On Sunstein's *Infotopia*

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Abstract: Sunstein argues that democratic theory has recently rested its normative claims on a vast but empirically uninformed optimism about the ability of collective deliberation to lead to morally and rationally better decisions. Once that question is considered empirically, he argues, deliberation turns out to be mixed at best, and a disaster at worst. I want to suggest that Sunstein exaggerates the claims of the deliberative democrats, and interprets the empirical literature against deliberation in a way that appears, even based on his own descriptions of the studies, to be unfairly biased against the value of deliberation.

Keywords: social science; collective deliberation; empiricism; Sunstein; group decision-making.

Deliberative democracy is not popular among social scientists. It sounds, to their ears, too much like the 'classical' conception of democracy with its naïve ideas of civic virtue and promotion of the common good. Especially since Schumpeter made that skeptical case in 1942[1], economists and political scientists tend (at least more than philosophers and political theorists) to prefer a minimal and realistic conception of democracy according to which individuals, quite rationally, mainly ignore politics and, again quite rationally, look out for mainly for themselves. The value of democracy, in this view, is that some stability is provided by giving the people what they ask for (though this doesn't explain the acquiescence of the losers). Of course, there are other, often better, ways of giving people what they ask for, such as economic markets, and so the value of democracy is easily outweighed. The disfavour of deliberative democracy among social scientists—which is not uniform, by any means; I am generalizing—is a part of their ambivalence about democracy itself. It is rare to find anyone defending non-democratic forms of politics, but many feel that if the best politics is democratic then politics itself should be avoided, with the preferred alternative being free markets.

 Defenders of democracy in political theory and political philosophy have, for several decades, tended to shape their theories so as to

respond to the critiques that have been so prominent in the social sciences since Schumpeter, including especially the seminal 'social choice' literature that stems from Arrow's work. This is the theoretical context that gave rise to the contrasting 'deliberative democracy' framework that has become so popular recently. If, to generalise, again, the economists and political scientists conceive of values as subjective and any realistic voters as selfish, the new democrats sketch a normative framework—intended not to be unrealistic—in which voters have significant concern for justice and the common good, and in which their positions and attitudes benefit from a public sphere in which reason can play a role. By 'reason', the deliberative democrats do not mean merely the choice of optimal means to an agent's arbitrary goals, which is the standard meaning of rationality in the social sciences. They assume that there are often reasons for a person to do what is right whether or not that is what would best promote that person's own goals. The social scientists are not against reason or reasoning in public. Information helps people promote their interests effectively, and so in that sense public reasoning fits nicely into their model. What they are really skeptical about is moral reasoning. They constantly try to assimilate behaviour that looks like or purports to be moral reasoning to some non-reasoning activity, such as merely expressing one's feelings or browbeating others, or attracting esteem (hoping, of course, that other people do not realise that 'moral reasoning' is really nonsense when they dole out their esteem).

So there are battle lines of a sort, with the deliberative democrats updating the classical conception of democracy and the minimal democrats claiming to debunk it (again). If there were good reason to think that deliberation worked—that participants might address common questions with more than just selfish motives and that this might tend to produce good political decisions—then the debunkers would have lost. If it is an empirical question then it is important to see what the evidence shows.

Cass Sunstein is a sort of partisan in both camps. On one hand, in earlier work he has identified with the deliberative democracy approach in important ways.[2] On the other hand, he puts great stock in the empirical social sciences and believes that much political theory is woefully ignorant of the empirical literature. In this book, as in much of his recent work, he confronts normative political theory with empirical social science to argue that deliberation is not all it is cracked up to be. He proposes to give the political philosophers an empirical education, which I, for one, welcome. He plainly thinks this

education should make a difference, although, as we shall see, it is less clear quite what difference he thinks it should make.

In this book, as always, Sunstein is fascinating and provocative on many matters, not just the treatment of deliberation and democracy. I concentrate on that part of the discussion, however, in order to criticise it, and by extension to offer a small response to a growing reaction by many writers to deliberative democratic theory. Sunstein and others argue that democratic theory has recently rested its normative claims on a vast but empirically uninformed optimism about the ability of collective deliberation to lead to morally and rationally better decisions. Once that question is considered empirically, they argue, deliberation turns out to be mixed at best, and a disaster at worst. I want to suggest that Sunstein's moderate version of this complaint still exaggerates the claims of the deliberative democrats, and interprets the empirical literature against deliberation in a way that appears, even based on his own descriptions of the studies, to be unfairly biased against the value of deliberation. I should say that for present purposes I largely confine myself to Sunstein's own accounts of the empirical studies, which I have, for the most part, not consulted.

Even though Sunstein interprets the empirical results unfairly against deliberation, he appears not to reject deliberative democracy on this basis. His own preference is mainly to improve institutions and practices of deliberation in order to avoid the pathologies. Still, this moderate stance is already insufficiently democratic, I believe, and more sympathetic to the frankly anti-democratic trend of the social scientists than the empirical evidence can support. The book addresses a variety ways of bringing together the intelligence of multiple individuals. Here I concentrate only on his discussion of group decision making with the aid of collective deliberation, and I also bring to the subject a special interest in political democracy.

1.

The term 'deliberation' is used by a variety of theories to mean a variety of things. There is a common core in the deliberative democracy literature construing deliberation as the public sharing of opinions, information, and arguments addressed to a practical question that the group as a whole is facing. That is, some group needs to decide what to do about something and the decision is preceded by discussion about what should be done. There are different accounts of what kind

of contribution would count as genuinely deliberative, but I leave those differences to the side. So far, this conception of deliberation matches what is investigated by the empirical literature that Sunstein discusses. However, that literature emphasises this sort of deliberation specifically in small face-to-face groups, and that feature is less obviously a match with what is normally meant by democratic deliberation. The group to which deliberative democratic theory is applied is often a large political community or even a nation-state. There is no prospect of face-to-face discussion among all the members, and yet these theories do apparently intend to speak about these groups as deliberating on the political questions facing them. So this must not mean in-person meetings of all members.

The sense in which a large political community might deliberate about a political question must involve a complex combination of what we might call *meetings* and *broadcasts*. A meeting is a communicative setting in which people deliberate in person (possibly electronically, but in real time) with the others who are present. A broadcast is a contribution to a public discussion that is itself public, addressed to any and all members who might happen to see or hear it. Town meetings and political conventions are meetings. A political speech and an essay are broadcasts. (There are intermediate possibilities between meetings and broadcasts, of course, but we can keep things simple.) The fact that meetings are a part of any deliberative democratic story does not mean that they, themselves, fit the model of deliberation, much less that they are the privileged interpretation of it. When we are considering large political communities, meetings leave too much out. What they are missing, most tellingly, is most of the group's members. If the group whose practical questions we are considering is the larger community, then a meeting of a small set of members is not a meeting of, or a case of deliberation by, the relevant group. The meeting and what goes on there is often part of a larger thing that may count as deliberation by the group (it depends on the meeting), but it does not itself count as deliberation by the larger group. It is true that since meetings will certainly be a part of political deliberation there is something to be learned by investigating the virtues and vices of deliberation in those settings. But it is important to keep in mind that they are not the whole story.

Should we assume, as Sunstein does, that any limitations or defects of deliberation in meetings will also be limitations or defects in public deliberation at the larger level too? I think we should hesitate to generalise the findings from small in-person groups (whatever those

findings might be; I leave that open at the moment) in that way. The problem is not simply that the issue at the broader level of the whole group is not much studied in an empirical way. Certainly, we can often sensibly conjecture that certain narrow empirical results seem very likely to apply more widely. But in the case of deliberation I think this question would need to be asked about each of the features of deliberation, be they virtues, vices, or neutral, that are in question. There are several things we might be looking for in estimating the success of deliberation. Does it lead to any change of view? Does it lead to more accurate decisions than non-deliberative methods? Does it show disturbing signs of 'groupthink'? These and other questions are not all obviously answered at the level of the large group by knowing the answers (supposing that we did know) at the level of smaller meetings. So the deliberation of deliberative democracy is not the deliberation of meetings, and this puts the applicability of much of the empirical literature into some question.

This complaint might look evasive. Sunstein's mission here is to subject abstract theorising to empirical scrutiny, and if some studies are studying the wrong kind of deliberation then we should see to it that the right kind is empirically studied. It is hard to disagree with that as far as it goes. There is a danger, however, of fetishising empirical tractability. Where good empirical evidence can be had, it must obviously be reckoned with. But that is not the same thing as assuming that models of deliberation that are difficult to study empirically ought to be rejected. Just because a democratic theory relies on claims that are empirical doesn't mean that those claims can be evaluated empirically. Consider the proposition that the American jury trial system has a strong (if fallible) tendency to convict the guilty and acquit the innocent. This is very hard to test empirically, even though it is an empirical as opposed to an a priori proposition. There is empirical evidence that bears on the question, but it remains difficult. It would be irresponsible to reject the jury system simply on the ground that it is not directly and thoroughly empirically testable, or because, in addition, there is some empirical evidence against the proposition. If there is good empirical evidence it must obviously be reckoned with, but a broader judgement is bound to be called for. The same seems to be true in the case of democratic deliberation.

There is another feature of the deliberative democracy literature that is in danger of being ignored. Sunstein seems to suggest that at the core of the deliberative democracy approach is a wide-eyed optimism about the ability of interpersonal deliberation to ferret out error

and bias and to promote the truth. He focuses, for simplicity, on Habermas and Rawls (Sunstein 2006: 49). They are to represent the target at which he will aim some sobering empirical results. In the case of Habermas, the optimistic phrases that Sunstein quotes are taken from contexts in which Habermas is discussing his famous hypothetical 'ideal speech situation'. It would be much more to the point if Sunstein quoted Habermas suggesting that real practices of political deliberation had an overwhelming tendency to support the decision that is favoured by the weight of reasons. It is telling if, as I believe, there is no such passage to be found. That would remove Habermas, probably the most important intellectual source of deliberative democratic theory, from the list of authors whose views are subject to challenge by the empirical literature on deliberation.

I admit it is puzzling how Habermas can belong (as I agree with Sunstein that he does) at the center of the deliberative democracy movement if he never says much to suggest that actual deliberation has any great virtues. The explanation, I think, has two parts. First, deliberation plays an absolutely central role in Habermas' normative theory. He argues that the legitimacy of a political arrangement *consists* in the fact, when it is so, that the arrangement would have been agreed to unanimously in a certain imaginary ideal deliberation where all interested parties could participate on equal terms and veto what they did not accept. So, at the level of theory, there is no Habermas without deliberation. But notice that this criterion of legitimacy says nothing about whether the political arrangement needs to have been produced by deliberation. In some cases, actual deliberation might give us some evidence about what would have been agreed to in the ideal deliberation. But in other cases we might have reason to think that a much grittier process is a better indicator.[3] So, even though deliberation is perhaps the central concept in the theory, actual deliberation is by no means a preoccupation of Habermas' theory.

The second point (about how Habermas is central to deliberative democracy even though he does not emphasise actual deliberation) is that there are certainly theorists, inspired by Habermas and others, who emphasise actual deliberation in politics. Gutmann and Thompson develop a normative theory of this kind.[4] Fishkin is a strong advocate of actual deliberation in politics.[5] There are certainly others. Even if Habermas' work (and Rawls', about which more shortly) played an important role in the development of these views, his own view (and Rawls') is, I believe, very different. I don't know whether these or other theorists can be accused of being more optimistic

about actual deliberation than the empirical evidence supports. Usually, they are reformers with an eye to improving deliberation—like Sunstein himself.

There is still an interesting issue here. Empirical studies of actual deliberation don't bear very directly on the highly idealised and explicitly hypothetical and unrealistic ideal deliberation in Habermas' ideal speech situation. Still, it could be that what we learn about actual deliberation would still apply even to the imaginary ideal speech situation. For example, suppose that there is a pervasive tendency for people to move toward the position that is represented by the most members, more or less irrespective of that position's merits (this is roughly what Sunstein takes to be the upshot of many studies). If so, it is not clear whether any of the posited features of the ideal deliberative situation sketched by Habermas would overcome this unfortunate tendency. In any case, this is not the question Sunstein is asking. He is clearly writing about how actual institutions of deliberation, or feasible improved versions, function. The Habermasian claims on behalf of ideal speech would then be beside the point.

Sunstein quotes Rawls: 'The benefits of discussion lie in the fact that even representative legislators are limited in knowledge and the ability to reason. No one of them knows everything the others know, or can make all the same inferences that they can draw in concert. Discussion is a way of combining information and enlarging the range of arguments' (TJ 1st edition, 358-59). On this basis Rawls is enlisted as one of the influential optimists about deliberation in democratic theory, one who holds the optimistic view that will be challenged by the empirical results Sunstein will discuss. But again, as in the case of Habermas, the passage is drawn from a discussion of an explicitly hypothetical and ideal context of deliberation. Rawls is, at this point, discussing an imaginary condition in which hypothetical legislators will reason together in an effort to pass legislation that would best contribute to a society that is just by the standard of Rawls' two famous principles of justice. He says that even this ideal deliberation will be imperfect, and that it will still sometimes err and pass laws that do not promote social justice. According to Rawls, this imaginary scenario is part of the theory of justice, since when actual citizens criticise a law as unjust they are to back this up by arguing (explicitly or in effect) that the law would not be accepted by most legislators in the imaginary ideal legislature. There is nothing in Rawls' treatment of this point that suggests any view about whether deliberation in the real world will have a strong tendency to lead to just decisions. Cer-

tainly, Rawls makes use of intuitive points about the epistemic potential of deliberation. He says, 'we normally assume that an ideally conducted discussion among many persons is more likely to arrive at the correct conclusion (by a vote if necessary) than the deliberations of any one of them by himself'(358). Still, this view about 'an ideally conducted discussion' is not obviously any more optimistic than Sunstein's empirically chastened view, as we shall see.

In general, it is not easy to find clear examples of the crude optimism about deliberation that so many political scientists are now finding it important to counteract with empirical scrutiny. And even if there are writers for whom that shoe fits, the above points about Rawls and Habermas suggest that no such exaggerated optimism is an integral part of the theoretical movement that goes by the name of 'deliberative democracy'. This is not to say that it is not worthwhile to learn what we can about the epistemic value of collective deliberation. But the suggestion, increasingly common, that deliberative democracy is characterised by an empirically unsustainable optimism is itself an empirical claim, and it is normally asserted without very good evidence.

2.

I turn to the empirical literature that Sunstein brings to bear on his discussion of deliberation in political contexts. One worry about this empirical literature is that it is often unclear what the comparison is. The comparison that would matter would be collective choice without deliberation compared to collective choice after deliberation. That is the way to ask what difference deliberation makes. It is not relevant to this narrow question whether a deliberative collective choice is or is not as good as we might hope or wish. It is also not relevant whether a deliberative procedure performs as well as the best-performing member, or the average member. Those are different questions.

In order to compare deliberative to non-deliberative procedures it would be necessary to choose some way of aggregating the individual judgements in the end. It might be by majority rule, or it might be by taking the view of a random member, or it might be taking the view of the single best member, etc. But whatever it is, the relevant question would be whether a procedure *like that* does better after deliberation than it does without any deliberation.

Sunstein usefully proposes to begin by asking whether deliberative groups perform better than 'statistical groups', groups whose perfor-

mance is measured either by the majority decision or the average of the individual decisions (where, for example, each individual gives a guess about how many beans are in a jar). But the ensuing discussion moves confusingly between that question and the question whether a deliberative group performs as well as the best member. The reader is left with the impression that deliberation has been shown to perform poorly. But the cited evidence does not seem to bear this out.

In some studies of guesses about a person's weight, the number of beans in a jar, or the length of a line, deliberation is said to have produced no improvement over the average answer. For two reasons, even believers in deliberation should not be too surprised about this. First, this is a kind of task on which statistical groups often perform stunningly well (See Suroweiki on wisdom of crowds for examples about guessing such things, showing that average answers are often better than almost all individuals, and accurate within a percentage point or two).[6] In that case, there is simply not much room for improvement. But, second, on this kind of task it is hard to see what information or reasoning could be shared between people. If my guess is that the person weighs around 170 pounds, and you're inclined to guess 180 pounds, what could either of us say to give the other a reason to change their mind? Maybe there are some things, but not many. So we would want to consider the effects of deliberation in different types of task.

We are told that in a study of brainteasers deliberating groups 'did better than their average member, but not as well as their best member' (Sunstein 2006: 60). Recall that Sunstein's thesis is that 'taken as a whole, these findings present an extremely serious problem for the optimistic view [and for] all who favour deliberation as a method for improving judgments' (Sunstein 2006: 58) As I suggested, it is not clear who has the optimistic view, but the cited study on brainteasers would look like support. If we have a group and a brainteaser shall we employ deliberation and take the group judgement, or should we decide in some other way? Unless we know who the best member is this study suggests that a deliberative group decision is our best method.

So far, deliberation about bean-counting neither helps nor harms, and on brainteasers it helps. Let's hear it for deliberation. This is supposed to be accumulating evidence *against* the value of deliberation, so we need to ask what deliberation is failing to do. It is performing better (so far) than non-deliberation. But it is not performing as well as the best member of the group; or, at least not usually. One study

about estimates of the populations of U.S. cities finds that the deliberative groups outperform even the best member, though we are told that this does not happen in the 'vast majority of cases'.

Sunstein reports that in a class of cases known as 'eureka problems', deliberating groups not only outperform non-deliberating groups, but they also perform better than most members, and often as well as or better than the best member. Eureka problems are problems in which once the correct answer is aired it can be readily seen by the others to be the correct answer. I will come back to question the idea of eureka problems below.

In a study of a 'complex game of economic strategy', deliberating groups usually did as well as the best member, and often even outperformed the best member. Sunstein argues that the task is similar to eureka problems in certain respects, and that helps us to see that the eureka phenomenon might have wide application in matters of political importance. Let's hear it for deliberation!

In yet another study Sunstein reports deliberating groups performed 'exceedingly well' on 'a problem in monetary policy, asking participants to manipulate the interest rate to steer the economy in good directions' (Sunstein 2006: 62). This is more support for the value of deliberation, and here Sunstein doesn't even find any clear connection to the eureka phenomenon. It looks as if 'the best points and arguments spread among the various individual players' (Sunstein 2006: 63). This is impressive, and especially promising in a political context.

Sunstein identifies a phenomenon that will often work against the epistemic value of deliberation, namely that the outcome of deliberation will tend to move toward the position that is initially held by a majority prior to deliberation. This will be bad if the majority is initially wrong. It will be good if the majority is initially right. It is troubling if this effect operates without regard to whether the majority is correct or not. But, as Sunstein points out, it is actually not quite that bad. The group moves toward the majority when they are correct far more often than when the majority is wrong. Overall, does this result favour deliberation or damn it? Sunstein is arguing against deliberation, and he takes this as evidence for that view: 'because the majority was influential even when wrong, the average group decision was right only slightly more often than the average individual decision (66 percent vs. 62 percent)' (Sunstein 2006: 65). Let me try translating this: even though the majority view is influential even when it is wrong, since it is more influential when it is right, deliberation still outperforms non-deliberation by a significant margin overall.

Let's hear it for deliberation? Sunstein remains unimpressed: 'What is most important is that groups did not perform as well as they would have if they had properly aggregated the information that the group members possessed'. We are not told what 'proper' aggregation means here, but I believe he means that aggregation of the individual information is not proper unless the group ends up performing at least as well as the best individual. But in many decision contexts the group does not know who the best member is, or even if some know it is too controversial, or open to reasonable disagreement. In those cases, the crucial question would be whether to decide as a group without deliberation, or with deliberation. There is a lot of evidence that in many contexts deliberation will improve the outcome.

The general thrust of Sunstein's review of empirical studies of deliberation is one of debunking. Deliberation, he hopes to show, is not all it is cracked up to be. He does not generally side against deliberation, however, but criticises it with the aim of improving it. This blurs the polemical stance of the book, I think. Deliberation could not really be done away with, a point I will expand on below. But deliberation could be minimised in various ways if we thought it was seriously deficient. Does Sunstein think that the empirical evidence is damning enough that we should, for the most part, eschew or minimise deliberation and turn to non-deliberative collective decision methods? If not—if he suggests instead that we should not give up on deliberation but seek to improve it— the question would be why? It is hard to see what the answer could be except a belief that there may be feasible improved versions of deliberation that would escape the pathologies and pitfalls that he catalogues, or at least reduce them to an acceptable level. I am inclined to think this is his view. But it is hard to square that view with the way he positions his argument in opposition to the supposedly naïve optimism of theorists of deliberative democracy. Either he thinks that Rawls, Habermas, Gutmann and Thompson, and others mean to suggest that actual deliberative contexts, as they are, in their extant unimproved glory, are reliable engines of truth and justice, or he realises that they do not. In fact, they do not. Deliberative democratic theory does not characteristically celebrate the epistemic value of actual deliberative political institutions, quite the contrary. Rather, it argues that deliberation could be feasibly improved in ways that would give it enough epistemic value to justify making it central to politics. What puzzles me is that this seems to be precisely Sunstein's position. If I am wrong, the only other possibility is that he thinks deliberation is largely hope-

less, a view that leads one, I think, down the anti-democratic road paved by so much Schumpeter-inspired writing by economists and political scientists.

In any case, the deliberation-reforming view strikes me as the right position. Face-to-face deliberation promotes good decisions in many contexts, and in some contexts where it does not there are ways this might be remedied. In other contexts, deliberation might do more harm than good. The merits of a broadly deliberative approach to normative democratic theory should not be thought to support indiscriminate use of collective deliberation everywhere it could be used. Sunstein's discussion helps us keep things in balance in this way even if we should doubt that things are as out of balance as he suggests.

I conclude with several points that might usefully be kept in mind when asking how to empirically test the epistemic value of collective deliberation. First, there is no setting that has not been profoundly influenced by deliberation broadly conceived, because it is simply part of life. Nobody who ventures an opinion on any topic, especially topics that are more or less relevant to democratic political decisions, has formed that opinion free from the effects of interpersonal deliberation. We all hear discussion taking place in the background culture, as well as the various discussions that take place in the more particular settings of our own lives. Deliberative approaches to democracy are not committed to calling for more deliberation, although they will normally imply that existing forms of deliberation could be improved in certain ways. If we ask whether even the messy, complex, profoundly flawed existing system of deliberation has epistemic value compared to a condition without deliberation at all, two responses are obvious. One is that a condition with no deliberation is almost impossible to conceive. The other is that, if we do our best to conceive it the answer is almost certainly that deliberation is better than no deliberation. If we could insulate some individuals entirely from all interpersonal communication that is relevant to the decisions they make in politics, for example, and then see how they performed, it is fairly clear that they would perform abysmally. They would be deeply disabled people, having been denied most of normal human communication. Just to take one example: they won't have heard any arguments for or against legal prohibitions on abortion, if indeed we can assume they would know what abortion is at all.

All of this is compatible with thinking existing public deliberation has, at least in certain contexts and subsystems, certain systematic tendencies toward error. But could we believe this about the system as

a whole as compared with utter absence of deliberation? As I say, either we cannot really make sense of the question (and so of any claims about what the answer is), or we can conceive of it and it is absurd to think the system of deliberation as a whole is epistemically neutral or damaging. (I should be clear: I am not, in making this point, challenging anything Sunstein has said.)

Second, a small point. It can lead to confusion to lump too many things together under the umbrella of Condorcet's Jury Theorem, the influential mathematical fact that slightly competent people can perform stunningly well as a group under majority rule.[7] Just to give one example, when people guess how many beans there are in a jar, and the average of their answers is very accurate, this owes nothing to the Jury Theorem. The math of the Jury Theorem is specifically about the chance that at least a majority (or in extended versions, a plurality) will get the correct answer. The closeness of the average answer to the correct answer is a question that finds no place in that framework at all. There may be some mathematical relation between the two questions, but it is not obvious, and it is important to be clear that they are not the same. For example, in principle it might be that obstacles standing in the way of using one of them for some purpose might not be problems for the other.

Third, it is not clear what should count as a 'eureka problem'. Recall that Sunstein reports that group deliberation is especially effective in that class of decision problems. The rough description of that class of cases is that once the correct answer is aired, all or many members can recognise it as correct and so will change their mind to the correct answer. A clear example of a eureka problem might be one where once people hear the answer they remember that they knew it. Name the seven dwarfs. How many feet in a mile? In what year did the Spanish Armada fall? Once you hear the correct answer, you might remember it, and then you will be very sure it is correct. You do not need to hear any reasoning or evidence. Collective deliberation simply improves the odds of being exposed to the correct answer, a factor than has nothing to do with deliberation as reasoning together. This description doesn't apply to most math problems. It is not the answers that can be recognised to be correct, but the procedures used for solving them. But this looks more like a kind of reasoning that is a powerful tool of rational persuasion. Deliberation does very well on math problems, but not because they are simple eureka problems. It would be wrong to lump them together simply on the grounds that group deliberation performs so well in both cases. The mechanisms

are very different, with math problems showing the power of reasoning together—the precise sort of power deliberative democratic theory hopes has application in moral/political contexts too.

It might help to distinguish between *recognition eureka problems* (such as the question about the seven dwarfs), and *demonstration eureka problems* (such as the question what the square root of 844 is). Now consider some questions relevant to politics. Should OJ Simpson be president? Most of us have never considered this question, so there is no question of remembering the right answer. So it is not a recognition eureka problem. And yet it has a eureka feel to it. Once we find out that, despite his acquittal, he is almost certainly a vicious murderer, most of us immediately move to the right answer about whether he should be president. Of course, the top few candidates in a U.S. presidential bid will not usually be eureka cases of this kind. Why not? Because they would not have survived in the race if they were. Important and reliable epistemic work has been done earlier in the process, either filtering out obviously terrible candidates, or even discouraging many obviously bad candidates from bothering to run at all, knowing their flaws would be immediately obvious (OJ would not be likely to bother running.) None of what I am saying here means that all or most of the epistemic work done by public deliberation as we know it is reliable. The narrow point is that there are lots of demonstration eureka problems in politics. There are also many other problems of other kinds.

Fourth, for interesting cultural reasons (is it a version of 'groupthink?'), it has become highly desirable for an empirical social psychologist to claim to have shown that individuals and groups are not very rational, informed, intelligent, or good. From an outsider's perspective, it seems to me that studies are very often carefully designed to find and emphasise failures of rationality, information, intelligence, or virtue. Several impressive research programs have encouraged this skeptical mode. One is the Kahneman and Tversky literature on framing effects and related mechanisms claiming to show ubiquitous failures of individual rationality.[8] Another is Arrow's famous work claiming to show that there is no plausible way to think of individual preferences as coming together to form a group preference.[9] Another is the vast area of research into collective action problems, where individual instrumental rationality in a collective context does not add up to collective instrumental rationality. Another is the vast literature claiming to show that voters in democracies are woefully uninformed.[10] So it is important to be on guard against this skepticism-favouring

dynamic. It is striking how many of these results are presented as if they harm the case for democracy. It is not often said explicitly what alternative is supposed to perform better, but one common unstated alternative is to take decisions out of political control and put them in the control of economic markets.[11] This inference raises lots of questions I cannot take up here, but it would be well worth scrutinising it.

When the skepticism-favouring dynamic is in play, it will lead researchers to design experiments in order to find and display a failure of rationality, information, intelligence or virtue. There seems to be less interest in designing a study to show a scenario in which reasons carried the day. (I am an outsider to the empirical social sciences, and so it is difficult for me to systematically verify this impression I have. Judge it for yourself.) If this is so, why? I would venture the following explanation. It is because designing such a scenario would be too easy. It is so obvious that reasons often carry the day that it is not interesting to offer support for that claim. But since the possibility of reason carrying the day is so obvious, it will be more interesting to see if you can design scenarios in which is does not. This is one way in which the skepticism-favouring impulse might have come to predominate in the social science literature around deliberation.

Suppose we designed a study like this: we put 20 people in a room and give them one copy of the SAT test, and tell them to work together. In the next room give each person a copy but insist that they work alone. Let the score for this second room be the highest of the individual scores. Still, I predict with great confidence that the room that deliberated will perform better. Everyone knows this, I think, and so no one publishes such a study, or if they do no one has occasion to cite it. Yes, there will be power and status dynamics in the deliberation, and some tendency to follow the majority, etc. Still, the deliberative solution will outperform the non-deliberative one. I am not saying that such cases haven't been studied in the empirical literature. My point is only that there are presently incentives to debunk optimism about rationality in various settings. The number of articles taking that tack far exceeds the number defending rationality, but that is no measure of whether the evidence is really profoundly against the prospects for rationality. That is simply a different question than how many articles take that view.

I have focused on this one part of Sunstein's rich book in order to air some of my reaction to the larger current trend toward thinking that empirical research devastates the pretensions of deliberative approaches to democracy. I welcome Sunstein's continuing efforts to

bring normative democratic theory and empirical social science into engagement. Even with his empirical qualms, I doubt that he is 'against deliberation', whatever that would mean. If that fact about his own view is properly understood, perhaps this book will help to dissolve some of the battle lines that characterise democratic theory today.

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Notes

1. Schumpeter, J. A. 1942. *Capitalism, Socialism, and Democracy*. New York: Harper.
2. For example, he approaches the U.S. constitution approvingly, as designing a deliberative democracy, in *Designing Democracy: What Constitutions Do* (Oxford: Oxford University Press, 2001).
3. I explain this interpretation of Habermas and develop the idea in a certain way in *Democratic Authority: A Philosophical Framework* (New Jersey: Princeton University Press, 2008), especially chapter 10.
4. Gutmann, Amy and Dennis Thompson. 1996. *Democracy and Disagreement*. Cambridge, Mass.: Harvard University Press.
5. See Ackerman and Fishkin, *Deliberation Day (*New Haven, CT: Yale University Press, 2005).
6. See James Suroweiki, *The Wisdom of Crowds* (New York: Random House, 2004).
7. I explain the theorem and critically discuss its relevance for democratic theory in *Democratic Authority*, op. cit.
8. Kahneman, D. and A. Tversky (eds). *Choices, Values, and Frames* (Cambridge, UK: Cambridge University Press 2000).
9. Kenneth Arrow, *Social Choice and Individual Values*. 2nd ed. (New Haven, CT: Yale University Press, 1963).
10. For recent data on voter ignorance, and an argument that smaller government would help, see Ilya Somin, 'When Ignorance Isn't Bliss: How Political Ignorance Threatens Democracy', Cato Institute, *Policy Analysis*, 525, September 22, 2004.
11. See, for example, Bryan Caplan. *The Myth of the Rational Voter* (New Jersey: Princeton University Press, 2007); and Pincione and Teson, *Rational Choice and Democratic Deliberation: A Theory of Discourse Failure* (Cambridge, UK: Cambridge University Press, 2007).