Political Disagreement and Democratic Bargaining; Why an Inclusive Politics Needs Interests
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A liberal democracy must treat its citizens as free and equal members of the polity by providing them with equal opportunities to pursue their life plans and participate in decision-making regarding the laws and policies that govern their society. Hence, justice and democracy are intimately intertwined. If justice requires that political institutions treat all individuals equally, determine the legitimacy of their life plans and provide individuals with opportunities to pursue their legitimate life plans, then a just society should allow everyone to participate in the decision-making process that shapes these institutions, identifies the life plans that can be legitimately pursued, and defines the laws and policies that support these life plans.

In the last few decades, the majority of scholars in the field of democracy have claimed that citizens have a reciprocal obligation to justify their laws and policies using mutually acceptable justifications. According to these accounts of deliberative democracy, fair deliberation should ideally be accessible to all individuals who are affected by a decision. Each participant should have equal resources and opportunities to influence the process and should be protected by basic rights. The “reason-giving” process is both fundamental and obligatory. In this process, participants should treat one another with mutual respect and equal concern. They should listen to one another and provide arguments that others can comprehend and accept. These requirements ensure the fairness and inclusivity of political debate and the attainment of the common good (namely, the goals that are in the best interests of each party involved) by ruling ‘out domination via the exercise of power, manipulation, indoctrination, propaganda, deception, expression of mere self-interest, threats (of the sort that characterise bargaining).”

1 T. Christiano, 1996
2 see R. Forst, 2012.
3 J. Dryzek, 2000, p. 2
Some scholars have recently insisted that traditional accounts of deliberative democracy underestimate the pivotal role of self-interest and negotiation within political debates. Hence, these scholars contend that ‘self-interest, suitably constrained, ought to be part of the deliberation that eventuates in a democratic decision. Indeed, some forms of negotiation involving self-interest meet all of our criteria for ideal deliberation.

How can democratic debates be defined in a manner that ensures the inclusion of self-interested proposals and negotiations among the relevant political parties without undermining the fairness of these debates and the reciprocal respect that citizens are expected to show one another?

To answer this question, one must identify the conditions that a fair bargaining process (henceforth, “democratic bargaining”) must satisfy to be considered a legitimate alternative to democratic deliberation. This analysis must avoid two pitfalls: collapsing democratic bargaining into traditional accounts of negotiation (and thus ignoring the democratic dimension) and subjecting democratic bargaining to traditional deliberative constraints (and thus ignoring the dimension of self-interest). I will argue that democratic bargaining can avoid this first pitfall by granting fair bargaining power to all participants and constraining their behaviour to ensure that any coercive action is eliminated and that the participants treat one another as equals. In this manner, democratic bargaining can also avoid the second pitfall because institutional fairness and equality among the members of a society will be assured without subjecting the proposals of these members to traditional deliberative constraints. If these requirements are satisfied, then democratic bargaining is

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4 J. Mansbridge et al., 2010

5 Self-interest is understood as the preferences that emerge from the effects of policies on individual life plans. These preferences are not fixed, but they do have an influence on the priority that is ascribed to such policies. Interests can be defined as “enlightened preferences” because they represent the outcomes of a reflective process given the information that is available. This view is fully consistent with my account because the members of a society must weigh their preferences if they want to understand the effects of a specific policy on their life plans. I do not suggest that people must establish pay-offs for any alternative; rather, their preferences depend on a dialectical process of reflection on the possible influence of policies on their life plans.

6 J. Mansbridge et al., p. 64

7 The double dimensions (vertical and horizontal) that characterises a fair deliberative process are noteworthy: institutions must ensure fairness (vertical dimension), and the members of a society must treat one another as equals (horizontal dimension). In the following sections, I will argue that any account of bargaining that is proposed as a legitimate alternative to deliberation must fulfil these two dimensions of fairness.

8 In this paper, I will use bargaining and negotiation as synonyms. A bargaining process is defined as an attempt to find an agreement that is optimally advantageous for everyone, including by individuals who have conflicting interests, values, preferences, and opinions. Bargaining requires that people ground their proposals in interests or non-sharable reasons or support their arguments through strategic behaviours that are inconsistent with deliberative constraints. By democratic bargaining, I refer to a bargaining process that is subject to some democratic constraints that assure its fairness and the reciprocal respect among the parties involved.
a legitimate alternative to deliberation within public policy debate. Any outcome of democratic bargaining must then be considered fair and legitimate because it has been freely chosen by people who were not obliged or coerced to make such a decision.

This paper is organised as follows. The first section will provide a brief outline of the rationale underpinning the exclusion of interests and bargaining from deliberation according to traditional accounts of deliberative democracy. The second section analyses the role of self-interest in public policy debate and discusses why an account of deliberative democracy that aims to guide such debates must include self-interest as a legitimate justification for public policymaking and bargaining as a legitimate alternative to deliberation, provided that some constraints to ensure fairness are satisfied. In the third and fourth sections, I focus on the requirements that ensure that democratic bargaining is fair and that its participants respect one another. In the third section, I argue that if democratic bargaining is to be a legitimate alternative to public deliberation, then each party to this process should have fair bargaining power. In the fourth section, I explain the types of constraints that could ensure the cooperative nature of such bargaining. In the conclusion, I argue that a bargaining process that satisfies these requirements is a legitimate alternative to deliberation.

Deliberation and Interests: Preliminary Remarks

Although traditional accounts of deliberative democracy have acknowledged the informational role of self-interest, self-interest and bargaining are excluded from the deliberative sphere because they cannot satisfy the requirements of fair debate. According to these accounts, because the members of a just society should strive to realise the common good rather than merely their own interests, political proposals cannot be grounded in self-interest or supported by the strategic and coercive behaviours that can occur in a bargaining process; rather, such proposals must be mutually justifiable.

Through the fundamental role that is attributed to reason-giving or mutual justifiability and the exclusion of self-interest and bargaining from the deliberative phase, these accounts of deliberative democracy contrast with aggregative approaches to democracy and their focus on self-interest and partisanship as the primary justification and motivation for political action. If partisanship and self-

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9 Cohen and Rogers (2002, p. 247) argue that ‘Deliberation does not preclude statements of self-interest. The deliberative view . . . admits [expressions of self-interest] as ways to present information.’.

10 These features are common in the numerous different, even conflicting, accounts of democracy, such as the elite theory of democracy supported by Schumpeter, the interest group pluralism claimed by Dahl, and the neoliberalism held by Buchanan and Tullock.
interested claims were allowed in the public debate as legitimate justifications for a political proposal, then justice could not be ensured because people would aim to maximise their own benefits rather than pursue the common good\textsuperscript{11}.

The undesirability and unfairness of this perspective can be elucidated by “the debt ceiling debate” that occurred during the summer of 2011 in the US among the members of the two houses. Neither Republicans nor Democrats appeared to be genuinely concerned about the issue at stake or its effects on the US economy and the lives of American citizens; both parties were focusing exclusively on the next presidential election. Senators and Representatives attempted to use any means possible to exploit this issue to maximise their individual political status or that of their party\textsuperscript{12}.

If the members of the two houses had argued reasonably rather than engaging in bargaining, then a fairer deal would have emerged, many of their claims could not have been publicly justified, and they would have been unable to use threats or other coercive strategies. Therefore, if democracy is intended to serve the public good rather than partisan interests and if participants in a democratic debate are to have mutual respect, then self-interest and bargaining must be excluded from the deliberative sphere.

Some scholars\textsuperscript{13} have correctly noted that fairness and partisan interests are not necessarily incompatible; on the contrary, a public sphere that excludes self-interested claims because they are not of public concern may exacerbate the marginalisation of the least advantaged individuals rather than empowering them. I will clarify this point by combining the analyses of Nancy Fraser and Jane Mansbridge\textsuperscript{14}.

Fraser argues that, because only the participants in a public debate can define the public concern in a pluralistic democracy, no issues can be eliminated in advance even though they seem to be

\textsuperscript{11} A sharp opposition between deliberation and bargaining characterised the traditional debate on deliberative democracy. Elster explains this phenomenon as follows: ‘There are certain arguments that simply cannot be stated publicly. In a political debate it is pragmatically impossible to argue that a given solution should be chosen just because it is good for oneself. By the very act of engaging in a public debate—by arguing rather than bargaining—one has ruled out the possibility of invoking such reasons.’

\textsuperscript{12} One could challenge this example by claiming that the representatives based their proposals on generalisable values that could be accepted by any member of the society because they argued that the debt ceiling could not be raised unless a cut in expenses had been approved to avoid default or for other efficiency-related reasons. A distinctive feature of bargaining is the use of threats and coercive or strategic behaviours that are not permitted in a deliberative arena. The debt ceiling debate could be considered part of a bargaining process because the participants, although their proposals are based on generalisable interests and values, adopted strategies that did not comply with any of the deliberative constraints. As previously stated, deliberation requires the exclusion of both interested claims and bargaining strategies.

\textsuperscript{13} J. Mansbridge et al., 2010; J. Dryzek, 2000, J. Dryzek, 2010; A. Bächtiger et al., 2010, N. Fraser, 1997.

\textsuperscript{14} J. Mansbridge, 2006; N. Fraser, 1997.
grounded in interests and partisan values. For example, Fraser notes that past attempts by feminists to legislate domestic violence against women were rejected by the majority because it was not considered a public issue. Therefore, fairness requires that all individuals, especially those who are the most disadvantaged, must have the opportunity “to convince others that what in the past was not public in the sense of being a matter of common concern should now become so”. Mansbridge correctly indicates that the exclusion of self-interest from public debate makes it particularly difficult for the most marginalised individuals and groups to discover that issues that are considered to be of common concern actually exclude them and thus reduce their opportunities to develop alternatives to this unjust state of affairs. Thus, the protection of the most disadvantaged members of society requires that an inclusive and fair democratic public debate not exclude self-interest.

These accounts of the role of self-interest in democratic public debates seem, however, to focus on its informational role, while traditional accounts of deliberative democracy, as previously discussed, exclude interest from the deliberative sphere. To defend this exclusion without underestimating the role of self-interest, it is possible to claim that interests have an important role in the pre-deliberative phase when participants, especially the most marginalised individuals and groups, must gather information pertaining to the matters that are most important and relevant to them to ensure that they can develop political proposals that support these plans. However, because public policy debate affects the lives of all members of society, self-interests cannot be admitted into the deliberative phase as a legitimate justification for political proposals. If such limitations were not enacted, then proposals grounded on force or power, which would severely disadvantage the most marginalised members of society, would be legitimised. Thus, the only arguments that should be admitted into public debate are those that are grounded (or could be grounded) in reason or mutually justifiable values and could be accepted (or not rejected) by any member of society, at least in principle. The feminist proposals regarding domestic violence would fulfil this requirement, whereas the arguments of the majority that these abuses are not a matter of public concern would not. The right to justification is, therefore, a resource that empowers rather than oppresses the least advantaged members of democratic society.

**Impartiality, Fairness, and Self-Interest**

The previous analysis appears to suggest that the traditional accounts of deliberative democracy have strong reasons to eliminate self-interest and bargaining from the deliberative sphere without

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15 N. Fraser, p. 86.
failing to recognise their informational role. Nevertheless, I will challenge this conclusion by claiming that, if the accounts of deliberative democracy aim to address the disagreements that characterise public policy debate, then these accounts must acknowledge negotiations over proposals grounded in people’s interests as a legitimate alternative to deliberation.

To arrive at this conclusion, it is important first of all to recall a distinction that is all too often overlooked in these discussions: that between constitutional essentials and matters of basic justice on one hand and public policies on the other. As I will argue, the exclusion of interests and negotiations from the deliberative phase could be successful for the former category but not the latter 16.

Constitutional essentials and matters of basic justice (henceforth background justice) specify the background against which people develop their life plans; these matters also differentiate legitimate life plans from those that cannot be pursued in a given society. Consequently, although people’s interests are at stake (it is in each person’s interest that his or her life plans be considered legitimate), interests cannot justify claims in debate. If the legitimacy of people’s life plans is under contention in this debate, then the legitimacy of their preferences to pursue these life plans (namely, their interests) is being contested as well. Therefore, it is appropriate to assert that a debate on background justice must reject proposals grounded in interests from the deliberative sphere.

It is worth noting that any life plan that is consistent with the limits that are defined by this debate is legitimate, at least in principle, publicly justifiable, and acknowledged by the society and its members as worthy of pursuit.

Public policy debate occurs within these parameters (i.e., it is constrained by background justice) and is relevant to the definition and allocation of means and resources that are needed to implement background justice and to facilitate the development of legitimate life plans 17. This debate does not affect the legitimacy of individual life plans, but it does affect the likelihood of such plans being realised. To exemplify these distinctions, I refer to the difference between the norms that define the status of migrants in a society (and the rights that are associated with this status) and the policies that support the housing and education of migrants. Further examples include the difference

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16 This justification is one of the elements that distinguish my account from the proposals of Mansbridge et al, who, along the lines of the tradition of the deliberative democrats, do not seem to allow for any difference between constitutionally essential matters and public policies.

17 J. Rawls, 1999, pp. 171-176. Add something about the fact that, according to Rawls’ account, the debate on legislative issues is among reasonable people who suggest reasonable political proposals.
between market regulations or abortion laws and the policies that define a state’s tax revenues or implement this law.

Although citizens could agree that any legitimate life plan is entitled to be supported by the society and that the overall sets of public policies ought to fairly support any legitimate life plan, different citizens would probably have different opinions on what priorities the society should have and which public policies would best pursue those aims.

Deliberative democratic institutions, by including on an equal footing the claims of any party involved and granting that these claims are judged based on their merits and not their advocates, aim to ensure that any set of public policies selected by the political debate is consistent with the values on which a just society is grounded (fairness, respect for people, equality among the members of the society).

To pursue this aim, I contend that interests do not need to be ruled out as legitimate grounds for the justification of political proposals and that bargaining could be a legitimate alternative to deliberation as a means for interested parties to address proposals. Allow me to clarify these points.

Because people can argue that policies affect their legitimate life plans (their interests are at stake) and that these life plans are entitled to be supported by the polity, they can claim, within the boundaries imposed by background justice, proposals that support their own life plans or reject other proposals that may harm their own legitimate interests.

However, although proposals grounded in interests could be prima facie admitted in public policy debate, the outcome of any debate significantly influences the opportunities of all individuals to pursue their legitimate life plans, and the overall set of public policies should fairly support any legitimate life plan. Hence, to be publicly justified, interested proposals need not undermine the fairness of public policy debate.

How is it possible to balance these two (apparently) conflicting goals?

Self-interested proposals may be considered legitimate only if deliberators agree that it is impossible to obtain a consensual solution through deliberation. However, this solution is considered sub-optimal and suggests that interested proposals can be accepted only if an ideal agreement is unachievable. If self-interest was admitted as a policy justification only in such cases, then such interests would not be included in the deliberative process as equally worthy alternatives.

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18 If a public debate identifies health, immigration policies, and family as priorities, then some life plans will be affected more than others will (i.e., some life plans will benefit or suffer more than other plans). When citizens must debate a specific policy (e.g., increases in the minimum retirement age or corporate taxes), some life plans will be affected more than others (e.g., the plans of people who are retiring, the owners of companies and their employees, and major taxpayers who do not benefit from these policies but must support them). For these people, each outcome of the debate has a substantial effect because it can change the conditions under which they pursue their life plans (thus, their interests are at stake).
to reason. In fact, consistent with this ideal, the members of a society could appeal to self-interest to support a policy only when deliberative (more impartial and fairer) approaches fail.

Alternatively, it has been suggested that self-interest could be included in an ideal public arena as a justification for a policy when the members of the polity agree through a deliberative process that the best way to pursue the common good is to aggregate their preferences and converge on a policy that is in their self-interests.\textsuperscript{19}

Although the inclusion of self-interest is not a secondary option in this case, this inclusion is limited to specific contexts that must be identified through a deliberative process. In contrast, an account of democratic public reason\textsuperscript{20} that seeks to seriously consider the interests of the members of society should acknowledge that, if interests are consistent with background justice and at stake in a public policy debate, these interests are a legitimate ground for justifying a political proposal, provided that the parties demonstrate fairness and mutual respect. To achieve these aims, I contend that some forms of negotiations, properly submitted to constraints that ensure fairness (democratic bargaining), must be acknowledged as legitimate alternatives to deliberation.

Democratic bargaining requires the inclusion of the legitimate self-interested claims of all individuals who are affected by a policy on an equal footing. Participants in democratic bargaining must respect one another, acknowledge the legitimate right of other participants to assert their self-interested proposals, and strive to find an agreement that can address everyone’s claims.

The achievement of these aims requires that democratic bargaining minimally satisfies the following conditions:

1. Parties must have equal opportunity to influence the public agenda (i.e., the principle of equal opportunity for influence).
2. They need not intend to deceive one another in their interaction\textsuperscript{21} (i.e., the principle of cooperation).

To understand whether democratic bargaining can be considered a fair and legitimate alternative to reason-based deliberation, one must clarify these requirements and the constraints on the bargaining process. Furthermore, it is necessary to explain whether the fulfilment of these requirements ensures a fair debate on public policies among participants who aim to defend their interests without undermining the common good.

\textsuperscript{19} J. Mansbridge et al., 2010, p. 75.

\textsuperscript{20} Henceforth, I will adopt the label of democratic public reason to identify an account that accepts the distinction between background justice and public policies and the idea that political discourses must be submitted to different constraints depending on whether they concern the former or the latter.

\textsuperscript{21} J. Mansbridge et al., 2010 p. 122
Bargaining Power

In a fair democratic bargaining, all proposals, once endorsed by some citizens, should have an equal opportunity of being advanced, heard and debated in the public arena, and such proposals should be judged based on their own merit rather than their advocates. If proposals that are grounded in self-interest must be evaluated on these terms, then it is necessary (though not sufficient, as I will show in the next section) that the bargaining power be fairly distributed among the members of a just society.

Clearly, people cannot have fair access to bargaining power if they have unequal status and economic resources. Although status equality is ensured by any egalitarian account of background justice, many of these accounts justify some inequality of resources. In this section, I will focus on this latter point, and I will hold that, although fair bargaining power cannot imply effective equality of resources among members of the society, it requires that legitimate economic inequalities (i.e., those that are compatible with the principles of justice) have a limited effect on the bargaining process. Thus, it is necessary to ensure that the political sphere is minimally influenced by economic inequality, even when legitimate.

Before addressing this issue, I will explain why fair bargaining power cannot require the effective equality of resources.

First, while democratic constraints should at least theoretically be compatible with various conceptions of justice, the effective equality of resources is so demanding that it is difficult to imagine the achievement of a broad consensus on this requirement. Hence, if fair bargaining power requires the effective equality of resources, then democratic bargaining loses inclusivity, which is one of the constitutive features of any account of democratic public reason.

Second, the effective equality of resources justifies “levelling down” and appears to decrease the importance of life choices by interfering with individual life plans. In contrast, democratic public reason, by legitimising democratic bargaining, aims to grant a maximal amount of weight to the choices of individuals by recognising their worth and developing institutions to accommodate these choices. Therefore, democratic public reason cannot require the effective equality of resources and interfere in the lives of individuals without providing them the opportunity to dispute such interference and to be responsible for their choices.

Even if the effective equality of resources is not required to achieve a fair distribution of bargaining power, democratic institutions must consider every life plan to be of equal value. Thus,
even in situations in which economic differences resulting from different life plans and from the pursuit of these plans are fully legitimate, these differences should not affect individuals’ political influence and, by extension, bargaining power.

To explicate this point, I will focus on four features that can significantly affect the distribution of bargaining power among parties:

1. Access to the public arena.
2. The influence of the status quo.
3. Access to available information.
4. The opportunity to constitute coalitions.

Before developing these points in detail, I acknowledge that these features do not constitute an exhaustive list of the features that must be constrained to create a political sphere that is impervious to economic inequalities and to ensure fair bargaining power. Thus, the following requirements represent necessary (but not sufficient) conditions for achieving these aims.

First, fair bargaining power is not possible if economic resources affect individuals’ opportunities to influence the public arena and to define the public agenda (e.g., through the financing of political parties or investment in associations that support the claims of investors and assist investors in influencing policy). In such scenarios, the views of the people are valued according to their economic resources, which violates the principle that every life plan is of equal value and must be judged by its merits and not its advocates. Hence, political parties (in addition to each entity that participates in the public arena and establishes a public agenda) should be publicly financed, and private donations to associations should be limited.

Second, bargaining power depends on the status quo\textsuperscript{22}. Even if all parties are interested in reaching an agreement, the failure of the bargaining process can lead to the possibility that either the least desirable option for everyone is chosen at the ballot box or the status quo does not change. Thus, the members of society most disadvantaged by the current state of affairs will be more incentivised to reach an agreement. Failure to meet this goal has more disadvantages for this group than for their fellow citizens who are better off in the current state of affairs.

\textsuperscript{22} The effect of the status quo is not considered on a case-by-case basis but is considered in an aggregate manner. The important matter concerns the extent to which an individual benefits from a policy and the opportunities that he or she has to pursue his or her life plan. Therefore, it is not unfair if an individual in a given case has greater bargaining power than his or her fellow citizens have: this part of the normal development of a bargaining process is a state of affairs that could be positively exploited by all of the parties involved, for example, through a log-rolling process.
To counterbalance the unfair effect of the status quo, people who are most disadvantaged by the failure to reach an agreement could be ensured more chances to avoid this outcome by granting them the opportunity to either ask for an extension of the bargaining process or make final proposals before declaring the negotiation failed. The influence of the status quo on bargaining power can be particularly relevant if the most advantaged individuals wish to defend the status quo and constitute the majority. In such a situation, if the most privileged members of society successfully boycott the bargaining process, then they can defend the status quo at the ballot box. This unfairness cannot be counterbalanced by distributing more bargaining power to the least advantaged but can only be addressed by ruling out this type of strategic action because such action is not consistent with the collaborative nature of democratic bargaining, as I will show in the following section.

Third, access to information affects bargaining power. Information is a necessary resource for developing life plans and suggesting proposals that support these plans, proposals on which others can agree because they are also compatible with their interests. Thus, information must be equally distributed to provide equal opportunities for people to develop their life plans and to publicly support those plans with fair bargaining power.

This requirement is more difficult to fulfil than the other requirements because different types of information and providers of information are involved, both before and during the bargaining process. I will briefly attempt to clarify the requirements that are intended to ensure equal access to information and, by extension, fair bargaining power to the members of a society.

Information pluralism requires financing by the public sector while simultaneously incentivising private companies to invest in the media system. Private investors can neither be permitted to control a large share of the market nor permitted to finance associations, think tanks, lobbies, or political parties.

Associations, think tanks, lobbies, and political parties can provide information to support their proposals, and it is reasonable to assume that they will partially present such information to gain a strategic advantage. To ensure that this behaviour (the legitimacy of which can be challenged within democratic bargaining) does not affect the bargaining power of other people, a society must ensure

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23 Because the expected values of life plans depend on the political structure, no single individual is responsible for this value, and no individual should take advantage of the political structure for such ends.

24 If people could threaten to leave the debate, then the unfair influence of the status quo on the bargaining power of individuals would be more relevant because this type of threat is more effective from an individual who is advantaged under the status quo than from an individual who is disadvantaged. I do not address this issue here because I will analyse the legitimacy of threats and other strategic behaviours in the following section, but if this type of threat were admissible, then further compensation would clearly be required.
that the sources of these proposals be public to allow any member of society to confirm their validity.

It is clearly difficult to imagine institutional mechanisms that can ensure that parties share information. However, I suggest that political interactions are more likely to be repeated by people who have previously reached agreements. If one party loses the trust of another party (for example, if one party discovers that the other party is concealing important information), the disadvantage to the deceptive party is greater than any advantage gained by this strategic behaviour. Thus, it is in the best interest of all parties to share information.

During the bargaining process, it may be useful to obtain information, such as their priorities or tradeoffs, regarding the other participants involved in the bargaining. In this case, this information need not be public because participants can gain equal advantages by truthfully showing or strategically hiding these elements; in such a situation, bargaining power is not affected. Nonetheless, truthfully showing priorities and tradeoffs could be required by the cooperative nature of democratic bargaining (as I will show in the following section).

Finally, people’s bargaining power will be affected by their opportunity to constitute coalitions; because coalitions can raise the bargaining power of their components, if people do not have fair opportunities to form a coalition, then they will not have fair access to bargaining power. In an unjust society, the opportunity to form coalitions will be affected by, among other things, structural inequalities that marginalise minorities and reduce their chances to find claims with convergent interests. This unfair distribution of bargaining power ought to be eliminated, or at least reduced, by background justice. Within a fair background, however, legitimate economic inequalities could unfairly influence people’s opportunities to form coalitions because the most advantaged have more resources to offer to persuade people to agree to their claims. This unequal distribution of influence is a further reason to make the political sphere as insensitive as possible to economic inequalities, even legitimate ones. Even if these ambitious aims (background justice and political impermeability to economic inequalities) were achieved, people’s opportunities to constitute a coalition could still be affected by another unfair feature: luck. The interests of some people could, in fact, more easily overlap than those of others could. In that case, the claims of the former will more easily converge, and they will have more chances to constitute a coalition and hence increase their bargaining power.

To compensate for this unfair distribution of bargaining power, it is important to remember that time, like trust and information, is a scarce resource that should be equally distributed unless an unequal time distribution is justified to counterbalance the unfair bargaining power of the members of a society. Another compensation could consist of giving the least advantaged the opportunity to
choose whether to make the first offer, which is an important strategic advantage. Making the first offer, in fact, can influence the entire bargaining process, whereas waiting for the proposal of another party can provide a party with more time to make an offer on which the parties can agree.

When these requirements are satisfied, parties should have fair (or nearly fair) bargaining power. It is important to evaluate whether this condition is sufficient to consider democratic bargaining a fair and legitimate alternative to deliberation.

**Cooperation does not mean Justification**

Although a fair distribution of bargaining power ensures that people’s claims have an equal opportunity to influence the public policy debate, this requirement is not sufficient to ensure that bargaining is fair and legitimate in the same manner in which a deliberation based on reason is. Unlike public deliberation, this framework only ensures that the proposals of the most powerful individuals do not necessarily prevail. However, it does not guarantee that the optimal arguments always prevail because self-interested proposals are not subject to public justification.

Democratic bargaining should be inconsistent with strategic behaviours that are not desirable in a society in which people respect their fellow citizens as equals, such as threats, bluffs, and untruthful proposals, but these behaviours are not eliminated once bargaining power is fairly distributed. Therefore, some further constraints should be implemented to ensure that the participants in democratic bargaining treat one another with mutual respect and concern, listen carefully, speak truthfully, and seek fair terms for cooperation (cooperative bargaining). In this situation, democratic bargaining could be a legitimate alternative to deliberation, and its participants could “justify their self-interests to others in terms of fairness.” A clarification is needed: fair and cooperative bargaining cannot require that interested proposals be evaluated more strongly by their compliance with fairness criteria (e.g., the harm that is caused to a third interested party or the maximisation of the stakes to be shared among the parties) than by the principles of justice.

Though this option initially appears to be sound, it does not eliminate self-interested proposals but rather evaluates them to ensure that proposals that are less compatible with the general interests of society will be less likely to succeed. However, a detailed examination reveals that this option is excessively demanding and incompatible with some of the constitutive features of bargaining. For example, the members of a pluralistic society are unlikely to agree on the substantive principle according to which their proposals must be screened. Even if this agreement were achieved, it

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26 Mansbridge et al., p. 77.
would be extremely demanding to submit political proposals to both the principles of justice and other substantive criteria. This public screening would, finally, transform bargaining with respect to self-interested proposals into a deliberation on proposals grounded in publicly justifiable arguments.

An alternative that is more congenial to the spirit and rationale of democratic bargaining is the following. First, people should be fully committed to background justice, and their self-interested proposals should be consistent with the principles on which background justice is based. If a participant believes that a proposal does not fulfil these principles, then he or she can request that such a proposal be screened.

Second, people must acknowledge the rights of their fellow citizens to support their own life plans, and they must listen to the proposals of others and identify compromises between these proposals and their own interests. Although this necessity does not dictate that people must support the interests of others and strive to reach an agreement according to their preferences, it requires that individuals support institutions that ensure that other people will have opportunities to pursue their interests. It also precludes the possibility that people will boycott the bargaining process for strategic reasons or that they will not show any interest for their fellow citizens’ claims.

Third, the members of a just society cannot lie about their interests to maximise the expected values of their legitimate life plans because this strategic behaviour is inconsistent with the type of self-interested proposals that are admitted into public policy debates. Self-interested proposals have been included in the political arena because legitimate interests are at stake, and people can demand that society acknowledge and support them. If people lie about their interests to strategically manipulate negotiations and to obtain an advantageous position, then they are not satisfying this requirement, and their self-interested proposals are not legitimate. If participants in democratic bargaining processes violate this constraint, then they will lose the trust of their fellow citizens and be significantly disadvantaged in further negotiations.27

Fourth, threats or other coercive strategies must be excluded because such behaviours are inconsistent with the reason self-interested proposals are within the scope of democratic public reason. In fact, threats are not grounded in the notion that legitimate interests must be supported by

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27 Although it is difficult to determine whether a person is concealing his or her real interest, this issue also affects deliberation because honesty is required of deliberators. However, it is not always easy to determine the sincerity of the participants. Notwithstanding these difficulties, people should be committed to their life plans and interests. Although it is possible for people to change their opinions when, through the process of negotiation, they understand that their life plans are different from what they desired, these types of changes are not frequent. However, if people change their opinions too frequently, then they risk losing the trust of their fellow citizens.
society equally with the interests and values of others. Rather, threats are grounded in the belief that only one’s own interests are valuable and should be supported by society.

When these requirements are fulfilled, people will treat one another with equal respect and concern. They will strive to obtain a fair compromise among their varying interests, values and needs, and illegitimate claims will be eliminated. People’s claims are therefore on an equal footing, and any outcome of democratic bargaining must be accepted as a legitimate public policy on which members of a just society have agreed as the best attainable solution.

Having specified the constraints that are necessary for democratic bargaining to be considered a legitimate alternative to deliberation, I will address a potential objection to my proposal. This objection holds that these constraints are inconsistent with some constitutive features of the bargaining process, such as leverage or strategic behaviours; in this context, the process could no longer be called bargaining.

I contend that this objection arises from a lack of understanding that ensuring fair bargaining power and cooperation among participants does not require the elimination of bargaining advantages that depend on the normal development of a fair bargaining process rather than on unfairness. If a participant in a bargaining process is more capable than others are of making his or her self-interested proposal appealing to his or her fellow citizens or if he or she is more successful in forming a coalition, then he or she may exploit these bargaining advantages to support his or her claims (leverage). Denying this type of leverage would be inconsistent with the political agency that I seek to defend; according to this argument, citizens can define their life plans, revise them and ensure the compatibility of these plans with the interests of their fellow citizens.

During the democratic bargaining process, people can suggest an agreement on a set of issues even though this agreement does not perfectly suit their interests and preferences. They may take such action to form a coalition and to gain leverage vis-à-vis proposals that are less favourable for them. Because everyone has equal bargaining power, this action is not unfair. This method does not violate the requirement of cooperation because it does not involve coercive strategies or rely on false interests; rather, this method legitimates, consistently with the inclusion of interested proposals, people’s attempts to identify a compromise that is as close as possible to their ideal.

28 The strength of a proposal does not merely depend on the number of people who support it, but also depends on the level of commitment to the proposal. People could show their commitment to and support of a claim by marching on a street, by rallying, or by incurring social and economic costs for sustaining this claim.

29 V. Ottonelli, 2008
Another situation of leverage that is consistent with my proposal depends on the priority that the parties in a negotiation assign to the issue in question; the most committed parties, for instance, could strive to find an agreement more persistently than their fellow citizens, who could exploit or be overridden by this state of affairs\(^{30}\). However, in this context, no one is unfairly disadvantaged if these differences depend on a choice for which people are fully responsible and that is not influenced by the unfair effect of the status quo or other forms of unfair distribution of bargaining power\(^{31}\).

If parties adopt good bargaining strategies (log-rolling), then this leverage can be translated into a policy that is advantageous to all parties. Log rolling is not necessarily inconsistent with cooperative requirements. This strategy is characterised by an open system of offers and counteroffers in which participants in the bargaining process acknowledge the legitimacy of the interests of others and seek an agreement that is favourable for everyone involved.

To conclude, although democratic bargaining cannot be reduced to mere negotiation, it still legitimates, against the objection raised, features of the political process that are characteristic of a bargaining process and are inconsistent with accounts of deliberative democracy. Democratic bargaining is therefore an alternative to both deliberation and mere negotiation.

### Conclusion

When there is disagreement among parties with regard to the optimal public policies, I argued that only a democratic and fair debate could identify an appropriate solution. Because this debate is constrained by background justice, participants’ proposals must be consistent with background justice and the values in which it is grounded. However, I stressed that, because this debate concerns people’s legitimate life plans, which are entitled to support by the society, people can ground their proposals in their interests. To grant the inclusion of these interested claims in the deliberative sphere without undermining fairness and respect among the parties, I hold that democratic bargaining must be considered a legitimate alternative to deliberation. Democratic bargaining must include on an equal footing the claims of any party involved; hence, these self-interested proposals must be supported by people who possess a fair amount of bargaining power.

\(^{30}\) The strengths of the commitments do not necessarily imply either an advantage or a disadvantage. On the one hand, the most committed parties could support more vividly their proposals; on the other, they could be afraid of an outcome that is not in line with their preferences.

\(^{31}\) The exigency of a policy may depend on the preferences of individuals or on external factors that affect their life plans, such as the proposals of their fellow citizens or the state of affairs that has been shaped by a previous decision. If bargaining power is fairly distributed and previous decisions have been defined through a fair process, then the degree of urgency that people ascribe to a policy will depend on choices for which they must bear all of the consequences.
and who have agreed with their fellow citizens regarding the right to support their interests (reciprocity). Moreover, such individuals must express an appropriate level of concern for the proposals of others and seek to negotiate an agreement that could be acceptable to everyone without deceit or coercive strategies (cooperation).

I finally argue that democratic bargaining that is submitted to these constraints differs from traditional accounts of deliberative democracy because it considers the role of self-interest and admits certain strategic behaviours. However, unlike mere negotiation, the outcome of democratic bargaining is legitimate and fair.

References