

Deliberation, Social Choice and Absolutist Democracy

David van Mill



Routledge Innovations in Political Theory

Deliberation, Social Choice and Absolutist Democracy

David van Mill



Transferred to digital printing 2010

First published 2006

by Routledge

2 Park Square, Milton Park, Abingdon, Oxon OX14 4RN

Simultaneously published in the USA and Canada

by Routledge

270 Madison Ave, New York, NY 10016

Routledge is an imprint of the Taylor & Francis Group

© 2006 David van Mill

Typeset in Sabon by

Integra Software Services Pvt. Ltd, Pondicherry, India

All rights reserved. No part of this book may be reprinted or reproduced or utilized in any form or by any electronic, mechanical, or other means, now known or hereafter invented, including photocopying and recording, or in any information storage or retrieval system, without permission in writing from the publishers.

British Library Cataloguing in Publication Data

A catalogue record for this book is available from the British Library

Library of Congress Cataloging in Publication Data

van Mill, David.

Deliberation, social choice and absolutist democracy /

David van Mill.

p. cm. — (Routledge innovations in political theory ; 22)

“Simultaneously published in the USA and Canada by Routledge.”

Includes bibliographical references and index.

ISBN 0-415-39092-3 (hardback : alk. paper) 1. Democracy.

2. Social choice. 3. Decision making. I. Title. II. Series.

JC423.V345 2006

321.8—dc22

2006002352

ISBN10: 0-415-39092-3 (hbk)

ISBN10: 0-415-59165-1 (pbk)

ISBN10: 0-203-08640-6 (ebk)

ISBN13: 978-0-415-39092-7 (hbk)

ISBN13: 978-0-415-59165-2 (pbk)

ISBN13: 978-0-203-08640-7 (ebk)

Deliberation, Social Choice and Absolutist Democracy

Social choice theory and theories of deliberative discourse have strongly influenced the way political scientists understand the dynamics of democratic politics and decision-making. This new book addresses the dispute between these competing schools of thought.

Deliberative democrats and social choice theorists offer the two dominant conceptions of participation in contemporary democratic theory. The former hold that through the democratic process we can arrive at consensus, rational outcomes and even principles of justice, while the latter suggest that fair and equal participation is more likely to lead to instability and irrational outcomes. With an in-depth examination of social choice theory and deliberative democracy, David van Mill:

- Presents two case studies on the American Continental Congress 1774–1789.
- Provides an assessment of the types of institutions that will promote democracy and create stable outcomes with minimum sacrifice of the freedom and equality of participants.
- Defends a more radical idea of absolutist democracy, gleaned from the writings of Hobbes, against the claims made in favour of limited constitutional government.

This book will be of interest to students and researchers of political theory, particularly those with an interest in democratic theory.

David van Mill is Senior Lecturer in the Department of Political Science in the University of Western Australia.

Routledge innovations in political theory

- 1 **A Radical Green Political Theory**
Alan Carter
- 2 **Rational Woman**
A feminist critique of dualism
Raia Prokhovnik
- 3 **Rethinking State Theory**
Mark J. Smith
- 4 **Gramsci and Contemporary Politics**
Beyond pessimism of the intellect
Anne Showstack Sassoon
- 5 **Post-Ecologist Politics**
Social theory and the abdication of the ecologist paradigm
Ingolfur Blühdorn
- 6 **Ecological Relations**
Susan Board
- 7 **The Political Theory of Global Citizenship**
April Carter
- 8 **Democracy and National Pluralism**
Edited by Ferran Requejo
- 9 **Civil Society and Democratic Theory**
Alternative voices
Gideon Baker
- 10 **Ethics and Politics in Contemporary Theory**
Between critical theory and post-marxism
Mark Devenney
- 11 **Citizenship and Identity**
Towards a new republic
John Schwarzmantel
- 12 **Multiculturalism, Identity and Rights**
Edited by Bruce Haddock and Peter Sutch
- 13 **Political Theory of Global Justice**
A cosmopolitan case for the World State
Luis Cabrera
- 14 **Democracy, Nationalism and Multiculturalism**
Edited by Ramón Maiz and Ferrán Requejo
- 15 **Political Reconciliation**
Andrew Schaap
- 16 **National Cultural Autonomy and Its Contemporary Critics**
Edited by Ephraim Nimni
- 17 **Power and Politics in Poststructuralist Thought**
New theories of the political
Saul Newman
- 18 **Capabilities Equality**
Basic issues and problems
Edited by Alexander Kaufman
- 19 **Morality and Nationalism**
Catherine Frost
- 20 **Principles and Political Order**
The challenge of diversity
Edited by Bruce Haddock, Peri Roberts and Peter Sutch
- 21 **European Integration and the Nationalities Question**
Edited by John McGarry and Michael Keating
- 22 **Deliberation, Social Choice and Absolutist Democracy**
David van Mill

For Justine

Acknowledgements

I would like to thank the *Journal of Politics* for allowing me to reprint the article 'The Possibility of Rational Outcomes from Democratic Discourse and Procedures' and the accompanying 'Reply' that originally appeared in Vol. 58, No. 3. I would also like to thank the *Australian Journal of Political Science* for permission to publish sections from 'Civil Liberty in Hobbes's Commonwealth' that first appeared in Vol. 37, No. 1 and for permission to publish 'An Empirical Test of Social Choice Theories of Disequilibrium' that first appeared in Vol. 37, No. 2.

Contents

<i>Acknowledgements</i>	ix
1 Introduction	1
<i>Overview of the chapters</i>	2
2 A comparison of social choice and deliberative theories of democracy	8
<i>Introduction</i>	8
<i>Discourse and democracy</i>	9
<i>Social choice theory</i>	18
<i>Criticisms of deliberative democracy</i>	24
<i>Criticisms of social choice theory</i>	33
<i>Conclusion</i>	35
3 Circumventing Arrow's theorem	37
<i>Introduction</i>	37
<i>What hope for democracy?</i>	38
<i>Can deliberative democracy and social choice theory be made compatible?</i>	46
<i>Abandoning democratic purity</i>	49
<i>Limiting participation</i>	61
<i>Conclusion</i>	74

4	An empirical test of social choice and deliberative theories of democracy	76
	<i>Introduction</i>	76
	<i>A broad description of the institution</i>	81
	<i>Case studies: Administration and governance of the west, and the location of the capital</i>	86
	<i>Conclusion</i>	97
5	Hobbesian sovereignty and the spectre of tyranny	99
	<i>Introduction</i>	99
	<i>Hobbesian sovereignty</i>	100
	<i>Hobbes's intentions</i>	105
	<i>Success?</i>	127
	<i>Conclusion: Hobbesian absolutism revisited</i>	136
6	Democracy versus constitutionalism	140
	<i>Introduction</i>	140
	<i>The fear of the majority</i>	141
	<i>Free speech</i>	151
	<i>Back to constitutions</i>	162
	<i>The British Constitution</i>	168
	<i>Conclusion: Limits on parliamentary supremacy</i>	171
	<i>Bibliography</i>	174
	<i>Index</i>	183

1 Introduction

There are two main goals of this book. The first is to address the dispute between social choice theorists and deliberative democrats, and the second is to defend a more radical idea of absolutist democracy (gleaned from the writings of Hobbes) against the claims made in favour of limited constitutional government.

Deliberative democrats claim that democratic procedures (of a certain discursive kind) can be defended because they produce outcomes that are consensual and legitimate. Social choice theorists tell us that it is difficult to justify democracy from a purely procedural point of view because the results are likely to be arbitrary or coercive. The first three chapters of the book examine the merits of these claims. I argue that social choice theorists present a more accurate picture of democracy given certain assumptions about the workings of ‘institution-free’ (IF) settings, but that deliberation is useful in more structured democratic environments. I argue that procedural defences of democracy need to focus on how to attain stability at the minimum cost to freedom and equality. I also recommend that support for democracy needs to focus on non-procedural arguments, and in the final chapter I claim that democracy can be defended because it provides better protection against tyranny than other types of political systems. Social choice theory poses difficulties for liberal democracy, even though most of its supporters are indeed liberals. It does so in two respects. First, as already noted, it shows that procedural defences of democracy are weak. Second, it suggests that we are faced with a choice between anarchy and absolutism, and most liberal democrats want to avoid both extremes. In Chapter 5 I claim that absolutism of a particular type found in the writings of Hobbes is nothing to be feared and should be embraced by supporters of democracy.

2 Introduction

Overview of the chapters

Chapter 2: A comparison of social choice and deliberative theories of democracy

This chapter focuses on the possibility of reaching rational outcomes from democratic procedures. I examine two dominant and competing conceptions of participation in contemporary democratic theory. These are (a) theories of democratic discourse, which find their strongest expression in the work of Habermas, Cohen, Dryzek and others, and (b) disequilibrium theories of social choice supported by Arrow, Riker, Black and McKelvey, to name just a few. Theories of democratic discourse tell us that through the democratic process we can arrive at consensus, rational outcomes and even principles of justice. They also importantly suggest that preferences can be changed through the process of dialogue. Social choice theorists claim that fair and equal participation is more likely to lead to instability and irrational outcomes. Hence, the arguments seem to be mutually exclusive, and with some exceptions, theorists who work in one field have tended to ignore the conclusions reached in the other.

Despite the fact that these arguments seem to head off in different directions, I demonstrate that both theories present almost identical assumptions concerning the requirements for a fair democratic procedure; both demand equal access to debate, the absence of a powerful agenda setter, unrestrained access to raise and object to amendments, and so on. This chapter details the common assumptions that underlie the competing arguments and provides an overview of the predicted outcomes of democratic participation. At heart, the difference between the theories is that supporters of discourse argue that the more democratic the system the better, while social choice theorists suggest that more democracy can often lead to unstable and arbitrary results. I examine some of the criticisms that have been levelled at each theory and conclude that at the level of abstract theory Arrow gets the better of the argument, but that this might not translate into a more workable theory for real world democratic institutions.

Chapter 3: Circumventing Arrow's theorem

The conclusion I draw at the end of Chapter 2 fits with a line of argument that has led to a pessimistic outlook for democracy, and political scientists such as William Riker and Russell Hardin have concluded that democracy rests on a bed of sand. This conclusion is particularly

damaging to democracy if we agree that the ‘reasonable’ conditions imposed on procedures by Arrow and Habermas are acceptable. In this chapter I argue that we should abandon some of these conditions. For example, the universal domain condition which suggests that all preference orderings are allowed into the democratic arena is an unreasonable condition to place on a social welfare function. Some preference orderings, for example those of the Ku Klux Klan and similar groups, might be disallowed prior to any deliberation because they undermine the democratic requirement that all citizens are to be treated with equal respect. I conclude that attempts to produce a ‘power-free’ arena for decision-making that treats all preferences with equal respect cannot succeed and that a workable system of democracy has to strike a balance between freedom, equality and coercion. If the findings of this chapter are accurate, serious attention has to be paid to the design of democratic institutions; otherwise it is likely that too much democracy will lead to volatility and too little will snuff out the freedom for which the democratic process is praised.

I do not, therefore, share the pessimism of Riker. Although I have utilized the arguments of social choice theory to highlight some of the weaknesses of deliberative models of democracy, this is not meant to suggest that democracy cannot be defended and in the rest of the book I provide a case in its favour. I do suggest, however, that theories of deliberation and social choice are ultimately incompatible. I recommend that we need to reign in some of our expectations about what democracy can deliver from a procedural point of view and, in particular, I argue that it cannot provide the sort of authenticity that is claimed for it by many supporters of deliberative democracy. The limitations that need to be placed on democratic participation in order to avoid instability do mean that outcomes of democratic procedures lack full legitimacy. I conclude by arguing that the best grounds for defending democracy are non-procedural.

Chapter 4: An empirical test of social choice and deliberative theories of democracy

This chapter presents an empirical test of ‘institution-free’ theories of democratic procedures, exemplified by Habermas, Kenneth Arrow and William Riker. Social choice theorists claim that instability is the likely result of a pure majority rule institution, whilst deliberative democrats point to the normative benefits that accrue from free and equal participation. The conclusions reached by discursive and disequilibrium theorists seem to be at odds with one another and

4 *Introduction*

it would be useful to test the claims empirically. Despite a surge of empirical research on the effects of discourse, it has been difficult to find a political institution that fits with the procedural requirements of deliberative democrats and social choice scholars. The problem is to find examples of collective decision-making procedures that come close to resembling the conditions of freedom and equality stipulated by both sets of theorists. When we look at contemporary institutions we see that most empirical work is aimed at understanding how complex institutional structures shape the collective decision-making process.

The arguments of deliberative democrats and social choice theorists are often treated as abstract hypothesis; for example, the requirement for an open agenda process is usually regarded as a highly specialized and arbitrary concept with little relevance to actual political behaviour. Many people working in democratic theory suggest that institutions organized according to principles of pure majority rule cannot exist. We need only accept this argument, however, if we also accept that institutions always resemble something like modern legislative bodies and if we assume that procedural rules always constrain actors.

The political institution that comes closest to meeting the requirements of pure majority rule no longer exists. When it was in operation, it was organized according to a few basic democratic principles that were designed to allow the free and equal participation of all members of the institution. Its structure was simple enough to allow us to examine it as a whole, and because it operated in the world of ‘real politics’, we do not have to concern ourselves with many of the counter-intuitive assumptions used by social choice theorists, such as gate-keeping powers, ex-post vetoes, perfect information, dimension by dimension decision-making and calculations of the relative ‘sincerity’ of voting behaviour. The institution to which I refer is a real legislative body rather than a stylized theoretical creation. Hence, we can engage in the crucial enterprise of testing theories against the backdrop of firm empirical evidence and it allows us to move a step beyond the usual approach of theorizing from a ‘stylized’ institutional setting.

The legislative body to which I refer is the American Continental Congress 1774–1789. In this chapter I will show that the Congress was an open, egalitarian, and democratic legislature and fully reflected the preferences of its members. It is an excellent example of what happens when institutional norms and procedures are weak, and when power is widely and evenly dispersed. I provide a detailed description

of how the Congress dealt with two of the most pressing issues of the day (the Northwest Ordinance and the location of the capital) and conclude that free and equal democratic procedures can lead to unstable outcomes.

Chapter 5: Hobbesian sovereignty and the spectre of tyranny

The more general conclusion I draw from the previous three chapters is that Arrow is correct to claim that we can have free institutions and the potential for instability and disorder, or the buck has to stop somewhere, in which case we get stability but at the ‘cost’ of absolutism. An important conclusion of social choice theory is that we are left with a choice between absolutism and chaos. This conclusion has often been bypassed by Arrow’s supporters because it is usually assumed that social choice theory is within the rubric of liberalism, which goes to great lengths to circumvent absolutism. Unfortunately, if we do away with a final decision-maker, we end up with instability once again. We seem to be between a rock and a hard place.

Hobbes came to the same conclusion about chaos and absolutism 300 years earlier and it is not as unusual as it first seems to turn to him for inspiration on matters of democracy. Arrow and Hobbes are right about the need for a final arbiter to guarantee outcomes, and the latter bit the bullet and followed this argument to its logical conclusion. To give full support to social choice theory might, therefore, require rehabilitating the idea of absolute sovereignty found in the work of Hobbes. In this chapter, I spell out the benefits for contemporary democratic theory if we take Hobbes’s theory of sovereignty seriously.

It has been a common complaint about Hobbes that he provides a theory of sovereignty more in line with a totalitarian brand of politics. A common interpretation of his political philosophy is that he proposes a form of absolutism in order to tame savage and instrumentally self-interested individuals who will, to use Madison’s language, vex and oppress one another given the chance. I argue that this interpretation does not fit well with Hobbes’s motives, which were to provide logical and clear definitions of political concepts, and to produce a political system that protected the liberty of the individual. His definition of sovereignty stems from his civil science and not from an intention to terrorize people. Commentators who suggest that Hobbes displayed an unrepentant willingness to incarcerate the natural individual face a severe textual problem because Hobbes repeatedly states that his goal is to find the logically necessary truths

6 Introduction

about politics. The point he wishes to make is that absolutism occurs wherever political rule is properly exercised. It is a *necessary* part of politics that there has to be an end point to political deliberations if we want to guarantee stable outcomes.

Hobbes's definition of sovereignty does not rule out a democratic form of politics. He states that: 'the sovereign is either in one man or in an assembly of more than one, and into that assembly either every man hath right to enter or not every one (but certain men distinguished from the rest), it is manifest there can be but three kinds of commonwealth' (1968, 239). The three kinds are monarchy, aristocracy and democracy. Hobbes, therefore, does not reject democracy as a legitimate form of sovereign power. He thinks it is dangerous and inefficient, but it is not logically ruled out by his system of thought: 'the difference between these three kinds of commonwealth consisteth not in the difference of power, but in the difference of convenience or aptitude to produce the peace and security of the people' (1968, 241). In fact, Hobbes claims that he has proven all his claims in *Leviathan* except his arguments in favour of monarchy, which he says are not truths but only his opinion.

Chapter 6: Democracy versus constitutionalism

In the concluding chapter of the book, I argue that a Hobbesian brand of absolutism is more compatible with democratic politics than liberal constitutionalism. This is not a popular idea and liberals have traditionally been very wary of the power of the majority and have tried to limit it in various ways through constitutions, bills of rights, separation of powers, checks and balances and federalism. I argue in favour of democracy against liberalism and suggest that constitutionalism perverts democratic practices and dilutes the essence of democracy, which in its most basic form is rule by the people. Constitutionalism replaces popular sovereignty with a form of guardianship that takes decision-making out of the hands of the majority and places it in the hands of a supposedly more tempered and wise elite minority.

The major justification for hijacking political power in this way has a long history and can be traced all the way back to Plato. It is the claim that unchecked political power in the hands of the masses will lead to the tyranny of the majority. I argue that this fear is ungrounded and that elites have traditionally been the ones responsible for tyranny. I claim that citizens are better protected by a political culture that is supportive of democratic freedom and equality rather than by legal documents and conclude that the logic and practice of democracy

protects rather than endangers the freedom of the individual. I utilize the British political system to demonstrate how a Hobbesian form of parliamentary sovereignty is not tyrannical and to show that there can be checks on the executive that are consistent with the idea of absolutism. I also argue that constitutions are incapable of providing useful guidelines for complex matters of public policy. I examine the issue of free speech and argue that constitutional statements such as, 'Congress shall make no law abridging freedom of speech', are of little use when deciding the appropriate limits to freedom of expression.

2 A comparison of social choice and deliberative theories of democracy

Introduction

This chapter focuses on the debate about how much rationality we can expect from the outcomes of democratic procedures. I will examine two contemporary arguments within democratic theory that posit competing and opposing conceptions of participation. These are (a) theories of democratic discourse and (b) disequilibrium theories of social choice. Theories of discourse, presented to us by Habermas (1984), Cohen (1989), Dryzek (1990, 2000), Benhabib (1994) and others, tell us that through the democratic process we can arrive at consensus, rational outcomes and even principles of justice. In order for the results of such a procedure to be fair we need an unrestrained discourse setting in which each participant has equal access to debate, and equal opportunity to raise issues, voice objections, and enter new alternatives into the discourse. These procedural requirements make sure that the rules of the setting do not favour any particular participant. Discourse is directed at agreement concerning reasonable speech acts that, because they are agreed upon and are rational, gain legitimacy.

As an alternative view of democratic practice, we have social choice arguments of an 'institution-free' type, described in the writings of Black (1958), Arrow (1963), McKelvey (1976) and Riker (1982). Such theorists also posit certain procedural settings for democratic fairness and argue that in a fair majority-rule setting where there are three or more participants and three or more alternatives, the forthcoming results can potentially end up anywhere in the policy space. When this is combined with McKelvey's insight that even a slight change in preference orientation can cause a complete breakdown in equilibrium, the conclusion of social choice theory is that the outcomes of majority rule are inherently irrational and unstable.