

## **Deliberative Democracy and Multilateral Organizations**

The topic of deliberative democracy strikes close to my core interests. My undergraduate thesis grappled with the demands of Kantian deontology in a secularized normative framework, and since then I have been seeking ways to reconstruct the enlightenment project without natural law. The virtues of deliberation have been acknowledged by the likes of “Aristotle, Kant, Rousseau, Mill, Dewey, Arendt, Rawls, and Habermas”; (Verweij and Josling, 11) additionally, the Socratic Method is itself deliberative, albeit one-sidedly. Not a shabby group.

I briefly outline and critique the arguments presented by Loren King’s “Deliberation, Legitimacy, and Multilateral Democracy” (I) and by Marco Verweij and Timothy Josling’s “Deliberatively Democratizing Multilateral Organization” (II). Then, in the light of Verweij/Josling’s work, I inspect the strengths and weaknesses of Andrew Guzman’s argument in “Global Governance and the WTO” (III).

I- Loren King’s argument derives from seminal works by Rawls and Habermas. Indeed, King’s Habermasian deliberative assemblies attempt to create circumstances amenable to the veil of ignorance, upon which Rawls’ *Theory of Justice* is predicated.

King points to epistemic, transformative, and justificatory uses of deliberation. He argues that the complexity of certain problems limits deliberation’s ability to add depth and breadth to issues, while the legitimating or “reason-giving” argument is helpful whenever out-group externalities are imposed in-group decisions. The most interesting idea concerns deliberative associations, which could provide a corrective to the shortcomings of political equality.<sup>1</sup> For political equality to hold, members must meet two criteria: equal minimal reasoning capacity and the equal consideration of interests.

However, although King acknowledges the two conditions required for political equality, his only mention of how to attain a reasoning public with equal consideration of interests concerns the “imaginary present” of art and literature (King, 28).<sup>2</sup> Without such

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<sup>1</sup> For King, three features inhere in democracy: “membership rules, political equality, and binding collective decisions.” (King, 25)

<sup>2</sup> In fairness, Rawls’ tome is in large part an attempt to answer this question, as is the nation’s education debate.

*pathos*, members of deliberative associations are more likely to fall prey to “deficits of trust”, “deep antagonisms”, and “perverse group dynamics.” (King, 28) Although reading, say, *Blues for Mister Charlie* is unlikely to overcome centuries of institutionalized racism, the success or failure of such deliberative projects hinges on the members’ ability to overcome the above-mentioned concerns. In addition to rendering members more able to overcome trust deficits and antagonisms, a thorough and critical exposure to the arts would help prevent large-scale public manipulation.

In essence, the function of King’s deliberative associations and James Fishkin’s “deliberative polls” is to more closely correspond policy action with public sentiment. As King notes, “such [deliberative] negotiations are fundamentally about conflicting preferences.” (King, 36) Although deliberative debate could lead to a paralyzing incommensurability of competing interests, it could also add epistemic depth and transformative breadth to the issue being discussed. It could also create an avenue to question the legitimacy of otherwise unfettered corporate interests.

**II-** Verweij and Josling present a more discursive outline of the key intellectual players in the field of deliberative democracy. Basically, they find that Weber’s critique about unchecked bureaucracies pursuing inappropriate policies often holds true for multilateral institutions, particularly with regard to development lending, market deregulation, and structural adjustment policies. Verweij and Josling follow with a critique of World Bank, IMF, and WTO policies, which can effectively be reduced to Wolfgang Streeck’s criticism that such institutions “have promoted one form of democracy (the liberal view) at the expense of another form of democracy (the social perspective).” (Verweij and Josling, 5)

Verweij and Josling then present the various plans presented to solve the ‘democratic deficit’ of international institutions:

- global parliament
- extension of international public law
- global civil society
- global (or cosmopolitan) democracy
- rolling back the scope of multilateral organization
- strengthening the hold of national governments on multilateral institutions.

Although each of these approaches holds their own appeal, all are questioned either on grounds of feasibility or of utility. A global parliament faces both charges; in addition to being highly difficult to implement, liberal theorists as far back as Kant—in *Perpetual Peace*—raise valid concerns about the accountability of a unitary global government. Both problems similarly inhere in the extension of public international law, and global civil society is nowhere on the real-world horizon. Similarly, a luddistic attempt to roll back IGO competence seems precisely the opposite of actual developments.

The authors are right to point to and modify the last option by opening multilateral institutions' accountability to the public eye. Such a rendering transparent could: expand the policy alternatives available, solidify "input legitimacy"<sup>3</sup>, foster democratization within nations, and clarify any exigent need for new institutions. After responding to common critiques of deliberative democracy, Verweij and Josling then outline some practical applications. Among others, these include: opening the WTO's closed-door negotiations and allowing for more *amicus curae* submissions to WTO Panel and Appellate Body proceedings, developing formal labor standard minimums, and the expansion of the World Bank's board of governors beyond the domain of finance.

Verweij and Josling's work is hard for me to properly critique; its breadth is too sweeping and I am too unfamiliar with the works of the scholars mentioned. That said, a potential shortcoming is the unfeasibility of truly democratic oversight of multilateral institutions' action. Nonetheless, the way forward outlined by Howse and Nicolaidis, Fung, and Stiglitz seems a more realistic place to start than any of the other options presented. In any case, any form of global democracy worthy of its name itself requires IGO transparency as a necessary predicate.

**III-** The 'trade and environment' aspects of Andrew Guzman's "Global Governance and the WTO" is particularly relevant in light of Pascal Lamy's recent "Gaia" speech. Guzman argues that the WTO should create discrete departments for distinct concerns that would act independently but interact in 'mega-rounds'. Pointing to recent developments in the field of trade-related intellectual property rights (TRIPS), he

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<sup>3</sup> "Input legitimacy stands for the extent to which public policy decisions are in accord with the will of those whose lives will be impacted." (Verweij and Josling, 11)

asserts that such institutions could capitalize on the WTO's existing institutional strength while tempering its trade focus with input from other impacted domains.

The most useful aspects of Guzman's approach concern the ability to negotiate concessions-based agreements from other domains and the practical efficacy of extending WTO dispute settlement's jurisdictional reach. For an example of Guzman's the first point: Brazil could be incentivized to conserve its rainforests in exchange for trade concessions in the form of reduced agricultural subsidies in developed states. (Guzman, 11-12) Inevitably, this would create enforcement and compliance problems,<sup>4</sup> but it would nonetheless be far better than doing nothing. And, as Guzman notes, incorporating environment experts and interdisciplinarians into the Panel and AB's standing pool would help work towards rulings that are more even-handed in weighing the competing interests at stake. However, it deserves noting that the viability of his solution requires the prior implementation of Verweij and Josling's suggestions (or of some such process of rendering transparent).

Additionally, if Guzman is contemplating a new 'World Economic Organization' framework, why not consider amending the GATT articles? He asserts that "panels and the Appellate Body should be encouraged to remain as faithful as possible to the text of the WTO agreements", (Guzman, 32) but many of the impediments to true sustainability are built into the GATT text, which was drafted well before the rise of environmentalism.

My primary concern with Guzman's argument is his apparent underappreciation of the extent to which trade and environment are deeply intertwined. If the proposed environment department would be discrete from the trade departments and could only coordinate with them during 'mega-rounds', how would urgent policy trade-offs be managed in the interim? King's deliberative association model may be useful in such cases.

Guzman's suggestion provides aggregate gain over the current situation, but this is because the WTO presently acts largely unopposed. As Guzman himself says, "Turning away from non-trade issues does not make them go away...Rather it pushes them into the shadows." (Guzman, 3) In other words, something is better than nothing.

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<sup>4</sup> Laurence Helfer and Anne-Marie Slaughter's piece speaks to this point; they response to an earlier work by Eric Posner and John Woo by arguing that independent international tribunals actually perform much better than Posner and Woo claim.