Sins Against Democracy

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John M. Shimkus is the Congressman representing the 19th District of Illinois. On March 25, 2009 in a hearing of the House Subcommittee on Energy and Environment, Representative Shimkus declared that "The earth will end only when God declares its time is over," arguing against the need for concern about climate change. Whether or not you agree with Representative Shimkus, his comments contain the very best of our democracy. We can see the whole range of democracy in the proceedings of the debate and weighing of ideas that go on in our cathedrals of democracy every day. Representative Shimkus is a voice of the people, elected by everyday Americans to serve their interests and support their values in our political process. What is equally important however is that his voice is not the only voice. Every day and in a thousand different fashions we see the goals of the American people being articulated and debated, not only by our elected representatives, but in interest groups, lobbyists, our media institutions, in protests, and in literature[1]. They must discourse, debate, argue and persuade until some form of consensus is reached. The tapestry of discourse and dialogue in America is diverse and challenging for anyone seeking to bring order to our democratic system. This, however, should not discourage us from doing so, or attempting to do so. We should see the range of views and ideas as an opportunity to improve and refine our democratic system, not as an inhibitor. To bring order from chaos we need a mechanism to take the best qualities of discourse and distil them. This mechanism is deliberative democracy, the nature of which we will discuss here.

The specific claim that this paper will address is the content and form of this discourse. It is not a question of which voices we will accept nor one of limiting the subjects of

1 Dahl calls the variety of different governmental bodies "staggering" (Dahl 117), not only in the number of individual local or state governments, but unions, interest groups, and a thousand different organizations of every shape.

our conversations and decision making, but rather I want to raise the question of what reasons we will accept. It is a question of when we engage in political debate, what sorts of reasons we can and should we provide for the positions we support. The focal point of this examination will be part of the claims made by Amy Gutmann and Dennis Thompson in Democracy and Disagreement. Gutmann and Thompson advocate that in our democratic discourse we should include moral reasons into the process of justifying our positions.

> *Deliberative democracy aspires to a politics in which citizens and their accountable representatives… are committed to making decisions that they can justify to everyone bound by them. This commitment entails the integration of substantive moral argument into the democratic process that manifest the equal political status of citizens. The political process… must be as morally defensible in their content as in their conditions.*[2]

They believe that if we want our politics to be as justifiable as possible, we both must and should include a method of solving and accounting for our moral nature and our moral disagreements[3]. In the debate that frames democracy, each voice is motivated by a particular set of values, and Gutmann and Thompson think we are better off including this in our democratic process.

There are issues with debating about values, specifically because of how differently each of us sees them. They claim two responses to this concern by first asserting the tool of deliberative democracy, which as we will see shortly, helps to account for these differences in a constructive manner. Their second response is the more important of the two: "A democratic theory that is to remain faithful to its moral premises and aspirations for justice must take seriously the need for moral argument within these processes and appreciate the moral potential of such deliberation."[4] This defense has two parts. It establishes the

2 Gutmann, Amy, and Dennis Thompson. *Democracy and Disagreement.* (Cambridge, Mass: The Belknap P of Harvard UP, 1996), p. 50.

3 When Gutmann and Thompson refer to morality, we can find symmetry when, now and later in this paper, I refer to the values we hold. Morality is a vision of what is right and wrong, which is fundamentally based on questions of what we value as individuals and a society.

4 Gutmann et al., p. 40.

necessity for moral discourse (a discourse about values), a way of saying that even if this process is hard, we should pursue it. The more interesting claim is that if we are to stick to our roots, we have to accept that our personal values can and should be debated. They find, and I agree, that our democratic institutions are founded on a particular set of values. If we could come together to debate and discover these concrete values, then we must concede that we can talk about other values in the same way.

I do not deny that we managed to agree on core democratic values. The formation of the United States Constitution saw many people, from many places, come together to agree on the values and rights that make Americans who they are. Gutmann and Thompson want us to say that if we have accomplished this task, why can we not use democracy and her institutions, the same set of rules and principles that helped us build the foundation of our nation, to debate and decide on how other values should motivate our politics. It is against this belief and claim that I will build my arguments. I will first develop a model of democracy and deliberation. Then, we will discuss how each of us fit into democracy as servant and master to the system. After discussing Gutmann and Thompson's particular views on moral disagreement and the merits of deliberation further, we will begin the principle critique of their views, ending by proposing possible alternatives and solutions. Before we understand morality in our democracy, we must have an understanding of how these hallowed institutions function.

Deliberative democracy is a manifestation of a democratic system that asks that its citizens accept a conception of government that appeals to the common good.[5] At its heart it relies on its citizens' capacity to engage in deliberation about the appropriate role of government and the right course of action. No reasonable application of deliberative democracy can expect every citizen in a modern state to debate over every issue that faces us. The issues are so complex, the positions so varied, the expertise needed so vast, that

5 This conception of the common good as the motivating force was deeply influenced by John Rawls, particularly A Theory of Justice and The Law of Peoples. The core contractualist claim is something that carries itself into deliberation and into the manifestation of just democratic will. Indeed, much of what I will claim here on fairness, humanity, and appropriateness was directed and guided by these two works.

such a feat would be well beyond us. What deliberative democracy asks, in the real world, is that those who exercise authority in our government, the elected representatives, conduct themselves in a particular fashion. It asks that when these individuals seek to justify their positions to their peers and the populace and to persuade others of the actions they desire, they must do so not merely on interests and principles that are unique to them or even their constituents. A valuable deliberative process seeks to reach decisions that all members would find acceptable, based on principles that all would find acceptable, and argued in a manner in which all would find acceptable—the greatest common denominator of views.

Deliberative democracy is the best alternative that civilization has had on how to govern itself. I believe that a just authority derives itself from the polity and their consent to be subject to the powers above them. Thus democracy is the only justifiable source of political power, and deliberation is the only way to give this power a defensible voice. I advocate that, within the framework of deliberative democracy, it is necessary for us to limit ourselves in a very particular way – specifically that we should not accept personal values as good reasons for political decisions.[6] The argument is that when we exercise the virtues of our deliberative system, we must do so very cautiously and why this caution should prohibit us from providing our individual values as reasons. Individual value based reasons are problematic in my view not only because they fail to meet certain standards of our deliberative discourse, but also because the decisions that can be justified with them are particularly harmful outside our idealized construct. I also believe that even when applied correctly, they do irreparable harm to the system of democratic deliberation itself. However, in order to understand how we might criticize the role these particular value justifications, we need to develop a sufficient conception of the appropriate role of a government that is based on the principles of deliberative democracy.

There are many different views of the systems of the governments we form, and it can be difficult, if not impossible, to determine which system best suits and serves humanity. The issue of resolving which system is most appropriate is compounded by the fact that even

6 Personal values are what we will come to refer to as civilian values later in this paper.

as there are a multitude of different political philosophies, there are a plethora of different cultures and traditions that must be accounted for. The task before anyone attempting to find the best form of government is simply put, functionally impossible. I believe that we will find the most satisfying path not in the courageous pursuit of absolute truths, but rather in the cowardly path of least resistance. We accomplish this by assuming not that there is some best form to be found, but in assuming that the best form of government is an absence of form. I believe that we can craft an image of government that is based on the barest of principles, but is flexible and resilient. We will briefly examine my vision of the role of government, and the role of citizens, within this deliberative democratic system.

To create an image of government, we must briefly distinguish between the fundamental duties of government and the incidental roles that government fills.[7] Although I do not envision a paternalistic government, the parent-child relationship can serve as a rubric here. A fundamental duty of parents is to create conditions for their children to grow into healthy independent adults. The parents' job is to insure the health and well-being of their child, but few would say that it is the fundamental duty of a parent to, for example, provide Band-Aids® for scraped knees. At the same time, we can see how under the core duties of care the parent might decide that it is their function to do just that.

We can see government as acting in a very similar way. The government's fundamental role is not to provide a legal system or police officers, Band-Aids® for societal ills. Instead, the government and those who guide it may see that in order for the society to grow and thrive under the democratic vision, it is necessary to provide such services. It is not the government's fundamental duty to build roads or provide healthcare; these are means to the common ends of a democratic governmental system – the enabling of democratic citizenship and the pursuit of the good life for its members. We can see how each parent has a certain fundamental duty to his or her child, so what then in the fundamental duty of

7 We should consider the expression fundamental in the most robust sense. John Hart Ely makes the observation "most fundamental-rights theorists start edging toward the door when someone mentions jobs, food, or housing: those are important, sure, but they aren't fundamental" (Ely 59). We can consider fundamental duties to enable things like welfare and unemployment benefits, but we cannot consider them to independently fundamental.

a democratic governmental system?

We have gone over to some extent what I believe to be the greatest asset of deliberative democracy: the nature and results of the deliberation that occurs. If we can identify this as being the strength of deliberative democracy—its ability to create systems which all members can respect based on principles all have agreed to[8] – it seems that the fundamental role of democracy then is in part to embrace the base principles that make this possible, like the freedom of speech. It would then seem part of the fundamental role of a deliberative democracy is to protect the core values of the society that allow for its members to participate and grow as democratic citizens.[9]

There are many different views of what these core values are and to what extent we possess each of them. Some may claim, for example, that the right to free speech is absolute, and that no matter what the circumstances I should be able to say and communicate whatever I chose. Others may claim that in order for me to have a fair chance to participate as a democratic citizen I must necessarily have a certain amount of material wealth or education or healthcare. We should not be concerned with the extent or limitations of these rights; their content is not particularly useful. What we should realize about each of these core values is that each of them are rights that our democratic society have determined are instrumental to being democratic citizens. We have determined that at the very lowest level, in order for us as people to participate in our society and shape the types of decisions that our government makes, we must have these certain things.

We have reasoned that a deliberative democracy has two important features: a deliberative system, and a belief in the certain rights and values that enable democratic citizenship to occur. In these two sets of features, we have a convergence of elements that

8 Dahl writes, "Although that process [of democracy and deliberation] cannot guarantee that all the members will literally live under laws of their own choosing, it expands self-determination to its maximum feasible limits" (Dahl 54). It is important that we not only live under laws that we endorse, but that we help to form.

9 In Federalist No. 37, Madison writes, "On comparing… these valuable ingredients of liberty we must perceive at once the difficult of mingling them together in their due proportions" (Madison 223). What he expresses in No. 37 is the tension between the powers of the State and those of the individual, and he identifies a strong democratic citizenry as the best way to maintain this balance. In the same sense, we get the best democracy when we have the best citizens we can.

should shape conditions where the democratic citizen can thrive. It then falls upon these individual citizens to determine what course they believe their democracy should take and develop reasons for why their government should act in such a way. In a sense we have different tiers of motivations at work in this deliberative democracy. We have the abstract entity of the government, which has the responsibility to create conditions for democratic citizenship. We also have the citizenry, which is both subject to and the composition of the government. To reconcile these two elements of each democratic citizen, it is useful to speak of each member of society as a citizen and civilian. When we engage in deliberative discourse with our peers on issues and choices that face our government, we are acting as the citizen. As a citizen, we are utilizing the types of freedoms and abilities that we are granted within our agreed set of core values.

Citizens are the ones on the soapbox, preaching to the crowds on why the government should or should not be doing what the government is or is not doing. To understand the citizen, we need to understand the reasons that we enter into a democracy and how this motivates the goals and values that the citizen holds. The fundamental reason that we restrain ourselves within the confines of the state or society is because we know in the end these sacrifices allow us more freedom overall. We desire this security and assistance because we believe that it will help us realize our vision of the good life. I chose to enter society so that I have the chance to accumulate the means to fulfilling my vision of the good life.[10] It is from these avenues that the citizen derives the values that motivate his political decision-making.

The first duty of the citizen, then, is to ensure that citizens themselves can exist. Insofar as we see the democratic system, and in our discussion the deliberative system, as a means to achieve the goals which we each share when we enter the society, we must make sure that the democratic system itself is strong and intact. However, the citizen has a secondary role: to insure we have the tools to find the good life. We enter into a society, or democracy,

10 Rousseau writes, “The problem is to find a form of association which will defend and protect the whole common force the person and goods of each associate” which we resolve by “the total alienation of each associate, together with all his rights, to the whole community” (Rousseau 191).

because we believe it will enable us to find the good life, not because we value democracy or society independently. The citizen must then value providing the means for the members of the society to pursue the good life. The citizen is the means by which we direct our government to give us the tools to find the good life. However, citizen is not the whole of the person; every member of society is also, in part, a civilian.

Before we were citizens, we were civilians, seeking the good life. The civilian exists in a similar capacity in all political systems because everywhere all persons seek the good life for themselves. It is the civilian within that initially committed himself to the democratic system and ceded part of his individual power to create circumstances that would enable the good life. . Conceptions of the good life vary from person to person and society to society. It is the responsibility of each civilian to pursue the good life in whatever way he sees fit.

Although there resides civilian and citizen in each member of a democratic society, we must carefully divide not only their values but also their natures. The civilian is a fundamentally selfish person, with a distinct vision of the good life that is separate from any other person's interests. It is not that the civilian is incapable of empathy or consideration; for example I may personally value charity as an important element of the good life. What is important is that the civilian's motivation is to find the civilian's good life, whatever that may be. The citizen is different because the citizen does not value any one person over another. The citizen cares as much about his ability to be a democratic citizen as he cares about his neighbor's ability to be a democratic citizen. The citizen values the purpose of the democracy, which applies to all, and the civilian values his vision of the good life, which applies only to him.

We can understand that people come together to form governments not because that government is in itself good. Rather, we form governments to try and serve our own ends. This is how we should begin to see the relationship between citizens, who constitute the strength and content of the democratic government, and the civilians, who are the ones this government serves.

We are not just citizens nor are we just civilians; thus our reasons and values intermingle. How do our civilian perceptions of the good life play into our reasoning, our politics, and our discourse? The fundamental democratic values of our society form one set of reasons while the second set is personal, namely the individual values of the civilian. For example, one might claim that his vision of the good life requires all people to have faith in the divine, which is based on personal values, without a direct appeal to the core principles of our democratic society. What role do these moral reasons play in our deliberative society? To what extent do the civilian and the citizen intermingle in function? To answer this fundamental concern, we will use the arguments put forth by Amy Gutmann and Dennis Thompson in their work Democracy and Disagreement to frame the discussion of need for moral deliberation.

Gutmann and Thompson ask the question: "If moral arguments are essential to justify the foundations and results of democracy, then why should they not also be essential within the ongoing process of democracy?"[11] If we believe that we could debate about the values that founded our democracy, why should we not debate about the values that could guide it further? They believe that by using deliberation, we answer moral questions on moral terms, a uniquely satisfying way of resolving these issues.[12] Gutmann and Thompson go over four causes of moral disagreement: a scarcity of resources, insufficient generosity, incompatible values, and misunderstanding values.

On one hand, it seems that there are questions about resource distribution. Is it moral to have a few super-rich people, while the majority is poor? Is it fair to tax the wealthy differently than other economic groups? Gutmann and Thompson argue, "The hard choices that democratic governments make in these circumstances should be more acceptable even to those who receive less than they deserve if everyone's claims have been considered."[13] The government needs strong reasons to justify resource distribution, and these reasons are stronger when put in terms of deliberative discourse.

11 Gutmann et al., p. 40.
12 Gutmann et al., p. 41.
13 Gutmann et al., p. 41.

The second element of these questions of resources is the issue of human generosity. They claim moral disagreement occurs is because we are not generous enough with the resources we have. Moral deliberation provides a solution: "by creating forums in which citizens are encouraged to take a broader perspective on questions of public policy,"[14] we can encourage them to think more on the value of their fellow man. Charity becomes a natural inclination when people value others like they do themselves.

Another major area of moral disagreement identified by Gutmann and Thompson is incompatible values. They think our lack of knowledge of the values of others and the incompatibility of some moral values demand a solution only deliberation can provide. Each of us has a certain set of values, and sometimes these values clash. Sometimes, there is middle ground on moral issues, and we can combine our visions. However, some moral issues are beyond compromise. If these values are beyond compromise, what is the use of discourse? Gutmann and Thompson have claimed that merely discussing these issues contributes to our ability to respect and understand contrary views. They think that refining the dialogue between separate parties "can begin to isolate those conflicts that embody genuinely moral and incompatible values on both sides"[15] which will allow us to bargain and settle conflicts easier. These sorts of benefits also appeal to the next notion that Gutmann and Thompson introduce. The idea of misunderstanding other sets of morals or values is also closely linked to the conception of incompatible values. Our ignorance of each other's views can lead to moral disagreement where there need not be if we had a better grasp on the values of our peers.

Gutmann and Thompson believe there are also significant pragmatic reasons that our society should embrace value-based reasoning in public discourse. They think that other avenues to settle moral disagreements are insufficient; without discourse, we cannot even begin to approach or appeal to agreed-upon truths.[16] They also believe that the judiciary and the legislature are generally insufficient in the status quo to address the breadth and

14 Gutmann et al., p. 42.
15 Gutmann et al., p. 43.
16 Gutmann et al., p. 44.

depth of moral disagreement. They remind us that "moral deliberation, however imperfect it may be, is already present in public life in many different forms"[17] and needs to be harnessed in the best way possible, namely through deliberation. Altogether, Gutmann and Thompson give us a vision of deliberation on values as being not only possible, but also necessary and inevitable. What is more, we should desire this deliberation because it lets us shape our political decisions even more adeptly.

Here we arrive at the crux of my concern—how civilian values can interact in the deliberative system. My belief is that the inclusion of these personal or civilian values as reasons in the political discourse has unacknowledged difficulties, and even if these barriers did not exist, the overall result of including these types of reasons in the value constellation of the State would cause undue harm. In the simplest terms, I believe that if we include our personal values in the political discourse, we do harm to each other and to our democratic institutions themselves.

The values that we as a civilian hold and use to form our conception of the good life are fundamentally different from those that the citizen holds and uses to guide our democratic institutions. The first difference is one of purpose; the fundamental values of the society are, like our civilian values, a means to an end. The fundamental values are means to the end of a democratic life. Our civilian values are means to an end of a good life. I believe this is an important and powerful distinction.. These two sets of values both shape our behavior and the decisions we make as well as help us justify courses of action. However, fundamental values are fixed and shared among all citizens, whereas civilian values are subject to a far greater amount of variety.

The second difference is the source of values that we exercise. The fundamental values are in part shaped by society, by our forefathers and our founders. We need look no further than the guiding documents of American democracy to see how our current understanding of foundational values is shaped by the society around us. What sets our foundational values apart from their civilian peers is that our foundational values are additionally shaped and

17 Gutmann et al., p. 47.

sourced in a distinct purpose. They are based on a better-defined image of the democratic life or the democratic citizen. While we may disagree on the nuances, what constitutes the democratic person is clear. We want a citizen to be able to participate in the deliberative system, to provide and understand good reasons, and to help shape our system. Our civilian values are markedly different because they are given to us not by necessity of democratic involvement, but by external actors and personal realization. I have already conceded that some of our conceptions of the foundational values of our democratic societies come from external sources, from leaders and teachers; so, what is the important difference we have arrived at?

Essentially, civilian values are based on exclusively personal experiences and teachings, either by strong societal forces or individual learning. Some values are too costly for us to learn on our own; these values society teaches us because they are linked to democratic citizenship. Gutmann and Thompson eagerly acknowledge this point as the primary source of moral disagreement. They note, "moral conflicts can be understood and experienced by one person appreciating the competing claims of more than one fundamental value, and therefore struggling internally to resolve the conflict."[18] The standard of acceptable moral disagreement should not exclusively apply to fundamental value debates. It extends into commonly held conceptions of right and wrong that may or may not be commonly understood. These other values are not as closely linked to the fundamental values that help to drive the engines of our democracies.

Modern democratic societies are heterogeneous not only in belief system, but also in a laundry list of other factors that might influence how one sees the world. We can look to environment as an important factor in shaping the types of values one is likely to have. The perspective that we derive of self and the environment in which we interact is invaluable to how we assess our values. Indeed, this claim seems so natural that it scarcely requires anything beyond assertion. Even in my certainty, I will readily concede that I could be wrong, and it would still be insignificant for my claims. More important than the

18 Gutmann et al., p. 24.

content of our values is the nature of our perception of those values, which is necessarily individual. How long have laborers and philosophers been trying to answer the question "what is good?"[19] To edge into the absurd: would identical twins, raised in identical homes, living identical lives, be able to agree on the meaning of happiness? Even if we believe that we agree on a term or expression of a value, to what extent are we actually agreeing, and to what extent is our agreement empty?

I think that the deeply personal nature of experience-driven civilian values makes it extremely difficult for us to say that we can gain the type of common language and shared sense of purpose that deliberation seems to require of us. If our civilian value reasons can never truly be understood, then what is the use of value discourse at all? Can it not also be concluded then that value discourse over our fundamental values is equally empty? However, we have already seen how fundamental values are substantially different. They have a common purpose, which makes them more substantial and accessible. We cannot test what is 'good,' but we certainly can evaluate to see if someone has the capacity for free speech.[20]

I would posit then that the real danger of our inability to agree on the nature of civilian values is the instability it creates. We would need some sort of coherent image of the good life to allow us to treat civilian values the same as fundamental values in political discourse. I think the complications we might face arise when other parties either in our own time or later must interpret these principles. The number of transitions of authority, culture, and beliefs that even young nations have undergone should make us wary of putting any faith in principles that cannot be clearly defined or that lack guidance.

Let us assume, however, that not only can we understand each other when we speak of civilian values, but that we can discuss them and make decisions which would seem consistent with the guidelines set forth by the demands of deliberative democracy.

19 Again, we might see the aforementioned hubris in seeking to determine what sort of good life is most desirable, or what the actual role of government is, and instead resolving to accept a system where we answer neither of these questions in a satisfying manner and simply say, "let citizens figure it out for themselves."

20 The obvious response to this is the question of if we, as a society, were to develop a standard of fairness that was verifiable in the way that we might see freedom of speech as being verifiable.

Even in these circumstances we need to ask if we can accept the decisions found. We are motivated by civilian values to find paths and choices that affirm our beliefs and principles and, at heart, affirm us as people. Our visions of the good life are not just goals to be attained, but intimately linked to our sense of sense and self worth. We risk this when we include civilian reasoning in our moral discourse.

When the State or society rules on questions of civilian values through the deliberative process, they are electing not only to affirm certain types of values as integral to living the good life, but are also implicitly (or perhaps explicitly) rejecting others sets of values. The process of deliberation is good for a few things; it is good for giving the decisions that we guide our government to do a sense of justice and defensibility. It is good because the process leads us to consider the choices we make in such a way that respects the dignity of our fellow man. It works because citizens utilize it with a specific set of values in mind and a specific aim. The system of deliberation, however, is not suited to comfortably pass judgment on methods of the good life.

One scenario where we might ask the deliberative system to help guide our judgment in a moral context is healthcare and the distribution of resources within our healthcare system. Obviously the amount of energy we can devote to the care of any one person or the curing of any one disease is finite, hence the issue of inadequate resources. There is also the need to determine if one utile of energy being used in one area is as valuable or justifiable as in others. We could spend one million dollars on new machinery for detecting cancer, or we could spend that same million providing for more emergency room doctors. It seems clear that we need some method of deciding questions like these, and to Gutmann, Thompson, and others, we do this by using value reasons, particularly civilian values, as justification. If we expend our resources on the cancer-detecting machinery, we are consuming the opportunity cost of not spending money elsewhere. We are saying that it is more important that individuals who may have cancer be given a better chance at a longer life, that some element of this type of living should be valued over the types of benefits we

would get from making sure emergency room doctors are better rested and better funded. We might even suggest to fund curing the common cold, saying that the small amount of suffering of which each victim is relieved is greater than the amount of suffering that remains by not spending our resources elsewhere.

Gutmann and Thompson believe that the deliberative system gives us adequate guidance to answer these questions and that formulating reasons in a reciprocal nature and having consensus built represent adequate justification. Insofar as these decisions may be seen as political, then the method , and I agree. What I struggle to see is whether this is even the realm of politics. There is not adequate justification to draw this right into the deliberative process at all, or at the very least, to allow the government to decide in terms of civilian values. Is morality really something that can, or should, be decided by committee? One might claim that the government is not passing judgment on a concept of morality but rather the democratic system responding to the needs of its citizens. This type of claim, and the claim that the government has the authority to condone a certain vision of the good life, is highly problematic.

At its heart, when the deliberative process is applied to questions of morality and derives a result that is internally consistent with the standards of deliberation, the result is not merely a suggestion. We cannot forget the nature of authority that is assigned to deliberation. Deliberation and the results of deliberation remain sources of trust and truth. If deliberation speaks on questions of morality, or specifically on questions of civilian value and their moral worth, it does so with power. We can see the application of moral deliberation as giving strong directives on the nature of the good life, and perhaps even explicitly forbidding certain models; however, why should it problematic that we use the tools at our disposal to enforce a certain model of living?

One objection is one rooted in the question of from where this right is derived. It is understandable, and perhaps defensible, that a stable and finite society might wish to enforce certain models of the good life. However, we must recall that the responsibility of

government is to shape conditions for the pursuit of the good life as a citizen. By permitting the government to make judgments on the good life, we are allowing it to functionally deny individuals in the present the capacity to pursue some models. The government is also limiting the capacity of future participants in the society to live a different conception of the good life. Deliberation is based on the idea that we provide reasons that others would find acceptable; is it possible for us to access reasons from unborn children or future immigrants to our society? Perhaps, but future actors are denied the capacity to give their consent or accept the reasons we are giving now.

This claim can be countered on a few counts. It can be challenged by invoking the virtue of revision; we may pass laws consistent with current views of the good life and, if necessary, revisit them and debate their merits in the future. Further, it might be possible that even if the letter of the law encourages certain models of the good life, it does not prevent discourse from occurring elsewhere. However, I believe that the authority which deliberation carries stymies debate because citizens would be in essence questioning the foundation of their democratic society, the status quo. Grossly immoral laws persist because their existence alone lends credence to their advocacy; we need look no further than examples like slavery, Jim Crow, and opposition to the enfranchisement of women as examples of status quo being accepted without debate.[21]

Perhaps the barriers that stifle discourse and debate can be overcome in a sufficiently developed society, one that is careful to educate and inform its population.[22] The greatest harm I see is related to the individuals who are on the losing side of these deliberations based on civilian values. We have seen that deliberation demands that we provide and accept reasons that are in essence agreeable to everyone. I may provide reasons that 99% of us come

21 Ely discusses the necessity of clearing obstructions to open deliberation. "Perspective is critical, and one whose continued authority depends on the silencing of other voice may well in all good faith be able to convince himself that a reason a more objective observer would label inadequate is in fact compelling" (Ely 107). His comments should encourage us to be wary of individual's capacity for seeing reasons and values in such a way to suit their own purpose – and that purpose can be simply to affirm the status quo.

22 It seems that the barriers to successfully deliberating are high enough already to assume this is a plausible circumstance. When Rousseau writes that "Liberty, not being a fruit of all climates, is not within the reach of all people" (Rousseau 250) he is reminding us that democracy is not easy and is suited best to a reasonably wealthy modern people.

to accept but there are always holdouts; this is a situation that Gutmann and Thompson accept when they invoke our incompatible values as a source of moral disagreement. What happens to those who have values that simply cannot be accepted by the whole and who, as a matter of course, find themselves excluded?

On one hand, society is telling these individuals that they must revise their vision of the good life, that somehow their perception of what it takes to be a full and happy person is inadequate or incorrect. Again we face an issue of authority – the deliberative system is strong, but not perfect, and the strength of the system is in the acceptance of the difficulty of determining just what is right or wrong. Deliberation and its results are not absolute cure-alls, and the essence of deliberation is the consideration of many different possible views. To rule certain views out is antithetical to the purpose of this methodology of government and justice.

A potent warning of the potential for this sort of result can be found in the issue of gay marriage. Deliberation about gay marriage should dismiss the types of reasons that are obviously flawed, including notions of homophobia and discrimination. Other types of appeals though, like the value of family structures, can find broad support and persuade many while remaining consistent with the ideas of deliberation. Let us imagine that the deliberative system were put into effect, and most, although not all, participants came to accept a vision of the good life that prohibited gay marriage. Once more we cast questions over from where this right to shape values comes, but more importantly is how a decision of this manner affects those who saw their values dismissed as impossible or incompatible.

In the example of gay marriage we can see the profound effects of political choices motivated by civilian morality. Denying a person the right to marry as they see fit, and for reasons that do not apply to them, robs them of autonomy and human dignity. Our society affirms the value of marriage as a celebration of love and companionship, elements of personal happiness to which we can all relate. By denying a homosexual person the capacity to marry in a way that could affirm them as people is denying their capacity to live a good

life at all. It is telling them that who they are at the core of their being is not compatible with the type of good life their society values for all people – implicitly excluding them from the category of people altogether. This is a dramatic example, but it illustrates how denying access to certain methods of the good life is limiting the real expression of the humanity of those who would want to pursue that vision. If the question then emerges "can we ever condemn a vision of the good life," we can respond by appealing to the fundamental values of our society. The duty of the citizen is to ensure each of us has the ability to be active citizens and the capacity to pursue the good life. Some visions of the good life, such as neo-Nazism, misogyny, etc., must essentially deny these freedoms to some members. The government can step in when it can be demonstrated that one's vision of the good life robs another of their capacity to be citizens and to pursue their own civilian values.

Even if we were to accept that moral discourse was not only possible but internally just for ourselves and others and that the authority itself was legitimate, I would still be concerned about using civilian values in our deliberative discourse. I believe that using civilian values to shape the choices made by citizens, who are primarily guided by the instrumental and fundamental values of a state, is an unacceptable risk. Doing so undermines the authority of the deliberative system and diminishes its capacity to fulfill its primary duty. The strength of the deliberative system can be found in two core pillars: its willingness to concede that many views have merit rendering attempts to determine the best values empty, and its attentiveness to the duty of promoting democratic citizenship. I believe that including civilian values in the deliberative discourse weakens both.

When the deliberative system attempts to assign certainty to uncertain principles or terms, it diminishes the authority of the process and organization itself. In these circumstances, the citizen, the deliberative system, and the government itself are endangering their integrity by assigning importance and value where none is due or certain. We are certain of the values that guide the citizen because we understand their purpose in clear notion of goal fulfillment. But when deliberation passes judgment on civilian values, it

is investing itself and the authority it holds in that decision. We have shown how some values—the fundamental values—are integral to citizenship and civilian life; these are the vital organs of the body politic. To assign comparable merit to other values, no matter how certain you may be of their existence and form, begs us to question the source of that information. Using civilian values to shape citizen's decisions is inviting non-instrumental or non-fundamental reasons into the pantheon of reasons that the society had previously agreed were valuable in a very particular way.

Bringing reasons and values created by the civilian persona into comparable status with the fundamental values of the society endangers not only the reputation of the deliberative process, but muddles deliberation's mission. In a chicken-egg type phenomenon, the same persons who would use deliberative democracy to find justified value statements of the civilian nature require a deliberative system untouched by the types of claims they desire to make. In a bare deliberative system, where the only values are the fundamental citizen values, the focus of the government and the citizen is to promote democratic citizenship to the fullest extent. However, as soon as these citizens are asked to value not just the fundamental democratic values that form good citizens, but other sets of values, they must by necessity be distracted from their task. Now they are asked to balance "rightness" as an open-ended value against directed values like freedom of speech.

When civilian values intrude on the grounds of democracy and citizenship, they hurt the system's capacity to progress and heal itself. Those who would wish to include civilian values in the canon of instrumental values must then swallow two harms. Firstly, they are preventing their citizenship from pursuing an unsullied goal of democratic citizenship. The second harm that they must accept is that they are denying future generations the capacity to critique and evaluate the values that they are imposing. The inclusion of these values is a breach of the original covenant we agreed to when entering society to pursue our vision of the good life. We agreed to enter this system without civilian values clotting the picture, and we should provide this option to all those that followed us, and respect those that proceeded

us who protected these values.

Even if we accept that the system could execute the inclusion of civilian values flawlessly, we should still reject this option. A democracy is just because it embraces many different voices, and it thrives because of these differences. If we operate from the initial view that morality and values are fundamentally inconsistent, we should not seek to unify them under the umbrella of the power of the government. It robs the democracy of too much; it robs it of the nobility of the many voices and causes it to stagnate. Few today would look at the values that guided civilian life a thousand years ago and view that life as desirable for themselves. Few would look back five hundred, or even a hundred years ago, and affirm those values. We value democracy by valuing it not for today or tomorrow, but forever; we value democracy by not setting it against the tide of history, but casting it with the river of humanity and allowing it to follow the current.

If we chose to neuter democracy of its purity, we cast ourselves under the throws of a government no more legitimate than a kingship, and this kingship is not the benevolent dictator or philosopher-king. It is a tyrant, of the past over the present, of the dead over the living. Even if the future citizens can challenge our morals and remove our values from the pantheon of democratic values, we do them and ourselves a disservice by weakening the chain of continuity. To add our values to the core of democracy is an act of heresy. Adding civilian values is not just misguided and difficult to justify; it is vandalism of democracy itself. No matter how deeply we believe in the principles that we want to contribute to our future and society, by adding to democracy we insult it.

Gutmann and Thompson make the case that we need a means of mediating moral disagreement and that deliberation is that tool. This assertion was contested on three separate levels. Firstly, we cannot truly understand the moral reasons that others provide. Secondly, even if we can understand these reasons, the consequences of acting on moral reasons can serve to deny the ability of some to pursue their vision of the good life, denying them the respect that deliberation and democracy should permit them as human beings. Lastly, even

in a system where we understand each other and our decisions respect basic principles of justice, we diminish the uniqueness and strength of the values that enable democracy to occur when we include civilian values alongside them. The need for us to have some means to alleviate the pressure caused by moral disagreement still remains. Further, Gutmann and Thompson's claim that moral discourse is necessary to give moral affirmation to the decisions our government sponsors must be addressed.

If the first concern is where these deliberations go when we remove them from the political discourse, the answer is relatively straightforward: into the popular discourse. The function of adding these civilian value debates to the political dialogue is the notion that our beliefs on the good life are deserving of consideration by others. We seek to persuade others to model our vision of the good life so that they too might lead such a life. The question here then, is not where do they go, but why they had to be conducted in the deliberative system in the first place. If I am compelled to remove my values from the political dialogue, does this rob me of the capacity to pursue persuasion elsewhere? Hardly. If I consider the actions of my peers to be immoral, I am welcome to tell them as such. I am even welcome to phrase my condemnation in the same format that deliberation takes. Let us imagine that I consider atheism to be an important component of the good life and that I feel that all people would benefit by being atheist. I can still discuss the merits of atheism with my Jewish friends. I might even discuss the merits of atheism in terms of universal acceptability, in the language of deliberation. I can find like-minded peers and fund campaigns of such discussions, and I can try to persuade all members of society that the government, as an important element of democratic citizenship, should provide resources for such campaigns. There is still the ample room for a dialogue about morality and values to occur outside of the political realm. Perhaps the more interesting question is what happens when two values find themselves in conflict, without the possibility of peaceful resolution. Here, we must answer in two ways. Why is it the concern of a government that rejects the universalisability and absoluteness of values to provide recourse in these situations? Why should we seek to

resolve irresolvable value discussions if we believe there to be no true resolution? I believe the burden is on the citizen within each of us to approach such circumstances knowing full well that the outcome may not be what we want and accept this as a celebration of democracy. The second response is that if these value sets are so opposed to each other that violence is inevitable, that restraint and debate is impossible, then the government has legitimate cause to intervene. Violence and the threat of violence in one's place of living and community would inhibit democratic citizenship, and this is a barrier which democracy cannot accept. The government can and should step in.

The second question is the more complex of the two; where does the moral affirmation of our decisions come from if not from moral discourse? We should not seek the affirmation of civilian values on decisions couched in the values of the citizen, as the highest moral claim that a democracy can make is avoiding the need for acceptance in terms of civilian values. Gutmann and Thompson claim we should "agree that democratic institutions are not justified unless they generally yield morally acceptable results"[23] – that our quest for justifiable decisions must seek the highest level of affirmation and that we can only attain this by adding moral affirmation. But why does this contribute to the acceptability of the decisions we make? These moral reasons, couched in civilian values, are difficult to include. They harm more than they heal, and ultimately they are an insult to democracy itself. If we enter our democracies and societies with the goal of freeing ourselves, we satisfy the demands of that freedom by satisfying and paying homage to the tools and terms of the contract. We affirm the standards of democracy not by the standards that we develop for each other but by affirming the standards of democracy itself. If we want to seek morally acceptable results, we should not try to imbue our decisions with our values, but we should try to invest our decisions with the values that permit democracy to occur. If democracy is the tool to allowing us to pursue to good life, we do each other and ourselves the greatest service possible by maintaining and strengthening that tool.

My goal in this work has been to caution against the inclusion of our personal

23 Gutmann et al., p. 40.

values in the deliberative process of our democracies. I have warned against the difficulty of doing so and the dangers we face by ruling on questions of the good life. Gutmann and Thompson want us to account for the moral disagreement found in our society, a fair request. They want to invest our politics with more authority to make rulings that we will find more acceptable. I believe their respect for deliberation leads to their desire to see it be used to the greatest extent possible to help guide our actions. I too believe in deliberation, but I believe that we need to restrain ourselves. Democracy and deliberation were not built for the purpose of guiding us into the good life. It is against the nature of these institutions both in terms of the reasons they were founded, and they are ill-suited to answer these sorts of questions. To exercise the tools of political deliberation to answer questions of the good life, of right and wrong, of morality, is straining the limits of what it can accomplish, and this straining must inevitably weaken the whole of these institutions. We must recognize that the greatness of democracy and deliberation are in the emptiness of both, in their hesitation and inability to make moral claims, and that we serve ourselves best by allowing these institutions to remain bare and skeletal.