “know-whether.” Going beyond Habermas, Richardson gives an account in stage three of how more specifically we can reason about ends.

Such assessment of ends often leads back to what Richardson calls “final ends” – ends which are valued in themselves (whether or not they are also valued instrumentally). One way to interpret these final ends is as different interpretations of a public good, not as something independent waiting to be discovered but as something to be hammered out or agreed to through discussion. Democratic deliberation, however, need not push back (or down) to one’s *ultimate* ends in the sense of those highest goals in one’s goal hierarchy. The principle of reciprocity requires that I offer only reasons that my fellow deliberators can understand and accept.

Here Richardson departs from Rawls’s and Gutmann and Thompson’s notion of “public reason,” however, for he permits deliberators to *supplement* (not *replace*) their publicly accessible reasons and values with their ultimate values⁴⁴—for instance, religious values—presumably when these ultimate values may help other members understand where a person is “coming from.”

Richardson’s view is arguably a promising third way between (1) Habermas’s view that there should be *no* restrictions on the content of what is offered in public

deliberation and (2) Rawls's contention that the idea of "public reason" should filter out whatever other citizens are unable to accept.⁴⁵ To respect my fellow citizen I should welcome his attempt to *clarify or explain* (not justify) his proposal (and its reasons), even if that means he does so by appealing to matters he knows I cannot accept. To respect and tolerate me, he must not try to *justify* his proposal by appealing to God's will – especially when he knows of my religious skepticism and even though he rejects it.

(3) Coming to an Informal Agreement. In Richardson's account of deliberation, the first two stages give the deliberators an abundance of riches. Group members may offer competing proposals about what to do, but the proposed actions, ends, and values submitted may be significantly, even radically, different. How does Richardson's version of deliberative democracy deal with these differences? How can the many, especially when heterogeneous, be reduced to a one that yields unitary collective action? Here is one place that deliberative democracy advances beyond balloting and majoritarian democracy because, in stage three, deliberation includes several ways in which (most) group members (both majority and minorities) respectfully and tolerantly cooperate together to forge a joint intention.

One way to form a joint intention, contends Richardson, is to agree on the same action and policy and to agree to disagree on its justifications: "We may all agree on what ought to be done but each have quite different reasons for coming to this conclusion."⁴⁶ Cass Sunstein terms an agreement of this sort an "incompletely theorized agreement on particular outcomes."⁴⁷ It is, I believe, a particularly effective way to practice tolerant deliberation. Alternatively, we may seek out intermediate *final* ends that lead to the same policy but do not rank high in our hierarchy of ends, and in any case we refuse to advance

together to the realm of potentially divisive or “hot button” higher-order final or *ultimate* ends.⁴⁸ Or, we may we may deliberate about two competing final ends, each showing the other that there is good reason to be guided by the hitherto neglected end. We may agree on a final end, disagree on its specification, and through give-and-take come to agree on one of the competing specifications or together invent a new and more comprehensive specification that does justice to both sides. Furthermore, deliberators may creatively and collectively fashion a new and higher-order end that can be specified in two complementary lower-order ends. Finally, and most radically, through what Richardson calls “deep compromise,” ends can be refashioned rather than held as fixed: “Deep compromise, by contrast [with “bare compromise,” which is only a change in means] is a change in one’s support of policies or implementing means that is accompanied and explained or supported by a change in one’s ends that itself counts as a compromise.”⁴⁹

The joint intention (action or action combined with justifying reasons) that is agreed to is not just a set of individual intentions to perform a similar action. Rather, it is an agreement to do something together, and this “togetherness” means that: “(1) each of the parties intends to do his or her part as required by the joint plan; (2) each of the parties believes that the joint action can be carried out if enough do their parts; and (3) these intentions and beliefs are common knowledge.”⁵⁰

Why would fellow deliberators want to adopt one of these ways to handle disagreement about ends, especially that of deep compromise? Richardson offers two plausible motivations. First, through increased information that discussion brings to light, one or more members may become convinced that the limited available means require a change of ends or that past attempts to realize a given end resulted in

unintended and unanticipated effects that now should be avoided.⁵¹ Richer information leads to refashioning of values. Second, deliberators, as free and equal partners informed by the ideals of reciprocity and toleration in a fair cooperative enterprise, are obliged to be responsive to and—within limits—accommodate each other’s ends.⁵²

Does, asks Richardson, this affirmation of an obligation based on a debt of gratitude “pull a normative rabbit out of a positive hat?”⁵³ Not if we accept the principle of reciprocity and the notion that “I, in turn, owe you” is a fitting response when you assume a burden or bestow on me a benefit. A balance obtains between self-interest and obligation.

(4) Coverting Informal Agreement into Official Decision. Majoritarian democracy emphasizes majority vote and downplays or neglects public discussion leading up to the vote. In contrast, deliberative democracy emphasizes the first three stages of the deliberative process and views majority vote as one means to obtain official conversion (stage four) of the informal mutual agreement already achieved (stage three). Rather than an aggregator of preferences, voting in deliberative democracy is a “closure device”⁵⁴ that expresses or acknowledges acceptance of a proposal and commitment to a joint intention, including one’s role in executing it. Sometimes in face-to-face groups voting is a mere formality, for it is readily apparent that most if not all members have already agreed to a joint intention. The informal agreement is acknowledged and in a sense ratified, for example, when a Quaker-style moderator formulates what she takes to be “the sense of the meeting” and no one objects. At other times, especially in large and even nation-wide groups, a vote indicates that more members are for than against a proposal (or more are for one proposal rather than another). Those in the majority will

have tried but failed to accommodate sufficiently the minority to the joint intention, making it partially rather than completely joint. There are deliberative disagreements as well as deliberative agreements. Minorities, however, can often accept the results insofar as the process was fair—they had their say—and the majority tried to accommodate (and perhaps partially succeeded in accommodating) what turned out to be minority views. The result is a *partially* joint intention that gains legitimacy from a fair substantive process – even though not everyone voted for it.

Radical participatory democracy rejects voting because it allegedly violates the rights of the losing side(s) and sets people—as competitors—at odds with each other. Instead, radical democrats urge that deliberation continue until there is absolute consensus or complete unanimity. Then everyone in fact would get what they want, people would not be set at odds with each other, and a majority would not tyrannize a minority. In fact, rule by consensus can be more tyrannical than majority voting, for one or a small number of dissenters can block a decision to make changes. As Richardson points out, the consequence of rule by consensus is that the status quo, no matter how unjust, is “unduly privileg[ed].”⁵⁵ Furthermore, as Gutmann and Thompson observe, a decision of when to use majority rule and other decision rules, such as the unanimity rule in juries, executive action, or parental authority, should itself be a matter of public deliberation rather than imposed by the individual or faction that controls the agenda.⁵⁶

Deliberator Capacities and Virtues. So far I have explored the aims, ideals, background conditions, and the process of deliberation with an emphasis on the role and reshaping of the principle of toleration. I have said, however, little about the kinds of persons who would make competent and virtuous deliberators. Without participants with

the “right stuff,” the principled procedure described above might neither manifest respect for persons nor result in mutually acceptable decisions. As Jean Drèze and Amartya Sen remark, in addition to importance of the democratic ideals and institutions of (deliberative) democracy, democracy requires that citizens must “make democracy work.”⁵⁷ If deliberative democracy is to be put into practice, what sorts of skills and virtues would deliberators have and how might they be acquired?

Space permits me merely to list the sorts of skills that good deliberators would have for minimal “political functioning.”⁵⁸ These includes (i) the skill of initiating public dialogue or making proposals about an issue such that one’s reasons “receive deliberative uptake;”⁵⁹ (ii) the ability to engage in argument and counter-argument – what Richardson terms “sift[ing] reasons and arguments” – in order “to figure out what really ought to be done;”⁶⁰ (iii) skills in framing and reframing a debate, showing that some dichotomies are neither exclusive nor exhaustive, and finding ways to harmonize proposals and compromise values; (iv) an ability for persuasive but not manipulative rhetoric.⁶¹ A further topic to be addressed would be the merit of different ways that citizens most effectively acquire these skills--for instance, formal and informal education, “learning by doing” (participation in deliberative processes), and civic empowerment movements.⁶²

In addition to capacities that contribute to an individual’s political functioning in democratic forums, the practice of democratic deliberation requires that group members exhibit and are motivated by certain excellences of character or civic virtues. Gutmann and Thompson have made the most significant contribution to this topic. They propose three deliberative virtues of democratic citizens: (mutual) respect, civic integrity, and civic magnanimity. To their list I add the virtue of tolerance and suggest that deliberative

tolerance combines aspects of the other three virtues. This sort of tolerance has an important role to play when citizens strongly disapprove of each other's opinions, beliefs, or way of life.

(1) Mutual Respect. A virtuous deliberator respects other group members in the sense that—though she might not like the others and have profound disagreements with them—she has “a favorable attitude toward, and constructive interaction with, the persons with whom one [she] disagrees.”⁶³ The virtuous citizen respects her fellow citizens (and fellow human beings) by trying to understand and honestly evaluate their proposals and their evaluations of her own proposals. Informed by the principle of reciprocity, the admirable deliberator respects others by making proposals and offering reasons for them that fellow citizens understand and can in principle accept. It is difficult to maintain this “favorable attitude” when disagreements are bitter or when deliberators strongly disapprove of each others' basic beliefs or ways of life. The principle of deliberative tolerance comes into play precisely where we strongly disapprove of a fellow citizen's reasons or way of life but do not judge her actions to be intolerable. Actions would be intolerable when they violate human rights. Toleration does not enjoin either tolerating the intolerable or acceptance of evil. One inappropriately goes beyond tolerance to nonjudgmental and unconditional acceptance when one deliberates with and tries to accommodate those whose proposals or actions are beyond the pale, for example, perpetrators and defenders of genocide. (The exception that proves the rule would be when deliberative dialogue with such rights violators has a good chance of ending the atrocity). Beyond the scope of the present paper are two related questions: (1) how

human rights are to be determined, weighed, and applied and (2) the role democratic deliberation may have in these processes.

As suggested above, “bare” tolerance suggests “grudging forbearance” or putting up with persons with whose views one disagrees. In mere tolerance one is content with a “live and let live” that affirms individual or group autonomy but complacently stays unengaged with those judged inferior. Less than unconditional approval but more than bare or mere toleration is my amendment of Oberdiek’s ideal of full toleration. In this robust toleration, best suited to deliberative democracy, the virtuous deliberator’s disapproval of the other’s beliefs and actions – while strong – is not sufficiently strong to trump her duty to understand, engage in give-and-take, and forge a practical policy that the others can accept.

2. Civic Integrity. In addition to respect for fellow citizens, including those fully tolerated but not unconditionally accepted, virtuous deliberators demonstrate civic integrity. Of course, civic integrity may prevent deliberative democracy from getting started if one or the other “side” (there may be many “sides”) honestly believe that their counterparts are “beyond the pale” and should be shunned, tried, or imprisoned. (Again, the exception is when deliberation might end atrocity or civil conflict). Once deliberation has begun, virtuous deliberators express civic integrity when they are sincere and honest, putting forward the proposals and reasons they do because they believe them and not (merely) for strategic reasons. Civic integrity also means that deliberators practice what they preach and accept the practical implications of their moral principles. Civic integrity contributes to toleration, for it enjoins deliberators to be honest about what they find intolerable and what they disapprove of but seek to accommodate. Finally, civic integrity

does *not* mean that one has to hold dogmatically to the core of one's values or ends, for—through the deliberative process itself—one can freely fashion new values (and a new personal identity).⁶⁴ This creative refashioning occurs when constructive engagement with the other expresses a third virtue, namely, civic magnanimity.

3. Civic Magnanimity. Deliberators demonstrate civic magnanimity by the attitudes they have toward the proposals, reasons, or ends of those with whom they disagree are disapproved but not believed to be intolerable. First, deliberators treat each other's proposals and positions as expressing their sincerely held moral views rather than as a cover for a political strategy or economic interest. Virtuous deliberators assess the merits of each other's *arguments* rather than making *ad hominem* attacks. Second, civic magnanimity requires the virtue of open-mindedness, for the person with whom I initially disagree may turn out – on further reflection – to have a better idea or something surprising to contribute to a partially joint intention. And “willingness to search for deep compromise is a particularly important form of open-mindedness.”⁶⁵ This virtue may mean, as we have seen, that we refrain from offering foundational principles (to support our proposal) when these reasons are sure to be rejected, but we magnanimously accept non-accessible *explanations* of others' proposals. Put positively, citizens are magnanimous when they decide on policies on which their principles overlap, even though those principles are not their ultimate or higher ranking final principles. Civic magnanimity contributes to a deliberative reconstruction of tolerance by enjoining the tolerant deliberator to be open to the possibility that her initial preferences might be transformed in and through the deliberative process itself.

Concluding Remark. If my arguments are sound, I have made both a place for toleration within deliberative democracy and reshaped the principle of toleration to fit democracy conceived as public discussion. It is difficult to be tolerant, because – within limits – we have to accommodate beliefs and actions of which we disapprove. All of us have, as Scanlon says, “a profound interest in how prevailing customs and practices evolve.”⁶⁶ Because our fellow citizens (within limits) should tolerate and accommodate us, deliberative democracy reduces our difficulty in accommodating and engaging them. Each is more likely to be tolerant of those with whom she disagrees if each has participated in institutions of deliberative democracy, has had her voice listened to and incorporated in the final decision, and has learned from and forged an agreement that most can accept.

¹ I presented this paper in the plenary session in the XV Congreso Interamericano de Filosofía and II Congreso Iberoamericano de Filosofía, Lima, Peru 12-16 January 2004; the conference “Global Ethics, Development, Environment and the Earth Charter,” University of Aberdeen, Scotland 14-17 April 2004, and 4th Conference of the Human Development and Capability Association, Pavia, Italy 5-7 September 2004. The paper draws on the last chapter of my book manuscript, “Deliberating Global Development: Ethics, Capabilities, and Democracy.”

² Martha Nussbaum, “Religious Intolerance,” *Foreign Policy*, September/October 2002, pp. 44-45.

³ Helpful recent studies of toleration include Thomas Heyd, ed., *Toleration: An Elusive Virtue* (Princeton, N.J.: Princeton University Press, 1997); Susan Mendus, ed., *Justifying Toleration: Conceptual and Historical Perspectives* (Cambridge: Cambridge University Press; Susan Mendus, ed., *The Politics of Toleration in Modern Life* (Durham, N.C.: Duke University Press, 1999); Hans Oberdiek, *Tolerance: Between Forbearance and Acceptance* (Lanham, M.D.: Rowman & Littlefield, 2001); Salvador Giner, “Tolerancia,” in Jesús Conill, ed., *Glosario para una sociedad intercultural* (Valencia: Bacaja, 2002): 364-74.

⁴ John Rawls, *The Law of Peoples with “The Idea of Public Reason Revisted,”* (Cambridge: Harvard University Press, 1999), pp. 138-39. Joshua Cohen, in an essay that helped initiate the recent deliberative democracy movement, says: “By a deliberative democracy, I shall mean, roughly, an association whose affairs are governed by the public deliberation of its members.” “Deliberation and Democratic Legitimacy,” in *The Good Polity*, ed. A. Hamelin and P. Pettit [Oxford: Blackwell, 1989], 17; reprinted in James Bohman and William Rehg, eds. *Deliberative Democracy* [Cambridge, Mass., London, England: MIT Press, 1997], p. 67). Cf. Amy Gutmann and Dennis Thompson’s definition: “Deliberative democracy is a conception of democratic politics in which decisions and policies are justified in a process of discussion among free and equal citizens or their accountable representatives.” “Why Deliberative Democracy is Different” in Ellen Frankel Paul, Fred D. Miller, Jr., and Jeffrey Paul, eds. *Democracy* (Cambridge and New York: Cambridge University Press, 2000), p. 161.

⁵ In addition to the works cited in n. 2, the following works are relevant: Gutmann and Thompson, *Democracy and Disagreement* (Cambridge: Belnap, Harvard University Press, 1996); Jon Elster, ed., *Deliberative Democracy* (Cambridge: Cambridge University Press, 1998); Stephen Macedo, ed., *Deliberative Politics: Essays on Democracy and Disagreement* (New York, Oxford: Oxford University Press, 1999); Iris Marion Young, *Inclusion and Democracy* (Oxford: Oxford University Press, 2000); Cass Sunstein, *Designing Democracy: What Constitutions Do* (Oxford: Oxford University Press, 2001); Henry S. Richardson, *Democratic Autonomy: Public Reasoning about the Ends of Policy* (Oxford: Oxford University Press, 2002). Important works in Spanish include Adela Cortina, *Ética aplicada y democracia radical* (Madrid: Tecnos, 1993) and “Democracia deliberativa,” *El País*, 24 August 2004, pp. 9-10; Osvaldo Guariglia, *Una ética para el siglo XXI: Ética y derechos humanos en un tiempo posmetafísico* (Buenos Aires: Fondo de Cultura Económica, 2002), pp. 147-55; Gabriel Murillo Castaño and Lariza Pizano Rojas, *Deliberación y construcción de ciudadanía: Una apuesta a la progression democrática a comienzos del Nuevo milenio* (Bogotá: Gente Nueva 2003).

⁶ Iris Young, *Democracy and Inclusion*, p. 5.

⁷ Amartya Sen, “Democracy and Its Global Roots,” *New Republic*, 6 October 2003: 28.

⁸ *Ibid.*, p. 29.

⁹ “Cycling” refers to the way in which, as Sen puts it, “majority rule can be thoroughly inconsistent, with A defeating B by a majority, B defeating C also by a majority, and C in turn defeating A, by a majority as well.” (Sen, *Rationality and Freedom* (Cambridge, M.A.: Harvard University Press, 2002), p. 68.

¹⁰ *Ibid.*, p. 69.

¹¹ See Henry Richardson, “Democratic Intentions,” in Bohman and Rehg, ed. *Deliberative Democracy*, pp. 349-82 and *Democratic Authority*, pp. 162-76.

¹² Young, *Democracy and Inclusion*, 26.

¹³ Gutmann and Thompson, *Democracy and Disagreement*, p. 93.

¹⁴ John Horton, “Toleration as a Virtue,” in Heyd, ed., *Toleration*, p. 28.

¹⁵ This formulation paraphrases that of Nick Fotion and Gerard Elfstrom, *Toleration* (Tuscaloosa: University of Alabama Press, 1992), p. 9; cited by Oberdieck, *Tolerance*, p. 24.

¹⁶ Sen, “Democracy and its Global Roots,” p. 31.

¹⁷ *Ibid.*, p. 52.

¹⁸ Gutmann and Thompson rely on Lawrence C. Becker’s (*Reciprocity* [London: Routledge and Kegan Paul, 1986], pp. 73-144) concept of reciprocity as “making a proportionate return for good received.”

¹⁹ Gutmann and Thompson, *Democracy and Disagreement*, p. 55.

²⁰ Gutmann and Thompson, “Why Deliberative Democracy is Different,” p. 169.

²¹ T. M. Scanlon, *The Difficulty of Tolerance: Essays in Political Philosophy* (Cambridge, U.K.: Cambridge University Press, 2003), p. 190.

²² *Ibid.*, p. 191.

²³ Oberdieck, *Tolerance*, p. 22.

²⁴ William A. Galston, *Liberal Pluralism: The Implications of Value Pluralism for Political Theory and Practice* (Cambridge, U.K.: Cambridge University Press, 2002), p. 3.

²⁵ Oberdieck, *Tolerance*, p. 31.

²⁶ Galston, *Liberal Pluralism*, p. 126.

²⁷ Oberdieck, *Tolerance*, p. 31.

²⁸ *Ibid.*, pp. 173-74.

²⁹ María Rosa Menocal, *The Ornament of the World: How Muslims, Jews, and Christians Created a Culture of Tolerance in Medieval Spain* (New York: Little, Brown, 2002), p. 11.

³⁰ *Ibid.*, pp. 130. Cf. 137 and 174.

³¹ Richardson, *Democratic Authority*, p. 88.

³² *Ibid.*

³³ Sen, *Development as Freedom*, p. 30.

³⁴ Jean Dreze and Amartya Sen, *India: Development and Participation* (Oxford: Oxford University Press, p. 29. Cf Richardson, *Democractic Authority*, p. 89.

³⁵ *Ibid.*

³⁶ Fung and Wright, “Thinking about Empowered Participatory Governance,” p. 23.

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- ³⁷ Dreze and Sen, pp. 362-63.
- ³⁸ Baiocchi, "Participation, Activism, and Politics," p. 52.
- ³⁹ *Ibid.*, p. 67.
- ⁴⁰ Dreze and Sen, *India*, p. 357. See *ibid.*, pp. 359 and 361.
- ⁴¹ Richardson, *Democratic Autonomy*, 162.
- ⁴² *Ibid.*, p. 164.
- ⁴³ Richardson, *Democratic Autonomy*, p. 166.
- ⁴⁴ Richardson, *Democratic Autonomy*, p. 82.
- ⁴⁵ John Rawls, *The Law of Peoples with "The Idea of Public Reason Revisited"* [Cambridge, MA and London: Harvard University Press], 140-48. For an analysis of these two options and an argument for the second, see Osvaldo Guariglia, *Una ética para el siglo XX*, pp.147-55.
- ⁴⁶ Richardson, *Democratic Autonomy*, p. 173.
- ⁴⁷ Sunstein, *Designing Democracy*, p. 57.
- ⁴⁸ Cf. Sen: "A consensus on public decisions may flourish so long as the exact grounds for that accord are not very precisely articulated." (*Rationality and Freedom*, 558; cited by Alkire, *Valuing Freedoms*, 92-93).. See also Sunstein, *Designing Democracy*, 56-58 and "Agreement Without Theory" in Macedo, ed. *Deliberative Politics*, 123-50.
- ⁴⁹ Richardson, *Democratic Autonomy*, p. 147.
- ⁵⁰ *Ibid.*, p. 165.
- ⁵¹ See Sen, *Development as Freedom*, pp. 254-61.
- ⁵² Richardson, *Democratic Autonomy*, p. 172.
- ⁵³ *Ibid.*,
- ⁵⁴ Richardson, *Democratic Autonomy*, p. 204.
- ⁵⁵ Richardson, *Democratic Autonomy*, p. 205.
- ⁵⁶ Gutmann and Thompson, *Democracy and Disagreement*, 32-33.
- ⁵⁷ Dreze and Sen, *India*, pp. 347-52.
- ⁵⁸ Bohman, *Public Deliberation*, 124, 126.
- ⁵⁹ Bohman, *Public Deliberation*, p. 110. Bohman, borrowing from J.L. Austin in *How to Do Things with Words* (Oxford: Oxford University Press), defines "'deliberative uptake' among all the participants in deliberation" as "deliberation on reasons addressed to others, who are expected to respond to them in dialogue. This uptake is directly expressed in the interaction of dialogue, in give and take of various sorts." (*Public Deliberation*, 59).
- ⁶⁰ Richardson, *Democratic Autonomy*, p. 76.
- ⁶¹ Richardson, *Democratic Autonomy*, p. 90.
- ⁶² Richardson, *Democratic Autonomy*, p. 92. See also Nelly P. Stromquist, "Gender, Education, and the Possibility of Transformational Knowledge," panel on "Women, International Justice, and Education," American Philosophical Association Eastern Divisional Meeting, 27-30 December 2003.
- ⁶³ Gutmann and Thompson, *Democracy and Disagreement*, p. 79.
- ⁶⁴ Sen recently has convincingly rejected identity essentialism and argued for our human ability to shape and transcend our (multiple) identities and freely create complex identities. See especially Amartya Sen, "Beyond Identity: Other People," *The New Republic*, 223/25 (2000): 23-30. Cf. Iris Young, "Difference as a Resource for Democratic Communication," in Bohman and Rehg, eds., *Deliberative Democracy*. Maria Rosa Menocal sums up the lesson of Medieval Spain (al Andalus) for both cultural and personal identity: "Is the strict harmony of our cultural identities a virtue to be valued above others that may come from the accommodation of contradictions? The Andalusian stories allow us to glimpse one long and extraordinary chapter of our history in which the three major monotheistic faiths struggled, successfully and unsuccessfully, with the question of tolerance of one another. Just as important, certainly, is the kindred question, for those three faiths so dominant in our culture, of tolerance within themselves and their always variegated communities of believers; and this to was a question asked insistently in al-Andalus" (Menocal, *The Ornament of the World*, p. 277).
- ⁶⁵ Richardson, *Democratic Autonomy*, p. 187.
- ⁶⁶ Scanlon, *The Difficulty of Tolerance*, p. 191.