

A CRITIQUE OF THE DISCURSIVE CONCEPTION OF DEMOCRACY

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ABSTRACT

The article seeks to contribute to the debate involving the concept of discursive democracy, which developed based on the theory of discourse advanced by Jürgen Habermas. It is argued that in order for this conception to be converted into a theoretical and analytical framework capable of aiding the comprehension of the complex political processes that unfold in contemporary societies and into an alternative for the improvement of existing democratic regimes it must come to terms with a number of questions presented in this article such as the relationship between the ideal deliberative procedure as conceived by its authors and the conditions required for its operation, the question of the place and forums of deliberation and the relationship between deliberation and preference aggregation, as well as dealing more critically with its own assumptions..

Key words: deliberation; representation; aggregation; discursive democracy.

In the last three decades, democratic theory has experienced a revival centered on the idea of deliberative democracy, a subject that has galvanized the theoretical and analytical efforts of a wide range of social and political scientists all over the world. Their efforts presently configure an

important strand of democratic theory, which in this article shall be referred to as the discursive strand of democracy given that its main distinctive trait is the emphasis placed on the discursive or argumentative element of the democratic process and also because this strand is to a great extent the product of the application of the Habermasian theory of discourse to contemporary politics (AVRITZER, 2000: 36).

It is also important to note that what is here being designated the discursive strand has several points of intersection with the participative strand of democratic theory and also with the perspective that has been called the “civil society perspective,” which designates a set of authors, studies, and researches that differ in terms of the emphasis placed on civil society, as opposed to the State and formal political institutions.

The revival of an idea of democracy whose centerpiece was argumentation was a reaction to other theories of democracy dominant during the second half of the twentieth century. As termed by Santos and Avritzer (2002), these are the hegemonic theories, and include democratic elitism, whose main exponents are Joseph Schumpeter and Anthony Downs.¹ For discursive theorists, the concept of democracy which became hegemonic during the latter half of the twentieth century represented an attempt to deflate the normative content of democracy by “restricting forms of participation and expanded sovereignty in favor of a consensus around electoral procedures for the formation of governments”, a result of, among other things, a misreading of Weber (SANTOS and AVRITZER, 2002). Other proponents of discursive theory believe that deliberation has been a neglected feature in theory as well as in practice (GUTMANN e THOMPSON, 1996). They believe that within the deliberative dimension of politics lies a source of theoretical and practical innovation, capable of offering answers to several problems faced in contemporary western democracies, and especially the problem of legitimacy deficit (HABERMAS, 1997; COHEN, 1997; GUTMANN e THOMPSON, 1996; AVRITZER, 2003; SANTOS and AVRITZER, 2002).

One of the main critiques of democratic elitism has been formulated by the German philosopher Jürgen Habermas, whose propositions have arisen from his theoretical interlocation

with Marx and Weber. Habermas's work on democratic theory gained prominence during the end of the 1970s and beginning of the 1980s, when he started "applying his concept of discourse theory to contemporary politics" (AVRITZER, 2000: 36).²

The Habermasian concept of discursive democracy is founded on other concepts crucial to his thinking, such as public sphere and communicative rationality, and on the analysis of the process of communication that occurs in the public sphere and exerts an influence on the political system.³ Despite acknowledging the problems and challenges posed by economic and social differentiation and the growing complexity of administrative structures, Habermas sees no reasons to believe that democracy has become unsustainable or that it should be deflated of its normative content. Neither does he see a contradiction between administrative complexity, on one hand, and participation and argumentation, on the other.

Habermas conceptualizes the State and the market as systemic spheres defined by the logic of organization and specialization, while the public sphere, which is rooted in society, represents a third dimension, which is distinct from the first two because of its structure and characteristics. Civil society, sustained by fundamental rights and the acceptance of the pluralism of values, presents itself as the basis of autonomous public spheres that are characterized by their open, permeable, non-hierarchical and non-specialized structure. These spheres communicate among and overlap each other, constituting a "'communicational structure' of action oriented by understanding," or even a "communicational structure rooted in the lifeworld through civil society" (HABERMAS, 1997: 91-92). It is through the public sphere that opinions are formed, proposals are elaborated, and information and arguments are gathered and then transformed into themes and issues, problematized and dramatized so as to gain greater publicity. In sum, these spheres make it possible that different moral conceptions, traditions and cultural identities enter in contact thus allowing the formation of democratic opinion and will, within an informal framework.

According to Habermas, democratic politics cannot be limited to the process of channeling preferences through political parties, parliamentary activity and the aggregation of preferences in

elections, as championed by the democratic elitists. Rather, it should sustain “existing communication networks in the public sphere, networks that establish the direction of the power production process” and are the source of its legitimacy (AVRITZER. 1996: 21).

Political Justification and Reasonable Pluralism

It can be said that the main problem faced by the theoreticians of discursive democracy, especially those who ascribe to the Habermasian, concerns the question of political justification. These authors have diagnosed the existence of a legitimacy deficit in contemporary democracies which is caused by its emphasis on the aggregation of pre-formed preferences by means of the application of the majority rule as the adequate procedure for decision-making and, on the other hand, because of its neglect of the argumentative element whether in theory or democratic practice. Furthermore, according to these authors, the detachment of the political system and its increasing autonomy in relation to the public sphere have engendered problems concerning the control and accountability of leaders, thereby corroding the legitimacy of representative institutions (HABERMAS, 1997; AVRITZER, 1996).

As an alternative, Habermas proposes a model in which a central role is attributed to the process of “the democratic formation of opinion and will” and to what he termed “procedural popular sovereignty” (HABERMAS, 1997a). The opinion and will formed in the public sphere correspond to what Habermas called “power produced communicatively” which, on its turn, constitutes the source of legitimacy for the State’s decision-making. In this sense, the production of legitimacy is understood as a process that precedes the political system due to “legitimizing force of discursive structure and the formation of opinion and will” and the “rational quality of its results” (HABERMAS 1997: 28).

Nevertheless, if the possibility of political justification lies in the process of opinion and will-formation that unfolds in the public sphere, the capacity of action, in Habermas’s conception, remains exclusive to the political system and administration apparatus. Only these entities can make

decision that are collectively binding and that can be implemented as policies. Democratic opinion-formation in the public sphere cannot dominate the use of administrative power. However it can, to some measure, influence it, direct it and program it through a struggle for publicizing and acknowledgement that depends on the public sphere's capacity of emitting vital impulses that resonate with the political system (HABERMAS, 1997: 23).

Thus, the central problem of democratic politics, according to Habermas, becomes how to ascertain that decisions produced within the political system and the policies implemented by government remain closely connected to the process of opinion-formation and truth formation that unfolds informally in the public sphere and that constitute the source of legitimacy of those very decisions and policies. In this sense, political decisions can be considered legitimate if, and only if, they are preceded by a procedure in which all those virtually interested in and affected by them have the opportunity to make statements and have a chance of truly being heard and of influencing the direction taken by the process. Furthermore, this procedure, according to theorists of discursive democracy, is the only one compatible with the condition of social pluralism and pluralism of values typical of contemporary societies. It implies the acknowledgment that no one has a monopoly over truth and that truth is nothing but an interpretation that is conditioned by the different positions individuals occupy within the social structure and by the relations established between them and others (HABERMAS, 1997; COHEN, 1998; YOUNG, 1997). This is what Rawls termed the "fact of reasonable pluralism," an idea that sustains the model developed by Cohen and that consists in the acknowledgment of the existence of different moral and religious conceptions, and life styles in the same political community, each of them particular and reasonable. The existence of different "wide-ranging doctrines," as noted by Rawls (2002) implies alternative conceptions of public good and the impossibility of any one of them offering an exclusive or definitive base for the definition of the criteria for belonging or political legitimacy.

Despite the far-reaching implications of his conclusions, Habermas did not build a model for the institutionalization of the deliberative ideal and its actual implementation in the complex

societies of today. As some authors point out, his theory did not allow for the definition of the institutional format for what is called deliberative democracy “because its form does not suppose anything beyond being able of influencing the political system.” (AVRITZER, 2000: 40).

This task was, nevertheless, carried out by Joshua Cohen, whose work straddles the intersection between the theories of Habermas and Rawls⁴. Cohen sought to define the requirements and conditions for the implementation of a deliberative procedure and for the institutionalization of the influence produced in the public sphere referred to by Habermas (1997). Cohen supports a wider ranging notion of deliberative democracy, distinguishing it not only because of its emphasis on discussion as opposed to voting or bargaining as decision-making methods⁵. For the author, what distinguishes a deliberative conception of democracy is that it offers a model for political justification which “ties the exercise of power to free reasoning among equals.” This, in turn, implies that the results will be considered legitimate “if and only if they could be the object of a free and reasoned agreement among equals” (COHEN, 1998: 193; 1997: 73).

It can be stated that the ideal deliberative procedure proposed by Cohen has the following principal characteristics: (a) the discursive dimension; (b) the requirements of equality and freedom; (c) the criteria of reasoning; and (d) the idea that deliberative procedure leads to the common good.⁶

Coherent with Habermasian theory, the discursive dimension is taken as the foundation for all others as it is the first foundation of the deliberative conception of democracy. In a deliberative democracy, discussion, debate and the exchange of arguments are the means by which citizens evaluate the conditions of their association and try to solve collective problems. For Cohen, a deliberative procedure occurs in conditions of equality when the political agenda is not dominated by privileged groups in control of resources, when economic and social power is not converted into political power or in differentiated opportunities in the political arena and when the principle of political equality ascribes equal value to all those engaged (COHEN, 1998: 192). This explains Cohen’s emphasis on the need to adopt measures capable of at least diminishing – if not isolating – the effects of unequal distribution of resources among people and groups (COHEN, 1997: 69).

According to the model proposed by Cohen, citizens deliberate in conditions of freedom when they do not face external or internal constraints to the autonomous expression of their preferences. Freed from constraint (except for those established by the framework that defines the deliberative procedure), citizens commit themselves to the results they reached through deliberation and offer reasons that support their proposals expecting that these, and not considerations of any other nature, will be taken into account.

For Cohen, admitting the fact that there are plural moral conceptions and life styles, those who participate in a deliberative process must justify their proposals with reasons acceptable to all, even if they do not share the same life philosophy (COHEN, 1998: 187). According to the criterion of reasonableness, citizens can be considered reasonable if they agree to live with each other in terms than all can consider acceptable (COHEN, 1997: 77).

In this sense, as stated by Araújo, deliberation is not simply a discussion that precedes decisions, but rather a discussion whose aim is to justify collective decisions with reasons that can be accepted by all or that would “sustain the decision based on a conception of common good” (ARAÚJO, 2004: 160). This leads to the fourth feature of the model proposed by Cohen: the emphasis on the notion of common good as the guiding dimension of deliberative procedure. Cohen’s conception of the common good nevertheless differs from Rousseau’s. For Cohen the common good is not constituted by values, moral conceptions and interests that precede deliberation and that are grasped intuitively by each isolated individual, but rather by values and interests that survive deliberation. In conceiving the common good as a product and not as a point of departure in the process of deliberation, Cohen points out the importance of the role of procedure or background – the conception of citizens as free, equal and reasonable – in bounding the set of reasons capable of withstanding deliberative procedure (COHEN, 1998, 195). Although it is believed that the notion of common good advanced by Cohen is open to various critiques, they will not be explored in this article.

Contributions and limits to a discursive conception of democracy

There seems to be no doubt concerning the importance and reach of the Habermas's and Cohen's claims in order to contemplate the problem of political justification in contemporary societies. However, at the same time Habermas and Cohen point out the potential advantages of a decision-making procedure molded according to the discursive framework they also seem aware of the threats posed by the unequal control of resources among individuals and groups to deliberative politics. Habermas calls attention to the problems that arise from the unequal distributions of skills and knowledge, individual capacities, cost of information, organization and decision, time availability, and asymmetries that most times are related to socioeconomic inequalities that result in "unequal chances of interfering in the production, validation, regulation and presentation of messages" (1997: 54). Cohen's argument follows the same route when he states that economic inequalities, in the absence of institutional measures capable of repairing them, can undermine the necessary equality for deliberative arenas (COHEN *apud* HABERMAS, 1997: 30).

Since the ideal procedure conjured up by Habermas and conceived more concretely by Cohen assumes and is embedded with a series of conditions and premises, it is necessary to examine them critically in order to evaluate how much each theorist of discursive democracy contributes to the very problems to which they turn their attention.

Firstly, attention must be given to the question of the relation between the deliberative procedure designed by the authors and the conditions which, according to them, are compatible with their operation. Although Habermas and Cohen are aware of cultural and social conditions that are necessary for the construction and putting in practice of deliberative procedures, and of the ensuing problems in their absence, it is understood that they do not explore the theoretical implication related to the requirement of such conditions.

In *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*, published in Brazil with the title *Direito e democracia* (1997), Habermas calls attention to the cultural and social preconditions for a discursive conception of democracy and for the

institutionalization of the ideal deliberative procedure. For Habermas, the ideal of deliberative democracy is heavily dependent on the existence of a “political culture of liberation”, an “enlightened political socialization” and of “the initiative of opinion shaping associations” (HABERMAS, 1997: 25). If political justification, in a discursive conception of democracy, lies in the nexus between power produced communicatively in the public sphere and the decisions taken and implemented within the political system, consequently deliberative democracy depends on the existence of an active public sphere with considerable capacity to mobilize actors and make issues public and of a context in which “the equal rights of citizens would achieve social efficacy” (HABERMAS, 1997: 33). In turn, approaching these issues in the terms proposed by Habermas depends on a specific mode of engaging with differences of value and point of view, characteristics of a secularized society constituted by people who learn to deal reflexively with their values and moral conceptions and to “consciously face their own complexity” (HABERMAS, 1997: 33). It also assumes that citizens will converge towards rational debate as a form of justification of stance and points of view.

By delimiting the conditions that are compatible with the ideal deliberative procedure, Habermas and Cohen create room for many relevant questions. Would a democracy based on the discursive and deliberative framework be possible only in those societies that have the characteristics and conditions defined by the authors? Or wouldn't political deliberation be, in itself, an instrument capable of generating such conditions, as some theorists who emphasize the pedagogical potential associated to deliberative democracy claim? If this second hypothesis is true, how can deliberative procedure help foster the ideal conditions for its functioning? Is it possible that traditional societies might develop characteristics of secularized politics and rationalized morality and the capacity of dealing reflexively with their own values through a democratic model molded by a discursive framework, or would the path of rational and deliberative solutions to conflict be inaccessible to such societies? Ultimately, must the consensus surrounding rational debate as a form

of political justification be understood as the starting point of deliberative democracy or as its final destination?

These thorny yet fundamental questions involved in discussing the validity of the propositions advanced by the discursive theoreticians. Despite the appearance of several empirical studies that set out to investigate the relationship between the conditions and institutions within the discursive framework, it is also necessary to question how this relationship is being approached in theoretical discussions. This is precisely what Iris Young (2001) sets out to do in her examination of the theoretical and practical implications of Habermas's conception of deliberative democracy. Although Young's critique focuses on Habermas, her conclusions can also be applied to Cohen, with all due caveats.

According to Young, "by restricting the conception of democratic discussion strictly to critical argumentation," most discursive theoreticians "assume a concept of discussion that is culturally biased," which tends to silence or devalue certain people and groups in practice leading to exclusion (YOUNG, 2001: 365). This is because, according to this author, the deliberative model of communication envisioned by Habermas derives from "institutional contexts that are specific to western modernity," "institutional forms, rules and rhetorical and cultural styles" that "defined the meaning of reason itself in the modern world," but that "as dominant institutions, have been elitist and exclusive." (YOUNG, 2001: 370). Thus, the first problem of a discursive conception of democracy, as proposed by Habermas, would be the restriction of the idea of democratic discussion to critical argumentation, a style of discourse associated to a specific cultural and cognitive system that assumes, as mentioned, the convergence of citizens towards rational debate as the form of justification of positions and points of view. This sort of convergence, as Habermas himself admits, is typical of post-traditional societies that have gone through a process of political secularization and moral rationalization, in other words, western developed and developing societies.

For Young, a deliberative procedure idealized according to this framework would consequently value certain ways of speaking rather than others, thus functioning as an exclusion

mechanism (2001: 370-371). Young concludes that since in contemporary western societies the “differences of privilege in modes of discourse are correlated to differences in social privilege,” deliberative procedure, as conceived by Habermas and Cohen, ultimately leads to exclusion as it is not equally open to “all forms of presenting demands and motives” (2001: 372).⁷

The facet of discursive democracy emphasized by Young demonstrates the existence of relevant analytical problems in the model proposed by the discursive authors. On one hand, Cohen’s pretension of isolating the effects of inequality among the participants seems to be based on an unbounded expectation with regards to the possibilities of institutional engineering. For Young it is as if he could assume that “isolating political and economic power is enough in order for there to be equality among interlocutors,” or that “when the influence of economic and political power is eliminated, speaking and understanding will be identical to all” (2001: 370). According to Young, it would probably be best to consider deliberative or argumentative capacity as simply one resource among others which are embedded in the deliberative process and that, as such, can be distributed unevenly or even associated to other resources controlled by privileged groups. In fact, often the most valued styles of discourse are those characteristic of individuals and groups that are economically and socially privileged, who control the symbolic and material resources that distinguish them in their argumentative capacity. Thus, it is necessary to acknowledge that even if the ideal deliberative procedure were capable of ascertaining equality as to the possibility of each participant placing items in the agenda and of expressing oneself, presenting and defending propositions, citizens and groups might still be unequal in their deliberative capacity in terms of their grasp over the critical style of argumentation.

Although it might be possible to adopt measures to correct the distortions that affect the mastery of information and specialized knowledge, and even if the deliberative process were capable of promoting the development of those capacities necessary for its operation it is not possible to solve once and for all the problems related to the effects of inequality of argumentative

capacities. The assumption that by isolating the effects of economic inequality citizens will be on a level playing field might blind the observer in terms of the “collateral effects of deliberation.”

The places and forums of deliberation

To consider a discursive conception of democracy implies considering the forums and places where deliberative democracy is played out or should be played out. As fundamental as it is, this matter still seems rather undefined within the discursive strand of democratic theory. Is deliberation an attribute belonging to the expanded participation arenas of the civil society or to the democratically constituted parliaments – or both?

As shown above, Habermas’s discursive theory establishes a rather clear distinction between the State or political administrative system and the public sphere, each one being a sphere of action with distinct functions and structures. Although the public sphere is considered a source of legitimacy for any decision taken within the political system, it is clear that the power of taking decisions that are collectively binding and of implementing policies remains a monopoly of the political administrative system. In this sense, Habermas reserves a crucial function for the political system and parliamentary complex: that of formally assuring the continuity of deliberations initiated in the public sphere that gained publicity and entered the political system in the form of demands and claims (1997: 23).

In fact, in his model Habermas does not forego institutions – parliament, political parties – or procedures – elections, the separation of powers, majority rule – typical of representative democracy. According to him, the institutionalization of the deliberative ideal depends not only on the institutionalization of procedures and the conditions of discourse, but on the “inter-relation of institutionalized deliberative processes with informally constituted public opinion” as well (FARIA, 2000: 49). The political system, with its institutions and procedures, provides a reference point for the constitution of public spheres. According to Faria:

What Habermas therefore offers is a discursive model of democracy that is not centered on the political-administrative system in charge of making the binding decisions nor exclusively on society. Democracy must be analyzed based on the relationship between these poles. (...) The political system must be connected to the peripheral networks of the public sphere through a communication flow that starts with the informal networks of the public sphere, is then institutionalized by its parliamentary bodies and then reaches the political system influencing its decisions (2000: 52).

Therefore, one can conclude that the deliberative democracy conceived by Habermas is perfectly compatible with the democratic state and the rule of law and with classical representative institutions. In his model, the public sphere functions as a sensor of issues, values, and demands of sorts that informs the rational formation of will which, in its turn, goes through institutional filters until it reaches the political system and is transformed into decisions and policies.

Although Habermas emphasizes the need of an inter-relation between the deliberations produced informally in the public sphere and the formal political system, one can question whether in the conditions proposed by him the power produced communicatively in the public sphere can effectively be capable of entering the political system, influencing it, programming it and rendering its members – representatives and bureaucratic agents – accountable to the demands constructed discursively without losing the communicative quality and letting itself be contaminated by the rigidity and hierarchical organization that characterizes the political system.

It is impossible to shed light on how the legitimacy of the communication that takes place in the public sphere could be preserved once it enters the parliamentary and administrative complex without delving deeper into the existing connection between informal deliberations produced in the public sphere and those formally enacted within the political system. As noted by Anastasia and Inácio (2006), coordination among deliberations made outside the parliamentary complex, in formal and informal public spheres, and those that occur in the Legislative, become a delicate problem since legislators “can interpret such deliberations ambiguously and selectively, based on their own political positions, ideologies or strategic calculations, assimilating these signals in a biased manner or giving them disproportional attention” (ANASTASIA e INÁCIO, 2006: 6).

Such questioning has motivated Cohen's proposition of an alternative model, expressed in his idea of a "Directly-Deliberative Polyarchy" (COHEN and SABEL, 1997). For Cohen, Habermas's model is not sufficiently ready to democratize democratic procedures and institutions given that the only tasks it bestows upon the public sphere is acting as a sensor and trying to exert influence over the political system. Crucially, the public sphere as conceived by Habermas does not take into account the possibility of reaching decisions on its own. For Cohen, in the Habermasian model the public sphere thus assumes a defensive stance in relation to the political system, rendering it incapable of programming it and effectively directing it. In this sense, Cohen proposes that the ideal of deliberative democracy should be put into practice based on the idea of Directly-Deliberative Polyarchy. This arrangement includes the direct and institutionalized participation of citizens not only in the detection of problems and discussion of possible solutions aiming to influence the political system, but also in the presentation of decision through the direct participation of rational and deliberatively oriented individuals. Such public spheres, in order to overcome the localism that might characterize deliberative procedures at the local experience level, would be interconnected among each other as to expand the horizons of its participants with respect to the values and practices that guide deliberation and decision in other arenas. The model proposed by Cohen is based on the premise that the institutions of representative democracy are limited in their capacity of solving the issues of complex societies. It would then fall upon the institutions to create conditions needed to put into practice deliberative procedure at the level of local experiences of deliberation and institutionalized participation.

It is therefore possible to conclude by saying that there is no consensus among authors for the elaboration and development of a discursive conception of democracy with regard to the best places and forums for the practice of the ideal deliberative procedure and of the existing links between the informal public spheres and the formal political system. Some authors that work within the perspective of a discursive conception of democracy seem to be increasingly aware to the importance of connecting the arenas of participation and deliberation to the representative arenas

(WAMPLER, AVRITZER, 2004). While investigating the patterns of participation in the so-called institutional innovations, these authors conclude that the civil entities with greater chances of participating of deliberations that unfold in deliberative arenas in the public sphere are those that have links with the political system (HOUTZAGER; LAVALLE; ACHARYA, 2004: 11). Avritzer presents a similar argument when he refers to the Participatory Budget (*Orçamento Participativo*) and states that “almost all actors that link PB to the democratic debate come to a comprehension of democracy as a search for a form of articulating representation and participation (...) showing that the democratic debate no longer accepts the idea of competing models of democracy” (2003: 54).

However, the fact that participation and representation have become interwoven is often seen as nothing more than a form of assuring that concluded deliberations and decisions will be binding, that is, that they will in fact be implemented and are actually meant for the public bureaucracies situated in the Executive branch and not for the parliaments as deliberative bodies. Furthermore, most studies in the discursive strand, despite the growing acknowledgement of the importance of the interconnection between participation and representation and between the public sphere and the political system, maintains its focus on participative institutions, formal or informal, rooted in civil society. For this reason it can be said that, despite developments within the strand that focus on the relationship between the collective actors of civil society and the formal institutions and political actors, such as political parties and public bureaucracies, seeking to explore the interface between the state and the public sphere, the reevaluation of the argumentative element carried out by Habermas did not motivate those authors within the discursive strand of democratic theory to study deliberation in the context of formal representative institutions, especially in parliamentary contexts.

Generally speaking, the adepts of a deliberative conception of democracy acknowledge the inevitable character of representation in contemporary societies in order to make democracy operational. However, by keeping the focus of investigation on deliberation produced in

participative arenas, they seem to suggest that these are by definition the spaces of deliberation or of the institutionalization of the procedures of ideal deliberation.

If representative institutions are inevitable, as theorists of discursive democracy admit; if they remain as the exclusive *loci* of decision-making that collectively bind because they are the only ones that express or have the potential of expressing social pluralism universally and are composed of democratically authorized members, as Habermas also admits, it can therefore be concluded that they should be the crucial object of political analysis in contemporary democratic societies. The same could be said with respect to the administrative system that has the monopoly over policy implementation.

While discursive theorists do not seriously come to terms with this question, one of the fundamental facets of deliberations, namely parliamentary deliberation, will remain a neglected issue, as even they point out. Modern parliaments, since the heyday of representative democracy, were conceived as deliberative bodies, as John Stuart Mill made it very clear in his writing on representative government. According to Mill, the parliament constituted by proportional representation creates a context in which all relevant points of view from society can be expressed and heard, while representatives, when confronted with opinions different than their own have the opportunity of correcting their false judgments and are led to assess interests that are not their own. For this reason Mill claimed that “what can be done best by assembly than any individual is deliberation” since the deliberative body allows opinions that are at odds to be heard and considered (MILL, 1981: 49). In this perspective, it becomes necessary to take into account other variables such as *who deliberates*, which has to do with the interests and points of view represented by the participants of deliberation, as well as the resources they control. Accordingly, it can also be stated that more important than the extent of participation, that is, the number of those deliberating, is that deliberation takes place in a context in which there is ample representation of the points of view existing in society (GARGARELLA, 1998).

Although it can be admitted that the dimension of deliberation was neglected in favor of other methods of decision-making as representative government changes and political parties became central actors, deliberation was not abolished from parliaments or entirely cease being a favorable stage for it (MANIN, 1995). After all, as pointed out by Anastasia and Inácio, the Legislative is the most porous arena to the heterogeneity of interests in society, which provides the informational conditions for political deliberation based on a plural matrix of political preferences (2006: 15). According to these authors:

...deliberation is not an exclusive attribute of representative processes [...] and, not least, an attribute exclusive to participatory processes [...]. Deliberation in contemporary democracies must necessarily be found in both poles – representation and deliberation – as well as in the channels through which representation and participation communicate and interact (ANASTASIA e INÁCIO, 2006: 5).

It is not because representative institutions neglect the argumentative element involved in democratic politics and face problems with respect to the effectiveness of representation and legitimacy that deliberation should be subtracted from legislative bodies and migrate to participative institutions. In this regard, a defense in the same line as Anastasia and Inácio should be made:

...not only should Legislative Houses be places of deliberative, but that which is deliberated in them should echo and resonate, in the best possible manner, in processes of deliberation in course in political participation entities of civil society. In this regard, it is necessary to assure the existence of permanent, institutionalized and 'deliberative' channels of interaction among entities of representation and political participation (ANASTASIA; INÁCIO, 2006: 5).

The innovations introduced in many parts of the world in the public administration models insofar as they contribute to the improvement of democracy by offering increasing possibilities for participation for citizens in the elaboration, implementation, and monitoring of policies and for the participation in decision-making relative to resource allocation, do not diminish to any extent the centrality of the political system in the democratic process and do not occur at the cost of diminishing the role of parliament and the administrative complex. Therefore, it will be of little use to stimulate the creation and the development of deliberative spaces of participation for citizens and

groups if, at the same time, the conditions and mechanisms to coordinate the deliberations produced in this space to the formal political process that unfolds within the political system are not assured. As pointed out by the scholars of institutional innovation in the field of participatory democracy, it does not suffice to assure the functioning of deliberative and participatory arenas if the State and its actors are not equipped with structures and capacities required to process deliberation and information produced participatively in favor of the promotion of the best interests of the citizen (WAMPLER; AVRITZER, 2004; ANASTASIA; INÁCIO, 2006). Deliberation in the formal representative bodies and inter-relation among them and the deliberation produced in the public sphere thereby constitute issues that must be approached by scholars from within and beyond the discourse perspective.

Deliberation and aggregation

One of the direct implications of shifting the focus towards parliamentary deliberation is the need to consider the possible links between deliberation and preference aggregation. Even when emphasis is placed on deliberation in participative arenas, it is still important to make questions such as how are preferences aggregated, when does deliberation fail to produce an agreement or consensus making it necessary to vote in order to decide. Elster (1998) brings attention to the constraints imposed by the scarcity of time and by the need to decide that distinguish political deliberation from other types of deliberation and keep it from lasting indefinitely thus requiring the intervention of another method of decision-making. Cohen himself states that, even in ideal conditions, deliberation may not result in consensus and in these cases it would be necessary to decide through the majority rule. However, Cohen seems not to explore the implications of his assessment when he affirms that, in such cases, *any form* of the majority rule should be employed (COHEN, 1997: 75).

According to Elster, in democratic societies the majority of decision-making processes combine three distinct methods: argumentation, bargain, and voting. Through these methods the

preferences of participants are subject to transformation, negotiation, and aggregation, respectively. The author states that deliberation depends on the participants' disposition to continue bargaining and that, due to time pressures and the need to decide, bargaining and voting become an inevitable part of the game (ELSTER, 1998). Thus, as stated by Gambetta, there is no sense in comparing aggregation and deliberation and considering them competing methods of decision-making, since, in practice, only rarely do democracies base themselves exclusively on the aggregation of preferences (GAMBETTA, 1998: 22).

Avritzer points out the existence of two strands of interpretation concerning the idea of deliberation: one conception stresses its decisional dimension, referring to the "moment in which the decision-making occurs" which was supported by the democratic elitists, and another one underscores its argumentative dimensions, referring to the debates and the exchange of arguments that precede the decision, whose revival owes much to Habermas and Rawls (AVRITZER, 2000: 25).

If, as stated by Avritzer, the elitists neglected the argumentative element of the concept of deliberation in favor of a decisional conception, it can be stated that the authors of the discursive strand did the opposite, in other words, they neglected the dimension of decision in favor of deliberation. However, if one admits that deliberation is never the only decision-making procedure and that it is always supplemented by voting, bargaining or both, it thus becomes necessary to examine how deliberation can be combined with bargaining or voting and even to ask what kind of majority rule most adequately fits decision-making processes that involve deliberation. This is fundamental in order to distinguish a decision preceded by deliberation from a decision preceded by bargaining and concluded by voting. In the same spirit as Mill, it becomes a matter of knowing, once those participating in deliberation have the opportunity of meeting face to face, if "the opinion which prevailed by counting votes would also prevail if the votes were weighed as well as counted" (MILL, 1981: 79).

Focusing on this question, Araújo proposed drawing a distinction between the act of *influencing* decisions through vote and investigating the links between them (ARAÚJO, 2004: 165). The first distinction raises the question of the whole array of reasons that can be accepted in a decision-making process. This array, however, does not determine which option is to be chosen among many other ones. The second one consists of a “pure act of will” which is part of the decision, yet is not entirely based on discourse. It is this act which determines which option, among those acceptable and eligible, will be adopted (ARAÚJO, 2004: 167).

Przeworski argues in this same direction when he criticizes the idea that the results of deliberation should be authoritative. According to him, authorization is derived from numerical force and not from the validity of reasons and for this reason the results of voting - and not deliberation - are what authorize and bind collectively. Deliberation clarifies the reasons according to which the decision was made and can guide the action of government agents and the implementation of action. However, as stated by this author, “the authorization for these actions, including coercion, originates from voting, counting heads, not from discussion” (PRZEWORSKI, 1998: 142).

These observations do not intend to call into question the relevance of the deliberative dimension in the political process. Rather, deliberation constitutes a fundamental element of democracy. The intention in this article is to problematize the perspective that considers deliberation something positive in itself and to contribute to the debate on how deliberation, bargaining and voting can be combined, whether in the informal arenas of the public sphere or within parliament.

Contradictions of a deliberative conception of democracy

The subject of democratic deliberation has attracted the interest of scholars belonging to different traditions of political thought. Although its reintroduction in the contemporary political debate is due mainly to Habermasian theory and the authors attached to it, the subject has become

the object of several studies from different approaches and has been approached from different theoretical and analytical perspectives. This development was crucial for the debate's enrichment and contributed to shedding light onto several relevant issues.

In contrast to discursive authors, scholars from different theoretical approaches, although admitting the importance of making democracies more deliberative, affirm that there is nothing intrinsic to the idea of deliberation or to the deliberative process capable of assuring that deliberation is good in itself, or that it might only bring benefits to societies that adopt it as the decision-making or conflict resolving procedure. As pointed out by Elster (1998), the idea of deliberative democracy and its implementation are as old as democracy itself and since its inception has been seen in positive and negative light. Even if one agrees that deliberation produces greater legitimacy, that it might be the best procedure for collective decision-making should not be considered a given. According to Elster, deliberation is only one among other methods of collective decision-making, and its merits and advantages compared to other methods must be investigated.

Gambetta (1998) argues that some of the socioeconomic and behavioral conditions required for the success of deliberation cannot be taken for granted and therefore there would be no reason to expect that the set of dispositions which would support fruitful deliberation will exist anywhere. For this author, "as with all human activities, deliberation does not invariably produce positive effects. Under certain conditions it does more harm than good" (1998: 21).

This is why scholars have made an effort to examine the advantages and disadvantages of deliberation as a method for decision-making, questioning whether deliberation could, rather than leading to greater consensus and legitimacy, lead to exacerbated conflict, some sort of "intellectual war" (JOHNSON, 1998). For some authors, the criterion of reason and the obligation of publicly sustaining arguments can become an incentive for political hypocrisy since it leads actors to have false preferences or to disguise their particular interests as general ones or to give them a moral sheen. For, as stated by Elster (1998), if the norms of deliberative democracy induce and obligate

participants to justify their proposals in terms of a collective interest, what really matters is not that people really possess these interests but rather appear to have them.

Stressing these aspects calls attention to the fact that although deliberative democracy is capable of delivering great benefits it must also come to terms with very relevant problems. A deliberative procedure will always be subject to, as all models and methods for decision-making, contradictions and ambiguous results. Its results can benefit multiple people and groups or it can correspond to the expectations of only a reduced number of them. Decisions made deliberatively can yield a positive sum result in some situations but in others it can yield but a zero sum result, in which what some gain is equal to what others lose. And there is no guarantee with respect to the existence of a previous consensus between citizens concerning deliberation as a form of political justification and decision-making.

As some authors argue, consensus is, in itself, dependent on the continuous functioning, for a certain period of time, of deliberative procedure. Sartori acknowledges that consensus concerning procedure and rules that establish how conflicts will be solved, that is, the “rules of discord and the treatment of these disagreements” is absolutely necessary, a true prerequisite of democracy which has precedence over all others (SARTORI, 1994: 130). However, it also true, as noted by Przeworski, that if the previous commitment to procedure is crucial and does not depend on the nature of results it is also true it will always be temporary and conditioned by the posterior evaluation of citizens. Thus, as Habermas or Cohen would suppose or welcome, there is no unequivocal consensus on deliberation in terms of reason as the rule of disagreement before this procedure proves to offer answers to the problems shared by the members of the collectivity.

Conclusion

This article’s aim was to approach the contradictions that arise in a discursive conception of democracy. To this end, it explored the theoretical and analytical implications of the relationship

established by its main proponents between the ideal deliberative procedure and the social and cultural determinants required for its operation. It was argued that these determinants threaten to transform the discursive conception of democracy into a notion that excludes and silences certain types of discourse in detriment of others. The article also showed that the way theorists conceive of deliberative procedure raises questions with respect to the treatment of social and economic and cultural inequalities and of the moral disagreements that mark contemporary plural societies. It was argued that the same structured procedure in conditions of equality, liberty, and reason, as proposed by Cohen, remains subject to the effects of the inequalities that exist among participants, which include those pertaining to their argumentative capacity.

Another aim was to explore the question of the places and forums of deliberation bringing attention to the fact that the revival of the idea of deliberation that became possible as a result of the application of Habermasian discursive theory to the comprehension of democratic politics did not motivate efforts on the part of the discursive theorists to approach deliberation in formal representative bodies and the connections which exist between them and the deliberations produced in the public sphere. This fact renders it impossible to advance analytically based on the Habermasian model and neglects a substantive part of the political process, which, in contemporary societies, occurs through representative institutions. The article also brought attention to the links between deliberation and the aggregation of preferences arguing that, in the same way as the approaches that were able to consolidate themselves in democratic theory in the second half of the twentieth century neglected the argumentative element in the notion of deliberation in favor of the decisional element, discursive authors neglected the element of decision. By doing so, they once again left out a large portion of the political process as it has developed in current democracies characterized by a combination of deliberation, bargaining and voting. It was thus argued that in order for a discursive conception democracy to in fact convert itself simultaneously into a theoretical and analytical approach capable of assisting in the investigation and comprehension of complex political processes that developed in the democratic societies of today and an alternative

for the improvement of existing democratic regimes it must face the questions posited in this article and deal more critically with its own assumptions.

There is no reason to believe, as Habermas and Cohen would suppose, that putting democracy into practice according to the framework of discourse or that the institutionalization of the ideal deliberative procedure depends on the existence of a previous consensus among citizens concerning the deliberative form of conflict resolution. The creation and the consolidation of discursive democracy do not only depend on the existence of certain preconditions. It is equally dependent on the deliberative procedure's ability to produce the conditions compatible with its practice, to deal with the contradictions it engenders and to produce legitimacy, whether in terms of the process or the results.

¹ With regard to Schumpeter, this article refers to *Capitalism, socialism and democracy*. (Brazilian edition - *Capitalismo, socialismo e democracia*. Rio de Janeiro: Jorge Zahar Ed., 1983. 534 p. As for Downs the main reference is *An economic theory of democracy* (Brazilian edition - *Uma teoria econômica da democracia*. São Paulo: EDUSP, 1999.

² In relation to Habermas the writings in which he elaborated his discursive theory are *The Structural Transformation of the Public Sphere*, *The theory of communicative action* (1987) and *Between Facts and Norms* (1996).

³ The expression "public sphere", in the singular, was chosen in order to refer to the category created by Habermas which, according to him, is situated between the spheres of the State and the market. It must therefore be considered that, within his perspective, civil society is the stage of multiple public spheres that intercommunicate and juxtapose each other.

⁴ The references for Rawls' conception of discursive democracy are *A Theory of Justice* (2002) and *Political Liberalism* (2000).

⁵ Habermas criticizes Cohen's conception of a deliberative structure capable of encompassing the totality of society because, for him, the democratic process depends on contexts that are beyond its regulating capacities.

⁶ Obviously, this scenario concerns what authors call the *ideal* deliberative procedure; in this sense it should be understood as a normative objective to be pursued and used as a parameter for the evaluation on the deliberative institutions that actually exist.

⁷ A similar argument can be found in Gambetta (1998), for whom deliberation seems to be more compatible to societies that are analytically oriented and that use styles of debate and justification that are typical of scientific discussions.

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