Rethinking Australian Democracy as a Deliberative System

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Abstract

This paper examines the relationship between Australia's Indigenous and settler colonial systems of democracy through the lens of deliberative systems theory. It suggests the ongoing effects of colonialism have rendered Indigenous democracy largely invisible causing a harmful divide in Australia's democracies. A pluralist conception of democracy is necessary to understand the disconnect between the two systems, evidenced by a striking absence of literature on Australian Indigenous democracy. In response, this paper first theorises a conceptual framework of a dual deliberative system, then describes the pre-colonial Indigenous deliberative system and the colonial system's efforts to eliminate Indigenous democracy. Against this theoretical and empirical background, it examines the proposed Indigenous Voice to Parliament, to consider the extent the Voice remains colonial or points towards a shared post-colonial democratic future.

Keywords

Colonialism, Deliberative system, Indigenous Voice

Introduction

Australia's democracy is at a turning point. In 2023 the Albanese government has committed to a referendum for a constitutional amendment to institute a permanent Indigenous Voice to the Australian parliament, (the Voice). This is a core outcome of the Indigenous Uluru Statement from the Heart (2017) (the Statement), which resulted from a two-year deliberative process involving over 3000 Indigenous participants from across Australia. The Statement represents a significant moment in Indigenous democracy and was the culmination of Australia's greatest exercise in deliberative democracy (Turner, 2022). Despite its importance, the broader Australian society has not recognised the Statement as an expression of Indigenous democracy. Equally, scholarly literature has not fully considered Indigenous democracy as it remains invisible in Australia's unitary representative democracy which privileges state democratic institutions. The Voice, like other attempts to reconcile Indigenous state relations, does not consider this as a democratic problem because it assumes the primacy of state democratic institutions. In this paper, I argue that understanding Indigenous state relations, the Voice in particular requires a pluralist understanding of democracy that recognises the Indigenous contributions to Australian democracy.

Australian democracy comprises both Indigenous and colonial deliberative systems (Davis, 2021, 2022) a theoretical framework that promotes inclusive and reasoned public deliberation (see Parkinson and Mansbridge 2012; Stevenson and Dryzek 2014). Indigenous peoples have their own system of democracy that predates and coexists with the colonial state (see Banerjee 2021; Behrendt, 2011; Keane, 2009; Sen, 2003; Sirna, 2012). Every day Indigenous groups make decisions about their affairs through gatherings in unofficial spaces such as sports clubs, bingo halls and on their traditional lands (Davis, 2021). In a deliberative

system, these gatherings can be seen as multiple sites of deliberation where Indigenous political authority is enacted through collective binding decisions.

However, the Australian colonial system seeks to *eliminate* Indigenous political authority (Veracini, 2015; Wolfe, 2006), along with their enabling deliberative processes. This elimination causes a divide between the Indigenous and colonial deliberative systems in the form of a lack of substantive engagement, with the colonial state typically failing to recognise Indigenous democratic processes and Indigenous political authority. This failure to engage with Indigenous democracy has led to the comprehensive failure in Indigenous public policy in the last half century (see Australian National Audit Office 2017; Maddison 2019; Westbury and Dillon 2019).

As explored by Banerjee (2021), settler colonialism deploys representative democracy to suppress Indigenous democracy, by ensuring the main expression of power is by voting, and Indigenous people are small minorities almost everywhere except the Northern Territory, thereby structuring statist colonial solutions to remedy the inequalities resulting from colonialism. This privileging of representative democracy enacted through state institutions as the sole site of democracy and political power creates a myopic lens from which to see this critical relationship between Indigenous peoples and the state, it makes Indigenous democracy, and hence Indigenous political authority, largely invisible. In contrast, pluralist democratic theories such as deliberative democracy (Cohen 1989; Dryzek 2001; Habermas 1996) and deliberative systems theory (Parkinson and Mansbridge 2012; Stevenson and Dryzek 2014) don't privilege the state as the sole democratic actor (Curato 2015) or as the only source of political authority (Tamura 2014). Using a deliberative democracy lens can be seen as an ‘emancipatory political project’ (Curato et al. 2019; Hammond, 2019) that can

provide insights and intellectual tools to recognise Indigenous democracy on equal terms with the colonial deliberative system.

There must be a shift in how Australian democracy is understood and practised which acknowledges and simultaneously engages with both the state representative and the Indigenous deliberative systems, a dual deliberative system that comprises both an Indigenous deliberative system (see Herbert, 2018; Keane, 2009; Sen, 2003; Sirna, 2012) and a colonial deliberative system. This recognises Indigenous state relations as part of broader dialogues that occur across multiple sites of deliberation throughout the system (Parkinson and Mansbridge 2012; Stevenson and Dryzek 2014). In the dual deliberative system, Indigenous individuals and organisations located at the interstices of the Indigenous and the colonial system are required to transmit their discourses within both the Indigenous system and an 'official' state system (see Davis, 2021, 2022; Herbert, 2018; Fan, 2020, 2021). Importantly, Indigenous organisations can act as 'connectors' by transmitting the presence of Indigenous empowered space that can amplify Indigenous discourses, keep state institutions accountable and build shared discourses with the colonial system (Davis, 2021, 2022). The effectiveness of the Voice will depend on the extent it will directly connect the Indigenous and the colonial systems to share reasons; to deliberate between the elected Indigenous representatives, non-Indigenous elected representatives and the executive of the colonial state.

This paper proceeds in four parts. Firstly, I theorise a conceptual framework of a dual deliberative system. Secondly, I contextualise this by describing the Australian pre-colonial Indigenous deliberative system. Thirdly, I describe the colonial system's efforts to eliminate Indigenous political authority and the democratic divide this has caused. Finally, I examine

the Voice to Parliament to highlight some of the factors required to bridge the divide between the two systems.

Deliberative democracy and the dual deliberative system

In this section, I describe the deliberative system as a theoretical framework to understand how colonialism has caused a disconnect between Indigenous and colonial state democracy. Deliberative democracy (Cohen 1989; Dryzek 2001; Habermas 1996) is a normative critical theory of democratic legitimacy that emphasises the importance of allowing those affected by a collective decision to have the right, opportunity, and capacity to participate in deliberations about those decisions (Dryzek 2000, 2010). The 'systemic turn' in deliberative democracy theory recognises each deliberative forum as part of a whole system (see Stevenson and Dryzek 2014; Parkinson and Mansbridge 2012) focusing on their connectedness and interaction (Dryzek, 2010). The deliberative system has two main components: public space and empowered space. Public space is composed of a diverse range of virtual and actual civic views and discourses, and empowered space is where legitimate binding decisions are made and enforced (Dryzek 2010; Stevenson and Dryzek 2014). The other deliberative system components: transmission, accountability, meta-deliberation and decisiveness play a key role in connecting discourses between public and empowered spaces helping to generate legitimacy in the system (Curato et al, 2019; Dryzek 2010; Hendriks et al, 2020; Mendonça 2016). Transmission of messages is critical for connection within the deliberative system. Boswell and colleagues (2016) identify three transmission mechanisms: transmission through existing institutions, through new deliberative institutions linked to the state, and by building shared discourses. But existing state colonial institutions frequently embody the logic of elimination' (Veracini, 2015; Wolfe, 2006) which tends to eliminate Indigenous empowered spaces (Davis, 2021, 2022).

This makes it difficult to find and transmit shared discourses because recognising Indigenous political authority is necessary for discourses to be truly shared. Transmission of messages is also critical for connecting the Indigenous and colonial systems in the dual deliberative system (Davis, 2021, 2022; Fan 2020, 2021) that recognises Indigenous peoples have their own empowered spaces which are independent and must co-exist with the nation-state (Keane, 2009; Sen, 2003; Sirna, 2012; Tamura, 2014). Indigenous peoples are required to:

> operate simultaneously at the interstices between these dual processes of deliberation, the governance of Indigenous nations … and the 'official' modes of state and colonial institutions (Herbert, 2018, 100).

This dual deliberative system conceptualises on equal terms the seemingly informal deliberations which occur in the Indigenous deliberative system and the 'formal' deliberations, which occur in colonial state institutions such as parliament. Both can be seen as a concurrent deliberative system which constitutes a broader deliberative system. Indigenous organisations play a critical role in overcoming colonial state transmission barriers, acting as connectors to bring the system's connective parts together. Indigenous transmission is more potent when it is from an empowered space amplifying Indigenous messages encouraging state accountability and promoting system reflection (meta-deliberation) and decisiveness which leads to shared outcomes (Davis, 2021, 2022). For decades Indigenous organisations have operated as connectors between the Indigenous and colonial deliberative systems in Australia (Davis, 2021, 2022) Taiwan, (Fan 2020, 2021) Latin America Valadez, 2010, 2018; Van Cott, 2005) and New Zealand (O" Sullivan (2021, 2022b). These institutional forums may be traditional councils or more modern, formalised structures such as committees or boards, but all constitute an Indigenous empowered space that is also recognised by the state (Davis, 2021). In water management in the

Australian Murray-Darling Basin for example, the Murray Lower Darling Rivers Indigenous Nations Confederation (MLDRIN), and the Northern Basin Aboriginal Nations (NBAN) have connected over forty Indigenous nations to the Australian government Murray Darling Basin Authority (MDBA) (Davis, 2021, 2022). These Indigenous organisations insert Indigenous empowered space into the colonial system which can amplify Indigenous messages to the state even where there are divergent epistemologies (Davis, 2021), as long as the transmission is high quality in both the Indigenous and the colonial deliberative systems (Davis, 2022).

The democratic quality of the connection between the Indigenous and the colonial system can be determined by the presence of authentic, inclusive, and consequential structures for hosting deliberation (Dryzek, 2009; Curato, 2015) which promote mutual recognition of the legitimacy of disputed values, rather than a fight to eradicate the values of the other side (Dryzek and Niemeyer, 2006). An effective deliberative system coordinates the functions of all deliberative spaces and promotes their best characteristics (Curato et al, 2019). In contrast, colonialism creates a disconnect between the Indigenous and the colonial system mostly by the poor democratic quality of transmission which is underscored by how colonialism continues to make Indigenous democracy invisible. I now examine the Indigenous deliberative system that existed in pre-colonial Australia and continues to prevail before considering the effects of the colonial elimination of Indigenous empowered space.

The Indigenous deliberative system

In this section, I refer to the Indigenous deliberative system outlined above (see Stevenson and Dryzek 2014; Parkinson and Mansbridge 2012) to analyse Australian scholarly research from the law, history, anthropology and other disciplines (see Behrendt, 2011; Bell, 1982;

Collings and Falk, 2008; Graham, 2008; Hunt, et al. 2008; Myers 2009; Pascoe, 2016; Sutton, 1998) to describe the features of the pre-colonial Indigenous deliberative system. I show how it continues to activate despite being largely invisible to both non-Indigenous people and the state. In this literature, Behrendt (2011) stands out as the only scholar to refer to Indigenous decision-making practices as democratic. This scholarly silence reflects the lack of Indigenous scholarship in Australian political science (Maddison and Strakosch 2019), and the absence of Indigenous democratic discourses in the Indigenous and wider public sphere (Maddison 2019; Parkinson et al 2022).

In the transmission of knowledge in what has been until recently a largely oral culture, Behrendt (2011) argues that throughout the Australian continent, Indigenous decision making was characterised by systemic deliberation and communal participation. Collective agreement-making is prevalent and reinforced by acts of reciprocity that were rooted in a shared Indigenous epistemology. There were: 'strong commonalities in worldviews, governance structures, and philosophy across the continent' (Behrendt 2011, 150) (see also Collings and Falk 2008; Graham 2008; Sutton 1998). In these Indigenous deliberative systems, Indigenous empowered space is legitimized through the collective decision-making of Indigenous elders, who often oversee a council of both men and women separately, sometimes together (Pascoe, 2016). This deliberation was the primary source of Indigenous law (Levy et al, 2021). Although decisions were made collectively (Behrendt, 2011), some people were more influential than others because they were able to mobilise people and resources to create order and collectively get things done (see Smith 2008). But achieving influence, or gaining a strong voice, in decision-making was effectively granted by the rest of the group, no one individual had ultimate decision making power: 'Except for very close kin, no individual simply on the basis of being an elder can tell one what to do' (Myers 2009, 368).

Additionally, whether patrilineal or matrilineal: 'Aboriginal governance never operates without the involvement and consent of senior women' (Bell, 1982, 182).

The transmission of messages in the pre-colonial Indigenous system was frequently conducted using a message stick which was essential to Indigenous diplomatic exchanges (Kelly, 2019, 138). The message stick identified the messenger as having the right to travel into a neighbouring country unhindered and always contained a 'signature' motif identifying the sender or recipient, acting as a 'royal seal' function (Kelly, 2019, 142). The message stick transmitted the message and the recognised authority of Indigenous empowered space to other Indigenous nations. As colonisation took root across the Australian continent through the 19th century, settlers increasingly became privy to the negotiation of sophisticated treaties between various tribes or the consultative and deliberative mechanisms employed in group decision-making (Berendt, 2011, 152). Although these treaties were not written down and so remained largely unknown to the colonisers (Watson, 2012). These treaties which governed future relations between Indigenous nations are evidence of deliberative system qualities of meta-deliberation, the ability to make decisions about other political forces and develop new narratives about the future and decisiveness, the ability to act on them.

This Indigenous system continues to function in a way that reflects traditional forms of Indigenous deliberative decision making. For example, in Indigenous water management in the Murray-Darling Basin, an Indigenous representative from NBAN describes their contemporary deliberative process

> When you look at it from a governance point of view its very similar to the way things were done traditionally so that decision-making is pretty much consensually ... I think that if you look at how things were done for thousands of years, I think pretty much that"s what we do at the table when we meet (Interviewee, in Davis, 2022 11).

But despite the growing participation of Indigenous organisations in Australian policymaking (Davis, 2021, 2022) the colonial state through the elimination of Indigenous empowered space and its associated democratic practises is unable to hear Indigenous voices because it continues to render Indigenous democracy invisible to the broader Australian society.

The colonial elimination of the Indigenous deliberative system

The colonial deliberative system is characterised by its efforts to eliminate Indigenous empowered spaces that may challenge the legitimacy of the colonial state (Herbert, 2018; Veracini 2015; Wolfe 2006). This process is more pronounced in Australia (Russell 2017) than in other settler colonial societies (see Bruyneel 2017; O'Sullivan 2022, Sampson 2016; Tully 1995, 2004). This has resulted in an almost complete absence of Indigenous democracy discourses in the Australian public sphere (Maddison 2019; Parkinson et al 2022) which can make it difficult to build a shared discourse that recognises the Indigenous contribution to Australian democracy.

Indigenous democracy, with its collective deliberative empowered spaces, was not obvious to the early colonial state. Compared to the first colonial encounters with Tahitians with their kings and chiefs, or the Māori who appeared to be united under one head, Australian Aboriginal society: 'appeared to have no polity, with no sovereign authority nor regular government' (Keane, 2012, 11). Initially, colonisers struggled to understand the decentralized and egalitarian nature of Indigenous governance systems, which lacked the hierarchical structure of European monarchies (Behrendt, 2011). To address this, early British governors sought to create a more recognisable form of Indigenous empowered space by appointing individuals as "representatives" of their communities and granting them symbols of authority, such as breastplates engraved with titles like 'King Billy' (Goodall, 2008). This made

Indigenous empowered space more visible to the colonial state but it is unlikely these individuals embodied legitimate empowered space in the Indigenous deliberative system.

This pluralism in governance and decision making which existed in the early days of the Australian colonies gave way during the 1820s and 1830s to the self-proclaimed assertions of authority by settler institutions based on the Westphalian unitary territorial nation state (Ford, 2010) which resulted in the increased marginalisation of Indigenous forms of democracy. The colonial state suppression of Australian Indigenous empowered spaces was underwritten by the doctrine of terra nullius, meaning land that is legally deemed to be unoccupied or uninhabited (Strelein, 2013). This doctrine was enacted by native police forces in undeclared frontier wars across the Australian continent through much of the nineteenth century which 'dispersed' Indigenous people from their lands (see Bennett, 2020; Kidd, 1997; Reynolds, 1995; Richards, 2008; Rosser, 1990). There were no treaties in Australia with Indigenous nations because Indigenous peoples and so Indigenous empowered space was deemed not to exist. Indigenous resistance has been shaped by the state as a narrative of criminalisation (Lovell, 2012), where Indigenous peoples were seen as criminals of the unitary state rather than combatants of a sovereign Indigenous nation. This served to delegitimise Indigenous empowered spaces reinforcing the state 's authority over Indigenous peoples. By contrast, in other settler states such as the United States and Canada wars were fought by state armed forces and treaties were made between the state and Indigenous nations for most of the 19th century (see Bruyneel, 2017; Russell, 2017). These treaty settlements were deeply disabling (Bruyneel, 2017), but this codification recognized Indigenous empowered spaces and made them visible to the state despite the ongoing power imbalances and contestation.

In Australia, the colonial system has continued to resist explicit pluralist assertions of Indigenous empowered spaces until fairly recently. In Indigenous water policy, for example, the Chairman of MLDRIN and Ngarrindjeri elder, Mathew Rigney complained in 2006 about the reluctance of the Murray-Darling Basin Commission, the precursor to the MDBA, to recognise Indigenous empowered space:

> They took two and a half years to debate the word 'Nation' – they didn't want it in our name. We told them to go and jump. It held up negotiations. (Jackson, Woods, and Hooper 2021, 13)

This assertion of Indigenous empowered space as Indigenous nations continued into the next decade, an NBAN representative commented:

> One of the objectives of NBAN and, I think, MLDRIN, is for the federal government to recognise us as sovereign first nations because we haven't signed a treaty, we haven't ceded and so on. (Interviewee, in Davis, 2022 13)

Over the last fifty years, Indigenous organisations, such as land councils, embody Indigenous empowered spaces that are incorporated and operate under state legislation and so are strongly interconnected with state representative structures (Smith 2008). Indigenous democratic practices, albeit within statist representative forms, are readily apparent to those within these organisations where decisions are made according to Indigenous law, authority and custom (Davis, 2022). But democratic legitimacy appears as decisions of the board, as corporate governance rather than as an expression of Indigenous democracy. This systemic elimination and continued denial of Indigenous empowered spaces underscore the democratic divide in Australia which has led to a comprehensive failure in Indigenous public policy.

The democratic harm of a divided society

Colonialism's systemic attempt to 'eliminate' Indigenous empowered space (Veracini 2015; Wolfe 2006) is responsible for making Australia a 'divided society' where the basic problem is: 'that one identity can only be validated or worse, constituted by suppression of another'

(Dryzek 2005, 219). Colonialism is sustained and legitimated by the elimination of Indigenous political authority which is rationalised through unitary conceptions of state sovereignty, citizenship and democracy which are deployed to formally exclude Indigenous empowered spaces from decision-making (see Banerjee 2021; Bruyneel 2017; Dryzek 2005; O' Sullivan 2022a; Sampson 2016; Tully 1995). But this colonial unitary epistemic privilege is problematic because it renders Indigenous political goals as a 'false binary' (Bruyneel (2017), allowing them to be framed and evaluated according to a: 'statist pattern' (Alfred 2009, 80) thereby structuring colonial solutions to remedy inequalities resulting from colonialism (Banerjee, 2021). This false binary fails to recognise pluralist conceptualisations of Indigenous sovereignty (Bruyneel 2017), Nation (Fleras and Maaka 2010), citizenship (O'Sullivan 2017, 2020, 2021), and Indigenous democracy (Herbert 2018; Fan 2020, 2021; Pristed-Neilsen, 2006; O'Sullivan 2021; Valadez, 2010, 2018; Van Cott, 2005) which challenge these unitary colonial constructs and point to the divide between the Indigenous and the colonial systems and the need to connect them.

Colonialism represents an 'ailing' deliberative system (Curato et al, 2019, 103) because it leaves its components fragmented and creates enclaves that further division which is inhospitable to inclusive and authentic deliberations and fails to generate discursive legitimacy. This is fundamentally because as O'Sullivan (2022a) suggests:

> Colonialism requires neither listening nor reflection because it is self-justificatory. It does not need to consider the rights of the colonised because its essential and foundational assumption is that some people's rights are less worthy than other people's interests (O'Sullivan, 2022a, 3)

Colonialism is existentially unable, and therefore unwilling, to recognise the Indigenous system and its empowered spaces on equal terms and so creates a divided society. However, the 'paradox' of the liberal democratic state is that it neither accommodates

absolutely nor rejects entirely Indigenous claims (O'Sullivan 2017). This is because the 'logic of elimination' conceptualises a limited recognition of Indigenous cultural rights, those which do not impact the legitimacy of the settler state (Veracini, 2015; Wolfe, 2006). So, what appears as a connection between the colonial and the Indigenous deliberative systems is typically located in public spaces that do not require recognising Indigenous empowered spaces. In liberal settler states this often appears to be sufficiently inclusive.

This divide is evidenced by the complete absence of discourses of Indigenous democracy in both the Indigenous and colonial Australian public sphere (Maddison 2019; Parkinson et al 2022). Parkinson and colleagues (2022), in a recent quantitive analysis of the Australian online public sphere, found between 2015 and 2017 there was no unified 'national conversation' about Indigenous constitutional recognition. They found that non-Indigenous sites emphasise the colonial political system and participation by Indigenous leaders who are seen primarily as individuals which obscures their democratic role as representatives of Indigenous collective political authority and empowered space. Importantly, Parkinson and colleagues (2022) found that Indigenous organisations played a crucial role in aggregating different perspectives and connecting Indigenous and non-Indigenous framings. Similarly, Maddison (2019) in her media analysis of Indigenous settler relations over eight years which foregrounds Indigenous perspectives, found assertions of Indigenous empowered space and resistance but no discourses of Indigenous democracy in either the Indigenous or the wider public sphere.

This divide, caused by the colonial elimination of Indigenous empowered spaces enabled by a unitary concept of statist political authority, has far reaching negative impacts on Indigenous public policymaking. It has contributed to the: 'considered exclusion of Indigenous

peoples from policy development' (O' Sullivan, 2019, 398) which is the underlying cause of the 'system wide' policy failure in Indigenous affairs in Australia for the last fifty years (see Australian National Audit Office 2017; Maddison 2019; Westbury and Dillon 2019). This has severely limited the full expression of Indigenous values and aspirations in diverse policy areas such as native title jurisprudence (see Weber, 2000; French, 2002), Indigenous health (O'Sullivan 2015), and Indigenous environmental planning and management (Davis, 2021).

Bridging this divide requires Indigenous groups to negotiate within the contested institutions of the colonial system which are typically 'inhospitable' to Indigenous claims (Rollo, 2014, 225). This results in the 'internal exclusion' of marginalized perspectives (Young, 2000, 75) and creates an 'asymmetrical inclusion' where the burden of contestation falls heavily on the shoulders of the marginalized, who lack the resources, capacities, and social recognition to effectively challenge democratic agreements (Bohman, 2000, 126). As Parkinson and colleagues (2022) conclude, this burden disproportionately affects the 3.4% of Indigenous peoples who must educate the remaining 96.6% of Australians who have little incentive to act.

The divide between the Indigenous and colonial deliberative systems means there is a lack of opportunity to deliberate in ways that respect Indigenous empowered space. This creates poor quality transmission in the deliberative system because is not authentic, inclusive and rarely consequential (see Dryzek, 2009; Curato, 2015), resulting in comprehensive Indigenous policy failure over five decades (O' Sullivan, 2019). This highlights the importance of appropriate mechanisms linking the decision-making processes of Indigenous peoples and representative governments in settler colonial states. I turn now to consider how the Indigenous and the colonial system can be connected and whether the Voice to Parliament can effectively connect the Indigenous and the colonial deliberative systems.

Connecting the Indigenous and the colonial deliberative systems

For a deliberative system to generate legitimacy, its constituent parts must be meaningfully connected: 'Deliberative systems do not exist naturally' (Curato et al. 2019, 101). Work needs to be done to support connectivity across different sites of the system (Mendonça, 2016, 175). Dryzek (2005) suggests the key to resolving social division in divided societies is to decouple deliberation and the decision making moments of democracy by locating deliberation in the public sphere at a distance from the sovereign state. State decision making usually overwhelms deliberation, especially when it is tied to sovereign authority. Locating deliberation in institutions in the public sphere can potentially play an important role in resolving tensions in divided societies Dryzek (2005).

In a divided society, Indigenous institutions at the interstices of colonial and Indigenous empowered space are important but they must carry a heavy democratic burden because these organisations must operate simultaneously as Indigenous empowered space accountable to Indigenous public space, as well as be recognised and accountable to the empowered spaces of the colonial state and colonial public space. Importantly such Indigenous organisations must also facilitate the deliberation which is at the heart of Indigenous democracy (Davis 2021; 2022). Karpowitz and Raphael (2014), describe how such Indigenous organisations act as 'enclave forums' providing empowered spaces where the less powerful can deliberate together, enabling self-determination and sanctuary from state rules and cultural domination. These new institutional mechanisms can also enhance the ability of Indigenous groups to influence the state in policy making (Bruyneel 2017; Rao and Sangyal, 2010; Valadez, 2010) for example in Taiwan (Fan 2020, 2021) Australia (Davis, 2021, 2022) and New Zealand (O" Sullivan 2022b).

Indigenous people have been seeking an institutional voice to influence Indigenous policy making by the Australian government since the 1950s (Calma, 2023). This most recent proposal, the Voice to Parliament is a core outcome of the Uluru Statement from the Heart (2017). The Voice is conceived as an 'advisory body' to parliament and the executive, hence the Voice cannot introduce, modify, hinder or veto legislation and the national parliament will not be required to follow the Voice's advice (Calma, 2023). It was developed with nationwide Indigenous deliberation co-designed with Indigenous leaders and endorsed by both the current Labor and former Liberal governments. To be effective, the Voice must provide deliberative spaces where Indigenous and colonial representatives can directly connect. The main concern is, that the Voice model does not recognise or articulate a pluralist model of Australian democracy. Seen in terms of democratic quality (see Dryzek, 2009; Curato, 2015), the Voice demonstrates low levels of authenticity because it does't explicitly recognise the legitimacy of Indigenous empowered spaces. Instead, it is framed around a statist model of Indigenous 'inclusion' consistent with the colonial logic of elimination which does not impact the existential legitimacy of the settler state (Veracini, 2015; Wolfe, 2006). This is seen in the efforts by Prime Minister Albanese to reinforce to Australian society the 'subservience' of the Voice to the Australian parliament. Similarly, the Voice is inclusive but on colonial state terms with Indigenous candidates selected in elections conducted by the state. This representative electoral model obscures the underlying Indigenous deliberative democracy and potentially loosens the connection to Indigenous empowered spaces because representatives are elected and acquire political authority and legitimacy by the state, based on their ability to represent Indigenous electors, not Indigenous nations or communities.

Although the Voice referendum, if successful, will create a permanent policy connection to the state, the consequentiality of the Voice at the national level may be low because of its advisory body status, governments can always choose to ignore its advice. Alternatively, the Voice model expresses confidence by Indigenous peoples in the democratic value of deliberation. In settler states where they are typically an electoral minority, Indigenous people must rely on the 'sharing of reasons' in deliberative forums to have any influence on policy (Williams 2000, 125). In deliberative forums, communicative power says Habermas: 'is exercised in the manner of a siege. It influences the premises of judgment and decision making in the political system without intending to conquer the system itself' (Dryzek 2005). High quality deliberation in these forums can enable Indigenous peoples to gradually reframe the debate on Indigenous terms. If the constitutional referendum fails, Indigenous democracy is not validated by the state and will continue to be activated in Indigenous organisations and communities around Australia. But to not recognise Indigenous democracy will continue the systemic policy failure experienced by Indigenous people at all levels of the Indigenous state relationship.

Conclusion

A pluralist understanding of democracy is necessary to comprehend the relationship between Australia's Indigenous and colonial systems of democracy, which are disconnected due to colonialism's attempt to eliminate Indigenous democracy. The proposed Voice to Parliament has the potential to connect both systems, but risks remaining unitary palliative and colonial if it cannot recognize Indigenous empowered spaces. What is missing is a shared pluralist democracy discourse that can bridge the divide and recognise the singular contribution of Indigenous deliberative democracy to a shared post-colonial Australian democracy.

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