

National Institute for Civil Discourse Research Brief No. 10: Deliberative Democracy and Civil Discourse¹

Key Issues

What is deliberative democracy and why do its proponents believe it is so important?

Is deliberative democracy feasible?

Is civil discourse required for deliberation?

Overview

Widely written about by philosophers, political scientists, communications scholars and sociologists, deliberative democratic theory is a “normative theory that suggests ways in which we can enhance democracy and citizen institutions.”² The theory’s normative content is predicated on empirical assumptions that deliberation will or can produce certain valued behaviors and outcomes.³ At the group or societal level, such potential outcomes include increased citizen engagement, decisions that are viewed as more fair and legitimate than they would be in the absence of deliberation, conflict-resolution, political stabilization, tension release, more thoughtful policy decisions, and avoidance of policy gridlock.⁴ Proponents of deliberative democracy also presume there are benefits to the individuals engaging in deliberation. Among these are: enhanced political knowledge or sophistication, increased tolerance, a greater sense of efficacy or empowerment, increased social capital, and greater satisfaction with decision-making processes.⁵

While there is no single understanding of the term “deliberation,” definitions converge to emphasize a process that is inclusive and in which reasons are given for positions taken.⁶ In the context of these defining characteristics, critics of deliberation dispute its feasibility—as well as its presumed benefits—by citing numerous barriers to true, adequate or effective deliberation processes.⁷ Some of the identified barriers are structural, including the prevalence of inequality and coercive power, as well as a lack of diversity or inclusiveness which is sometimes a function of self-selection into deliberation. Other barriers are rooted in neuropsychology and the psychology of cognition, affect, moral reasoning and decision-making.⁸ This brief closely examines the question of feasibility as it relates to these barriers. One scope condition that is often viewed, explicitly or implicitly, as necessary for true, adequate or effective deliberation is civil discourse.⁹ The brief explores this complex and multi-faceted concept.

Most scholars of deliberative democracy would agree that, at least until recently, the gap between theory and empirical research has been large,¹⁰ with “theorists...tend[ing] too easily to dismiss the empirical findings”¹¹ or to make vague arguments immune to falsification,¹² and empirical researchers often failing to address questions central to assessing the “behavioral realism”¹³ of normative theorizing.¹⁴ However, the gap has begun to be bridged, with substantial additional bridging research in process.¹⁵

Arguments and Findings

The Concept of Deliberative Democracy and its Presumed Benefits

Political theorist Simone Chambers describes deliberative democratic theory as a “normative theory that suggests ways in which we can enhance democracy and citizen institutions.”¹⁶ Philosopher Joshua Cohen further conceived of deliberative democracies as associations in which members “share a commitment to the resolution of problems of collective choice through public reasoning.”¹⁷ The goal of such efforts, according to political scientist Jürg Steiner *et al*, is to “arrive at a rationally motivated consensus” that is “provisional” pending later, potentially better arguments.¹⁸

Proponents of deliberative democratic theory presume that “ideal-typical” or “authentic” deliberation (concepts explored below) will, or can, produce certain valued behaviors and outcomes at the group or societal level, as well as at the individual level.¹⁹

At the societal level, presumed valued outcomes of deliberative processes include:

- increased citizen engagement;
- decisions that are seen as more fair and legitimate than they would be in the absence of deliberation;
- conflict-resolution;
- political stabilization;
- tension release;
- better policy decisions;
- avoidance of policy gridlock.

At the individual level, presumed valued outcomes of deliberative processes include:

- enhanced political knowledge or sophistication;
- increased tolerance;
- a greater sense of efficacy or empowerment;
- increased social capital;
- greater satisfaction with decision-making processes.

In *NICD Research Brief No. 11* (“Deliberative Processes and the Impact of Deliberation on Individuals and Society”) we evaluate the empirical research assessing processes and outcomes produced by deliberation of different types, across different kinds of venues and subject to diverse other criteria.

Drilling-down further into the concept of deliberative democracy, sociologists Erik Schneiderhan and Shamus Khan identified Kantian foundations in deliberation theory.²⁰ John Rawls and Jürgen Habermas took those foundations and elaborated them in different ways, but converged on the necessity of inclusion and the provision of reasons.²¹ In Rawls’ thought experiment, actors under the “veil of ignorance” and deliberating in conditions of equal participation, provided reasons for their arguments about the nature of justice.²² Similarly, in Habermas’ theory of communicative action, deliberation was inclusive and actors were required to offer reasons for their normative arguments. Communicative action, according to Habermas, was “an interactive process where actors *collectively reason* through validity claims *with all affected actors* in order to arrive at those that are universally valid.”²³

Also emphasizing reason-giving and inclusion as defining characteristics, deliberative democracy scholars Amy Guttmann and Dennis Thompson wrote: “Deliberative democracy’s first and most important characteristic is its reason-giving requirement....A second characteristic of deliberative democracy is that the reasons given in this process should be accessible to all those citizens to whom they are addressed.”²⁴ Further, Simone Chambers defined deliberation as “debate and discussion aimed at producing reasonable, well informed opinions in which participants are willing to review preferences in light of discussion, new information and claims made by fellow participants. Although consensus need not be the ultimate aim of deliberation and participants are expected to pursue their interests, an overarching interest in the legitimacy of outcomes (understood as justification to all affected) ideally is a characteristic of deliberation.”²⁵

Additional scholarly descriptions likewise emphasize reason-giving and inclusion:

- “In deliberative decision-making, participants listen to each other’s positions and generate group choices after due consideration.”²⁶

- Participants in deliberation “chang[e] others’ minds on the basis of reason not coercion, manipulation or material sanctions.”²⁷
- “At the core of all theories of deliberative democracy is what may be called a reason-giving requirement.”²⁸
- Deliberative democracy is “founded on the premise that citizens can collectively and self-consciously reflect on goals, purposes, think critically and make value judgments.”²⁹

Ideal-Typical Deliberative Democracy

Deliberation envisioned through the lens of Habermas’ communicative action represents an ideal-typical social process not expected to be fully achievable in ‘real life’³⁰ As Steiner *et al* emphasized, such an ideal-type conceptualization invites us to consider fully the content of the ideal-type itself and to assess how and to what degree various real life deliberations fall short of the ideal.³¹

For Guttman and Thompson, there are four criteria for ideal-typical deliberation. In addition to inclusiveness and reason-provision, deliberative decisions must be implemented and binding, and it must be possible for the community to change deliberative decisions when new circumstances and/or new information comes to light that may allow for even better reasons.³²

For Steiner *et al*, six criteria must be met to signify ideal-typical “deliberative politics.”³³ These are:

- that deliberation be without constraints and equal, in a process that is publicly open;
- that all arguments be expressed truthfully;
- that arguments be presented in a logically coherent way;
- that there be sufficient capacity for empathy and solidarity such that participants argue from the point of view of the common good and not just their own self-interest;
- that all participants must be willing to listen and to treat each other with “genuine respect;”³⁴
- that all participants must be willing to yield to better arguments, such that preferences are open to change.³⁵

Echoing Joshua Cohen’s view that “ideal deliberation aims to arrive at a rationally motivated consensus,”³⁶ Steiner *et al* emphasized that in ideal-typical deliberation, better arguments are not given *a priori*, but rather are found during deliberation; the “capacity and the willingness to listen to others...is easier said than done, since it always is difficult to imagine being in someone else’s situation.”³⁷ Further, Steiner *et al* starkly contrast “deliberative” and “strategic” argument, finding that **under conditions of ideal deliberation, arguments must be compared and assessed in terms of the interests of all. When argument is strategic, each actor assesses the other’s arguments in terms of personal advantage.**³⁸ In complementary fashion, philosophers James Bohman and William Rehg emphasize that under conditions of ideal deliberation, political outcomes [would] be determined not by relative numbers of votes accorded to given arguments, but by the best reason.”³⁹ Finally, political philosopher Dennis Thompson argues that although “[d]eliberative theorists [have differed] to some extent on what counts as an adequate reason, how extensive the reason-giving forum should be, whether procedural norms are sufficient, and the desirability of consensus as a goal...they [have agreed] in rejecting conceptions of democracy that base politics only on power or interest, aggregation of preferences, and competitive theories in the tradition of writers such as Schumpeter and Downs.”⁴⁰

In short, **a variety of scope conditions or criteria must be met in order for deliberative processes to be considered as “ideal-typical,” “true” or “authentic” democratic deliberation.** As political scientist John Dryzek and psychologist Valerie Braithwaite put it:

Deliberative democrats pin their hopes on the transformative power of deliberation. They argue that *if* it proceeds in suitable unconstrained and egalitarian circumstances, deliberation induces individuals to think through their interests and reflect on their preferences, becoming amenable to changing in the later the light of persuasion from other participants. Thus, whether a decision rule of consensus, unanimity or majority rule prevails, deliberative democrats believe that to the extent that effective deliberation occurs, political outcomes will secure broader support, respond more effectively to the reflectively held interests of participation, and generally prove more rational.⁴¹

Feasibility

While deliberative theorists specify the contours of authentic deliberation, **critics point to social, structural and behavioral arguments and evidence suggesting that it is *infeasible* to achieve anything close to this. The discussion below focuses especially on the criteria of equality/inclusion and reasoned argumentation, but critics also invoke empirical research to question the degree to which the criteria of solidarity/empathy, mutual respect and truthfulness can be realized.**⁴² These too are discussed briefly here, especially insofar as difficulties in attaining them relate to difficulties of attaining deliberative democrats’ notions of rational discourse and equal participation.

Equality and Inclusion

In political-economies characterized by substantive inequalities—including those of democratic capitalism—deliberation is likely to be substantively unequal even when conducted under circumstances of formal equality and inclusiveness. In fact, formal equality can mask, or even exacerbate, the tendencies of those with greater education, income, wealth or social status to dominate and skew deliberative processes and outcomes such that they reflect their interests and preferences.⁴³ In her essay presenting an activist’s perspective on deliberation, Iris Young develops this particular challenge more fully, noting that “bringing the approaches [of the activist and deliberative democrat] into critical relation with one another...helps sound a caution about trying to put ideals of deliberative democracy into practice in societies with structural inequalities.”⁴⁴

From the point of view of the activist working on behalf of those who are structurally disadvantaged or marginalized under democratic capitalism, Young concludes that substantively full and equal participation in deliberative politics is impossible for several reasons. In particular, she notes that **deliberation will tend to “restrict access to agents with greater resources, knowledge, or connections to those with greater control over the [deliberative] forum...**Even when a series of public hearings are announced for an issue, people who might wish to speak at them need to know about them, be able to arrange their work and child care schedule to be able to attend, be able to get to them, and have enough understanding of the hearing process to participate.”⁴⁵ Further, broader structural inequalities ensure that these capacities are differentially present, even when every effort is made to be inclusive.

Often even efforts at inclusion are absent. Political scientist Tali Mendelberg notes: “When citizens deliberate with elites, as they do in hearings and advisory committees, inequalities of information and expertise come into play...Elites almost always have vastly more access to information, to the concrete resources needed to gather and make effective use of information and to expertise in how to use

and present information...The vast gap between elite and citizen expertise is likely to make elites far more influential in any deliberative exercise that involves both.”⁴⁶

Mendelberg further points out the specific role of class: “Class...advantages the well-educated, not only by smoothing the path to participation, but also by giving them the means to influence deliberation. The well-educated are more likely to show up to deliberate, and once there, can present both deliberatively good and socially legitimate arguments.”⁴⁷ A number of other theorists and activists also focus on **class, as well as on race and gender inequalities as key barriers to the feasibility of attaining normative models of deliberation.**⁴⁸

Education and the capacity to capitalize on it by entering occupations that help develop reasoning and public speaking skills, create “more cognitively competent deliberators.”⁴⁹ At the same time, *inequality of access* to education—and to the additional resources and rewards that the educated possess—undermines both the inclusiveness and quality of deliberative discourse. In a highly unequal community, less inclusion may therefore enable higher-quality deliberations. In this way, two key scope conditions for ideal-typical democratic deliberation (equality and reasoned argumentation) are in conflict in many empirical settings. Above all, **when the strategic interests and perspectives of the wealthy and powerful dominate ostensibly deliberative processes, social mechanisms of influence other than those found in ideal-typical constructs are at work.** As a result, neither processes nor outcomes can represent the community as a whole.⁵⁰

Even when substantial economic and educational inequalities are absent, small group research on discussion in task groups shows how quickly status and power hierarchies emerge. It reveals how **participation in conversation, as well as group response, varies by power, status and perceived differential competence—including perceived competence based on diffuse status characteristics such as race and gender.**⁵¹ For example:

- Higher-power actors generally talk more and interrupt more; men more often interrupt women than they do other men; and higher-status actors generally command more influence.⁵²
- In mixed gender groups, men generally are more assertive than women; receive more attention; are evaluated more positively; and achieve greater influence.⁵³
- A classic study of jury decision-making found that while higher-status jurors are *perceived* as more accurate, the impact of status on decision outcomes could *not* be explained by enhanced accuracy. Higher-status jurors were not more accurate, they just talked more.⁵⁴

In addition to the impact of inequalities that derive from resources, knowledge and status, activists concerned about the feasibility of ideal-typical or authentic deliberation raise concerns about **the conceptual and linguistic hegemony of the powerful.**⁵⁵ As political philosopher Iris Young explains:

The phenomenon of hegemony or systematically distorted communication is...subtle...It refers to how the conceptual and normative framework of members of a society is deeply influenced by premises and terms of discourse that make it difficult to think critically about aspects of their social relations or alternative possibilities of institutionalization and action.⁵⁶

In other words, society’s “have-nots” may take for granted that things do, and should, work to favor society’s “haves.” They may have internalized approval or support for hegemonic ways of thinking such that discourse becomes distorted even when all participants think they are guided by their own sense of values and are acting autonomously to express their own reasons.⁵⁷ Theorists of cultural hegemony under conditions of structural inequality thus presume that the very notion of a “common” or

“community” good typically is fundamentally misguided. They find that under these circumstances, no true mutual respect can be had.

Reasoned Argumentation

Even if conditions of substantive equality and inclusion could be realized, deliberative democracy’s critics assert that people are not capable of the kind of reasoned argumentation that ideal-typical deliberation presumes. They argue that if deliberation requires reason of an Aristotelian sort—that is, a type of rational assessment of costs and benefits that is devoid of all affect or emotion—then ideal-typical deliberation cannot be achieved.

Yet contemporary social, cognitive and neuroscience has found that human beings do not, and cannot, reason in this manner.⁵⁸ And, further, that emotion is not antithetical to reason, but rather that affect generally arises prior to cognition and is actually required for decision-making.⁵⁹ Political scientist George Marcus concluded that evaluation proceeds through affect, and through affect plus cognition, but not through cognition alone.⁶⁰

More than this, **all political issues and objects are suffused with affect, and affect, passion and emotion can be highly persuasive in political discussion.**⁶¹ For example, when properly channeled, positive emotions (such as hope) and negative emotions (such as anger and disgust) can motivate political action that furthers social justice.⁶² Emotion also “is an irreplaceable element of authentic self-expression. It prompts people to re-evaluate the status quo and plan new courses of action. Emotions provide a way to learn and grow.”⁶³ So while the presence of emotion can be seen as an asset to deliberation, more directly relevant to scope conditions or criteria for ideal-typical deliberation, theorists of deliberative democracy emphasize the importance of cognitive empathy, that is, the capacity to take the role of the other and view things from that point of view.⁶⁴ Indeed, given the relationship between affect and cognition described above, **it is logical to conclude that the capacity to experience cognitive empathy and successfully take the role of the other, requires some capacity to experience affective empathy.** As Mendelberg says, “[D]eliberative theory places the learning, growth and empathy that can come from group discussion at a premium. It must thus make a place for a more complex view of what emotions can do, not just against but for good deliberation.”⁶⁵

In short, human beings are not “brains engaged in calm, rational debate,” but instead have “tastes, passions and manners,” all of which enter real life deliberative processes.⁶⁶ Further, as alluded to above, consideration of the role of emotion in deliberation should not be limited to the positive. In fact, political argumentation and decision-making tend to involve fundamental moral values about which people may disagree strongly.⁶⁷ This can lead to expressions of rancor and outrage rather than justifications based on reason.⁶⁸

It is also true that deeply held beliefs may remain impervious to new facts, rendering individuals and groups incapable of correcting biased thinking.⁶⁹ **A large stream of research on such “motivated reasoning” shows that, rather than keeping an open mind, and reasoning forward to conclusions based on all deliberative input, most people are prone to work backward from conclusions that are consistent with their prior values and then identify reasons that justify these conclusions.**⁷⁰ Mendelberg explains: “[P]eople who are strongly committed to a predetermined view interpret evidence to support their view. This bias occurs at every step of information processing, from setting goals to gathering and evaluating evidence from the outside or from memory, to constructing inferences and judgments.”⁷¹

Linking these observations about reasoned argumentation to deliberation, Mendelberg offered this assessment of the gaps between ideal-typical and “real life” processes:

The use of reasoned argument to reinforce prior sentiment is a widespread phenomenon that poses a significant challenge to deliberative expectations. Motivated reasoning has considerable power to interfere with the motivation that deliberative theory cherishes—the motivation to be open-minded, even handed and fair.... People are susceptible to motivated reasoning both because of self-presentation concerns...and through genuine self-deception, in which they fool themselves into thinking that they have been fair and even handed. The latter motivation may be particularly insidious and makes considerable trouble for the deliberative expectation that people are rational enough to correct their biases when confronted with appropriate evidence.⁷²

Political scientist Shawn Rosenberg similarly concluded:

In sum, there is a great deal of social psychological research that suggests that individuals generally do not think in the logical, rational or reasonable way and do not evidence the communicative competence assumed by deliberative democratic theory....several different strands of cognitive development research indicate that not only some but perhaps most people lack the requisite capacity of reason...Failing to adequately consider the perspective of the listener, most people do not present their views in a sufficiently elaborated manner so that others can understand them. In addition, most people tend to view the different views that others express not as a constructive input but rather as an obstruction or simply incorrect. Overall, the opportunity for discussion and argument is not viewed as a cooperative exercise leading to greater insight and mutual benefit, but rather it is understood as a zero-sum game that ends in some participants winning and others losing.⁷³

So while the solidarity/empathy/mutual respect aspects of reasoned argumentation may be critical to achieving ideal-typical deliberation, strategic argumentation appears to be the dominant phenomenon. In fact, when the totality of arguments and evidence are considered, it is clear that there is a large gap between ideal and real deliberative processes, and that the scope conditions of ideal-typical democratic deliberation are unattainable. However, this does not preclude real life deliberations from proceeding in ways *that are closer to* the requisites of authentic deliberation. Further, it is likely that real life deliberative processes may have variable outcomes *depending on the degree to which these requisites, as well as other conditions, are present.*

As Steiner *et al* observed, we are better off using an ideal-typical conceptualization of deliberation as a benchmark against which to measure real processes than we are resting with blanket indictments of infeasibility.⁷⁴ To the extent that we do accept the scope conditions or criteria for “authentic” deliberation, we can measure deviations from them and see *which deviations, at what level of magnitude* diminish or are fatal to the various potential benefits of deliberation at the individual and societal level. Mendelberg concluded, “more than anything, the point to emerge from existing research is that the conditions of deliberation matter a great deal to its success.”⁷⁵ And, although a substantial amount of earlier research and practice in the field did *not* orient itself to examining deliberative theories,⁷⁶ empirical researchers now are doing precisely this.⁷⁷ As Dennis Thompson has argued, the best way to move forward is through empirical study, especially that which responds directly to the core presumptions, issues, associations and causal relationships specified by deliberative democratic theory.⁷⁸ Discussion of variability in conditions, processes and outcomes of real life deliberations, and the relationships among all three, is the topic of *NICD Research Brief No. 11* (“Deliberative Processes and the Impact of Deliberation on Individuals and Society”).

The Role of Civility in Deliberation

This brief has explored equality and inclusivity as scope criteria for ideal-typical or authentic democratic deliberation. **Explicitly or implicitly, scholars of deliberation also typically presume that civility is a key criterion or scope condition for authentic and/or effective deliberation.**⁷⁹ Journalism scholar David M. Ryfe, for example, noted that “[p]recisely because people seem disinclined to deliberate—and if at all, not for very long—explicit rules must prop up deliberative initiatives. Rules of equality, civility and inclusivity may prompt deliberation even when our first impulse is to avoid it.”⁸⁰ Similarly, James Bohman and William Rehg argued that the definition of public reason encompasses the duty of civility.⁸¹ Gutmann and Thompson, and Chambers go one step further, emphasizing that **the deliberative experience—at least that which is conducted in accord with key civility norms (especially those regarding mutual respect)—should actively seek to enhance commitment to civility and produce more mutually respectful argumentation.**⁸²

Civility is a complex and multi-faceted concept.⁸³ Legal scholar Toni Massaro and sociologist Robin Stryker have suggested eight different categories of *uncivil* political expression:

- Speech that is excessively ad hominem, demonizes political opponents, and relies on globalizing attacks on their character rather than their ideas and conduct.
- Speech that is recklessly false and negative about a political opponent or that is intentionally misleading regarding opponents’ views, character or conduct.
- Speech that is excessively vulgar or disrespectful, or relies on excessive profanity aimed at a person (versus an idea or institution) to advance an argument.
- Speech that pejoratively, hyperbolically and falsely paints political opponents as ‘traitors,’ ‘deadbeats,’ ‘Nazis,’ ‘lunatics,’ ‘rednecks,’ ‘satanic’ or ‘unpatriotic,’ rather than as fellow citizens within a pluralistic political order, with whom one vigorously, even passionately disagrees on specific issues for specific reasons.
- Speech that is intentionally threatening to political opponents’ physical well-being, or that encourages others to cause physical harm to them.
- Speech that deploys racial, sexual, religious, or other epithets against a political opponent that a reasonable person would consider extremely demeaning.
- Speech intentionally aimed at closing down ‘spaces of reason’ and ceasing discourse, rather than maintaining speech zones for future consideration of issues and policies.
- Speech that intentionally denies the right of political opponents to participate equally in applicable procedural or political processes or debates, or that denies the legitimacy of their participation where they have a lawful right to do so.⁸⁴

Given the breadth of the concept, it is unsurprising that neither researchers nor ordinary citizens conceive of incivility in exactly the same way. Substantial research remains to be done on the variability in perceptions of uncivil political utterances or political discourse depending on the perceiver’s demographic background, political partisanship, ideology, and issue preferences as well as on the context of the speech.⁸⁵ The National Institute of Civil Discourse currently is conducting research that adds to this body of knowledge.⁸⁶

At the same time, in their review of literature pertaining to the nature of incivility, Massaro and Stryker do find some alignment around the definition. Recent empirical studies on the “fit between researchers’ definitions of incivility and the views of ordinary citizens exposed to campaign or mock campaign messages,” they report, “have found a strong, albeit not perfect relationship between the two...sufficient consensus exists about what type of speech counts as extremely uncivil to take seriously the idea that civility norms can profoundly shape attitudes and behavior.”⁸⁷

While Massaro and Stryker's categories can apply to individual speech utterances as well as discursive interactions, scholars and practitioners of deliberative democracy focus especially on the latter.⁸⁸ Without discursive interaction, there can be no deliberative discourse. Some scholars therefore refer explicitly to a concept of *deliberative civility*, meaning **careful listening to, and respect for, all persons as well as the effective consideration of all arguments.**⁸⁹ *Deliberative civility* aligns well with the concepts of inclusivity, equal participation and mutual respect explored above. All of these are conditions for ideal-typical or authentic deliberation.

In a 2013 presentation at the National Institute for Civil Discourse, communication scholar John Gastil highlighted four conditions as elements of *deliberative civility*:

- Appreciation for insight offered by those with professional and practical knowledge;
- Arguments that avoid manipulation, fallacies or knowingly inaccurate information;
- Consideration of diverse viewpoints;
- Affirmation of all persons in society and the web of relationships among them.⁹⁰

Similarly, Jürg Steiner recently emphasized mutual respect, active listening, engagement with and accurate representation of all arguments.⁹¹ Far from precluding incisive critique, deliberative civility entails questioning and disputing, but in a way that respects and affirms all persons, even while critiquing their arguments. Disrespecting or demeaning other persons is to be avoided.

Circling back to the other scope criteria explored in this brief, some democratic theorists insist that such civility and mutual respect are appropriately dependent on both inclusion and equality. **In the real world, where full inclusion and full equality typically are absent, incivility may be required to promote true diversity, voice and social justice.**⁹² Historically, civility norms have been used to keep minorities, women and workers from participating fully in democratic governance.⁹³ Conversely, incivility and disruptive behavior have helped those who have been marginalized to obtain seats at the democratic table.⁹⁴

¹ Robin Stryker, Director of Research, National Institute for Civil Discourse and Department of Sociology, and J. Taylor Danielson, Department of Sociology, University of Arizona, prepared this research brief (September 7, 2013).

² Simone Chambers, "Deliberative Democratic Theory," *Annual Review of Political Science* 6, pp. 307-326, 2003, 308; See also Jürg Steiner, André Bächtiger, Marcus Spörndli and M. R. Steenburgen, *Deliberative Politics in Action*, Cambridge, UK, Cambridge University Press, 2004, p. 17.

³ See, e.g., Diana C. Mutz, "Is Deliberative Democracy a Falsifiable Theory," *Annual Review of Political Science* 11, 2008, pp.521-528; David M. Ryfe, "Does Deliberative Democracy Work," *Annual Review of Political Science* 8, 2005, pp. 49-71; Dennis Thompson, "Deliberative Democracy Theory and Empirical Political Science," *Annual Review of Political Science* 11, 2008, pp. 497-520; Michael X Delli Carpini, Fay Lomax Cook and Laurence R. Jacobs, "Public Deliberation, Discursive Participation and Citizen Engagement: A Review of the Empirical Literature," *Annual Review of Political Science* 7, 2004, pp. 315-344; Jürg Steiner, *The Foundations of Deliberative Democracy: Empirical Research and Normative Implications*, Cambridge, Cambridge University Press, 2012; Tali Mendelberg, "The Deliberative Citizen: Theory and Evidence," *Political Decision Making, Deliberation and Participation* 6, 2002, pp. 151-193, 153-154; Tracy Sulkin and Adam F. Simon, "Habermas in the Lab: A Study of Deliberation in an Experimental Setting," *Political Psychology* 22(4), 2002, pp. 609-826, 810-812; James Bohman, "Survey Article: The Coming of Age of Deliberative Democracy," *Journal of Political Philosophy* 6, 1998, pp. 400-425, 422.

⁴Delli Carpini et al, *supra*. n. 3; Mendelberg *supra* n. 3; Chambers 1996 *supra* n. 3; Bernard Barber, *Strong Democracy: Participation Politics for a New Age*. Berkeley, CA: University of California Press, 1984; Bernard Manin, "On Legitimacy and Political Deliberation," *Political Theory* 15, 1987, pp. 338-368.

⁵Delli Carpini et al 2004, *supra* n. 3; Mendelberg 2002, *supra* n. 3; Chambers 1996, *supra* n. 3; Sulkin and Simon, *supra* n. 3, p. 810.

⁶Erik Schneiderhan and Shamus Khan, "Reasons and Inclusion: The Foundations of Deliberation," *Sociological Theory* 26(1), 2008, pp. 1-24. See also Archon Fung and Erik Olin Wright, *Deepening Democracy*, London, Verso, 2003.

⁷See e.g., Ryfe 2005, *supra* n. 3; Mutz 2008, *supra* n. 3; Thompson 2008, *supra* n. 3; John S. Dryzek, *Deliberative Democracy and Beyond: Liberals, Critics, Contestations*, Oxford, Oxford University Press, 2002 (reprint edition); Tali Mendelberg and John Oleske, "Race and Public Deliberation," *Political Communication* 17, 2000, pp. 169-191.

⁸ See e.g., Mark Button and David M. Ryfe, "What Can We Learn from the Practice of Deliberative Democracy?" In John Gastil and Peter Levine, editors, *The Deliberative Democracy Handbook: Strategies for Effective Engagement in the 21st Century*, San-Francisco, California, Jossey-Bass, 2005, pp. 20-24; Archon Fung, "Associations and Democracy: Between Theories, Hopes and Realities," *Annual Review of Sociology* 29, 2003, pp. 515-39; Ryfe 2005, *supra* n. 3; Chambers 2003, *supra* n. 2; Delli Carpini et al 2004, *supra* n. 3; Mutz 2008 *supra* n. 3. See also Jerry W. Lee and Robin Stryker, "Classical Rhetoric, Contemporary Science and Modern Civil Discourse," *NICD Research Brief No. 4*: University of Arizona, 2011, http://nicd.arizona.edu/research_briefs; J. Taylor Danielson and Robin Stryker, "Political Knowledge, Persuasion and Campaign Rhetoric," *NICD Research Brief No. 5*, University of Arizona, August 31, 2011, http://nicd.arizona.edu/research_briefs.

⁹ See e.g., Ryfe 2005, *supra* n. 3, p. 63; Tali Mendelberg, *Deliberation, Incivility and Race in Democratization in America*, Baltimore, Johns Hopkins University Press, 2009, Chapter 7; Lynn Sanders, "Against Deliberation," *Political Theory* 25, 1997, pp. 347-376; Chambers 2003, *supra* n. 2, p. 316; James Bohman and William Rehg, editors, *Deliberative Democracy: Essays on Reason and Politics*, Cambridge, MA, MIT Press, 1997.

¹⁰ Button and Ryfe 2005, *supra* n. 8.

¹¹ Thompson 2008, *supra* n. 3, p. 497.

¹² Mutz 2008, *supra* n. 3.

¹³ We use the term behavioral realism to invoke the ideas that: 1) normative arguments typically contain implicit and sometimes explicit assumptions about human behavior and/or the causes or consequences of that behavior; and 2) such assumptions can and should be subjected to *empirical* research. To our knowledge, the term was first used to suggest subjecting the behavioral assumptions underlying judicial doctrine in employment discrimination law to empirical test. See Linda Hamilton Krieger and Susan T. Fiske, "Behavioral Realism in Employment Discrimination Law: Implicit Bias and Disparate Treatment," *California Law Review* 94, 2006, pp. 997-1062, 1016-1020; Robin Stryker, Danielle Docka-Filipek and Pamela Wald, "Employment Discrimination Law and Industrial Psychology: Social Science as Social Authority and the Co-Production of Law and Science," *Law & Social Inquiry* 37 (4), 2012, pp. 774-814, 805.

¹⁴ Thompson 2008, *supra* n. 3, p. 497.

¹⁵ See, e.g., Katherine R. Knobloch, John Gastil, Justin Reedy and Katherine Kramer Walsh, "Did they Deliberate? Applying an Evaluative Model of Democratic Deliberation to the Oregon Citizens Initiative Review," *Journal of Applied Communication Research* 41, 2013, pp.105-125. Some of this bridging research is discussed in this brief; more of it is discussed in J. Taylor Danielson and Robin Stryker, "Deliberative Practice and the Impact of Deliberation on Individuals and Society," *National Institute for Civil Discourse Research Brief No. 11*, University of Arizona, October 3, 2013,

¹⁶ Chambers 2003, *supra* n. 2, p. 308, emphasis ours.

¹⁷ Joshua Cohen, "Deliberation and Democratic Legitimacy," In Alan Hamlin and Philip Pettit, editors, *The Good Polity: Normative Analysis of the State*, Oxford, UK, Blackwell, 1989, pp. 17-34, 17, 21.

¹⁸ Steiner et al 2004, *supra* n. 2, p. 25.

¹⁹ For discussion of the valued individual and societal outcomes listed as bullet points below, see Delli Carpini et al, 2004, *supra* n. 3; Mendelberg *supra* n. 3; Chambers 1996, *supra* n. 3; Bernard Barber, *Strong Democracy: Participation Politics for a New Age*. Berkeley, CA: University of California Press, 1984; Bernard Manin, "On Legitimacy and Political Deliberation," *Political Theory* 15, 1987, pp. 338-368; Sulkin and Simon *supra* n. 3, p. 810.

²⁰ Erik Schneiderhan and Shamus Khan, "Reasons and Inclusion: The Foundation of Deliberation," *Sociological Theory* 26(1), 2008, pp. 1-24.

²¹ *Ibid.*

²² John Rawls, *A Theory of Justice*, Cambridge, Harvard University Press, 2001, pp. 138, 231-34.

²³ Schneiderhan and Khan 2008 *supra* n. 20, p. 3, emphases in original.

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- ²⁴ Amy Guttmann and Dennis Thompson, *Why Deliberative Democracy?* Princeton, Princeton University Press, 2004.
- ²⁵ Chambers 2003, *supra* n. 2.
- ²⁶ *Ibid*, p. 309.
- ²⁷ Robert O. Keohane, "Governance in a Partially Globalized World," *American Political Science Review* 95, 2001, pp.1-13.
- ²⁸ Dennis Thompson, 2008, *supra* n. 3, p. 498. Thompson in turn cites Guttmann and Thompson, 2004, *supra* n. 24, pp. 1-39, for a survey of theories of deliberative democracy. Thompson (2008, p. 498) also signals the following as representing "the most important collection of recent theoretical writings:" Seyla Benhabib, editor, *Democracy and Difference: Contesting the Boundaries of the Political*, Princeton, NJ, Princeton University Press; Samantha Besson and José Luis Martí, editors, *Deliberative Democracy and its Discontents*, Hampshire, UK, Ashgate; Bohman and Rehg, editors, 1997, *supra* n. 9; John Elster, *Deliberative Democracy*, Cambridge, UK, Cambridge University Press, 1998; James S Fishkin and Peter Laslett, editors, *Debating Deliberative Democracy*, Oxford, UK, Blackwell, 2003; and Stephen Macedo, editor, *Deliberative Politics: Essays on Democracy and Disagreement*, Princeton, NJ., Princeton University Press, 1999.
- ²⁹ David Pelletier, Vivica Kraak, Christine McCollum, Ulla Uusitalu and Robert Rich, "The Shaping of Collective Values through Deliberative Democracy: An Empirical Study from New York's North Country," *Policy Sciences* 32, 1999, pp. 103-31, p 104.
- ³⁰ See Schneiderhan and Khan 2008, *supra* n. 20, Steiner et al, 2004, *supra* n. 2, pp. 16-42. Schneiderhan and Khan (2008, pp. 3-4) point to various critiques of Rawls, Habermas and the Kantian tradition more generally for having inadequate conceptions of inclusion and of what counts as an acceptable reason, while also emphasizing that these critiques presume the centrality of inclusion and reason-giving. Schneiderhan and Khan (2002, p. 2, n. 5) likewise point out that, while a number of deliberation scholars including Iris Young, Francesca Polletta and John Lee, and Jane Mansbridge emphasize story-telling as well as reason-giving, storytelling "is used in these arguments as a way for otherwise silenced or disadvantaged groups to be heard." In short, it is a form of inclusion.
- ³¹ Steiner et al, 2004, *supra* n. 2, pp. 18-19.
- ³² Guttmann and Thompson 2004, *supra* n. 24.
- ³³ Steiner et al, 2004, *supra* n 2, pp. 19-26.
- ³⁴ *Ibid*, p. 22.
- ³⁵ *Ibid*, pp. 19-26.
- ³⁶ Cohen 1989, *supra* n. 17, p. 23.
- ³⁷ Steiner et al 2004, *supra* n. 2, p. 22.
- ³⁸ *Ibid*, pp. 23-24. See also Thompson 2008, *supra* n. 3, pp. 503-504.
- ³⁹ Bohman and Rehg 1997 *supra* n. 9, p. xiii.
- ⁴⁰ Thompson 2008, *supra* n. 3, p. 498.
- ⁴¹ John S. Dryzek and Valerie Braithwaite, "On the Prospects for Democratic Deliberation: Values Analysis Applied to Australian Politics," *Political Psychology*, 21, 2000, pp. 241-66, 241-242, emphasis ours.
- ⁴² For diverse criticisms, see Lynn M. Sanders 1997, *supra* n. 9;; Iris M. Young, "Communication and the Other: Beyond Deliberative Democracy," In S. Benhabib, editor, *Democracy and Difference: Contesting the Boundaries of the Political*, Princeton, Princeton University Press, 1996, pp. 120-133; Amy Guttmann and Dennis Thompson 2004, *supra* n. 24; Mendelberg 2002, *supra* n. 3; Dryzek 2002, *supra* n. 7; Steiner 2012, *supra* n. 3.
- ⁴³ See e.g., Toni Massaro and Robin Stryker, "Freedom of Speech, Liberal Democracy and Emerging Evidence on Civil Discourse and Effective Democratic Engagement," *University of Arizona Law Review* 54, 2012, pp. 375-401, 374-75, n. 26; Thompson, 2008, *supra* n. 3; Mendelberg 2002, *supra* n. 3; Iris Marion Young, "Activist Challenges to Deliberative Democracy," *Political Theory* 29, 2001, pp. 670-690.
- ⁴⁴ Young 2001, *supra* n. 43, p. 671.
- ⁴⁵ *Ibid*, p. 680.
- ⁴⁶ Mendelberg 2002, *supra* n. 3, p. 167.
- ⁴⁷ Mendelberg 2002, *supra* n. 3, p. 166.
- ⁴⁸ Jane Mansbridge, *Beyond Adversary Democracy*, Chicago, Illinois, University of Chicago Press, 1983; Sanders 1997, *supra* n. 9.
- ⁴⁹ Mendelberg 2002, *supra* n. 3, p. 166.
- ⁵⁰ See e.g., Ian Shapiro, "Enough of Deliberation: Politics is About Interests and Power," In *Deliberative Politics: Essays on Democracy and Disagreement*, edited by Stephen Macedo, Oxford, UK, Oxford University Press, 1999, pp. 28-38.

- ⁵¹ Cecilia Ridgeway, "The Social Construction of Status Value: Gender and Other Nominal Characteristics," *Social Forces* 70(2), 1991, pp. 367-386; Cecilia Ridgeway and Lynn Smith-Lovin, "The Gender System and Interaction," *Annual Review of Sociology* 25, 1999, pp. 191-216; Cecilia Ridgeway, "Gender, Status and Leadership," *Journal of Social Issues* 57(4), 2001, pp. 637-655.
- ⁵² Ridgeway and Smith-Lovin 1999, *supra* n. 51.
- ⁵³ Ridgeway, 2001, *supra* n. 51; Cecilia Ridgeway, "Non-conformity, Competence and Influence in Groups: A Test of Two Theories," *American Sociological Review* 46, 1981, pp. 333-347.
- ⁵⁴ Reid Hastie, Steven D Penrod and Nancy Pennington, *Inside the Jury*, Cambridge Massachusetts, Harvard University Press, 1983, p. 153.
- ⁵⁵ Steiner et al, *supra* n. 2, p. 34
- ⁵⁶ Young *supra* n. 43, p. 685. See also Steiner et al, *supra* n. 2; James Bohman, *Public Deliberation: Pluralism, Complexity and Democracy*, MIT Press, Cambridge Massachusetts, 2000, especially Chapter 3; Jürgen Habermas, "On Systematically Distorted Communication," *Inquiry* 13, 1970, pp. 205-218 (1970).
- ⁵⁷ Steiner et al 2004, *supra* n. 2.
- ⁵⁸ See Jerry Lee and Robin Stryker, "Classical Rhetoric, Contemporary Science and Modern Civil Discourse," National Institute for Civil Discourse Research Brief No. 4, University of Arizona, 2011, and citations therein, http://nicd.arizona.edu/research_briefs.
- ⁵⁹ *Ibid.*
- ⁶⁰ George E. Marcus, "Emotions in Politics," *Annual Review of Political Science* 3, 2000, pp. 21-50,
- ⁶¹ *Ibid*; Lee and Stryker, 2011, *supra* n. 58.
- ⁶² Lee and Stryker, 2011, *supra* n. 58; Massaro and Stryker 2012, *supra* n. 43 p. 385, n. 32.
- ⁶³ Mendelberg 2002, *supra* n. 3, p. 170.
- ⁶⁴ Mendelberg 2002, *supra* n. 3.
- ⁶⁵ Mendelberg 2002, *supra* n. 3, p. 170. See also George E. Marcus, *The Sentimental Citizen: Emotion in Democratic Politics*, State College, PA, University of Pennsylvania Press, 2002; George E. Marcus, W. Russell Neuman and Michael MacKuen, *Affective Intelligence and Political Judgment*, Chicago, University of Chicago Press, 2000, pp. 1-2.
- ⁶⁶ Nina Eliasoph, *Avoiding Politics: How Americans Produce Apathy in Everyday Life*, New York, NY, Cambridge University Press, 1998, p. 12.
- ⁶⁷ Jonathan Haidt, *The Righteous Mind: Why Good People Are Divided by Politics and Religion*, Pantheon, 2012. Dan M. Kahan, "Fixing the Communication Failure," *Nature* 465, 2010, pp. 296-97; Dan M. Kahan and Donald Braman, "Cultural Cognition and Public Policy," *Yale Law & Policy Review* 24, 2006 147-170.
- ⁶⁸ See Massaro and Stryker *supra* n. 43, pp. 384-86 and citations therein.
- ⁶⁹ Mendelberg 2002, *supra* n. 3. On the various types of bias to which human reasoning and decision-making is prone, see also Daniel Kahneman, *Thinking Fast and Slow*, Farrar, Straus and Giroux, 2011.
- ⁷⁰ Mendelberg 2002, *supra* n. 3, pp. 167-169; Dan M. Kahan, "Ideology, Motivated Reasoning and Cognitive Reflection," *Judgment and Decision Making* 8, 2013, pp. 407-424; Kahan and Braman 2006, *supra* n. 67; Charles S. Taber, Milton Lodge and Jill Glather, "The Motivated Construction of Political Judgments," In James H. Kulinkski, editor, *Citizens and Politics: Perspectives from Political Psychology*, Cambridge, UK, Cambridge University Press, 2008, pp. 198-226. See also Charles G. Lord, Lee Ross and Mark L. Lepper, "Biased Assimilation and Attitude Polarization: The Effects of Prior Theories on Subsequently Considered Evidence," *Journal of Personality and Social Psychology* 27, 1979, pp. 2098-2109; Peter H. Ditto and David F. Lopez, "Motivated Skepticism: Use of Differential Decision Criteria for Preferred and Non-Preferred Conclusions," *Journal of Personality and Social Psychology* 63, 1992, pp. 568-584; Charles S. Taber and Milton Lodge, "Motivated Skepticism in the Evaluation of Political Beliefs," *American Political Science Review* 50(3), 2006, pp. 755-769.
- ⁷¹ Mendelberg 2002, *supra* n. 3, p. 168, citations omitted.
- ⁷² *Ibid*, p. 169 citations omitted.
- ⁷³ Shawn Rosenberg, "Reason, Communicative Competence and Democratic Deliberation: Do Citizens Have the Capacities to Effectively Participate in Democratic Decision-Making," Paper presented at the Annual Convention of the Political Science Association, Philadelphia, August 27-31, 2003, pp. 6-7, quoted in Steiner et al 2004, *supra* n.2, p. 18.
- ⁷⁴ Steiner et al 2004, *supra* n. 2.
- ⁷⁵ Mendelberg 2002, *supra* n. 3, p. 180.
- ⁷⁶ See e.g., Steiner et al 2004, *supra* n. 2.

⁷⁷ See e.g., Steiner et al 2004, *supra* n. 2; Steiner 2012, *supra* n. 3; Knobloch et al 2013, *supra* n. 15. See also Ryfe 2005, *supra* n. 3; Delli Carpini et al 2004, *supra* n. 3.

⁷⁸ Thompson 2008, *supra* n. 3. .

⁷⁹ See e.g., Ryfe 2005, *supra* n. 3; Steiner 2012, *supra* n. 3; Steiner et al 2004, *supra* n. 2; Chambers 2003, *supra* n. 2.

⁸⁰ Ryfe 2005, *supra* n. 3, p. 63.

⁸¹ Bohman and Rehg 1997, *supra* n. 9.

⁸² Gutmann and Thompson, 2004 *supra* n. 24; Chambers 2003, *supra* n. 2.

⁸³ Massaro and Stryker 2012, *supra* n. 43, pp. 376, 406-411.

⁸⁴ Massaro and Stryker 2012, *supra* n. 43, p. 409. These bullet points quote directly from the article.

⁸⁵ *Ibid*, p. 407. For some prior research, see Kim L. Fridkin and Patrick J. Kenney, "Variability in Citizens' Reactions to Different Types of Negative Campaigns," *American Journal of Political Science* 55, 2011, pp. 305-325.

⁸⁶ Robin Stryker, Bethany Conway, J. Taylor Danielson and Zachary Schrank, "Politics, Civility and the Media," Survey administered by the National Institute for Civil Discourse, October-December 2013. This survey contains a new 23 item battery of questions to examine variability in respondents' views about the nature and level of political incivility in the United States today. The survey also uses a series of experimental vignettes and split quarter design to examine the influence on respondent perceptions of incivility of both the category of incivility and the speech context. Key elements of context include whether or not the speaker is a political insider or outsider, and various status and power inequalities between the speaker and the target of the speech.

⁸⁷ Massaro and Stryker 2012, *supra* n. 43, p. 407, citations omitted.

⁸⁸ John Gastil, "Good Arguments: Modern Adventures in the Theory and Practice of Deliberative Democracy," Presentation at the National Institute for Civil Discourse, March 8, 2011; Steiner 2012, *supra* n. 3; Steiner et al 2004, *supra* n. 2; Gutmann and Thompson, 2004, *supra* n. 24.

⁸⁹ James Bohman and Henry S. Richardson, "Liberalism, Democracy and Reasons that All Can Accept," *Journal of Political Philosophy* 17, 2009, pp. 253-274, 272, 274, quoted in Steiner 2012, *supra* n. 3, p. 106; Gastil 2013, *supra* n. 88.

⁹⁰ Gastil 2013, *supra* n. 88, Slide 33. Bullet points quote from the slide.

⁹¹ Steiner 2012, *supra* n. 3, pp. 106-107, 112-118, 210, 254, 268-269.

⁹² Massaro and Stryker 2012, *supra* n. 43, p. 383 n. 26, p. 386, n. 33; Virginia Sapiro, *Considering Political Incivility Historically: A Case Study of the United States*, Unpublished Manuscript, July, 1999 (on file with University of Arizona Law Review); Karen Tracy, *Challenges of Ordinary Democracy: A Case Study in Deliberation and Dissent*, State College, PA: Pennsylvania State University Press, 2011; Sanders 1997, *supra* n. 9; Bohman and Richardson 2009, *supra* n. 89. For example, Tracy suggests that "reasonable hostility" is appropriate such that people can critique those in power based on their past and/or future behavior. Sanders questions strongly the idea that civility invariably is good, given that in most real life situations, civility norms tend to reinforce conformity, exclusion and social hierarchy. Bohman and Richardson (2009, p. 271), affirm that "sometimes, indeed, the pursuit of justice requires engaging with others uncivilly."

⁹³ Sanders 1997, *supra* n. 9; Sapiro 1999, *supra* n. 92.

⁹⁴ Sanders 1997; *supra* n. 9; Sapiro 1999, *supra* n. 92; Francis Fox Piven and Richard Cloward, *Poor Peoples' Movements: Why They Succeed, How They Fail*, Vintage, 1978; William Gamson, *The Strategy of Social Protest*, 2nd Edition, Belmont, California, Wadsworth Publishing, 1990.