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Public Deliberation and Biomedical Enhancements

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Abstract: *This chapter will consider the significance of public deliberation for decision-making on bioethical issues. In the past couple of decades, deliberative democracy has become the dominant point of view in democratic theory. There is no doubt that bioethics is the field marked by numerous reasonable disagreements. However, some authors have expressed a view that it is precisely because of this that deliberative democracy can be of immense importance in this context. In this chapter, I will primarily discuss the role of public deliberation on human biomedical enhancements. This is the reason why I will discuss the view of Alan Buchanan, who maintains that in order to face problems associated with biomedical enhancements, it is crucially important that there be an appropriate institutional framework.*

Keywords: *biomedical enhancements; the enhancement enterprise; public deliberation; democratic decision-making; institutions.*

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Public Deliberation and Biomedical Enhancements

Ivan Mladenović

Introduction

In this chapter, I will consider the significance of public deliberation for decision-making on bioethical issues, primarily those that concern biomedical enhancements. In the past couple of decades, deliberative democracy has become the dominant point of view in democratic theory. The essence of this approach is encapsulated in the provision that the process of decision-making on political issues should enable discussion and exchange of reasons among free and equal citizens. The basic idea is that through discussion and proffering of arguments in favour of opposing positions, an agreement on the best solution can be reached and consequently, better decisions can be made. If the first period of development of this theory was primarily preoccupied with the normative justification of the public deliberation procedure, today we are witnessing an increasing number of experiments with deliberative democracy and implementation of various kinds of public consultations on deliberative grounds.

There is no doubt that bioethics is the field marked by numerous reasonable disagreements. However, some authors have expressed a view that it is precisely because of this that deliberative democracy can be of immense importance in this context [1]. Whether citizens themselves make decisions regarding bioethical issues or whether institutions do it, deliberative democrats think that “accountability for reasonableness” is crucially important to the whole process [2]. It means that regarding controversial bioethical decisions, either citizens among themselves or institutions, should furnish reasons for their decisions that should be acceptable to all. Even if the requirement of reasonableness in this strong sense may be just a normative ideal, what seems to be practically feasible is to demand that a procedure of public deliberation be held regarding controversial bioethical decisions, a procedure that will enable justifying certain decisions, as well as revision of these decisions on reasonable grounds. Even if reasonable disagreements persist after discussion has been conducted, public deliberation will nevertheless have contributed to legitimacy and fairness because it is based on an aspiration to offer justification

for a certain decision. Similarly to developments within deliberative democratic theory, from the first stage which was mostly characterized by normative considerations, the discussion has largely moved towards practice of public deliberation regarding various bioethical issues [3–5].

However, in this chapter I will primarily discuss the role of public deliberation on human biomedical enhancements. This is the reason why I will discuss the view of Alan Buchanan, who maintains that in order to face problems associated with biomedical enhancements, it is crucially important that there be an appropriate institutional framework [6]. Namely, according to Buchanan, the best way to handle this issue is the enhancement enterprise. A significant part of the enhancement enterprise is public deliberation on moral justification of biomedical enhancements as well as the risks associated with undertaking them. Furthermore, the essential importance of public deliberation inheres in the possibility of revision of previously-made decisions in the light of new evidence. If public deliberation is to function at all, wide accessibility of information relevant to the issue of biomedical enhancements would be necessary. Although I agree with Buchanan that orientation towards institutions and public deliberation is justified, I will criticize his point of view as insufficiently precise in terms of how the very procedure of public deliberation should look like. In order to additionally specify the issues regarding public deliberation on biomedical enhancements, I will introduce the difference between micro-deliberation and macro-deliberation. Taking into account the literature regarding experiments with public deliberation, I will point out in what way public deliberation on biomedical enhancements should be organized at the micro and at the macro level.

Deliberative Democracy and Bioethics

The dominant stand in democratic theory is that democracy should function on deliberative grounds. Electoral democracy does not leave enough room for citizens to voice their reasons in public discussion and to bring informed decisions on the basis of a better argument. Therefore deliberative democracy theorists maintain that the process of democratic decision-making should be deliberative to a greater extent.

Consequently, it could be said that public deliberation plays several important roles. First, it contributes to the legitimacy of democratic decision-making. Facilitated by public deliberation, democratic decision-making significantly approximates an ideal that all individuals should be treated as free and equal, but also as reasonable and rational citizens. Second, it has an epistemic role because it contributes to better decisions which are based on reasons that have passed the test of public re-examination. The basic idea is that better decisions will be brought if they are previously discussed in view of

a better argument. Third, it contributes to fairness of decision-making, because even those whose point of view has not been adopted can see that in the very process of decision-making they have been treated fairly. Moreover, public deliberation promotes thinking in terms of the common good, given that it is based on public reasons that should also be acceptable to other citizens. On the basis of these characteristics of public deliberation, some theorists have concluded that it should be aimed at arriving at a consensus about the common good. However, it cannot be said that there is any real necessity in this regard. Even if process of public deliberation should lead to reasonable disagreement, it can still be claimed that decisions brought by majority voting that had been preceded by this form of discussion are justified because the very procedure contributes to legitimacy, quality and fairness of decision-making, even if not everybody agree with these decisions.

Gutmann and Thompson have contributed significantly to the theory of deliberative democracy. But they were also among the first authors to notice the relevance of deliberative democracy for bioethical issues. Namely, Gutmann and Thompson maintain that the following four characteristics of deliberative democracy can contribute to making better decisions about bioethical issues that are the subject of moral disagreement: legitimacy of collective decision-making, promoting public-oriented perspectives, mutual recognition when decisions are brought and possibility of correcting mistakes [1]. The legitimacy of decision-making is important because bioethical controversies often pertain to disagreements regarding scarce resources. In the situation in which not everyone can acquire certain resources, it is extremely important to justify priorities by furnishing reasons that could be acceptable to all. Given that limited altruism is a frequent source of moral disagreements, public deliberation can contribute to taking an impartial perspective. It particularly concerns bioethical commissions and other similar bodies in which participants should not represent certain group interests, but should take decisions from an impartial point of view. Mutual recognition is important for decision-making because even in situations of disagreement on some fundamental values, there is often room for agreement regarding many other issues. It is precisely mutual recognition during public deliberation that can help narrow the space for disagreements that are often a result of lack of information or some other factor that can be corrected in a discussion. Finally, public deliberation enables us to point out possible errors in judgment, but also to correct wrong decisions which had previously been taken.

A similar view is propounded by Norman Daniels who particularly stresses the role of public deliberation for solving bioethical issues, primarily those that pertain to defining priorities regarding health care needs. Daniels maintains that “accountability for reasonableness” is a crucial aspect for ensuring

legitimacy and fairness of decision-making on such issues. “Accountability for reasonableness” means that institutions where decisions are made on issues that are the subject of moral disagreement should function in accordance to several conditions characteristic to deliberative democracy [2]. According to this view, even if in the very process of decision-making those affected by decisions do not take part, they can be legitimate and fair if the process of decision-making is transparent i.e. there is a public justification for the given decision. Secondly, this justification has to be reasonable in the sense that it is based on reasons that are acceptable to all. And thirdly, this process enables to raise an objection to the given decision in order to revise it if there are justified reasons to do so. To the aforementioned conditions, sometimes a fourth condition is added that concerns the necessity for either voluntary or state regulation for ensuring the previous three conditions. What is important for the ensuing discussion is that these conditions should also hold for fair redistribution of new treatment technologies, which may be relevant regarding new technologies for biomedical enhancements. In this chapter, I will consider precisely the importance of public deliberation for issues of biomedical enhancements.

The Enhancement Enterprise and Public Deliberation

The first stage of the discussion on biomedical enhancement mostly concerned giving reasons against or for enhancement as such. Despite the fact that this dialogue is far from over, it could be said that in the meantime the discussion assumed yet another level. This topical stage of discussion primarily concerns the following questions: which enhancement and which means of human enhancement would be morally permissible if we assume that some enhancements are necessary to ensure a meaningful life on earth [7]. The main argument of those arguing against enhancement is based on the premise that radical intervention in human nature which would be made in order to enhance it, could lead to its full annihilation. A typical attitude of proponents of enhancement, could be that enhancement as such is something good. But, on the other hand, she may also argue that if not all, then at least some types of enhancement can be morally permissible. For example, certain types of enhancement may be necessary in order to ensure the survival of people on planet Earth which could be significantly jeopardized by climate change. However, a question is raised: which things ought to be subject to change, in what way and to what extent? And at this point, the views, even among proponents, of enhancement differ.

Alan Buchanan thinks that rather than discussion devoted to purely theoretical arguments for and against enhancements, it would be much more fruitful to accept an enhancement enterprise that encompasses institutions

within which such issues could be resolved. This is why public deliberation, in his view, is an integral part of the enhancement enterprise. Buchanan claims that the idea about enhancement enterprises actually suggests that certain biomedical enhancements can be legitimate goals for individuals and institutions. His main argument in favour of the enhancement enterprise is the following. He proposes a sort of a hypothetical choice situation. The first option is that the issue of biomedical enhancements should remain completely unregulated. In that case, tools for combating negative effects of certain enhancements on the social level would also be lacking. The absence of any regulation can lead to unfair distribution of medical enhancements; it can unfold utterly non-transparently and without sufficient knowledge about the risks certain biomedical enhancements involve. The second option is that the issue of biomedical enhancements should be regulated and that the justification of certain enhancements should be the subject of discussion within appropriate institutions. Such an institutional perspective would allow to adequately solve problems regarding the fair distribution of biomedical enhancements. Furthermore, another vital element should be public deliberation on the basis of which arguments would be put forward for and against certain enhancements. Buchanan maintains that in a hypothetical choice situation, the second option which favours the enhancement enterprise should be chosen. He also claims that his standpoint should not be interpreted to claim that biomedical enhancements as such are justified. Namely, in the process of public deliberation, some biomedical enhancements could be rejected on the basis of justified reasons. Thus according to Buchanan, institutional perspective would offer a way out of the deadlock in which purely theoretical arguing for and against enhancements would lead.

According to Buchanan, public deliberation could play several important roles within the enhancement enterprise. On the basis of the previous argument, Buchanan concludes that enhancements should be “a legitimate topic for democratic deliberation, rather than allowing enhancements to come through the backdoor, unscrutinized and unregulated” [6, p. 73]. He also points out that biomedical enhancements are “a sufficiently controversial and risky undertaking to warrant ongoing public deliberation and institutional control” [6, p. 151]. In order to ponder the risks of biomedical enhancements, it is necessary to have a broad availability of the information and public fora where wrong decisions could be revised. It is important to point out that Buchanan does not think that the enhancement enterprise could be justified in any institutional context. Namely, he particularly emphasizes that such an enterprise presupposes a constitutional democracy, which already has appropriate mechanisms such as fair elections, checks and balances, protection of individual rights, for an enhancement enterprise to be able to be subjected

to democratic control [6, p. 61].

However, although I agree with Buchanan's idea about the importance of institutions and public deliberation for tackling questions of biomedical enhancements, I think that there are several objections which can be made regarding this standpoint. First, by arguing in favour of the enhancement enterprise, Buchanan seems to assume what has to be proved. Namely, he assumes the legitimacy of the enhancement enterprise, which suggests that biomedical enhancements can be legitimate individual and social goals. However, if one insists on the importance of deliberative democracy, then it is not clear why the legitimacy of the enhancement enterprise should not also be subject to public scrutiny. Obviously, in that case the very enhancement enterprise could be shown to be insufficiently justified. The essence is that one cannot assume in advance what should only be the result of public deliberation; consequently, the issue of legitimacy of the enhancement enterprise would have to remain open until a decision on it is brought in a public forum. The second objection is directly related to the first, but does not pertain to the justification of the enhancement enterprise but to the justification of certain biomedical enhancements. As we have seen, Buchanan claims that on the basis of public deliberation, some enhancements could be rejected as unjustified. However, he offers a series of arguments in favour of numerous enhancements that include cognitive enhancements for increasing productivity, enhancements that contribute to the extension of life expectancy, enhancements of the immune system, moral enhancements, etc, as legitimate goals for individuals and institutions [6]. This contradicts his thesis that the justification or rejection of certain enhancements should ensue from the process of public deliberation. Therefore, instead of assuming in advance that certain biomedical enhancements are justified, one should wait for the results of public deliberation. The process of public deliberation might show that the biomedical enhancements which Buchanan finds justified are indeed acceptable, while it could reject some of them. In any case, a decision cannot be made prior to the very process of public deliberation, at least if we assume that the decision on certain enhancements should be brought in a public forum.

It seems that the additional problem is related to the insufficient specification of the process of public deliberation. Some of the problems we have previously pointed out could be overcome by additionally specifying the procedure of public deliberation. Namely, within an empirically-oriented deliberative democracy research, differentiation has been made between micro-deliberation and macro-deliberation [8]. Experiments regarding micro-deliberation such as deliberative polls have shown that deliberative democracy can successfully function in smaller groups. However, the problem is how to organize public deliberation of a wide scope. On the basis of experiments with

deliberative polls, some theorists have concluded that with the assistance of the simultaneous functioning of a multitude of such fora, it is possible to conduct macro-deliberations on the level of an entire society. Bearing this in mind, it could be said that questions such as the justifiability of the enhancement enterprise should be subject of macro-deliberation that would include the largest possible number of citizens. The discussions that would concern justifiability of particular enhancements could function according to the model of micro-deliberation, which includes some fora in which only citizens take part, some in which only experts take part, as well as those in which both citizens and experts take part. However, even though these micro-deliberative fora could in some cases furnish reasons that are acceptable to all although not everyone can take part in them, the legitimacy of the enhancement enterprise should ensue from the broad participation of citizens at the macro-deliberative level.

Still, some theorists remain sceptical about the role of public deliberation regarding bioethical issues and particularly issues regarding biomedical enhancements. Namely, in a recent article, Clarke and Roache have expounded arguments that libertarian paternalism should be given priority over deliberative democracy when transformative technologies are concerned, including means for biomedical enhancements [9]. Their main argument is that public deliberation, instead of a consensus, is more likely to lead to further disagreements among citizens regarding these issues. An important premise in their argument is that ideological differences which are based on intuitions would only be augmented during public deliberation. Conversely, libertarian paternalism, with its technique of “choice architecture,” is much more likely to lead to consensus and agreement regarding transformative technologies. However, even though in initial formulations of deliberative democratic theory, the significance of a consensus has indeed been strongly emphasized, in later elaborations of this theory, the view has prevailed that it is not necessary that public deliberation should lead to unanimous agreement. What is important is that participants in discussion proffer public reasons in favour of their point of view. Moreover, the procedure of public deliberation, rather than bolstering positions based on intuitions, may lead to exposing prejudices and acceptance of attitudes on rational grounds. The essence of the deliberative approach is precisely that although not everyone will agree with the final decision, everyone will be able to see that in the process of public deliberation, one has been treated fairly.

Conclusion

Some biomedical enhancements are already available today and it is quite certain that a larger number of such enhancements will be available in the future. In this chapter, I have considered the importance of public deliberation

for facing the challenges presented by biomedical enhancements. I emphasized the role of public deliberation in the context of bioethics and subsequently for institutional handling of challenges posed by biomedical enhancements. In this context, I have particularly considered Buchanan's justification of the enhancement enterprise. I agree with Buchanan's view on the importance of institutions and public deliberation in this context. However, I think that the legitimacy of the enhancement enterprise should not be assumed in advance, but should itself be the subject of public deliberation.

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