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From Justification to Fairness: Reframing the Basis of Democratic Legitimacy

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ABSTRACT

This paper examines whether the legitimacy of democratic policy should not rest on citizens' ability to publicly justify their post-deliberation positions to those who disagree. While deliberative theorists position justification as the foundation for legitimacy, this paper asserts that justification is neither feasible nor desirable as the base. Using conceptual analysis, I examine the requirements of reciprocity, mutual respect, and publicity in democratic theory and demonstrate how justificatory frameworks systematically exclude certain voices and produce exclusion. The result of this analysis is that fairness, rather than consensus-based justification, should serve as the foundation for democratic legitimacy. This paper concludes with the argument that structuring deliberative democracy around fairness better secures legitimacy in pluralistic democracies by preserving mutual respect without enforcing consensus.

Keywords: Alienation; deliberative democracy; democratic legitimacy; fairness; pluralism, public justification

INTRODUCTION

Although a policy may be enacted by legal means, legality alone does not ensure legitimacy. Generally, legitimacy requires that policies are justified in ways that respect the equal standing of all citizens (1). This puts forth two questions: what kind of justification counts in a democracy, and to whom must it be offered? Deliberation insists that legitimacy depends on more than simply second-order procedures. It rests on the ability of citizens to explain their policy preferences in ways that others, even dissenters, can understand and respect (2).

Deliberative democracy gains intuitive appeal in diverse societies. If citizens can justify their views to their ideological opponents, politics becomes a forum for mutual recognition.

Disagreement will remain, but it will be bound by a mutual commitment to reasoning together. In theory, this makes democracy both more legitimate and more resilient (3).

Yet the demand for public justification can become unrealistic in practice. It is often exceedingly difficult to translate moral, cultural, and religious agreement into language acceptable to all. The requirement that citizens must publicly justify their positions to those who disagree risks silencing these convictions, as they exclude certain forms of reasoning from democratic debate. Those with reasons that aren't immediately publicly accessible will not have equal standing. The attempt to foster inclusivity may, ironically, instead deepen alienation.

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And yet, abandoning the requirement of public justification seems equally troubling. Even under reciprocity, where cultural and religious reasons are formally admissible, practical limitations may prevent full inclusion. If legitimacy does not have some reliance on justification across disagreement, then democracy risks devolving into simple majoritarianism, which allows the majority to oppress or marginalize minority groups and their interests.

This is significant because it brings up a problem at the core of democratic theory. While much deliberate literature assumes that public justification should be the basis of democratic legitimacy, agonistic and pluralist critics dismiss it as an impractical burden. Both positions fail to accurately assess the matter: the former overestimates the public's ability to agree on shared reasons, while the latter underestimates the importance of inclusion in deliberation (4). A framework that takes pluralism seriously while promoting the legitimating role of deliberation is needed.

This paper contends that while public consensus plays an important role in democratic legitimacy, it should not be the decisive criterion. Legitimacy should depend on whether democratic processes are structured to give citizens fair opportunities to participate and be heard, rather than on whether each citizen can ultimately justify their post-deliberation stance to dissenters. Fairness of participation, as opposed to consensus of justification, should be the true foundation of legitimacy.

LITERATURE REVIEW

The deliberative turn in democratic theory has sought to broaden comprehension of legitimacy beyond mere legality or majority rule. At the center of the deliberative democratic conception of legitimacy are three concepts: deliberation, equal standing, and public reason. Each provides a means by which legitimacy can be secured.

Deliberation, in its most basic sense, refers to political decision-making that is structured around public discussion and reason rather than negotiation and coercion. Gutmann and Thompson define deliberation as a process in which citizens offer reasons for policies that others can reasonably accept, which then shapes politics as a forum of collective inquiry for the common good. Gutmann and Thompson also emphasize the educative aspect of deliberation, where citizens do not simply express set preferences but can instead learn from each other and revise their views (2).

The standard power of deliberation rests on these three functions: it is justificatory, as it legitimizes outcomes by showing them to be reasoned out; it is educative, as it fosters mutual understanding and consideration across disagreement; and it is inclusive, as it guarantees that all citizens can contribute and be recognized as equals. However, deliberation's justificatory promise is reliant on its demanding assumption that there must be some common form of justification if citizens are to offer reasons that others can accept.

Rawls introduces public reason as the appropriate standard of justification for a constitutional democracy (5). Citizens are expected to justify political decisions in terms that all reasonable citizens can endorse, regardless of their private moral, cultural, or religious views. Public reason thus imposes a rule of restraint on its citizens: they cannot maintain certain moral, religious, or cultural values when participating in democratic decision-making. Instead, they're encouraged to justify their arguments with widely held political values such as liberty or equality.

Public reason provides a common ground for building a consensus and ensures that democratic outcomes do not simply reflect the dominance of one moral or cultural group. Rawls's account risks excluding forms of reasoning that many citizens find central to their political identities.

Gutmann and Thompson draw from Rawl's account but advocates for reciprocity, which allows cultural or religious reasons to be offered if they can be recognized as worthy of consideration by others. On page 679 of Activist Challenges to Deliberative Democracy, Young argues that demanding that justification be offered in "public" terms can silence marginalized perspectives, producing the very alienation it seeks to prevent (6). The question, then, is whether legitimacy should depend on the universal acceptability of reasons, or instead on the fairness of the processes through which these reasons are exchanged.

The foundation of both deliberation and public reason is the principle of equal standing. Gutmann and Thompson state that all individuals should be treated as free and equal participants in the processes of deliberation and justification. Furthermore, all participants must have a fair and equal opportunity to influence the decision-making process by presenting reasons and challenging others, so no citizen's voice may be discounted simply because it is in the minority.

Young, however, makes the compelling argument

that this model of deliberation may instead undermine equal standing by prioritizing rational argument. Rather than focusing on culture or religion specifically, she critiques how deliberative models often privilege abstract reasoning and neutral language, thereby discounting the experiential knowledge and expressions used by marginalized groups. This insistence on detached, rational justification can -- and will -- silence the narratives and lived experiences that are central to the political voice of marginalized communities (6).

Public reason, consequently, can reproduce hierarchies of credibility by implicitly excluding those who cannot frame their claims in terms acceptable to dominant groups. But while Young emphasizes the epistemic marginalization of oppressed groups, she does not include the exclusion of cultural and religious reasoning in deliberation. The same dynamic applies to citizens with disabilities that affect speech or communication, as well as to those without access to linguistic, educational, or rhetorical sources that dominant groups are privileged to. I argue that the structure of public reason similarly restricts citizens whose political reasoning is inseparable from cultural and religious commitments. The justificatory process narrows what counts as legitimate reasoning in both situations, producing exclusions that undermine democratic equality.

Deliberative models also tend to delegitimize the contributions of individuals who ground their political arguments in religious or cultural traditions. These citizens may not be marginalized socioeconomically or politically in the same way as the groups Young describes (6), but actual recognition and influence may remain uneven. Thus, while she critiques how deliberative frameworks curtail equal standing, she fails to address the dismissal of reasoning rooted in cultural and religious worldviews. Even though reciprocity allows religious or cultural reasons, practical constraints may limit recognition and silence certain citizens' contributions. Legitimacy, then, cannot be legitimized as long as the justificatory process systematically favors certain communicative forms over others.

It is important to note that the exclusion of cultural and religious reasoning does not always reflect the political marginalization Young identifies in her critique of rationalist discourse. Certain cultural and religious groups—particularly conservatives ones—may retain significant social and institutional power in academic and liberal-democratic discourse, even if their justificatory forms are disfavored. The exclusion at issue here is not necessarily one of political subordination, but instead that their epistemic legitimacy is weakened, as their reasoning styles are nonetheless devalued as less "public" or "rational" within deliberative contexts. This distinction clarifies that the argument does not conflate structural oppression with discursive exclusion, but extends Young's analysis to demonstrate how any systematic privileging of one justificatory form over another (even when not aligned with any traditional hierarchies of power) may produce forms of deliberative inequality.

This section has introduced the central concepts of deliberation, equal standing, and alienation. Each term introduces issues that illustrate the risks of requiring citizens to justify their decisions post-deliberation. This segment has outlined how Gutmann and Thompson emphasize equal opportunity, how Young critiques the privileging of rational argument, and her critique should be extended to include the exclusion of cultural and religious reasoning. Altogether, these perspectives argue that deliberative legitimacy is threatened when justificatory standards themselves produce exclusions. This lays the foundation for the next section, which will consider the implications and consequences of these exclusions for the legitimacy of democratic outcomes and for the stability of deliberative democracy in polarized societies.

METHODS AND MATERIALS

This paper used conceptual analysis of democratic theory to investigate legitimacy in democratic deliberation, focusing on the normative and theoretical structure of legitimacy within deliberative democracy. The research formed through source selection, source evaluation, refinement of the corpus, and analytical synthesis. The aim was to refine conceptual distinctions regarding justification, fairness, and equal standing.

Sources were initially selected by searching academic databases such as JSTOR and Google Scholar, as well as various academic philosophy and political theory journals. Keywords included "public justification," "consensus," "legitimacy," and "alienation." Chapters by prominent theorists, such as Rawls and Young, were also given priority for their contributions to deliberation.

Sources were then evaluated for their relevance and clarity. Sources that summarized arguments without offering substantive argumentation of their own were discarded in favor of sources that offered

this argumentation. Works were selected from a rough period spanning 1990-2024 in favor of capturing both deliberative democracy's emergence and its contemporary critiques. In order to avoid over-reliance on a single argument, this paper prioritized theoretical diversity.

After roughly 35 works were compiled, the number of sources were narrowed down to 20 texts. Only sources that explicitly addressed justification or fairness as a standard for legitimacy in deliberative democracy were included. The final corpus was analyzed with attention to how each author defined deliberation, fairness, and consensus, and was comprised of approximately 14 central texts representing diverse perspectives across deliberative, agonistic, and pluralist frameworks.

Arguments were compared to identify tensions, overlaps, and points of divergence. Special focus was given to objections raised against both consensus and fairness as standards of legitimacy. From this comparative-conceptual synthesis, the paper developed a constructive argument that fairness (understood as equal opportunity for participation) offers a more sustainable foundation of legitimacy than justificatory consensus. It then addressed potential critiques and responded to each.

RESULTS

The conceptual analysis revealed three major types of barriers that prevent justificatory consensus from functioning as a basis for democratic legitimacy: cultural and religious exclusion, communicative inequality, and structural-material limitations. These barriers collectively contribute to political exclusion, as discussed in the following section.

Many democratic theorists (most prominently Gutmann and Thompson) promote the idea that the legitimacy of collective decisions depends on citizens' ability to justify their positions to one another on terms that others, as free and equal members of society, could reasonably accept. Justification to build a society-wide consensus is, in their eyes, essential to legitimacy itself.

Legitimacy may be undermined if citizens' reasons cannot be meaningfully acknowledged by others. However, the analysis revealed several challenges to the viability of justification as a foundation for legitimacy. A consensus framework assumes that all citizens can both articulate and comprehend reasons in ways that others can meaningfully recognize, but this assumption ignores the barriers to mutual understanding that are derived from culture, religion, disability, and unequal access to communicative resources. As a result, justificatory consensus as the fundamental basis of legitimacy excludes the same voices that democracy aims to empower. In this section, I will highlight certain barriers that prevent justification from serving as the foundation for legitimacy.

One such difficulty lies in the cultural and religious pluralism that characterizes modern democracies. Public reason, as Rawls defines it (7), requires citizens to conceal their sectarian or comprehensive doctrines if they are justifying political claims. Gutmann and Thompson, in contrast, advocate the principle of reciprocity: citizens may offer reasons grounded in cultural and religious commitments if these reasons could be recognized by others as worthy of consideration. However, as Young argues, this structure risks imposing epistemic hierarchies that privilege nonrealistic, universalizing forms of reasoning (6). While Young emphasizes the marginalization of experiential and narrative modes of communication, the same problem arises for cultural and religious perspectives.

For many citizens, political reasoning cannot be separated from cultural identity or religious worldview without distorting its very meaning. A Sikh participant, for example, who grounds her opposition to certain policies in the principle of seva (selfless service), cannot fully translate this reasoning into a secular idiom without destroying part of it (8). She may still offer these reasons under Gutmann and Thompson's reciprocity, but practical recognition of such culturally grounded reasons by others may remain limited. Imagine, for example, a policy aimed at reducing the budget allocation for public community-based services. The rationale behind such a policy would be purely economic--the services are too expensive and inefficient, so they should not be prioritized. The Sikh woman might argue that selfless service to others is a core value of her faith, and that reducing the budget allocation for this service goes against the spirit of seva. If pressured to argue in secular terms, she might appeal to social justice or human rights; however, that would force her to compromise and self-censor her deeper religious motivation. While reciprocity permits citizens to offer such reasons, her influence and recognition may still be limited if others cannot fully engage with or understand them in the deliberative process. Justificatory demands can unintentionally marginalize reasons grounded in personal or religious identity, forcing citizens to either

censor themselves or engage in a form of justification that destroys the integrity of deliberation.

This exclusion is not merely rhetorical; it affects which citizens are counted as full participants in justificatory practices. If legitimacy rests on justification, even if citizens are technically allowed to offer culturally or religiously grounded reasons under reciprocity, these reasons may still fail to be recognized or influential in practice and some citizens are systematically denied full standing in the justificatory process. The justificatory framework may then inadvertently privilege those whose reasons align with dominant interpretation or communication norms. While theorists may argue that this narrowing is necessary to sustain reciprocity (9), the practical result is a system that can still produce exclusion and alienation in deliberation.

The problem becomes more acute when we consider citizens with disabilities. Individuals that have speech impairments, neurodivergence, or other communicative challenges may struggle to provide public justification as the deliberative model demands. Someone who cannot argue their reasoning regarding policy may still hold positions based on real experience. Dismissing those views as illegitimate simply because they are difficult to recognize in practice illustrates a disconnect between the ideal of reciprocity and the realities of deliberative equality. Even if theory allows such reasons, practical exclusion may disguise itself as fairness.

Even ignoring cultural and communicative barriers, the majority of citizens do not possess the time, resources, or institutional access necessary to participate in extended deliberation.

Political theorists often assume an idealized citizen who has both the time and mental resources to engage in careful reasoning, but they ignore the structural constraints that shape everyday life. Someone working two shifts to cover rent and childcare may simply not have the capacity to attend halls and craft arguments in the style expected by deliberative forums. Their exclusion is not necessarily a matter of unwillingness, but instead a matter of unequal material conditions that systematically silence their voices.

As Young argues, deliberative requirements can reproduce inequalities by assuming a shared capacity for deliberation that simply does not exist. Building on her analysis, individuals from other racially marginalized communities may also face structural inequalities in access due to distrust in political institutions and fear of retaliation in communicating controversial positions. Histories of surveillance, discrimination, and targeted policing create environments in which speaking openly is not merely difficult, but dangerous. Demanding that these citizens publicly justify their positions creates asymmetrical risk. A member of a racial minority may have principled objections to a criminal justice policy but will avoid voicing them due to fear of social ostracization and other consequences. The capacity to publicly justify a position is not equally distributed, and it assumes a level playing field of communicative ability and trust that simply does not exist. The requirement that one must justify their views in public entrenches existing inequalities by privileging those already equipped with the resources and safety to speak freely.

And by demanding that all citizens publicly articulate reasons for their post-deliberation positions, theorists risk excluding those who cannot conform to the dominant norms of justification. Arguments that prioritize rationalist and highly abstract reasoning often privilege well-educated elites while marginalizing forms of communication more commonly found in working-class, religious, and cultural minority communities. This seemingly neutral procedural requirement becomes a tool that disproportionately excludes vulnerable groups.

Exclusion doesn't necessarily manifest as outright denial of participation; rather, it occurs through subtler dynamics of reputation and credibility. If certain citizens' contributions to justification are repeatedly framed as irrational, narrow-minded, or linguistically deficient, then they may withdraw from deliberative spaces altogether. Others may internalize these judgements and assimilate, refraining from speaking or strategically reshaping their arguments in order to mimic the dominant arguments and ideologies. Certain citizens, then, will be systematically wronged as knowers--not because they necessarily lack knowledge, but because their knowledge is expressed in ways deemed illegitimate by the dominant group (10).

The result is that "public justification" is no longer a truly universal requirement. Instead of enhancing legitimacy, it deepens democratic inequality by function as a standard set by some citizens and imposed on others. Citizens with higher levels of education, fluency in the commonly-spoken language, and familiarity with institutional norms are able to justify their views in ways considered valid, while others are tacitly excluded.

Altogether, these findings suggest that justificatory consensus operates unevenly across social groups and

privileges those with cultural, communicative, and material advantages. The patterns above imply a risk of political alienation; the normative implications of this risk are discussed below.

DISCUSSION

The preceding section outlined the three major barriers that prevent justificatory consensus from securing legitimacy. This section interprets those findings to argue that legitimacy should rest not on justification, but on fairness as an alternative system.

Exclusion, when experienced repeatedly, leads to alienation. Alienation occurs when citizens no longer see themselves as part of the political community or recognize political institutions as reflective of their voices. If some groups systematically lack the means to engage as peers and reach a justificatory consensus, they cannot experience themselves as equal members of the state. Rather than a space of shared government, deliberation will instead be viewed as a space where their thoughts are devalued and misinterpreted.

While alienation most deeply harms structurally marginalized citizens, the dynamic of epistemic exclusion can further apply to culturally dominant groups whose forms of reasoning are delegitimized within specific deliberative contexts. The harm is epistemic, as it is primarily concerned with what modes of deliberation are recognized as credible contributors within deliberative democracy.

Alienation is more than frustration or disappointment with politics; it is a condition of detachment. Even when decisions are formally democratic, citizens cease to identify with the collective decisions that emerge. If legitimacy is supposed to rest on shared justification, those who feel unable to participate in that process will regard policy outcomes as externally imposed, not as the product of their collective will. This alienation can cause individuals to act in several ways: they may withdraw from voting and civic life, engage in the rise of parallel discourses in subcultures or marginalized communities, or even radical opposition to the political system itself. A state marked by alienation is a state in which citizens no longer see their relationship to one another as co-authors of law but instead as dominated subjects in a hierarchy. If justification serves to divide citizens into those who can perform legitimacy and those who cannot, the system itself will lose normative force. There are two main dangers with alienation in a society: it diminishes both the intrinsic and the instrumental value of democracy (11).

1. Intrinsically, democracy is valuable because it upholds the principles of equal standing and respect among citizens. Alienation alerts us to the fact that this principle has been violated. A system that consistently marginalizes certain voices through the very mechanism created to guarantee public justification (and thus, legitimacy) violates the moral equality of citizens. One cannot be told they are part of a democracy and then denied the ability to participate in its justificatory practices.
2. Instrumentally, alienation results in worse political outcomes. Citizens that are excluded from the justificatory process are less likely to obey laws, trust institutions, and contribute their perspectives to collective problem-solving. While having diverse perspectives improves decision-making, this benefit only applies if those voices are included and respected. Excluding those voices only weakens the structure on which democratic policies are built.

These two dangers are important to note because it shatters the foundation of legitimacy. The requirement that citizens must justify their post-deliberation positions imposes a standard that many citizens cannot realistically meet, which results in structural exclusion and erosion of trust in the democratic process.

In summary, justificatory consensus may be intended to promote democratic legitimacy, but it produces patterns of exclusion and alienation that undermine it. These findings suggest the need to identity an alternative foundation for legitimacy that fully addresses structural inequality. These findings suggest substantive consequences that will be examined further.

If justificatory consensus fails to serve as the decisive base of legitimacy for a democracy, then what alternative standard works? I argue that fairness, rather than consensus, should act as the foundation of legitimacy. A democratic system can only be legitimate when deliberation is structured equitably. Thus, it must offer all citizens an equal opportunity to express their positions without exclusion. The question should not be "can every citizen justify their positions to dissenters?" but instead "can every citizen participate without fear of being dismissed?"

Fairness-based legitimacy, in this sense, has both procedural and substantive dimensions (12). Procedurally, fairness requires that deliberative spaces are both accessible and inclusive, which allows

for representation and diverse forms of reasoning. Deliberative spaces' structure cannot be biased toward one social group or form of communication over another. Substantively, legitimacy requires that everyone has a genuine chance to influence decision-making. Or, to put it differently, democratic legitimacy requires that no citizen is excluded and thus alienated from the deliberative process. Citizens must believe that, regardless of whether decisions favored them, they were able to participate as equals while arriving at those decisions.

Rawls' public reason approach insists on neutral justifications in an attempt to protect fairness; however, this well-meaning restraint silences more than it includes. A fairness-based model avoids this silencing by being more inclusive. But to realize fairness as the foundation of legitimacy, we must define what counts as "fair" within deliberative democracy. At its core, fairness means that all citizens (regardless of their cultural or socioeconomic background) have an equal opportunity to participate in political discussion and decision-making without exclusion (13). This requires structuring of deliberative spaces to ensure that marginalized groups are not again disadvantaged within the democratic process.

Procedural fairness is the idea that no particular groups should be inherently disadvantaged. This results in a need for forums for debate to be fully accessible: physically (for those with disabilities), linguistically (for those who do not speak the dominant language fluently), and temporally (for those who cannot consistently engage due to other obligations). It also means that deliberative norms must have enough flexibility to accommodate varied forms of expression. Rationalist argument should not be the sole accepted mode of contribution, as a system that advantages only those in the dominant style of communication cannot be fair.

Conversely, substantive fairness is more concerned with outcomes than procedural fairness is. Citizens must not only be given the chance to speak, but they must also be able to trust that their contributions matter--that they have some genuine influence over the process of deliberation. This influence can be achieved if decision-makers are required to acknowledge and respond to the various perspectives in deliberation, guaranteeing that outcomes reflect the range of arguments offered. This does not mean that every citizen's preferred policy will win out, but it does mean that no group should be systematically ignored or discounted. The outcomes of deliberation should be able to reflect, at minimum, the fact that diverse perspectives were genuinely considered and integrated where possible.

Though democratic legitimacy grounded in fairness is more inclusive than consensus-based democratic legitimacy, fairness-legitimacy does not entail unbounded inclusivity. One of the most pressing objections to a fairness-based model is the issue of hate speech. If all forms of communication are acceptable, does fairness fall to the paradox of tolerance and requires tolerating voices that actively undermine the equal standing of others? The answer must be no.

Free speech is foundational to democratic equality, but not all speech promotes it. Hate speech directly violates the principle of fairness by attempting to exclude others from the political community. To combat this, a fairness-based framework must have a principled distinction between free speech that promotes deliberative equality and hate speech that ruins it. Unlike justificatory models, which exclude cultural and religious reasoning on the grounds of liberal neutrality, a fairness model excludes only the forms of speech that deny the equal standing of fellow citizens.

Consequently, fairness does rely on a minimal substantive core (the protection of equal standing), but this standard operates as a precondition for procedure rather than as a criterion for the moral acceptability of reasons. Fairness therefore excludes the forms of participation that would deny others' capacity to deliberate as equals as part of its procedure, but it imposes no requirement about what kinds of reasons citizens must offer or which values they must share.

By contrast, justificatory models require that citizens explain their reasons through publicly acceptable terms, which is far more normatively restrictive. Fairness protects the procedural equality necessary for legitimate deliberation while simultaneously remaining agnostic about the substantive moral content of participants' arguments.

This distinction between the two models demonstrates the advantages of fairness over consensus-based justification. While public justification demands that all reasons be translated into neutral political terms, fairness allows reasons to be expressed authentically, provided they do not hinder others' ability to participate as equals. Fairness, as opposed to justification, expands the range of admissible reasons while still protecting the conditions of deliberation.

Citizens are not forced to hide their moral, cultural, and religious convictions in order to be heard, but they cannot weaponize speech to silence others.

Beyond protecting inclusivity, fairness also improves the quality of democratic outcomes. Fairness ensures that the epistemic advantages of diversity are not lost (11), so a deliberative system that promotes diversity produces decisions that are more informed and representative than those that are based on justificatory reasoning. When marginalized groups are systematically excluded or alienated from the decision-making process, their knowledge, experiences, and perspectives are erased. By contrast, when the decision-making process is structured fairly and equitably, their distinctive understanding can benefit policies and create stronger solutions.

Groups that include a wide range of perspectives often outperform homogenous elites in producing solutions to complex problems. Fairness does not simply protect equal standing; it also increases the likelihood that democratic policies are more suited to the needs of the citizenry (14). This does not mean all (or even the majority of) beliefs must be adopted in policy, simply that outcomes should emerge from the widest possible base of input. A democracy based on fairness does not only preserve legitimacy through inclusion but also improves legitimacy by producing more just and effective outcomes.

Legitimacy is further maintained because everyone participates under conditions that protect their equal standing, which resolves the problem of alienation. Because fairness guarantees participation without exclusion, citizens can recognize themselves as equal participants in the process. Fairness as the basis of legitimacy also reflects the realities of diverse, pluralistic democracies. Justification requires a shared common language of reasoning that is simply unattainable in practice. This change from justification to fairness reorients deliberative democracy toward its true egalitarian promise.

Although the previous sections have asserted that consensus-based justification cannot function as the decisive standard for legitimacy, it should not be discarded altogether. In deliberative practice, justification plays an important role: citizens should be encouraged to explain the reasons behind their political positions, as offering reasons fosters an ethos of mutual respect.

The purpose of deliberation is not to achieve consensus (an extremely unrealistic ideal), but to let citizens recognize and interact with each other as equals under shared political institutions. Mutual recognition is possible in disagreement, but only if each citizen is given the opportunity to fairly participate in exchanging reasons.

To substantiate this claim, I will consider three possible objections to the fairness model and respond to each. These responses, hopefully, will demonstrate why fairness provides a stronger foundation for democratic legitimacy.

A first objection is that a fairness standard could be satisfied by a system where all voices are heard, but no meaningful reasoning occurs. If legitimacy is fixed in fairness, deliberation may fall into decay and become nothing more than unstructured preference aggregation. Citizens would simply state their opinions, with no obligation to revise or justify them. A fair process may give everyone the opportunity to speak, but if citizens refuse to explain themselves, then decisions could rest on prejudice and misinformation instead of reasoned outcomes. By relying on fairness instead of justificatory consensus, the democratic process may lose the integrity that differentiates deliberation from pure negotiation.

Such a system would not amount to deliberation at all, yes, but fairness should not entail abandoning collective reason-giving altogether. On the contrary, fairness is what allows all citizens to explain themselves in conditions of structural inequality. The difference is that fairness does not dictate what sort of reasons must be offered, nor does it require that they are universally acceptable in the terms defined by dominant groups. By not imposing a justificatory mold, fairness simply broadens the boundaries to include other forms of argumentation.

When people invoke their shared experiences as part of their reason, they are not refusing to justify themselves. They are simply offering reasons that are valid within their frameworks of meaning. A fairness-based model validates these reasons without requiring translation. Thus, the integrity of deliberation is not lost, but instead redefined in a way that respects citizens' diverse modes of reasoning.

A second possible objection is that fairness neglects outcomes in favor of prioritizing the process. If equal participation is the only requirement for deliberation, then harmful policies could be passed and considered legitimate as long as everyone was included in the decision- making process. Take, for example, a discriminatory law passed after a fair and inclusive debate in which all citizens had equal speaking opportunities. Even if everyone was able to voice their concerns, such a law could result in systematic

oppression of the minority group if the majority decided to endorse it. The critic, then, might make the argument that without justificatory consensus to protect legitimacy, it is instead susceptible to exploitation and will legitimize outcomes that violate rights.

This objection carries more force because fairness, as a procedural value, cannot guarantee that outcomes are substantively just on its own. Even if all groups were involved in deliberation, it is still possible for majority groups to endorse policies that oppress minority groups.

Justification, conversely, aims to prevent outcomes that cannot be justified to citizens as free and equal. While a strict universalist standard may provide a clearer substantive boundary, it cannot be denied that Gutmann and Thompson's reciprocity has a more flexible approach that can, in principle, accommodate diverse reasoning. In this view, it provides the substantive floor that fairness alone cannot.

But while this objection correctly identifies the risk of injustice, it incorrectly assumes that consensus-based justification is the only way to combat it. Democracies have multiple structures to protect against majoritarian discrimination, such as fair courts and international human rights measures. Institutional and legal safeguards already serve the function of protecting legitimacy, so it does not need to depend exclusively on public justification in order to block unjust policies.

Furthermore, fairness is not merely procedural. As expanded upon earlier, it requires both inclusivity and contestation. Any policy that strips a group of equal standing already inherently violates fairness-based legitimacy. Because a discriminatory policy in itself denies citizens equal participation in politics, it could not be considered legitimate under a fairness model.

Rather than legitimizing injustice, fairness acts as a filter and disqualifies outcomes that undermine the very conditions of deliberation. Justification seeks to constrain outcomes through a universal standard of reason, but fairness constrains them by only legitimizing policies that emerge from genuinely inclusive processes.

The third objection is that while a fairness-based system is appealing, it is realistically impossible. Guaranteeing equal opportunity to participate is near impossible in societies that are already formed through structural inequalities. Citizens differ in availability, income, education, and rhetorical skill. A deliberative institution might be structured with the utmost care and precision, but some voices will inevitably dominate political life. In sharp contrast, justification offers a criterion which appears to be clearer and more attainable: were reasons offered that citizens could theoretically accept? It seems more practical than the aspirational pursuit of fairness.

The objection's power is its practicality. Implementing a fairness-based process requires institutional reforms that are likely out of reach. Adding translation services and citizen assemblies can mitigate inequality, but they cannot erase it. One could make the argument that public justification, even with its inherent flaws, is easier to evaluate in real-world deliberation. But should legitimacy depend on a rigid ideal of justification simply because it is easier to maintain? Perfect fairness is difficult to achieve, but the fact that it is demanding should be seen as a recognition of the work democracy must do to achieve inclusion rather than an argument to ignore it. Instead of measuring legitimacy by the success of participants producing universally acceptable reasons, shouldn't legitimacy be measured by whether institutions consistently strive for fairness?

Justificatory standards further privilege those who are already available, wealthy, well-educated, and rhetorically skilled. A post-graduate student who has been trained to craft arguments can meet the justificatory requirement much easier than a working-class citizen who must rely on experiential and narrative forms of reasoning. Similarly, citizens with ample leisure time can more easily participate in deliberation. Minorities may also find their forms of communication irrational or unintelligible, while citizens with disabilities that affect communication may be ignored entirely. This "neutral" standard thus benefits the elites. The fairness-based model acknowledges that reality is unequal and instead seeks to change institutional norms to mitigate this.

Taken together, these objections and rebuttals demonstrate that public justification cannot be abandoned as a whole but cannot act as the decisive criterion for legitimacy either.

CONCLUSION

Justification is an essential practice for fostering mutual respect and understanding, but fairness must act as the foundation for legitimacy to ensure that all citizens can deliberate without exclusion. Without fairness, justification devolves into an exclusionary hierarchy. With fairness, justification may serve as a practice of mutual respect instead of an obstacle to

participation.

Rather than evaluating legitimacy in democracy by whether citizens can justify their post- deliberation positions to dissenters, it should be judged by whether institutions are structured so citizens can deliberate as equals, free to express their personal beliefs and free from exclusion and alienation. Fairness is minimally normative but procedurally structured, allowing for fair participation while avoiding the more extensive justificatory burdens of consensus-based legitimacy.

This perspective has important implications for institutional design because it suggests that democratic systems must incorporate mechanisms that actively promote fairness, inclusivity, and equal participation. This insight may inform reforms in citizen assemblies and legislative procedures, as comparative analysis across different democratic systems shows that some institutions succeed in fostering legitimacy while others fail due to structural inequalities. Even formally democratic institutions may fail to achieve legitimacy if structural inequalities prevent meaningful deliberation, which demonstrates a need for policies and civic practices that are not merely procedural but instead substantively grounded in equality and inclusion.

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