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DELIBERATIVE DEMOCRACY AND PRECAUTIONARY PUBLIC REASONING: EXPLORATORY THOUGHTS[1]

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ABSTRACT

Because public policy is legally binding and, perhaps more pointedly, can have pervasive social and environmental consequences for the autonomy of persons, it should be justifiable to those it could so affect. What is much more controversial, and what constitutes the basic intuitive claim of this exploratory paper, is that certain public policies should be morally justifiable to both existing and future persons. My concern is with policies in such areas as energy, climate change control, nuclear waste management, natural resources management, and genomics research and commercialization, which can no doubt improve our lives and our descendant's lives, but which can also result in tremendous adverse effects for centuries to come. In this short paper, I suggest that the ideal of deliberative democracy provides a way of morally justifying such policies to both existing and future generations. If we take seriously the requirements of this ideal, we may have to modify our public reasoning so that it includes reasons that are generally acceptable among contemporaries as well as reasons that would be acceptable to posterity. The suggestion I make in this paper is that integral to the ideal of deliberative democracy in the transgenerational context is a future-oriented and precautionary public reasoning.

RÉSUMÉ

Comme les politiques publiques ont force légale et, plus pertinemment, peuvent contenir des conséquences sociales et environnementales de première importance sur l'autonomie des personnes, elles devraient être justifiables aux individus qu'elles pourraient affecter. Ce qui est beaucoup plus controversé et qui constitue l'intuition fondamentale de ce texte, est que certaines politiques publiques devraient être moralement justifiables aux individus des générations futures. Le propos de ma réflexion concerne des politiques dans des secteurs tels que l'énergie, le contrôle des changements climatiques, la gestion des déchets nucléaires, la gestion des ressources naturelles et la recherche et la commercialisation en génomique, qui peuvent sans aucun doute améliorer nos vies et celles de nos descendants, mais qui peuvent également produire des effets nuisibles démesurés pour les siècles pour venir. Dans ce court texte, je démontrerai que l'idéal de démocratie délibérative fournit une justification morale de ces politiques, tant pour les générations actuelles que futures. Si nous prenons au sérieux les exigences de cette idéal, nous pourrions avoir à modifier nos argumentations publiques de telle sorte qu'elles incluent tant les raisons qui sont généralement acceptables pour des contemporains que les raisons qui seraient acceptables pour la postérité. Je suggèrerai également qu'une raison publique orientée vers le futur et intégrant la précaution est une pièce intégrale à l'idéal de démocratie délibérative dans un contexte transgénérationnel.

I

Because public policy is legally binding and, perhaps more pointedly, can have pervasive social and environmental consequences for the autonomy of persons, it should be justifiable to those it could so affect. Certain public policies should be designed and implemented in a way that explicitly seeks to uphold the fundamental interests and garner the general acceptance of those they could so affect, for only these qualities could morally justify infringements on personal autonomy. This line of reasoning is generally non-controversial. What is much more controversial, and what constitutes the basic intuitive claim of this exploratory paper, is that certain public policies should be morally justifiable to both existing and future persons. Since the autonomy-infringing effects of some policies can extend to members of existing as well as to members of future generations, I believe that current policy decision-makers have obligations to ensure that their policies are broadly justifiable to both sets of constituents.

My concern is with policies in such areas as energy, climate change control, nuclear waste management, natural resources management, and genomics research and commercialization, which can no doubt improve our lives and our descendant's lives, but which can also result in tremendous adverse effects for centuries to come. I believe that it is the combination of a certain need or desire for these policies and the possibility that they may create, perpetuate, or exacerbate grave or even catastrophic risks that give rise to a particular moral obligation to justify them to existing and future persons.

In this short paper, I suggest that the ideal of deliberative democracy provides a way of morally justifying such policies to both existing and future generations. This ideal calls for inclusive, informed, and uncoerced deliberation toward a trans-generational agreement – e.g. an agreement of members of existing and future generations –that protects fundamental interests and garners general acceptance. If we take seriously the requirements of this ideal, we may have to modify our public reasoning so that it includes reasons that are generally acceptable among contemporaries as well as reasons that *would* be acceptable to posterity. Of course, in many cases, we'll never know whether in fact they are. But, if we take seriously the deliberative ideal, then we should aim to reason in a way that minimizes the creation or exacerbation of grave harms to, and that maximizes the conditions of autonomy for, future generations. The suggestion I make in this paper is that integral to the ideal of deliberative democracy in the transgenerational context is a future-oriented and precautionary public reasoning. Maxims of precautionary public reasoning do not speak merely to a way of reasoning but also to substantive considerations about the social and environmental conditions that can enable both existing and future persons to review and, if necessary, revise decisions made in the past but that detrimentally impact upon them in their present. These conditions serve to uphold the decisional agency of existing and future persons, which in turn enables them to deliberate democratically about the policies that affect them and realize their autonomous existence.

II

Since the early 1990s, scholars and practitioners have created a wealth of materials on theories and practices of deliberative democracy (see Bohman and Rheg 1997; Chambers 1996; Cohen 1997a and 1997b; Dryzek 1990 and 2000; Fung 2003a and 2003b; Fung and Wright 2003; Gutmann and Thompson 1996 and 2000; Hajer and Wagenaar 2003; Macedo 1999; and Valadez 2001). However, few have probed the conceptual and practical possibilities and implications of applying deliberative democracy to decisions that will have direct consequences for future persons; few have examined the prospects of extending the deliberative ideal to include future persons.[2] This is not be surprising given the vexing ethical and meta-ethical questions regarding the status of future persons and our responsibilities to them (see Ball 1985; Dobson 1999; Laslett and Fishkin 1992; Parfit 1983; Partridge 1981; and Sikora and Barry 1978). To be sure, extending deliberative democracy to members of future generations involves confronting a plethora of problems related to their non-existence and the uncertainty of the future. These problems should not

cause us to turn away from certain moral, social, and environmental responsibilities to future generations. Instead, in light of these challenges, we should endeavor to extend to posterity what we consider to be the optimal conditions for justice and legitimacy, which are arguably those conditions that enable persons to exercise their agency in the decisions that will impact on them.

Deliberative democratic conditions providing for individual agency in the formulation and implementation of public decisions are surely among the minimum requirements for the autonomy of persons whose existence is often constrained by such decisions and their effects. These conditions enable people, as rightfully autonomous but mutually constrained individuals, to find provisionally justified agreements on the specifics of their collective existence. Toward the end of establishing trans-generational agreements, the ideal of deliberative democracy calls for the long-term maintenance of these conditions so that members of future generations will have the option to deliberate on the policies that constrain them, including policies made in the past.

Chief among these conditions is deliberative equality. Ideally, participants in future discourses would be guaranteed more than procedural equality in decision-making processes and institutions. They would need a certain epistemological equality in terms of access to accumulated information and information resources. They would also require a degree of social and material equality. Participants would have to have equal access to the basics of life, including arable land, clean water, fresh air, sufficient biodiversity, reliable sources of electricity, and so on. Indeed, the ideal of deliberative democracy implies certain imperatives for environmental sustainability (e.g. the use and management of the natural environment in a way that is not detrimental to the fulfilling of basic needs of future generations). It also implies certain imperatives for conservation (e.g. the maintenance of ecosystems and ecospheres necessary for the continuing evolution of a diversity of forms of life).

Given the relationship between our policy decisions and the conditions in which members of future generations will find themselves living, I want to suggest that the ideal makes it incumbent upon deliberators to consider carefully the substance of their decisions and the impacts they might have. The substance of our policy decisions, especially those associated with serious risks to our societies, human health, and the environment, can contribute to the presence of factors that coercively impact on basic conditions affecting the autonomy of people. For example, constructing a nuclear waste management facility with containment materials that are subject over the passage of time to the corrosive effects of ground water and that therefore leak radioactivity into the environment could result in the creation of widespread hazards for the health of humans, societies, and cultures for generations to come. These hazards could, among other things, increase the number of cancer-related ailments and thus increase pressures on public health care systems, social welfare services, and basic material conditions of well being. The deliberative ideal calls for a mode of reasoning to inform such decisions so that they avoid or minimize such impacts on autonomy-conferring conditions of the future. It calls for a kind of public reasoning that acknowledges the fundamental interests of future generations in maintaining these conditions and that sets the parameters of acceptability with general reference to the long-term maintenance of these conditions.

A future-oriented public reasoning in this context involves contemporary decision makers asking themselves questions concerning what *would* be justifiable to future people (Gutmann and Thompson 1996, 155-164). It involves contemporaries enlarging their moral compass to justify their decisions to future people on terms they *would* accept for themselves as defined by reference to their basic conditions of deliberation. Contemporaries would have to make earnest and well-researched attempts to forecast the impacts of their decisions on these conditions. They would have to draw from a range of epistemological sources, such as the hard sciences, social sciences, engineering, and humanities, to comprehensively identify and predict the impacts of their activities and technologies. However, given the often very lengthy time frames associated with some policies (e.g. nuclear waste management), we cannot verify or validate our projections; moreover, given these time frames, risk assessments are often riddled with uncertainty such that we cannot be confident

about their findings. It is very possible that we could unknowingly make decisions that cause serious harm to the social and environmental conditions of the future, no matter how earnestly we apply ourselves to detailing possible future scenarios and estimating their probable occurrence. In light of the metaphysical and epistemological limits of our methods of forecasting and prediction, I believe that it is morally responsible to ensure that our decision-making reasoning takes precautions *vis-à-vis* the basic requirements of deliberative democracy for future generations.

In the trans-generational context, the deliberative ideal entails precautionary public reasoning to avoid or minimize seriously detrimental impacts on the conditions necessary for future persons to engage in informed and un-coerced dialogue about the policy that affects them. While we cannot know what all of the consequences of our decisions will be, we do know that certain decisions will result in serious and irreversible social and environmental hazards, and we do know that making other decisions will enable us to avoid or minimize such hazards. We know, for example, that the destruction of Aboriginal burial lands will perpetuate injustices against Aboriginal peoples; we know that large-scale deforestation will contribute to global warming and environmental, economic, social, and political instability; we know that the nuclear generation of electricity creates materials that remain highly radioactive and that present health and environmental risks for centuries to come. Even where there is no strong scientific proof of cause and effect, refraining from certain activities and technologies should be considered because of the possibility of their creating such serious hazards. If we care about maintaining the decisional agency of future persons, and have reason to believe that some of our decisions may be to the detriment of their agency, we should take precautions in order to try to steer clear of such consequences. But, what does precautionary public reasoning entail?

To flesh out a precautionary public reasoning, we might draw from decision-making in the realms of laws and policy. Calls to exercise caution in environmental contexts emerged in the 1970s as a response to deficiencies in the predictive capability of approaches to risk assessment (see Harrenmoës et al. 2002; O'Riordan 2001; and Tickner et al 1999). The so-called precautionary principle has since been incorporated into numerous international agreements.[3] One of its most important expressions is found in the non-binding Rio Declaration, which states that where "there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation" (United Nations 1992, 10). A stronger, more controversial, articulation involves a shifting of the burden of proof from opponents to proponents of given activities or technologies that may be associated with serious risk (Harremoës *et al*. 2002, 4-5; O'Riordan *et al*. 2001, 20; and Tickner *et al*. 1999, 4-5). Typically, members of the public carry the burden of proving that a particular activity or technology is dangerous, while those undertaking the activity or technology are given the benefit of the doubt that their proposals are safe based on risk assessments conducted by either themselves, regulators, or both. Various courses of action having possible consequences seriously detrimental to the well-being of people, or to the integrity of the environment, are seen as acceptable until these consequences are scientifically proven. Technologies and activities causing air and water pollution, for example, were acceptable until independent studies documented a causal relationship between them and detrimental health, social, and environmental effects.

This more controversial articulation of the precautionary principle holds, conversely, that those who are in a position to make decisions that could cause grave social and environmental harm should bear the responsibility of avoiding this harm. Proponents must clearly demonstrate that their proposal will not cause serious or irreversible harm before they proceed with it. The proposal must be safe not merely in terms of an acceptable level of risk determined by a mathematical algorithm of analogous levels of risk for other activities, but in terms of an acceptable level of risk determined on the basis of extensive studies involving the input and insights of a range of stakeholders among whom the most vulnerable are well represented (Harrenmoës, *et al*., 4). This understanding of precaution entails not only responsible research on the part of proponents; it also entails deliberation among proponents and those who could be directly

affected by their proposals on how to proceed in a way that is sensitive to the social and environmental requirements for the moral equality and freedom of both existing and future persons.

Other controversial elements of the precautionary principle include giving moral priority to planning based on well-defined goals that privilege protecting individuals, society, and the environment over planning based on risk analysis (Tickner et al. 1999, 3). Precaution, of course, involves employing the tools of risk assessment and risk management. However, it requires that risk assessment/management processes be transparent and involve the range of potentially affected parties. In addition, it requires that decisions be primarily motivated to achieve goals to avoid or decrease serious and irreversible risk, as opposed to managing a certain level of acceptable risk. Instructing contemporary decision makers to think more in terms of how to avoid or reduce serious risk, and less in terms of what is an acceptable level of risk, the precautionary principle directs them to consider all available options for a proposed technology or activity (Harremoës *et al*. 2002, 197-198 and Tickner *et al*. 1999, 4). Among these are the options of either modifying the proposal or foregoing it in favor of a less risky alternative. Needless to say, proposed alternatives must be scrutinized as stringently as that which they replace. Of course, avoiding or reducing serious harms is complicated by the fact of uncertainty. Precaution thus requires that, because we cannot be certain of the impacts of technologies and activities, we should leave intact as much of the biosphere as possible (O'Riordan, *et al*., 19). The overarching aim of all of these dimensions of the precautionary principle is to eliminate or reduce social and environmental hazards and, by extension, to uphold the agency of existing and future persons enabled by healthy social and environmental states.

Clearly, much controversy surrounds the precautionary principle. Some claim that it leads to perverse decision making (see Cross 1996); others claim that it leads to no decision making at all (see Sunstein 2003 and 2005). Despite the controversy, there can be no doubt that the essence of this principle is morally salutary, especially insofar as it serves to protect against serious harm to the conditions for the decisional agency of existing and future generations. In the same way that public reasoning among existing persons can be an expression of respect for the differences among persons who seek justification for the decisions that could affect them, precautionary maxims – if not the precautionary principle – upheld by existing persons can be an expression of respect for the agency of future generations who have rightful claims on the justice and legitimacy of the policy that could affect them. Precaution in this context expresses the idea that our decisions should avoid causing serious harm to the health of humans, their societies, and the environment, in the present and future, not only for the sake of avoiding such harm but, more specifically, for the sake of maintaining conditions of deliberative democracy and personal autonomy. Precaution as implied by the deliberative ideal is animated by the claim that it would be unjust and illegitimate for existing persons to expose future generations to serious social and environmental harms because doing so could limit their ability to make decisions as to how best to realize their individual and collective goals.

III

Normative theorists of democracy seek the realization of inclusive, informed, and non-coercive deliberations toward the goal of providing increased assurances of the legitimacy and justice of public decisions. Internal to the logic of the deliberative ideal is a certain justification for the inclusion of future generations. If we take seriously the ideal of deliberative democracy, then we are lead to include members of future generations. And if we grant future persons moral status in our deliberations, then we soon see that our public reasoning takes a precautionary turn. If we have reason to believe that our policy decisions could seriously infringe upon the conditions for the decisional agency of future persons, it is morally incumbent upon us that we apply precautionary maxims in our public reasoning so as to minimize the probabilities of this occurring. Deliberative democracy tends to imply precautionary public reasoning in order to minimize seriously harmful effects on the conditions for personal and collective autonomy *vis- à-vis* the binding nature of public policy and its sometimes pervasive effects.

The aim of the deliberative ideal is to justify public policy to morally free and equal citizens. In the context of certain policies we should extend this ideal to both existing and future persons, since the risks that they carry may be particularly harmful for both. This ideal of democracy seeks to make both existing and future persons present in our public reasoning in terms specified by precautionary maxims, which in turn seek to enable them, as they come into existence, to review and revise policy decisions of the past where they deem them to be harmful, unjust, or illegitimate. To the extent that the ideal of deliberative democracy informs policy processes it makes possible a two-tiered approach to ethical decision-making. The first tier involves deliberative practices to check on the justice and legitimacy of decisions; the second tier involves recursive practices to enable future persons to amend, where necessary, policies that have turned out to be contrary to their fundamental interests.

REFERENCES

Ball, T. (1985) "The Incoherence of Intergenerational Justice," Inquiry 28 (3): 321-337.
Bohman, James and William Rehg, (eds.) (1997). Deliberative Democracy: Essays on Reason and Politics. Cambridge, MA: MIT Press.
Chambers, S. (1996) Reasonable Democracy: Jürgen Habermas and the Politics of Discourse, Ithaca: Cornell University Press.
Cohen, J. (1997a) "Deliberation and Democratic Legitimacy," in J. Bohman and W. Rehg (eds.) Deliberative Democracy: Essays on Reason and Politics, Cambridge, MA: MIT Press, 67-91.
————- (1997b) "Procedure and Substance in Deliberative Democracy," in J. Bohman and W. Rehg (eds.) Deliberative Democracy, 407-437.

Cross, F. (1996) "Paradoxical Perils of the Precautionary Principle," Washington and Lee Law Review 53 (3): 851-925.
Dobson, A. (1998) Justice and the Environmental: Conceptions of Environmental Sustainability and Dimensions of Social Justice, Oxford: Oxford University Press.
————- (ed.) (1999) Fairness and Futurity: Essays on Environmental Sustainability and Social Justice, Oxford: Oxford University Press.
Dryzek, J. (1990) Discursive Democracy: Politics, Policy and Political Science, Cambridge: Cambridge University Press.
————- (2000) Deliberative Democracy and Beyond, New York: Oxford University Press.
Fung, A. (2003a) "Associations and Democracy: Between Theories, Hopes, and Realities," Annual Review of Sociology 29: 515-539.
————- (2003b) "Survey Article: Recipes for Public Spheres: Eight Institutional Design Choices and the Consequences," The Journal of Political Philosophy, 11 (3): 338-367.
Fung, A. and E. Wright (eds.) (2003) Deepening Democracy: Institutional Innovation in Empowered Participatory Governance, London: Verso.
Hajer, M. and H. Wagenaar (eds.) (2003) Deliberative Policy Analysis:

Understanding Governance in the Network Society, Cambridge: Cambridge University Press.
Gutmann A. and D. Thompson (1996) Democracy and Disagreement, Cambridge, MA: The Belknap Press of Harvard University Press.
———- (2000) "Why Deliberative Democracy is Different," Social Philosophy and Policy 17 (1): 161-180.
Harrenmoës, P., D. Gee, M. MacGarvin, A. Stirling, J. Keys, B. Wynne, and S. Guedes Vaz (eds.) (2002) The Precautionary Principle in the 20th Century: Late Lessons from Early Warnings, London: Earthscan Publications.
Laslett P. and J. Fishkin (eds.) (1992) Justice between Age Groups and Generations, New Haven: Yale University Press.
Macedo, Stephen. (1999) Deliberative Politics: Essays on Democracy and Disagreement. New York: Oxford University Press.
Myers, N. (2002) "The Precautionary Principles Puts Values First," Science, Technology & Society 22 (3): 210-219.
O'Riordan, T., J. Cameron, and A. Jordan (eds.) (2001) Reinterpreting the Precautionary Principle, London: Cameron May.
Parfit, D. (1983) Reasons and Persons, Oxford: Clarendon Press.
Partridge, E. (ed.) (1981) Responsibilities to Future Generations: Environmental Ethics, Buffalo: Prometheus Books.
Sikora, R. and B. Barry (eds.) (1978) Obligations to Future Generations, Philadelphia: Temple University Press.
Shrader-Frechette, K. (1996) "Methodological Rules for Four Classes of Scientific Uncertainty," in J. Lemons (ed.) Scientific Uncertainty and Environmental Problem Solving, Cambridge, MA: Blackwell Science, 12-39.
Sunstein, C. (2003) "Beyond the Precuationary Principle," Chicago Public Law and Legal Theory Working Paper, no. 38 (http://www.law.uchicago.edu/academics/publicaw/index.html).
———- (2005) Laws of Fear: Beyond the Precautionary Principle, Cambridge: Cambridge University Press.
Tickner, J., C. Raffensperger, and N. Myers (1999) The Precautionary Principle in Action: A Handbook, Ames, IA: Science and Environmental Health Network.
United Nations (1992) Agenda 21: The UN Programme of Action from Rio, New York: United Nations.
Valadez, Jorge. (2001) Deliberative Democracy, Political Legitimacy, and Self-Determination in Multicultural Societies

NOTES

[1] This paper is a distillation of ideas drawn from my earlier work, "Discursive Democracy in the Trans-generational Context and a Precautionary Turn in Public Reasoning," Contemporary Political Theory (forthcoming 2006).

[2] For an important example of deliberative democracy in the transgenerational context, see Gutmann and Thompson (1996).

[3] See, for examples, the *Montreal Protocol on Substances that Deplete the Ozone Layer* (1987), the *Rio Declaration on Environment and Development* (1992), the *Treaty on European Union* (1992), the *Cartagena Protocol on Biosafety* (2000), and the *Stockholm Convention on Persistent Organic Pollutants* (2001).