

Charter Schools: Voluntary Associations or Political Communities?

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This essay approaches charter school reform as an opportunity to reflect upon the tenacious dilemma of liberal versus communitarian visions of democratic public life. As autonomous associations created around specific educational missions and shared values, charter schools disrupt the notion of a strict dichotomy between liberal and communitarian approaches to public life. At the same time, charter schools are in need of normative standards that can be employed to balance their particularistic aims against public interests in things like fair representation, democratic governance, and civic education. Deliberative democratic theory provides charters with two normative models — one of participatory political community and one of associative democracy — that can be employed to assess the extent to which charter schools fulfill public educational interests.

Throughout the 1990s, charter school initiatives have proven to be vital yet controversial reform movements across the country. From 1991 to 1998, over half the states passed charter legislation, and many other states are currently considering proposed bills.¹ Specific provisions regulating charter schools vary from state to state, but a few features provide the defining characteristics of the movement. Charter schools are public schools in that they are sponsored by public agencies such as a state or local school board, funded by public tax dollars, and open to public school students free of charge. But they differ from traditional public schools in at least three important ways. First, they are schools of choice that parents and students attend voluntarily. Second, charters are autonomous in that they are freed from many regulations governing traditional public schools at the state and local levels. And, finally, charter schools are accountable to the public in terms of the outcomes or results they produce. In other words, if academic achievement is not satisfactory, their charter will not be renewed and/or families will no longer choose to attend.²

Choice and autonomy are aspects of charter schools that clearly set them apart from traditional public schools. Choice leads to voluntary membership: Students and parents affiliate with a specific charter school because they want to, not because they are assigned. Autonomy suggests a strong degree of building-level control that requires localized decision making and accountability. Because of these unique features of their organizational structure, charter schools might be attractive to both liberals and communitarians. Autonomy and choice, for instance, are key components of the voluntaristic associations that liberals tout as forums for pursuing distinct visions of the good life. Similarly, educators who extol the virtues of communal relationships — providing students with a sense of belonging, promoting caring relationships among students and teachers, and cultivating some shared values — may find the organizational features of charters more conducive to building such relationships than those features characteristic of traditional public schools.³

Lumping liberals and communitarians together as bedfellows in the charter school movement, however, would be precipitous. Advocates of community charge that the contractual relationships and radical individualism of liberalism are too “thin” to sustain public school communities. Liberals would likely agree and argue that public schools are not appropriate sites for communal relations. The liberal principle of state neutrality, combined with the challenges of democratic pluralism, poses some stubborn questions to an ideal of charter schools as communities. Liberals argue that a diverse citizenry is not going to value the same things. In light of distinct, and often conflicting, interests, an ideal of “community” is better suited for our private associations in places like churches and clubs. I would like to take the opportunity offered by the unique organizational structure of charter schooling to suggest to liberals that it might be possible to cultivate thicker public communities within our shared institutions. Since public education is one of the few institutions available to all members of our society, distinctive charter school communities might serve simultaneously as particularistic and pluralistic public spaces without abrogating the rights of individuals or social groups.

A discourse theory of deliberative democracy provides a model of democratic public life that is particularly well-suited for addressing the potential of charters to serve simultaneously as voluntaristic associations and as public political communities. In order to flesh out the possibilities of a symbiotic relationship between a discourse model of deliberative democracy and concrete practices of charter schooling, I would like to consider two issues. First, what model of “public community” is suggested by deliberative democratic theory, and how does this model account for heterogeneity within democratic societies? Second, in so far as discourse theory offers a tenable model for democratic politics in a pluralistic society, what are its implications for the organization and governance of public charter schools?

In the next section I begin to address these questions by discussing Jürgen Habermas’s discourse theory of deliberative democracy and what Seyla Benhabib describes as its “participatory vision.” This model attempts to retain the strengths of both liberalism and civic republicanism (one strand of communitarianism), while discarding the weaknesses of each.⁴ I then turn to Joshua Cohen’s strategy of “associative democracy” and outline some ways in which charter schools exemplify this strategy. Finally, I end by suggesting that these two strands of deliberative democratic theory provide normative standards for assessing how charter schools might serve as legitimate public communities within our pluralistic democratic society.

DELIBERATIVE THEORY’S MODEL OF DEMOCRATIC POLITICS

What values, if any, are appropriate for distinctly *public* communities? Habermas’s discourse theory of deliberative democracy posits the political integration of complex democratic societies through intersections of communicative power across multiple, decentered publics. Formal political arenas of will-formation and informal networks of opinion-formation integrate the influence of public opinion with the communicative power of practical discourses. The result is politically

authoritative administrative power.⁵ According to this model of democratic politics, citizens do not share values. Rather, they share ideal communicative procedures for decision making.

Within Habermas's taxonomy of political organization, it is unclear where schools fit in. As public education is currently organized, decisions are made at multiple levels, ranging from federal and state governments to local school boards and classrooms. Public schools are state-sponsored institutions filled with public employees who make decisions that carry collective import. Schools also generate public opinion as students gain information on a variety of issues and as parents, professionals, and community members debate educational policy.

The range of functions carried out by public schools suggest that their organizational structure bridges Habermas's strict distinction between the political sphere of will-formation and civil spheres of opinion-formation. In doing so, schools call into question whether political/civil/private distinctions are sustainable. For many deliberative democrats, strict distinctions between these spheres are untenable. Benhabib, for instance, challenges Habermas for drawing "overly rigid boundaries" between public and private spheres.⁶ Other deliberative democrats extend this critique by suggesting that the boundaries between political and civil spheres might usefully be thought of as more fluid and porous.⁷

In their recent book *Democracy and Disagreement*, Amy Gutmann and Dennis Thomas are particularly concerned with advocating the democratization of institutions within civil society. They contend that citizens should experience reasoned deliberation within institutions outside of government. Unless citizens reason together in institutions where they spend most of their time, they will not gain necessary capacities for deliberating effectively in formal political arenas. In addition to identifying the preparatory aspects of deliberation, Gutmann and Thompson also believe that it is important for all citizens, not just public officials, to take part in reasoned discourse. Discussions in multiple institutional settings are not only a "rehearsal for political action," but themselves "part of citizenship."⁸

This more porous approach to public life expands the role of deliberation across spheres of opinion — and will — formation. In doing so, it brings Habermas's conception of citizens as anonymous bearers of opinions a bit closer to Hannah Arendt's notion of citizens as face-to-face participants in shared political activity. The danger in this move is the specter of citizenship as a good, as evidenced in the participatory politics of Aristotle's Athens, for example. Liberals, in particular, would likely warn that individual liberty is threatened by such an expanded notion of democratic citizenship.⁹

But the deliberative urge to democratize institutions within civil society should not be equated with such concerns surrounding traditional conceptions of the democratic *polis*. Contemporary deliberative democrats share liberals' desires to protect value pluralism and individual rights. Seyla Benhabib defends a conception of democratic political community that emphasizes civic participationism and rejects value homogeneity. Joshua Cohen offers an argument for "associative democracy" that bases solidarity not upon a common conception of the good life, but

on shared institutional participation surrounding issues of common concern. Both theorists reject arguments that political solidarity formed through deliberative processes is inherently exclusionary, factionalizing, or a threat to liberty.

According to Benhabib, Habermas's discourse theory has the potential to mediate between republican communities of civic virtue and liberal contracts of self-interest with a "participatory vision of the politics of communicative ethics." This participatory vision emphasizes political participation and the "democratization of decision-making processes in social life."¹⁰ The participationist view of democratic politics avoids the "ethical overload" of republicanism by focusing more on cultivating a sense of political agency than a shared civic identity. Yet, as opposed to liberalism's thin view of politics, participation serves a socially integrative function by giving rise to mutual understanding and reasoned agreement.

Liberals may be suspicious of participatory democratic communities because they fear that a thick civic culture will encroach upon distinct conceptions of the good life and accompanying virtues. Essentially, liberals tend to be wary of the assimilating tendencies of civic republicanism whereby community is equated with the state. In order to guard against such encroachment, they seek to protect value pluralism by delineating a private sphere of particularistic communities.¹¹ In response to such concerns, Benhabib insists that participatory democratic politics need not fall prey to republican tendencies. She argues:

participationism does not entail dedifferentiation, value homogeneity, or even value reeducation...For on the participationist model, the public sentiment which is encouraged is not reconciliation and harmony, but rather political agency and efficacy, namely the sense that we define our lives together, and that what one does makes a difference.¹²

On this model, participation in democratic politics does not entail sharing the same value system, nor is political community embodied with the state. Rather, participationist political communities exist in the public sphere of civil society. Deliberative democracy identifies a vibrant civil public life as crucial to the ideas of democratic freedom and consent; the ideals embodied in the sentiment of governance "by, for, and of the people." Participation in the informal networks of opinion-formation, as well as the formal procedures of decision making, represent the consent of the sovereign polity. In this manner, the participatory model of democratic politics is particularly inclusive. Because the public sphere is unrestricted, and issues are not confined to any one sphere, both political membership and the public agenda are accessible to all. Democratic participation itself then plays an integrative role between civil and political public spheres, and between citizens.¹³

In response to deliberative democracy's need for a vibrant public sphere of not only political participation, but *equal* political participation, Cohen offers a "strategy of associative democracy."¹⁴ According to Cohen, the secondary associations of civil society serve at least two integral purposes for democratic politics. First, such associations provide spaces for the needs and interests of underrepresented groups to be addressed. Second, such associations offer opportunities for citizens to engage in deliberations and gain "regulatory competence."¹⁵ Each of these functions of secondary associations is necessary for a well-functioning democracy, but neither happens automatically:

the right kinds of association do not naturally arise, either for the purposes of addressing problems of underrepresentation or for more functional tasks: there is, for example, no natural tendency for an emergence of secondary associations to correct for inequalities of political opportunity due to underlying economic inequalities or to ensure the regulatory competence needed to advance the common good.¹⁶

Thus, Cohen puts forward a strategy of associative democracy intended to address this “associative deficit” by using public powers to “encourage the development of the rights kinds of secondary association.”¹⁷ The right kinds of secondary associations would be those capable of: a) representing previously underrepresented interests, and b) advancing regulatory competence.

Associative democracy involves the “idea of a regulatory role for associations.”¹⁸ Associations take on a regulatory role in cases where the state is limited in its capacity to advance the common good. Cohen asserts that there are four such kinds of cases. The first case encounters the problem of state *monitoring* when the objects of regulation are too numerous, dispersed, or diverse. The second type of case confronts the *means* of achieving regulatory standards when the objects of regulation are too diverse or unstable for the government to specify just what standards are appropriate at particular sites. A third case arises surrounding the determination of standards, or *ends*, themselves. In this case, appropriate standards are best decided upon by local stakeholders or government officials, in prolonged cooperation with non-government stakeholders. Finally, a fourth case entails the issue of *coordination*. Here the concern is a social problem with multiple causes and intersections with other problems that necessitate overlap between conventional policy domains.¹⁹

All four of Cohen’s cases might apply to public education. One could offer arguments for each of the four conditions: 1) that public schools are too numerous, dispersed, and diverse to be easily monitored by state or federal officials; 2) that public schools are too diverse to be amenable to standardized means for achieving educational goals; 3) that appropriate educational standards can best be determined within local contexts; and 4) that the problems students bring to school are the product of multiple causes and are intricately connected to other social problems. Only one of these four conditions is necessary to recommend that granting regulatory authority to a particular association, in this case a school, may better serve common interests than does state regulatory authority. In terms of public education, the possibility that all four cases may apply at different times and places strongly suggests that Cohen’s strategy is worthy of consideration as a normative model for the organization and governance of public charter schooling.

Before turning to charter schools, however, a question remains surrounding how groups might associate around common interests without becoming strictly differentiated according to specific values or identities. If groups are forming around shared interests, how can we be assured of Benhabib’s contention that “participationism does not entail...homogeneity”?²⁰ Cohen recognizes that his associative strategy encourages a governance role for groups that may, in turn, “heighten the role of group affiliation in defining political identity.”²¹ This would be a negative consequence of associations if groups were to become factionalized

within the polity. But Cohen contends that instead of creating political solidarity *within* certain groups, associative democracy will construct “new bases of social solidarity *through* a process of defining and addressing common concerns” [emphasis in text].²² The issue of common concern, rather than any particular social group, provides the basis for political cohesion:

The solidarities characteristic of such efforts will be the bonds of people with common concerns... who treat one another as equal partners in addressing those shared concerns. In short, these efforts — which could have very wide scope — have the potential to create new “*deliberative arenas*” outside formal politics that might work as “*schools in deliberative democracy*” in a special way. Deliberative arenas established for such coordination bring together people with shared concrete concerns, very different identities, and considerable uncertainty about how to address their common aims. Successful cooperation within them, fostered by the antecedent common concerns of participants, should encourage a willingness to treat others with respect as equals, precisely because discussion in the arenas requires fashioning arguments acceptable to those others. [emphases added]²³

As deliberative arenas that arise within contexts of shared concerns, Cohen’s associations are at once particularistic, pluralistic, and participatory. They are particularistic in that specific shared concerns bind members together. Yet, they are pluralistic in that people with “very different identities” come together to address these concerns. And they are participatory because members deliberate together in order to collectively solve their common problems.

CHARTER SCHOOLS AS PARTICIPATORY, ASSOCIATIVE DEMOCRACIES

Taken together, Benhabib’s participatory vision and Cohen’s associative strategy provide a model of democratic politics that closely reflects the organizational structure of multiple, distinct charter schools within the public educational sphere. Charters are autonomous public associations concerned with addressing common educational interests. Charter schools are public institutions, yet they are granted regulative relief from direct state control. Thus, the deliberative model of democratic politics would view charters as “arenas for public deliberation that lie outside conventional political arenas.”²⁴

Deliberative democracy provides a normative model of democratic association that can be used to assess the extent to which: 1) the organization of charter schools balances a plurality of interests in public education; 2) the governance procedures of charter schools result in legitimate collective decisions; and 3) the curricular and pedagogical practices within charter schools promote “regulatory competence” in future citizens.

Since charters already embody the structural features of the associative strategy, the strategy may be usefully applied to individual schools as a normative measure of whether or not the school’s mission reflects “the right kind of association.” According to the strategy, charter schools are legitimate secondary associations insofar as they a) promote the organized representation of presently excluded interests in the public educational sphere; or b) can demonstrate greater competence than existing public authorities for advancing the common good.²⁵ Moreover, the associative strategy provides a normative model for assessing whether a specific charter school is adequately balancing its particularistic mission against public

interests in democratic regulation (governance) and promoting regulatory competence in future citizens (civic education). As arenas of collective decision making, charter schools must account for who shares decision-making authority, the processes according to which democratic decisions are made within the schools, and the processes according to which future democratic citizens become capable of equal political participation.

I am not suggesting that the main thrust of all charter schools be democratic participation. Rather, I contend that charters provide the possibility of a proliferation of quite distinct schools within the public educational sphere. This is what makes them attractive to both liberals and communitarians. But it is precisely because charter schools are autonomous, distinct communities that we must address how they are to fulfill their peculiarly public functions — governing themselves and reproducing a democratic citizenry. While most charter schools will not be concerned first and foremost with democratic governance or civic education, public interests in each of these aspects of education require that charters at least meet some minimal requirements.²⁶

Because charter schools are public educational institutions, they require a normative theory of democratic public life capable of balancing distinct educational values against collective interests in the schooling of future citizens. Drawing upon Habermas's discourse theory of deliberative democracy, Benhabib's emphasis on political participation and Cohen's associative strategy both provide normative standards for assessing charter school reform. Conversely, charters offer a structural avenue for institutionalizing these theoretical constructs. As schools of choice that form around common missions, charter schools provide an institutional correlate for the associative strategy. Public charter schools, organized to address one or more of the four cases Cohen describes, should serve as deliberative arenas outside of conventional political forums. Thus, charters need not be illiberal nor anti-democratic communities, as some critics fear. Rather, charter schools have the potential to embody a more participatory, more deliberative form of democratic politics in the public educational sphere.

1. As of October, 1998, 32 states and the District of Columbia permitted the formation of public charter schools. For current information on states with charter school legislation see *Charter School Highlights and Statistics*, compiled by The Center for Education Reform, Washington D.C. (<http://www.edreform.com/pubs/chglance.htm>).

2. For helpful definitions of charter schools and essential elements of charter school reform see Ted Kolderie, "Chartering Diversity," *Equity and Choice* 9, no. 1 (1992): 28-31; Peter Cookson, *School Choice and The Struggle for the Soul of American Education* (New Haven: Yale University Press, 1994); and Joe Nathan, *Charter Schools: Creating Hope and Opportunity for American Education* (San Francisco: Jossey-Bass, 1996).

3. Advocates of schools as communities might find charters more attractive than existing public schools because most charters are smaller than traditional public schools, they are organized around shared educational missions, and membership is voluntary. For examples of approaches to school reform that I am referring to as "community" oriented see Anthony Bryk, Valerie E. Lee, and Peter B. Holland, *Catholic Schools and the Common Good* (Cambridge: Harvard University Press, 1993); James S. Coleman and Thomas Hoffer, *Public and Private High Schools: The Impact of Communities* (New York: Basic Books, 1987); and Thomas Sergiovanni, *Building Community in Schools*, (San Francisco: Jossey-Bass, 1994).

4. See, in particular, Jurgen Habermas, "Three Normative Models of Democracy," in *Democracy and Difference: Contesting the Boundaries of the Political*, ed. Seyla Benhabib (Princeton: Princeton University Press, 1996), 21-30 and Jurgen Habermas, *Between Facts and Norms* (Cambridge: MIT Press, 1996), especially chap. 7, "Deliberative Politics: A Procedural Concept of Democracy."
5. For more complete descriptions of these processes see Habermas, *Between Facts and Norms*, chap. 7: "Deliberative Politics: A Procedural Concept of Democracy" and Habermas, "Three Normative Models of Democracy," 27-28.
6. Seyla Benhabib, *Situating the Self: Gender, Community and Postmodernism in Contemporary Ethics* (New York: Routledge, 1992), 111.
7. I am referring here both to deliberative democrats who align themselves with Habermas's discourse theory of communicative ethics — namely Seyla Benhabib, Joshua Cohen, and Nancy Fraser — and those who wish to distance themselves from Habermas, including Amy Gutmann and Dennis Thompson. Both groups of theorists are interested in an expanded notion of public life within civil society. Cohen, for example, urges that the formal procedures of will-formation be invoked as a mirror for appropriate social institutions within civil society. This strategy would strengthen the legitimacy conditions of institutions in civil society, thereby addressing concerns such as those articulated by Fraser, that spheres of opinion-formation are *weak publics*. See Joshua Cohen, "Deliberation and Democratic Legitimacy," in *The Good Polity: Normative Analysis of the State*, ed. Alan Hamlin and Philip Pettit (London: Blackwell, 1989), 17-34; Joshua Cohen, "Procedure and Substance in Deliberative Democracy," in Benhabib, *Democracy and Difference*, 95-119; and Nancy Fraser, "Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy," in *Habermas and the Public Sphere*, ed. Craig Calhoun (Cambridge: MIT Press, 1992), 109-42. Amy Gutmann and Dennis Thompson also support the democratization of civil society, but they clearly wish to separate themselves from the discourse theorists whom they see as undervaluing basic rights such as liberty and opportunity. Gutmann and Thompson are concerned with both respecting principles of liberty and opportunity and subjecting these principles, as well as deliberative processes, to ongoing, reflexive deliberation. They criticize Habermas for giving deliberation priority over liberty and opportunity, and they criticize Benhabib for advocating an approach to democratic legitimacy with "too little moral content." Yet, I would assert that Gutmann and Thompson's defense of respecting basic principles while simultaneously subjecting them to deliberation is wholly akin to Benhabib's assertion that "basic rights and liberties, are to be viewed as rules of the game that can be contested within the game but only insofar as one first accepts to abide by them and play the game at all." See Amy Gutmann and Dennis Thompson, *Democracy and Disagreement* (Cambridge: The Belknap Press of Harvard University Press, 1996), 17-18, 366n16; and Seyla Benhabib, "Toward a Deliberative Model of Democratic Legitimacy," in Benhabib, *Democracy and Difference*, 80.
8. Gutmann and Thompson, *Democracy and Disagreement*, 359.
9. See, for example, Kenneth A. Strike, "The Moral Role of Schooling in a Liberal Democratic Society," in *Review of Research in Education* 17 (1991): 413-83, especially 422 and 474. Strike discusses liberal misgivings of both civic republican and strong democratic models of public community.
10. Benhabib, *Situating the Self*, 82. See chap. 3 for her complete discussion of "participatory" versus "integrative" communities.
11. See Strike, "The Moral Role of Schooling," 413-83 for a more complete account of the tensions between liberal, civic republican, and democratic models of public life.
12. Benhabib, *Situating the Self*, 81.
13. This view is not unique to discourse theorists, rather it is similar to that of other political theorists who emphasize participation. Bernard Crick, for instance, once stated that "[d]iverse groups hold together because they practice politics — not because they agree about 'fundamentals.'" See Bernard Crick, *In Defence of Politics* (Chicago: University of Chicago Press, 1962), 24. Alexis de Tocqueville also stressed the integrative force of democratic participation. He argued that participation encourages interdependence, alleviates atomism, and weaves a social fabric in democratic societies. See Jan H. Blits, "Tocqueville on Democratic Education: The Problem of Public Passivity" *Educational Theory* 47, no. 1 (Winter 1997): 24.
14. Cohen, "Procedure and Substance in Deliberative Democracy," 110-19. For further discussion of the role of equality in deliberative democracy see Cohen's "Deliberation and Democratic Legitimacy." In this essay Cohen describes an "ideal deliberative procedure" for democratic decision making that requires both formal and substantive equality between parties to the deliberation.

15. In attributing these two functions to secondary associations Cohen echoes the sentiments of other deliberative democrats. He echoes Fraser's assertion that the "subaltern counterpublics" which arise in secondary associations are spaces where the needs and interests of marginalized groups can be articulated. Fraser coined the phrase "subaltern counterpublics" in "Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy," 123-28. Cohen also echoes Gutmann and Thompson's emphasis on the importance of discourse within secondary associations for building public competence in deliberating about the common good (see notes 7 & 8).

16. Cohen, "Procedure and Substance in Deliberative Democracy," 110.

17. *Ibid.*

18. *Ibid.*, 111.

19. *Ibid.*, 110-12.

20. Benhabib, *Situating the Self*, 81.

21. Cohen, "Procedure and Substance in Deliberative Democracy," 111.

22. *Ibid.*, 112.

23. *Ibid.*, 112-13. Similar to the way in which Cohen's associative strategy decentralizes political power, Blits argues that Tocqueville believed that strong associations decentralize public opinion: "They break up the imposing massiveness of democratic society as a whole, replacing unity and sameness with plurality and diversity. Just as local governments and voluntary associations in democracies serve to mediate between the individual and the centralized state, so they also serve to mediate between the individual and the mass society." Blits, "Tocqueville on Democratic Education," 29.

24. Cohen, "Procedure and Substance in Deliberative Democracy," 112.

25. *Ibid.*, 110.

26. Each of Cohen's four cases addresses conditions under which *public* interests are best served by a form of non-state regulation. In the case of charter schools, particular schools also may arise out of a desire to promote largely *private* interests, for example interests in cultural transmission. Nevertheless, such private interests must be balanced against public interests in the distribution and governance of schools and in providing civic education. Thus, Cohen's four conditions exemplify how such public interests may be fulfilled by providing particularistic charter schools with regulatory responsibility. In this regard, deliberative democracy offers charters an "ideal procedure for decision making" that includes normative standards for who must be included and how deliberations should proceed. See Cohen, "Deliberation and Democratic Legitimacy" and Habermas, *Between Facts and Norms*, chap. 7: "Deliberative Politics: A Procedural Concept of Democracy."