Expert Authority in a Deliberative System


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This paper explores the question of how expert authority might be integrated into a deliberative democracy. This question is worth asking for several reasons. First, as Dennis Thompson recently noted, there hasn’t been a great deal of work on the problem of integrating expertise and administration into deliberative theory. Second, this paper addresses an important tension between the principle of democratic equality and the inequalities implied by expert knowledge. That is, the broadly democratic idea that people ought to have equality of opportunity to contribute to deliberation on matters that affect them is undermined by the huge inequalities in knowledge that are necessary to govern complex social and technological problems. The usual solution to this problem involves a division of labour between the process of finding the facts and the process of deciding what we are to do. The idea is that science and expertise provide neutral knowledge for policy and that they need to remain both conceptually and institutionally separate from politics in order to function in this manner. However, in this essay I consider scientific and expert deliberative ‘moments’ as part of the deliberative system, and not as something prior to or outside of or insulated from democratic deliberation. The question is not how to keep them separate, but how to model their integration, and place it on a democratic footing.

External Reasons and Meta-Deliberation
My main argument is that the problem of locating expertise within deliberative politics is just a special case of a general problem in deliberative systems: How to locate the different moments with respect to each other and to observing publics. This is sometimes referred to in deliberative theory as the problem of ‘scale’, but I will frame it in terms of the grounds on which one might accept the outcomes of a deliberation in which one was not a participant. This, in essence, is a relation of authority: it involves not making one’s obedience to a command, or acceptance of a proposition, conditional on an independent examination of the grounds of the command or proposition (Friedman 1990). It is neither a form of rational persuasion, nor a form of coercion or simple exercise of power. The idea of distributed deliberation or a division
of deliberative labour involves some sense in which the outcomes of deliberation can be authoritative from the point of view of some other part of the system. Understood in this way, authority is central to the functioning of a deliberative system.

The deliberative system comprises many sites and venues, with different functions and sometimes different styles of reasoning and norms of argument. Such sites can include parliaments, expert committees, a courtroom, everyday talk, and civil associations or social movements. I would add that it can be extended to include scientific and expert deliberation, in such institutional venues as formal scientific communities, based in research institutions of various kinds, and in governmental commissions, committees and other expert advisory groups. In as much as it ‘contribute[s] ... to weighing matters that the public ought to discuss’ (Mansbridge 2010), scientific discourse must be considered part of the deliberative system. Indeed, many of the new democratic institutional innovations either arose in the context of scientific and technological issues or have found their most frequent applications there. These sites can have different deliberative functions and involve adaptations, or even additions, to core regulative ideals. The different deliberative components or moments can properly have different standards. Further, as Parkinson notes, ‘each element in such a system may not be perfectly deliberative or democratic in its own right, but may still perform a useful function in the system as a whole’ (2006: 7).

A central claim of the deliberative systems approach is that the relations between parts or moments in the deliberative system - the division of deliberative labour - must itself be subject to deliberative justification (Mansbridge 2010; Thompson 2008: 515; Bohman 2007: 1). How is this ‘meta-deliberation’ supposed to take place? How are we to think of the relations between deliberative moments as themselves being subject to deliberation? In order to address interaction between different deliberative moments, it might help to distinguish ‘internal’ from ‘external’ deliberative legitimacy. Internal legitimacy derives from some sort of agreement on the outcome of a deliberation by the participants within a particular institution or body. This agreement, we should note, is not necessarily a strong consensus or unanimity position, in which all participants
come to believe the same things for the same reasons. Rather, we might talk of a ‘deliberative acceptance’ (Beatty and Moore 2010), in which there is dissent, but the outcome of the deliberation is accepted by the minority. Bohman presents a similar view, as does Ferejohn, who defines ‘internal deliberation’ as deliberation in which ‘members attempt to reason among themselves, in camera, to produce a joint recommendation on behalf of the whole body’ (Ferejohn 2008: 209). External legitimacy, on the other hand, derives from acceptance by institutions or publics outside of the deliberative forum. It can be generated through open hearings, publicly available documentation, and ‘speaking to community meetings and explaining its process and reasoning’ (Ferejohn 2008: 208). As Ferejohn puts it, external deliberation ‘aims to convince those who are not in the room’ (2008: 209). This distinction, then, draws attention to the relations between those who are ‘in the room’ and those who are not, and also opens the possibility that different reasons might be relevant to these different aspects of legitimacy. This, I will argue below, is crucial to understanding how expert authority can be considered part of a deliberative system.

The deliberative quality of the system is found, to at least some degree, in the quality of the interactions between those participating in the deliberation and those outside. A public that was not in the room and shared neither in the substantive reasoning and information, nor in the experience that there was a full, open and fair process of deliberation, has to make judgments of representativeness, of deliberative fairness, and of expertise within the room. I hold that (i) these kinds of system-level judgments are crucial given that the sheer volume of information and range of matters of political decision makes such ‘indirect’ deliberation largely unavoidable in a modern democracy; and (ii) these sorts of judgments are particularly important, difficult, and under-explored in relation to science and expertise - and sorting this out is crucial to organising meta-deliberation in the realm of science and expertise.

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1 A deliberation is internally legitimate, Bohman argues, when the participants ‘could see that all views were fully and civilly considered, and that their groups and in the plenary sessions they had opportunities to shape and influence the course of the deliberation, even if they perhaps did not agree with its outcome’ (Bohman 2007: 10).
A Technocratic Model of Expert Authority

What, then, does it mean to think of expert deliberation as part of the deliberative system? The key is ‘meta-deliberation’ - deliberation at the level of external reasons for accepting the authority relation itself. On what we might call the technocratic model of expert authority, external legitimation is detrimental to the core function of the deliberative moment itself. The technocratic model identifies authority with a surrender of judgment - it is essential to the authority relation that you do not independently judge the matter at hand. In the case of expert authority this involves accepting some claim without independently accessing the grounds on which the claim is made. To take on authority that global climate change is taking place and can be attributed in part to human activity means precisely that you don’t, in Hobbes’s phrase, fetch your conclusions by reckoning from the ‘first items’. If you read and discuss all the relevant evidence and form an independent judgment, then the relation would be persuasion, not authority. Thus, expert authority on what I call a ‘technocratic’ model can be characterised by (i) a recognition of inequality in knowledge, and (ii) a surrender of judgment to the authority. It is important to note the assumption of absolute inaccessibility that is involved in this relationship. In the case of expertise, exercising independent judgment on X is not an option, either because it's too difficult, too inconvenient, or actually not permitted (in the case of secrecy, for instance).

On this technocratic model, the value of expert authority in the deliberative system is found principally in what we can call an ‘aggregative’ or a ‘sequential’ sense. On the ‘aggregative’ account, each step or moment in a deliberative process adds a bit of deliberative value to the aggregate whole, and the deliberative moments are treated as plug-ins or pieces of a puzzle. The deliberative virtue of the system is equal to the sum of the deliberative virtue of the parts. Authoritative expertise, on this model, is ‘plugged in’ to the system and adds the deliberative virtue of competence and epistemic reliability. On the sequential account, the deliberative moments are related as a sequence of steps in a decision process (A comes before B comes before C). This is different to the ‘added value’ model in that it allows that different sequences could make the deliberative value of the system more (or less) than the sum of its parts taken
separately (Goodin 2005: 193). And it is easy to see how the technocratic model of expert authority can be integrated into a ‘sequenced’ deliberation. The delegation of fact-finding to expert committees, for instance, constitutes one step in the parliamentary process, with its own deliberative standards, yet clearly related to an overall ‘deliberative task’ set by the main chamber. Thus, although an expert committee might not do well on equality or inclusion, it might do very well on respectful argument and epistemic reliability, and thus contribute usefully to the deliberative system overall by placing subsequent debates on a sound factual footing. There is clearly an important role to be played by expertise within a system of distributed deliberative labour.

When we consider the distinction between internal and external legitimacy, we can see that expert deliberation looks like an archetype of ‘internal’ deliberation. Recall Ferejohn’s definition of internal deliberation, which emphasises the fact that it takes place behind closed doors: ‘members attempt to reason among themselves, in camera, to produce a joint recommendation on behalf of the whole body’ (Ferejohn 2008: 209; my emphasis). He notes that such closed-door deliberation insulates participants from the need to ‘impress’ a ‘poorly informed audience’. Members are able to change their minds and switch positions ‘without worrying about their public reputations for consistency’ (Ferejohn 2008: 209). By closing the doors, Ferejohn argues, ‘internally deliberative processes may provide an environment in which issues can be decided free from coercion and temptation and in that way approach what Habermas has called an ideal speech situation. At least from the viewpoint of those in the room’ (Ferejohn 2008: 209). Courts take the highest place in his hierarchy in that there are strict evidentiary standards, reasons are required, and those reasons must in fact be persuasive. We could note that deliberation within scientific communities and expert committees has similarly high expectations - and perhaps higher, since a stylized version of scientific deliberation has often been taken as the archetype of epistemic virtue.
For Ferejohn ‘deliberative expectations are inversely correlated with democratic pedigree’ (Ferejohn and Pasquino 2004). And further, it is because such sites are insulated from the need to give justifications that are persuasive to those outside the room that higher standards can be maintained. The courts have both the highest deliberative standards and the lowest ‘democratic pedigree’ (in so far as judges are appointed and not elected). Deliberative expectations approach zero the closer they come to the electorate (voters are never required to give reasons), and this has the effect that the more a deliberative process is external - that is, addresses non-participants - the less it can be bound by ‘internal’ deliberative standards of reason-giving. So he associates trust achieved through ‘external’ deliberation with a ‘weak reason-giving requirement’ (Ferejohn 2008: 207) within the deliberative body - the BC Citizens’ Assembly, in his example. The more trustworthy a deliberative body appears (because it has been ‘exposed ... to public examination’) in the eyes of an external audience, he seems to be saying, the less likely it is to have been subject to the high internal deliberative standards that would make it really trustworthy\(^2\).

Ferejohn’s picture of a hierarchy of deliberative expectations mirrors the technocratic models of expert authority. It is often believed that scientific and expert deliberations achieve their epistemic virtues through their closure with respect to politics and wider publics. In order to reach epistemically sound conclusions, participants must be free to argue vigorously, to present alternative positions, and to reach a decision on what is acceptable to all the members - in short, ‘in the room’ there is to be a kind of ideal Millian freedom of thought and discussion. And if those outside the room are to be convinced, it will have to be the very purest form of ‘trust without reason-giving’ (Ferejohn 2008: 207). On this view, those outside the room can ultimately rely on nothing more than socially acquired habits of deference or acquiescence or, indeed, an equally groundless (from an internal perspective) mistrust. In particular, it is widely held that the joint recommendations of such a body only in fact carry authority outside the

\(^2\) Essentially, he is suggesting, you buy trust at the cost of competence. This is rather like Onora O’Neill’s claim about the costs of transparency. ‘Plants don’t flourish when we pull them up too often to check how their roots are growing: political, institutional and professional life too may not flourish if we constantly uproot it to demonstrate that everything is transparent and trustworthy’ (O’Neill 2002: 19).
body if they are presented as a consensus or unanimity position of the expert group. That is, those outside the room are not persuaded by reasons but rather defer because they are impressed (or intimidated) by the unanimity of the experts.\(^3\)

The technocratic model has a number of problems, chief among which is that it doesn’t recognise that, as Richard Flathman puts it, ‘the A’s have authority in part because some set of B’s accepts values and holds beliefs according to which the A's do and should have authority’ (1980: 20). Most of the time this sort of acceptance is routine and settled. But when science becomes political - that is, when stakes are high and there is conflict that extends to accounts of the facts - the authority relation itself (at the level of those values and beliefs) comes into question. And now we find that these expert deliberative moments no longer function to produce stable facts for political decision-making. Deference here can’t be grounded on those internal reasons, precisely because they cannot be accessed by those outside the room.

**A Democratic Model of Expert Authority**

However, deference could be grounded on the external reason that there has been a process of deliberative scrutiny - that is, deference might be grounded in a process of questioning. It is here that I suggest that new deliberative processes, such as minipublics, have the potential to generate (or become) external reasons for trusting an expert deliberative moment. In this way, they comprise ways of realizing ‘meta-deliberation’ - deliberation about the reasons for which we accept the results of other deliberative moments. This approach involves the view that authority depends not on the surrender, but on the exercise of one’s judgment. Mill recognised this when he distinguished between a person ‘using’ his judgment - ‘for that he never can do too much’ - and ‘trust[ing] solely to his own judgment’, which is to say, ‘receiv[ing] or reject[ing] opinions according to his own views of the evidence’ (Mill 1973: 15). This insight has been developed by Flathman (1980) and more recently Warren (1996), who uses

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\(^3\) This is also a Millian position, presented in The Spirit of the Age, where he notes that unanimity generates popular deference, while ‘divisions among the instructed nullify their authority, and the uninstructed lose faith in them’ (Mill 1973: 8).
the term ‘warranted suspension’ of judgment to get at the fact that authority involves a kind of judgment to conditionally suspend one’s judgment. The upshot of this view is that expert authority relations involve the exercise, not the surrender, of judgment. And this exercise of judgment crucially involves scrutiny of the statements and actions of the putative authority.

This democratic model of authority suggests a rather different relationship with the wider deliberative system. To begin with, the democratic model opens expert authority to the possibility of external criticism and justification. This means that expert authority is open to non-expert judgment. But what about internal deliberative quality? What about the argument that high deliberative expectations actually presuppose a measure of distance and insulation from a ‘poorly informed audience’ (Ferejohn 2008: 209). I will argue that, in light of recent experience with democratic innovations, and the problems faced by ‘technocratic’ models of authority, we can point to two broad ways in which openness to scrutiny can in fact strengthen expert authority without diminishing its deliberative quality.

First, there can be good external reasons for trusting expert deliberations. The reasons Bohman mentions in connection with the citizens’ assembly were, more or less, a belief that those in the room were competent - that they had a measure of genuine expertise - and a belief that they were representative, or in some sense ‘like them’. This latter condition centrally involves an assurance of absence of special interest in the outcome on the part of participants. Parkinson identifies further reasons that those outside the room might rationally defer to the outcome of an internal deliberation: that those outside the room had representatives inside; that publicity enabled outsiders to follow and question or approve of the internal reasoning; jurors were randomly selected and thus descriptively representative. Clearly an expert deliberation is not likely to be descriptively representative - we might expect randomly selected citizens to do worse at assessing the likely risks of cross-contamination from genetically modified crops than a group of ecologists, plant biologists, geneticists selected for their special
knowledge. But several of the other conditions could be (and in some cases have been) adapted to the context of expertise in government.

For instance, following intense controversy in the 1970s in the UK over both embryology and recominant DNA research, the government began to appoint lay representation to sit on certain expert committees. This could be read as a symbolic gesture, but it is possible that it has substantive effects on deliberation within the group and that it helps to guard against the appearance - and reality - of expert self-government. Publicity and openness in the sense of making proceedings and deliberations publicly available at least makes external scrutiny possible. ‘Sunshine laws’ and freedom of information acts have made it easier to identify members of committees and their affiliations and potential interests. With regard to the substantive content of deliberation, although individual citizens are unlikely to be able or motivated to scrutinize it, organisations, movements and associations often have the capacity to take up such opportunities. ‘Knowledge associations’, as Stephen Turner has called them, have the capacity to contest, on both internal and external grounds, the deliberations of expert groups. Externally, then, we can now see a useful role for something like ‘subaltern counter-publics’ in the realm of science and expertise, whose value, according to Nancy Fraser, is to ‘invent and circulate counter-discourses’ and ‘formulate oppositional interpretations of their identities, interests and needs’ (Fraser 1990: 57). We can point to a similar role for social movements in the realm of science, health and environment.

Second, there are reasons to think that the effects of such external involvement are not necessarily detrimental to internal deliberative quality. External deliberation can bear on the internal deliberations in several ways. In the case of scientific research, it can influence the adaptation of standards of ‘good science’ in a particular context. Steven Epstein (1996) showed how AIDS activists developed expertise and were able to force their way into discussions of treatment strategies and experimental design. The AIDS activists had power in that their cooperation was needed in order to conduct research into treatments. Yet there are also cases of integration of both general publics and
affected publics into research design and governance structures. In this context, minipublics are one of the tools available for bringing publics into scientific and expert deliberations.

This, I think, suggests that the value of expert ‘moments’ in a deliberative system can best be captured by a model of iterated deliberation. Iterated deliberation can be thought of as a disruptive counterpart to deliberation that proceeds in an established sequence of moments. It involves questioning, scrutinizing or revising a proposal over time. While Thompson (2008: 515) describes iteration in terms of repeated revisions to policy proposals, we could usefully expand the term to describe challenges to established decision processes. In contrast to the formality of an ordered sequence of deliberative moments, the ‘iteration’ model involves the constant possibility that a routine decision process might be called into question and opened up to closer deliberative scrutiny and revision. Iteration is particularly useful for thinking about how deliberation on scientific and technical issues can address problems of complexity and uncertainty. The problem is that the identity and interests of the various affected parties is often impossible to determine in advance of the production of knowledge itself - some political actors only come into being through the generation of new knowledge.

For instance, citizens who are revealed to share a particular genetic mutation that has a putative connection to a particular disease thereby become a group of affected citizens with only a hazy sense of their own identity and interests: ‘They have their doubts, but they are not sure of anything, and that is precisely why they embark on collaborative research... their identity has been rendered dependent on the course of their investigations’ (Callon et al. 2009: 137). To accommodate this sort of uncertainty, we need to think not just in terms of settled routines for making decisions, but to maintain ways for new actors to enter the arena. One of the key reasons for being open to the possibility of reopening and reviewing political decisions is to accommodate such shifting identities and interests, and to govern in ways likely to build trust even in this highly uncertain context. The idea of ‘iterated’ deliberation helps us account for this unpredictable emergence of identities and interests in relation to new scientific and technological developments.
Conclusion

Openness to piecemeal challenges and iterative deliberation is essential to enable the kind of criticism that grounds expert authority in the absence of mere blind deference. It is only when citizens have the opportunity and the institutional avenues to scrutinize and question expert authority that the conditions are present for the kind of trust that enables most of those relations, most of the time, to proceed without democratic scrutiny - and this is essential to efficient and legitimate government. In this way the ‘democratization’ of science and expertise might proceed not by increasing the quantity of public involvement (in the common sense of participation) in expert deliberations, but rather by increasing the quality of meta-deliberation on the value and function of divisions of deliberative labour. In place of the habitual deference associated with a settled form of expert government or administration, we might then find a questioning deference that can be fostered by deliberative moments attached to expert government. This, schematically at least, is one way expert and scientific deliberative moments might fit into a deliberative system.

References


