

Varieties of the Post-Liberal Conception of Deliberative Democracy

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Abstract

In recent years, there has been talk of a ‘crisis of liberal democracy’. The focus then has been on the rise of ‘post-liberal’ democracy as ‘illiberal democracy’. However, does the ‘crisis of liberal democracy’ really mean the ‘crisis of democracy’? This article attempts to give an answer for this question through a re-consideration of the relationship between liberal democracy and deliberative democracy. In doing so, this article will focus on the plurality of the meaning of ‘liberal’ in liberal democracy. As the meaning of liberal is plural (capitalism, competitive party system, the public–private distinction, and constitutionalism), what the ‘post-liberal’ means is plural as well. Then I propose that we can find the varieties of the post-liberal conception of deliberative democracy, according to the plurality of the meaning of liberal. They include (1) workplace deliberative democracy, (2) non-electoral representation and/or non-representative democracy with deliberation, (3) deliberative democracy in the private sphere (deliberative systems in private spaces), and (4) non-constitutional deliberative (discursive) democracy in the public sphere.

Keywords

deliberative democracy, liberal democracy, post-liberal, workplace democracy, public-private distinction, capitalist democracy

Introduction¹⁾

It was about 30 years ago, with the collapse of the Soviet Union and the Eastern European socialist regimes, that people talked about the ‘end of history’ (Fukuyama) and the victory of liberal democracy. Today, however, we talk about a ‘crisis of liberal democracy’. The emergence of ‘post-liberal democracy’ (Zakaria 1997; Mounk 2018), in which democratically elected political leaders conduct politics against constitutionalism and human rights in the name of the people, and concerns have been expressed about it. The label ‘illiberal democracy’ is used to describe the crisis of contemporary politics.

However, this does not mean that democracy must be considered exclusively within a liberal democratic framework. As C. B. Macpherson once pointed out, liberalism and democracy were originally separate political principles, and the connection between them was not self-evident (Macpherson 1965). In fact, Macpherson, in the historical context of more than 60 years ago, distinguished between *liberal* democracy and *non-liberal* democracy and further divided the latter into the ‘communist variant’ and the ‘underdeveloped variant’. For him, it was *The Real World of Democracy* (Macpherson 1965).²⁾ The contemporary world we live in today is, of course, not the world Macpherson saw. Nevertheless, if we follow his argument, it is possible to say that democracy detached from *liberal* does not inevitably mean that politics and democracy are in crisis.

In this regard, the development of the study of deliberative democracy is interesting. This is because some studies of deliberative democracy have

1) This article is a revised and developed version of my former article (Tamura 2019a) which argued varieties of ‘beyond liberal democracy’ in contemporary democratic theory in general. This article focuses on deliberative democracy, not democratic theory in general, and proposes conceptions of *post-liberal* deliberative democracy. The former version of this ‘deliberative democracy’ article was presented at the 14th General Conference of the European Consortium for Political Research (virtual), 24-28 August 2020. I would like to thank, among others, Nicole Curato and Rikki Dean for their help and constructive comments. The research presented in this article is supported by the Grants-in-Aid for Scientific Research (KAKENHI), 19H00579, the Japan Society for the Promotion of Science.

2) However, Macpherson takes the position that he supports a kind of ‘liberal democracy’ in the form of interpreting participatory democracy as the preferred model of liberal democracy (Macpherson 1977: Chap 5).

attempted to separate liberal democracy from deliberative democracy. Indeed, one of the ‘classics’ of deliberative democracy, Jürgen Habermas’s *Between Facts and Norms* (*Faktizität und Geltung*), clearly envisioned deliberative democracy within a liberal democratic framework (in his words, a ‘democratic constitutional state’) (Habermas 1992). However, there has been a trend in subsequent scholarship to envision a non-liberal deliberative democracy. John Dryzek, for example, in his book *Deliberative Democracy and Beyond*, proposed a discursive-deliberative democracy that distanced itself from ‘liberal’ (Dryzek 2000). In his subsequent proposals for a deliberative system, Dryzek argues that the components of a deliberative system are not limited to that of a liberal democracy (Dryzek 2010). The proposal of the concept of deliberation culture by Jensen Sass and Dryzek (2014), who argued that deliberation is universal but its specific form is culture-dependent, can be understood as a suggestion that there could be a *non-liberal* deliberative democracy (See also Sass 2018). H el ene Landemore also proposed the concept of *open democracy* by rethinking the relationship between deliberative democracy and representative democracy (as liberal democracy) (Landemore 2017). Thus, there have been several studies of deliberative democracy that have attempted to rethink the relationship between liberal democracy and deliberative democracy.

Nevertheless, when viewed as a whole, there has not been sufficient consideration of the relationship between deliberative and liberal democracy in the study of deliberative democracy. What has been discussed relatively more in the study of deliberative democracy is the relationship between deliberation and democracy. That is, attention has been called to the fact that deliberative *democracy* is different from mere deliberation (Bächtiger and Parkinson 2018; Warren 2002). This has led to questions and criticisms of mini-publics-centric studies of deliberative democracy (Chambers 2009; Lafont 2015; 2000). The proposal of the concept of ‘authoritarian deliberation’ by Baogang He and Mark Warren also separates deliberation from democracy and points out that deliberation itself can be authoritarian or democratic (He and Warren 2011). There is, of course, great significance in the reflection of the relationship and connection between deliberation and democracy. However, that is not the same as the interest

in whether deliberation is *liberal*-democratic.

The purpose of this article is to assess the significance of research trends in the study of deliberative democracy that seeks to explore *post-liberal* conceptions of deliberative democracy, and to further develop and deepen that direction. In other words, this article re-examines the relationship between liberal and deliberative democracy to show that a) the conception of *post-liberal* deliberative democracy can be considerable, and b) there are varieties of it. The adjective 'post-liberal' might appear to have a negative connotation as the word 'illiberal' is usually used in a negative sense. However, I want to emphasise that a 'crisis of liberal democracy' does not necessarily mean a 'crisis of deliberative democracy'.³⁾ To clarify this, this article will show that there can be more than one *post-liberal* conception of deliberative democracy.

1. Plural Meanings of 'Liberal' and Varieties of *Post-Liberal* Deliberative Democracy

This section confirms that the meaning of 'liberal' in a liberal democracy is pluralistic. I will then show that, if so, there are multiple possible conceptions of *post-liberal* deliberative democracy.

'Liberal' in a liberal democracy has plural meanings. Indeed, today 'liberal' is often understood as an ideal that guarantees human rights (with a focus on liberty rights) and therefore constitutionalism (Dryzek and Dunleavy 2009). While this is certainly one understanding of liberal democracy, the 'liberal' in liberal democracy has other meanings as well. I would suggest that it has at least four meanings: capitalism (or free markets), a competitive party system, public-private distinction, and constitutionalism.

First, 'liberal' may be understood in the sense of a free market or capitalism. In this case, liberal democracy refers to 'capitalist democracy' as a combination of capitalism and democracy (Dryzek 1996). Historically, liberal democracy in this sense was made possible through the organisation of the working class and the

3) See Dryzek *et al.* (2019) on another reflection of the development of deliberative democracy in the age of the crisis of democracy.

establishment of the welfare state through its political representation, the social democratic parties (Esping-Andersen 1985; Iversen and Soskice 2019; Streeck 2014). Second, the 'liberal' in liberal democracy can also be seen as a multi-party competitive party system. In this case, 'liberal democracy' refers to the 'liberalisation of democracy' as a result of the spill over of free market competitive principles into the political sphere. Its institutional forms of expression are a multi-party competitive party system, an electoral system that requires the maximisation of votes, and a representative system based on them (Macpherson 1965; Offe 1984). Third, liberal democracy is also 'liberal' in the sense that it is based on a strict public-private distinction. In this case, 'liberal democracy' has two meanings. One means the formation of the 'private sphere' through democracy in the public sphere (the state or government). The other meaning is that the idea of 'democracy in the private sphere' is missing because democracy is seen as something that is exclusively in the public sphere. Liberal democracy in this sense has been severely criticized by feminists, among others (Dietz 1998; Pateman 1989; Young 1990). Finally, liberal democracy is a democracy based on the *liberal* principle of constitutionalism. Here, constitutionalism refers to the principle where 'fundamental civil liberties are protected by law and constitutional safeguards, while legal enactments and rules are equally and impartially enforced by an independent judiciary and legal system' (Dryzek and Dunleavy 2009: 18). Liberal democracy is a combination of such constitutional principles and democracy. It includes the idea that democracy is realised only through constitutionalism and the idea that democracy justifies constitutionalism (or constitutionally protected values). It also includes the idea that democracy is limited, even as it states the need for it (Dryzek 2000: 10-17). While these four do not cover all the meanings of 'liberal' in liberal democracy, they may cover at least the typical meanings of the concept of 'liberal democracy'.

If this plurality in the meaning of 'liberal' exists, then we can find plural conceptions or 'models' (Held 2006) of *post-liberal* deliberative democracy as well. First, if we take 'liberal' in the sense of capitalism, then *post-liberal* deliberative democracy means that the realm of capitalism and markets is also controlled by deliberation - the workplace deliberative democracy. In other words, the conception of deliberative democracy as workplace and economic democracy. Second, if

'liberal' is understood as a competitive party system, then *post-liberal* deliberative democracy implies the conception of a non-elected representative deliberative democracy. Third, if 'liberal' is understood as a public-private dualism, then *post-liberal* deliberative democracy implies a rethinking of the private sphere as a space coordinated and determined by deliberative democracy as well as the public sphere. Finally, if liberalism is understood as constitutionalism, then *post-liberal* deliberative democracy becomes a theorization of a 'non-constitutional' deliberative democracy. This article explores the plural possibilities or types of *post-liberal* deliberative democracy.

Varieties of *Post-Liberal* Deliberative Democracy

What Does 'Liberal' Mean?	Types of <i>Post-Liberal</i> Deliberative Democracy
Capitalism	Economic and Workplace Deliberative Democracy
Competitive Party System	Non-electoral Representation and/or Non-representative Democracy with Deliberation
Public-Private Distinction	Deliberative Democracy in the Private Sphere (Deliberative Systems in Private Spaces)
Constitutionalism and the Protection of Human Rights	Non-constitutional Deliberative (Discursive) Democracy in Public Spaces

2. Liberal as Capitalism and Beyond: Deliberative Democracy in the Workplace

If the 'liberal' in liberal democracy means capitalism, what kind of *post-liberal* deliberative democracy can be conceived as such? In this article, I view such a deliberative democracy as one that controls the economic sphere by deliberation. In other words, *post-liberal* deliberative democracy in this case refers to deliberative democracy as workplace and economic democracy.

It is the theory of participatory democracy that has advocated workplace and economic democracy (Dahl 1985; Macpherson 1977; Pateman 1970). From the

standpoint of the participatory democracy theory of the need to democratise all 'authority structures' (Pateman 1970) in society, it follows that the realm of the workplace, where people spend much of their social life, is one of the most important areas in which democracy should be applied.

Participatory democracy's interest in economic and workplace democracy seems to have been on the wane since the 1990s. In recent years, however, there has been a resurgence of interest in economic and workplace democracy. For example, Isabel Ferreras, while drawing an analogy between the political and economic spheres (Landemore and Ferreras 2016),⁴⁾ proposed an 'economic bicameralism' in the governance of firms. It is a 'bicameral system' consisting of both the Capital Investors' House of Representatives, representing *capital* investors, and the Labour Investors' House of Representatives, representing *labour* investors or workers (Ferreras 2017: 8).⁵⁾ The firm must be considered as equally constituted by investors of its own labour along with the investors of capital (Ferreras 2017: 13). Elizabeth Anderson also makes a clear distinction between government and state, arguing that government can be found in places other than the state. The government is one that 'exists wherever some have the authority to issue orders to others, backed by sanctions, in one or more domains of life'. If we define government in this way, then the 'modern *state*' as Max Weber defines it, is 'merely one form of government among others' (Anderson 2017: 42. Emphasis original). Anderson's particular focus is on the corporation/workplace. She distinguishes between the 'public government' and the 'private government' and takes issue with the current corporate/workplace being a place of private government. Here, the private government can occur anywhere, not just in the state, and is what 'has arbitrary, unaccountable power over those it governs' (Anderson 2017: 45).⁶⁾ Of course, Anderson believes that government that is not so, i.e. public government, should take place in a variety of places.

4) For a rebuttal to the justification of workplace democracy by analogy, see Frega (2020).

5) In Ferreras, the worker is understood as an entity that invests itself and its labour in the company (Ferreras 2017: 13).

6) Private government, according to Anderson, emerges wherever: '(1) you are subordinate to authorities who can order you around and sanction you for not complying over some domain of your life, and (2) the authorities treat it as none of your business, across a wide range of cases, what orders it issues or why it sanctions you.' (Anderson 2017: 44-45)

As mentioned above, economic and workplace democracy has been discussed primarily from the standpoint of participatory democracy. However, that is not to say that it cannot be discussed from the standpoint of a deliberative democracy (see also Cohen 1989; Felicetti 2018). Indeed, some of the arguments for participatory democracy criticise it for not fully understanding what deliberative democracy means by participation. It is worth remembering that Carole Pateman has pointed out that deliberative democracy is concerned only with mini-publics and loses sight of a structural perspective on society (Pateman 2012). However, it is not appropriate to take an overly oppositional view of participatory and deliberative democracy. Though there are both similarities and differences between the two, it is useful to conceptualise democracy by linking the two (Elstub 2018; Tamura 2014).

What would a deliberative democracy as an economic and workplace democracy look like? Since participatory democracy and deliberative democracy can be linked, it could be linked, for example, to Ferreras's proposed economic bicameral system. Deliberative democrats need not reject economic bicameralism. What the deliberative democrats demand are that both houses of Congress become deliberative. The problem of private government, which Anderson criticised, is precisely the problem that should be addressed by deliberation. Private government was 'government that has arbitrary, unaccountable power over those it governs' (Anderson 2017: 45). Deliberation in the process of government would allow for the arbitrariness and lack of accountability of power to be countered. Deliberation is one of the essential conditions for a government to be public government.

3. Liberal as the Competitive Party System and Beyond: Non-electoral, Deliberative Democracy

The next case is to view *liberal* democracy as a competitive party system (and an electoral representative system). In this case, what kind of *post-liberal* deliberative democracy can we conceive of?

There are at least two possible directions for *post-liberal* deliberative democracy in this case. The first is to envisage a representative system that does

not rely on a competitive party system and election. Specifically, it is the defence of a lottery parliament. The second is to explore a *non-representative* democracy. I shall discuss this in turn below.

3.1 New Forms of Representative Democracy: Lottery Representation and Discursive Representation as Post-Liberal Deliberative Democracy

First, let us address the ideas of alternative representative systems. What are the principles and mechanisms that are not based on elections in the usual sense of the word, but are still *representative* within the framework of democracy? I would like to take up two ideas in contemporary democratic theory.

The first is the lottery representation. The idea of electing representatives by lottery has been around since the ancient Greeks, but it has been rapidly gaining attention in recent democratic theory. For example, for James S. Fishkin, lottery (random selection) is an important means for avoiding the dominance of the democratic process by 'the already convinced who intend to persuade' (Fishkin 2009: 51) or 'partisans' and 'true believers' (Fishkin 2009: 53).⁷⁾ In reality, lottery-based selection of participants has been employed in many mini-publics for deliberation, including deliberative poll devised by Fishkin. Hubertus Buchstein also argues that lotteries help solve problems in both the deliberation and democracy aspects of deliberative democracy (Buchstein 2009). Regarding the deliberation aspect on the one hand, it is argued that the lottery increases the likelihood that deliberative participants will be more reflective of social diversity rather than merely accurate statistical representatives of society.⁸⁾ The other

7) Although Fishkin himself attempts to avoid the involvement of partisan and collective views in deliberation, partisan and collective views are not always anathema to deliberative democracy (Hendriks 2011). See also White and Ypi (2016) for a recent attempt to justify partisanship.

8) However, it is questionable whether a lottery alone can successfully reflect social diversity. For this, we may have to rely on other methods of selecting representatives, such as the idea of discursive representation, which will be discussed later (Dryzek 2010; See also Sakano 2015). In recent years, ideas have emerged that seek to include people with clearly identified interests and positions in the deliberation. A typical example is the inclusion of future generation (Mackenzie 2016; MacKenzie and Warren 2012; Niemeyer

democracy aspect is argued as follows. While contemplation, with its emphasis on the rationality of outcomes, can violate the principle of equal participation in a democracy and lead to the expert domination through deliberation by some people being good at discussion, this danger can be reduced by adopting a lottery.

The other is discursive representation. This concept, raised by John S. Dryzek and others, considers what is to be represented as a discourse rather than a person (Dryzek 2010: Chap 3). If it is based on the principles of a deliberative democracy that puts discussion and communication at its core, there is no need to be concerned with the conventional idea of the 'representation of persons'. Rather, what is important is that all reasonable discourses on the issue in question are represented (Dryzek 2010: 44). According to Dryzek, 'representation of discourses' rather than persons is preferable because (1) it enhances 'rationality', the cognitive correctness of decisions through making decisions under diversity possible, (2) it allows us to rethink the relationship between representation and 'individuals', who should be reconceptualised as 'multiple selves (self)' (Elster), and (3) it can be applied in cases where the units and boundaries of democracy are not clear, such as transnational decision-making (Dryzek 2010: 45-50). As a specific institutional form, it proposes the establishment of The Chamber of Discourses. It is hoped that a variety of discourses on the issues in question will be represented there. Of course, it is people who will actually deliberate in the Chamber of Discourses. Therefore, the key to the selection of members of the discourse is how well they represent the discourses of the people who gather there. Therefore, Dryzek proposes to use not only random selection, but also methods such as the Q methodology, which can be used to investigate what discourses people rely on (Dryzek 2010: 52-56).⁹⁾

and Jennstål 2016). For example, Tatsuyoshi Saijo and his colleagues (Saijo ed. 2020; Hara *et al.* 2017) have been conceived, practiced and experimented the institutional designs where certain people are assigned the role of a 'virtual future generation' to participate in the deliberation from that standpoint when considering issues that could have a significant impact on future generations such as energy and environmental issues. There is no inevitable conflict between a lottery and the creation of a virtual future generation; one could conceivably select a 'virtual future generation' from among them after the lottery. However, the lottery alone does not necessarily mean that a virtual future generation is necessarily represented.

9) Dryzek also makes other suggestions for the design of the chamber of discourse that

An important issue for this article is whether it is reasonable to call lottery and discursive representation as post-liberal deliberative democratic concepts. This is a contentious issue. Compared to traditional representative mini-publics such as debate polls and citizen juries, the Citizens' Assemblies found in some countries in recent years have granted considerably greater power to the member citizens of the lottery-selected Assemblies, constitutional reform, electoral reform etc. (Fishkin 2018; Reuchamps and Suiter eds. 2016; Warren and Pearse eds. 2008). Scholars disagree on whether they see it as something that goes *beyond* liberal democracy or as something that complements and develops it more. The 'realistic' view might be to understand lottery or discourse representation as a measure of deepening and developing liberal democracy. However, representative though they are, these are different from the idea of electing representatives through the competitive party system that has supported the representative system in a conventional sense. They are, therefore, 'foreign' to liberal democracy. They are indeed different from the *liberal* idea of a competitive party system. If that is the case, I think it is better to understand these new proposals of representative system as what bring a *post-liberal* element into the politics of liberal democracy.

3.2 The Non-representative Conception of Deliberative Democracy

Second, the exploration of deliberative democracy that does not rely on competitive party systems and electoral representation can literally lead to the conception of a 'non-representative' deliberative democracy.

John Kean proposed the idea of 'monitory democracy' as a conception of non-representative democracy on a large scale with historical and comparative political theoretical perspectives (Keane 2009). Keane rejects the idea that equates democracy with the representative government. He describes the process of democracy's transformation from assembly democracy to representative democracy and then to a monitory democracy, based on a comparative political

take into account the fact that those who are elected may rely on one or more than one discourse, as well as references to more informal discourse chambers in the public sphere (Dryzek 2010: 56-57, 62-64).

theory perspective that includes non-Western regions. Monitory democracy is ‘a form of “post-representative” democracy that is distinctly different from the assembly-based and representative democracies of past times’ and ‘a variety of “post-parliamentary” politics defined by the rapid growth of many different kinds of extra-parliamentary, power-scrutinising mechanisms’ (Keane 2009: 688).

What happens to electoral representative systems in monitory democracy? Keane states that ‘elections, political parties and legislatures neither disappear, nor necessarily decline in importance; but they most definitely lose their pivotal position in politics’ (Keane 2009: 689), and that ‘power-scrutinising institutions are less centred on elections, parties and legislatures’ (Keane 2009: 697).¹⁰⁾ The subject of power monitoring is too broad and convoluted to be carried out solely by representative organisations and actors in the traditional sense. Instead, it is carried by ‘a whole host of *non-party, extra-parliamentary* and often *unelected bodies* operating within, underneath and beyond the boundaries of territorial states’ (Keane 2009: 695. Emphasis in the original). Monitory democracy is thus conceived as distinct from electoral representative democracy.

While Keane’s vision is not necessarily based on deliberative democracy, H el ene Landemore (2017) rethinks the relationship between deliberative democracy and representative democracy in a more direct way. Much of the research of deliberative democracy, as Habermas’s argument was, has dealt with deliberative democracy within the framework of a (liberal democratic) representative democracy. However, Landemore objects to this way of understanding, stating that in practise the relationship between deliberative democracy and representative democracy has not been adequately theorised.

[W]hile the connection between deliberation and representation might indeed be essential, at least in mass societies, the relation between deliberative democracy as a theory of legitimacy and representative democracy as a historical paradigm is essentially contingent: it is possible to separate the

10) However, Keane also states that monitory democracy also relies on a certain type of representative system in practice. An example of the representative system he cites is the ‘citizens’ assembly’ in British Columbia (Keane 2009: 699-701).

two. I suggest that deliberative democracy is better seen as an independent theoretical module that is compatible with, and indeed better suited to, a different set of institutional principles than the one called 'representative democracy'. (Landemore 2017: 52)

Thus, Landemore believes that representative democracy is not the only institution or principle with which deliberative democracy is connected. Rather, deliberative democracy should be understood as a 'central part' of a 'new and more attractive paradigm' that she calls 'open democracy' (Landemore 2017: 52).

Of course, Landemore acknowledges that there is a path of thought that is not a departure from representative government but redefines representation. However, she chooses a different path for four reasons (Landemore 2017: 57-58). First, if 'representation is democracy', as some commentators say in defence of representative government, then the term 'representative democracy' becomes redundant and less significant. Second, historically, representative democracy 'was born as an alternative to democracy'. In other words, it is 'fundamentally elitist and anti-democratic'.¹¹⁾ Third, representative democracy is strongly linked to electoral and thus elite democracy that it is very difficult to revisit it. Finally, representative democracy has become effectively tied to a narrow understanding of the nation-state and the 'political'. Today, the understanding of democracy must be extended vertically to the international level and horizontally to the economic sphere. Thus, the open democracy proposed by Landemore in place of representative democracy, with inclusiveness and equality as fundamental principles, consists of five institutional principles: (1) deliberation; (2) the majoritarian principle; (3) complex representation (not limited to electoral representation); (4) rotation (of representation); and (5) openness (Landemore 2017: 58ff.).

Landemore's account of the differences between representative democracy and open democracy can be summarised as follows. First, representative democracy is compatible with the aggregate model of democracy, whereas open democracy has deliberation as its normative core. Second, representative democracy cannot

11) On anti-democratic nature of (electoral) representative democracy, see also Reybrouck (2016).

satisfy the three basic criteria of democracy discussed earlier. Third, in open democracy, people can access and hold power, rather than simply giving their consent to it, as is the case in representative democracy. In light of these, the interpretation in favour of Landemore is that her theory of open democracy certainly contains some elements in common with representative democracy, but it differs in its core.

Nevertheless, the question remains as to whether Landemore's argument can be called *non-representative* in the sense of this article. Of particular concern are two of her five institutional principles of open democracy: (1) the majoritarian principle and (2) complex representation. What Landemore is proposing is, after all, a kind of representative democracy, and her argument should be placed in the direction of the *alternative representative system*. In fact, Dryzek's (2010) argument, which poses discursive representation as one of the alternative representative systems, is not very different from Landemore's if taken as a whole. This is because Dryzek also poses discursive representation as an idea of representation that is more compatible with deliberative democracy, while taking deliberative democracy as a fundamental principle.

This issue involves the difficult question of what criteria to set the boundary between the *alternative representative system* and *non-representation*. Confronting this difficult question, Landemore seems to undermine the impact of her own argument by including some sort of representative democracy in her alternative conception of open democracy. Nevertheless, her main focus is on posing an alternative paradigm to (any) representative democracy. With this point, therefore, I would like to grasp her position as *non-representative*.

In this section, I have taken up a number of arguments for a deliberative democracy that is not 'liberal' as a competitive party system (and a representative system based on it). This is not to say that all these arguments reject representation per se. Rather, many of the arguments (still) contain some reference to representation. However, even if they do, in many cases the representation referred to, such as lottery representation or discursive representation, is different from electoral representation.

4. Liberal as the Public-Private Distinction and Beyond: Deliberative Democracy in the Private Sphere

Liberal democracy is also 'liberal' in the sense that it is based on the public-private distinction that creates a strict differentiation between the public and the private. In this case, liberal democracy refers to a democracy that appears exclusively in the public sphere. What does *post-liberal* deliberative democracy mean in this case? It is a deliberative democracy that overcomes the public-private distinction, especially one that regards the private sphere as a forum for deliberation.

However, the following ideas of 'deliberative democracy in the private sphere' is not sufficient. The first simply says that 'there is (or must be) deliberative democracy in the space or the realm that is considered *private*'. The other, like the Habermasian 'two-track model', says that 'the spaces and realms that are usually considered *private* are (or should be) also connected to the state and government through deliberative democracy'. In this article, I do *not* include these types of ideas when discussing the conception of deliberative democracy *in the private sphere*. The reason for this is that none of them can be considered what goes beyond liberal democracy. That is, these ideas may still recognise competitive (electoral) representative democracy at the state and government levels as the primary mechanism of democracy. In that case, they cannot be said to have overcome liberal democracy; they are not *post-liberal* conceptions of deliberative democracy.

What would a *post-liberal* deliberative democracy look like that overcomes the 'liberal' public-private distinction? In this article, I argue that *post-liberal* deliberative democracy, in the sense of the post-public-private distinction, appears: (1) when the private sphere is also understood as the site of deliberative democracy; deliberative systems in the private sphere, and (2) when we accept the idea that not only opinion formation *but also* decision-making through deliberation can take place in deliberative systems in the private sphere. In this case, both public and private spheres become sites equally controlled by deliberative democracy.

Such arguments can be found in attempts to re-examine politics inspired by

feminism. For example, based on the reinterpretation of radical feminism's slogan that 'the personal is political', Tetsuki Tamura argues that politics and democracy as collective decision-making can exist not only in the state and public sphere, but also in the private sphere, including the family and the intimate space (Tamura 2009; 2015). He also argues that the family and the intimate space should be understood as a 'deliberative system' in its own right (Tamura 2017: Chapter 6; Tamura 2019b; Tamura 2020). Therefore, rather than adding more examples which go beyond the public-private distinction here, I will attempt to further clarify the meaning of overcoming the public-private distinction in this article by taking up a case whose extent of overcoming is not enough.

The case I will take up here is Lisa Wedeen's study of Yemen (Wedeen 2008). Wedeen separates liberal democracy from democracy. Yemen is not a liberal democratic political regime, but an authoritarian regime. However, this does not mean that Yemen should be seen as non-democratic. To think of it, this is a liberal-democratic romanticisation of the ballot box. It may result in neglecting 'the presence of democratic practices in nation-states we might call authoritarian' (Wedeen 2008: 112).

Wedeen argues that 'democrats can exist without procedural [liberal] democracy' and attempts to prove this through an analysis of 'qāt chews' in Yemen (Wedeen 2008: 146). Qāt chews are places where people gather freely to discuss while chewing qāt, a plant that is considered to be a luxury item. First, qāt chews demonstrate the 'political role everyday practices of deliberation play' (Wedeen 2008: 113). Political and social actors from various positions come together there separately to make various decisions about politics. Qāt chews also serve as a forum both for information sharing and discussion on politics and for negotiations between political elites and voters. Furthermore, qāt chews help to develop people's ability to participate in politics (Wedeen 2008: 113-114). Second, while qāt chews are 'democratic' practises, they do not embody 'liberal' values (Wedeen 2008: 145). Yemen does not have a liberal electoral system, and many Yemenis do not necessarily support 'liberal' values. Nevertheless, there is the public sphere in the form of qāt chews, where strangers come together to deliberate, and the results extend outside the qāt chews in question. Thus, Wedeen contends that even if a

political system is non-(liberal) democratic, there can be a democracy at the level of society.

Wedeen also dismisses scholarly concerns on whether the practises in the public sphere formed by qāt chews produce a political regime with ‘liberal’ institutions in the sense of a competitive party system and an electoral representative system, that is, perspectives that view qāt chews in terms of its instrumental value to a political regime (Wedeen 2008: 145). In other words, the very idea of linking democracy at the social level to (liberal) democracy at the level of the political system is rejected. ‘The existence of identifiably democratic practices does not necessarily imply the making of a democratic regime (however defined)’ (Wedeen 2008: 145-146). For Habermas, the public sphere (in modern Europe) served the political function of legitimising (or criticising) the state. However, the Yemeni public sphere as qāt chews does not perform such a function. It only provokes (agonistic) debate, including disagreement on political issues, and as such it is a site of civic engagements (Wedeen 2008: 119-120). Of course, where qāt chews take place is not in the private sphere in the same sense as the family or the intimate sphere.¹²⁾ Wedeen’s interpretation on qāt chews can be nevertheless assessed, for the moment, as overcoming the ‘liberal’ public–private distinction, as a clear steer toward a *post-liberal* deliberative democracy, because she examines democracy at the social level (the public sphere) without connecting to (non-) democracy at the state level; or refusing to examine the former in terms of the instrumental function it serves for the latter.

However, the extent of post-liberal in Wedeen is not enough. This is because she sees qāt chews only as a democratic ‘practise’ or the ‘public sphere’. It is difficult to find in her argument the idea of qāt chews as a unit of politics in their own right, that is, as one of the sites where collective decision-making in the same type as the state also takes place. Wedeen writes indeed that one of the reasons why qāt chews are ‘political’ is that ‘actual policy decisions’ are made there. There, networks of ruling party officials, opposition parties or activists are described to

12) Wedeen argues that while the Western public sphere in Habermas and the ‘reflexive capacity of critical thinking’ there was closely related to the ‘bourgeois family’, this is not the case with the Yemeni qāt chews (Wedeen 2008: 116-117).

come together separately to make various decisions about (national-level) politics and policy (Wedeen 2008: 113-114). However, we cannot find a perspective that grasps qāt chews as sites of collectively binding decision-making for social-level conflicts and issues; ultimately as a ‘political system’ in its own right, which is the same type as that at the state level. Qāt chews are not sites of collective decision-making as a whole, but rather public spheres, sites of civic activities in the sense of free communication and opinion formation. Therefore, from the standpoint of this article, the degree of overcoming the public-private distinction and the degree of ‘post-liberal’ in Wedeen must be assessed as still inadequate.

5. Liberal as Constitutionalism and Beyond

Finally, there is a relationship between ‘liberal’ as constitutionalism and deliberative democracy. Interest in this relationship seems to have increased in recent years (Kong and Levi 2018; Levi *et al.* eds. 2018). There are generally two directions of influence when we describe the relationship between deliberative democracy and constitutionalism. One is *deliberative democracy-to-constitutionalism* and the other is *constitutionalism-to-deliberative democracy* (Levi *et al.* 2018: 3-4). It is the latter relationship that I regard as *liberal* deliberative democracy in this article.

What is the problem? At first glance, there appears to be nothing wrong with the idea that deliberative democracy is only achieved through constitutionalism. If that is the case, then there is no such thing as the need for a deliberative democracy to be *post-liberal* in the sense of constitutionalism. In what follows, I will focus on the idea that deliberative democracy is only possible under constitutionalism (constitutional deliberative democracy) and argue that this is not necessarily the case.

I will refer to Dryzek’s argument. Dryzek says that constitutionalism is not the only thing that defines the nature of actual deliberative democracy (Dryzek 2000). Arguments in favour of constitutionalism tend to believe that the problems of inequality and exclusion in a democracy can (and should) be solved by constitutional regulation. However, constitutionalism is not the only factor that

determines the nature of democracy, and thus not all problems of inequality and exclusion can be solved by constitutionalism.

The other factors that Dryzek focuses on as defining deliberative democracy are the 'material forces' that a capitalist economy has and 'discourses' as a shared meaning among people.¹³⁾ Regarding the former, he points to the inequality between the voices of large corporations and the voices of other groups and people, which he says cannot be corrected by constitutionalism. Regarding the latter, the contestation of discourses cannot be kept within the framework of constitutionalism (Dryzek 2000: 17-18). In other words, the framework of constitutionalism itself can be altered in the contemplative struggle between discourses. In the case of American slavery, for example, it was once possible to deliberate between the defenders of slavery and their critics (Dryzek 2000: 46). Today, however, such deliberation is not allowed. This is because the 'preconditions' for deliberation (what and to what extent it is possible to deliberate) have changed. However, it is not appropriate to think that this change has been made possible by constitutionalism. Rather, the change in the preconditions itself should be thought of as having been made possible by deliberation. It is not that the pre-existing principle of 'human integrity' defines the scope of deliberation. Rather, the content of the principle of human integrity is determined through deliberation on the question of whether it should apply to all people and, if not, why.

Dryzek's approach, that the values which constitutionalism embodies are created through deliberation, can often be seen in his attention to Martin Luther King Jr., the leader of the civil rights movement in USA, and Nelson Mandela, the leader of the anti-apartheid movement in South Africa (Dryzek 1996: 153-154; 2000: 51-52; 2010: Chap 4). Their actions to overcome racism were not based on the 'precondition' that all people are equal. Rather, King and Mandela transformed the constellation of discourses, the 'preconditions' in the public sphere through the use of deliberative rhetoric.¹⁴⁾

13) Both are often intertwined (Dryzek 2000: 18).

14) However, I think it is not self-evident that democratic deliberation leads to the defence of constitutional value (human rights) as the practice of any (deliberative) democracy cannot escape the contingency of its conclusions.

For Dryzek arguing above, the idea of emphasising the significance of constitutionalism for a deliberative democracy fails 'to recognize extra-constitutional agents of distortion that cannot easily be counteracted through such means' of getting constitutions and laws right (Dryzek 2000: 21). Rather, what should be emphasised is the importance of 'critical theory'. Critical theory aims at the 'progressive emancipation of individuals and society from oppressive forces' (Dryzek 2000: 20).¹⁵⁾ And those 'oppressive forces' and 'distortion' come from outside constitutionalism. When considered in this light, it follows that deliberative democracy must be *post-liberal*.

Conclusion

This article has examined the relationship between liberal and deliberative democracy, taking into account the plurality of meanings of the concept of 'liberal'. The 'liberal' in liberal democracy has, at least, four meanings: (1) capitalism (Section 2), (2) competitive party system (based on electoral representation) (Section 3), (3) the public-private distinction (Section 4), and (4) constitutionalism (Section 5). This article confirms that deliberative democracy has provided considerations and arguments that would have gone beyond liberal democracy in each sense of the word. In other words, deliberative democracy can be *post-liberal* in several ways.

The adjective 'post-liberal' has been used with pessimistic tone. However, we should ask ourselves if the crisis of liberal democracy really mean the crisis of all types of democracy, especially *deliberative* democracy. We need not be afraid of post-liberal types of democracy. Deliberative democracy could flourish with *post-liberal* varieties.

15) Marit Hammond (2018) recently criticizes that the critical theoretical perspective that Dryzek had earlier (Dryzek 2000) has been lost in his recent work (Dryzek 2010).

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