

Continuous Institutional Innovation and the Pragmatic Conception of Democracy

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In every society in many arenas, the reality of collective decision making falls far short of the democratic ideal in countless ways. These shortfalls include disenfranchisement, unequal influence operating through formal and informal mechanisms, political apathy and alienation, misinformation, and misperception. Part of the solutions to these challenges lies in a sound democratic constitution. But there is no once-and-for-all solution. Instead, approaching the democratic ideal requires political practices of continuous democratic innovation. The need for continuous innovation stems from a fundamental dynamics of democratic sclerosis in which advantaged individuals and factions in society will seek to entrench their authority and so disempower others. That innovation, in turn, requires a certain civic infrastructure and political practices. Elements of that infrastructure include citizens who look forward restlessly to democratic improvements rather than reverentially backward to an imagined golden democratic age, political leaders and advocates who press not just for their policy preferences but for improvements in the processes of democratic governance, and an intellectual class that offers not just explanations of political phenomena, but solutions to democracy's problems.

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By its very nature, a state is ever something to be scrutinized, investigated, searched for. Almost as soon as its form is stabilized, it needs to be re-made.

John Dewey, *The Public and Its Problems* (1927)

Ideal and Pragmatic Conceptions of Democracy

A conception of democracy articulates the shared values, principles, and institutions of a political order whose members govern themselves.¹ As a component

1. This paper draws on several prior articles, especially: Archon Fung, "Varieties of Participation in Complex Governance," *Public Administration Review* 66 (December 2006): 66–75; "Democratic Theory and Political Science," *American Political Science Review* 101 (August 2007): 443–58; "Democracy and the Policy Process," in *The Oxford Handbook of Public Policy*, ed. Robert E. Goodin (New York: Oxford University Press, 2006), 669–85.

of a democratic culture and object of political discourse, a conception of democracy provides citizens with public reasons for abiding laws and policies and for coordinating their lives together through the institutions they possess. But beyond this conservative, stabilizing, role, a conception of democracy also provides a critical benchmark of legitimacy against which they can judge the quality of their own political institutions and a regulative ideal to guide efforts at institutional innovation and political reform.²

Current conceptions of democracy operate for the most part in the realm of ideal theory. That is, they aim to articulate the principles and institutions of democracy under favorable circumstances rather than the highly imperfect contingent and historical circumstances in which societies actually find themselves.³ Such ideal conceptions of democracy lay out free-standing views of what the idea of self-government by equal citizens requires and how best to realize that idea. These ideal conceptions include minimal, aggregative, deliberative, and participatory democracy.

Two differences separate a pragmatic conception from ideal conceptions of democracy. First, a pragmatic conception does not begin by articulating a view of self-government that stands independently of social conditions and circumstance, and then make adjustments to that view as required by actual conditions. Instead, the pragmatic view begins *in media res*—with the social circumstances and especially the governance problems of particular societies as they are. Second, the pragmatic conception is much more open than ideal conceptions have been to a wide variety of institutional forms. It may well be—indeed it is likely—that some problems of democratic governance are best addressed with deliberative institutions and others with aggregative ones.

This article lays out the rudiments of a pragmatic conception of democracy. The next section describes a way of viewing the most important problems for democratic governance in developed liberal societies. The third section articulates a way of thinking about institutional alternatives that might address these problems. The fourth section applies these two elements of the pragmatic conception to two difficulties of democratic governance: the tyranny of powerful minorities and the lack of state capacity. The final section returns to the question of the role of this democratic conception in a public political culture by examining the way in which the pragmatic conception operates as a regulative ideal.

2. Compare to Raymond Geuss, *The Idea of a Critical Theory: Habermas and the Frankfurt School* (Cambridge: Cambridge University Press, 1981).

3. John Rawls, *A Theory of Justice* (Cambridge: Harvard University Press, 1971), 243ff.

Problems of Democratic Governance as Ends-In-View

Whereas an ideal theory of democracy specifies the correct standards to be met—standards of electing rulers, tallying preferences, or providing reasons, for example—pragmatic conceptions of democracy begin with proximate governance problems that face a given society. Whereas the main aim of an ideal theory of democracy is to clarify the fundamental values and standards of democratic governance, a pragmatic theory begins instead by characterizing the problems that are most urgent to a particular society embedded in its political, economic, and social circumstances. The aim of solving these problems provides the ends-in-view, as Dewey put it, that motivate democratic reform efforts of both the pragmatic theorist and the society she addresses.⁴

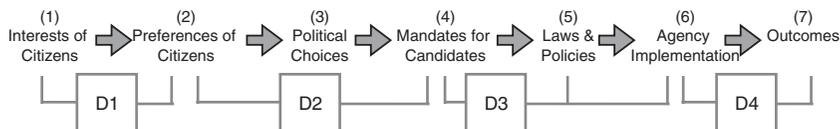
There are at least two ways for a pragmatist to articulate such urgent problems. One might begin by working from an array of substantive social problems such as global warming, social exclusion, economic development, and poverty. Then, for each of these urgent problems, the pragmatic theorist might explore various alternative governance arrangements to see which ones “work” (more on that below) for the various substantive problems. It may well be—indeed it seems likely—that different sorts of governance arrangements will be better suited to addressing different substantive problems. The theoretical task would be then to identify the central reasons or principles that can sort arrangements that work from those that do not. On this inductive path, however, the development of a general democratic theory necessarily awaits the explorations of a large number of substantial social issues and problems.

The second route departs from a slightly higher level of abstraction. Instead of working from the substantive problems that a society faces, it begins with the methods and procedures of political and collective decision making that the society uses. The next step in the pragmatic analysis is to identify the central difficulties with those received methods, then explore alternatives that “work” better, and finally to develop the reasons and principles that guide the evaluation and selection of those alternatives. This essay follows that second path in order to provide pragmatic tools for reasoning about the broad character of familiar democratic institutions, in particular the arrangements of representative government.

Both paths should be pursued. The first path flows naturally from the work of practitioners and scholars of particular policy areas and social problems as they investigate the ways in which devices like public consultations and stakeholder engagements are facilitating—or inhibiting—progress in these policy domains. Those who begin on the second path seek to develop an understanding of

4. John Dewey, *Theory of Valuation* (Chicago: University of Chicago Press, 1939), 20.

Figure 1
The representative policy process and its deficits



democratic engagement at a more conceptual and general level—the province of political theorists. To be useful—and so true in the sense of the classic pragmatists—that more abstract framework should eventually incorporate and advance the understandings that grow out of particular policy- and issue-level investigations. This essay aims to make a start at developing that more general frame.

Representative government combined with the implementation of policies and regulations through hierarchical public agencies is the dominant form—in both idea and reality—of democratic governance in the advanced industrial countries and in many developing countries as well. The representative-bureaucratic model dominates local, regional, and national scales of governance. We can think of this representative process as a stylized sequence of steps that connect citizens' interests to law-making, and eventually policy implementation institutions, that is depicted in Figure 1.

Briefly, (1) citizens have fundamental interests in goods such as security, welfare, and liberty. They attempt to form (2) political preferences—over positions, policies, parties, or candidates—that will protect their fundamental interests. Based on these preferences, citizens express their (3) political choice through voting, and those votes produce (4) mandates for politicians or parties. Using the legitimate authority provide by those mandates, representatives produce (5) laws and policies that are (6) implemented by public agencies. Ideally, laws and agencies' actions (in the era of the administrative state) produce (7) outcomes that advance citizens' interests.

Suppose that this stylized political schema captures the main outlines of democratic governance in the commonplace representative ideal and approximates its current real-world operations. A pragmatic conception of democracy that begins with this starting point need not (initially, at any rate) look into the reasons—the ways that this policy process respects political equality, accountability, or secures desirable outcomes—that might justify these arrangements;⁵ this policy process is simply the way that we happen to do things right now. In the first instance, the pragmatist does not aim to justify; she aims to solve problems.

5. Robert Dahl, *Democracy and Its Critics* (New Haven, CT: Yale University Press, 1989).

Methods and institutions are justified according to their capacity to solve problems, or achieve ends-in-view.

The chain of representative policy making and public action depicted in Figure 1 can break down on at least four points:

For many public issues, citizens have *unclear preferences* regarding the public policies that best advance their interests. Or, they have preferences that are unstable in the sense they would change easily upon exposure to new information, arguments, or perspectives (D1). When popular preferences are underdeveloped in these ways, then the subsequent consequences of political and policy choice rest on highly unstable foundations. Even when the rest of the electoral and executive machinery has great integrity, “garbage in produces garbage out.”

When citizens do have stable preferences, electoral mechanisms provide only *blunt signals* to politicians and parties regarding the content of those preferences (D2).⁶ Absent a thicker, continuing relationship between political elites and their constituents than periodic elections provide, politicians often misunderstand their constituents.

Third, electoral mechanisms may prove *too weak to hold the political and administrative machinery of government accountable* to citizens when they have clear preferences (D3). On many state decisions, the interests of politicians and administrators may differ from those of the majority of citizens. It is difficult for citizens to use elections to compel politicians to act to advance popular interests rather than their elite ends when elections are uncompetitive, when narrow interests oppose diffuse ones, or when outcomes are difficult to monitor and assess. Accountability problems are compounded by the fact of widespread delegation of power and authority to administrative agencies in modern states. Even if citizens can hold politicians accountable, politicians may not be able to control and monitor the administrative apparatuses that implement, and often make, policy. In the face of these multiple problems of accountability, the will of the majority can give way to the *tyranny of powerful minority interests*.

Finally, even when electoral devices of representation and accountability allow citizen-principals to control their political and administrative agents, the state itself may *lack the capacity* to produce outcomes that advance citizens’ interests well (D4). In areas such as economic development, for example, successful outcomes depend not only upon law and public policy, but also upon the actions of actors in the economic sphere. In areas such as environment, education, and public safety, outcomes depend upon engagement and contributions from individual citizens as well as public policy.

6. Adam Przeworski, Susan Stokes, and Bernard Manin, eds., *Democracy, Accountability, and Representations* (Cambridge: Cambridge University Press, 1999); Robert E. Goodin, “Democratic Deliberation Within,” *Philosophy and Public Affairs* 29 (2000): 81–109.

Institutional Search, Not Institutional Fetishism

Suppose that these four democratic deficits are serious problems for democratic governance. With this diagnosis in hand, the pragmatic democrat casts about for solutions to these problems—for better methods and procedures to make collective decisions and take collective action. A pragmatic *conception* of democracy ought to be a theoretical handmaiden to this practical endeavor; it should provide a framework to guide this search.

If it could be developed, a menu of alternative procedures and methods for making such decisions would be an important part of this framework. Suppose that the main alternative institutional procedures for making collective decisions and taking collective action could be described and enumerated as I_1, I_2, \dots, I_n . On some issue for which there are democratic deficits (D1-D4) when decisions are made through the representative-bureaucratic process, the pragmatic democratic analyst could—in principle—compare alternatives I_i, I_j to see which ones worked better than others. Of course, carrying out such comparisons would often be a complex and contested empirical matter. A menu of institutional alternatives would, nevertheless, serve to guide and discipline efforts to improve the quality of democratic governance.

This section develops such a menu by describing an institutional design space that maps arenas of decision making along three dimensions: Who participates? How do they communicate and make decisions? What is the connection between their conclusions and opinions on one hand and public policy and action on the other?⁷ In considering this space, it should be noted that actual decision-making processes are frequently composed of multiple points within it. Administrative rule making, for example, often includes moments in which interested individuals and stakeholders comment upon proposals in public hearings and also moments in which regulators (experts) make decisions on their own. Decision making in a complex urban development project often results from interactions among multiple arenas that include planning agencies, stakeholder negotiations, neighborhood councils, and public hearings.

Participants

The first and most critical feature of any decision-making procedure, or indeed any method for considering public issues, is the composition of participants.

7. In this article, I focus on variations in the participatory and deliberative character of potential democratic arrangements. Democratic institutions vary on many dimensions beyond these two. This “menu of alternatives” is therefore offered as one starting point from which to explore alternative design choices.

The vast majority of public participation mechanisms, for example, utilize the least restrictive method for selecting participants: they are open to all who wish to attend. Actual participants are a *self-selected* subset of the general population. While complete openness possesses obvious appeal, those who choose to participate are frequently quite unrepresentative of any larger public. Individuals who are wealthier and better educated tend to participate more than those who lack these advantages, as do those who have special interests or stronger views.⁸

But there are many other ways to delineate the scope of participants in public deliberation or action.⁹ Some mechanisms that are open to all *selectively recruit* participants among subgroups who are less likely to engage. For example, some community policing and urban planning initiatives employ community organizers to publicize meetings in low income and minority communities. Selective recruitment can also occur passively by providing structural incentives that make participation more attractive to those who are ordinarily less likely to participate in politics. Some venues that address crime or sewers, for example, are particularly inviting to disadvantaged citizens because those issues are less urgent to wealthy ones. Those who have special interests in some question—for example senior citizens in discussions about the future of social security—may nevertheless exploit the open-to-all character of public meetings to stack participation in their favor. *Randomly selecting* participants from among the general population is the best guarantee of descriptive representativeness. Initiatives such as deliberative polling, Citizens Juries, and Planning Cells randomly select participants to discuss various public issues.¹⁰

A fourth method engages *lay stakeholders* in public discussions and decisions. Lay stakeholders are unpaid citizens who have a deep interest in some public concern and are thus willing to invest substantial time and energy to represent and serve those who have similar interests or perspectives but choose not to participate. The many neighborhood association boards and school councils, for example, are composed of lay stakeholders. Finally, some governance processes that have been described under such labels as regulatory negotiation, grass-roots environmental management, and collaborative planning bring together *professional stakeholders*. These participants are frequently paid representatives of organized interests and public officials.

8. Morris P. Fiorina and Samuel J. Abrams, "Political Polarization in the American Public," *Annual Review of Political Science* 11 (2008): 563–88.

9. Archon Fung and Erik Olin Wright, eds., *Deepening Democracy: Institutional Innovations in Empowered Participatory Governance* (London; New York: Verso, 2003).

10. James Fishkin, *The Voice of the People* (New Haven, CT: Yale University Press, 1995); Ethan J. Leib, *Deliberative Democracy in America: A Proposal for a Popular Branch of Government* (University Park: Pennsylvania State University Press, 2004); John Gastil, *By Popular Demand: Revitalizing Representative Democracy Through Deliberative Elections* (Berkeley: University of California Press, 2000); Graham Smith and Corinne Wales, "Citizens Juries and Deliberative Democracy," *Political Studies* 48 (2000): 51–65.

Communication and Decision

The second crucial dimension of institutional design specifies how participants interact within a venue of public discussion or decision. Informed by the political imaginary of the Athenian Assembly or the New England town meeting, many treatments of citizen participation implicitly presume that it should approximate some deliberative ideal: participants engage with one another directly as equals who reason together about public problems. But the vast majority of institutionalized public discussions do not occur in this way, nor is it clear that they should. For example, if the main reason for direct participation is one that John Dewey once gave—that the man who wears the shoe, not the shoe-maker, knows best where it pinches—then participants need do no more than complain to policy makers.¹¹

There are six main modes of communication and decision making in participatory settings. The vast majority of those who attend events such as public hearings and community meetings do not put forward their own views at all. Instead, they participate as *spectators* who receive information about some policy or project and they bear witness to struggles between politicians, activists, and interest groups. There are few public meetings in which everyone is a spectator. Almost all of them offer opportunities for some to *express their preferences* to the audience and officials there. Think of the citizens and activists who line up at the ubiquitous microphone to pose a pointed question or say their piece. Other discussions are organized in ways that allow participants to *explore, develop, and perhaps transform their preferences and perspectives*. They encourage participants to learn about issues and, if appropriate, transform their views and opinions by providing them with educational materials or briefings and then asking them to consider the merits and trade-offs between several alternatives. Participants usually discuss these issues with one another (often organized in small groups) rather than only listening to experts, politicians, or advocates.

Mechanisms employing these first three modes of communication often do not translate the views or preferences of participants into a collective view or decision. In most public hearings, for example, officials commit to no more than receiving the testimony of participants and considering their views in their own subsequent deliberations.

Some venues, however, do develop a collective choice through some combination of three methods of decision making. The most common of these is *aggregation and bargaining*. In this mode, participants know what they want and the mode of decision making aggregates their preferences—often mediated by the influence and power that they bring—into a social choice. The exploration and give and take of bargaining allows participants to find the best available

11. John Dewey, *The Public and Its Problems* (Athens: Ohio University Press, 1927), 264.

alternative to advance the joint preferences they have. A decision at a New England town meeting operates in this mode when the townspeople have polarized over some heated issue prior to the meeting and use the final vote simply to reckon their antecedent views.

Deliberation and negotiation is a second mode of decision making. Participants deliberate in order to figure out what they want individually and as a group. In mechanisms designed to create deliberation, participants typically absorb educational background materials and exchange perspectives, experiences, and reasons with one another in order to develop their views and discover their interests as individuals. In the course of developing their individual views in a group context, deliberative mechanisms often include procedures to facilitate the emergence of principled agreement, the clarification of persisting disagreements, and the discovery of new options that better advance what participants value. Two features distinguish the deliberative mode. First, a process of interaction, exchange, and—hopefully—edification precedes group choice. Second, participants in deliberation aim toward agreement with one another (though frequently they do not reach consensus) based upon reasons, arguments, and principles. In political theory, this mode has been elaborated and defended as a deliberative ideal of democracy,¹² while scholars of dispute resolution have described such processes as negotiation and consensus building.¹³

Many, perhaps most, public policies and decisions are determined neither through aggregation nor deliberation, but rather through the *technical expertise* of officials whose training and professional specialization suits them to solving particular problems. This mode usually does not involve citizens. It is the domain of planners, regulators, social workers, teachers and principals, police officers, and the like.

Authority and Power

The third important dimension gauges the impact of various forums. How is what participants say linked to what public authorities or they themselves do? Venues such as the New England town meeting lie at one end of the spectrum. The decisions that participants make become policy. Far more common are venues that lie on the other end of the continuum: participants have no real

12. Joshua Cohen, "Deliberation and Democratic Legitimacy," in *The Good Polity*, ed. Alan Hamlin and Philip Pettit (New York: Basil Blackwell, 1989), 17–34; Amy Gutmann and Dennis F. Thompson, *Democracy and Disagreement* (Cambridge: Harvard University Press, 1996).

13. Roger Fisher and William Ury, *Getting to Yes: Negotiating Agreement Without Giving In* (Boston: Houghton Mifflin, 1981); Lawrence Susskind and Jeffrey L. Cruikshank, *Breaking the Impasse: Consensual Approaches to Resolving Public Disputes* (New York: Basic Books, 1987); Lawrence Susskind, Sarah McKernan, and Jennifer Thomas-Larmer, eds., *The Consensus Building Handbook: A Comprehensive Guide to Reaching Agreement* (Thousand Oaks, CA: Sage Publications, 1999).

expectation of influencing public action at all.¹⁴ Along this spectrum of influence and authority, five categories of institutionalized influence and authority emerge.

In many, perhaps most, participatory venues, the typical participant has little or no expectation of influencing policy or action. Instead, he or she participates in order to derive the *personal benefits* of edification or perhaps to fulfill a civic obligation. Forums that principally affect participants rather than policy and action employ the first three communicative modes (listening, expressing preferences, and developing preferences) and not the three more intensive decision-making modes described above.

Many participatory mechanisms exert influence upon the state or its agents indirectly by altering or mobilizing public opinion. Their discussions and decisions have a communicative *influence* upon members of the public or officials who are moved by the testimony, reasons, conclusions, or by the probity of the process itself. For example, while the 9/11 Commission (the National Commission on Terrorist Attacks Upon the United States) was created by Congress to offer recommendations to lawmakers, its principal source of influence was arguably the enormous public interest and support that the final report generated. Providing *advice and consultation* is a third common mechanism through which participatory forums exert influence upon public authority. In this mode, officials preserve their authority and power but commit themselves to receiving input from participants. The stated purpose of most public hearings and many other public meetings is to provide such advice.

Less commonly, some participation mechanisms exercise direct power.¹⁵ It is useful to distinguish between two levels of empowerment. In some venues, citizens who participate join in a kind of *co-governing partnership* in which they join with officials to make plans and policies or to develop strategies for public action. Each public school in Chicago, for example, is jointly governed by a Local School Council that is composed of parents and community members on one hand, and the school's principal and teaching staff on the other. At a higher (though not necessarily more desirable) level of empowerment, participatory bodies occasionally exercise *direct authority* over public decisions or resources. The New England town meeting provides the classic example of direct participatory authority. In urban contexts, neighborhood councils in some cities in the United States control substantial zoning authority or financial resources that allow them to control, plan, or implement sub-local development projects.¹⁶

14. Sherry R. Arnstein, "A Ladder of Citizen Participation," *Journal of the American Planning Association* 35 (July 1969): 216–24.

15. Archon Fung, *Empowered Participation: Reinventing Urban Democracy* (Princeton, NJ: Princeton University Press, 2004); Fung and Wright, eds., *Deepening Democracy*.

16. Jeffrey M. Berry, Kent Portney, and Ken Thomson, *The Rebirth of Urban Democracy* (Washington, DC: Brookings, 1994).

Applications

Consider two illustrations to show how the diagnosis of democratic deficits and the menu of institutional alternatives work together to guide pragmatic efforts to improve democratic governance.

Tyranny of Powerful Minorities

From time to time, every democratic system must revise the arrangements through which political leaders are selected. These changes include adjusting the boundaries of electoral districts as well as altering voting rules, for example by shifting from majority rule to proportional representation. Such procedural revisions are less common but more fundamental than the formulation of routine laws and policies. Most commonly, elected representatives who are authorized to make other laws and policies also make decisions about political rules.

But making decisions through the conventional representative process can produce minority tyranny. In this case, the problem is the tyranny of political elites over the interests of voters.¹⁷ Even if legislators are properly authorized to make many kinds of laws and policies, it may not be appropriate for them to fashion the rules according to which they gain and lose those powers. In such decisions, many elected officials may be principally interested in crafting rules that protect their incumbent individual or partisan advantages while their electors desire nearly the opposite: extensive political competition or wide choice among representatives. One institutional alternative is for a group of randomly selected citizens to make this decision. The enduring popularity of juries in criminal and civil trials suggests that the lay character of citizen assemblies confers a certain democratic legitimacy and virtue.¹⁸ They may introduce popular values and perspectives without the freight of partisan self-interest. If, furthermore, ordinary citizens generally possess or can with reasonable effort acquire the knowledge and skills necessary to make wise decisions in this area, then (other factors being equal) considered judgment favors assemblies of citizens over experts deploying their technical prowess.

A recent experience from Canada suggests that ordinary citizens can acquire the competence necessary to design political institutions. The Liberal Party government of British Columbia recently created a participatory mechanism to recommend whether the province should keep its system of single-member,

17. Michael P. McDonald, "A Comparative Analysis of Redistricting Institutions in the United States, 2001–02," *State Politics & Policy Quarterly* 4 (2004): 371.

18. Jeffrey Abramson, *We the Jury: The Jury System and the Ideal of Democracy* (Cambridge: Harvard University Press, 2000); John Gastil, *By Popular Demand*; Ethan J. Leib, *Deliberative Democracy in America*.

plurality-winner elections or replace it with some other voting system. The Citizens' Assembly was composed of 160 citizens who had been randomly selected from provincial voting lists. In order to assure a degree of descriptive representativeness, selection was stratified by region and gender. The Assembly convened every other weekend for day-and-a-half long meetings over the course of one year. Over this time, members learned about various electoral designs, attended open meetings to solicit public opinions, and deliberated about the merits of various voting systems. Attendance was very high—around 94 percent.

Members decided that B.C.'s electoral system ought to serve three fundamental values: fairness, understood as proportionality in the allocation of legislative seats; local representation, understood as the connection between an elected representative and her geographic constituency; and voter choice, understood as the number of candidates and parties. To analyze the merits of alternatives, members simulated the operation of various voting systems. Eventually, Assembly members settled upon two alternatives—a mixed member proportional (MMP) system and a version of the single transferable vote (STV). The STV option defeated MMP by a 123 to 31 in a vote of Assembly members. Bypassing the legislature, the citizens of British Columbia considered this recommendation in a provincial referendum in May 2005. A “double-majority” of (i) more than 60 percent of the total ballots cast and (ii) more than 50 percent of the ballots cast in 48 of the 79 constituencies (i.e., a simple majority in more than 60 percent of the ridings) was required for passage. The measure won a majority in all but two of the constituencies, but it garnered only 57.4 percent of the total vote. Though the result fell just short of the required super-majority threshold, it appears that many voters did consider the Assembly process legitimate.

Lack of Capacity—Chicago Community Policing

Even when public decisions are well informed and track majority will, the conventional method of public action—implementation through state agencies—is ineffective for many issues. Public hierarchies can lack the necessary information, ingenuity, know-how, or resources to address social problems effectively.¹⁹ Nonprofessional citizens possess distinctive capabilities that can improve public action. In the provision of public services such as education and human development, for example, the involvement of clients in “co-production” may dramatically increase the quality of some services. Properly structured citizen participation can belie the common view that direct democracy, whatever its other merits, is highly inefficient. In areas such as public safety and

19. Joshua Cohen and Charles Sabel, “Directly-Deliberative Polyarchy,” *European Law Journal* 3 (1997): 313–42.

environmental regulation, citizens may possess essential local knowledge that comes from close exposure to the context in which problems occur. In all of these areas and others, citizens may be able to frame problems and priorities in ways that break from professional conceptions, yet more closely match their values, needs, and preferences. Similarly, non-professionals may be able to contribute to the development of innovative approaches and strategies precisely because they are free from the received but obsolete wisdom of professionals and the techniques that are embedded in their organizations and procedures. Consider two examples from urban politics and policy that illustrate how the direct involvement of citizens can address this democratic deficit of incapacity.

Beginning in 1994, the Chicago police department shifted its organizational structure from a classic hierarchy designed to execute traditional policing strategies to a form of participatory governance. Now, rather than insulating professional operations from public scrutiny and influence, residents in each of 280 neighborhood police beats meet with the police officers who serve their areas in open “beat meetings.” The program has been quite well received by city residents. In surveys, more than one in ten residents claim to have attended a community policing beat meeting. However, in most beats, a few residents are heavily involved while others participate much more occasionally. Contrary to participation bias exhibited by most forms of political engagement, residents from poor neighborhoods participate at rates greater than those from wealthy ones because the institution addresses a problem—crime—that plagues the disadvantaged.²⁰

Case studies have shown that when these deliberative processes are well facilitated and supported by the police department and community organizations, they produce innovative and effective problem-solving strategies that harness the distinctive capacities and local knowledge of residents. Four factors make this structure of citizen participation effective. First, the dramatic shift to participatory policing has forced officers to look beyond standard, comfortable, but ineffective approaches such as preventative patrolling, emergency response (answering “911” calls), and retrospective investigation of crimes.²¹ Relatedly, when citizens engage in searching deliberation with police officers, they often develop different priorities and approaches than professional police officers would have developed on their own. Third, neighborhood residents provide distinctive capabilities and resources that make different kinds of public safety strategies possible. For example, residents can monitor “hot spots” such as parks,

20. Wesley Skogan, Susan Hartnett, Jill Du Bois, Jennifer Comey, Marianne Kaiser, and Justine Lovig, *On the Beat: Police and Community Problem Solving* (Boulder, CO: Westview Press, 1999).

21. Herman Goldstein, *Problem Oriented Policing* (Philadelphia, PA: Temple University Press, 1992).

liquor stores, or residential drug houses with more scrutiny and constancy than a handful of thinly spread police officers. Finally, the discipline of deliberative problem solving focuses and coordinates a host of other relevant but previously unharnessed city resources such as city attorneys, building regulation, streets and sanitation, and the parks department to address public safety concerns. The Chicago community policing reforms enhance effectiveness by creating institutions in which a core of active residents who have taken a deep interest in public safety in each neighborhood constitute “lay stakeholders” who deliberate with one another and co-govern the use of policing and other city resources.

As a general matter, some features of participatory forums that enhance the effectiveness of governance may not lend themselves simultaneously to advancing social justice. In particular, making public action effective can require intensive involvement from relatively small numbers of citizens who are willing to invest many hours and to acquire substantial expertise in specific policy areas. The most active residents in Chicago’s community policing program invest many hours per month and gain a facility with police procedures, the courts, and various city services. Therefore, participatory institutions geared toward enhancing effectiveness are likely to draw a relatively small number of “lay stakeholders” who have a sufficiently deep interest in the problems at hand to make the required sacrifices. In the best of circumstances, these citizen activists generate public goods such as safe and vibrant neighborhoods that others enjoy. Recruiting methods such as random selection and open general meetings with large numbers of participants are unlikely to enhance effectiveness because participants will fail to develop the requisite competencies.

Regulative Ideal Or Open Source Project?

Many democratic theories, like theories of justice, are offered as regulative ideals. They defend a set of principles or institutional arrangements that can never be perfectly realized, yet set a benchmark against which to judge and guide behavior, including, importantly, behavior aimed at political and institutional reform.²²

As a regulative ideal, pragmatic democracy offers quite weak and non-specific guidance: citizens and public leaders should be on the lookout for deficits in their democratic institutions. They should master the democratic craft of judging and implementing a wide range of alternative decision-making procedures that mark improvements upon the quality of our collective decision making.

Rather than thinking of pragmatic democracy as a regulative ideal for a democratic society, the image drawn from Open Source software and product

22. Rawls, *A Theory of Justice*.

development is more apt.²³ Open Source software projects like Linux, Mozilla, Apache work by inviting a large number of developers and users to constantly find problems with any particular release and to offer solutions to fix those problems. The pragmatic conception adopts an analogous approach for democratic institutions.

Unlike the elite theory of democracy, participatory democracy, or even some variants of deliberative democracy, the pragmatic conception does not defend a highly fixed set of values and institutional prescriptions. As with all Open Source efforts, pragmatic democracy fully acknowledges that any particular “release” is highly imperfect—full of bugs. More fundamentally, since the heart of the Open Source productive logic is continual improvement, this approach rejects the idea of perfection and so the notion of a regulative ideal. Just when someone thinks he has created the perfect web browser or operating system, the goal-posts change because people want the browser or operating system to have new and ever more delightful features: blocking advertisements, multi-media capabilities, social networking, and so on.

The version of pragmatic democracy described above offers two modules—a diagnostic model and a menu of institutional alternatives. The value of each of these modules lies in their capacity to help citizens improve their democracies—to make democracy work better. In the course of using each of these modules, one hopes that they will be transformed and improved because they are found wanting. The four democratic deficits may be a good starting point, but there are other profoundly important shortcomings with democratic governance that this diagnostic model does not cover. This menu of institutional alternatives brings many possibilities and permutations to the fore, but many others (existing and yet to be invented) are not yet on the menu, so it should be expanded.

One objection to casting a pragmatic theory of democracy as an Open Source project is that its claims and propositions become too slippery; they are no longer philosophically or empirically falsifiable. This objection simply denies the nature of the pragmatic enterprise. Pragmatic democracy does not aim to win an argument by establishing the truth about liberal democracy. It aims instead to provide a set of working hypothesis—about the most important problems of governance, about available alternatives, and about how to judge public institutions—that enables citizens, activists, and public leaders to turn the governance that they have into forms of democracy that they deserve.

As a pragmatic conception, the issue is whether the elements of the theory are useful rather than whether they are true. The pragmatist Charles Peirce viewed

23. Eric Raymond, “The Cathedral and the Bazaar,” *First Monday* 3 (March 1998). URL: <http://www.firstmonday.org/htbin/cgiwrap/bin/ojs/index.php/fm/article/view/578/499> (accessed June 27, 2012).

truth as that view which remains at the end of a process of inquiry carried out by a community of inquirers unburdened by the constraints of time and energy.²⁴ In the area of democracy, there is no way to discern what lies at the end of the road of inquiry without actually traversing it. Perhaps, as I have suggested with the Open Source analogy, there isn't even an end to that road. If there is, it cannot be reached through a journey taken in the mind alone—it requires encounters between contending assertions of priority, value, and institutional prescription. Rather than trying to describe what lies at the end of the path of inquiry, the pragmatic conception of democracy sketched above maps out the first few steps in that journey and provides a method of inquiry with which to follow it. Now it is time to take those steps and see what lies ahead.

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24. Charles S. Peirce, "How to Make Our Ideas Clear," in *The Collected Papers of Charles Sanders Peirce*, Vols. I–VI, ed. Charles Hartshorne and Paul Weiss (Cambridge: Harvard University Press, 1931–1935), 407.