

## Social Justice and Hermeneutics

By Charlie Robinson

In this essay, I want to offer an account of social justice that is influenced by the hermeneutic tradition, most forcefully tendered by Hans-Georg Gadamer. Such an account of social justice accepts its own limitations: it does not claim to be ahistorical or universal, it accepts the ‘fact of reasonable pluralism’ characterising modern democratic societies, and it makes no judgement as to the truth or falsity of either itself or other political conceptions aiming at social justice.

I am moved to adopt the above viewpoint by two related concerns. Firstly, since Hegel brought to our attention the contingent nature of reason, and Heidegger revealed man’s historicity and finitude, there has been an increased dissatisfaction with Kantian and neo-Kantian approaches to deriving principles of justice. And secondly, due to the inevitable burdens of judgement that lie on the shoulders of all political theorists, it appears to me to be reasonable to adopt an approach that drops claims to universality. In short, in the wake of Hegel, Nietzsche, Heidegger, and Rorty, we need to be more honest with ourselves about where our cherished political and moral values come from.

But of course, going too far in this direction is of no use to us. For, followed to its logical conclusion, the result is that no moral and political values stand out as more or less morally praiseworthy or repugnant. We do not want to be so relativist and nihilistic so that we end up saying that all values are of equal worth, as this parlous situation gives us no foothold or foundation from which to derive a political conception that guides the members of a pluralistic democratic society.

I shall be arguing in this paper that a suitable halfway house, somewhere between dogmatic universalism and playful irony, can be found in the work of Hans-Georg Gadamer. Furthermore, I want to assert that a model of deliberative democracy perfectly captures the insights that Gadamer provides, and allows, in principle at least, the institutionalisation of a hermeneutically enlightened approach to issues of social justice.

Allow me to say a few cursory words on the subject of hermeneutics. Originally, hermeneutics means ‘the rules governing textual exegesis.’ Moreover, under the auspices of

Dilthey and Schleiermacher, the early Romantic hermeneuticists, as Gadamer calls them, believed that a methodology of interpretation, which involved recreating the psychological state of the author, could yield, or reveal, the true and objective meaning of the text, as measured against the intentions of the author.

Gadamer, however, following the lead of Heidegger, takes hermeneutics away from methodological concerns, and instead takes an ontological tack. Interpretation is not something that we choose to do or not to do; we are always already involved in an interpretive process. What Gadamer seeks to emphasise is the inevitable reflexivity of understanding, that is, the implication, right from the beginning and to the end, of the knowing subject in any act of interpretation. Any understanding that we do reach is conditioned by our essential historicity and finitude.

For Gadamer, the Enlightenment project of discovering ahistorical truth ascertained from a transcendental standpoint is nothing more than one prejudice among many others. And furthermore, as finite beings, we can never obtain a canonical interpretation of the text or the past: all interpretations are partial and situated.

One might wonder at this point, and not without reason, what those preceding comments have to do with a theory of deliberative democracy, and how one might make the move from the one to the other. I think that the answer might go something like this: peoples living in pluralistic and roughly liberal countries owe it to each other, as a mark of respect for the competing world views of others, that we abandon attempts to regulate our practical and political lives by appeal to some antecedent moral order revealing to us universal moral truths. This we cannot do. We must accept the limitations imposed upon us by what Rawls calls the “burdens of judgement,” that is, we must practice epistemological abstinence with regard to the truth claims made by various comprehensive doctrines.<sup>1</sup> Furthermore, those pervasive differences form the core problematic when it comes to deciding what is socially just and what is not. The philosophical hermeneutics of Gadamer serves us here because it forces an acceptance on the part of political theorists that there is no one true and given set of principles of justice, as the early Rawls might have asserted.<sup>2</sup> Instead, we see that abandoning that part of Enlightenment ground is enabling and liberating. The fact of reasonable pluralism dictates that we must seek an alternative to universal moral codes etched in stone.

I do not wish to imply, however, that we cannot meaningfully evaluate competing assertions. On the contrary, I argue that some criterion exists that allows us to reject out of hand morally repugnant social conceptions. What is this criterion? I have already ruled out the appeal to universal morality or truth, and a quick outline of the Kantian model serves as a useful counterpoint to the solution I'll offer to that last question.

I think we can say that Kant advocates a monological procedure for arriving at what he calls the Categorical Imperative. This simply means that through an introspective survey of the contents of consciousness we can discover the nature, scope, and limits of reason, as Thomas McCarthy observes.<sup>3</sup> I believe that all this would reveal is the particular prejudices (or prejudgements, to use the jargon of philosophical hermeneutics) of that particular individual. More conducive to the establishment of a workable and legitimate criterion of evaluation is a dialogical procedure that allows decisions as to what is socially just to flow from reasonable debate between reasonable persons.

Indeed, Rawls's so-called "hermeneutic turn," as evinced in *Political Liberalism*, points us in the right direction, although I aim to marry it to a conception of deliberative democracy that, so to speak, institutionalises the fallibility of our knowledge, demanded, I believe, by hermeneutical theory, as well as the epistemological abstinence demanded by the existence of pluralist societies characterised by a high degree of reasonable yet incommensurable conceptions of the good. Of vital importance here is the notion of "reasonableness," which gives us a foothold for determining which morally unsatisfactory doctrines we are justified in rejecting. It thus provides a criterion of evaluation which is lacking in more relativistic theories.

I want to begin, then, by briefly sketching the outlines of the Kantian project in a number of its forms. The quasi-objectivism of Dilthey and Schleiermacher provides a suitable point of departure here (One). Next, I want to demonstrate in more depth how the philosophical hermeneutics of Gadamer offers a way out of the Kantian milieu (Two). Finally, a hermeneutically enlightened model of deliberative democracy, gives the hermeneutic story a political emphasis that helps us to deal with sensitive and deep-seated questions regarding social justice (Three) The ideas put forward here are of a tentative nature, and merely hint at the direction in which my studies are taking me.

## I. Dissatisfaction With the Kantian Project.

In effect, much modern political theory takes umbrage with Kantian and neo-Kantian theories because they cannot do justice to the thick and lived-in moral vocabularies of existent communities with established and cherished beliefs. Kant sought to derive moral principles that were logically independent of experience and universal in scope. In choosing a particular maxim to act on, we must subject it to the moral principle of that maxim becoming a universal law (as opposed to acting on a hypothetical injunction that we follow if we wish to achieve a particular end).<sup>4</sup> This procedure of deriving universal moral principles from the contents of one's consciousness is strictly monological – it is a solitary endeavour that would, Kant thought, produce the same results in everyone, assuming that we all acted rationally and reasonably, and divorced ourselves from the vagaries of culture, history, and so on.

Kant's transcendentalism is, then, necessarily abstract. It searches 'for a neutral procedure for a rational choice of political procedures.'<sup>5</sup> The assumption here is, as I've said, that any principles to which rational and autonomous persons can agree in isolation from one another are universal and trans-cultural. But the idea runs into problems before it has even gotten off the ground. For we cannot even assume that rationality and autonomy are themselves preconditions for the discovery of universal moral truths. For instance, certain religious doctrines make a claim to truth whilst disavowing the autonomy of the individual subject. In any case, principles generated by some such universalising device have limited relevance to political communities already embedded in and attached to a tradition peculiar to itself.

A moral claim is always one that is made after a long history of moral claims, connected inextricably to the culturally specific meaning of that and other claims. For instance,

the vocabulary of the Anglo-American world includes terms such as coward and liar, for example; these terms are connected to the culture's practice and history and, more importantly, already provide its members with reasons for acting that are independent of the neutral procedures of justification to be gained by universalising devices.<sup>6</sup>

That is to say, the moral vocabulary of a particular community is always already bound to its traditions. Concepts such as ‘freedom’ and ‘equality,’ usually the starting point of universalist procedures, only have meaning insofar as they have been defined and redefined by us and for us by our community.

We can trace these ideas, and others like them, all the way back to Hegel’s critique of Kant. In his *Philosophy of Right*, for example, Hegel observed that ‘Philosophy is its own time apprehended in thoughts.’<sup>7</sup> For although reason is, for Hegel, marching inexorably towards Objective Spirit, the former manifests itself according to how far it has in fact progressed. And as Warnke points out, philosophy ‘cannot transcend its historical situation. Rather, its task is to understand the rational core of the principles and practices we already possess.’<sup>8</sup> As long as we give up on the idea of Reason’s telos, what Hegel teaches contemporary readers is that we need not look to abstract universalising devices when searching for principles of justice. Instead, we can look to the ethical life that we already live, with its tried and tested regulative and guiding principles.

Similarly, we might say of Rawls what we have already said of Kant. His magnum opus, *A Theory of Justice*, is a classic of political and moral philosophy, but it is subject to the same charges of abstraction that transcendentalism is. In effect, Rawls’s conceptions of the “original position” and the “veil of ignorance” are universalising devices which, Rawls thinks, will yield his two famous principles of justice, lexically ordered. In addition to this, the procedure of choosing such principles in this way is, like Kant’s, strictly monological. For although principles are supposed to be chosen by all, they might as well be chosen for us all by one unencumbered individual, given that the veil of ignorance essentially renders all participants in the original position the same.

This is all very well. In fact, such a procedure might be perfectly acceptable to democratically- and liberally-minded members of a democratic and liberal society. Unfortunately, as I noted above, democratic and liberal societies such as our own are characterised by persons subscribing to reasonable comprehensive doctrines that would not allow for a blanket acceptance of Rawls’s principles of justice. This is because, as Rawls himself admits, the idea put forward in *A Theory of Justice* itself constitutes a comprehensive doctrine.<sup>9</sup> As already acknowledged, pervasive and irresolvable differences between reasonable

comprehensive doctrines forms the core of the problematic when it comes to agreeing on what constitutes social justice, and we'll come to this later.

For their part, according to Gadamer, Schleiermacher and Dilthey also succumb to the Cartesian fallacy of finding an Archimedean point from which to critically assess the truth, or otherwise, of the text, and it is here that Gadamer locates the unfortunate beginnings of hermeneutic's neglect of the problem of reflexivity. Dilthey hoped that his methodological approach to interpretation would result in canon of hermeneutic laws guaranteeing the objectivity of the interpreter's results. As such, he thought that the human sciences, or *Geisteswissenschaften*, could be conducted along lines as scientifically rigorous as those employed in the nomological sciences.

Methodologically speaking, Dilthey's proffered theory necessitated on the part of the interpreter, primarily, an empathetic circumventing of the abyss separating her from the text. As David E. Linge puts it, 'Understanding [for Dilthey] is essentially a self-transposition or imaginative projection whereby the knower negates the temporal distance that separates him from his object and becomes contemporaneous with it.'<sup>10</sup> What is required, then, is for one to "jump out of one's own skin," and put oneself in the place of the author. In fact, if conducted properly, the hermeneutical process should enable the interpreter to know the author better than she knew herself, given that we are also blessed with the historian's aptitude to recreate the historical context surrounding the text's original composition.

This is not to say that Dilthey regarded historical embeddedness as a false starting point for interpretation. Rather, he saw it as a threat to the objectivity of the *Geisteswissenschaften*, and hoped to overcome it by way of a quasi-objectivist methodology.<sup>11</sup>

All that this amounts to, for Gadamer, is an arbitrary privileging of one mode of discourse (the Enlightenment and Cartesian search for objectivity and universal truth) over other possible modes:

Beneath their assertion of the finitude and historicity of man, both Schleiermacher and Dilthey continue to pay homage to the Cartesian and Enlightenment ideal of the autonomous subject who successfully extricates himself from the immediate entanglements

of history and the prejudices that come with that entanglement. What the interpreter negates, then, is his own present as a vital extension of the past.<sup>12</sup>

I think that the key to understanding Gadamer's position here, and his overall dissatisfaction with the Enlightenment project, lies partly in the strong emphasis he lays on the concept of reflexivity. All that we mean here is the implication of the interpreter in the act of interpreting. Of course, no one is so blind as to totally neglect or downplay the role of the interpreter in the construction, production, and reproduction of scientific and social scientific knowledge. But it is the nature of that involvement which makes Gadamer's ideas on the subject so very interesting and worthy of further elaboration. In the next section, then, I want to put forward Gadamer's (positive) theory and, later, put it to work in helping us come to some decisions about what constitutes social justice.

## II. Gadamer's Philosophical Hermeneutics

When Gadamer talks about the relative neglect of reflexivity in the early Romantic hermeneuticists, he turns from methodological to ontological concerns. That is to say, his project is to discover the preconditions for understanding in any form, be it understanding of the text, social institutions, human actions, and so on. More specifically, it is our historicity that is an ontological condition, and thus fundamental to all acts of understanding. Thus Gadamer's heavy emphasis on reflexivity. The baggage brought to the table by the interpreter cannot be put to one side whilst the job of interpreting is being done. Rather, one's prejudgements, preconceptions, traditions, and so on, form the world-view, or horizon, from within which understanding is reached. 'Such horizons constitute the interpreter's own immediate participation in traditions that are not themselves the object of understanding but the condition of its occurrence.'<sup>13</sup> Therefore we cannot help but be swayed this way and that by the prejudices that constitute our very being. As Gadamer puts it, 'The question is not what we do or what we should do, but what happens beyond our willing and doing.'<sup>14</sup> Beyond our willing and doing, I think it is fair to say, lies the realm of prejudice and sedimented tradition, through which prejudices are passed. Importantly, prejudices, or prejudgements,<sup>15</sup> can be either enabling or blind. Either way, accepting our

essential historicity and finitude, and thus also the importance of prejudices, positively opens the realm of understanding – ‘they are simply conditions whereby we experience something.’<sup>16</sup> Therefore, ‘the historicity of our existence entails that prejudices, in the literal sense of the word, constitute the initial directedness of our whole ability to experience. Prejudices are the biases of our openness to the world.’<sup>17</sup>

Now, when Gadamer notes such things as ‘It is not so much our judgments as it is our prejudgments that constitute our being,’<sup>18</sup> it is far too easy to dismiss him as a conservative or a traditionalist. By emphasising the unavoidability of prejudicial interpretation, he seems to be saying that we can never fully thematise our underlying prejudices and work on changing them. I think that this would be a correct interpretation, but the role of prejudices is not simply a negative one, as the word “prejudices” itself implies.

In his *On the Logic of the Social Sciences*,<sup>19</sup> Habermas indeed accuses Gadamer of relying too heavily on prejudice and tradition, and the entailed universality of the hermeneutic situation. Habermas looks to functionalist sociology and psychoanalysis as ways of breaking out of the hermeneutic circle (that is, the circular interpretive procedure of moving between part and whole) and obtaining something like objective knowledge of the social world and ourselves.<sup>20</sup> The thesis is simply this: that out there, beyond that area of situated understanding we inhabit, there lies a realm of “real” social processes that occur beyond the ken of individual social actors, embedded as they may be. In addition, critical reflection can reveal these processes and break the hold of tradition and prejudice.

But this is somewhat to miss the point that all knowledge requires prejudices, that is, ‘never-fully-objectifiable fore-meanings.’<sup>21</sup> Furthermore, Gadamer goes on to assert that language itself acts as a metainstitution, that all understanding is mediated through it, even analysis and understanding of overarching social systems and long-term systemic changes to them. Language is not simply a tool that we can pick up and use when we choose. On the contrary, it is all-encompassing and world-constituting, there is no way to get out of it and see the world from a transcendental perspective:<sup>22</sup>

Language is by no means simply an instrument, a tool. For it is in the nature of the tool that we master its use, which is to say we take it in hand and lay it aside when it has done its service. That is not the same as when we take the words of a language, lying ready in the mouth, and with their use let them sink back into the general store of words over which we dispose. Such analogy is false because we never find ourselves as consciousness over against the world and, as it were, grasp after a tool of understanding in a wordless condition. Rather, in all our knowledge of ourselves and in all knowledge of the world, we are always already encompassed by the language that is our own.... Learning to speak does not mean learning to use a pre-existent tool for designating a world somehow familiar to us; it means acquiring a familiarity and acquaintance with the world itself and how it confronts us.<sup>23</sup>

In any case, the so-called ‘universality of the hermeneutic situation’ does not rule out the possibility of reflecting on our prejudices and traditions, and this is important for what we’ll say later. The fact is that although we can reflect on prejudices and seek to reform or affirm them, we cannot thematise them all; critical reflection itself draws on a number of prejudices that are not transparent to us.

Reflection on a given preunderstanding brings before me something that otherwise happens ‘behind my back.’ Something – but not everything, for what I have called the consciousness of effective history [wirkungsgeschichtliches Bewusstsein] is inescapably more being than consciousness, and being is never fully manifest.<sup>24</sup>

Thus, I believe that there is nothing pernicious or conservative about underlining the, if you like, “thereness” of our prejudices. They just are.

Taking into account all of my comments on Gadamer, the upshot is that the ideals of an objectively true interpretation and of a universally true moral code are problematised to the point that they become almost unintelligible. But before moving on to matters more political, I want to affirm that Gadamer’s theory is not purely negative, in that it denies the possibility of any valid knowledge. Quite the opposite, in fact. For the hermeneutic situation we find ourselves in

becomes the productive ground of understanding (as opposed to hermeneutics as a reproductive endeavour). Allow me now to justify that claim.

Because all understanding is situated and constituted by its relation to hidden prejudices which are mediated through language and tradition, each interpretation is different: each is influenced by its own peculiar prejudicial configuration: each individual inhabits her own horizon, and in coming to an understanding of something, that horizon comes into contact with another, with something foreign inhabiting its own horizon. If both parties are concerned with the same thing – the subject or meaning of the text or text-analogue – and assuming that genuine understanding is sought, then the two horizons become fused: new possibilities and new interpretations emerge as the “object” and its meaning are expressed within new horizons. In this confrontation and attempted assimilation of that which is foreign, certain of our prejudices are thrown into sharp relief and thematised.

An analogy used by Gadamer might help here. Imagine the act of interpretation as a dialogue between oneself and the text. It communicates something to us, and in understanding that we proceed dialectically, and both text and interpreter are changed: ‘To locate the question of the text is not simply to leave it, but to put it again, so that we, the questioners, are ourselves questioned by the subject matter of the text.’<sup>25</sup> And again, ‘Through every dialogue something different comes to be.’<sup>26</sup>

Every time will have to understand a text handed down to it in its own way, for it is subject to the whole of the tradition in which it has a material interest and in which it seeks to understand itself. The real meaning of a text as it addresses the interpreter does not just depend on the occasional factors which characterise the author and his original public. For it is also always co-determined by the historical situation of the interpreter and thus by the whole of the objective course of history....The meaning of the text surpasses its author not occasionally, but always. Thus understanding is not always a reproductive procedure, but rather always also a productive one....It suffices to say that one understands differently when one understands at all.<sup>27</sup>

The next stage of our argument is to put Gadamer’s insights to work on the subject of social justice. Philosophers such as Richard Rorty, Georgia Warnke, and John Rawls have already presented to an Anglo-American audience the political implications of continental

philosophy's emphasis on historicity and finitude, and in part I'll follow in their footsteps. But in addition to that I want to tie Gadamer's philosophical hermeneutics to a model of deliberative democracy. In this way, we'll see how the latter gives institutional expression to the former.

### III. Hermeneutics and Deliberative Democracy.

The ideal of deliberative democracy has its roots firmly but not entirely in the tradition of civic republicanism espoused by Jean-Jacques Rousseau.<sup>28</sup> Central to it is the participation of citizens in a discursive arena on matters of public importance. Of course, as Rousseau saw it, deliberation took place on a small scale through face-to-face dialogue. This is no longer possible: the idea that we might have all interested parties "under one roof" cannot be seriously entertained. However, modern variants of deliberative theory deal with the possibility of constructive dialogue among free and equal citizens on a mass scale: in principle, no one is excluded.

To define deliberative democracy rather loosely, we can say that it refers to the idea that 'legitimate lawmaking issues from the public deliberation of citizens.'<sup>29</sup> This definition is deliberately vague and does not specify any substantive or procedural prerequisites, but what we can say is that given the pluralism characterising many, if not all, western democratic societies at the present time, and given also the existence of so many competing, even incommensurable, comprehensive doctrines, it seems that laws must in some way be derived from 'the will of the people,' as Rousseau might put it, if they are to be truly legitimate. In a liberal society housing non-liberals, the existence and adoption of some laws is always going to lead to a degree of disquiet: we cannot please all of the people all of the time. This is where a theory of deliberative democracy steps in to fill the legitimacy deficit opened up by that increased pluralism. Because states and governments can no longer depend upon a whole community accepting the legitimacy of one overarching religious or mythical comprehensive doctrine, and can no longer legitimate their own rule by reference to one such comprehensive doctrine, a form of proceduralism based around the ideal of enlightened discourse presents itself as a viable and live alternative.<sup>30</sup>

Joshua Cohen's essay "Deliberation and Democratic Legitimacy" still stands as one of the most important early testaments of the deliberative ideal. For Cohen, deliberative democracy is defined thus:

The notion of a deliberative democracy is rooted in the intuitive ideal of a democratic association in which the justification of the terms and conditions of association proceeds through public argument and reasoning among equal citizens.<sup>31</sup>

In it, he puts forward an ‘ideal deliberative procedure’ that is to be mirrored, as far as is possible, in actual institutions.<sup>32</sup> This ideal procedure acts as a regulative ideal in a similar way to Habermas’s ideal speech situation: both effectively hold that participants in dialogue anticipate unconstrained discourse and provisional consensus. Cohen thus offers us an “epistemic” interpretation of deliberative democracy because the ideal procedure mentioned above acts as a standard: democratic practices are legitimate in so far as they meet the standards of this procedure.<sup>33</sup>

Cohen’s ideal procedure makes the following demands upon the democratic procedure:<sup>34</sup> Firstly, deliberation is free in that participants are bound only by the results of their deliberation, and can legitimately act on those results. Secondly, deliberation is reasoned in that participants must give valid and acceptable reasons for their proposals, preferences, and so on. Now, for Cohen and others, initial preferences cannot be taken at face value. Because initial preferences are formed before deliberation, they have not been subjected to the “voice of reason” or reflected upon sufficiently.<sup>35</sup> The idea for Cohen here is that a proper moment of reflection that looks honestly at the genesis of initial preferences might reveal their unfounded or erroneous nature. If a preference holds through the deliberative procedure and comes through it unscathed, then that preference can be said to be genuine. Thirdly, participants in deliberation are ‘formally and substantively equal.’<sup>36</sup> External factors that may distort deliberation and the results thereof, economic power and social influence being two obvious examples, have no place. Finally, deliberation aims at consensus, although the possibility of attaining that goal is remote. In the likely event of there being dissention at the result of deliberation, a majority decision-rule can be legitimately invoked.

Cohen’s insistency upon free, equal, and reasoned deliberation needs to be justified somehow. In order for deliberation to more or less fair and for it to generate decisions that are

legitimate and acceptable to all or most citizens, they must enjoy a large degree of freedom and equality. As Habermas points out, huge differentials in economic resources and social power can only lead to distortions in any communication that occurs.

Habermas, in fact, justifies the freedom and equality of discursive participants in two ways. Firstly, he claims that deliberation conducted under such conditions is an approximation of a truly unconstrained discourse which is itself anticipated in communication itself, which is to say, we anticipate an “ideal speech situation.”

For Habermas, communicative action is the purest form of communication. In everyday communication we inevitably and necessarily raise all sorts of claims to validity which, although rooted in the particular and the local, are nevertheless context-transcendent – they are ‘general and unavoidable – in this sense transcendental – conditions of possible understanding.’<sup>37</sup> These validity claims are as follows: claims to truth, truthfulness, and sincerity, and we, as interlocutors, must presuppose them in communication. For example, as Thomas McCarthy notes in response to Richard Rorty,

In everyday talk we normally mean by “true” nothing like “what our society lets us say” but rather something closer to “telling it like it is, like it really is.” And by “real” we normally mean nothing like “referred to in conformity with the norms of our culture” but rather something closer to “there anyway, whether we think so or not.”<sup>38</sup>

On the level of what Pollner calls “mundane reasoning,” social actors have to presume the truth or falsity of certain claims in order to effectively regulate their lives.<sup>39</sup> Nevertheless, claims to truth, truthfulness, and sincerity, when they can be intersubjectively redeemed, retain their fallible status, by which I mean they can be thematised at any point if need be and consequently revised or rejected.

Overall, participants in deliberation, at least as far as Habermas is concerned, enjoy freedom and equality because pure discourse is anticipated in it, and pure communication demands those conditions at least be approximated. But to bring the discussion back to hermeneutical concerns, quite what constitutes an approximation of ideal conditions is itself a

matter of contention. As Georgia Warnke points out, we need to agree discursively on what constitutes an appropriate approximation, and this can only be done by way of a deliberative procedure that itself must approximate certain conditions of freedom and equality.<sup>40</sup>

Equally, we find in contemporary society that we cannot even find a consensus on what constitutes freedom and equality. For example, a libertarian would read freedom and equality differently. The emphasis would be, instead, on ‘minimal government, economic self-sufficiency and the equation of social rewards with the extent, quality and social usefulness of one’s labour.’<sup>41</sup> Presumably, that would be a matter to be resolved in deliberation - yet deliberation already presupposes a conception of freedom and equality. If it does not, and if participants do not start from a position of relative freedom and equality, then deliberation risks being distorted. In effect, we simply end up moving in circles:

If, in our attempts to determine fair procedures of compromise, we begin with different notions of what counts as a sufficient approximation to an ideal speech situation, we shall need to come to an initial agreement about the elements of such an approximation. But if this initial agreement is itself to be legitimate it must itself be acceptable to all under conditions that already sufficiently approximate an ideal speech situation.<sup>42</sup>

Furthermore, and perhaps more importantly, Habermas’s theory of communicative action stands on shaky empirical ground. His project of universal pragmatics, and indeed the authors upon which he draws, far from constitute an orthodoxy in ordinary language philosophy. A critical theory ‘grounded through a reflection on the presuppositions of speech’ merely begs the question: can in be grounded so,<sup>43</sup> and why ground it at all?

My proposed solution is to adopt a model of deliberation that is more honest about its grounding, one that is content to rest on the latent values already at work in democratic societies, and it is with this idea that I’ll end my reflections.

One objection to the idea that we rest a model of democratic politics on the latent values of a democratic society presents itself immediately. For if we look there for a justification of

certain norms (more specifically, the norms of freedom and equality), we find others lurking that do not match up with the idea of free and fair deliberation. For example, we can find, and without looking too hard, a history of intolerance towards certain groups in democratic societies. Thus, we need a way to justify a “pick-and-choose” mentality towards those norms we think most appropriate and conducive to the effective realisation of deliberative procedures, and I think that this, in turn, is dependent upon a notion of “reasonableness.”

As was noted earlier on, the nature of contemporary democratic societies and the resultant absence of one comprehensive doctrine with an uncontested claim to legitimacy leaves us in a parlous state, at least regarding our justification in making certain decisions and adopting certain socially-regulating norms. I posited a model of deliberative democracy to resolve that difficulty. In order to be fair, participants in deliberation must be free and equal, yet our understandings of what constitutes freedom and equality can legitimately differ. Additionally, deliberation presupposes an understanding of freedom and equality, so the argument becomes, if you like, circular if we say that an agreement on those latent values can be reached through deliberation. Therefore, we need to be able to latch onto something prior to any argument regarding the form, content, and justification of deliberative democracy, and I would argue that the idea of reasonableness fulfils that requirement.

By “reasonable,” I mean only that citizens conform to conditions of reciprocity in their dealings with others, as well as in deliberation. Reciprocity demands only that we accept the equal right of others to raise points, put forward their opinions and reasons for holding them, as well as respecting the status of all persons as having two moral powers or capacities, that is, the ‘capacity for a sense of justice’ and the capacity to ‘form, to revise, and rationally to pursue a conception of one’s rational advantage or good.’<sup>44</sup>

I think that this insistence upon reasonableness is demanded by the hermeneutic situation as I advanced it in section two. For if we accept that there can be no definitive or canonical interpretation, in this case of what constitutes social justice, then we have to at least entertain the possibility of them all. But not quite. Because if one were to dogmatically reject one interpretation for another, or to reject the right of another to put forward their interpretation, then one, in a sense, violates the conditions of the hermeneutic situation and acts unreasonably. And this, it seems to me, acts as a foothold from which we can legitimately put forward the idea that

some interpretations of what is socially just are morally repugnant and worthy of no further consideration by reasonable citizens.

At this point, citizens are free to deliberate about what they want social justice to mean or to be about, but, in effect, they are limited to a set (and this set may be large and diverse) of conceptions of social justice which are all reasonable and justifiable. Moreover, no citizens are denied the right to deliberation because the procedure has been, for want of a better word, fixed, so that it automatically excludes those who would deny that right to, say, ethnic minorities or homosexuals. Having said that, I do not want to affirm that the right to deliberation is inalienable, for that would be to affirm its ahistorical and universal status. Rather, no reasonable citizen could reasonably reject that right and deny it another. The notion of reasonableness mutually reinforces the ideas of freedom and equality, which we can justifiably draw from the traditions and values of democratic culture, because no reasonable citizen would deny their validity, whether they are universal in scope or not. Thus a criterion of evaluation exists that need not draw on universalist assumptions about human nature, morality, rationality, and so on.

## Notes

1. See Rawls, J, *Political Liberalism* (New York: Columbia University Press, 1996).
2. Rawls, J, *A Theory of Justice* (Oxford: Oxford University Press, 1971).
3. McCarthy, T, *Ideals and Illusions: On Reconstruction and Deconstruction in Contemporary Critical Theory* (London: MIT Press, 1991), p. 2.
4. Kant, I, *Political Writings*, ed. Reiss, H (Cambridge: Cambridge University Press, 1970), p. 18.
5. Warnke, G, *Justice and Interpretation* (Cambridge: Polity Press, 1992), p. 3.
6. Warnke, *Justice and Interpretation*, p. 3.
7. Hegel, G. W. F., *The Philosophy of Right* (1821), trans, Knox, T. M. (Oxford: Oxford University Press, 1967), p. 11.
8. Warnke, *Justice and Interpretation*, p. 6.
9. Rawls, *Political Liberalism*, p. 19.
10. Gadamer, H-G, *Philosophical Hermeneutics* (London: University of California Press, 1976), p. 14.
11. Mendelson, J, "The Habermas-Gadamer Debate," *New German Critique*, Fall-Winter 1989-90, p. 51.
12. Mendelson, J, "The Habermas-Gadamer Debate," *New German Critique*, Fall-Winter 1989-90, p.51.
13. Gadamer, *Philosophical Hermeneutics*, p. 12.
14. Gadamer, H-G, *Wahrheit und Methode* (Tubingen: Mohr, 1960), p. 14.
15. The original German used by Gadamer for "prejudice" is *Vorurteilsstruktur*. Certainly, the English usage is more emotive, and Gadamer discusses this briefly in "The Universality of the Hermeneutic Problem," in *Gadamer, Philosophical Hermeneutics*, p. 9.
16. Gadamer, "Universality," p. 9.
17. Gadamer, "Universality," p. 9.
18. Gadamer, "Universality," p. 9.
19. Habermas, J, *On the Logic of the Social Sciences*, trans. Weber Nicholson, S, and Stark, J (Cambridge: Polity Press: 1988).
20. Habermas, *On the Logic of the Social Sciences*, p. 172.

21. Mendelson, "The Habermas-Gadamer Debate," p. 53.
22. Gadamer, *Philosophical Hermeneutics*, p. 29.
23. Gadamer, H-G, "Man and Language," in *Philosophical Hermeneutics*, pp. 62-63.
24. Gadamer, H-G, "On the Scope and Function of Hermeneutic Reflection," in *Philosophical Hermeneutics*, p. 28.
25. Gadamer, *Philosophical Hermeneutics*, p. 21.
26. Gadamer, H-G, "On the problem of self-understanding," in Gadamer, *Philosophical Hermeneutics*, p. 58.
27. Gadamer, *Wahrheit und Methode*, p. 280.
28. See, for example, Rousseau, J-J, *The Social Contract*, trans. Cranston, M, (London: Penguin, 1968).
29. Bohman, J and Rehg, W, *Deliberative Democracy: Essays on Reason and Politics* (London: MIT, 1997), 9.
30. See Habermas, J, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*, trans. Rehg, W, (Cambridge: Polity, 1996) for a discussion of the modern legitimacy deficit.
31. Cohen, J, "Deliberation and Democratic Legitimacy," in Bohman and Rehg, *Deliberative Democracy*, p. 72.
32. Cohen, J, "Deliberation and Democratic Legitimacy," pp. 73-75.
33. Bohman and Rehg, *Deliberative Democracy*, p. 15.
34. For Cohen's ideal deliberative procedure, see Cohen, J, "Deliberation and Democratic Legitimacy," pp. 74-75.
35. The theory of preference formation and transformation is one of the most fascinating areas of the study of deliberative democracy. I cannot go too deeply into it here, but direct the reader to Sunstein, C, "Preferences and Politics," in Goodin, R, and Pettit, P, eds., *Contemporary Political Philosophy* (Oxford: Blackwell, 1997), pp. 156-173.
36. Cohen, J, "Deliberation and Democratic Legitimacy," p. 74.
37. Habermas, J, "What is Universal Pragmatics," in Habermas, *Communication and the Evolution of Society* (London: Heinemann, 1979), p. 2.
38. McCarthy, *Ideals and Illusions*, p. 16.

39. Pollner, M, "Mundane Reasoning," *Philosophy of the Social Sciences*, 4 (1974) pp. 35-54.
40. Warnke, *Justice and Interpretation*, pp. 99-100.
41. Warnke, *Justice and Interpretation*, p. 57.
42. Warnke, *Justice and Interpretation*, p. 100.
43. See Thompson, J. B. "Universal Pragmatics," in *Habermas: Critical Debates*, eds. Thompson and Held (London: MacMillan, 1982), pp. 116-133.
44. Rawls, *Political Liberalism*, p. 19.

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