



MA THESIS APPLIED ETHICS

DEMOCRATIC IDEALS & BUREAUCRATIC REALITIES

AN ETHICAL EVALUATION OF PUBLIC VALUE
MANAGEMENT

SUZANNE MEIJER | 6289193 | S.J.A.MEIJER@STUDENTS.UU.NL

SUPERVISOR: MICHAEL BENNETT | EXAMINER: JOS PHILIPS



Universiteit Utrecht

Name	Suzanne Meijer
Student number	6289193
University	University Utrecht
Faculty	Faculty of Humanities
Department	Philosophy and Religion Studies
Supervisor	Mr. Michael Bennett
Examiner	Dr. Jos Philips
Front page	WNYCstudios – Radiolab. Retrieved from https://www.wnycstudios.org/podcasts/radiolab/podcasts/3
Place and date	Utrecht, 27 July 2019

Abstract

If society is like a bus, then citizens are promised a place in the driver's seat by democracy. However, democracy isn't the only institution that decides how a population is governed. A democracy needs an effective bureaucracy to perform the tasks we want our government to accomplish. Richardson (2002) argues that the bureaucracy poses a threat to our democratic ideals because the way in which they reason gives them arbitrary discretionary power. He calls this threat *bureaucratic domination*. As a solution to curb this threat, he offers a new normative standard for agency reasoning: *public reasoning about ends*. We should publicly deliberate with agencies about the ends of policies in order to curb the threat of bureaucratic domination. A public administration framework that conceptually resembles this normative standard is *Public Value Management*. This framework sees the creation of public value in co-creation with citizens as its core objective. I argue the public value paradigm doesn't sufficiently curb the threat of bureaucratic domination. In what I call the *Convening Power Objection*, I claim that bureaucrats continue to have arbitrary power in convening the public deliberations. After explaining why this convening power is problematic from both a procedural and instrumental account of democratic legitimacy, I respond to the convening power objection with two additional proposals that could work to ameliorate the arbitrary discretionary power of bureaucrats: 1) promote democratic awareness, 2) institutionalise regulation for the network. However, the additional proposals expose an inherent trade-off between the ideals of democracy and the reality of bureaucracy.

Table of Content

Abstract	3
Introduction	5
Section One: Central Concerns for Democracy	8
1.1 Moral Significance of Democracy	8
1.2 Bureaucratic Domination	11
1.3 Democratic Reasoning as Democratic Autonomy	15
Section Two: The Democratic Promise of Public Value Management.....	18
2.1 The Rise of Public Value Management	18
2.2. Public Value Management and the Ideal of Democratic Autonomy.....	20
Section Three: Defending the <i>Convening Power Objection</i>.....	23
3.1 The Practical Conditions.....	23
3.2 The Convening Power Objection	27
Section Four: Why the <i>Convening Power Objection</i> matters	30
4.1 Procedural Implications	30
4.2 Instrumental Implications.....	32
4.3 Two Additional Proposals	35
Conclusion	38
Discussion and Further Research	39
References	40

Introduction

Democracy is praised as an political institution because it gives people a say in how they are governed. If a society is like a bus, then citizens are promised a place in the driver's seat. This promise ought to be realised due to concepts like universal suffrage 'everyone has a right to vote' and the 'one voice, one vote' principle. Still, democratic outcomes can feel alien to the public. Democracy isn't the only institution that has a say in how a population is governed. Democracy as a political system delivers legislation that needs to be implemented through a technical administrative body known as the bureaucracy. If the main purpose of a democracy is to decide what the set of rules are that we live by in a society, the main purpose of the bureaucracy is to implement those rules. This bureaucracy could be a cause for concern regarding our democratic ideals because it yields power for which it can't always be held accountable. Here lies the contradiction between democratic ideals of self-rule and the bureaucratic reality of administrative implementation. This raises the question: who has the power and who should have the power? In his book, *Democratic Autonomy* (2002), Henry Richardson discusses the tension between bureaucratic power and democratic ideals. The central concern of his book is how citizens can avoid the threat of 'bureaucratic domination'. While acknowledging the permanence of administrative power in modern democratic governments, his concern is whether this broad discretionary power is used arbitrarily. When this happens, it will create an democratically illegitimate type of domination that exists independently of a democratically elected legislature. This is what Richardson calls *bureaucratic domination* (Richardson, 2002, p. 4). This worry represents a relatively new focus in democratic theory, since most academic focus has been given to the threats of majority-tyranny or antimajoritarian power. As a response, Richardson proposes the idea of *democratic reasoning* as democratic autonomy (Ibid.: p.248). Administrative agencies should be sites of cooperative and deliberative reasoning which afford citizens the opportunity to interpret and shape the ends of policy (Muniz-Fraticelli, 2008). On this view, the more administrative agencies act as deliberative fora, the more democratic citizens can avoid the threat of bureaucratic domination and realise the ideal of self-rule, because we have popular input, control and oversight over those administrative agencies. This issue goes to the centre of democratic legitimisation. Without the legitimising support of citizens for political institutions, a democratic system cannot survive for long. One of the facts to which democratic theory needs to face up to is the illegitimate discretionary power of administrative agencies.

The nature our democracy however, is changing. Public administration is becoming an increasingly important locus for democratic participation (Peters, 2010, p. 210). A public management paradigm that offers a framework for this form of governance is called *Public Value Management* (Moore, 1995;2010). This framework recognises the importance of deliberation and resembles the ideal of democratic reasoning

in public policy. Public value management also offers a framework for a new emerging form of governance – networked governance. Networked, or collaborative, governance refers to the coordination of multiple stakeholders in common forums with administrative agencies to engage in consensus-oriented policy making. Public value management presents the achievement of ‘public value’ as its core objective. What constitutes public value is built through interaction and deliberation involving elected officials and stakeholders (Stoker, 2006). This paradigm for public administration is often thought of as a progression from its historical antecedents; *Old Public Administration* and *New Public Management*. Each presenting an overarching framework for managing administrative agencies. There are three main ways in which the public value paradigm tries to move beyond the contradiction between democratic ideals and bureaucratic reality, towards an ideal of democratic reasoning: 1) The public value propositions that define public interventions cannot be articulated by formal legislative agencies. It derives from engagement and exchange between relevant stakeholders and government officials. 2) The necessary legitimacy flows from a broader conception of authorizing environment. There is a need to give more recognition to the legitimacy of a wider range of stakeholders. 3) Government cannot realise the proposed ends by itself. It is therefore dependent on the support and cooperation of a variety of public, private and societal partners (VNG, 2018).

There seems to be a certain optimism regarding the capability of the public value management paradigm to produce new ways to engage with people and in doing so regain the legitimising support for political institutions. Is this optimism justified? Does the public value paradigm lead to a closer approximation of the democratic ideal of self-rule? These are the type of questions this thesis will examine. This thesis poses the following research question: *Does Public Value Management as a public administration paradigm protect democratic autonomy against the threat of bureaucratic domination?* In accordance with Richardson’s theory of *Democratic Autonomy* as a norm and practice against bureaucratic domination, I will argue that public value management does not fully represent the ideal of democratic autonomy and that it doesn’t sufficiently alleviate the threat of bureaucratic domination. Through what I call the *Convening Power Objection*, I will argue that even though the public value paradigm promotes deliberation about policy ends in the network, it still exercises arbitrary power in convening that network. The bureaucrats continue to have discretionary power in who they invite into these deliberative fora. This discretionary power isn’t sufficiently accounted for because the entrepreneurial role of the bureaucrat is celebrated and the lines of accountability have blurred. This continues to pose a threat to our democratic ideals. By examining Richardson’s theory with the exemplary case of *Public Value Management*, I will critique Richardson’s theory for underestimating the number of ways in which governments can still exercise arbitrary power in deliberation and lacking an adequate response to the Convening Power Objection. Ultimately, I argue

that with deliberation alone we do not alleviate the fundamental tension between bureaucratic discretionary power and democratic ideal of self-rule. I will offer two possible proposals to respond to the *Convening Power Objection* in an attempt to ameliorate this tension: 1) Promote democratic awareness, 2) Institutionalise regulation for the network. These proposals are aimed at making the network deliberations about the public value more democratic. However, as I will argue, these proposals could be paradoxical in the sense that they could expose the inherent trade-off between the demands of bureaucracy and democracy. The solution towards more regulation and awareness could mean less opportunity to ‘create value’.

I will answer the research question in four steps, divided over four sections. In the first section, I elaborate on how democratic decision-making can lead to administrative power and will give an overview of reciprocal and paradoxical relationship between democracy and bureaucracy. I then will elaborate on how according to Richardson the administrative discretion can lead to bureaucratic domination, how he defines democratic legitimacy and how he proposes democratic reasoning as a norm and practice to safeguard democratic legitimacy. In section two, I examine the development in *public value management*, and show that conceptually, the two theories resembles one another. In section three, I will argue that, complying to Richardson’s democratic theory, there are objections to be made against *public value management* as a protection against the threat of bureaucratic domination. This is what I call the *Convening Power Objection*. The bureaucrats continue to have arbitrary power in deciding who we reason with. I will elaborate on the practical conditions that give rise to this convening power of bureaucrats. In section four, I will argue that the convening power objection is problematic for democratic legitimacy on both an procedural and instrumental account of democratic legitimacy. I will explore how we can respond to the convening power objection by giving two proposals: 1) promote democratic awareness, 2) institutionalise regulation for the network.

Section One: Central Concerns for Democracy

1.1 *Moral Significance of Democracy*

There is a lot of disagreement about the conception of democracy. Common ground however, is found in the core of democracy. In its core, democracy represents a collective decision-making process. Its main purpose is to determine the set of rules we live by in a society. This is done in a context of a pluralistic society wherein individuals have different moral views on what constitutes a good society. By many, democracy is regarded as the morally best, perhaps the only morally acceptable, form of governance (Lee, 2001, p.261). It is argued that it deserves this praise because of its commitment to the basic principle of equality that is central to the democratic ideal. In a democratic society, individuals have a say in how they are governed. This right is manifested in the notion of universal suffrage (everyone has a right to vote) and every vote is treated equally (one voice, one vote). This makes a democracy a governance by the people. They are subjected to their own will, instead of the will of the elite. This is the reason why democracy is seen as the desirable form of governance over other forms of governance such as absolute monarchies, which is governance of the one, or aristocracies, which is governance of the few. Democracy is governance of the many through the basic right of equality. In Rousseauian tradition, it could even be claimed that through self-determination, democracy gives rise to freedom: a member of a democratic society is free to the extent that he or she participates in the democratic decision-making process, which gives rise to the 'general will'¹. However, the democratic ideal of self-governance isn't always realised in practice. In recent years there has been renewed academic and societal attention for the 'crisis of democracy'. This alleged crisis is identified by various factors including: high levels of citizen disaffection with political practice, low levels of satisfaction and trust in governments and politicians, the decline of membership of political parties and the failure- or ineffectiveness of representation, to name a few problems (Ercan & Gagnon, 2014, p. 2). There exists increasing scepticism towards our political institutions and the promise that the people rule themselves rings hollow for a growing number of individuals in our democratic society.

Worries about democracy are not new. Since its conception democracy has known critics. One of the most famous critics of democracy originated from Socrates. In Plato's *Republic*, Socrates converses with a character named Adeimantus about the flaws of democracy by comparing society with a ship. 'If you were

¹ Rousseau actually distinguishes between three types of wills. The first is the general will, that is aimed at the common good. It expresses what is best for the state as a whole. The second is the particular will and is aimed at our self-interests. The third is the corporate will, which expresses the interests of a subgroup of society. In a healthy state, the particular wills of each individual is the same thing as the general will, since each citizen wills the common good.

heading out on a journey by sea, who would you want to command the ship? Just anyone, or an expert at seafaring?' Adeimantus, as any rational person would, responds: 'The latter of course!'. Socrates was alluding to the point that voting in a democracy is a skill that needs practice to be attained. Our modern democratic state also isn't governed by just anyone. It is governed by a technocratic body of non-elected professional government officials and an administrative policy-making group referred to as the *bureaucracy*, which relies on professional expertise. In our modern democratic societies we need technical and professional administrative agencies to implement legislation to make sure government can perform the task we want it to accomplish. Governing then, presupposes certain professional capacities. Consequently, not only voting, but also governing requires skill.

Once we have cast our vote and legislation is written by our representatives, the subsequent policies need to be carried out. This is the primary task of the bureaucracy. The bureaucracy is an indispensability in modern societies. It carries the capacity to transform political action into rationally ordered societal action and in doing so, meets the needs of our modern state. The argument for bureaucracy is a simple one: it stands for stability and order, impartiality and fairness, standard administrative behaviour and it is always there, whereas political processes change, political masters come and go, and mistakes are made in political changes and revolutions (Farazmand, 2010, p. 206). But the relationship between our democracy and bureaucracy is both paradoxical and complementary. Complementary, because the two institutions are reciprocal ideas and complementary systems. The bureaucratic system of implementing and interpreting laws is a necessary aspect of exercising governmental power in a legitimate way: the bureaucracy provides the means to implement the rule of law, and the rule of law is necessary to institutionalise bureaucratic authority. However, their relationship is also paradoxical, because an effective democracy needs an effective bureaucracy that emphasises equality and the same treatment according to law, while too much emphasis on the rule of law and equality appears to make it inefficient. We can all envision a Kafkaesque image of a slow, unresponsive and inefficient systems that soaks up tax money and delivers poor services. Bureaucracy with its predictability and impartiality is needed to balance the responsiveness of democratic organisations. In short, bureaucracy was put in place to minimize the arbitrary and capricious actions in which governments might otherwise be tempted to engage (Peters, 2010, p. 210).

Although they are complementary systems, the paradoxical relationship between democracy and bureaucracy can be problematic. We have a bureaucracy to ensure an effective democracy, but the bureaucrats do much more than the proverbial paper pushing. They make controversial decisions about policies and in doing so give shape and form to legislation. This is not a usurpation of political power: this discretionary power is given to them deliberately. This power falls on the bureaucrats because it is conceived that matters of a certain kind are better left removed from government, because they have de

facto expertise, or the politicians find the issues too difficult to settle themselves. Again, the bureaucracy is there to ensure an efficient democracy. While these are good reasons to do so, how then can we expect to have control over the work of the bureaucracy? The question of controlling bureaucracies also has a more fundamental nature because the legitimacy of a government derives from the consent of the governed (Gruber, 1988, p. 5). The question arises of how the work of the bureaucracy can be compatible with the democratic ideal of self-rule? We must accept the permanence of bureaucratic organisations if we want our modern democracy to function effectively, but it is also important to be aware of the threat this administrative power poses to our democratic ideal of self-rule. How do we maintain a sense of control over the discretion administrative agents have?

This worry represents a relatively new focus in democratic theory. In democratic theory, oftentimes the threat of majority-tyranny or antimajoritarian power the focus point of concern. Little attention has been given to the fundamental normative threat that bureaucracy poses to our democratic ideals. In fact, it wasn't regarded as a problem. In de Weber ideal-type of bureaucracy, there was a strong belief in the impersonal bureaucrat working with equal diligence for a succession of masters, and in the political-bureaucratic dichotomy. There was a believe that the democratic realm and the bureaucratic realm could be separated and that democratic control was assured through subservience to the hierarchical system. This clean division of labour however, is illusory. Bureaucrats are guided by legislation, but the bureaucrat continuously contributes to the public policy process in ways for which they aren't held accountable for. Richardson recognizes this worry. In his book *Democratic Autonomy* (2002)² he is explicitly worried about threats the discretionary power of bureaucrats pose to the democratic ideal of self-rule, and maintains that procedural devices to constrain this discretionary power do not suffice in excluding the arbitrary exercise of governmental power. His view is that bureaucrats within the administrative agencies have more power than the average citizen when it comes to making specific decisions about how to shape policy, and this power-inequality in the decision-making process is unjustified because it is at odds with the democratic ideal he calls 'democratic autonomy'. This bureaucratic power gives rise to the threat of '*bureaucratic domination*': Domination is when the agent has the capacity to exercise arbitrary power over another (Richardson, 2002, p. 33).

² For this thesis I am examining Richardson's democratic theory. This means I will follow certain assumptions he makes in his democratic theory. For example, I will support his assumption that bureaucratic domination is a problem for democracy that needs our attention if we want to achieve the democratic ideal of self-rule. I will also support the assumption that deliberation is the appropriate instrument in order to approximate the democratic ideal. His theory works at the intersection of deliberative democracy and attention to the threat of bureaucratic domination, while making a sophisticated and compelling case for the democratic ideal. This makes his theory relevant for application to our current situation, which emphasises more deliberation in the agencies. This is not to state that his view on democracy represents the only true ideal.

In short, the bureaucracy is an essential part of our modern democracy, while simultaneously poses a threat to it because the democratic promise of self-rule is threatened by bureaucratic domination. Richardson takes on the challenge to explore this threat and tries to ameliorate this problem. If we want to understand why the discretionary power bureaucrats hold is democratically illegitimate, we need to have a proper understanding of what that threat entails, and how it threatens the legitimacy of government. In the next section, I will discuss the specifics of the threat of bureaucratic domination to democracy- and discuss how Richardson proposes to curb this threat. In building his claim against bureaucratic domination, Richardson builds his democratic ideal which consists of tying together four strands of philosophical democratic traditions; republicanism, liberalism, populism and rationalism. Once we have a sufficient understanding of what his democratic ideal looks like, we can examine if the exemplary case of public value management is helpful or detrimental in approximating this ideal. In section three, I will argue that in fact public value management doesn't alleviate the threat of bureaucratic domination. It promises more citizen input and control in order to regain democratic legitimacy, but I will argue that this promise isn't realised. In section four I will explain why this is problematic from both accounts of democratic legitimacy; procedural and instrumental.

1.2 *Bureaucratic Domination*

Bureaucratic domination is the unjustified power inequality in the decision-making process of designing policies. The basis of the illegitimacy is a normative one. Richardson derives this claim on the basic idea that democracy should yield legitimate power. The reason why democracy needs legitimacy is because, according to Richardson, it impinges upon freedom in two ways:

- I. The liberal notion that governmental action undercuts fundamental rights
- II. The republican notion that governmental action places us under new duties

Because of these impingements upon our freedom, governmental decisions are placed under the burden of legitimation. The burden of legitimation requires from governments that they must not act in an elementally arbitrary way, but must instead offer reasons for their action. And in developing those reasons for their actions, governments must be structured as to give equal consideration and respect to each citizen (Richardson, 2002, p. 28). This two-fold argument is what he calls *the basic case for democracy*. To simplify: in a democracy we collectively decide what we want to do. The underlying rationale for this collective decision-making process is that it must treat citizens as free and equal under the circumstances of disagreement about what we want to do. We accomplish this by having an equal say in the decision-making process. Once we decide in a majoritarian process what we want to do, we need a bureaucracy to realise our collective will. These technocratic agencies have to implement broad and vague ends provided by

democratic directives, which gives them unjustified discretionary power. Richardson's claim of bureaucratic domination can be summarised on four steps:

- I. The basic case for democracy provides that treatment of citizens as free and equal is vital to democracy – this is the idea of equality that animates the democratic ideal
- II. Bureaucratic agencies are required in a modern state in order to implement law in a large-scale democratic society
- III. The directives the agencies receive from legislatures are often vague and the agencies have to make controversial decisions in the process of deciding how to implement those vague directives
- IV. This gives the agencies more power than the average citizen in deciding what we ought to do and this power inequality is undemocratic
- V. Hence, the division of labour seems incompatible with the idea of equality that animates the democratic ideal and this discretionary power threatens the democratic legitimacy

The administrative interference in the policy-making process is illegitimate regardless of the eventual (and maybe even desirable) consequences of the decision-making process. What this basic explication of Richardson's claim shows is that he is concerned about procedural fairness. While that is a noble goal, if we were to follow his claim here it would seem that we are at an impossible stalemate: everyone needs an equal say, but the bureaucratic say is more equal than that of the average citizen. Richardson thinks this is not necessarily the case. Bureaucratic discretion is not necessarily problematic. Our concern should only be when this discretionary power is used arbitrarily: arbitrary use of power would mean domination by bureaucracy which undermines the legitimacy of government. The exercise of normative power – the power to modify the rights and duties of others – on an arbitrary basis is essential to the idea of domination (p.34). From Richardson's interest in non-arbitrary use of power we can discern the first strand of his democratic ideal: the republican notion that for a government to be legitimate, it needs to exercise non-arbitrary power.

Arbitrariness is an important concern because according to republican political theory, government needs to demonstrate that it isn't inconsistent with people's freedom. However, 'freedom' is an ideal which has many conceptions. The standard account of political freedom was laid down by Isaiah Berlin, when he wrote about the 'Two Concepts of Liberty' (1969). According to the first conception, you are free as long as your choices are not interfered with. This conception of freedom does not serve well as a currency for legitimation, because non-interference isn't sufficient to make you free. Consider for example the scenario of the benevolent master: you are not interfered with, and can do what you want but the choice to grant you this freedom is dependent on the will of the master. You are living in the power of a master - *in*

potestate domini. Pettit (1997;2011) uses this argument to arrive at his conception of freedom as non-domination. You are free if no other party has the capacity to interfere with you on an arbitrary basis. This conception of freedom holds better as a currency for legitimation. According to this conception, a state would not be compromising people's freedom when interfering in their lives, but if doing so arbitrarily. Richardson's draws on Pettit's conception of freedom as non-domination by arguing that bureaucratic domination can exist because agencies can use their discretionary power arbitrarily, something that happens when the legislature is powerless to control these administrative agents (Richardson, 2002, p.4). Government needs to exercise non-arbitrary power. We already established in the basic case for democracy that a legitimate government must offer *reasons* for their action that gives equal consideration and respect to each citizen. But the claim that it must be based on reason is not enough to establish democratic legitimacy. After all, slaveholders also had their reasons. According to Richardson, we must understand non-arbitrary power as power that is constrained by fair procedures that respect the freedom and equality of citizens and provide adequate protection for their fundamental rights and liberties. At this point, we can discern the second strand of his democratic ideal: the liberal notion that non-arbitrary power is constrained by commitment to fair procedures that respect the freedom and equality of citizens. The conceptual link between republicanism and liberalism helps to explain why the rule by benevolent masters cannot count as an acceptable form of government: the benevolent master fails the non-arbitrary requirement and fails to treat individuals as free and equal beings.

Bureaucratic domination now exists in our administrative agencies because they can exercise arbitrary power that doesn't treat us as equal and free beings. According to Richardson, the threat of bureaucratic domination resides in the way that administrative agencies *reason*. There are different types of reasoning practices, and the way agencies now reason is what he calls *Agency Instrumentalism (AI)*. In this type of reasoning, democratic deliberation is confined to legislatures, while bureaucratic domination is curbed by subservience to narrow end-means rationality. The legislators decide the ends, the agencies solely the means to realise those ends. This type of reasoning is strictly instrumental, they are not able to establish final ends. This is where the trouble begins. According to Richardson, it is naïve to expect that agencies only reason instrumentally, proceeding from our ends. To illustrate this potential danger, let's give an example. Suppose a municipality is considering implementing a new system that would abolish the use of all paper. This municipality has democracy in high regard, so it issues a referendum on the issue. The vote turns out to be unanimously in favour of the new paper-free system, and thus the municipality has democratically decided to implement this paper-free system. The municipality is a large organisation, so a committee is appointed that is tasked with implementing the new system. It is arbitrary who ends up on that committee because we didn't vote for the unelected government officials who end up on the

committee. Suppose each person who voted had a different end in mind why they wanted a paper-free system, an end they wanted to further with this vote. Among those ends could be:

1. Make the municipality more environmentally friendly
2. Clear out the paper storage room to make more room for workspaces
3. Eliminate the hassle of paperwork in the hope to work more efficiently

Everyone who voted for the same course of action, but no one voiced the different *ends* that were guiding their decision. The ends that are favoured by the committee members will inform many decisions about the implementation of the new paper-free system. Suppose that everyone on the committee favoured end 2) clear out the paper storage room to make more room for workspaces. The decisions the committee makes, will then most likely result in outcomes that further this end, instead of making the municipality more environmentally friendly, or work more efficiently. Because there is no *deliberation about final ends*, everyone can be completely ignorant about the fact that the other voters could have had different ends in mind. Since no one *recognised* or *expected* that the committee members would reason about ends to some extent, they were able to impose *their* particular preferred ends on the concrete decisions about the implementation of the paper-free system. The ends that were further might as well have been selected at random. It is entirely arbitrary who serves on the committee and thus which ends are imposed on everyone (Koll, 2009, p.139). This is why Richardson sees the reasoning of agencies as a potential threat and calls it naïve. The way that agencies reason doesn't achieve the ideal of ruling ourselves. Christiano (1996;2005) questions this claim. He argues that there is nothing wrong with *AI* if it provides significant guidance for the design of institutions by defining an ideal to be approximated. He defends *AI* by claiming that democratic institutions have to assure citizens of the opportunity to play the role of choosers of the basic aims, while the bureaucratic institutions are charged with the task of defining more in detail just how the aims ought to be implemented. *AI* in Christiano's account, represents a standard in terms of which democratic institutions are to be evaluated. If it turns out that the bureaucrats introduce new ends that aren't derived from the proposition of citizens, the legislators always have the power to change it. *AI* to Christiano stands for the institutional process that the legislatures are always in charge of the ends. Therefore, *AI* states a view about what relations to hold between legislatures/citizens and bureaucracy. I argue that Christiano and Richardson don't represent opposing views. They both agree that the legislatures (or citizens) should be in charge of the policy aims. Their views oppose when they conceptualise different normative standards for administrative agencies. Richardson's sees agencies as having an important role in setting ends, since it is impossible for legislatures to fulfil the task of setting *all* ends. He therefore proposes a different mode of *reasoning* for agencies, while Christiano's defence of *AI* refers to the view of *AI* as a mode of *control*. They are in agreement about the importance of *AI*, understood as legislative oversight,

Richardson just proposes that agencies need to *reason* differently to enhance citizen control over administrative rulemaking.

So the ideal of democracy is starting to take shape: democracy needs to be republic in the sense that it must prevent arbitrary domination, and must be liberal because we prevent domination by a commitment to fair procedures that respect our freedom and equality and provide protection for our fundamental rights and liberties. Yet it remains unclear how to achieve these criteria. We have yet to determine the normative standard to which bureaucratic agencies should be held up to in order to be called democratically legitimate. In the next section, I will elaborate on the rationalists and populist strands from which Richardson derives these standards.

1.3 Democratic Reasoning as Democratic Autonomy

For Richardson, a democracy must also mean that we accept the ‘will of the people’. This will arises as the concrete product of fair democratic procedures, realised in- and distributed across- a broad range of concrete institutions (Richardson, 2005, p. 192). The democratic procedures should give rise to the ‘will of the people’. This procedural account of the ‘will of the people’ is what will enable us to explain what it takes for a government to be by the people. We can ascertain the will of the people by respecting citizen’s autonomy. Respecting autonomy means that we have the duty to take reasons and arguments that each offers into account in the political process. From Richardson’s interest in the procedural account of the will of the people, we can discern the third strand of his democratic ideal: the populist³ notion that rule by the people entails respecting citizen’s autonomy. However, up until this point one could argue that in an ideal situation we already have all the republican, liberal and populist strand of his democratic ideal in place: we get a say in the democratic process which isn’t arbitrary, we respect each other’s autonomy by casting our votes in the political process, we have fair procedures in place to do so. But Richardson lists a fourth criterium. If we truly want a democracy that is the rule by, for and of the people, we need to find a way to integrate the framing of proposals within a democratic process by which we rule ourselves, instead of merely casting our votes on items that are frame for us by bureaucrats and lobbyists. Democracy means that the people have the power, not that they choose from a menu presented by the elites. As we try to find a way in which we have the opportunity to frame proposals and make decisions in order to rule ourselves, a due respect for each other’s autonomy requires that we give reasons for the proposals we favour and that we tend to the reasons and arguments of others. It is thus established that

³ It must be said here that ‘populism’ in popular use usually has a negative connotation. It is associated with the radical right politician who position themselves as outsiders who have ideas separate from the existing order in an attempt to appeal to the ordinary citizen. It must be understood that Richardson uses a different conception of populism: as a political philosophical tradition. In doing so he tries to rehabilitate and defend the populist ideal in democratic decision-making.

democratic rule must be publicly reasoned – we rule ourselves by reasoning with one another. From this interests in reason we can discern the last strand of Richardson’s democratic ideal: the rationalist notion that ruling ourselves means reasoning with one another.

We have now arrived at the conception of democracy as democratic autonomy. Reasoned self-rule is autonomy; reasoned political self-rule is democratic autonomy; and democratic autonomy that both protects people from domination by dispersing power and providing opportunities for contesting it and employs fair decision procedures that protect fundamental rights and liberties, is democracy as democratic autonomy (Richardson, 2002, p. 84). Now that we have established what Richardson ideal democracy looks like, how does he propose we get there? For this Richardson prescribes a normative standard to which agencies should be help up to: *Public reasoning about ends*: public reasoning must extend to policy ends. This is mode of reasoning we must expect from administrative agencies. We must find ways to ensure that agencies can publicly reason about ends if we want policies that could be considered as approved by the public. He gives a number of institutional safeguards to ensure this reasoning about ends. We must accept that agencies reason to some extent, this is why we should specifically give them this function. Their reasoning however, must be restricted by only allowing them to specify the ends that the legislature chooses. The specification requirement means that agencies receive directives from legislatures and give them more concrete formulation that enriches or supplements the original end. This reasoning must be done, according to the rational strand of the democratic ideal, with one another. By reasoning about final ends together, we can collectively arrive *shared* ends. Richardson argues that if we uphold agencies to this standard, we can approximate the ideal of democratic autonomy. This reasoning at agency level should take the form of what Richardson calls *deep compromise*⁴. Deep compromise represents a possibility for revising ends that- by definition exists only for groups of people in which mutual respect is strong enough for them to try to work together. This process entails that we do not solely offer reasons to one another, but also must respond to those reasons in a way that indicates that we have taken them seriously (Richardson, 2002, p. 149). He proposes the concept of *negotiated rulemaking* as a workable way of achieving specification about ends. Negotiated rulemaking means that representatives of the public need to engage with one another and with the agencies in a face-to-face process of debate and negotiation. This way, participation is taken seriously in the process of rulemaking. We should be in open deliberation with each other about the ends of policy, and reason about them in a non-instrumental way. Negotiated rulemaking represents a process of how we could continue deliberation in an open and active way. We

⁴ The commitment to reasoning about ends as an instrument to curb bureaucratic domination and realise democratic autonomy, assumes that everyone in the political sphere is committed to a liberal idea of democracy in the sense that they respect that everyone’s view should count for something. For the sake of argument I will follow him in this assumption although it is clear that there are objections to be made against this assumption.

must find ways of inviting the public into these deliberations. We are dependent on organised citizens' group and the media to make sure the process is public and open for participation, because they can gather the support for and provide information about the public deliberations. The democratic process to reach democratic autonomy then looks something like this: formulate and frame proposals, discussing their merits with one another via representatives of the people and of the agencies, coming to an informal agreement via deep compromise, and converting informal agreement to formal legislation.

Accompanying these institutional proposals for achieving democratic autonomy, Richardson specifically envisions a role for administrative agencies. They have a hand in setting public ends, although this is checked by popular input, control and oversight via the process of negotiated rulemaking. This is because it would be naïve to think that we can live without administrative agencies. I agree with this observation. It is impossible to suppose that modern government can accomplish the tasks we want them to accomplish without relying on a vertical division of labour. The complexities of modern day issues are simply too big. In an attempt to figure out a way in which we can break open the 'black box' of the bureaucratic reasoning and avoid domination through deliberation with each other about the ends of policy, he aims for a view of administrative agencies that respects the vertical division of labour, but combines it with the more 'horizontal' egalitarian and participative demands of the democratic ideal of self-rule. Through deliberation we can have the input, control and oversight over the process of rulemaking and in doing so, approximate the ideal of democratic autonomy.

We have now established Richardson's criteria for the democratic ideal of democratic autonomy. We need to rule ourselves by deliberating with others and agencies about the ends of policy. It is now possible to explore to what extent his democratic ideal is realised in practice. How is his norm and practice of democratic reasoning realised in our modern democracy? Additionally, we could ask whether ongoing developments in democratic governing contribute to realising Richardson's ideal. Our democratic governing practices are changing and are becoming an increasingly important locus for democratic activity. Alternative forms of participation are being developed and expended in order to achieve a rejuvenation of democracy. This implies that democratic governance in practice is progressing towards the ideal of democratic autonomy as described by Richardson. In the next section I will discuss in what ways our democratic government is changing and how this connect to the development of the *Public Value Management* framework. I will argue that conceptually those two theories resemble one another, but both fail to underestimate the ways in which bureaucrat continue to have arbitrary power in assembling the public deliberations about policy ends. This is what I call the *Convening Power Objection*.

Section Two: The Democratic Promise of Public Value Management

2.1 *The Rise of Public Value Management*

The current form of democracy is increasingly characterised as *governance* instead of the traditional notion of *government*. There seems to be as many versions available on what this shift constitutes as there are scholars writing about it. There are many names for this shift, including network governance (Ansell & Gash, 2007), collaborative governance and hybrid governance (Hupe & Meijs, 2000). What these terms have in common is that they refer to a changing relationship *within government*, and *between governments and their citizens*. All these different varieties of governance have the notion in common that steering a society, or making policy, increasingly requires the active participation of a range of actors in addition to government itself (Pollit & Bouchaert, 2011, p.21). This change in government is associated with a variety of reasons. For one, the quality and efficacy of representative democracy is increasingly questioned. Fewer citizens are actively engaged in (traditional) political life; there are fewer voters and members of political parties, as well as other forms of democratic participation, indicating that the people feel that these traditional democratic institutions do not meet their collective needs. In addition, the public sector has increasingly disaggregated into factions of autonomous and quasi-autonomous organisation with the use of instruments such as outsourcing, contracting out, partnerships and voluntary agreements, making public service delivery increasingly complex and the subsequent responsibility and accountability vague (Peters, 2010, p.214).

The traditional model of government that was self-sufficient to deliver services is an old-fashioned outlook on government, as is the linear relationship between voters, ministers, their civil servants. Current problems cannot be solved by government alone. It is dependent on the support and cooperation of a variety of public, private and societal partners. Hence, hierarchy as an organising principle has lost much of its meaning. Horizontal networks replace hierarchies (Koppenjan & Klijn, 2004, p.3). Governance increasingly takes place inside these increasingly interdependent networks of state-society cooperation. The involvement of a wider range of stakeholders is necessary under the assumption that it is the key to regain citizens trust. The network approach to governance is more flexible, and better adapt to deal with particular cases than the traditional bureaucratic hierarchy. The state tries to reaffirm the legitimising demand of democracy by eliciting citizens participation and to increase responsiveness to particular cases. The shift then proceeds from an internal orientation towards bureaucratic rule-following, towards an external orientation towards meeting citizen's needs and wishes; it signifies a shift towards the output side of the public sector. *Public Value Management* offers a framework for the changing practices of democracy.

The public value paradigm presents the achievement of ‘public value’ as its core objective. In a sense, it is derived from corporate culture that has is pursuing shareholder value. Public value promotes the idea that democratic institutions need to promote what is of value to all of the stakeholders involved, i.e. the democratic society. The judgement of what is public value is collectively built through deliberation involving elected and appointed government officials and key stakeholders (Stoker, 2006, p. 42). A wide range of different stakeholders are consulted to give shape to policy with encourage a greater orientation towards achieving results that are of value to the public, rather than correctly following a procedure. The public value paradigm is seen as attractive for at least two reasons. First, it captures an important truth about political legitimacy: citizens accept and support public administrations because it adds value to their lives, and more generally to the society as a whole. Second, the idea of Public Value Management is seen as a progression from previous administrative frameworks like *New Public Management*, which had a narrow focus on meeting targets and increasing efficiency through incorporating market mechanisms (Gains & Stoker, 2009, p. 441).

The public value paradigm attempts to reconcile the demands of democracy and of efficient bureaucracy through dialogue and exchange. The vigilance of all partners in the system is central to ensuring that the promise of both democracy and efficiency is delivered. The dialogue and deliberation leading to policy decisions needs to take place in a culture of mutual trust. Smith (2004) summarises the core concepts of *Public Value Management* as: ‘Encourage deliberation about ‘value’ and means to achieve it; provide a focus for political deliberation at large and within organisations in the public and related sectors; focus on outcomes and strategies, not simply on structures and means; encourage richness and flexibility in relationship between citizens and governments; focus on the capabilities needed by the public and related sectors and the means by which such capabilities are developed and sustained’. The strategy that bureaucrats can employ to bring this framework intro practice is symbolised in the ‘strategic triangle’. This strategy provides conceptual guidance for bureaucrats to help orient themselves to the work they have to do. It considers that bureaucrats need to make three calculations in the practice of creating public value: they need to focus their attention upward to the authorizing

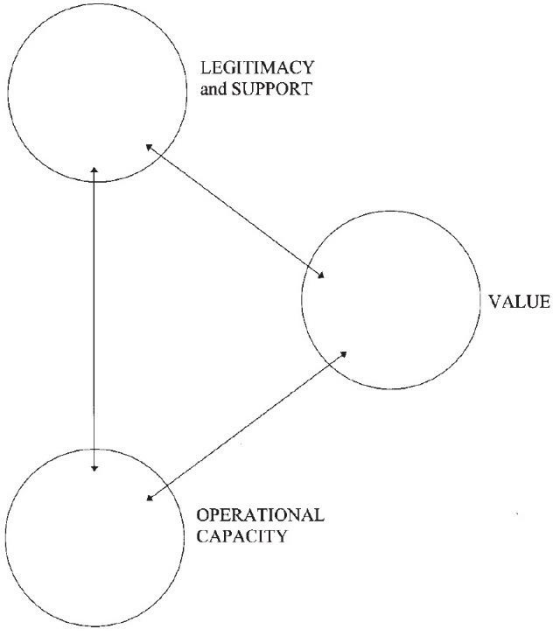


Figure 1: Strategic Triangle

environment who oversee and authorise their operations (legitimacy and support), outward to the purposes to be achieved and the value to be created (value), and downward and inward toward the management of their own organisation (operational capacity) (Moore, 2000, p. 200).

The public value framework proposes an alternative view on how bureaucrats should think and act. The bureaucrat plays a crucial role in the value creation: they ought to have an entrepreneurial spirit, be innovative, creative and responsive. The bureaucrat is not simply an expert in the law relevant to his or her task, but also a manager that is oriented to meet the needs of his citizens. Key words in this mix of management focus with community engagement seem to be: service, outcomes and trust. The bureaucrat is well-positioned for this role because he is at the intersection of policy, politics and operations and is more sensitive to local conditions. This greater role for the bureaucrat signifies a shift towards political management of administrative agencies. This raises questions for the traditional notions of accountability. The ability of the bureaucrat to enable the conversation between citizens and politicians in order to ensure efficient, appropriate and innovative policy is taking place in a more complicated public service delivery environment. Additionally, the political mandate gained in the electoral process alone is no longer the only source of legitimacy for policies. The bureaucrat needs to rely on interpersonal and interorganisational processes complementing – and sometimes substituting authority (Kettl, 2002, p. 168). Furthermore, the bureaucrats need to do so in a context that emphasises flexibility and adaptability in creating public policies. Governing inside the network increasingly means paying attention to particular cases and individual situations. They need to be creative and innovative in coming up with suitable solutions to deal with these particularities, where evidence-based approaches aren't always adequate or appropriate. The implication of these factors are that the accountability framework exceeds beyond the conventional accountability of ministerial responsibility and present a new normative understanding of how accountability is provided in contemporary network governance structures.

2.2. *Public Value Management and the Ideal of Democratic Autonomy*

One could argue that conceptually, the theory of *Democratic Autonomy* and *Public Value Management* seem compatible. They both represent an ideal theory about the working of public administration, albeit that *Democratic Autonomy* does so philosophically and *Public Value Management* practically, and are both particularly concerned with the gap between citizens and our democratic institutions. In their ideal versions, democracy can thrive by becoming more responsive and actively elicit participation of citizens. Citizen participation is essential as it co-creates public policy together with the administrative agencies to regain public support. In this sense, they both draw heavily on Dewey's notion that the solution to the problems of democracy, is more democracy. The citizens' input isn't merely consultative, but

collaborative. In the deliberation about public value, it treats people and encourages them to treat others with the recognition of their autonomy; through network governance structures, people are invited to deliberate on what is of value to them and offer reasons for their public value propositions. In doing so, both theories try to move beyond the dichotomous view of bureaucracy as passive and democracy as responsive by acknowledging the permanence of bureaucratic agencies and their vertical division of labour, while combining it with the 'horizontal' demands of the democratic ideal of self-rule. Through deliberation about public value in the network governance structures, we can have the input and control and oversight over the process of rulemaking.

The Public Value framework conceptually links with Richardson's preferred mode of reasoning for administrative agencies: public reasoning about ends. In the public value framework, bureaucrats are specifically given the task to *reason* with stakeholders about policy ends. In the deliberations about public value, the network is enriching and supplementing the ends set by legislature and thus giving them more concrete formulations. This reasoning extends beyond the ends that the legislature chooses, and the people can have the opportunity to specify and change the proposed ends of policy. The public value paradigm has an explicit focus on the production of what the public deems valuable, which is ascertained through deliberation with the public. This mode of reasoning moves away from the traditional role for agency reasoning as the narrow means-ends rationality Richardson calls *Agency Instrumentalism*. We are no longer naïve to think that agencies don't reason about the end of policy, they are given the specific task to reason about ends of policy, provided that this is constrained by public deliberation about those ends. The people are in turn given the opportunity to frame their proposals in the deliberation, and control agency reasoning because we reason *with* them about the ends of policy: the public value to be created. In this sense, it opens the 'black box' of agency reasoning to open deliberation with the public. This is guided by the practice of engagement between agencies and citizens in a face-to-face process of debate and negotiation.

Richardson's main claim (we must worry about bureaucratic domination if we want to rule ourselves) can be summarised by one positive affirmation: *Let agencies specify directives by deliberating with citizens about ends of policy*. His argument makes a compelling case against the threat of bureaucratic domination and aims to democratise administrative institutions. It suggests that if the norm and practice of open-ended, non-instrumental reasoning via negotiated rulemaking and deep compromise is followed, we could reach the democratic ideal of self-rule. This section pointed towards the conceptual similarities between his ideal of democratic autonomy, and the practical ideal of the public value framework. Does this mean that in the public value management paradigm, which is gaining more traction as an attractive public administration paradigm every day, we approximate the ideal of self-rule as envisioned by Richardson? In both the theories the citizens are given back the position in the driver's seat and bureaucratic domination is curbed

by deliberation. How wonderful as that may sound, I argue that there are still more hick-ups in the road to achieving democratic self-rule. These hick-ups reside in the way that the networks in which the deliberation about policy ends are organised. Even though we now have the possibility of reasoning with agencies about the ends of policies in a manner that is compatible with the ideal of *Democratic Autonomy*, we still don't have citizen control and oversight regarding the assembly of those networks. The bureaucrats hold the convening power over those networks. The problem of bureaucratic domination in the public value paradigm is pushed back from discretion in the mode of *reasoning*, towards discretion in the *assembling* of deliberation. Although in theory the two models seem similar, they differ operationally. In the next chapter, I will first discuss what the practical conditions are that give rise to the convening power objections before elaborating on the details and the consequences of the convening power. I will conclude that the convening power is problematic from both a procedural and instrumental account of democratic legitimacy.

Section Three: Defending the *Convening Power Objection*

3.1 *The Practical Conditions*

Let's consider how it is possible for the bureaucrats to have the convening power to call into existence the network structures. First, let us assume that the directives which the bureaucrats receive to further specify in the network, resulted from a fair democratic process. Those directives are purposely broad defined by the legislatures because they are only capable of giving a broad interpretation of a collective notion of what is deemed valuable by the public. For example, in the coalition agreement of the current Dutch government- which is the basis for legislation and the public expression of preferred political ends- the political ends are vaguely described. This includes descriptions such as: 'improve health care for the elderly', 'promote the well-being of children in disadvantaged areas' or 'invest in higher education in order to ensure better quality of education'. Even in the public value framework⁵, where there is an emphasis on deliberation and specifying ends, these vague directives provide no improvement constrains that agencies for making controversial decisions about policy ends. The directives these agencies received to deliberate about and specify with the network, are simply too vague. If democratic autonomy is reached by deliberating through negotiated rulemaking and deep compromise, there is a need to receive clear goals and sharply defined directives that can reasonably be expected to be specified. If not, then the deliberation in the network between agency and citizens isn't sufficiently constrained. Deliberation would become overwhelmingly complex and the notion of compromise would seem unattainable, due to the fact that there is no way to overcome disagreement. This can result in controversial decisions about the ends of policy that will be made by the agencies. We would end up back at start of the democratic process because we will have a group of people who disagree with each other about what we ought to do in society. Only this time, it won't be only bureaucrats reasoning about what to do, but a collective of different stakeholders in deliberation with the bureaucrats who disagree about how to interpret the directives and reason about policy. It does not seem likely that by merely increasing the amount of people that participate in the deliberation, we could come to a reasoned agreement that overcomes bureaucratic domination. There still will be difficult and controversial left to be made which will be done by the agencies.

Richardson also recognises this problem. His ideal of democratic autonomy promotes an important imperative for legislatures. He states that the authorising legislation under which the administrative rule

⁵ When I am discussing the public value framework, I am also referring to development towards governance as network structures, since these two go hand in hand. Public value management offers an overarching framework to the changing governing practices and cannot be viewed separately from the network governance.

is written must set definite limits on the range of possible interpretations. Unless the directives state clear goals, applied to a defined subject matter, and set definite limits to the range of interpretations, the legislation does not provide a positive basis from which agency deliberation can proceed (Richardson, 2002, p. 219). At this point it is clear the legislation does not provide this positive basis for deliberation. The lack of clarity in legislation is problematic because it does not set up the deliberative process in such a fashion that it is capable of relieving the threat of bureaucratic domination.

Because Richardson provides the clarity-requirement to achieve democratic autonomy, the simplest proposal to ameliorate the problem of vague directives in our current democratic model would be to ask politicians to write better (clearer) legislation. The question remains however, how avoidable or deliberately this vagueness of legislative directives is. More often than not, the lack of clear and sharply defined legislation does not arise from unwillingness but from a variety of reasons. For example, the potential to pass clear and sharp legislation increases when dealing with problems that are relatively simple, standardized or routine. However, the challenges that governments are tasked to solve today are increasingly complex, unpredictable, open ended or intractable (e.g. fighting terrorism, solving climate change of social inequality) (Head & Alford, 2015, p.712). The complex cases require a specific approach, one that hard to define at state-level for particular cases. This is why, in addition to the complex problems, a lot of the policy defining power has been devolved to the local level. While many problems can be addressed only on state-level, the idea is that deconcentrating of power to the local level increase adaptability and flexibility to deal with the particularity of specific cases. This attention to particularity must be done in overlapping spheres of collaborative governance that brings public and private stakeholders together in collective forums that engage in consensus-oriented decision-making (Ansell & Gash, 2007, p. 543). The vagueness in the directives is deliberate in the sense that state agencies cannot write clear enough directives for policies that are deemed better suited for the local level to deal with complex problems and particular cases.

This does not mean however, that by devolving legislative power to the local level automatically leads to a more positive basis for constrained deliberation. Governance is increasingly based on responsiveness and creativity from the bureaucrat to pursue the creation of public value. If public policies are deliberated inside the network, which ought to be responsive to citizens, it seems odd that local legislatures are capable of providing a more clear basis for deliberation. Another important aspect of the ideal of democratic autonomy is the constraint that is needed to comply to the rule of law. Even though agencies are encouraged to deliberate about policy ends and should have the power to change ends set by legislature, this does not imply that they should be free to go about and make policy as they wish without legislative constraint. Richardson (2002) argues that in order for democracy to be possible and bureaucratic

domination to be avoided, three requirements of fidelity to the rule of law are necessary which agencies must meet: 1) the rules they make must be general, 2) they must provide a predictable basis for citizen action, 3) they must be generated by a regular and fair process. Because bureaucrats are free to be creative and responsive in designing policies because they know the local setting better, this means the public value framework runs into trouble on at least two of those requirements.

First, the generality requirement means that laws must be uniform across all persons and treat each case alike. I have already discussed how in the current political landscape there is emphasis on particularity in policy. It is recognised that every societal challenge requires a different approach, and different stakeholders are involved in the network to deliberate and collaborate to solve different challenges. This means that policy making takes a casuistry approach. In the Dutch context there are numerous examples of how this casuistic approach could lead to unequal policy decisions that aren't the same for citizens in similar cases. For example, the help that people can get when they are ill and can't take care of their household is arranged through the Wmo (Social Support Act). Each regional municipality has the legislative power to shape the way they give rise to this public policy. As a result, the amount of household support you will receive can depend on your zip code. This discretion is necessary because every situation is different and asks for a different approach. Second, the regular-process requirement means that laws are applied fairly and with a minimum amount of consistency. This means that policy making should be bound by regular processes. The public value framework challenges this requirement. One of the core features of the framework is the adaptability and learning-based approach to the challenges of public service delivery. It is a framework that accepts that evidence-based approaches to designing policy interventions aren't always the best way to achieve public value. To quote the founding father of the framework:

"It is not enough that managers maintain the continuity of their organisations, or even that the organisation become efficient in current tasks. It is also important that the enterprise be adaptable to new purposes and that it be innovative and experimental" (Moore, 1995, p. 55).

In the quest for achieving public value outcomes, the framework places more value on the role of reflection, drawing lessons and continuous adaptation instead of the traditional notion of stability and hierarchical responsibility. The proactive role of the bureaucrat to recognise, mediate and enable public value stretches this notion of hierarchy and control. The pyramid of control that is characteristic in the Weberian idea of bureaucracy, delivers oversight of the activities of the bureaucrat. This normative model is challenged by the notion that bureaucrats don't need to be passive, but active. The challenging of traditional notions of accountability isn't solely the result from the focus on the creative, entrepreneurial and active role of the bureaucrat. The sphere of responsibilities has broadened under previous public

administrative frameworks that used instruments such as outsourcing, contracting out and privatisation, causing a lot of administrative bodies to be at arm's length of ministerial oversight and causing a pluralistic sphere of responsibilities and accountability. More and more agencies, quasi-autonomous bodies, (non)profit sector agencies and organised interests groups join in process of governance. This leads to the blurring and confusing of lines of accountability.

It is true that every administrative framework needs to balance the need for efficiency and accountability, but the context-dependent character of public value management refocuses attention to this balance. The framework tries to answer to the accountability challenge by offering a new normative understanding of how policies are legitimised and how accountability is provided. In light of these developments, other forms of accountability arise to supplement the traditional forms of accountability. A greater role is given to citizen oversight and control in the network deliberations. Internal accountability is supplemented by public accountability. We no longer need to depend solely on the hierarchical oversight, but this is supplemented by citizens oversight. For establishing whether public value is created, it is required that there is political interaction and exchange between stakeholders and agencies at all the stages of the policy process. This means that public accountability should be focused towards the outcomes of the deliberation: the public value that is created. The creation of public value needs to be assessed through the collective democratic process of deliberation between citizens and bureaucrats. The judgement of whether the framework is effective is to be made based on the outcomes of the deliberation. The new way of managing public accountability is based on interaction with the direct involvement of stakeholders who can have confidence that the public value they deem valuable, is created.

In the end, these objections all lead back to basic problem of democracy: whatever public administration framework we choose, we have agencies that need to specify policy ends. In the public value framework this means that bureaucrats need to specify vague legislation, and need to do this in a context that has confusing lines of accountability and a greater role for the entrepreneurial bureaucrat. Although the public value paradigm claims to promote an ideal of democratic autonomy, it doesn't deliver on this promise. With the vagueness in legislature and vagueness in the procedure of how to account for the public value creation, the public value framework promotes the arbitrary power of bureaucrats, even though we have deliberation with them in the network about policies. This arbitrary power is celebrated however, because it is false assumed not to be arbitrary. In the deliberation about policy ends, we have the power to check the reasoning of agencies because we reason *with* them. We don't mind that the bureaucrats receive vague legislation which they need to specify, because we specify those with them. We don't mind that bureaucrats don't make general laws that are the same for everyone, because we deliberate with them about specific cases at the local level which we know a lot about and are invested in. We don't mind that

there isn't clear accountability and oversight to guide the process of deliberation because we are in the room with the agency when the rulemaking is done and we see that the value we deem as valuable is created. Why is there still reason to worry then?

3.2 *The Convening Power Objection*

In order for us to self-rule, we must reason together about the ends of policy. We have seen that this deliberation about ends of policies is practiced in public value management paradigm. However, it is impossible to reason together with everyone on everything, so collective assemblies are not an option for the process of reasoning. In Richardson's theory, our agencies should orchestrate these deliberations, by distributing the process of reasoning across a wide range of institutions. This is the point where the threat of bureaucratic domination will continue to exist, even while we are reasoning together.

In convening the deliberative networks in which the reasoning about policy ends take place, means that there are important choices to make in *who* we reason with. Who should receive an invitation to the deliberation and who shouldn't? This choice continues to fall for the most part in the hands of the bureaucrats. The bureaucrats continue to have the convening power to call into existence the deliberative forums in which the reasoning between agencies and citizens take place. The bureaucrat effectively transforms into the gatekeeper of the deliberation about public policy. It can do so, on an arbitrary basis: there are no clear guidelines for how to organise the deliberative networks because accountability structures are vague: It must operate within an context that lacks the ministerial accountability and oversight and promotes citizen's control and oversight. Additionally, the creative, proactive and innovative bureaucrat is the unelected official is deemed best suited to decide who is a relevant stakeholder in a particular scenario because he operates at the intersection of policy, politics and operations and is sensitive to the local conditions. So even with reasoning together at the core of our administrative agencies, we still cannot govern ourselves because the bureaucrat can arbitrarily decide who should be extended an invitation into the deliberative network. Just think back to the illustrating example of the paper-free system in the municipality. Even though we now *accept* that agencies reason about ends in the structure of collaborative network-governance, it is still entirely arbitrary who this deliberation is with and thus which ends are being deliberated and eventually imposed on everyone.

I claim that the underexposed threat of convening power that continues to exist at agency level undermines the ideal of democratic self-rule because it maintains the possibility of being dominated by bureaucrats. The basic problem of democracy continues to exist, albeit at the different level. We have bureaucrats who need to specify ends. This gives them discretionary power in giving shape to policy. This discretionary power is controlled however, because we now deliberate about policy ends with those agencies. This

discretionary power however doesn't go away, but shifts from *reasoning* towards the *orchestrating* of the network to do those deliberations in. It merely pushes the problem back. In this scenario, we are not dealing with an epistocracy, where the few make all of the crucial decisions because they know better, but something of a stakeholderocracy where the few make all of the crucial decisions because they know the bureaucrat who provides them with access to the deliberation. It could be argued that it isn't a bad thing that we have the key stakeholders for a certain issue in deliberation with agencies about the ends of policy because for example, they *do* in fact know better. It is also necessary to make choices about who you have deliberation with, since it is impossible to deliberate with everyone on everything. I however argue however, that the problem is that the bureaucrat is capable of selecting these stakeholders based on arbitrary discretionary power, in a way that makes it almost impossible for citizens to hold them accountable. This prevents the exercise of the citizen input, control and oversight that is supposed to supplement internal accountability and in Richardson's theory is important to realise democratic autonomy.

The democratic control over this discretionary convening power is weak for at least three reasons: 1) there is no equal participation of the citizens within a given territory, since only the relevant and affected groups have access to a particular governance network, 2) there is no free and open competition among different political elites to represent the relevant and affected citizens, as the participating stakeholder organisations often possess a monopoly in representing particular functionally defined groups of people, 3) the network participants are not elected, but rather (self-)appointed (Sorensen & Torfing, 2009, p.243). The lack of democratic control over the network is problematic for one, because as I have discussed earlier, accountability is managed through interaction between the stakeholders and agencies. The accountability structures are not merely internal, but also public. If only a selective group of stakeholders are the ones that are invited to the deliberation, then public accountability is biased. The new deliberative structure of governance now appear to be rather undemocratic. The theory of *Democratic Autonomy* and *Public Value Management* both fail to recognise the asymmetrical power structures between agency officials, interests groups and individual citizens in the network. Both theories propose direct participatory control of agencies in the process of rulemaking, but fail to give an sufficient account of how this participatory control should be carried out in a context where we as citizens do not always get to choose when and where are voices are heard. Richardson doesn't seem to sufficiently recognise the threat of convening power to democratic autonomy. He is aware that the deliberative labour needs to be divided, which he sees creates two problems, none of which are dealing with the convening power objection: 1) there will be no mutual awareness among all citizens about the context of each phase of the distributed decision-making process, 2) by authorising specific agencies to deal with specific aspects of our collective

deliberative task, we create barriers to our reasoning because in doing so, we compartmentalise our reasoning (Richardson, 2005, p. 223). He solves these problems by claiming that as long as we have a thriving public, understood as a constitutionally protected sphere of informal reflection, and hold agencies to the standard of specifying ends, these problems don't create incompatible tensions. Moreover, in *Democratic Autonomy* (2002) Richardson seems more concerned with the risk empowered interest groups pose to the process of negotiated rulemaking by 'capturing' the decision-making process, but concludes that we shouldn't worry about this risk too much since agencies hold the final issuance of administrative rules. I agree that there is a problem with 'capturing' the decision-making process, I disagree however, with Richardson on who holds this 'capturing' power. In my view, the bureaucrat continues to have the power to 'capture' (dominate) the deliberation by giving them the discretionary power to decide who they deliberate with. The direct participatory control of agencies can be hindered by cherry-picking bureaucrats. This shows that solely changing the type of reasoning of agencies into deliberation with the public isn't enough to establish democratic self-rule. In underestimating the asymmetrical power structures between agency officials, interest groups and individual citizens, deliberation as conceived in *Democratic Autonomy* and practiced in *Public Value Management* raises serious concerns for both sides of the coin: the increased discretion of convening power for the bureaucrat increases the potential for bureaucratic domination and the unequal opportunities for participation creates problems for our representative system in creating public value for everyone.

In this section I have shown that the deliberation isn't enough for democratic autonomy if the bureaucrats continue to have the discretionary power to convene the network deliberations. Even though we are now deliberating about ends of policy, it still cannot reasonable be claimed that we are ruling ourselves. I have argued that the bureaucrats decide who they have deliberations with. What exactly is wrong with that? In the next section, I will discuss how the convening power threatens democratic legitimacy from two different perspectives: instrumental legitimacy, which emphasises the quality of the outcome, and procedural legitimacy, which emphasises the quality of the process. This will show why the convening power objection is problematic for realising our democratic ideal. I will conclude with responding to the convening power objection with two additional proposals for institutional reforms.

Section Four: Why the *Convening Power Objection* matters

4.1 *Procedural Implications*

Theories on democratic legitimacy concern themselves with providing normative answers to the question of what makes a democracy legitimate? From a purely proceduralist perspective on democratic legitimacy, democratic decisions are legitimate as long as they are the result of an appropriate process of decision-making. For Richardson, and other deliberative democracy theorists, procedural legitimacy depends on the process of deliberation. The justification for this notion of legitimacy is that there is no shared standard for assessing the quality of the outcomes because there is deep disagreement about what that standard is. A way to resolve such disagreement is to focus on the procedure of the democratic decision-making. Jurgen Habermas is such an deliberative proceduralist. He believes that as long as we make decisions through a process of deliberation, the decisions are just because they lead to outcomes that everyone has reasons to endorse. The outcomes of the democratic process are legitimate because the process of deliberation is fair.

In his book *Democratic Authority: A Philosophical Framework* (2008) Estlund criticises this procedural account of deliberative democracy. He points out that if the fairness of the procedure is all that matters for democratic legitimacy, then flipping a coin satisfies this requirement. However, no rational person would claim that the flip of a coin could be considered a favourable democratic procedure. A proceduralist response to this challenge would be to point to the distinct fairness of the democratic decision-making procedure. There are many deliberative democratic theorists who point to this distinct fairness. For example, Richardson rejects the method of random policy selection based on the grounds that granting participatory rights in the decision-making process will respect the political value of autonomy. As we have seen in the populist strand of his democratic ideal in paragraph 1.3, to treat someone as an autonomous citizen requires giving him the opportunity to offer reasons and, to offer reasons for the claims he chooses to make (Richardson, 2005, p. 221). Flipping a coin doesn't offer this basis for autonomy. However, as the convening power objection shows, unequal participation to the deliberation cannot be considered a fair procedure that respects the value of autonomy. Providing bureaucrats the discretionary power to selectively pick the stakeholders who have access to the network fails to treat everyone as an autonomous being because not everyone is given the equal opportunity to offer their reasons. In his book *The Constitution of Equality: Democratic Authority and its Limits* (2008) Christiano claims that democracy is legitimate when in the deliberative process people are publicly treated as equals. This does however, require that the deliberation is guided by an egalitarian process. By an egalitarian process he means a

process of deliberation and discussion which expresses equal respect for every citizen, which ensures that each citizen had equal opportunities to contribute to the formation of the agenda for collective decision-making and which ensures equality in the cognitive conditions for citizens in the decision-making process (Christiano, 2008, p. 191).

Following Christiano's account, the convening power objection shows that we fail to follow an egalitarian process of deliberation on two accounts: 1) with bureaucratic discretion to convene the network we do not express equal respect for every citizen, and in doing so, 2) we do not ensure that each citizen has the opportunity to contribute to the formation of the agenda. Only the stakeholders who are invited to the deliberation can contribute to the formation of the agenda.

The idea that we as a people should get the opportunity to actively participate in the process of decision-making stems from an Rousseau's famous idea that citizens are "*forced to be free*". In the democratic system, we are subject to our own will, and therefore free. Without active participation in the decision-making process, there is no legitimacy for the legislation. According to Rousseau, if one's will cannot be represented, then this distorts the general will – which is the source of legitimacy: 'the engagements that bind us to the social body are obligatory only because they are mutual [...] the general will should come from all to apply to all and it loses its natural rectitude when it is directed towards any individual, determinate object' (Rousseau, 1994). In Rousseau's argument, to be unfree is to obey a foreign will. If we were to follow his argument, the convening power objection to deliberation means we are obeying to the foreign will of the selected few, which makes us unfree. Recall Pettit's formulation of freedom as non-domination: Rousseau proposes freedom as non-dependency on other people's will. In this account, the convening power objection is problematic because it doesn't offer us the kind of freedom we want democracy to offer to us.

I have shown that from an proceduralist perspective on legitimacy, it is problematic that bureaucrats hold the convening power because it prevents us from treating us as autonomous beings capable of giving reasons, prevents us from treating each other as equals and preventing us from being free. In this sense, the convening power objection to deliberation shows that the deliberation does not do justice to two strands of Richardson's democratic ideal. On a procedural account, he is concerned with bureaucratic domination because a legitimate government must respect the republican notion of freedom as non-domination and the liberal notion of fair procedures that respect the freedom and equality of citizens. The convening power objection to deliberation shows that it doesn't sufficiently do justice to those two strands of his democratic ideal. It could be argued however, that a selected network could lead to better outcomes. It is for example possible that the exactly the people who are the experts on a particular subject are invited to the deliberation, or that it happens that the selected stakeholders just manage to arrive at the best policy

ends. Next, I will argue that also from an instrumental perspective on democratic legitimacy, the convening power objection is problematic.

4.2 *Instrumental Implications*

On the other side of the spectrum of democratic legitimacy, there are instrumentalists who, contrary to proceduralists, believe that the ideal outcome exists independently of the democratic process. This is sometimes called the procedure-independent standard that could confer value on the outcomes of the democratic process. They uphold, what Christiano (2004) describes as a monistic view, of democracy: it reduces the normativity of legitimacy to the dimension of the quality of the outcome. In doing so, the instrumentalists deny that the procedure can justify political outcomes. They criticise proceduralists by stating that awful policies could come out of deliberation that, on the proceduralist account, would count as just outcomes. According to Brennan (2016) we should think of democracy as if it were a hammer. If we can find a better hammer, we should use it. It is only valuable as long as it functions at producing the best results, independent of the procedure. This is considered a pure instrumentalists account of legitimacy. It is important to note that the instrumentalist view on democracy falls victim to the pluralistic conception of what constitutes a 'just' or 'good' outcome.

Instrumentalists defend democracy by showing that democratic decision-making procedures lead to the best legitimate outcomes. One of those arguments is the Condorcet Jury Theorem. Simply put, this theory assumes that if there are two alternative options with one option being the 'better' option and each voter is more likely to prefer the 'better' option, then the majority will also be likely to prefer the 'better' option. The likelihood of choosing the better option increases with the increase in the body of voters. Landmore (2012) elaborates on this argument. She claims that democracy is a good collective decision-making because it maximises our chances of making the right choices. According to her, cognitive diversity is the key to collective intelligence and thus smarter decisions. Both of these instrumental accounts for democratic legitimacy can be summarised by: the more people, the better the decision. These theories claim that a small group of intelligent experts can be outsmarted by the wisdom of the many. If we follow this logic, then the convening power objection is problematic because it limits the amount of wisdom that is available to us in the process of deliberation, and would lead to worse outcomes than if we would endorse a more inclusive deliberative process. The idea that the more people participate, the better the outcome is also famously defended, again, by Rousseau. Participation in the democratic process according to him does not only make you free, but it also increases the potential that the correct interpretation of the will of the people is being revealed through that democratic process. The true general will is more likely to arise out of a decision-making process where a large part of the population participates, and less likely to arise when only a selected part participates. In Rousseau's account, the convening power of

bureaucrats hinders the reveal of the true general will that should be willed by all citizens for its benefits to society as a whole.

There are others who disagree with the instrumentalist account of democratic legitimacy. They don't agree that a democratic process leads to the best outcomes. For example, in his book *The Myth of the Rational Voter: Why Democracies Choose Bad Policies* (2006) Caplan examines how it is possible that while democracy gives people a vote in how they are governed, the result of those votes in policies often go against the interests of the people that voted. He calls this the 'Paradox of Democracy'. One of the reasons for this paradox is that the bureaucrats have tuned the tables on the voters. Although I think it is a bit too strong to suggest that there are malicious bureaucrats who use their discretionary power to conjure up evil policies, I do feel that in both the theories of *Democratic Autonomy* and *Public Value Management*, there is a strong emphasis on the benign aspect of bureaucratic discretion - the convening power being an expression of such bureaucratic discretion. In the *Public Value Management* literature, the role of the bureaucrat as entrepreneur and innovator is celebrated. However, this celebration is based on an idealised view of the bureaucrats. They are considered to be public-service minded servants who are driven not by their own interests, but to succeed for the sake of the public good. They are excellent analysts, good communicators, coalition-builders and creative reformers who have a sense of what it is the public wants. Even though there are many good public servants who will fulfil these expectations, we cannot assume that all bureaucrats will possess these skills and use them in a democratic manner. It is debatable whether the *Public Value Management* literature, (nor in *Democratic Autonomy* for that matter) takes proper account of managers who are self-interested, ill-motivated, or accountability-shunting (Alford, Douglas, Geuijen, 't Hart, 2017, p. 596). It is one thing to deal with ill-motivated or self-interested bureaucrats. The crucial role the bureaucrat plays in the public value management framework also seems problematic for the bureaucrat who is willing to do the right thing but fails, or bureaucrats who operates in conflict with the interest of citizens. Evidently, if there is such a problem with bureaucrats, this is a problem for every type of administrative framework. But this problem becomes more evident in the public value framework because of the greater role they are given to define purposes and mobilise and convene support in the network. This concern is exacerbated by the fact that it happens within a context that encourages experimentation and is ambiguous about its reliance on closed networks. Additionally, the framework deals with problem with accountability of the decisions that emerge from that network. The convening power prevents the public accountability to take place.

Another author who questions democracy's ability to lead to the best results is Brennan (2016). In his book *Against Democracy* he argues for the "rule of the knowledgeable" because voters have little incentive to get informed because they believe their vote doesn't matter. He claims that political liberties and

political participation may empower a group of which a voter is part, but it doesn't follow that they empower individuals. The convening power objection would make this observation true. It doesn't matter if we have deliberation about policy ends: if you are not invited you are not heard. The convening power the bureaucrat has can indeed deprive some citizens of their share of power and leave the people without an invitation to the table, powerless. According to Brennan this isn't such an issue because 'we're not denying citizens a slice of the pie of power, we're denying them crumbs' (Brennan, 2016, p. 110). I however, don't necessarily agree with this assumption. The reason why it is important to have a seat at the table becomes more evident once the development towards more deliberative or even direct democracy unfolds. If you are denied a seat at the table, by the bureaucrats who can decide who they invite, this could mean that only the people with an invitation see their ends furthered. If you consider the asymmetrical power structures between bureaucrats and citizens, it is plausible to assume that only the 'usual suspects' of interests groups are being invited to the deliberation. If it just so happens that you are part of a group that is represented, then you are in luck. This fact however, is arbitrary. If it happens that you are not represented by the usual suspects of stakeholders who get invited to the table, that means you are out of luck and your end is not furthered. If the slice of pie of power is increasing with the development towards more local deliberative democracy, then people's voices are more likely to be heard and that in turn could mean that people *do* have an incentive to get informed. The convening power objection however, prevents from spreading that power and incentive evenly. It could even cause an reciprocal effect: because the usual suspects receive an invitation to the table, they have an incentive to get informed and by grace of gaining information, you could gain credibility as a stakeholder and continue to receive an invitation to the table of deliberation. This in turn would mean that the people who now don't have access to the table of deliberation don't have an incentive to get informed, don't do so, and thus will not gain credibility as a stakeholder and may never get invited. This would be detrimental to virtuosic value that some argue public deliberation has. Christiano (2008) for example, holds that public deliberation has instrumental value in a democratic society since it leads to the development of an informed, rational, and morally sensitive citizenry (p. 191). Being in deliberation with a select view, promotes the intellectual virtues of those select few; they gain experience in rational debate and develop traits of autonomy, rationality, and morality, the outsiders do not.

That still doesn't answer the question if that deliberation with more people than the usual suspects will in fact lead to objectively better outcomes. This is an notoriously complex question to answer empirically. I argue however object to the convening power of bureaucrats for another instrumentalist reason. I argue that the convening power prevents us from achieving outcomes that are *intrinsically* valuable, but valuable because of their *consequences* for the well-being of our society. The more deliberation is promised, the

more deliberation is expected. If it turns out that the networks in which the deliberation about policy ends is done is biased because of bureaucratic discretion, this could lead to unintended consequences. We need the voluntary legitimising support of citizens for our political institutions. If too many people feel that they are not represented in the network of deliberation, it could bring the stability of those agencies at risk. Unrepresentative deliberation could lead to social disruption and institutional destabilisation. Underestimating the power of agency discretion could lead to the superficial claim that we as citizen get to decide what we want to do, when in fact, only a biased and select few get to decide.

I have shown that from an instrumentalist perspective on legitimacy, it is problematic that bureaucrats hold the convening power because it only makes use of the partial wisdom of the few instead of the collective wisdom of the many, because it raises the problem of the bad bureaucrat, the bureaucrat who means well but fails or the bureaucrats who do things that are in conflict with the interests of citizens, because it gives an incentive to get informed to a select few and thus only lead to a selectively developed citizenry and because it could lead to institutional destabilisation. In this sense, the convening power again shows that it doesn't do justice to the last two strands of Richardson's democratic ideal, he is concerned with bureaucratic domination because a legitimate government is rational in the sense that ruling ourselves means reasoning with one another, and populist because respecting the 'will of the people' entails respecting citizen's autonomy. The convening power objection to deliberation shows that it doesn't sufficiently do justice to all four strands of Richardson's democratic ideal.

4.3 *Two Additional Proposals*

I have discussed how maintaining the power to convene the network for bureaucrats could be detrimental for democratic legitimacy on both procedural and instrumental accounts. However, if we accept the democratic ideal of self-rule, it seems reasonable that we should seek to move our institutions towards a closer approximation of this ideal. In this section I will examine how we can make this ideal more informed about the way in which real-world circumstances can impact our potential for democratic autonomy. There are steps to take to at least reduce the risk of bureaucratic domination. I will argue that at least two additional proposals can be added as a response to the convening power objection. In doing so, I will answer how both the theory of *Democratic Autonomy* can be supplemented in order to closer approximate his ideal, and how the *Public Value Management* theory can positively promote its legitimising function. Those additional proposals are: 1) Promote democratic awareness, 2) Institutionalise regulation for the network.

The first proposal concerns itself with the bureaucrats. While they are allowed to deliberate about ends, which should be constrained by specifying those ends set by legislature, I propose we can supplement this

constraint by imposing on the bureaucrats a sense of democratic awareness that promotes the democratic ethos of bureaucrats. They could be made aware of the implications their decision in their convening discretionary power could have for the democratic legitimacy of the institution that they work for, on both the proceduralist and instrumentalist account. This awareness could nudge the bureaucrat into making more democratic choices about and in their network. Recognising their important role as guardians of the democracy inside and outside of the network serves procedural legitimacy because it could have a positive impact on making the deliberating process more egalitarian, and instrumental because it could lead to a more complete view of what the public value is that ought to be created, in a Rousseauian sense. Their political judgement is now more important than ever, considering the greater role the bureaucrat has been given in the public value framework. Recognising their crucial role in shaping and defining policies would mean to acknowledge the implication of their actions for democratic legitimacy.

The second proposal concerns itself with the regulation of the network. The democratic ideal of self-rule is not achieved partly due to the undemocratic nature of the network structure of governance. We could be dominated by bureaucracy due to the choices they make in who gets invited to the deliberation. If one conceives rules and regulations to make the convening of the networks more democratic, it could deliver a positive contribution to the approximation of the democratic ideal. It means that bureaucratic discretion is put under regulatory democratic control, and regulatory rules about the network would be institutionalised. There are ways to think about how we can institutionalise more transparency about the process of network deliberation. For example, rules could be written that need to ensure equal and fair representation on the network. The context in which bureaucrats operate is context-dependent and experimental with a strong emphasis on the outcome of public value. Writing regulations to increase transparency about the process of network governance could constrain the bureaucratic discretion. In this sense, it would satisfy Christiano's *Publicity Principle* (2004) for democracy. He claims that justice is achieved through the public realisation of equal advancement of interest, but it is not enough that justice is done, it must be *seen* to be done. It requires that each person can see that he or she is being treated justly given reasonable effort on their part. Institutionalising regulation about transparency would create conditions in which the procedure reflects a fair possibility to see if their interests are being advanced equally. The institutionalisation of regulations could strive to supplement the public accountability we have now, with more emphasis on internal accountability.

It could be argued however, that there are costs associated to these proposals. One of the reasons why public value management is seen as an attractive framework for public administration is because it focusses on outcomes. This is seen as a progression from previous administrative frameworks such as *New Public Management* which has strong emphasis on strict rule-following. Strict rule-following is considered to not

be responsive enough to particular cases and not lead to the creation of public value. If these proposals were to be implemented too formally, we would gain more control that satisfies procedural legitimacy but lose responsiveness and dissatisfy instrumental legitimacy. This means there is an inherent trade-off the demands of democracy and the demands of bureaucracy. We want democracy to be responsive to us, but we also want bureaucracy to ensure order, impartiality and fairness. This the paradox of democratic bureaucracies. It is an essential part of our democratic society, but also a possible threat to it. However, I do maintain that it is important to think about ways to balance the different demands. In proposing the responds to the convening power objection, I am accepting that the Weberian model of accountability no longer reflects the reality of the modern context of bureaucratic organisations. But I agree with Gains & Stoker (2009) that without defensible accountability arrangements which are understood by those involved and the public, policy problems can escalate and confidence in the public value can ebb away (p.453). The possibility for bureaucrats to 'create public value' could offer a potentially liberating normative code for bureaucrats, but this must be supplemented by a awareness of this new role, and by more rules that provide transparency about the relations inside the network. I would however argue that the proposals ought to be understood as suggestions that would be implemented on an informal basis. Whatever rules and regulations are made to establish more accountability and more inclusive network structures, it remains critical for those involved in the process of rulemaking to continue to have the discretion to remain reflexive about how to act and what the boundaries of their authoritative action are. There is no way to formalise a blueprint that would serve as a template for action and interaction of the many stakeholders in the network and yet be responsive to the political complexity and leave open the possibility for creativity and responsiveness.

Conclusion

In this thesis I have aimed to provide an answer to the following research question: *Does Public Value Management as a public administration paradigm protect democratic autonomy against the threat of bureaucratic domination?* According to Richardson's theory of *Democratic Autonomy* there is a threat of bureaucratic domination because they have arbitrary discretionary power in the way that agencies reason. To curb this threat he proposes the idea of democratic reasoning. We should reason with agencies about the ends of policies in order to have participatory control over their discretionary power. The theory of *Public Value Management* conceptually resembles Richardson's solution of democratic reasoning. Public value management offers a framework the changing practices of democracy. In order to create public value, the agencies need to deliberate in network structures with people on what is of value to them. The promise of public value management is that through deliberation, we not only get citizens input about the ends of policy, but also gain public control and oversight over the process of rulemaking. Both theories are relatively straightforward. Simply put, they say that in order for a democracy to be legitimate and produce the best outcomes it needs deliberations about ends that are considered to be of value to the public. Operationally however, the theories prove to be very challenging indeed.

According to Richardson, we need to worry about bureaucratic domination because it threatens democratic legitimacy. Government action is legitimate when: 1) it is exercising non-arbitrary power, 2) has fair procedures that respect the freedom and equality of citizens, 3) it respects their autonomy, and 4) rules by reasoning with one another. I have argued that although the public value framework claims to promote reasoning about policy ends, the *Convening Power Objection* prevents from approximating the ideal of democratic autonomy. Both the theories of *Democratic Autonomy* and *Public Value Management* underestimate the number of ways in which agencies continue to have discretionary power in setting the stage for the deliberation. This is problematic from both an procedural and instrumental account of democratic legitimacy. I respond to the convening power objection with two additional proposals for the process of rulemaking: 1) promote democratic awareness, 2) institutionalise regulatory measures.

I maintain that it is as crucial to think about democratic outcomes as it is about democratic procedures. The responded proposals to the convening power objection expose however the paradox of democratic bureaucracies. Changes to ameliorate problems with the democratic decision-making process, represent a trade-off between the demands of democracy and of bureaucracy. Whatever changes are proposed to the decision-making process, they swing the pendulum of more democracy or more bureaucracy back and forth.

Discussion and Further Research

My argument is built on the premise that the bureaucracy holds the power to convene the network. I have shown that this is problematic from both an procedural and instrumental account of democratic legitimacy. Still, my argument is vulnerable to the objection that the decision to receive an invitation to the table is not unilaterally made by the bureaucrats. There is always the possibility to change the status quo on the usual suspects of stakeholders and to let your voice be heard or even demand you receive an invitation. This would require however, that the process of convening a network is transparent and open enough, so you would know how to demand for such an invitation. I argue that this isn't the case considering the experimental character of public value management and vague accountability structures of network governance and the crucial role for the entrepreneurial bureaucrat. While I agree the power doesn't rest *solely* in the hands of the bureaucrats, I also point towards the asymmetrical power structures between bureaucrats, interests groups and individual citizens in convening the network. It would be interesting to examine how those asymmetrical power relations came to be and how we can work make them more symmetrical. This could be examined in further research.

Another question that needs to be answered regards the deliberative nature of *public value management* and *Democratic Autonomy*. We simply do not know whether or not the power to deliberate with agencies about the ends of policies will actually lead to better policies. Theories of deliberative democracy don't usually elaborate on epistemic criteria for participation in the deliberations. The idea that regular citizens have less expertise on a certain subject than an expert doesn't mean however that their intellectual capacities aren't *good enough* to be considered in the deliberation. Additionally, the idea that experts know better (or best) is based on the idea that there is in fact a right option available in policy-making and relying on experts is the way to find it. In addition to the lack of epistemic consideration in deliberative theory, it could be necessary to examine if the turns towards a deliberate democracy is even considered desirable by the general public. In public opinion polls, it appears to be a common conviction that support for more responsive political institutions is wide-spread, but that the desire to directly participate through deliberation is limited (SCP, 2015). Considering the scope of this thesis, I have chosen not to elaborate on the subject of epistemic or public considerations of deliberative democracy. I instead focussed on the threat of bureaucratic domination on our democratic ideal of self-rule. However, it seems evident that this is an important conversation to have if you want to endorse deliberative democracy.

References

- Ansell, C. & Gash, A. (2007) 'Collaborative Governance in Theory and Practice' *Journal of Public Administration Research and Theory* Vol.18, No.1. pp:543-571.
- Alford, J, Douglass, S., Geuijen, K., 't Hart, P. (2017) 'Ventures in Public Value Management: Introduction to the Symposium' *Public Management Review* Vol. 19, No.5.pp: 589-604.
- Berlin, I. (1969) *Two Concepts of Liberty* *Four Essays on Liberty*. Oxford: Oxford University Press.
- Brennan, J. (2016) *Against Democracy*. Princeton: Princeton University Press.
- Buchanan, A. (2002) 'Political Legitimacy and Democracy' *Ethics*, Vol. 112, No. 4. pp: 689-719.
- Caplan, B. (2006) *The Myth of the Rational Voter. Why Democracies Choose Bad Policies*. Princeton: Princeton University Press.
- Christiano, T. (1996) *The Rule of the Many: Fundamental Issues in Democratic Theory*. Colorado: Westview Press.
- Christiano, T. (2004) 'The Authority of Democracy' *Journal of Political Philosophy* Vol,12, No.3. pp:245-270.
- Christiano, T. (2005) 'Democracy and Bureaucracy' *Philosophy and Phenomenological Research* Vol,71, No.1. pp:211-21
- Christiano, T. (2008) *The Constitution of Equality*. Oxford: Oxford University Press.
- Christiano, T. (2018) "Democracy" *The Stanford Encyclopaedia of Philosophy*, Edward N. Zalta (ed.), retrieved 12-04-2019 from: <<https://plato.stanford.edu/archives/fall2018/entries/democracy/>>
- Dewey, J. (1927) *The Public and its Problems*. Athens: Ohio University Press.
- Dryzek, J. (2000) *Deliberative Democracy and Beyond. Liberals, Critics, Contestations*. New York: Oxford University Press.
- Ercan, S. & Gagnon, J. (2014) 'The Crisis of Democracy. Which Crisis? Which Democracy?' *Democratic Theory* Vol.1, No.2. pp: 1-10.
- Estlund, D. (2005) 'What's so Rickety? Richardson's Non-Epistemic Democracy' *Philosophy and Phenomenological Research* Vol,71, No.1. pp:204-210.

- Estlund, D. (2009) *Democratic Authority: A Philosophical Framework*. Princeton: Princeton University Press.
- Farazman, A. (2010) 'Bureaucracy, Democracy, and Public Administration: Editor's Brief Introduction to the Symposium' *Public Organisation Review* Vol.10, No.3. pp:205-207.
- Gains, F. & Stoker, G. (2009) 'Delivering 'Public Value': Implications for Accountability and Legitimacy' *Parliamentary Affairs* Vol. 62, No. 3. pp: 438-455.
- Gerth, H. & Mills, C. (1946) *From Max Weber: Essays in Sociology*. New York: Oxford University Press.
- Gruber, J. (1988) *Controlling Bureaucracies: Dilemmas in Democratic Governance*. Berkeley: University of California Press.
- Habermas, J. (2001) *Moral Consciousness and Communicative Action*. Cambridge: MIT Press.
- Head, B. & Alford, J. (2015) 'Wicked Problems: Implications for Public Policy and Management' *Administration & Society* Vol.47, No.6. pp:711-739.
- Hupe, P. & Meijs, L. (2000) *Hybrid Governance: The Impact of the Nonprofit Sector in The Netherlands*. The Hague/Rotterdam/Baltimore: Social and Cultural Planning Office/Erasmus University/Johns Hopkins University.
- Kettl, D. (2002) *The Transformation of Governance: Public Administration for Twenty-First Century America*. Baltimore: Johns Hopkins University Press.
- Koppenjan, J. & Klijn, E. (2004) *Managing Uncertainties in Network*. London: Routledge.
- Koll, S. (2009) 'Is Bureaucracy Compatible with Democracy?' *South African Journal of Philosophy* Vol.28, No.2. pp:134-145.
- Moore, M. (1995) *Creating Public Value. Strategic Management in Government*. Cambridge, Massachusetts: Harvard University Press.
- Moore, M. (2000) 'Managing for Value: Organisational Strategy in For-Profit, Nonprofit, and Governmental Organisations' *Nonprofit and Voluntary Sector Quarterly* Vol. 29, No.1. pp:183-204.
- Moore, M. (2010) *Recognizing Public Value*. Cambridge, Massachusetts: Harvard University Press.
- Muñiz-Fraticelli, V. (2008) 'Review of Henry S. Richardson, Democratic Autonomy'. *Ethics* Vol.118, No. 4. pp:746-751.
- Landemore, H. (2012) *Democratic Reason: Politics, Collective intelligence, and the Rule of the Many*. Princeton: Princeton University Press.

- Lee, S. (2001) 'A Paradox of Democracy' *Public Affairs Quarterly* Vol.15, No.3. pp:261-275.
- Peter, F. (2017) "Political Legitimacy" *The Stanford Encyclopaedia of Philosophy*, Edward N. Zalta (ed.). Retrieved at 23-05-2019 from:<<https://plato.stanford.edu/archives/sum2017/entries/legitimacy/>>
- Peter, F. (2012) 'The Procedural Epistemic Value of Deliberation' *Synthese* Vol.190, No.7. pp:1253-1266.
- Peters, G. (2010) 'Bureaucracy and Democracy' *Public Organisation Review* Vol.10, No.3. pp: 209-222.
- Pettit, P. (1997) *Republicanism: A Theory of Freedom and Government*. Oxford: Oxford University Press.
- Pettit, P. (2005) 'From Republic to Democracy: A Comment on Henry Richardson' *Philosophy and Phenomenological Research* Vol.71, No.1. pp:196-203.
- Pettit, P. (2011) 'The Instability of Freedom as Non-Interference: The Case of Isaiah Berlin' *Ethics*, Vol.121, No.4. pp: 693-716.
- Plato,. (2000) *The Republic*. Cambridge: Cambridge University Press.
- Pollitt, C. & Bouchaert, G. (2011) *Public Management Reform. A Comparative Analysis – New Public Management, Governance, And the Neo-Weberian State*. Oxford: Oxford University Press.
- Richardson, H. (2002) *Democratic Autonomy: Public Reasoning about Ends of Policy*. New York: Oxford University Press.
- Richardson, H. (2005) 'Précis of "Democratic Autonomy"', *Philosophy and Phenomenological Research* Vol,71, No.1. pp:187-195.
- Richardson, H. (2005) 'Review: Response to Pettit, Estlund, and Christiano' *Philosophy and Phenomenological Research* Vol,71, No.1. pp:218-230.
- Rousseau, J. (1994) *Jean-Jacques Rousseau: Discourse on Political Economy and The Social Contract*. New York: Oxford University Press.
- SCP (2015) *Meer democratie, minder politiek? Een studie van de publieke opinie in Nederland*. Den Haag: Sociaal en Cultureel Planbureau.
- Smith, R. (2004) 'Focusing on Public Value: Something New and Something Old' *Australian Journal of Public Administration* Vol. 63, No.4. pp: 68-79.

- Sorensen, E & Torfing, J. (2009) 'Making Governance Networks Effective and Democratic Through Metagovernance' *Public Administration* Vol. 87, No.2. pp:234-258.
- Stoker, G. (2005) 'Public Value Management. A New Narrative for Networked Governance?' *American Review of Public Administration* Vol.36, No. 1. pp:41-57.
- Tweede Kamer der Staten-Generaal (2017) *Vertrouwen in de Toekomst*. Regeerakkoord 2017-2021, VVD, CDA, D66 en ChristenUnie. Kamerstuk 34700, nr. 34.
- VNG (2018) *Werken aan publieke waarde. Leren van en voor gemeenten*. Den Haag: Vereniging van Nederlandse Gemeenten.
- Wenner, D. (2017) 'The Need for Non-Ideal Theory: A Case Study in Deliberative Democracy' In *Political Utopias: Contemporary Debates*, edited by M. Weber & K. Vallier, pp.1-41. New York: Oxford University Press