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Enacting Democracy

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The move 'beyond deliberative democracy' seems to have begun over five years ago; certainly it gathers pace¹. This paper sketches a new approach to democratic theory which draws on provocative aspects of the deliberative turn, among other resources. It seeks to join current debates about the radical reshaping of democracy, and as such it is a product of 'interpretive reason'. As Bauman puts it, interpretive reason 'is engaged in dialogue where legislative reason strives for soliloquy' (1992: 126). Legislative reason involves the philosopher's untrammelled 'licence to judge' and to impose; interpretive reason centres on the acceptance of the inevitability of pluralism and 'the undecidability and inconclusiveness of all interpretation' (Bauman 1992: 117;131). I would not want to push the distinction too far, but the intention is clear enough: to open up existing lines of innovation in democratic theory to mutual enrichment via mutual engagement.

The new approach I sketch is distinctively *proceduralist*: it is focused on the shaping of binding collective political decision-making procedures, and it accepts outcomes as legitimate if they have been produced by a certain procedure. It is also *reflexive*, in that it regards political principles, mechanisms and institutions as open to constant change and adjustment of their meaning and importance. Democracy can and will be and mean different things in different times and places (countries, cultures). These things follow from the proceduralist focus and reflexive character of deliberative models, but the latter too often take an unduly limited view of procedural possibilities – dismissing out of hand so-called 'aggregative' models, and ignoring direct democracy, for example - and how they might complement and lend legitimacy to each other. My approach is also, I trust, ecumenical; deliberative, direct, participatory, ecological, difference, cosmopolitan and representative democrats may all find reasons to work with something like it to broaden their conceptions or models of democracy. The modest motivation behind it is to contribute to efforts to build on the innovative ideas and energy of democratic theory today by spinning a range of threads into a new perspective on democracy which reflects social complexity, including the complexity in the meaning of democracy itself, and points the way to a deepened democratic practice by forging certain links between ideals and practical mechanisms.

¹ See Young (1996), Dryzek (2000).

Sketching reflexive proceduralism

Reflexive proceduralism consists of a cluster of (a) principles of , (b) devices for, and (c) phases of democratic decision-making. I shall discuss briefly each in turn, though as I hope becomes clear, the ways in which the three are intertwined is the key.

Principles

I put forward four principles which I suggest lie at the heart of democracy (though these are not the only possibilities): *political equality*, *inclusion*, *expressive freedom* and *transparency*. I will not mount an extended defence of this selection. Briefly, *political equality* because no system can be minimally democratic without institutionalising equality between citizens in some substantial way. *Inclusion* follows from political equality, but is entered here on its own because only an inclusive, involving form of institutionalising political equality can be acceptable democratically. *Expressive freedom* because the right to make one's choices in an uncoerced manner does not automatically follow from the previous two principles, and is yet critical to a self-respecting democracy. And *transparency* because equality, inclusion and freedom must be seen to be done². So, a process of mutual implication ties each of these four to each of the others with various degrees of strength and clarity. Inclusion, for example, follows from political equality: systematic exclusion *in any form* will violate any robust conception of political equality³.

Further to clarification of principles through the terms of their mutual implication, the approach I adopt holds that the detailed and practical meaning of , and justifications for, the principles can only be worked out in their institutionalisation, embodiment in systems and actions, and coherence with other compelling principles.

In this sense, the names of the principles are conceded to be convenient placeholders for a bundle of meanings, each of which may only be invoked by also invoking other principles, and institutions or devices that might embody and bring them to life. This approach runs against common assumptions about principles as the basis for conceptions of democracy. A common approach is deductive: equality for example can be deduced from a deeper religious (or even contractarian) foundation, and in turn institutions and practices can be deduced from the principle⁴. By contrast, my approach stresses how principles, institutions and devices are turned *inward* towards each other, gaining vitality and meaning from each other, as ideas and as concrete political practices, without reference to some philosophical 'outside' which can justify and define the principles with finality.

² This set only looks (marginally) different from, for example, Gutmann and Thompson's set of three procedural, three substantive principles for their theory of deliberative democracy (1996). I would argue, for example, that political equality, the root principle of democracy, is the basis of any invocation of reciprocity, publicity and accountability (their three process principles). See Young (1999; 2000) for arguments that inclusion ought to be added to Gutmann and Thompson's process principles.

³ This approach dovetails with another which emphasises the *coherence* of a system of principles as contributing positively to the moral force of the system they constitute. See for example Dworkin's (1975) comments on Rawls' theory.

⁴ This is the approach taken influentially for example in Dahl (1989), also pursued in Saward (1998).

In this respect, reflexive proceduralism is antifoundationalist⁵. Insofar as there *are* external referents which contribute to the production of meanings, these may include *other* principles which have acknowledged resonances with democracy. In this respect, the four principles I have noted briefly do not necessarily form a stable set of ‘core’ democratic principles; one might mention, for example, Beetham’s (1999) elaboration of ‘popular control’, or the foundational role of ‘autonomy’ for Held (1995). In certain normative and institutional contexts, these may successfully be articulated as core democratic principles. A given set of democratic principles will be a dynamic rather than a static set because, in semiotic terms, the potential principles and ‘democracy’ itself are both signifiers (of each other, in various ways) and signifieds. They operate within chains of signification (or meaning-generation) in which no privileged point of entry can be stipulated so as to dictate the parameters of political discourse⁶.

‘Antifoundationalism’ is not just jargon; it matters, because it stresses the principles and practice of democracy as things *we* conceive, make, argue about and revise – constantly – in part because their cannot be a final end, a grounding version of an indisputable principle to stop all legitimate dispute⁷.

Let’s fill out this view a little further.

Commentators of all persuasions within the broad church of democratic theory – from Schumpeterians to radical participationists – agree that political equality is a basic principle of democracy. Does it mean equal rights protection by courts? Equal votes? Equal opportunities to stand for office? Equality of resources that underpin citizenship capacities? Equal (negative) freedom? Equal opportunities, even if this means unequal resources? Or any one of a range of further possibilities, in combination with some or all of the above, in a certain order of priority? It is unlikely any ‘higher principle’ will rescue us from interpretive overload; it is precisely the irreducibly multiple referents of the principle of equality in itself that leads us to ask

⁵ In this I follow Rorty (1996: 333-4) when he writes: ‘the antifoundationalist’s central claim is that attempts to ground a practice on something outside the practice will always be more or less disingenuous. . . the object outside the practice, the purported foundation, is always just a hypostatisation of certain selected components of that practice’.

⁶ Political theorists, and political leaders, *will* of course continue to stipulate variations along the lines of ‘What democracy really means is *x*’. Their efforts taken together add to the richness of democratic possibility at a general level – despite the drive to closure and restriction that any one such effort represents - though some stipulations will carry more authority than others by virtue of resonances with other principles, familiar and successful devices, and further political-cultural features.

⁷ There are two argumentative strategies one might follow as a consequence. One is to offer arguments that are as strongly foundationalist as one can manage, accepting all along that any such argument is rendered fallible not least by the elusive and metaphorical nature of the language that must be used to express it. Thus, one can simply say ‘here is my argument, with foundations as abstractly compelling as I can make them. I join the democratic conversation with it, alongside the rest of you’. This could be said to be what Rawls does with *A Theory of Justice* (1972) – on a certain reading of the nature of ‘reflective equilibrium’, anyhow. Certainly it is what Walzer (1981) criticises Rawls and others for *not* doing, as he sees it. A second approach is to bring in more self-consciously the unavoidable contingency of, for example, the meaning and justifiability of a principle such as political equality, or expressive freedom, into one’s reasoning. Clearly the language I use here reflects that employed in Walzer’s *Spheres of Justice* (1983), where something along these lines is famously attempted.

more specific questions about its meanings. Yet we know political equality is critical to what we call democracy⁸.

Inclusion, too: but how, to what extent, for how long, and to what effect? Which aspect of political equality is driving our view of inclusion? Expressive freedom and transparency, arguably, are slightly more straightforward; but each admits of degrees, to say the least.

The defence and clarification of the principles cannot take place simply at the more abstract level of principled argument. Indeed, it is fundamental to reflexive proceduralism that principles gain much of their recommendatory force and contextual meaning from successes and stresses in the operation of the devices informed by them. The provisional meanings of principles derive from particular practices, including but never confined to processes of abstract reasoning. For example, the meaning and attractiveness of the principle of *inclusion* will shift as (variously) statistically representative bodies and popular policy referendums, embodying different interpretations of the principle, are stressed in a given democratic procedure. Likewise, to define appropriate phases which a democratic outcome must have passed through to be legitimate will be to give determinate though provisional content to one or more of reflexive proceduralism's principles.

With these principles, any effort to pin down a single, superior meaning – such as equality of voting power for political equality – is not unreasonable, but will never be able successfully to exclude other credible meanings (and with them alternative devices and institutions designed to embody or realise the principle). Accordingly, and in line with my comments about the inward-looking and mutually implicative process of giving content to principles, we can say that *principles are primarily things that we do, rather than rights or statuses that are conferred*⁹. To act on a principle of equality is (contribute to an intersubjective process of) giving it meaning, giving it life and referents in specific settings. To question morally a taken-for-granted institution (such as a monarchy) is to 'perform' a principle, and to (re)create it in performance.

To be sure, a suggested meaning and form of institutionalisation for a principle such as political equality cannot be stretched beyond certain conceptual and practical boundaries; there will be instances of manifestly unequal treatment of people that must violate any reasonable interpretation of the principle – apartheid is an obvious case. But an obvious question would be this: if the meanings of democracy vary according to how principles and devices are articulated and enacted in different

⁸ Traditional liberal democratic theory defines political equality in formal, numerical and aggregative terms (e.g. Dahl 1989); deliberative democrats stress equal respect within and equal access to deliberative forums (e.g. Cohen 1989). The false, wholly artificial separation between aggregative and deliberative approaches to democracy has hidden ways in which both interpretations – and their institutional embodiments - respond to a compelling feature of political equality as a guide to political practice. These, and other, interpretations can be brought together within the broad framework of a reflexive proceduralism.

⁹ Here I draw loosely on Judith Butler's approach to 'gender'. Butler writes that '...the substantive effect of gender is performatively produced... gender is always a doing, though not a doing by a subject who might be said to pre-exist the deed... There is no gender identity behind the expressions of gender; that identity is performatively constituted by the very 'expressions' that are said to be its results' (Butler 1990: 24-5).

contexts, and if there is no ‘master’ meaning, then how can ‘boundaries’ to the application of the term be fixed or even credibly mentioned?

My response would be that there are boundaries to the reasonable interpretation of democratic principles (and therefore of democracy), but that the precise nature and location of those boundaries is dynamic, and not a fixed affair¹⁰. Political equality can mean (or be enacted as) many, overlapping things in different (and even the same) contexts, but it cannot mean just anything, anywhere. More specifically, a given interpretation, or attempted enactment, of a principle such as political equality may fall beyond the boundaries of reasonable interpretation of the principle if it lacks ‘resonance’ on three levels. First, a lack of resonance between the given interpretation and how that or related political principles tend to be articulated within a local or particular political culture will suggest a boundary. Second, a lack of resonance with broader, prevailing theories and assumptions about politics and people, be they contemporarily dominant or subordinate, will raise questions about reasonable interpretation. Thirdly, a lack of resonance or ‘fit’ between a particular political device (as discussed below) and the principle or principles it is supposed to enact will tend to define a boundary to reasonable interpretation¹¹. And finally, a lack of resonance with broadly accepted systemic and natural constraints on democratic practices (such as the ‘economy of time’ – see Beetham 1999: 39-44) will cast a given interpretation as unreasonable on the face of it.

In these respects, principles can be articulated and enacted in a variety of ways, but in nothing like an infinite variety of ways. A common approach in political theory is to attempt to stipulate a *literal* or proper meaning for a political principle. Behind this strategy is the assumption, normally unspoken, that a given political principle will or does have one, proper, meaning¹². Like a dictionary definition, the denotation of given terms can be precise and presented as fixed (for the time being at least). The opposite of the literal approach is what we might call the *abstract* strategy. This alternative involves denying that anything specific or bounded is necessarily signified by naming a principle; anything goes in a system of radically relativist interpretation and reinterpretation of principles. By writing of layered resonances as I have, I am attempting to locate between these extremes what we might call in turn a *figural* approach to the boundaries of reasonable interpretation. According to this view, a political principle will provoke varied interpretations depending on shifting conventions of what actions or institutions ‘fit’ with the principle, but conventional codes will at least produce a delimited *set* of possible interpretations – a recognisable representation of a ‘figure’ that can be understood in varied ways, as it were. In this vein, for example, political inclusion can mean many things – varied connotations will

¹⁰ It is noteworthy that efforts to specify the democracy/non-democracy boundary become more narrowly focused on one or two institutions (such as electoral turnout) as they aspire to more precise specifications of the boundary. Operationalisation gets in the way of sensitivity to difference and the rich instability of meaning.

¹¹ Gledhill (2000: 75) mentions a useful historical example. Nineteenth century Latin American plantation owners led by Simon Bolivar had little choice but to oppose slavery because as an institution it was ‘too incompatible’ with the modern republican model derived from French revolutionary influences which they otherwise drew upon.

¹² As Shapiro writes of justice theorists in recent decades: ‘Their arguments often appear to take it for granted that there is a correct answer to the question what principles of justice we ought to affirm ... ‘ (1999: 3).

escape stipulative attempts to stop at a single denotation¹³ – but it cannot mean just anything. Seeking enactment of a principle in a particular way by deployment of a political device (such as a referendum – see discussion below) or a sequence of such devices may strengthen particular meanings but not dampen down entirely alternative or subversive meanings. Where literal strategies are aimed at objectivity, and abstract ones at an atomistic subjectivity, figurative approaches stress an intersubjective bounding of acceptable meanings of principles.

There remains real ambiguity here, but it is ambiguity that is unavoidable. A constant temptation of political theorists is to be stipulative about the boundaries to reasonable interpretation of principles – and of course of democracy itself. Often, locutions such as ‘most reasonable people could accept that equality could not be taken to mean ...’ are used by theorists and others to frame such stipulations. Life is easier with such stipulations, but political theory is more reasonable without them. That, at least, is the burden of attempting to avoid ‘legislative reason’. That said, it is clear that *some* of the considerations that may go into understanding the dynamic boundaries of the reasonable interpretation of principles are more than local, e.g. to do with natural and systemic constraints and cross-contextual norms concerning meanings and applications of principles. In this respect, at least, adopting a reflexive proceduralist approach involves adopting a *relativising* perspective, but not a relativist one (cf Gledhill 2000).

A closely related question – and one that a reflexive proceduralist approach likewise renders difficult in very interesting ways – is: What can make democratic principles, such as the four I cite above, *compelling*? No foundational goodness or rightness or self-evidence is available to us in our efforts to respond – or so I have argued. Here, we can pinpoint a number of overlapping potential responses, namely some combination of (a) the attractions of the boundaries to their reasonable interpretation, (b) the complex process of mutual implication which binds them together, (c) their cohering with or derivation from other principles outside this democratic set which are in specific ways seen as compatible and desirable, (d) widespread positive experience with their specific institutional embodiment, and (e) their capacity to enervate and engage citizens in specific settings¹⁴. But since these principles are

¹³ See Barthes’ *S/Z* (1974) on the interplay between denotation and connotation and the inevitably disruptive effect of connotative meanings.

¹⁴ I press no further here the larger issues of the justification of democracy. If principles are to be articulated with many possibilities on the table, and with uncoerced debate over their potential meanings and applications, then democratic openness is indeed desirable in general terms (see John Barry’s approach to ‘sustainability’ – 1996: 118-20). Elsewhere I have attempted to show how fallibilism itself can be the key part of an argument that can provide democracy with robust theoretical foundations that are variously epistemic, and consequentialist (Saward 1998). Some may still object that (e.g.) exclusive racist ‘principles’ may meet the criteria I have set out. If an irrefutable deduction of the superiority of democracy to other political forms were possible, it would (a) not have prevented Srebrenica, and (b) would not end the arguments over the value and character of democracy. The clear difficulties involved in writing about democracy in a recommendatory fashion from an antifoundationalist position are simply unavoidable, and we must face the consequences (the uncertain status of our recommendations) as best we can. As Anne Phillips writes, ‘We can hardly stake the universality of our principles on the fear of what would happen if we abandoned this claim. The case against foundationalism cannot be countered by arguments of an instrumental nature, for if ever the ‘preference’ for firm foundations is revealed as such (we “need” universal principles, we “need” a secure vantage point from outside), the case collapses on itself. We cannot appeal to the consequences

things we do, things defined and refined and disputed as an ongoing part of political life, we cannot be more definite than this – though I would maintain that these guides are not insignificant. Here we must move from democratic principles to the devices which embody them - and which at the same time contribute critically to how we understand and value them. It is at this level where a reflexive proceduralism may be most distinctive, for the essence of proceduralism is that principles are put to work in institutions, rather than held in abeyance to judge outcomes in some pristine, above-the-fray fashion.

Devices

Political equality, inclusion, expressive freedom and transparency live through formal decisional mechanisms or devices which are designed to activate them *and* which come to be justified in terms of them. Their perceived utility as principles will largely rest on the performance of those devices. This is the essence of the reflexive relationship between principle and action.

An extraordinary feature of the literature on deliberative democracy has been its unwillingness to take an encompassing view of democratic sites, institutions and procedures. Mostly, key writers have recommended particular deliberative devices as epitomising or approximating their take on the deliberative ideal. Cohen (1989) descends from a lofty ‘deliberative ideal’ to the internal workings of political parties; Mansbridge (1996) looks to civil society and to ‘subaltern counterpublics’; Benhabib (1996) to these plus traditional parliaments; Fishkin (1991) to newly-devised ‘deliberative polls’ based on random selection; Dryzek (2000) bypasses the state for cross-border activist networks in transnational civil society.

Of course, since it has ‘come of age’ (Bohman 1998), deliberative democracy is *au fait* with elections, voting, liberal constitutions, and so on (though for example Dryzek dissents); but a systematic look at the potential role of a range of deliberative devices alongside others that may be ‘aggregative’ or reflective or informative – *in line with the principles which enfold the democratic ideal* - has not occurred. This is where a reflexive proceduralism should have a role. If, following the Arrow impossibility theorem, there is no such thing as an outcome that is not specific to the procedure that produced it, we can throw up our hands in despair, or . . . we can regard ourselves as liberated from certain unreasonable constraints in thinking about democracy. If all procedures are alike in that they cannot meet certain exacting standards of impartiality and fairness, then we are freed to design, manipulate, deconstruct and reconstruct systems of devices to forge procedures to enhance democratic ideals in particular places¹⁵. To do *that*, we need, initially, an array of devices at our disposal. A reflexive proceduralism will require multiple devices, sequenced so as to evoke and *enact* the democratic principles. These might include deliberative devices – such as deliberative polls, or citizens’ juries – but must also include a range of so-called ‘aggregative’ devices. In this sense, a successful rendering of democratic sequence under the broad rubric of reflexive proceduralism

as the basis for returning to foundationalist thinking; the only basis for this return would be the knowledge of sure foundations’ (Phillips 2000: 249).

¹⁵ Dealing with ‘thick description’ of places is vital. See the injunctions on political theorists in Geertz (2000), and Walzer (1994).

will be multi-dimensional against deliberative democracy's one- or two-dimensionality.

What might this amalgam – perhaps post-deliberative, more likely deliberative-plus - look like? Initially, what raw materials are available when we consider devices for a democratic procedure? A 'device' is a mechanism which plays a part in constituting a more-or-less formal procedure by which binding collective decisions are reached for a political community¹⁶. A long but radically incomplete list would consist of:

- an elected *parliament* with legislative authority
- implementational (and other) public *agencies*
- *public hearings, debates, and inquiries*
- *elections* for representatives
- *majority rule* as the key to interpreting elections and other votes
- *proportionality* as an alternative aggregative device for interpreting elections and other votes
- systems of *representation*
- the *citizens' initiative*
- the *referendum*
- *deliberative opinion polls*
- protected '*public spaces*' of civil freedom
- *delay or pause*
- *judicial review* through *independent courts* overseeing due process
- mixed in with various of these, *voting* itself (optional or compulsory)

Each of these admits of a number of variations (of types of election, deliberation, direct voting, and so on). For some, this is true to such an extent that we might want to say that they form a 'family' of sub-devices – for example when we speak of systems of representation. Note too that there are what we might call 'framing' devices, that is devices which give expression and coherence to a sequence of other, specific decision devices (votes, debates, scrutiny and so on) or determine the more fundamental relations that obtain between them. In this category we can speak, for example, of rule-establishing and rights-conferring constitutions, along with federation and confederation as devices which establish multi-level sequences with various modes of distribution of action and responsibility among the levels. Clearly a great deal more can and should be said in detail about levels and types of devices. However, my present aim is to sketch a broad picture of them so we might keep our focus on the major issue at hand – desirable directions for democratic theory today.

To continue in schematic vein, to raise issues of sequencing of devices is to suggest that a collective decision-making process will exhibit certain *stages*. Expressed in straightforward terms, we can posit four basic stages of a collective decision-making process: (1) agenda-setting, (2) debate and discussion, (3) the moment of decision itself, and (4) the moment of implementation¹⁷. Against this background, the single most important question when thinking through the new possibilities for democracy is this: *which devices, singly and in combination, enact desired interpretations of*

¹⁶ Schepsle (1996) writes of a 'technology of decision'.

¹⁷ This account is borrowed from Hyland (1995: 57).

democratic principles within and across the different stages of the decision-making process?

Single devices enact particular versions of democratic principles. *Voting* for representatives (under conditions of universal suffrage and majority rule) for example, evokes and enacts the aggregative and technical equality at the moment of decision which the principle of political equality contains. It only slightly indirectly enacts inclusion in the same way; majority rule implies that all must have a say at that moment in the decision procedure. On the other hand, for example, the device of the *referendum* offers a broader and more radical interpretation or enactment of the principle of political equality, since in principle it bypasses a more-than-equal group of representatives placing power in the hands or the votes of the primary community of citizens. A *deliberative poll*, too, offers an alternative way of enacting – and thus, as we have seen, of recreating – political equality. Here, the principle involves not so much an equal right to participate in a formal vote, as an equal opportunity to be selected to exercise an analogous right to participate in a specialist deliberative forum focussed on the issue at hand. Notice, too, that the deliberative poll's character would seem to 'locate' it in the 'debate and discussion' (or deliberative) stage of a larger decision procedure, thus challenging the centrality of formal and moment-of-decision enactments of the equality principle.

The principle of inclusion, looked at through the filter of multiple devices for its enactment, similarly takes on both a radically indeterminate and highly practical set of meanings. The electoral device of proportional representation as a way of designing voting procedures and implementing vote outcomes imparts a sense of inclusion as minimal material respect for the interests of all citizens regardless of the outcome of particular votes. Judicial review by contrast could be said to embody the principle of inclusion in that a conception of the citizenship rights all are equally bound to will be defended by it in the decision-making process. Various devices together potentially constitute the 'public sphere' in the Habermasian (1996) sense: protected rights help constitute spaces of free action by all outside formal state constraint, and these can achieve formal input into the making of binding collective decisions through electoral, initiative and other devices.

Likewise the principle of expressive freedom finds elaboration in and among the devices set out above. Free expression as performance or talk in protected public spaces; as voting without external impediment for one's preferred alternative; in making the views of experts and others available via such devices as public inquiries and deliberative polls. The principle of transparency is enacted in different guises by devices such as: public debates and open public inquiries (revealing – and at best revealing efforts to conceal – elite beliefs and motives); deliberative polls (providing one compelling way in which we can see if informed citizen views impact upon – for example – representatives' own deliberations and decisions); and of course elections themselves as providing a plausible answer to the question 'why is this person deciding things for me?'

The proto-theory being sketched here is *reflexive* in that we understand and modify its practices in the light of information about those practices; central to that information is the form(s) in which key democratic principles are enacted in and through those practices. But it is also reflexive in that it anticipates that democracy will be done

differently – with emphasis on different principles, enacted through distinctive combinations of devices – in different times and places. Democracy is not one-size-fits-all. That sort of Cold War rigidity has lost all credibility (though some minimalist democrats in political roles cling to it for convenience). We are accustomed to thinking of democracy as standard liberal representative democracy, with elections as by far the most important device. We will have to get used to it being different from this standard variety. We may be on the threshold of an explosion of democratic forms, with the present period of innovation and experimentation in democratic theory a prelude¹⁸.

Enacting democracy: an example of a sequence

I will offer one illustrative interpretation of the desirable ordering of devices for the making of collective decisions. This involves, of course, something along the lines of ‘legislative reason’ or stipulation within the more dialogical, interpretive framework. However, by offering this illustration and briefly describing some of its virtues and possibilities, I do not suggest this is how democracy ought now be understood. Framing the illustration with a meta-theory whose *raison d’être* is openness to new ideas and possibilities both provokes us to offer particular possibilities and to take care with the nature of the claims we are prepared to make on their behalf.

What if, instead of favouring the particular device beloved of direct, deliberative, associative or other prefix-democrats, we sequenced a range of devices to achieve a distinctive but clearly democratic effect? We aim to enact political equality, inclusion, expressive freedom and transparency in a number of guises, not as an academic plaything but for the democratic worth of what those enacted guises have to offer in the making of collective decisions.

Consider the following decision procedure. Protected free public spaces form the base of the sequence as an underlying feature. With respect to agenda-setting there are two possibilities: issues raised in representative forums by elected representatives, and issues pressed on those representatives via the device of the citizens’ initiative¹⁹. After, for example, the requisite requirements for a citizens initiative have been passed, a period of *delay* must be observed²⁰. A formal or constitutional device, delay will create incentives for informal debate and discussion in the free public sphere. At the end of the period of delay, by which time most often a range of views of

¹⁸ This is not to underestimate the variation in existing democratic systems. A number of countries, for example, constitutionalise ways to filter into their systems traditional or additional forms of authority – Iran through the Islamic Guardian Council, and Zimbabwe through reserved seats in the national legislature for appointed tribal elders. These and analogous cases are controversial in their own countries and outside; nevertheless it is wrong to claim that any such adaptations to context are necessarily anti- or non-democratic (see Saward 1996). Above and beyond these issues are, of course, the grand typologies of democratic systems which attempt systematic pigeonholing of the genuine variety of democratic forms, such as that of Lijphart (1999).

¹⁹ Direct democratic devices such as the citizens initiative and the referendum are routinely rejected by mainstream (e.g. Dahl 1989), and mainstream deliberative (e.g. Cohen 1989), democratic theorists. For advocacy of the deployment of these devices on a systematic basis for policy decisions from within reasonably conventional democratic theory, see Budge (1996 and 2000), Ackerman (2000) and Saward (1998).

²⁰ There will normally be a threshold requirement for the number of signatures that must be gathered for a citizens initiative to succeed in reaching the formal political agenda. In those states of the USA where the device is common, some percentage of the total vote in the previous presidential or gubernatorial election is often used, for example. See Cronin (1989).

indeterminate strength will have been tossed about in the press, on TV, and so on in a more or less chaotic fashion, a period of deliberation. Deliberation could take place which ranges (a) from the advisory to the recommendatory, (b) from the formal/state to the informal/nonstate, (c) from the local to the national²¹. Key forums will be the representative parliament, equivalent bodies at subordinate territorial levels, and the deliberative poll, bringing together a representative sample of citizens to deliberate on the issue with access to experts. There is a case for saying that the parliament cannot move on from deliberation with a positive assessment of the issue arising from the vote taken at the end of the deliberative poll²². If a proposed law emerges positively from both key deliberative forums, it moves forward to formal voting by the legislature, but can only become law by gaining a majority in a popular referendum, or a series of referendums²³.

In this hypothetical sequence, each of these devices enacts democratic principles, in ways which add up – in theory at least – to a richer and more varied realisation of the possibilities of democratic principles, singly and in combination. The illustration could in part be a description of political reality in liberal democracies like the UK or the USA. On top of that, it may function as an immanent critique of how certain devices could enrich the enactment of principles which play a key legitimating role in these systems. But what might make this conception of a democratic procedure – *initiative-delay-deliberation-representative decision-referendum-implementation* – compelling²⁴?

Again, just an indicative response: The direct/popular elements such as citizens initiative, randomly selected deliberative poll group, and the referendum carry the potential to be inclusive in terms of both the range and intensity of active citizen participation they can foster, well beyond levels realised in familiar liberal democratic procedures. These devices enact and define political equality and transparency in ways which offer a cumulatively richer evocation of those principles, by rendering policy elites significantly reliant on gaining expressed popular support, and by forcing elites to explain their motives and reasons for positions adopted directly to citizens on more than one occasion in the overall process.

As these comments suggest, a critical feature of such sequencing is the series of motivations, incentives and anticipatory reactions that specific sequences are likely to provoke. Requiring referendum votes to endorse the major government policy

²¹ See Saward (2000) for an account of the variety of deliberative forums that are available in principle.

²² I assume the idea of the deliberative poll is reasonably familiar. Fishkin (1991) and Fishkin and Luskin (2000) set out the motivation behind the poll and some recent deployments. Arguably the deliberative poll has (largely unexplored) potential as a component or device in real decision-making procedures in addition to its being a provocative social science experiment.

²³ Versions of seriality are suggested, for example, by Barber (1984) and Ackerman (2000). Ackerman writes that the requirement of multiple balloting ‘will mightily constrain the temptation of the governing coalition to use the referendum for short-term gain’. Further, it ‘will have an effect on draughtsmanship analogous to that induced by John Rawls’s famous veil of ignorance in *A Theory of Justice*, encouraging politicians to put short-term self-interest aside and to propose enduring political principles that the community might plausibly adopt as a part of its ongoing exercise in self-definition’ (Ackerman 2000: 667).

²⁴ Clearly this conception is very thinly described here; even as an acontextual ideal it ought to be spelled out much more – especially features like the rules constraining initiative and referendum, and the relationship between elected representatives and randomly selected representatives, and so on. Like the other aspects of my argument, this is intended to be illustrative and provisional.

proposals²⁵ will press representatives and other proponents to look for appealing arguments which are likely to sway popular majorities at each of the procedure's *previous* stages. This will hardly prevent deal-making of a sort on a grand scale – 'bribing' the electorate with lower-tax promises, for example – but the deals will be more publicly visible. If the deliberative poll is to be granted a significant role in the procedure, less structured debate in the delay period will need to anticipate the effect of the incentives that will face the randomly selected participants. Because anyone could be randomly chosen to serve, prior debate will need to address all openly rather than focus efforts on a selected few (such as representatives alone). Remaining incentives for representatives to act more in narrower self-interest will be further mitigated by the negative impact on the assembly if it votes against the wishes expressed in the outcome of the deliberative poll ('the parliament against the people!').

In short: the joint impact of the proposed devices establishes a structure of incentives for political actors which reinforces effective and richly mixed conceptions of the basic democratic principles.

I reiterate the point that this is one, brief illustration of one unelaborated interpretation of a reflexive democratic procedure. Among other things, its strength as a theory would depend on the 'thickness' of its invocation of democratic principles, and its fit with recognisable, local institutions and their justificatory discourses.

Phasing

One way to think through how deployment and sequencing of devices may provoke desirable incentives and rich qualities of principles is to look behind a somewhat rigid view of 'stages' of decision-making, and towards a more nuanced view of *phases* – or indeed *phasing* since enactment is so critical in the overall approach adopted here. Consider, for example, the view that particular ways of deploying devices will prompt, variously, *reflective*, *decisive*, or *deliberative* action. Each of these modes of action can be seen as constituting a distinctive 'phase' in a collective decision-making procedure – a reflective or decisive phase, for example. However, in my single illustrative example of a sequence, the deliberative phase does not simply *coincide* with the stage of decision-making I referred to above as that of 'debate and discussion'. Deliberation in its unstructured form in protected public spaces takes place, before, through and after the moment of actual 'decision'. Semi-structured deliberation will take place as initiatives go up for vote and as a final referendum approaches. Different forms of structured deliberation take place at a number of 'stages' in the procedure, not simply that of 'debate and discussion'. Deliberative democrats often dispute the appropriate sites and styles of deliberation they regard as critical to the 'model'; a reflexive proceduralist approach, I hope to have shown, does not force any such false choice (or indeed any larger, and equally false, choice between 'deliberative' and 'aggregative' devices). The deliberative *phase* can straddle the whole procedure, encompassing the wide variety of forms deliberation may take and harnessing their diverse forms of enactment of compelling democratic principles.

²⁵ Budge's (1996) suggestion, for example, is that major policy proposals in an incoming party government's manifesto should be the issues that must pass a popular referendum in order to become law.

Similarly, the *decisive* phase runs across stages and devices. Or, if you like, decisive moments are *phased in* at various points in the interpretation I have outlined briefly: the initiative, deliberative poll, assembly decision, referendum and judicial review are all such moments, in their ways. Generally speaking, thinking in terms of phasing as well as staging democratic procedures reintroduces to us the creative complexity that such procedures epitomise.

Procedure and substance

Reflexive proceduralism as I have sketched it carries the potential to be multi-dimensional, ecumenical, context-sensitive, flexible and practical. It will be found objectionable for reasons arising from a number of these characteristics. This final section will briefly consider one key possible objection with respect to the issue of procedure and substance, an objection lodged in the notion of ‘proceduralism’ itself.

‘Proceduralism’ gets a rather bad press generally. Various critics link the term (1) with one, discrete device only, most often that of majority rule²⁶, (2) with relativism with respect to the possibility of truth-value in public policies (Estlund 1997), or (3) dismiss it as so already ‘thick’ with ethical assumptions arising from particular ways-of-life that it is not (merely) ‘procedural’ at all (Walzer 1994).

Proceduralism, in this way, looks vulnerable to alternative (constitutional, ‘epistemic’, deliberative) views which appear to protect universal rights against ignorant majorities and/or stress exclusively the importance of certain elements in the formation of majorities, such as deliberative forums.

The response to the first of these concerns is straightforward enough – there is no good semantic reason why the word ‘procedure’ cannot perfectly well signify a sequence of decisional devices rather than one discrete device located within such a sequence. The third objection is, I suggest, overstated. Any and every real, practical decision procedure clearly is conceived, produced and operated within a particular context, and that context will provide interpretive and evaluative criteria to be applied to the functioning of the procedure, in turn. The second objection, with its suggestion that proceduralism palls in the face of substantive approaches to what is right, what policies should be pursued, and so on, requires addressing in a little more detail.

It is important to recognise that proceduralism is not anti-substance. There are principles in the process – ‘process principles’ if you like – which *make* it a process in the first place. Indeed, the thrust of my whole analysis has been that there are no political principles other than process principles. There can be no democratic procedure without a procedure that enacts democratic principles (Habermas 1996: 290-5), and principles gain the most part of their meaning through their enactment in devices, within procedures. Principles and devices modify each other in practice as part of a reflexive process – and here one can happily endorse the view of Gutmann and Thompson (1999) that even ‘substantive’ principles must be regarded as provisional, awaiting deliberative endorsement. It is accepted that democracy is a self-binding notion: it restricts itself in order to protect itself (Saward 1998: 53-57). According to Dahl (1989), it is only those binds which are essential to the democratic

²⁶ This is the case for example in Gutmann and Thompson (1996: 26), Dahl (1989) and Schauer (1999). See also the comments by Macedo (1999: 6).

process itself which ought to be constitutionalised, or put beyond majority decision. Whatever these binds are, they ought to be seen as a part of the democratic procedure itself, and with it part of a proceduralist conception which theorises it²⁷.

A key factor that lends legitimacy to the outcomes arising from a procedure such as the one I sketched above is precisely the many ways in which core principles are enacted within the procedure. Devices such as deliberative polls and delays and policy referendum votes create a greater likelihood that the range of facts and moral positions pertinent to the question at hand will be brought to bear. Political outcomes do not somehow ‘float free’ from the procedural context that gives them life; they remain decisions which have to be implemented within a political culture informed by the same principles that informed the original procedure, and which remain revocable in some form within and by the actors within that procedure.

Some might object that, however many devices are deployed by institutional designers to heighten the democratic quality of a decision-making procedure, in the end they cannot say why the reasons offered for an outcome are *good* reasons (Estlund 1997). And if they cannot do that, then any other ‘fair’ procedure would have sufficed - tossing a coin for example. On the other hand, if there exists some independent standard (independent of this procedure) against which one might say the reasons offered are good reasons, then the value and shape of the procedure ceases to be a significant issue – whatever the latter comes up with, we knew the right answer before the procedure was even activated.²⁸

This argument, however, is problematic. One has to ask, first, how democratic decisions can be right or wrong in a way that is required to posit ‘independent standards’. Anyone – philosophers included – can assert that a democratically reached decision is wrong. But what is it that makes *their* judgement the one that counts? For one thing, fallibilism with respect to moral claims is a foundation of democracy; for another, there are (e.g.) consequentialist as well as epistemic reasons why we might value democracy, even if we assumed that among epistemic benefits were strong truth-producing propensities.

The basic question that must be answered by any proponent of this objection is: where does this ‘independent standard’ come from? What makes it ‘independent’ (independent of what, exactly?). Presumably any ‘independent standard’ would have to come from some procedure separate from the democratic procedure itself. The strongest candidate, one supposes, will be an ideal democratic procedure, or if you like a hypothetical ideal (see the argument of Cohen 1989). On one view, one could say that if for any real procedure there is an ideal version, then there is an independent standard (what the ideal procedure would have produced) against which real outcomes may be judged. Given this, the real procedure loses significance, because a

²⁷ Dahl for one is quite unclear about what precisely the terms of self-binding may include. Clearly any detailed response will be open to legitimate contestation.

²⁸ As Bohman (1998: 403) has put it, with respect to deliberative democracy: ‘Deliberative democracy seems caught on the horns of a dilemma: if it establishes its moral credentials of legitimacy via an ideal procedure, it cannot underwrite its epistemic claims; if it establishes its epistemic claims, they can only be underwritten by standards that are not only procedure-independent, but also independent of deliberation’.

near-perfect outcome is surely preferable to a less-perfect one. There are just two problems. First, any and every procedure has an ideal version of itself. It could not have been conceived and created and operated without some form of comparatively abstract idealisation which allows of the conception of the procedure in the first place²⁹. And second, who decides what the outcome of the (an) ideal procedure is/would be? The philosopher? Even in seemingly straightforward cases where facts clearly pertinent to a decision were distorted in the procedure, and this distortion seems to have had an impact on the nature of the decision, there will be legitimate dispute about the centrality of those facts to the issue and the extent to which the legitimacy of the outcome may properly be questioned³⁰.

In the end, perhaps, we need to accept that democracy is a ‘gamble’ – sometimes the people can get it wrong (Dahl 1989). Maybe – and this is not meant frivolously – they need to get it wrong once or twice to get it right in the end with conviction, clarity and authenticity. However much and for whatever reasons we may value democracy, there is no decisive justification for democracy (Galston 2000). There can be no final closure on what democratic principles are *the* correct principles (Gutmann and Thompson 1996). We make – and from time to time must radically remake – democratic systems with principles, values, hopes and devices that only live and compel through enactment; and there is nobody to enact them for us but ourselves.

Conclusion: new perspectives, new possibilities

A reflexive proceduralism is an approach or framework for the construction of theories, and not a theory in itself. It resides in particular social contexts and seeks to interpret features of them rather than to legislate political rights and wrongs on some putative foundational basis. But despite – indeed, I would argue, because of – its embrace of plurality and diversity, a reflexive proceduralist approach to democracy carries with it some important assumptions and potentialities.

First, it matters that democracy can be practiced in radically different, including unconventional, ways. Iran, for example, is substantially a democratic polity, though not a liberal one. This is a straightforward, factual claim which would arouse little controversy among those with a reasonable familiarity with recent Iranian political history. It is, however, a claim that carries subversive overtones in the context of US-dominated discourses about international security and its challenges today. A reflexive proceduralist approach, being ecumenical in terms of culture and context, provides a context for the decoupling of ‘democracy’ and ‘the West’, and I for one interpret this as a positive virtue.

Second, and relatedly, reflexive proceduralism’s relativising perspective reminds us, among other things, that the dominant notions of democracy (in the academy at least)

²⁹ Indeed, to make things worse for the type of objection to proceduralism I am considering, there will invariably be more than one idealisation of a given procedure, reflecting (for example) different ideological positions.

³⁰ Any type of proceduralism involving real decision-making is rendered unimportant and uninteresting if independent standards are posited. If there are independent standards, then procedures must be one of two basic types: producers of perfect procedural justice, or imperfect procedural justice, to use the terms of Rawls (1972). The reflexive proceduralist approach comes closer to Rawls’s category of ‘pure procedural justice’, with the significant difference that it does not claim the mantle of incontrovertible ‘justice’ for whatever the outcomes of the procedure happen to be.

are produced by American theorists who rarely examine the fact that their universal prescriptions are rooted in implicit understandings about the particular nation-state which happens to be both their base and the global hegemon. Real tailoring to context would in fact be highly radical in view of the contemporary politics of the production of democratic theory.

Third, in these sceptical times, it matters that we aim to be interpretive rather than legislative in the way we approach democracy and related topics; that we take time to map an appropriate field of concepts and perspectives as much as recommend determinate answers. In the same vein, this approach may help us to make sense of why democracy, and not justice, is now at the centre of First World political theory debates at least. Could it be because, however precisely it is understood, democracy must *in some way* embrace contingency and pluralism, and with it take *real* procedures and their configuration seriously?

Fourth, a reflexive proceduralist approach holds out the promise of being highly generative or productive of new, surprising perspectives on what democracy may mean, and may in due course become. For example, its openness with respect to which principles lie at the core of democracy, and with respect to how principles might be valued and interpreted in their enactment, leaves room for the further articulation of non-human interests and their incorporation into democratic procedures which some writers have begun (e.g. Dobson 1996; Eckersley 1996 and 2000). Its openness with regard to devices and their sequencing in collective decision-making leaves the door ajar for new devices – such as the precautionary principle – to find their place at the core of democratic practices as social values shift and evolve. Relatedly, the emergence of deliberative thinking in democratic theory has made convincing the case that deliberative devices ought to occupy a place at the heart of real democratic decision-making. The productivity of that point is obscured, unnecessarily, by deliberative theorists taking too much time suggesting that there is something called the ‘deliberative model of democracy’ which is opposed to something called the ‘aggregative model of democracy’.

Finally, one provocative aspect of the potential productivity of the approach outlined here lies in a topic that I have not touched on above, namely the political unit or political community for which democratic procedures operate (standardly, of course, the nation-state in the modern era). Traditional analyses arguably overestimate the extent to which a pre-existing unit constitutes the scope and reach of the political structures which rule over it, and underestimate as a result the extent to which the unit – or the subject community – is itself constituted by the inclusive or exclusive character of its collective decision procedures. If it is desirable that democracy evolve and adapt to encompass communities of fate beyond and across national boundaries, then we will need to rethink the very idea of a democratic procedure. Part of that rethinking, at least, will involve fabricating and deploying sequences of devices each of which is inclusive or participative in ways that address the needs of different, potential constituencies, regardless of their location within traditionally understood political boundaries³¹. In this way, new and unfamiliar forms of democracy may help

³¹ Between them, the works of Held (1995) and Dryzek (2000) represent influential and contrasting approaches to cosmopolitan or transnational democratisation.

to constitute a political world in a democratic image, rather than wait to catch up, reactively, to complex cultural and technological changes beyond its reach.

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