

Citizens Advisory Panels Liam Kofi Bright

Introduction

Kitcher proposed a scheme intended to lend public legitimacy to the content of well-established scientific consensus, where that content is controversial amongst the public but policy relevant.¹ Under Kitcher's scheme, small panels of citizens drawn from the non-scientist population would be given relevant information regarding the investigative procedures which led to consensus formation and their reliability. Kitcher believes that if such a report were produced from a socially trustworthy source, it would engender more trust for the science, and thus render democratically legitimate the use of its results in governmental decision making. I will argue that Kitcher's panels would be vulnerable to incidents of what Fricker called 'testimonial injustice',² potentially undermining their ability to legitimise controversial science. I will apply some defences of deliberative democracy to Kitcher's proposal, thereby suggesting how testimonial injustice could be minimised in citizen's panels.

Citizens Advisory Panels

As Kitcher describes Citizens Advisory Panels (CAPs), diverse groups of citizens would be given explanations of the state of knowledge in a given field; of the manner in which inquiry is carried out and of how the field fits into the wider project of scientific inquiry. After this exploratory stage, members would participate in a deliberative stage. This is the opportunity to discuss the information obtained, and on the basis of their discussions produce a report for the wider public. This report should detail what CAP members believe to be well-established claims of public concern, how well these claims are justified by the state of inquiry, and outline any concerns about how inquiry is conducted or results reported.³ Once the report is produced, it should be disseminated to the wider public. Kitcher does not detail how this dissemination should occur, but to serve CAPs' general mission the reports must be widely and cheaply disseminated, along with explanations of how CAPs were constituted. In this way the report could hope to provide public legitimacy to controversial science by informing the public that a jury of their peers endorsed the results, after fair and thorough investigation.

It is thus important to note that, while I will speak throughout of CAPs being used to legitimise controversial science, there could be no *a priori* guarantee that they will do so. CAPs must be free to come to their own conclusions, and it must be advertised that CAPs are always free to do so. Kitcher's hope is that if CAPs were fairly presented with the facts they would be persuaded that well-established scientific consensus is indeed legitimate. Further, if told how CAPs were run and what conclusion they reached, the wider public would be persuaded by the CAPs' endorsement of relevant propositions.

¹ Kitcher 2011, pg. 187

² Fricker 2007

³ *Ibid*, pg. 129

I follow Kitcher in using the science of climate change as it is understood by the U.S. public as a running example of the usefulness of CAPs. Noting evidence that belief in human-caused climate change is not widespread,⁴ Kitcher suggests a CAP to investigate the consensus that the earth's temperature is due to rise by at least 2° Celsius in the coming century. Since much public distrust in scientific consensus is caused by misrepresentation of scientific investigation in this area,⁵ it is an ideal case for a reputable CAP to improve the public esteem of well-established and policy-relevant science. An extensive review of the literature on previous attempts at CAP projects found that: 'When done well, public participation improves the quality and legitimacy of decisions and builds the capacity of all involved to engage in the policy process'.⁶ However, the qualification '[w]hen done well' is significant, since investigation has also found that for the most part 'these exercises have had no discernible political or other societal impacts'.⁷ While proposing measures to remedy this lack of influence, Powell and Colin note that one problem is that 'Citizens do not "naturally" know how to engage with each other... inclusively and democratically'.⁸ Powell and Colin do not offer specifics about what this means and how we may correct citizens' lack of knowledge. This essay begins to fill that lacuna.

Testimonial Injustice

Testimonial injustice occurs when prejudice causes a speaker's word to be given a deflated, or inflated, level of credibility. To illustrate, if a witness's testimony is ignored by a jury because the witness is a woman, that constitutes testimonial injustice. There are no widely shared standards detailing how much credibility a speaker should be assigned. In this essay I shall assume that it is testimonial injustice for the level of credibility a speaker should be assigned. In this essay I shall assume that it is testimonial injustice for the level of credibility a speaker is afforded to vary according to her gender, or race. This will not always be the case, as there are situations where demographic information may correlate with level of expertise. This introduces additional complexities which I do not have space to cover in this essay. Regarding climate change research, I shall assume that any *a priori* preference for or against the testimony of an individual based on her demographic profile would constitute testimonial injustice.

Widely-held stereotypes that women and members of racial minorities are less intelligent than males and members of racial majorities imply that testimonial injustice would be rife within CAPs.⁹ Explicitly prejudicial beliefs are likely to cause some people to underweight the opinions of others during all stages of CAPs. Even absent conscious endorsement of such stereotypes, research on implicit bias suggests that we often still make judgements in line with prevalent stereotypes.¹⁰ The fact that the deliberate stage involves discursive exchange of opinions also makes it probable that testimonial injustice shall occur. Patterns of speech more common amongst women than men are perceived to be less assertive, less intelligent, and are found less

⁴ *Ibid*, pg. 258 – see also Gauchat 2012, pg. 179

⁵ *Ibid*, pg. 245 – see also Dietz 2013, pg. 14084

⁶ Dietz 2013, pg. 14083 – see also Habermas 2006, pg. 414

⁷ Powell & Colin 2008, pg. 128

⁸ *Ibid*, pg. 134

⁹ Steele & Aronson 1995, Steele 1997, Aronson *et al* 2002

¹⁰ Greenwald & Krieger 2006, Amodio & Devine 2006

persuasive, than patterns of speech more common amongst men.¹¹ Further, the peculiar subject matter CAPs investigate makes negative stereotypes likely to influence judgements. From a young age, males are perceived as more competent at the sciences.¹² Similar stereotypical associations between gender and scientific competence are found when adults are tested.¹³

The occurrence of testimonial injustice is not only undesirable in itself, but it could undermine the ability of CAPs to legitimate scientific consensus. Gauchat surveyed 40 years' worth of polling on public levels of trust in science in the U.S.A. He found the following pattern persisted throughout:

Underprivileged groups show lower levels of confidence in science: women, non-whites, and individuals with lower family incomes all report lower levels of trust.¹⁴

With climate research there is *ex ante* reason to want the public to accept the science as legitimate. Members of underprivileged groups are likely to be amongst those we need to persuade. However, members of such groups are also the most likely victims of testimonial injustice in deliberative contexts. Evidence from previous attempts at CAP-like projects in the sciences suggests that if people perceive themselves to have no serious influence on the outcome of the discussion they do not engage with the project.¹⁵ This suggests that if people frequently find themselves ignored, passed over or disrespected in deliberations, they will respond by withdrawing their participation, or withdrawing their consent from the majority's consensus. This would preclude the CAP from presenting a united front endorsing the science. Research also suggests that "even modest amounts of scientific dissent reduce public support for environmental policy".¹⁶ Therefore if we want a CAP to legitimise use of climate science in policy-making by persuading a sceptical public we should maximise the probability that it will present a united front. We should hence seek to minimise testimonial injustice.

Further, if word got out that members of underprivileged groups were frequently disrespected and ignored, while members of socially dominant groups frequently had undue influence, some people, especially members of underprivileged groups, in the wider public may come to see CAPs as no more trustworthy than the sciences. This would be particularly damaging for CAPs considering climate science. One contributor to public distrust of climate science is the belief that scientists and politicians are an elite class who do not have wider society's interests at heart.¹⁷ This lends support to the idea that a well-run CAP programme – one that is not, and is seen not to be, composed of elites and their lackeys, but rather representatives of the general public – could do serious public benefit if seen to endorse propositions which people previously suspected as lies the elite class were trying to foist upon us. But it also makes the prospect of CAPs being seen to be dominated by members of privileged social groups particularly damaging

¹¹ Siegler & Siegler 1976, Hahn & Clayton 1996

¹² e.g. Andre *et al* 1999

¹³ Noseka *et al* 2009

¹⁴ Gauchat 2012, pg. 177

¹⁵ Powell & Colin 2008, pg. 130

¹⁶ Aklin & Urpelainen 2014, pg. 173

¹⁷ Belsen *et al* 2012

for the prospects of CAPs' legitimising climate science. The CAPs programme must avoid the occurrence of testimonial injustice, since it must avoid any appearance of being a mouthpiece for an elite class.

Designing CAPs

CAPs should help prevent the spread of misinformation concerning policy relevant science, but they can be hindered in this by the testimonial injustice. As Anderson notes,¹⁸ the fact that many biases which lead to testimonial injustice are implicit largely places them beyond the conscious control of individuals in their grip. Hence attempting to minimise testimonial injustice by imploring participants in CAPs to behave well would be inefficient. In order to implement Kitcher's proposal we need to instead engage in epistemic system design. An 'epistemic system' designates a social system that houses social practices, procedures, institutions and/or patterns of personal influence that affect the epistemic outcomes of its members.¹⁹ A CAP is such an epistemic system, and we must figure out how they may be designed in order to prevent testimonial injustice from undermining them. Following Dietz 2013²⁰, I will draw upon the literature from deliberative democratic theory in order to consider ways that deliberative procedures may be arranged so as to minimise the presence and perception of testimonial injustice.

Fabienne Peter discusses conditions a deliberative group must satisfy to be considered procedurally just.²¹ She argues that deliberative democrats should adopt principles of inquiry advocated by feminist philosophers of science as requirements of fair deliberative procedure. She draws attention to Longino's 'list of conditions that processes of knowledge production should fulfill'.²² Here I focus on two: ``publicly recognized standards by reference to which theories, hypotheses, and observational practices are evaluated and by appeal to which criticism is made relevant to the goals of the inquiring community" and ``tempered equality ... of intellectual authority".²³ CAPs can be structured to ensure that these principles are respected, and this can serve to minimise the incidence of testimonial injustice.

Begin with the idea that there must be public standards of evaluation for claims made within the deliberative process. This could be implemented by instructing participants that when they offer an argument in favour of some proposition during the deliberative phase of the CAP, their argument must refer to evidence presented during the exploratory phase. This is in line with Peter's suggestion, since it means participants must relate whatever private information they come to the deliberative phase with to the evidence all were shown during the exploratory phase. This could be presented to participants as a requirement that they be explicit about how the points they raise in discussion are relevant to the science under investigation. This way of

¹⁸ Anderson 2012, pg. 168

¹⁹ Goldman 2011, pg. 18

²⁰ Dietz 2013

²¹ Peter 2007

²² Peter 2007, pg. 342

²³ *Ibid*, pg. 343

framing the requirement would serve to justify it to the participants, even those who are sceptical of the science in question, because it is plausibly required by the purpose of the CAP. It also would force participants to develop, and thus demonstrate in conversation, competence with the relevant science so as to make it clear how their arguments bear on the evidence they have been presented with. Peter claims that adherence to this principle would ensure that discussion is 'orderly and constructive'.²⁴ This in itself is a benefit to CAPs. I conjecture this could also minimise testimonial injustice by ensuring that assumptions of greater competency based on arbitrary demographic features are checked by a requirement that people actually demonstrate competence in reasoning about the science. This principle of deliberative democracy is hence a plausible candidate for reducing testimonial injustice in CAPs.

Next consider the claim that there must be 'tempered equality of intellectual authority'. One method of achieving this is suggested by empirical work on the effectiveness of various rhetorical strategies in negotiations. Ulbert and Risse found that 'organizational settings that assign specific roles to actors have strong effects on their ability to persuade others of their reasoning'.²⁵ Their work suggests that if the organisation in which deliberation takes place gives some individual in a leadership role, that individual's proposals get taken more seriously.²⁶ Applying this to CAPs: assign a different person to be a 'discussion leader' each day. Explain to participants in the CAP that whoever is discussion leader will give a short speech at the end of the day summarising the results of deliberation. Further, the discussion leader is tasked with enforcing the 'arguments to be grounded in publicly available evidence' rule. Ensure that people from underprivileged groups are *at least* represented in this role proportionate to their membership in the CAP, which should itself have been designed to ensure that such people are proportionally represented according to their numbers in the wider public. Where possible, err on the side of giving people from under-represented groups disproportionate over-representation in the discussion leader role. This suggestion operationalises Peter's suggestion that one take advantage of counter-veiling biases to counteract undesired biases.²⁷ It will not eliminate testimonial injustice: biases for or against members of particular demographic groups will still affect people's perceptions of the group leader. However, by taking advantage of people's tendency to assign greater weight to organisationally specified authority figures, and by ensuring that members of groups who are liable to be victims of testimonial injustice are specified authority figures, we introduce a countervailing bias to those which lead people to underweight the testimony of people from disadvantaged demographic groups. This will not erase testimonial injustice, but we may hope it will mitigate its effects.

Conclusion

We began by reviewing some reasons for believing that CAPs will be useful in promoting public understanding of policy relevant controversial science. We reviewed evidence suggesting the

²⁴ *Ibid*, pg. 343

²⁵ Ulbert & Risse 2005, pg. 363

²⁶ *Ibid*, pg. 356

²⁷ Peter 2007, pg. 347

prevalence of testimonial injustice would undermine the ability of CAPs to perform this social task. To remedy this we offered tentative proposals for structuring the deliberative process to counter-act the effects of bias, based upon the work of the deliberative democrat Fabienne Peter. Those proposals were, first, participants in CAPs be instructed that they should relate their arguments to evidence gathered during the inquiry. Second, a system of designating certain individuals 'discussion leaders' should be devised to ensure members of under-represented groups get some proportion of the time in this authoritative role.

In addition to testing the effectiveness of the proposals I outlined above, further research on reducing epistemic injustice in CAPs could fruitfully concentrate on other formal requirements on their deliberative structure that may be introduced. In particular, I have discussed but one instance of the general strategy of introducing counter-veiling biases to combat epistemic injustice. Whether, and if so how, this general strategy could be exploited by means of different mechanisms is worth exploring.

Overcoming testimonial injustice is not the only practical hurdle which stands in the way of implementing Kitcher's CAP programme. I follow Knight and Johnson (1997) in thinking that designing fair deliberative groups requires much broader social and political equality between persons than our society presently affords. Kitcher called for the creation of CAPs out of fear that much of the media had been captured by wealthy elites with a vested interest in spreading misinformation about certain scientific results. Presumably these same people would use their influence to generate hostility to funding a large scale CAPs programme, and misrepresent the content of CAPs reports. Even if CAPs could be funded and guarantee their reports were accurately represented, it would be difficult to ensure they avoid regulatory capture.²⁸ The CAP programme, designed to curb the influence of dissembling elites, may only be implementable in a society in which such people have less influence than they do in our own.

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²⁸ Bó 2006

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