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Review by: George Klosko

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# Democracy and Liberty: Extending the Paradigm

*George Klosko*

We have here four recent works on liberal or democratic theory by highly reputable scholars, three of which appear in the Oxford Political Theory series. At first sight, the books seem to overlap little in goals and subject matter, even though three of the four have the words “democracy” or “democratic” in their titles. The one major respect in which these three works evince common concerns is in regard to deliberative democracy. However, only Henry Richardson embraces a deliberative framework. Robert Goodin wishes to reformulate the enterprise. His proposals should make deliberative democrats wary, as he aims to remove from the process its most distinctive element, interpersonal deliberation. Ian Shapiro, deeply concerned with how actual democracies work, is generally dismissive. Accordingly, if we view these three works as representing the state of affairs in contemporary democratic theory, we could conclude that deliberative democracy is the only common game in town. But this is as much a target of criticism as a paradigm from which theorists attempt to work. Of the four authors, only Chandran Kukathas, who does not write on democratic theory, is not concerned with deliberative democracy.

Kukathas focuses on liberal theory more generally, of which he provides a striking reformulation. Traditionally, liberal theorists choose as their unit of analysis the political community, nation, or state, which is viewed as self-contained and existing in some stable form over time. On this model, central aims of political theory are to identify and defend the moral principles according to which affairs of this political unit should be conducted. Kukathas rejects traditional

Henry S. Richardson: *Democratic Autonomy: Public Reasoning about the Ends of Policy*. (Oxford: Oxford University Press, 2002. Pp. xii, 316. \$45.00. \$19.95, paper.)

Ian Shapiro: *The State of Democratic Theory*. (Princeton: Princeton University Press, 2003. Pp. xi, 183. \$19.95.)

Chandran Kukathas: *The Liberal Archipelago: A Theory of Diversity and Freedom*. (Oxford: Oxford University Press, 2003. Pp. xii, 292. \$47.50.)

Robert E. Goodin: *Reflective Democracy*. (Oxford: Oxford University Press, 2003. Pp. x, 279. \$29.95.)

conceptions, concentrating instead on the community conceived as a shifting constellation of groups, with people moving from one to the other and groups coming into and passing out of existence.

## I

In contemporary politics the value of democracy is an article of faith. Throughout much of the world a government must be democratic in order to be legitimate, leading to absurd claims on behalf of governments that are patently not democratic according to any reasonable standard. Yet in the academic community, democratic forms are widely disparaged. Perhaps the most cogent defense of democracy is Joseph Schumpeter's claim that electoral competition lessens the possibility of tyranny (*Capitalism, Socialism, and Democracy* [1962]). Winston Churchill's famous dictum that democracy is the worst form of government except for all others makes a similar point. But even granting the truth of these claims, many political theorists focus far more on democracy's weaknesses than its strengths. The current interest in deliberative democracy is a theoretical expression of this attitude. But if empirical studies of actual democracies and the limitations of their citizens have not been kind to democratic pretensions, these findings are even more damaging to deliberative democracy with its higher aspirations. If, following Joseph de Maistre, we say that a people gets the democracy it deserves, it is unlikely that any existing people deserves deliberative democracy.

Henry Richardson's main subject is bureaucratic domination and how it can be controlled. Popular images of democracy center on government via laws made by the people's elected representatives. But this image does not take into account the high percentage of contemporary laws made by unelected administrative bodies. Because laws ordinarily restrict freedom by imposing moral requirements, to a large extent the freedom of contemporary citizens is limited by such bodies. Richardson recognizes that, given the size and complexity of modern societies, administrative rule-making is unavoidable. He wishes to counter this by subjecting this process to democratic control, more particularly to an extension of deliberative democracy.

Richardson's argument is built upon four central ideals: liberalism, republicanism, rationalism, and populism. Very briefly, liberalism provides strong commitments to values of freedom and equality. Following Philip Pettit, Richardson explicates republicanism as absence of domination. Since the essence of domination is arbitrary power, power is not objectionable if its exercise is based

on sound reasons. More than this, the reasons must be acceptable by the people over whom power is exercised. The “democratic autonomy” of Richardson’s title is being governed by reasons one can accept. He quotes Pettit: “What is required for nonarbitrary state power... is that the power be exercised in a way that tracks, not the power-holder’s welfare or world-view, but rather the welfare and world-view of the public” (P. Pettit, *Republicanism* [1997], p. 56; quoted by Richardson, p. 38; Richardson’s ellipsis).

Drawing on his previous work on practical reason, Richardson advocates public deliberation—hence populism—that is truth-oriented. This is the essence of his rationalism. By this, he means, basically, that public reason should be based on a set of substantive values shared by the community. Especially important is recognition of one another’s autonomy, an attitude of mutual respect, which also requires that reasons be directed at one’s fellows. Thus rationalism flows into populism, the requirement that rules limiting people’s freedom be made by the people themselves, through procedures that treat all citizens equally in a deliberative process in which they are able to make up their own minds on the basis of reasons advanced.

Richardson recognizes that his form of deliberative democracy places significant demands on people. One of his central themes is contrast between the kind of reasoning associated with formal, public choice theory and the reasoning required by deliberative democracy. As Richardson describes it, public choice reasoning is purely private, based on aggregation of the preferences of separate individuals, with no room for alteration of preferences through public deliberation. With the goals of public policies so determined, the role of bureaucracy is purely instrumental, developing the most efficient means to achieve ends it is given by the legislature. Richardson is rightly skeptical of assuming that individual preferences are completely thought-through and so not subject to change during public deliberation, as well as assumptions concerning availability of knowledge of the preferences of all individuals and commensurability of values, which are necessary for aggregation. Along similar lines, he believes that application of public choice reasoning to policymaking is deeply flawed. He criticizes the purportedly strict separation of ends and means. Given the size and complexity of modern states, the legislature cannot possibly posit goals that are at once sufficiently definite to anchor bureaucratic policymaking and flexible enough to adjust to differing circumstances. In effect, the bureaucracy must determine ends as well as means, and so arbitrary bureaucratic power is built into this conception of policymaking.

Richardson's concrete proposals are moderate. He recognizes the need for representative institutions, not least because ordinary citizens often lack the expertise their representatives possess. In addition, although consensus is desirable, he recognizes that this is not possible on contentious issues, and so that matters must be put to votes. But these mechanisms should be supplemented by greater public participation, in both governmental and nongovernmental forums. Especially important, deliberations must be about more than means. In a diverse country characterized by many different philosophical and religious views, people will disagree about policy objectives. And so deliberation must be characterized by willingness to engage in "deep compromises" over ends. Only if public deliberation is built into the administrative processes through which the actual aims of policies are set can bureaucratic domination be avoided: "citizen participation in agency rule-making, via fair procedures (and in other agency decision-making having the force of law) is [...] definitionally required for bureaucratic power to be nonarbitrary" (p. 247).

To some extent, Richardson's concern with arbitrary bureaucratic power is familiar. He recognizes that similar concerns are manifested in existing legal controls on administrative rule-making. For instance, the Administrative Procedures Act (APA) of 1946 requires that rule-making be "regular, fair, and at least minimally democratic" (p. 219). The APA requires that draft rules be published and public comment received. Similarly, the Negotiated Rulemaking Act of 1990 provided for input into the drafting of rules by clearly defined groups that would be affected by them (p. 220). Such concerns are not peculiar to the United States. The German Constitution of 1948 set important conditions for legislative bodies. Laws under which administrative rules were written were to state clear goals, apply to clear subject matter, and set definite limits on possible implementations (p. 218).

Although Richardson's arguments should be viewed as extending generally recognized concerns, in pursuing these topics in the framework of deliberative democracy, he makes an important contribution. He has identified an important range of issues deliberative democracy should address, and subsequent research in this area will undoubtedly build upon his foundations. To my mind, however, his discussion also replicates important and widely recognized shortcomings of deliberative democracy.

Although at one point Richardson quotes John Rawls's dictum that utopias should be "realistic" (p. 16), one may ask how realistic his conception of participatory, reasoned, self-rule actually is. In

a political system in which many (most?) legislators do not even read important bills on which they vote, how likely is it that ordinary citizens will take the time and trouble to become informed about arcane policy matters and participate in their formulation. One should note that in Rousseau's participatory democracy, laws are few and simple, able to be decided upon by peasants sitting under an oak tree (*Social Contract*, Book IV, Chap. 1). Combine the lamentable ignorance of most Americans about almost all aspects of government and the tens of thousands of pages of administrative rules produced every year, and one can doubt the extent to which bureaucratic policy-making can actually be subjected to deliberative control.

Although Richardson makes a convincing case for what democratic autonomy requires, his suggestions raise a normative objection. On a practical level, exercising the desired deliberative control would require that citizens commit enormous time and energy. Although freedom from bureaucratic domination is a significant value, Richardson does not establish that it is more important than other values its realization would preclude. In the literature, so-called civic republicans argue that a life devoted to political participation is superior to other lives. But such a claim runs up against the ineliminable pluralism of liberal societies. For many people, democratic deliberation is not worthwhile if, to paraphrase Oscar Wilde, it takes up too many evenings. The demands of democratic autonomy is a subject to which Richardson pays scant attention. But his argument requires that people be willing significantly to modify the overall ends of their own lives as well as the ends they seek through deliberation. As things stand, many citizens ignore administrative rule-making unless they are directly affected. When they do participate, rather than deliberative control in any normatively desirable sense, too often the result is "NIMBY" (not in my backyard) or other special interest provisions.

I believe the institutional dimension of bureaucratic control pales in significance to questions concerning its moral and psychological presuppositions. If citizens have the qualities that Richardson requires, almost any institutional forms will function well; in their absence, almost none will. As with other proponents of deliberative democracy, Richardson's proposals require men as they might be as well as laws as they might be. As things stand, with men as they are, it is likely that the most that can be done to check bureaucratic domination is to extend existing measures concerning open rule-making and public notice such as those mentioned above.



## II

*The State of Democratic Theory* is an expansion of Shapiro's essay of the same title that appeared in *Political Science: The State of the Discipline*, published by the American Political Science Association, in 2002 (edited by Ira Katznelson and Helen Milner). Reflecting its origins, the book is not only an authoritative source, but also exceptionally clear, compact, and well written. Shapiro describes his main endeavor as "reassessment of the state of democratic theory in light of the actual operation of democratic politics" (p. 2). Throughout, he displays impressive command of both normative and social science literature. The book consists of five chapters and a brief conclusion. Chapter 1 criticizes aggregative and deliberative conceptions, in favor of Shapiro's more modest conception of democracy as serving as a means to avoid domination, discussed in Chapter 2. Chapter 3 presents a modified version of Schumpeter's account of democracy as centering on competition for power. Chapters 4 and 5 survey empirical studies of conditions that allow democracy to come into existence and to last, and reasons why, counterintuitively, democracies do a relatively poor job of soaking the rich in the interest of the poor.

Examining how democracies actually work is often discouraging. But, according to Shapiro, the operative question is "compared to what?" As in Churchill's remark (which Shapiro quotes, p. 149), democracy looks a lot better if one considers the alternatives. The two alternatives that come in for sharpest criticism are aggregative and deliberative models. Shapiro links both of these to the Rousseauian vision of an identifiable common good, on which public policies should be based. Aggregative theories attempt to identify the common good by combining existing preferences; deliberative theories by altering preferences in deliberative forums. Rejecting both, Shapiro embraces a more modest view of democracy, based on what he calls a "thin theory of the common good" (p. 51). Following Machiavelli, he claims that "the common good is that which those with an interest in avoiding domination share" (p. 31).

Familiar problems in aggregating preferences lead proponents of aggregation to circumscribe the sphere of government operations. Central to this conception of democracy is concentration on the value of liberty and fear of the abuse of power. Government should not do what cannot be known to be done in accordance with the general will. Shapiro believes that proponents of these models develop their theories in a political vacuum. In contemporary societies, there are numerous sources of domination outside of government. For

government not to act is to leave vast portions of the population subordinate to these other forces. For example, James Buchanan and Gordon Tullock do not recognize that the unanimity rule for the adoption of their constitutional provisions would privilege the status quo (pp. 16-19).

In criticizing deliberative models, Shapiro draws on extensive studies of actual deliberations. Proponents of deliberation portray it as both inherently and instrumentally valuable. Some theorists argue that deliberative processes should supplement those in existing democracies; others that they should replace them. Among beneficial consequences of deliberation are increased legitimacy of democratic decisions, claims that deliberative outcomes are more likely to be correct than nondeliberative, and beneficial results of the process of deliberation itself, especially alteration of preferences and increased social solidarity. Shapiro does not take on this vast deliberative democracy literature but focuses mainly on the well known study of Amy Gutmann and Dennis Thompson, *Democracy and Disagreement* (1996). He contends that the evidence does not support even their relatively modest claims. For instance, they cite the beneficial effects of deliberative processes in regard to health care rationing legislation in Oregon in the early 1990s. But Shapiro contends that the evidence shows that "the Oregon deliberative process was a notable failure" (p. 28). Eventual legislation departed from deliberative results by settling disagreements mainly through the allocation of additional funds, while there was also no clear relationship between the rankings of different medical procedures and deliberative outcomes. Especially important, the legislation under consideration would affect only the nonelderly poor, who were disproportionately underrepresented in deliberations (pp. 26-30). Examination of another of their examples, concerning President Clinton's proposed health care reform, indicates Gutmann's and Thompson's lack of attention to the factors that actually killed the legislation, for example, the political influence of insurance companies, misinformation spread through television advertising, and the fact that plausible proposals offensive to the insurance industry, for example, a Canadian style single-payer system, were never considered (pp. 30-33). The flaws in Gutmann and Thompson's work are emblematic of deliberative democracy as a whole: "It is surely curious that a book about the importance of enhancing deliberation in contemporary American politics can ignore the reality" American politics creates (p. 30).

As I have noted, Shapiro argues for a model of democracy based on Schumpeter, according to whom political elites are analogous to economic entrepreneurs, though they compete for votes by promis-



ing and providing public policies. The chief benefits of competition are protecting the electorate and forcing politicians to respond to their wishes. Analysis of the evidence results in a sophisticated, nuanced account of advantages and disadvantages of this system. Especially interesting is Shapiro's account of how competition is constrained in American democracy and various steps that can be taken to counteract this. Familiar villains are the campaign finance system, the fact that corporations give to both parties, and the two-party system, especially when the two parties agree. Shapiro views the search for bipartisan agreement as "anticompetitive collusion in restraint of democracy" (p. 60).

Within this system, Shapiro does not discount deliberation altogether. It has its place, especially when it can protect the weak against domination. A rule of thumb, illustrated by the Oregon case, is the need for those affected by proposed policies to take part in deliberative processes. Properly domesticated judicial review can play a role in making sure democracy is not subverted and in working directly to protect the vulnerable. However, as analysis of *Roe v. Wade* and other abortion cases shows, for political reasons, the courts should not take the place of democratic processes in making public policy (pp. 64-73).

The social science studies Shapiro discusses tell against specific preconditions for democracy. Given the eighty-one or so democracies that have arisen since 1980, he has an abundance of instances to draw on. The evidence shows that democracies have arisen under a wide variety of circumstances. He emphasizes particular factors in each case, including matters of chance. For instance, how would things have turned out in South Africa and Palestine if F. W. de Klerk had been shot in 1992 and Yitzhak Rabin had not in 1995? (p. 82). In assessing how well democracies endure, Shapiro surveys institutional, economic, and cultural considerations. The most successful democracies receive short shrift. Noting that systems in which annual per capita income is above \$6000 "appear to last indefinitely" (p. 87), Shapiro focuses on more marginal cases. A wide variety of factors must be considered, which interact in myriad ways. Once again, surveying the evidence tells against strong general conclusions: "This suggests that the more pertinent question for democratic institutional engineers is not which is the best path, but rather, given the path a country is on, what are the most important things for the principals to achieve so as to increase the chances that democracy, if established, will endure?" (p. 85).

The lengthiest chapter concerns the relationship between democracy and economic distribution. A common belief, especially in

the nineteenth century, is that enfranchising the poor would lead to heavy taxation of the wealthy, in favor of economic equality. Shapiro focuses on cases in which this has not happened, especially the United States, and presents a detailed overview of reasons why it has not. Factors he reviews include possible capital strikes by the rich, cultural and racist concerns used to distract the poor, and a range of psychological considerations.

In a work that is so rich and thought-provoking, it might seem churlish for a reviewer to ask for still more. But especially in regard to the empirical chapters, there are important instances that Shapiro does not take sufficiently into account. Certain democracies, especially in northern Europe, are characterized by much less economic inequality than is the United States. Shapiro dismisses the old saw, why there is no socialism in the United States, as apparently not worth considering (p. 116). But examining more egalitarian societies would shed valuable light on the impediments he explores. These are boom times for democratic theory. With so many intriguing cases newly on the scene, it is not surprising that Shapiro prefers to focus on these as well as the United States. But his reach could profitably be extended to include those successful systems that have made democracy an object of aspiration throughout the globe.

### III

As I have noted, in *The Liberal Archipelago*, Kukathas's conception of liberalism centers upon a proliferation of groups and associations, with individuals free to migrate to ones of which they approve. Rather than the unified society of traditional liberal theory, Kukathas envisions an association of diverse groups.

According to Kukathas, liberalism is made necessary because of disagreement. In support of this tendency, he assembles a wealth of examples from different parts of the world, prominently including his native Malaysia and Australia, especially aborigine culture. Agreement can be achieved only through oppressive use of force. And so while John Rawls claims that justice "is the first virtue of social institutions" (*A Theory of Justice* [1971], p. 3), Kukathas views this as oppressive. Enforcement of particular principles of justice will entail forcing members of society to live according to principles they do not accept. It follows that, in addition to groups that abide by liberal principles, the good society contains others that do not, which are accepted as long as they are willing to live in peace with other groups. Tolerance in this minimal sense is the chief virtue of liberal societies. In a world of shifting cultural groups, it is wrong for

the state to do more than keep the peace. In contrast to mainstream liberal theorists such as Rawls, who focus on self-contained communities, Kukathas takes a more skeptical attitude: "social unity [...] is not nearly as important as has been intimated" (p. 8). His basic unit is the individual, and he recognizes that the free movement of individuals makes groups mutable, a reality with which the state can interfere only through oppression.

Individual conscience provides the moral basis of Kukathas's position. He describes this as freedom not to live according to principles one opposes, and supports the centrality of this particular liberty with an account of human nature inspired by David Hume, according to which it is people's fundamental interest. In a pluralistic society, freedom of conscience entails free association, supported by the right of exit. As long as people are free to join the groups they want and to leave when they please, liberty of conscience will be protected. Kukathas describes the right of exit as "the individual's only fundamental right" (p. 96), while the impossibility of agreement rules out additional rights.

Kukathas's main targets are egalitarian liberals, especially Will Kymlicka, who applies egalitarian ideas to questions of cultural rights. Briefly, Kymlicka supports such rights because of their contribution to individual autonomy. Distinguishing between external and internal protections, Kymlicka defends claims of various groups against the larger society but sharply circumscribes claims of the group against its members. Basically, in regard to the latter, he advocates state intervention to make sure individuals are able to develop capacities to question traditional practices and make informed choices about how to live. Kukathas will have none of this. Freedom of conscience outweighs all other considerations. State enforcement of a particular set of rights presupposes agreement on them, which he views as impossible. State intervention therefore entails forcing people to live according to principles they do not accept. For groups that do not recognize liberal rights, as long as rights of exit are in place, state intervention is unnecessary, as people are free to leave. State action beyond keeping order between groups is also inherently undesirable, because Kukathas believes that the state does not stand above self-interested groups; it is simply another self-interested group, liable to abuse its power, which should therefore be dispersed throughout society. With individuals free to join groups they support, the exercise of power in society's separate groups will be accepted, thereby lessening the possibility of tyranny.

Kukathas has worked out a distinctive, original position, which he defends with philosophical sophistication and wide knowledge

of customs and cultural practices throughout the world. But this degree of originality invites implausibility. His view amounts to a libertarian theory of group rights. He conceptualizes the good society as in essence a free market of principled affiliation, with associations based on voluntary membership. The drawbacks of state interference he envisions are similar to those of standard free market views. It is therefore not surprising that his account is vulnerable to standard objections to libertarian theories, especially that they leave the weak and vulnerable unprotected. The articles on which Kukathas's book is based were excoriated on these grounds by Brian Barry, in the latter's *Culture and Equality* (2000). In *The Liberal Archipelago*, Kukathas attempts to rebut Barry's arguments, but it is not clear that he succeeds.

I will focus on two problems. First, do rights of exit provide adequate protection? Clearly, if they are to do so, they must be defined in robust form. Kukathas rejects this logic. His right of exit is purely formal; questions as to whether or not people would actually be able to exercise it are brushed aside. Kukathas is aware that costs of exit can be high. For instance, in a Hutterite community in which there is no private property, someone who wishes to leave the group must leave with nothing, even after working for the community for many years. Kukathas distinguishes between freedom of exit and cost of exit; the fact that exit would be costly does not mean that people are not free to pursue it (pp. 107-109). His response is similar in the case of a group member who is raised from earliest childhood to accept his or her (more frequently, her) lot. In certain societies, women are not educated and are conditioned to believe they are inferior and without rights. To this, Kukathas responds: "Freedom is a matter not of what preferences [people] have but of whether they may act in accordance with them" (p. 109). As Barry notes, Kukathas's model could be defensible in a society made up of adults of sound mind with ability to move between groups (*Culture and Equality*, p. 148). Kukathas's response goes almost without saying. If the state enforced such conditions, this would require it to impose its conception of adequate exit rights on diverse groups, which would violate some members' freedom of conscience (pp. 110-11). The implication is that the purely formal rights of exit Kukathas upholds may be no more effective than the freedom of contract enjoyed by nineteenth- and early-twentieth-century factory workers. Revealingly, at one point Kukathas says: "There must be, at least in principle, the possibility of individual exit from illiberal communities or associations" (p. 25; my emphasis). For Kukathas, the principle is enough; the reality is of less concern.

A second problem concerns the vulnerability of group members who are not in position to exercise exit rights. For people in this position, especially children, circumstances could well be dire. Without state protection, parents can do with them as they like. As Barry says, in such cases liberty of conscience entails unchecked power: "the power of parents to beat, mutilate and (by withholding life-saving medical treatment) to kill their children" (Barry, p. 143). Barry adds that children's vulnerability extends beyond what would ordinarily be viewed as cultural prerogatives. The consequence of no agreed upon definition of cultural rights is to give parents free reign (Barry, p. 143). Kukathas does not pursue the implications, but there is nothing in his theory to prevent parents from torturing their children for any reasons whatever, as long as they proclaim cultural motivation. The same is true of abuse by other group members with parental assent, and of abuse of other people unable to exit. A familiar example is female genital mutilation. But the situation is far worse, as there are no bars to extreme practices such as human sacrifice for religious or other reasons.

Kukathas responds on three grounds. First and most obvious is fear of state tyranny. Second, he argues that groups are not entirely free to engage in such barbarities, as they are subject to the power of disapproval as exercised by other groups with which they associate (pp. 144-45). Third is appeal to disagreement. State protection of the vulnerable requires some agreement on what constitutes adequate protection. According to Barry, the only plausible position is that the state should protect the interests of children, as far as possible (Barry, p. 146). Kukathas believes that this opens the way to massive interference with free conscience (Kukathas, pp. 145-47).

I believe that Kukathas's responses are inadequate, and that his problems raise an important methodological point in liberal theory. In regard to Kukathas's first response, freedom of conscience is clearly important. To the extent that state interference abrogates it, this is a cause for regret, as Rawls argues in *Political Liberalism* (1993). But freedom of conscience is not the only value that matters, especially if, as just indicated, there are circumstances in which it cannot be exercised. Exit rights are especially unlikely to be effective for members of isolationist cults that are prone to engage in horrendous abuses. This is in response to Kukathas's second point, as such groups are unlikely to retreat from their practices because of public opinion.

The questions his third point raises are more interesting and important. For the sake of argument, we can grant his contentions that questions of what constitutes individuals' proper interests are

highly controversial and that for the state to attempt to promote the full panoply of whatever account is decided upon would contravene the liberty of conscience of members of illiberal groups. However, this does not tell against enforcing something less than a full set of liberal rights. On this point, Barry, who defends a robust liberal conception, is too convenient a target. We can accept Barry's criticisms without endorsing his solution. Freedom of conscience may be weighed against protecting children and other vulnerable members from obvious, undeniable abuse. Examples are severe physical harm, including failure to provide proper nourishment and denial of medical treatment in life-threatening cases, even when this goes against group members' religious convictions. Also included are assurances that children are equipped with minimal competencies necessary to function as citizens in democratic societies, and to be economically independent. It is true that difficult questions can be raised about the latter competencies for members of isolationist religious sects. But if we set these aside to be dealt with separately, it is difficult to argue against such a list of minimal protections. Clearly, some group's freedom of conscience pales against the right of unfortunate victims not to be beaten to death or, more extravagantly, not to be sacrificed to Baal. These conclusions seem obvious. How then does Kukathas avoid them?

The answer is that, aside from invoking Barry and the spectre of a slippery slope, he does not. Such abuses are written off as unfortunate costs of a free society. The result is a purportedly liberal theory that would be abhorrent to the vast majority of inhabitants of existing liberal societies. Kukathas is aware how sharply his view differs from liberal theory as generally understood (pp. 38-40). In his conclusion, he provides an entire list of ways his view conflicts with contemporary liberalism (p. 255), and argues that his theory, which "subordinates the question of justice," is "a better, truer, version of liberalism" (p. 262). Whether or not Kukathas's construction is in fact "liberal" is a semantic question I will avoid. But it is worth pointing out one reason he departs so sharply from the liberal mainstream. Kukathas is aware of other, more widely accepted views of liberal rights, although he of course rejects them. As noted, his reason is lack of agreement on any single account. It is instructive to look briefly at his argument against the view advanced by Loren Lomasky. Briefly, according to Lomasky, an adequate account of rights can be defended as what individuals require in order to pursue their projects. In response, Kukathas argues that, "even to take personal project pursuit as fundamental to our nature excludes a part of human practice, since some cultures are not able to accept the idea that



*individual* projects can provide any sort of standard of value" (p. 102; his emphasis). To support this contention, Kukathas appeal to beliefs in aboriginal societies, some of which are highly un-individualistic. His argument here is similar to what he says against the contention that some measure of autonomy is a basic interest. In response to this claim, he appeals to cases such as that of a Muslim fisherman in Kelantan, for whom autonomy would disrupt his life. In certain cases, "the unexamined life may well be worth living" (pp. 58-59). I should note that the examples with which Kukathas criticizes autonomy concern people for whom the course of life has already been set, so that, limited though such lives are, they would be upset by the introduction of autonomy. Kukathas's arguments would go through far less smoothly if they concerned the value of autonomy for children, which would increase their ability to choose lives that would be worthwhile.

The methodological point concerns the range of Kukathas's examples. One consequence of his discussing so wide a variety of societies is to strengthen his argument for the necessity of disagreement and so the illegitimacy of state action. But it is striking how infrequently he discusses the cultural practices of liberal societies. One reason his view would be inimical to the inhabitants of such societies is that he does not argue *from* their views. In terms of approach, Kukathas is a conventional moral/political philosopher, arguing according to a coherence or reflective equilibrium model. As generally practiced, such a method is intended to lend structure and coherence to subjects' intuitions and considered judgments. On the questions Kukathas examines, liberal citizens disagree, but within well-defined bounds, which would exclude much of what he puts forth. Accordingly, one thing we learn from his book is that, in an argument based on appeal to intuition supported by examples, there should be some limit on the intuitions and examples that are considered. The world is highly diverse. If we accord equal weight to examples from all cultures, disagreement must result. It is in large part because Kukathas neglects the sensibilities of contemporary liberal citizens that his theory departs so sharply from them.

#### IV

Goodin's *Reflective Democracy* originated as a set of papers—nine are listed in the Acknowledgments—and shows this beginning. The Introduction is followed by general discussions of communitarianism, in Chapter 2, and paternalism, in Chapter 3. Goodin argues that democratic systems respond to preferences. These must be of

individuals themselves, as opposed to the communitarian view, and of autonomous individuals, as opposed to what is asserted in various paternalistic views. The heart of the book is found in accounts of "belief democracy," in Chapters 4-7, and "value democracy," in Chapters 8-11, which are followed by a brief Conclusion.

Belief democracy focuses on implications of Condorcet's jury theorem, supplemented with a Bayesian analysis, which suggests similar conclusions. According to Condorcet's well-known argument, if each member of a decision-making body is only slightly more likely to be correct than incorrect, then the judgment of the majority is highly likely to be correct. This line of analysis can be extended from jury deliberations to democracy, which, according to Goodin, can "track the truth," with reliability increasing along with increasing reliability of the average voter and larger electorate. Scholars have questioned the applicability of Condorcet's rule to democracy, as democratic decisions generally involve more than choosing between two clear options. Goodin counters that Condorcet's logic holds for multiple options. Democratic pluralities also track the truth, as long as each individual is more likely to vote for the correct outcome than for any other. Goodin argues that, with plurality voting, "the epistemically correct opinion has only to beat *each* alternative," as opposed to majority voting, in which it would have to defeat all, taken together" (p. 100; his emphasis). Moreover, this reasoning holds with little regard to the specific decision rules employed. Goodin demonstrates broadly similar outcomes on six different rules, any of which is therefore "pretty much as good as any other" (p. 107).

Goodin follows his discussion of Condorcet with analysis of applying Bayesian probability to similar questions. Bayesian results are "close cousins" to Condorcet calculations (p. 111). As with Condorcet, the results of majority voting provide strong evidence as to which side on a given question is correct. But Bayes adds to Condorcet a "feedback loop," which "obliges people to revise their own subjective beliefs, in light of the probably objective truths thus revealed" (p. 111).

In Chapter 7, Goodin pursues a troubling implication. Rationality demands that we conform our own opinions to what is known to be true. But Bayesian conclusions are *too* strong, confronting us with the spectre of "epistemic authoritarianism" (p. 123 n.5; the phrase is David Estlund's). Accordingly, how can one justify opposing the decisions of the majority, if the decision of the majority is so likely to be correct?

Throughout his discussion of Condorcet and Bayes, Goodin

argues his case with daunting technical sophistication — well beyond the ability of this reviewer to assess it. His eventual conclusion, however, casts doubt on the practical value of the entire subject. As Goodin acknowledges, in spite of their elegance, both forms of epistemic aggregation are able to process only beliefs. Preferences, the value component of political decisions, are necessarily left out. And so we require a different form of reasoning for them.

Goodin's proposed method is "deliberative democracy within." While conventional models of deliberative democracy are predicated on actual conversations between diverse people, Goodin contends that the essence of the process can be replicated in people's imaginations. Through exposure to the viewpoints of different people, the democratic citizen can incorporate them into his own thinking on issues being considered and so achieve the effects of actual deliberations.

As Goodin argues, conventional models of deliberative democracy encounter insuperable practical difficulties, including the size of groups, insuring representativeness, and achieving consensus. He canvasses possible ways around these problems, through what he calls "ersatz" deliberative mechanisms. But none of these can negotiate the twin requirements of being practically workable and still deliberative in a meaningful sense. In addition, as many theorists recognize, any process of deliberation must come to an end, and so issues must eventually be settled by voting. The value of the process lies in the exchange of views, and so in broadening participants' perspectives. Deliberative democracy within therefore preserves important features of deliberative democracy, without its practical problems. Moreover, as Goodin argues, democratic deliberation within allows a degree of inclusion beyond that of conventional processes. Through enhancement of their imaginations, citizens can include the voices of excluded interests, in regard to whom practical concerns would make inclusion difficult. Similarly, democratic deliberation within can take into account interests that are mute, a category under which Goodin includes those of future generations and environmental concerns. Democratic deliberation within also has public policy implications. Because it requires citizens to broaden their horizons, means must be provided to assist them. These include increased access to education, to cultural products such as art and literature, and especially, to wider ranges of views.

We should, however, realize that, insofar as it captures the essence of deliberative democracy, deliberative democracy within serves as a kind of refutation, a *reductio ad absurdum*, of the enterprise. Goodin recognizes that, like any realistic conception of deliberative

democracy, democratic deliberation within cannot yield decisions. That must be done by voting, and so democratic deliberation within is a supplement to more conventional democratic processes.

The heart of the mechanism is moral: citizens are to look beyond their own interests. As in Rousseau's political theory, they are not to vote according to their particular interests but according to their views of what is good for the whole. Accordingly, Goodin remarks that what he advocates amounts to "unenforceable appeals to 'good will'" (p. 230).

In raising people above self-interested concerns, democratic deliberation within serves as a functional equivalent of deliberative democracy as generally understood. If deliberative democracy does no more than encourage citizens to broaden their perspectives, there is little reason why it should *not* be replaced by internal deliberative processes. Perhaps one could argue that actual deliberation is able to discipline opinions, to force people to consider the public interest. However, the counter is that, in situations of strong disagreement, actual deliberation is as likely to promote conflict as agreement. Hence, Goodin makes a strong case for the dispensability of actual deliberation. But the implication — the *reductio ad absurdum* — is that, behind the appealing label deliberative democracy within, lies little more than an exhortation that citizens think before they vote.

Goodin's proposals concerning deliberative democracy within differ from his account of epistemic democracy in having at least some practical implications. This is not true of claims that the majority is generally right, whether on Bayesian or Condorcet grounds. As I have noted, in his attempt to overcome Bayesian logic, Goodin explores various reasons why we should not be bound by majority rule. One set of reasons he discusses — although too briefly — turns on differences between significant political issues and the factual questions to which the epistemic theories apply (see pp. 142-45). It is telling that Goodin does not examine any genuine political issues in detail. The example he discusses at greatest length is trying to decide what kind of bird a group of people see in the distance (pp. 130-31). Goodin likens this to trying to decide who is the best candidate (p. 131). But it is important to recognize the extent to which questions like the latter are permeated by normative concerns. As W.B. Gallie classically argued, moral concepts are "essentially contested." ("Essentially Contested Concepts," *Proceedings of the Aristotelian Society* 56 [1955-56]). They are internally complex, while people who disagree about them generally emphasize different aspects. Although the question which of two presidential candidates is best involves factual issues, people disagree because they generally call attention

to different dimensions of what it is to be a good leader. Candidate A is smarter, but B is more decisive. A tells the truth, but B leads a more sedate private life. A has experience in foreign affairs, but B has the common touch. This list could be extended. While each item on the list is at least in part a factual claim about which the majority could well be correct, this does not translate into majority reliability on the larger issue of whether A or B is better. On such questions, the judgment of the majority has little or no authority, because it is impossible to identify the particular aspects of the larger question typical citizens address. We cannot determine whether the majority is more or less likely to be correct, because we cannot identify the precise issues on which voters are asked to be correct.

Thus the central arguments of Goodin's book pull in different directions. His dazzling extensions of Condorcet and Bayesian applications, while of considerable theoretical interest, are without application to actual democratic politics. His account of democratic deliberation within, which largely amounts to the commonplace that one should be a good citizen, has practical as well as theoretical implications—although, as empirical studies repeatedly show, it is likely to fall mainly on deaf ears.