

THE BOYD GROUP AND ANIMAL EXPERIMENTATION

A Case Study of Deliberation

by Robert Garner*

Abstract

This article is an account of the work of the Boyd Group, an informal grouping of stakeholders on both sides of the debate about animal experimentation formed in Britain in the early 1990s. It is an explorative case study which aims to map the opinion-forming processes of the participants of the Boyd Group, many of whom were interviewed by the author, in light of deliberative theory and with the intention of generating suggestions for improved democratic practices in representative bodies split by seemingly intractable moral differences. Not only is animal experimentation a policy issue involving acute moral conflict, but the Boyd Group is also a body made up of partisans representing organisations on both sides of the debate. Not surprisingly, the transformation of views predicted by some deliberative theorists has not occurred. However, deliberation within the Boyd Group has had the effect of softening some of the views and attitudes of the participants, has facilitated some compromises and provides a useful guide to the methods available to those wishing to manage moral conflict.

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1. Introduction

This article consists of a case study of the Boyd Group (hereinafter BG), an informal grouping of stakeholders on both sides of the debate about animal experimentation formed in Britain in the early 1990s. Specific circumstances led to this formation, and not least the acute social and political controversy surrounding the use of animals in the laboratory. Two decades later, the BG still meets intermittently, and its purpose – to provide a deliberative forum whereby those with diametrically opposed views on the issue can try to narrow the differences between them – is still as valuable as ever given the capacity the use of animals for research still has to elicit conflict and controversy.

This piece, then, is an explorative case study which aims to map the opinion-forming processes of the participants of the BG. The theoretical context is provided by the ‘deliberative turn’ in democratic theory which has produced an enormous literature since the early 1990s. The intention of the article is to use the example of the BG to generate suggestions for improved democratic practices in representative bodies split by seemingly intractable moral differences. The use of animals for research purposes is an issue which elicits strong emotions, and would appear to involve intractable moral conflicts. This is often portrayed, in its starkest form, as the choice between sparing an animal from suffering or saving the life of a child. In terms of the BG, not only are these apparently stark moral dilemmas the subject of debate, but those meeting to try to resolve them are not interested lay members of the public, but are mostly partisans, many working for organisations with a vested interest in the outcome. If deliberation has helped in the case of the BG to reduce, amongst the participants, the distance between the strongly held and polarised views in the debate, then it shows the value of deliberation. In short, it is tempting to say that if deliberation works for animal experimentation in the context provided by the BG, it will work for any issue.

After outlining the major themes of the deliberative democracy literature, this article seeks to define what kind of deliberative forum the BG is. Questions relating to inclusivity, the characteristics of participants and the relationship between participants and their organisations, are important indicators of the kind of forum the BG is and therefore the degree to which it qualifies as a genuinely deliberative arena. Following this, it will be asked how far genuine deliberation has taken place within the BG. For example, how far has self-interest been put to one side during the proceeds? How far have all sides of the debate been given a fair hearing? Has there been mutual respect for the positions being aired? Has it

helped to bring the two sides in the animal experimentation debate closer together? To what extent has it created an 'economy of moral disagreement' in Gutmann and Thompson's words? (1996: 3)

The research undertaken for this article included, initially, a comprehensive review of the literature on deliberative democracy. On the BG, a series (21 in all) of open-ended interviews with most of the major participants, in addition to some who chose not to participate, were conducted in 2014. Some of the interviews were conducted in person, others by alternative means such as e-mail communication, telephone conversations and Skype. A number of the interviewees requested anonymity and this, of course, has been honoured. In addition to the interviews, extensive use was made of the reports of meetings available on the BG website, a series of revealing letters between Andrew Tyler (Director of Animal Aid, a leading animal rights organisation) and Colin Blakemore, one of the founders of the BG (Tyler kindly provided access to these letters), and the transcript of the oral evidence given to a House of Lords Select Committee on animal experimentation which involved many of the participants in BG meetings (House of Lords, 2002).

2. Deliberation and democracy

Democratic theory has, according to Bohman's much-used phrase, taken a 'deliberative turn' since the beginning of the 1990s (Bohman, 1998).¹ The academic scholarship on deliberative democracy is extensive and varied. Despite this, it is possible to elicit a number of key features shared amongst a vast majority of the exponents. The first is that democracy ought not to be defined in terms of the aggregation of pre-existing preferences in a vote at elections or in a referendum, nor in terms of a reflection of the balance of competing interests within civil society, as the pluralist model has it. Rather, for advocates of deliberative democracy, collective decisions are only legitimate if they are made after reasoned and detailed discussion. Second, it is held that genuinely deliberative arenas ought to be as inclusive as possible with all points of view and social characteristics represented, and an equal chance to participate offered to all of those who are present. Third, during deliberation, self-interest should be put aside, as should strategic behaviour designed to achieve as much as possible of a pre-existing agenda. Instead, mutual respect of, and empathy for, the arguments of others is encouraged. Fourth, the inclusive communication and social learning inherent in the deliberative process, it is suggested, leads to better decisions in the sense that they are more informed, more effective and more just.

Finally, deliberation, it is argued, increases the possibility of a consensus being arrived at and the transformation of the views of participants. It is seen therefore as a useful device to tackle issues which seem to involve intractable moral conflicts. That is not to say that unanimity is a real prospect in most cases, and value pluralism is accepted by most advocates of deliberative democracy as a normatively justified obstacle to consensus. As a result, the aggregation of preferences may well still be necessary as an end-point. However, even if there is still disagreement, collective decisions made after deliberation are regarded as more legitimate than the mere aggregation of preferences, not necessarily or not just because of the decisions made, but because of the deliberative procedure followed. It involves a sense, that is, that all the views of participants are taken seriously and that everyone tries to empathise with the views of others.

3. The Boyd Group and animal experimentation

The claims made by deliberative theorists can only really be tested by empirical research examining deliberative democracy in action. Here, it should be noted that the early heady days of abstract deliberative theory, has, since the latter years of the 1990s, given way to a ‘new practical emphasis on feasibility’ (Bohman, 1998: 400). Attempts to design ideal deliberative forums have been accompanied by empirical studies of real world examples.²

The BG represents one example of a deliberative exercise. It is a forum born out of the adversarial climate of animal experimentation politics in Britain in the late 1980s and early 1990s. Its origins, in the early 1990s, can be found in a debate in the British media. After appearing on a daytime television debate programme (Kilroy, presented by the former Labour MP Robert Kilroy Silk) two of the leading adversaries in the animal experimentation debate – Les Ward (at that time Chief Executive of Advocates for Animals, an anti-vivisection organisation – previously known as the Scottish Society for the Prevention of Vivisection and now known as OneKind) and Colin Blakemore (at that time Waynflete Professor of Physiology at the University of Oxford) – decided that a more meaningful dialogue on the issue was required. It was, Ward said later at a House of Lords committee hearing, an attempt to end the ‘trench warfare’ that had accompanied the issue. A discussion forum, he continued, would create an opportunity ‘to hear all the arguments, they could hear mine, we could test the arguments, and we could see if there was some way of finding common ground to move this whole controversial subject of animal experimentation forward’ (House of Lords, 2002: q. 1384). In particular, Ward was keen to test the

authenticity of the claim made by scientists that they ‘dislike using animals’ (ibid). Since the aim of the BG was to find agreement on reducing and refining, if not eliminating, the use of animals, it promised to be a useful vehicle to test that claim.

Conversations between Ward and Blakemore led to the two agreeing to help to organise and meet in a formal body which became known as the BG after its chairman Kenneth Boyd, subsequently Professor of Medical Ethics at Edinburgh University. The BG met regularly – usually at the Wellcome Trust headquarters in London – from 1992 until 2006 by which time its two founders had left. From that time, BG meetings have been intermittent, although there were numerous meetings on the new EU Directive on animal experimentation in a two-year period from 2008, and a meeting on openness in animal research in February 2015. The BG has debated a range of issues relating to animal experimentation, and has produced a number of reports documenting the discussions, and the decisions reached, in some of these debates (Boyd Group, 1995, 1998, 1999, 2002, 2002a; Boyd Group and the RSPCA, 2004). In addition, the BG has also regularly submitted evidence to public consultations (Boyd Group, 2001, 2002b, 2010).

The operating principles of the BG are unmistakably deliberative in tone, its objectives being ‘to promote dialogue between ... diverse people and organisations’, to ‘clarify key issues of concern identified by participants, in order to reveal the basis of the various perspectives and positions on the issues, and to understand where the differences lie’ and ‘where possible, to identify points of consensus and make practical recommendations’. ‘Achieving consensus is not the major goal of the Boyd Group’ it is argued further, but whilst ‘members are not expected to leave behind their positions on the issues’ there is an expectation that ‘careful argument rather than rhetoric’ be employed and that ‘understanding between people who have rather different perspectives ... can be enhanced’ (<https://science.rspca.org.uk/ImageLocator/LocateAsset?asset=document&assetId=1232712902059&mode=prd>).

Animal research, of course, is a notoriously adversarial issue, and continues to be the most contentious issue in animal protection politics (Lyons, 2013). Given that far more animals are bred and killed for food, this might come as a surprise. It is true that there has, of course, been enormous controversy over intensive animal agriculture (so-called ‘factory farming’). However, it is still possible to raise farm animals, and therefore to continue eating meat, in extensive systems with the worst excesses of factory farming removed, and therefore with a much reduced incidence of animal suffering. In the case of animal research, on the other hand, inflicting, sometimes severe, suffering on animals is, scientists

claim at least, necessary in order to achieve the benefits of research. As a corollary, of course, it is also claimed that the benefits to humans of animal research are so great as to make the infliction of this suffering justified.

At the time the BG was formed, the animal experimentation debate had become particularly conflictual and adversarial. Little has occurred in the intervening two decades to change this. Direct action of various kinds remains an important tactic of the animal rights movement (Cressey, 2011) and the two sides in the debate appear as far apart as ever. Scientists seek to defend the value of animal research (Fox, 2012) and their lobbying organisation (in the UK) Understanding Animal Research embarked, in 2014, on an openness strategy designed, in part at least, to publicise its achievements and to reassure public concern about the treatment of animals (<http://concordatopenness.org.uk/>). On the other side, the anti-vivisectionist community remains adamant that animal research is unethical and, in large part, ineffectual (Garrett, 2012; Linzey and Linzey, 2015), and there is also a body of scientific criticism of animal experimentation (see LaFollette and Shanks, 1996).

Characteristics of Boyd Group participants

Although the operating principles of the BG are consistent with the demands of deliberative theory, there are significant differences which do not make it a particularly good test of deliberative theory. For one thing, it is group-based, rather than citizen-based, given that most of its participants – whether or not they have acted as autonomous individuals in the course of deliberation – are representatives of particular groups organised to take a particular position in the debate. Membership is in fact open to both individuals and organisations, although in practice those representing organisations have constituted the vast majority. The BG is also an example of a deliberative forum within civil society, rather than the state. That is, it was set up by actors in civil society with no prompting by state institutions. However, it is not a grass-roots deliberative arena, along the lines promoted by political theorists such as Dryzek (2000, 2000a). Rather, it consists of experts, from the fields of academic science, animal protection and industry lobbying and ethics. Moreover, most of the participants are partisans, with strong leanings towards one side of the debate or the other.

The characteristics of the BG immediately set it apart from the conventional deliberative forums envisaged by theorists and put into practice in deliberative experiments. Most of these are versions of so-called ‘minipublics’, the classic example of which is the citizens’ jury (Elstub, 2014; Smith and Wales,

2000). This involves the choosing of a representative sample of people who are invited to discuss, in small groups of between 16-25, an (often contentious) issue of public policy. Crucial to the exercise is the provision of briefing information provided beforehand and exposure to experts during the deliberative period. The juries are then invited to reach agreement and come up with recommendations.

Such citizens' juries differ in crucial ways from the BG. In particular, the latter consists of partisans and experts, and not, as with minipublics, ordinary members of the public with no particular stance on an issue or knowledge. I will deal with the question of expertise here, leaving partisanship until later. The issue of expertise raises some interesting questions about deliberative democracy. One of the characteristics of genuine deliberative democracy is the emphasis placed upon informed and rational decision making. Indeed, for some, the epistemic quality of decision making is its chief advantage (Marti, 2006). An important part of deliberative forums such as citizens' juries, therefore, is the opportunity offered to participants to gain access to the views of a variety of experts as part of the deliberative exercise. There is, of course, a potential conflict between deliberation and democracy here in the sense that if our goal is the instrumental one of rational, informed, and knowledgeable decision making – in short, producing correct decisions (as opposed to the argument that deliberation is desirable because it is intrinsically valuable) then it is likely that our conclusion should be that democracy ought to be overlooked in favour of non-democratic forums consisting of an elite of political and moral experts.

Members of the BG have consisted largely of experts in their field, whether it be from the fields of academic science, animal protection lobbying or ethics. Even in the case of the BG, it should be noted however, expertise external to it has been utilised. For example, primatologists were invited to sessions on the use of non-human primates in scientific research (Boyd Group, 2002a: 6), and the BG took advice from six contract-testing organisations and three major manufacturers of household products when considering the use of animals in the testing of household products (Boyd Group, 2002: 12).

One key question in assessing the deliberative claim of the BG is the degree to which it has been inclusive. Inclusiveness is an important characteristic of deliberative democracy. Of course, theorists of deliberative democracy recognise that modern societies are too large and complex for everyone to be involved in deliberative forums, and this, of course, is the reason for recommending the creation of representative 'minipublics'. The BG cannot lay claim to be representative of wider society in a descriptive sense. That was not its aim. What it might be able to claim, however, is that it has been representative of the animal experimentation issue, with all sides of the debate given a significant hearing.

It might, following Goodin (2000, 82), have been able to get ‘all the positions on the table, as distinct from all persons to the podium’.

If we adopt this definition of inclusiveness, though, then the BG has only been partly inclusive. This is because the major anti-vivisectionist groups – the National Antivivisection Society (NAVS) and the BUAV – both refused to participate (organisationally at least) from the start, as did other animal rights groups such as Animal Aid and People for the Ethical Treatment of Animals (PETA). There was a perception amongst the bulk of the anti-vivisection group that to participate would be to sell out their abolitionist principles in a forum dominated by scientists with an interest in the continued use of animals in scientific experiments. For NAVS, for instance, the BG ‘has a pre-set agenda’ and that, in any case, it is ‘just another talking shop’ (House of Lords, 2002: q. 1362).

The anti-vivisection organisations’ public opposition to the BG has therefore been partly ethical and partly strategic. Adopting an animal rights position, these groups are opposed ethically to the use of animals for scientific research irrespective of the benefits, to humans and other animals, which might accrue. In the words of Andrew Tyler, the director of the animal rights group Animal Aid, the BG ‘is a consensus-seeking talking shop ... embodying the middle line’ whilst Animal Aid is ‘unequivocally opposed to animal experimentation’ (letter from Andrew Tyler to Colin Blakemore, 24 January 1997). Their opposition to membership was also strategic in the sense that they thought that participation would give ‘credence’ to animal experimentation (letter from Andrew Tyler to Colin Blakemore, 11 July 1996).

The lack of support from the abolitionist anti-vivisectionist groups has represented a problem for the viability of the BG. Colin Blakemore admitted as much when he remarked that ‘our credibility was reduced’ as a result of it (House of Lords, 2002, q. 964). Les Ward, too, regarded it as a missed opportunity for the anti-vivisection movement. He argues that the public opposition of the anti-vivisection organisations gave the impression that they were not confident of debating the issue, whereas their participation might have led to more debate of the central issues. Indeed, in Ward’s view it was the ‘moral duty’ of the anti-vivisectionists to participate (interview with Les Ward, 19 February 2014).

However, despite the exclusion of the main anti-vivisectionist groups, it should be pointed out that this was self-exclusion. Indeed, the ethos of the BG has been inclusive. According to its constitution, the only individuals and organisations refused membership are those who ‘support violent activity or break the criminal law’ (information provided by Jane Smith). The key organisers of the BG, including Ward, wanted them to participate. Indeed, Blakemore constantly made the, undoubtedly politically

astute, claim that he was prepared to ‘talk to almost anyone’ to achieve progress in the debate, at one point saying that ‘I am perfectly prepared to see the ALF [the Animal Liberation Front] at the table if their attitude is constructive and there is a chance of progress’ (Masood, 1997). The anti-vivisection groups turned down the invitations offered.³

It is also the case that the abolitionist anti-vivisectionist position was represented continually, until his decision to leave in 2006, by Ward himself, Director of Advocates for Animals. Philosophers sympathetic to the anti-vivisection position, such as Stephen Clarke, were also members. More intriguingly, it is apparent that other anti-vivisectionists regularly participated in the BG in an individual capacity despite their organisation’s public opposition (interview with Jane Smith, 10 November 2014; e-mail communication with Kenneth Boyd, 10 November 2014). A senior member of People for the Ethical Treatment of Animals (PETA), for instance, regularly attended meetings, and BUAV were also represented on occasions. In addition, all of the major anti-vivisection groups (BUAV, NAVS and Uncaged, as well as Advocates for Animals) were represented in a 2004 joint BG/RSPCA debate on categorising the severity of scientific procedures (Boyd Group and the RSPCA, 2004).

The BG, therefore, has had a reasonably inclusive membership, although the anti-vivisectionist stance always constituted a relatively small minority (interview with Jane Smith 21 January, 2014). In 2002, the BG had 25 permanent member organisations including, as well as anti-vivisectionists, animal welfare, pharmaceutical interests, academic scientists, veterinarians and philosophers as well as a nominee from the Home Office (House of Lords, 2002: q. 964). Organisations represented included Advocates for Animals, the RSPCA, the Fund for the Replacement of Animals in Medical Experiments (FRAME), the Universities Fund for Animal Welfare (UFAW), the Research Defence Society (now Understanding Animal Research), the Laboratory Animals Science Association, the Medical Research Council, the Association of the British Pharmaceutical Industry and the Bioscience Federations’ Animal Science Group.

4. Managing moral conflict

How far can the activities of the BG be regarded as genuinely deliberative? The first point to make is the fact that membership of the BG has been made up primarily of organisations is not promising from a deliberative perspective. It raises the prospect of representatives acting as delegates of these organisations, putting forward the organisation’s position and reporting back the outcome. Insofar as this

was the case it would minimise the opportunities for members to act autonomously and be prepared to empathise with others around the table, and maybe change their views accordingly. Despite the fact that organisations joined as members of the BG, however, the operational practice of meetings was consistent with deliberative theory. That is, in order to encourage dialogue and genuine deliberation, the BG operates under Chatham House rules where the content of what was discussed can be talked about in public but not who said what (interview with Jane Smith, 10 November 2014).

The dilemma of group membership in a deliberative body, where participants are supposed to act as individuals open to changing their views, is illustrated in particular by the difficult position that animal rights leaders found themselves in. Those animal rights elites who refused to participate in the BG opposed it partly on the grounds that they were unwilling to attend as individuals as opposed to delegates of their management boards and wider memberships. Jan Creamer, the NAVS' Chief Executive, for instance, told a House of Lords Select Committee that: 'I take the view that I work for a Council of Management and if the organisation is not invited to a Boyd Group meeting then I cannot go' (House of Lords, 2002: q. 1362). Similarly, Andrew Tyler explained his decision to refuse to participate in the BG, in a letter to the *Observer* newspaper (June 9, 1996), by emphasising that he 'would never be part of any gatherings whose proceedings, objectives and decision-making were not open to scrutiny by the broad animal rights movement'. In this context, it is interesting that, as was pointed out above, some animal rights leaders sought, consciously or not, to circumvent the group/individual dilemma by attending the BG in an individual capacity which allowed their organisations to remain publically opposed to participation.

Another, related, factor that might impact on the deliberative potential of the BG is its partisan character. The evidence suggests that the transformation of attitudes, a crucial component of deliberative theory, is – as common sense would suggest – more likely to occur amongst those with no previously strong views on an issue (Hendriks et. al, 2007). Obviously, such uncommitted deliberators are more likely to elicit the quality of open-mindedness, a prerequisite of opinion change. It is for this reason that those organising minipublics deliberately choose non-partisans as participants. Participants in the BG, by contrast, have been mostly knowledgeable partisans and one would therefore expect less movement in views.

A study of the BG's operation only partly confirms this pessimistic assumption. What is interesting, firstly, is the methods its participants have used to manage moral conflict. In that sense, its

work represents a good example of putting into practice what Gutmann and Thompson (1996) describe as an ‘economy of moral disagreement’, whereby in cases where there are seemingly intractable moral conflicts the aim should be to minimise the distance between competing moral positions, to emphasise what is shared in common and to foster a ‘politics of mutual respect’.⁴

The first of these methods relates to the choice of topics for discussion which have been limited to those, more peripheral, areas of the issue where consensus was more likely to be reached. This has included the ethical review process, the use of animals for the testing of cosmetics and household products, the use of non-human primates in the laboratory and openness in animal research. These issues are regarded as peripheral either because they involve the regulation of animal research rather than the actual use of animals in the laboratory, or they involve relatively few animals (compared to those used for medical research). These were the issues, in addition, where there was wide public support for reform. Indeed, in the case of a ban on the use of animals for cosmetic testing, a ban on the use of Great Apes in scientific research and the introduction of local ethical review committees, the Labour Government elected in 1997 acted before, or soon after, the BG deliberated on them.⁵

The issues chosen for discussion by the BG maximised the possibility of a consensus emerging. For example, in its 1998 report on the use of animals for testing cosmetics, a ‘consensus position’ was reached endorsing ‘the decision by the British Government not to issue any further licenses to use animals for testing cosmetics’ (Boyd Group, 1998). In a similar vein, it was agreed, in the debate on the use of non-human primates, that the mental capacities of the Great Apes are such that ‘it is unethical to confine them in laboratories and use them in research and testing’ (Boyd Group, 2002: 3).

Where consensus has proved impossible, the BG has adopted the strategy of explicitly referring to the disagreements. This has taken two main forms. Where the vast majority could reach agreement, a consensus position has been adopted with the dissent of a small minority of members also recorded. In other cases, a more equal division of opinion has been recorded. For example, despite the consensus for a ban on the testing of finished cosmetic products, the BG was unable to reach agreement on whether it ought to be permissible to use animals to test the individual ingredients that are used in cosmetics. The compromise position reached was that a ban could be introduced but only when alternatives to the use of animals for the purpose are validated (Boyd Group, 1998). In the report, the difference of opinion was revealed with some members (the anti-vivisectionists and presumably the animal welfare representatives too) regarding the continued testing on animals of any ‘ingredients developed primarily for use in any

cosmetic product calls into question the application of the basic principles of ASPA – the Animals (Scientific Procedures) Act – and therefore should not be allowed’ (Boyd Group, 1998).⁶

There are many other examples of this recognition of disagreement. For example, in the report on genetic engineering, some (a minority) of members of the BG thought that the genetic engineering of animals ought to be abandoned altogether, others that it should be better regulated (Boyd Group, 1999). Similarly, in the report on the use of animals in testing household products, a statement of principle was agreed whereby ‘[m]embers believe that it is unacceptable to use animals in developing and testing new products that are widely perceived to be convenience products for which there is little potential need’. It was recognised that it is possible to avoid using animals to test finished products in most cases anyway because of existing knowledge about the ingredients. Where this is not available, the Group agreed that the benefits of a new product ‘should be foregone’ (Boyd Group, 2002a: 3). Even here though, one industry group was recorded as being only lukewarm in support of this statement, believing that, if implemented, it risked such testing being moved abroad where it was not banned. (Boyd Group, 2002a: 1).

Another good example of this method of recognising disagreement concerns the use of non-human primates. Although, as we saw above, there was agreement that the use of Great Apes should not be permitted in scientific research, agreement was not reached on other non-human primates, with some members arguing that their use should be allowed if ‘very strong justification’ was forthcoming, whereas others arguing that their use ought to be prohibited completely (Boyd Group, 2002: 3). Even when animal welfare representatives on the BG were prepared to concede the case for the use of non-human primates in toxicology testing under exceptional circumstances, there was no agreement on the method by which the case for their use might be assessed. Whilst ‘most’ members thought that local ethical review committees should do a harm-benefit analysis of each substance to be tested on non-human primates (with the granting of project licenses being dependent on approval by local ethical reviews) ‘some members’ (probably representatives of contract testing organisations worried about potential loss of business as a result of delays), had concerns about the ‘practicality of such local reviews’ (Boyd Group, 2002: 55).⁷

Yet another device utilized to manage moral conflict, and maximise inclusion, within the BG has been the use of sub-groups. For example, in 2004, a debate – co-organised by the RSPCA – on the categories used by the Home Office to classify the severity of scientific procedures, was conducted within

three separate round-table discussions. The first consisted of veterinary surgeons and animal care and welfare officers working at institutions licensed under the Animals (Scientific Procedures) Act, the second consisted of license holders under the legislation and the third consisted of representatives from animal protection organisations including the anti-vivisection organisations together with animal welfare groups FRAME, the RSPCA and the Dr. Hadwen Trust (Boyd Group and the RSPCA, 2004: 1).

The debate was initiated by the BG following a BUAV video of primate research which appeared to raise serious questions about the utility of the severity categories enshrined in the legislation.⁶ The report on the severity categories illustrates all of the strategies utilised by the BG to manage moral disagreement. Not only were sub-groups employed but, in addition, the plenary meeting of BG members, which met to consider the reports from each round table, did reach a consensus that the severity bandings are too imprecise and, in particular, that the ‘moderate’ category is ‘too comfortable a term for many of the adverse effects it encompasses’ (Boyd Group, 2004: 4). There was also recognition of disagreement. Thus, written in bold at the start of the report of the proceedings of the animal protection group round table is the statement that all of the groups were ‘opposed to the use of animals in any scientific procedure likely to cause the animals pain, distress or other suffering’ (Boyd Group, 2004: 23).

How transformative?

Managing moral conflict through a strategy of economizing moral disagreement is one thing, a genuine transformation of views so that this conflict is significantly reduced is quite another. As one might expect, given the partisan nature of the BG, there is little evidence that deliberation has had a genuinely transformative effect on the views of the participants. The published reports of the BG reveal very little evidence of a significant shift in views on the substantive issues, with the dominant means of managing moral conflict being a recognition of difference. This is confirmed by evidence from the participants. Stephen Clark comments, for instance, that ‘I’m not sure that anyone ever moved from their root convictions’ (e-mail communication 26 February 2014). Certainly, any attempts (by Les Ward in particular) to go beyond these issues to consider the central question of the value of using animals in medical research, and the identification of reduction targets, was met with a return to the trenches. In 2002, Ward had commented, ominously, that there were still people in the BG ‘who are holding entrenched positions’ (House of Lords, 2002: q. 1384), and it was the ‘stalemate’ resulting that provoked, at least in part, Ward’s decision to leave the BG in 2006 (interview with Les Ward, 19 February 2014).

That is not to say, however, that deliberation has had no impact on the participants, or the way in which the debate about animal research has been conducted. In the first place, there is some, anecdotal, evidence of a shift in attitudes, if not on the substantive issues then certainly on how the participants regarded each other. In an anonymous survey of members' views, for instance, one participant said that 'I've had my beliefs and preconceptions challenged', another that participation in the BG had 'forced me to look at the issues in a different way and has changed the nature of debates within my organisation. We are more willing to listen to the anti-vivisectionist point of view and to respect it' (information provided by Jane Smith).

In addition, there is evidence too, that the participants regarded decisions taken by the BG as legitimate, even if they disagreed with them. For example, Colin Blakemore was 'not happy' with the decision to support the banning of the use of Great Apes in medical research, believing instead that a harm-benefit analysis should be used in the case of all animal use (AR Zone, 2011), and was also critical of some aspects of the BG's decisions on the local ethical review process. However, he was prepared to accept the decisions that he had 'signed up to' (House of Lords, 2002, q. 973).

It is important, too, to note the climate existing when the BG first met in 1992. This was one of hostility and suspicion, particularly on the side of scientists (and not least Blakemore himself who had been the target of threats of violence from the extremes of the animal rights movement). Participants joined the BG, therefore, with not a little apprehension about facing their opponents around a table. In this context, getting advocates from both sides to sit down and talk together in a polite, reasoned and calm manner – irrespective of whether their views on the issues changed too – might be regarded as something of an achievement. As Blakemore remarked: 'It may not produce always complete agreement but it is very, very difficult to continue to hate someone ... if you have sat for two or three hours opposite them around a table, drinking a cup of tea, thrashing out the basis of the differences of opinion' (House of Lords, 2002: 965).

In addition, there is some evidence confirming the claim sometimes made (Morris, 2006) that the supporters and practitioners of animal research are able to be more critical of some practices in a closed deliberative arena than would be the case in a public debate. For instance, in the deliberation on severity categories, the participants in the round tables representing licence holders and veterinarians reported that they were dissatisfied by the severity categories used by the Home Office to classify scientific procedures. In the case of the former, it was recognised that the Home Office's practice of publishing (in

the annual statistical review of scientific procedures on animals) an average prospective severity banding for each project, without stipulating the actual severity of the procedures on individual animals, was little short of meaningless (Boyd Group and the RSPCA, 2004: 7). In the case of the latter, it was ‘generally agreed’ that assigning severity bandings at times ‘can feel rather arbitrary’ and that overall severity bands for projects ‘are of little or no use in practice’ (Boyd Group and the RSPCA, 2004: 37-9).

The fact that some disagreements still existed on what might be regarded as peripheral issues indicates that there was little movement amongst those who regarded scientific procedures on animals as essential. Nevertheless, a large degree of consensus was reached, as we saw, on issues such as the testing of household products and cosmetics, the use of non-human primates, and the role of local ethical review processes. Blakemore regarded such progress as ‘quite remarkable’ (House of Lords, 2002: 965) which, whilst something of an exaggeration, does perhaps reflect how far apart the members were when they first met around the deliberative table. It is apparent that Colin Blakemore played a dynamic role in persuading wavering members of the BG to accept the need for some movement on, for example, cosmetic testing and local ethical review (interview with Les Ward, 19 February 2014).

The discussions on the EU’s proposed new Directive on animal research in 2010 (conducted as part of the Government’s consultation exercise) reveals, it might be argued, how far the BG had come. By this time, its membership had evolved considerably (the two founders having left) but the deliberative approach was now well established. In the view of Jane Smith – a key organiser of, and participant in, the BG from its early days – the result of deliberation on the Directive did ‘show quite considerable movement ... in some areas that might not have been expected’ when the debate began (interview with Jane Smith 21 January, 2014). This, in particular, refers to the local ethical review process. The EU Directive stipulated that national regulative regimes must include an animal welfare body (AWB) in every research establishment. This proposal, however, was a much weaker version, in terms of membership and function, of the ethical review process (ERP) already in place in the British regulatory regime. The Directive stipulated that AWBs must contain a minimum of only two members and there was no requirement that they play an ethical role in assessing project licenses by weighing up the harms to the animals against the likely benefits of the research.

‘Considerable discussion’ on these regulatory issues ensued in the BG (Boyd Group, 2010: 24). In Smith’s view, the ‘bold’ statement that resulted was unexpected (interview with Jane Smith 21 January, 2014). There was not complete consensus, but the ‘general feeling’ of the BG was that the

ethical function should remain on the grounds that it would be ‘difficult to see how establishments can exercise responsibility for animal welfare ... without providing an opportunity for relevant staff to see and discuss license applications’ (Boyd Group, 2010: 24-5). Likewise, it was agreed that AWBs ought to have more extensive memberships than the minimum requirement set out in the Directive so that they can contain ‘a range of local perspectives and expertise’ (Boyd Group, 2010: 24).

It is important not to make too much of the near consensus emanating from the BG deliberation on the regulatory process. For one thing, it was, in effect, decided to maintain the status quo which for many animal advocates, of course, is entirely unsatisfactory. On the other hand, this was an opportunity for scientist and industry participants in the BG to suggest weakening what many of them regard as the unnecessary bureaucracy of the ERP. It is clear that there was a difference of opinion on this in the BG deliberations which were examined in some depth (Boyd Group, 2010: 25). Much of this seemed to revolve around the key question of the role to be played by ethics in the regulatory procedure, with some (the minority it seems) using the absence of local ethical consideration in the Directive as a justification for recommending its removal from the British regulatory regime, and those (the vast majority it seems) who recognised that ‘ethical judgements are a necessary part of developing a culture of care’ (Boyd Group, 2010: 25). The fact that the vast majority of the participants in the BG deliberation (consisting mostly of scientists and industry representatives) recognised the importance of ethics might be regarded as an example of deliberation resulting in a more favourable outcome for those concerned about animal protection than what otherwise might have been the case.

5. Conclusion

The experience of the BG does demonstrate, to a certain extent, the value of deliberation. It has had the effect of softening some of the views and attitudes of the participants, it has facilitated some compromises and it provides a useful guide to the methods available to those wishing to manage moral conflict. In the final analysis, however, what the BG has not done, unsurprisingly, is to produce consensus on the fundamental issue of the use of animals in scientific procedures.

It is, of course, a problem that consensus was only reached on more peripheral issues as it reflects a failure to confront the really difficult issues, a pattern which, it is claimed, is endemic in animal experimentation ethical review committees (Poort, Holmberg and Ideland, 2003). However, to be fair, reaching consensus on the fundamental question, of whether it is ethically permissible to use animals for

scientific purposes, is a tall order in such a partisan body, and was never the intention in any case. It does add support, though, to Parkinson's 'somewhat pessimistic' conclusion that 'one can only have good deliberation on things which do not matter all that much', at least to the participants (Parkinson, 2006: 19).

The big unanswerable question is what impact there could have been had the big anti-vivisectionist, and other animal rights, groups been prepared to join formally. Some, such as Les Ward, regarded their refusal to participate as a missed opportunity. Others argue that the effect would have been, at best, to result in the BG becoming an unworkable and short-lived experiment, and, at worst, to the co-opting and constraining of oppositional views, thereby damaging the anti-vivisection cause (interview with Andrew Tyler, 16 May 2014). What we can say is that the claim, that the BG had a pre-set agenda in favour of animal research, is not supported, as we have seen, by the evidence. All positions were given equal opportunity to be expressed in BG meetings and inordinate care has been taken to ensure that an abolitionist objection to the decisions taken has always been expressed, when requested, in the BG's published reports.

Of course, the motivation of participants is open to interpretation. On the one hand, it could be that some, or indeed the majority, of the scientific and industry representatives in the BG have sought to involve animal advocates in order to explain to them the error of their ways. Insofar as this was the primary motive then it is, of course, inconsistent with the open-mindedness that is required by deliberative theory. A suspicion that this was Blakemore's real motive is illustrated by a journalist who writes about him in the following terms: 'Blakemore never ceased to believe in the possibility of rational discussion, of dialogue. He felt and still feels that if people knew the facts about animal research ... all but the most extreme opponents could be convinced of its necessity' (Klotzko, 2002).

A more generous interpretation has advocates of animal research, such as Blakemore, seeking a genuine conversation with anti-vivisectionists in order to break the stalemate of the adversarial debate on the issue that would otherwise continue. In this sense, Blakemore was right when he pointed out that the whole point of the BG is to 'search for ways of reducing, refining or replacing animals' and that it would be 'inconceivable at a gathering, even of scientists alone, where you could say, yes, we think there should be more animal research' (House of Lords, 2002: q. 969). The counter-factual nature of the question means that we will never know whether the participation of the main anti-vivisectionist

organisations would have made any difference to the outcome of BG discussions. Of course, the BG is still active and, perhaps – in a new, very different, era – its promise may yet be more fully realised.

Notes

1. The literature on deliberative democracy is too extensive to cite in full. The fact that there are so many edited collections on the subject is indicative of its resonance in political studies. The most notable are: Benhabib, 1996; Besson and Marti, 2006; Bohman, and Rehg, 1997; D'Entreves, 2002; Elster, 1998; Elstub and McLaverty, 2014; Fishkin and Laslett, 2003; Macedo, 1999; Saward, 2000.
2. Some examples are Davidson and Elstub 2014; Dryzek, 2000; Farrell, O'Malley, and Suiter, 2013; Fishkin and Luskin, 2000; Fung and Wright, 2001; Goodin, 2000, 2002; Parkinson, 2006; Steiner et. al., 2004.
3. Evidence for Blakemore's commitment to inclusivity is provided by a fascinating correspondence he had with Andrew Tyler, Director of the animal rights group Animal Aid, between July 1996 and April 1997. In numerous, fairly lengthy, letters – some of which are cited in this article – Blakemore sought to persuade Animal Aid to participate by seeking to rebut Tyler's objections to the BG. The letters were made available to me by Tyler, and it is clear from the content that both men were happy for the content to be made public.
4. The obvious retort here is that a deliberative model that does not directly include the interests of non-humans fails, by definition, to treat them with respect. It is beyond the scope of this article to consider what a 'species-neutral' deliberative model would look like, but see Donaldson and Kymlicka (2011) and Garner (2016) on this.
5. In the event, the Labour Government announced, in 1998, a ban on the use of animals to test cosmetic ingredients as well as the finished product.
6. The 1986 Animals (Scientific Procedures) Act established a dual licensing system whereby, in order to conduct research using animals, a personal licence (reviewed every five years) and a project license permitting particular procedures, is required.
7. Under the auspices of the 1986 (Scientific Procedures Act) a 'severity banding' of animal research was introduced. Procedures are designated as involving mild, moderate or substantial suffering. Not only is there a lack of clarity over what these categories mean, but the banding is determined prior to the actual procedures, and, as all of the sub-groups in the BG deliberation agreed (Boyd Group and RSPCA, 2004:

3-4), the practice of providing a severity banding of projects (based on the experience of the average animal) is misleading and ethically dubious.

References

- AR Zone (2011) Transcript of interview with Colin Blakemore, 19 February (<http://arzone.ning.com/profiles/blogs/transcript-of-prof-colin>)
- Benhabib, S. (ed.) (1996) *Democracy and Difference*, Princeton: Princeton University Press
- Besson, J. And Marti, J. (eds.) (2006) *Deliberative Democracy and its Discontents*, Aldershot: Ashgate
- Bohman, J. (1998) ‘Survey Article: The Coming of Age of Deliberative Democracy’, *The Journal of Political Philosophy*, 6, 4, 400–25
- Bohman, J. and Rehg, W. (eds.) (1997) *Deliberative Democracy: Essays on Reason and Politics*, Cambridge, MA: MIT Press
- Boyd Group (1995) ‘Ethical Review of Research Involving Animals: A Role for Institutional Ethics Committees (made available to me by Dr Jane Smith)
- Boyd Group (1998) ‘The Use of Animals for Testing Cosmetics – A discussion paper from the Boyd Group (made available to me by Dr Jane Smith)
- Boyd Group (1999) ‘Genetic Engineering: animal welfare and ethics. A discussion paper from the Boyd Group (made available to me by Dr. Jane Smith)
- Boyd Group (2001) ‘Review of the Ethical Review Process: Comments from the Boyd Group’ (made available to me by Dr. Jane Smith)
- Boyd Group (2002) ‘Boyd Group Papers on the Use of Nonhuman Primates in Research and Testing’ (made available to me by Dr. Jane Smith)
- Boyd Group (2002a) ‘The Use of Animals in Testing Household Products: A Discussion Paper and Statement of Principle’ (made available to me by Dr. Jane Smith)
- Boyd Group (2002b) ‘A National Centre for Alternatives: Comments from the Boyd Group on the House of Lords Select Committee’s Proposals for a Centre for the Three Rs’ (made available to me by Dr. Jane Smith)

- Boyd Group and the RSPCA (2004) 'Categorising the Severity of Scientific Procedures on Animals', RSPCA Research Animals Department (made available to me by Dr. Jane Smith)
- Boyd Group (2010) 'Consultation on Options for the Transposition of European Directive 2010/63/EU on the Protection of Animals Used for Scientific Purposes: Response from the Boyd Group' (made available to me by Dr. Jane Smith)
- Cressey, D. (2011) 'Animal research: Battle scars', *Nature*, 470, 452–3
<http://www.nature.com/news/2011/110223/full/470452a.html>
- Davidson, S. and Elstub, S. (2014) 'Deliberative and Participatory Democracy in the UK', *British Journal of Politics and International Relations*, 16, 3, 367–85
- D'Entreves, M. (ed.) (2002) *Democracy as Public Deliberation: New Perspectives*, Manchester: Manchester University Press
- Donaldson, S. & Kymlicka, W. (2011) *Zoopolis: A Political Theory of Animal Rights*, New York: Oxford University Press
- Dryzek, J. (2000) *Deliberative Democracy and Beyond: Liberals, Critics and Contestations*, Oxford: Oxford University Press
- Dryzek, J. (2000a) 'Discursive Democracy vs Liberal Constitutionalism' in M. Saward, (ed.) *Democratic Innovation: Deliberation, Representation and Association*, London: Routledge, 78–89
- Elster J. ed. (1998) *Deliberative Democracy*, Cambridge: Cambridge University Press
- Elstub, S. and McLaverty, P. (eds.) (2014) *Deliberative Democracy: Issues and Cases*, Edinburgh: Edinburgh University Press
- Elstub, S. (2014) 'Mini-publics: Issues and Cases' in S. Elstub, and P. McLaverty (eds.) (2014) *Deliberative Democracy: Issues and Cases*, Edinburgh: Edinburgh University Press, 166–88
- Farrell, D., O'Malley, E. and Suiter, J. (2013) 'Deliberative Democracy in Action Irish-style: 'The 2011 We the Citizens Pilot Citizens' Assembly'', *Irish Political Studies*, 28, 1, 99–113
- Fishkin, J. and Luskin, R. (2000) 'Bringing Deliberation to the Democratic Dialogue' in M. McCombs (ed.) *A Poll with Human Face: The National Issues Convention Experiment in Political Communication*, Mahwah NJ: Lawrence Elbaum, 3–38

- Fishkin, J. and Laslett, P. (eds.) (2003) *Debating Deliberative Democracy*, Oxford: Blackwell
- Fox, F. (2012) 'Animal research is brave, not cruel, science', *Guardian*, 28 September
<http://www.theguardian.com/commentisfree/2012/sep/28/animal-research-brave-not-cruel-science>
- Fung, A. and Wright, E. (2001) 'Deepening Democracy: Innovations in Empowered Participatory Governance', *Politics and Society*, 29, 1, 5–42
- Garner, R. (2016) 'Animals and Democratic Theory: Beyond an Anthropocentric Account', *Contemporary Political Theory*: DOI: 10.1057/s41296-016-0072-0, 1–19
- Garrett, J. (ed.) (2012) *The Ethics of Animal Research: Exploring the Controversy*, Cambridge, MA: MIT Press
- Goodin, R. (2000) 'Deliberation Within', *Philosophy and Public Affairs*, 29, 1, 81–109
- Goodin, R. (2002) *Green Political Theory*, Cambridge: Polity Press
- Gutmann, A. and Thompson, D. (1996) *Democracy and Disagreement*, Cambridge, MA: Harvard University Press
- Hendriks, C., Dryzek, J. and Hunold, C. (2007) 'Turning Up the Heat: Partisanship in Deliberative Innovation', *Political Studies*, 55, 362–83
- House of Lords (2002) Select Committee on Animals in Scientific Procedures, Oral Evidence (<http://www.publications.parliament.uk/pa/ld/ldanimal.htm>)
- Klotzko, A. (2002) 'Colin Blakemore', *The Scientist*, April 15
- LaFollette, H., and Shanks, N. (1996). *Brute science: Dilemmas of animal experimentation* (London: Routledge)
- Linzey, A. and Linzey C. (eds.) (2015) *Normalising the Unthinkable: The Ethics of Using Animals in Research*, Oxford: Oxford Centre for Animal Research.
https://www.researchgate.net/publication/280718607_Normalising_the_Unthinkable_The_Ethics_of_Using_Animals_in_Experiments
- Lyons, D. (2013) *The Politics of Animal Experimentation*, Basingstoke: Palgrave Macmillan

- Macedo, S. (ed.) (1999) *Deliberative Politics: Essays on Democracy and Disagreement*, Oxford: Oxford University Press
- Marti, J. (2006) 'The Epistemic Conception of Deliberative Democracy Defended: Reasons, Rightness and Equal Political Autonomy' in J. Besson, and J. Marti (eds.) *Deliberative Democracy and its Discontents*, Aldershot: Ashgate, 27–56
- Masood, E. (1997) 'Animal researchers should "start talking" to anti-vivisectionists', *Nature*, 389, 5
- Morris, E. (2006) 'Animal Research: Grey Matters', *Nature*, 444, 808–10
- Parkinson, J. (2006) *Deliberating in the Real World*, Oxford: Oxford University Press
- Poort, L., Holmberg, T., & Ideland, M. (2013) 'Bringing in the controversy: Re-politicizing the depoliticized strategy of ethics committees', *Life Sciences, Society and Policy*, 9, 11, 1–13
- Saward, M. (ed.) (2000) *Democratic Innovation: Deliberation, Representation and Association*, London: Routledge
- Smith, G. and Wales, C. (2000) 'Citizens' Juries and Deliberative Democracy', *Political Studies*, 48, 51–65
- Squires, J. (2002) 'Deliberation and Decision Making: discontinuity in the two-track model' in M. D'Entreves (ed.) *Democracy as Public Deliberation: New Perspectives*, Manchester: Manchester University Press, 133–56
- Steiner, J., Bachtiger, A, Spordli, M and Steenbergen, M (eds.) (2004) *Deliberative Politics in Action: Analysing Parliamentary Discourse*, Cambridge: Cambridge University Press
- Weale, A. (2001) 'Can We Democratize Decisions on Risk and the Environment?', *Government and Opposition*, 36, 3, 355–78