

# Deliberation, Aggregation, and Negative Freedom

Despite the large quantity of writings on deliberative democracy over the last two decades, it is not clear what exactly distinguishes deliberative democracy as a model of democracy from other models in terms of freedom. This chapter is an attempt to clarify this issue. In the first section, I begin by making some qualifications to the most common way of demarcating deliberative democracy, namely, the idea of seeing it as a matter of transforming rather than merely aggregating preferences. The second section argues that deliberative democracy can be contrasted to a specific tradition in political theory that reduces freedom to noninterference with private interests and sees democracy as merely instrumental to securing this freedom. Freedom should not be seen merely as the end of democracy, as something to which democracy is only a means, but as what democracy *is*. Democracy is a form of exercising freedom, as well as a way of understanding and protecting freedom. It is my contention that deliberative democracy can be seen as a theory of freedom, and that this can demarcate it as a unique model of democracy.

## Beyond the Aggregation and Transformation Dichotomy

It is tempting—and the attempt has often been made—to set up a sharp dichotomy between deliberative democracy and aggregative democracy.<sup>1</sup> But, for several reasons, this is an unfortunate dichotomy, especially when the contrast is drawn as one between transforming preferences versus aggregating preferences.<sup>2</sup> This way of demarcating the theory of deliberative democracy has led to many misunderstandings of what the deliberative

project is about and also of what and who its targets are. The idea that deliberative democracy can be understood as being essentially about transforming rather than aggregating preferences goes against the conception of deliberative freedom developed in this book. The exclusive focus on transformation is too outcome oriented and risks sacrificing dimensions of freedom intrinsic to the deliberative process. Thus it does not do justice to the multidimensional understanding of freedom to which deliberative democracy, in my view, should be committed.

I suggest six reasons to go beyond the sharp dichotomy between transformation and aggregation. In discussing these, I hope to counter—while learning from—some objections to deliberative democracy and simultaneously make a preliminary clarification of what I think deliberative democracy is and what it is not.

1. First, the point of the theory of deliberative democracy, as I see it, is not that we need more proper deliberation *in order* that preferences can be changed. Because of the stress on the endogenous change of preferences by deliberative democrats, it is sometimes thought that the argument is that in other forms of democracy preferences are not changed and we need deliberative democracy in order that preferences can be transformed. But that, I think, is a misunderstanding. Preferences are malleable and subject to change in any model of democracy, indeed, under any form of government. It is on the basis of this insight that we must develop a theory of *how* preference and opinion formation can happen in a nondistorted and free manner. That is part of what the theory of deliberative democracy should attempt to do.

Some criticisms of deliberative democracy seem to rely on a failure to recognize this point. Adam Przeworski and Susan Stokes, for example, both think that deliberative democracy is especially susceptible to manipulation of preferences. But the reason they think so is that deliberative democracy according to their definition is a theory of democracy, which posits the change of preferences as the *aim* of the political process.<sup>3</sup> Both critics go on to accuse deliberative democrats for not having considered the danger of manipulation in public communication. The latter claim is no less than absurd.<sup>4</sup> One of the main proponents of deliberative democracy, Jürgen Habermas, has since the early 1960s been concerned exactly to point to the dangers of manipulation in

communication.<sup>5</sup> Since this is so often overlooked—and since it has moved to the background of even Habermas’s own later writings—I argue for reviving some of the earlier concerns of critical theory (see especially Chapter 5).

The criticism of being particularly susceptible to the problem of manipulation if directed at deliberative democracy as a *theory* is therefore unfair. As a theory, one of the main concerns of deliberative democracy has been to distinguish between forms of public communication that are manipulative and undermine freedom and autonomy and forms of communication that are undistorted and hence enhance freedom and autonomy. But the criticism also could be directed at deliberative democracy as *practice*. The objection would then be that promoting deliberation would open up for more manipulation. But this objection also would miss the point of the deliberative project, or at least of the project as I conceive it. What deliberative democracy should be calling for is *not* more communication in some uncritical fashion.<sup>6</sup> Rather, the call should exactly be for more deliberation. And to call for more deliberation is to call for less distorted communication. Deliberation should not be defined as “the endogenous change of preferences resulting from communication,” as Stokes does,<sup>7</sup> since this definition excludes the possibility of differentiating different forms of communication and hence overlooks the very point of the deliberative model. Rather, deliberation should be seen as a process of mutual reason giving and reason seeking that gives people the opportunity to form their opinions on the basis of insights gained intersubjectively. The call for more deliberation, however, is not (or at least not mainly) a moralizing call to individuals to communicate in a specific way; it is, rather, a matter of calling attention to the socioeconomic and institutional features of contemporary society that inhibit proper deliberation. Deliberative democracy should, among other things, be a critical theory that addresses the aspects of contemporary society, which limit deliberation and which affect or transform preferences in a nonautonomous manner.<sup>8</sup> It should not merely be considered a call for the transformation of preferences but rather of going from one mode of transforming preferences to another.

This argument suggests that it is unhelpful to characterize deliberation as a matter of changing preferences as opposed to

just aggregating them. Preferences are always being transformed in the political process and in society in general. What is important is *how* and under what conditions they are changed. Deliberative democrats' quarrel with other models of democracy does not mainly concern the constructedness of preference but what we should do about this fact. After all, Joseph Schumpeter—who if anyone must be placed in the opposite camp than deliberative democrats—agrees with and emphasizes the idea of endogenous preference formation.<sup>9</sup> The point on which deliberative democrats differ from a minimalist democrat such as Schumpeter is not the malleability of preferences but what to do about it. According to Schumpeter, the will of the people is constructed from above, by political elites. The conclusion he draws from this is, roughly, that since the people have no will independently of the elites, then popular sovereignty is impossible, and we should let the elites rule. Deliberative democrats disagree with this so-called realist and uncritical conclusion. It might be true that “the popular will” today is fabricated from above, but that does not have to be the case; it is not a natural, unalterable fact about all politics. It makes a difference under what conditions and in what processes citizens form their opinions and will, and deliberative democrats are—or should be—concerned to show how opinion and will formation can happen as freely and autonomously as possible. Also, it is important to see that deliberative democrats are not committed to a view of democratic legitimacy that requires that the opinions that are expressed in political decisions not be affected by political institutions.<sup>10</sup> Rather, the point is to give an account of *which* institutions and conditions are and are not conducive to free opinion and will formation. It is an untenable view of freedom and popular sovereignty that sees them as requiring that each citizen is entirely independent from other human beings and political institutions.<sup>11</sup>

From the perspective of deliberative democracy, the problem with, for example, minimalist and liberal models of democracy is not that they see preferences as given in ontological or methodological terms, but rather that the models of democracy that they propose are ones that *treat* preferences as given. Some of these models of democracy agree that preferences are constructed but do not want to do anything about it. As I argue in the next

section, this connects these models of democracy to the negative freedom tradition in the history of political thought.

2. A second reason to go beyond the sharp transformation and aggregation dichotomy is that the transformation of preferences in deliberation is often taken to be a matter of moving from disagreement to agreement, and it is thought that if there is agreement, then there is no reason for concern. If this were the deliberative democratic view, then it would be right to criticize it.<sup>12</sup> And deliberative democrats do, at least from a cursory reading, give us reason to believe that the aim of deliberation is always to go from disagreement to agreement. A clear example of this is Gutmann and Thompson, for whom deliberation is meant to deal with moral disagreements.<sup>13</sup> But also Habermas's emphasis on reaching agreement or understanding (*Verständigung*) and Joshua Cohen's emphasis on consensus could lead us to believe that deliberation always is aimed at turning disagreements into agreements, and that the existence of agreement is the same as the absence of anything to be concerned about. Yet such a conclusion is the product of confusion. It is a consequence of the failure to distinguish, first, between empirically existing consensus and rationally motivated consensus, and, second, between consensus as regulative ideal for deliberation and consensus as good in itself. It is one thing to say that deliberation should have consensus as its regulative ideal, but it is quite another to say that any existing consensus is good. Clearly, deliberative democrats should be committed only to the first of these two positions. Moreover, the key issue from the perspective of deliberative democracy, as I understand it, is neither that a consensus exists nor what the content of the agreement is but *how* the agreement was reached.

Under certain conditions, I shall argue, deliberation should aim not at creating consensus but at breaking an existing consensus, at least as the initial step. Critics of deliberative democracy think this idea does not sit well with the aim of reaching consensus.<sup>14</sup> While I agree that proponents of deliberative democracy have paid too little attention to the value of breaking up an existing consensus,<sup>15</sup> I think this conclusion builds on a misunderstanding of what is involved in the aim of reaching agreement. Sometimes deliberation with the aim of reaching agreement can actually lead

to undermining an existing consensus. Or, more precisely, the aim of reaching a consensus based on the best available information and reasons, that is, a rationally motivated consensus, might require that an existing, empirical consensus first be challenged.

The objection I wish to counter is that the aim of reaching understanding in deliberation makes it impotent in face of illegitimate forms of consensus. For example, from a Marxist perspective it might be argued that the interests of workers and capitalists are irreconcilable, and therefore that any existing consensus must be a false or an ideological consensus and, hence, the aim of political struggle cannot be to go from disagreement to agreement but rather to make the conflict apparent and to fight it out.<sup>16</sup> Or, to take a more fashionable example, the multicultural character of contemporary society might make every consensus seem to be an expression of the majority culture and hence oppressive and exclusionary. Both of these examples raise important concerns, but I shall argue, first, that these concerns are actually *parasitic* upon an idea of reaching agreement and do not constitute counterexamples; and, second, if the conflict of interests is not seen as one that comes about in the actual processes of deliberation, then the theorists who speak about them must operate with a paternalistic view of objective interests or objective identities.

When a given consensus is regarded as illegitimate, as a “false” consensus, by political theorists, it is often because it is seen as one that represents the interests, identity, or values of a *particular* group as the general interest, the common identity, or the shared values. This is how Marxists view bourgeois ideology under capitalism. Similarly, multiculturalists lament “the universalization of a dominant group’s experience and culture, and its establishment as the norm.”<sup>17</sup> And, according to some feminists, the great problem in contemporary society is the idea embedded in law, that “to be human . . . means to be a man.”<sup>18</sup> In these cases we have an empirical consensus if the dominant point of view is generally accepted, but for it also to be a rationally motivated consensus it would have to be a product of a free, open process of deliberation. The criticisms made by Marxists, multiculturalists, and feminists amount to saying to (or about) the dominant group that what it presents as universal (or general or common) is not

really so: it is not shared by everyone. But this is exactly what the logic of nondistorted and free communication does, as Habermas has shown.<sup>19</sup> In communication aimed at reaching understanding, participants ask whether what is presented as true or right really is so; or as critical theorists, we aim to show when the conditions necessary for such deliberation are missing. Deliberation takes place when listeners ask for the reasons behind the claims raised by speakers (when they do not understand them or find them objectionable), and when speakers redeem this request in a way that is meant to convince the listeners (as opposed to just manipulating them). By inherently being concerned with reasons or grounds, deliberation makes visible or public the underlying assumptions—cultural meanings, normative principles, factual assumptions, and so on—of our shared culture and makes them the object of reflection, consideration, and evaluation. The very core of deliberative democracy thus is a concern with the possibility of criticizing ideologies, biases, conventions, and the like. Questioning the validity of an utterance is to break the consensus, even if the aim is always to restore it later.

The problem with doing away with the aim of reaching understanding is that it becomes difficult to explain how people (in our examples traditionally oppressed groups such as workers, minorities, or women) realize that they do not share interests with the oppressors or indeed what it means not to agree. In, for example, Iris Young,<sup>20</sup> it is “surprising to find reproachful accusations of ‘bias’ set alongside assertions of the impossibility of impartiality. If we dispense with any notion of impartiality, how can we condemn, or even identify bias?”<sup>21</sup> There is confusion here between the ideological use of ideals such as impartiality and agreement and the ideal itself. It is one thing to criticize the “hypostatizing [of] the dominant view of privileged groups into a universal position”<sup>22</sup>; it is quite another to reject the idea of following an impartial procedure in order to find universal agreement. Indeed, one cannot make the criticism if one rejects the idea of impartiality. The idea of impartiality guides deliberation, but what in a given case is the impartial outcome can only be known as the result of an actual process of deliberation. It is only by questioning with the aim of understanding what the interests and the reasons behind the hegemonic culture are that

one can see oneself as being in conflict with it. One cannot begin with the disagreement. By engaging in deliberation with someone, I might learn that I did not agree with him anyway, that we do not share interests, for example. I could not come to this insight if my aim was to disagree, unless we assume some prepolitical insight into what my interests and those of others are and how they relate. Disagreement is parasitic upon the idea of agreement.

What someone like Przeworski overlooks when he argues for putting “the consensualist view of politics where it belongs—in the Museum of Eighteenth-century thought—and observe that all societies are ridden with . . . conflicts”<sup>23</sup> is that the participants in these conflicts are animated by the desire to be understood. They appeal to justice or some other value that they believe all can share. Conflict might be the order of the day, but it grows out of the aim of reaching understanding, and it is the inherent normative potentials in this aim that should be exploited.

My second reason for defending the regulative ideal of reaching understanding against the focus on conflict is the danger of paternalism. An important advantage of deliberation aimed at reaching understanding is that it connotes a process in which the person herself comes to an awareness of whether or not she can accept something as being in her interest. Those theorists who present interests or identities as given are taking a paternalistic observer’s perspective. One critic of deliberative democracy draws the conclusion that “often what is needed is not widespread deliberation but firm action from above to protect the vulnerable.”<sup>24</sup> And another critic notes, “I am not entirely against deliberation. But I am against it for now: I think it is premature as a standard for American Democrats, who are confronted with more immediate problems.”<sup>25</sup> But here it is assumed that they, as theorists, know what is right, and that state action does not need to be discursively justified. Or, it is assumed that first all the conditions for perfect deliberation must be in place and then one can begin implementing the practice. The deliberative perspective, on the contrary, is a participant perspective, by its nature a nonhierarchical perspective. It is as participants in societal processes of deliberation that citizens learn whether or not they share existing values. We might need firm action to



protect the vulnerable, but such action must go hand in hand with discursive justification if it is not to turn into paternalism. The claims of the oppressed are sometimes presented as self-evidently just and right. But even if the fight against oppression is just, there will never be agreement on what it requires in concrete cases or even regarding what constitutes oppression. And, more importantly, the deliberative commitment to fallibilism—the idea that any claim to truth or rightness could be wrong and should be open to contestation—has to be extended to the claims of the oppressed. There are no predeliberative truths about what it is right to do, and even the results of deliberation should always be open to critique and revision. (This is a central epistemic point in this book, and I develop it further in later chapters.) Those who argue against the merits of deliberation and in favor of more forceful and antagonistic means of politics seem to me all too confident that they have the right on their side.<sup>26</sup>

3. It may create confusion to speak of deliberation as aimed at changing *preferences*. “Preferences” have unfortunate individualistic connotations that seem more valid for understanding market behavior than political action; it is a too-simplistic notion to capture what deliberation is aimed at. Deliberation is not necessarily aimed at changing private preferences. In many instances it is aimed at setting up rules within which people can act with the preferences they already have. Deliberation is aimed at reaching agreements concerning which rules or laws are legitimate, not at changing private preferences. I can be convinced of the rightness of laws establishing freedom of religion without changing my religious preferences.<sup>27</sup> I might even prefer to live in a society in which all share my religion and still accept freedom of religion, because I realize that I can give no convincing reasons for why people who do not share my religious views should be forced to live in such a society. Or, to take a very different example, I can be convinced of a law securing pluralism in the media even if I prefer to watch only one TV station. The private person chooses what she prefers, but the citizen must also be concerned with what is available to others.<sup>28</sup>

Preferences may sometimes change, because people realize that their preferences were based on insufficient information or

bad reasoning, but this is not the main aim of deliberation. The deliberative process is not aimed at convergence of preferences but at coming to an agreement on certain principles, despite differences in personal preferences.<sup>29</sup> In other terms, deliberation is primarily aimed at reaching agreements about what it is *right* to do, not on what we *like* to do. This point is important from the perspective of a theory committed to multiple dimensions of freedom, because the idea of changing preferences very easily turns into paternalism or disrespect for the freedom to choose one's own conception of the good. To be sure, a dimension of freedom that deliberative democracy should be committed to does concern the free formation of political opinions, or what I later shall refer to as "internal autonomy." But this dimension of freedom is not concerned with our private preferences.<sup>30</sup>

Rather than changing preferences, the aim of deliberation should be gaining insights and forming opinions and judgments. We might gain insights and form judgments on many different levels, about others and about ourselves (about needs, interests, and desires), about the world (facts and causal relationships), and about possible arguments (normative as well as theoretical). These insights and judgments may affect us in different ways; they might affect our fundamental values, our beliefs, or our derived preferences, where the latter are products of the first two.<sup>31</sup> I shall go into more detail on these issues in Chapter 7, but here I want to point to the fact that changing preferences may refer to many different ideas. For example, the fact that after a process of deliberation I no longer support the proposal I set out supporting need not mean that I have changed my fundamental preference for it (here in the sense of desiring or valuing it); it might be a consequence of finding no good reason why others should also support it. I have learned that it is unreasonable to ask for my desire to be satisfied, which does not necessarily lead to a change of the preference for having it satisfied. To be more precise, it is unreasonable for me to ask for a political decision that will lead to the satisfaction of my desire, because I have learned in deliberation that it imposes heavy burdens on others, is unfeasible, or whatever. What should be stressed here is that there are many instances in which the aim of deliberation is not to change our fundamental preferences but to come to

a better understanding of the perspectives of others, facts about the world, and consequences of different policy proposals.

4. A fourth problem with seeing deliberation in contrast to aggregation is that it might give the impression that there is no concern for the satisfaction of needs, interests, or desires. One dimension of deliberative freedom concerns the ability to have one's needs and desires fulfilled. Deliberation should not be seen as a way of transforming people into noumenal selves without needs, interests, and desires. One of the main advantages of deliberative democracy over Kantian ethics is exactly that it gives us a way of combining a concern for universalization with our particular and different interests, needs, and desires. The reason we need intersubjective dialogue and not internal monologue is exactly that we are different and have different interests, needs, and desires, and we need to know what these are to come to decisions that are in the equal interest of all. This is crucial for the theory of freedom that I am developing. In Kant, as is well known, there is a problem of combining the freedom of the noumenal self with the heteronomy of the empirical self. Because deliberation happens between real people and does not rely on the dichotomy between the intelligible world and the world of sense, it does not run into this Kantian problem.<sup>32</sup>

In relation to interests, it also is common to think that aggregation must be of egoistic interests and deliberation must be about transforming narrow self-interest into an altruistic concern for the common good.<sup>33</sup> But this dichotomy overlooks the possibility that the effects of deliberation may point in different directions, and also that aggregation can be of altruistic preferences. Indeed, one aim of deliberation should be for citizens to become more aware of and concerned with the satisfaction of their own interests. As Jane Mansbridge has argued, "Greater awareness of self-interest is absolutely required for good deliberation when a hegemonic definition of the common good makes less powerful members either unaware of their own interests or convinced that they ought to suppress those interests for the common good even when others are not doing their just share."<sup>34</sup> It is possible for someone to be too altruistic or to lack understanding of what is in her own interest. Deliberation ideally helps one clarify one's

interests, knowing how they can be met, and ascertaining to what extent it is just for one to have them satisfied. Injustice is not always the consequence of people being partial to themselves but also can be a result of being so *against* themselves. I should caution here that I am not speaking of objective interests, which others can know better than the concerned person herself. I am claiming that people can be (1) mistaken about what their interests are, (2) lack knowledge of how to fulfill their interests, and/or (3) be too little concerned about their interests than is good for justice. And I am claiming that deliberation (under the right conditions) may help these deficiencies, not as a process where the truth is imposed on some by others but as a process where we learn from each other.

5. The contrast between aggregation and transformation can lead to the idea that we can set up the two in a simple manner as alternative ways of solving a problem. It also might be thought here that transforming opinions works on the same time frame as does aggregation. But if we construe deliberation as a matter of gaining insights or as a learning process, then this means that deliberation cannot be seen as a simple alternative that can substitute for aggregation. One of the aims of deliberative democracy is to broaden the focus of democratic theory from the political process narrowly construed to a concern for all the factors that play into the formation of political opinions. This also means that deliberation should not only be evaluated on the basis of its local but also on the basis of its global effects. Thus when Ian Shapiro, for example, notes that deliberation might lead to hardening of opinions and increasing conflict, he is too focused on its local effects.<sup>35</sup> In a deliberative democracy citizens are both participants in and observers of different sites of deliberation. One cannot merely study one site or occasion of deliberation in order to judge its effects. What matters are the overall and long-term effects of living in a society with widespread opportunities for participating in processes of public deliberation in formal as well as informal institutions. Deliberation should be seen and evaluated as a society-wide learning process. Deliberative democracy is for this reason a theory concerned with much more than the decision-making process in formal institutions.

To be sure, circumscribed instances of deliberation aimed at making decisions, for example, in legislative bodies, are essential for democracy. But it is crucial to see that these instances are embedded in a larger context of deliberative practices. A legislator might not change his mind or be willing to learn when confronted with her opponent on the floor of Congress or Parliament, but this does not prevent her from learning from her broader participation in and observance of public deliberation in civil society.

6. Finally, deliberative democracy cannot do without aggregation. No proponent of deliberative democracy believes that we can do away with mechanisms of aggregation in complex modern societies. Because of contingent constraints, especially the time constraint to decide, deliberation can never be any more than a supplement to aggregation.<sup>36</sup> However, it is important to see that aggregation does not constitute a definitive end to the political process. Aggregation or voting might be necessary to come to a decision, but this does not mean that deliberation about the issue has come to an end. Everyone should remain free to criticize any decision made and to attempt to change it. Deliberation should not be a part only of the process before aggregation (turning unreflective preferences into reasoned judgments) but also after aggregation (probing whether former decisions are valid).

### The Negative Freedom Tradition and Democracy

Rather than differentiating deliberative democracy from aggregative democracy as a matter of transformation versus aggregation, I contrast the former to a tradition that is characterized by a specific conception of freedom. I suggest that deliberative democracy should be seen in contrast to a tradition of models of democracy that reduces freedom to a matter of noninterference with private interests and desires. This tradition is one that focuses on private interests and pleasures and hence is concerned either with the protection and/or the satisfaction of these. On the protective side, political freedoms (the rights to speak, assembly, and vote) are seen merely as a means to the protection of private interests (in particular, the right to private property). On the satisfaction side, the democratic process is indeed seen as one of aggregation. However,

aggregation is not emphasized because preferences are seen as given but rather because of the negative conception of freedom. Whether or not preferences are given or constructed is really outside the concern of this model of democracy; indeed, it is off-limits. Preference formation is part of the sphere of negative liberty, as it is construed by this tradition.

Deliberative democracy should not be seen in contrast to this tradition because the latter is concerned with interests and preferences but rather because it views these in an uncritical manner. Due to its one-dimensional commitment to negative freedom, this tradition sees interests and preferences as merely a private and subjective matter. It *treats* people as if they have clear ideas about what their interests and preferences are and as if they cannot be mistaken about their interests and preferences.<sup>37</sup> And popular sovereignty is reduced either to a matter of being able to protect these interests or as a matter of having the opportunity to have one's preferences counted in the aggregative process. There is no room for freedom either as something intrinsic to political participation or as a matter of collective self-legislation. In contrast to this tradition, I see democracy as a form of exercising and experiencing freedom. Deliberative democracy, I think, should be formulated in terms of a theory of freedom. This theory does not reduce freedom to *one* dimension but sees deliberative democracy as committed to and expressing *multiple* dimensions of freedom. It does not deny the importance of some degree of negative freedom, but it sees this as only part of what deliberative freedom requires and as dependent on other dimensions of freedom for being interpreted and justified as well as for being implemented in a way that itself does not undermine the concern for overall freedom.

The negative freedom tradition begins with Thomas Hobbes and includes most notably Jeremy Bentham, James Mill, Isaiah Berlin, F. A. Hayek, Joseph Schumpeter, Anthony Downs, and William Riker. Clearly there are great differences between these writers, but I believe that they share an uncritical (or a defeatist) attitude to people's existing interests and preferences and still see them as the center of what politics is about. I argue that this is a tradition that has resulted in a combination of an understanding of democracy as a procedure for protecting and aggregating self-interested or private preferences and a conception of negative freedom or freedom as noninterference *with private interests as understood in some sense subjectively and prepolitically*. Moreover, it is a tradition that neglects to theorize how to determine the meaning and boundaries of

negative freedom in a noncoercive manner. As a theory that focuses on noncoercion, this latter omission makes it incomplete and unstable.

It might come as a surprising claim that this tradition combines freedom and democracy, since it is a tradition that explicitly rejects the idea that there should be any “necessary connexion between individual liberty and democratic rule.”<sup>38</sup> But my claim is not that the combination of negative freedom and aggregative democracy is conceptual or necessary. Nor is it my claim that everybody in the tradition shares the idea that negative freedom connects to aggregative democracy. Rather, the contention is that the tradition *historically* has resulted in a view of a free and democratic society as one that combines aggregative democracy and negative freedom. The combination of negative freedom and aggregative democracy, however, is not entirely fortuitous. Aggregative democracy and negative freedom have the same aim: the protection of private interests or preferences. In aggregative democracy voting is seen as the assertion of private interests with the aim of the self-protection of self-interested individuals against the state.<sup>39</sup> Negative freedom is, correspondingly, seen as freedom from interference with private interests as subjectively conceived. A distinction between protecting and promoting self-interest is obscured here. The tradition under discussion tends to take the idea of a private sphere as a given and hence to regard negative freedom and the vote as ways of protecting what we already rightfully have. As such, it obscures that a specific understanding of how the private sphere should be understood and demarcated is promoted.

Note that I am not making a conceptual point about aggregative democracy and negative freedom but trying to identify how they have been conceived in a specific, influential tradition in political theory.<sup>40</sup> This tradition deserves our interest not merely because of its influence in academia. More importantly, some of the key features of this tradition have a strong hold on the public mind in existing democracies. Part of the resistance to a more deliberative democracy comes from an ideology based on a too-narrow focus on the idea that the only freedom interest we have is to be free from interference with our private goals. From this perspective even beginning to discuss the idea that people do not always know and vote what is best for them is seen as a threat to freedom and democracy. Showing that this is an unfounded (or at least exaggerated) concern is an important aim of this book’s focus on multiple dimensions of freedom and the idea of their mutual dependence.

Because there is an obvious similarity between what I say here and a well-known argument that goes back to C. B. Macpherson and has been elaborated on by David Held, let me differentiate my point from theirs. Macpherson and Held also note the connection between negative freedom and what they call “protective democracy,” but their focus is on how this relates to the emergence and protection of the market and capitalism.<sup>41</sup> From my perspective, the connection to capitalism, even if important, is not the focus. The focus of the present book is rather the fact that this tradition blocks the possibility of seeing public deliberation as a precondition and exercise of freedom. When freedom is seen as negative and democracy as protective, then any idea of public, intersubjective learning and justification is seen at best as unnecessary and at worst as a threat to individual freedom.

My theory of deliberative freedom does not reject everything that comes out of this tradition of self-interest liberalism. The mechanisms of aggregation still play a role in deliberative democracy. And the idea of negative freedom is certainly not rejected tout court, though we shall see that the concept of negative freedom is more complicated than it is presented in this tradition. What deliberative democrats must reject is the idea that overall freedom can be understood in terms of negative freedom and the protection of self-interest. I argue that deliberative freedom cannot be patterned on negative liberty, as it is understood in the tradition of self-interest liberalism. Public autonomy, moreover, cannot be understood as having the same meaning, structure, and purpose as negative freedom. Most importantly, negative freedom is parasitic upon an intersubjective exercise of public autonomy, both for determining the former’s meaning, significance, and boundaries and in order to do so noncoercively.

In what follows, I discuss the negative conception of freedom, show how some of the elements of negative liberty connect to aggregative democracy, and make a criticism of them from the perspective of deliberative freedom.

### The Negative Conception of Freedom

Negative freedom in its Hobbesian-Berlinian formulation may appear a very simple idea. It is a mechanistic notion according to which freedom means the absence of external obstruction to or interference with motion or activity.<sup>42</sup> Negative freedom in its simplistic formulation is seen as a



matter of protecting an “area within which a man can act unobstructed by others.”<sup>43</sup> It is interesting to note, however, that both Hobbes and Berlin quickly move beyond the simplistic formulation of the concept of negative freedom. They both move toward something that relates to the satisfaction of given, individual, and private desires. Thus Hobbes says that a free man is defined by not being “hindered to do what he has a will to”; a free man “finds no stop, in doing what he has the will, desire, or inclination to do.”<sup>44</sup> And Berlin says that a person lacks negative liberty if “prevented from attaining a goal.”<sup>45</sup> Coercion—the antithesis of negative liberty—for Berlin is that which frustrates “my wishes”<sup>46</sup> or “frustrates human desires.”<sup>47</sup>

It should be clear that there is a difference between being obstructed in one’s movements and being prevented from attaining one’s goals or in doing what one has a desire to do. We might see the latter category of obstructions as a subset of the former. Not all our movements are aimed at attaining some goal, and not all our acts are expressions of our desires. Some of our acts are random or unwilled, and obstructions to these acts would not count as a hindrance to what we have the will or desire to do.<sup>48</sup> If I am about to drive off the road in the mountains and am prevented from doing so by the railing, then my movement is obstructed, but I am not prevented from doing something I want to do, assuming I am not on a suicidal mission.

These remarks open up a wide range of issues to be answered by proponents of negative liberty, all of which I cannot go into. The point to emphasize here is that the Hobbes-Berlin conception of negative freedom is closely related to the satisfaction of desires and to the protection of private interests. This view represents a *specific* understanding of negative freedom; it is one conception of an overall concept of negative liberty.<sup>49</sup> The general formula of negative freedom as noninterference requires that we answer the question of “obstruction to what?” “The absence of interference with what *aspect* of myself constitutes freedom?”<sup>50</sup> In Hobbes and Berlin (and Bentham), the answer to this question is “private desires and interests.” This view of freedom holds that I am free when no one obstructs me in satisfying my desires or interferes with my interests. There is a clear, positive dimension to this view. Hobbes and Berlin give an answer to what it is we should be free *to* do, namely, to act on our desires.<sup>51</sup> It is not a mere accident that Berlin and Hobbes move beyond the simplistic, mechanistic definition of negative freedom. That conception of freedom is absolutely uninteresting in a political context when

it is not related to some idea of what it is we should be free to do, and some positive idea of what it is to be a free human agent.

Freedom, also in its negative dimension, is an essentially moral notion. Ronald Dworkin argues that a conception of liberty fails the test if “[i]t declares a violation when a violation is no wrong, and it therefore does not show us what the special importance of liberty is.” “A conception of liberty is an interpretive theory that aims to show why it is bad when liberty is denied, and a conception of liberty is therefore unsuccessful when it forces us to describe some event as an invasion of liberty when nothing bad has happened.”<sup>52</sup> My point is similar, but Dworkin’s formulation is not sufficiently precise. While we, in formulating a conception of freedom, will be guided by norms of what we believe it would be bad to deny people, this does not mean that the definition of freedom on which we settle will be so perfect that an infringement of freedom so understood will always be wrong. Freedom is inevitably an incomplete moral notion.<sup>53</sup> We will tend to define freedom in a way that makes it *usually* wrong to limit freedom, but we must accept that in certain circumstances infringements can be justified. Furthermore, if we see freedom as involving more dimensions, it is sometimes justified to limit one dimension for the sake of another if the overall freedom of each is thereby augmented.

It should be emphasized that I am making both a conceptual and a historical argument. The conceptual argument is that the idea of freedom as the absence of obstruction or freedom as noninterference is parasitic upon an idea of “obstructions to what?” or a specification of interference “with whom?” or “with what?” and “by whom?” or “by what?” The historical argument is that there is an important tradition in the history of political thought that has defined the “with what?” as private interests and desires. The answer to “interference with whom?” is the self-regarding private person who is concerned with fulfilling his private desires, not the political person or the citizen who also is concerned with how his private desires affect others and with coming to an understanding with them. And the answer to “by whom?” is the state, not other private actors. The historical point is perhaps most clearly expressed by Benjamin Constant in his description of the liberty of the moderns: “The aim of the moderns is the enjoyment of security in *private pleasures*; and they call liberty the guarantees accorded by institutions to these pleasures.”<sup>54</sup> My criticism is mainly of the contingent answer given by the liberal self-interest tradition. It is clear that the answer we give to the question of “obstruc-

tion to what?" has great political implications. The point to stress at this juncture is the inadequacy of negative freedom as a basis for a conception of overall freedom insofar as it sees freedom as the freedom of the private person, of "le bourgeois" and not of "le citoyen." When freedom is reduced to its negative dimension, as it is in the tradition under scrutiny, it is impossible to speak of the freedom of the citizen as a participant in the political process, because freedom is tied to private pleasures. According to this negative conception of freedom, freedom is external to politics; it is seen "as beginning where politics ends, especially in various forms of private life."<sup>55</sup> "[L]iberalism," as Hannah Arendt puts it, "has done its share to banish the notion of liberty from the political realm."<sup>56</sup>

The conceptual point also is important. It is so because the tradition I have tried to identify speaks as if it follows naturally from the concept of negative freedom, that it is a freedom against interference by the state with the interests and desires persons identify for themselves when they see themselves as private persons concerned only with furthering their own good. But this answer is a contingent one and in no way natural or neutral. It can therefore not be treated as prepolitical and without need of democratic justification.

There are two main reasons negative freedom cannot stand alone but rather should be regarded as a *dimension* of freedom that is parasitic on other dimensions of freedom.<sup>57</sup> First, there are no neutral or obvious answers to the following questions: (1) Who should be protected against interference? Only mature human beings or also children, or animals? (2) What constitutes interference? Arguments, manipulation, threats, or only overt violence? (3) What and who can exercise interference? The state, private persons, the market, ideology? Any idea of negative freedom depends on a *positive* specification and justification of its meaning and boundaries. Second, because negative freedom and its meaning cannot be seen as a given, it is parasitic upon collective forms of justification and decision making.<sup>58</sup> In order for this decision-making process itself not to be coercive and violate the freedom it attempts to define, it must itself be a process whose intrinsic properties are expressions of freedom.

My purpose thus is not a crusade against negative freedom as such because it makes the citizen "the servant of egoistic man," as Marx's was.<sup>59</sup> It is important not to mistake the liberal ideology of the negative freedom of bourgeois man with the idea of individual rights as such, as Claude Lefort convincingly argues Marx did.<sup>60</sup> But this does not mean that we should not be critical of the liberal ideology, which is still with us, and

which too often determines how individual freedoms function in society. My point is not that we should give up on the protection of negative freedom per se, but rather that it is not an uncontroversial question what that means and that it therefore must be subject to deliberative scrutiny and democratic legitimation.

In the negative freedom tradition it is assumed that by defining certain limits to the scope of political decisions or to protect a certain area from political interference, people are equally free to lead their lives as they like. This strategy leads to the depoliticization of certain spheres of life. In these spheres people are free to make private choices. The importance of this type of freedom should certainly not be underestimated. The problem emerges when it is thought that we can define prepolitically or once and for all which spheres or which practices should be privatized. From a social-theoretical perspective, it is evident that historical demarcations of the private sphere have had a tendency to protect the individual freedom of the powerful at the expense of the oppressed. This is clear in the protection of the patriarchal family and the capitalist economy as part of the sacred private sphere. Women and workers have found that their path to emancipation was and is to challenge earlier definitions of what is private and protected by negative freedom.<sup>61</sup> Both in cases of women's emancipation and in the case of workers' rights and social justice, proponents of negative freedom (private property and privacy) will find that negative freedom, as they understand it, is violated. But what is happening in these struggles is in fact that oppressed groups are claiming that they do not enjoy equal freedom. To be sure, the protection of the private sphere does not always protect the powerful and privileged, as is evident from, for example, the privacy protection that *Roe v. Wade* (the 1973 Supreme Court decision that protects the right to abortion) affords women in the United States. This is just to illustrate that boundaries of negative freedom, in order to afford equal freedom, must be subject to continued discursive justification.

Thus it is a specific conception of "negative freedom," a specific answer to the question of "obstruction to what?" that lies at the heart of the liberal self-interest tradition and that, perhaps beginning with Bentham, has been connected to the aggregative model of democracy. Four core elements to this conception should be emphasized in order to see its relationship to aggregative democracy. First, desires, interests, and preferences are seen as brute and given facts about individuals.<sup>62</sup> They are seen as something individuals possess as atomistic or isolated individuals.