

## **Are We There Yet? A conceptual framework for evaluating democracy in Aotearoa.**

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New Zealand has an international reputation for being a robust liberal democracy, one that is on the leading edge of democratic politics when it comes to reconciling citizenship rights in a heterogeneous society with the economic and social dilemmas produced by the fluid dynamics of an increasingly globalised world. In that measure it is considered an "exemplar" of democracy in action, because as a trade dependent and labour-poor primary and value-added export good producer, New Zealand serves as a weather vane or barometer for larger global trends.

The trouble is that the international perception of New Zealand does not necessarily accord with the perception of those who live in the country. Many Kiwis see reason to despair of New Zealand society and the political framework that governs it. Issues of corruption, crime, welfare dependency, addiction, apathy, bigotry and reverse racism, xenophobia and lack of assimilation, economic narcissism, governmental indifference and other pathologies occupy the popular imagination. For many New Zealanders, be they Pakeha, Maori or from other ethnic, national or religious backgrounds, the take on Kiwi democracy is that it is dysfunctional and needing of major reform. The trouble is that a majority may agree that democracy in Aotearoa is not working "properly," but there is no majority consensus on how to fix it. Perhaps that is due to a failure to fully appreciate what the term "democracy" means.

This extends to academic analyses of New Zealand democracy. That field is dominated by voting behaviour specialists, cultural relativists and constitutional law experts. The former are preoccupied with discerning the minutia of voting, party and coalition dynamics and media coverage of campaigns under Mixed Member Proportionality (MMP). Cultural relativists, ignoring the fact that there are many societies in which colonial and pre-colonial cultures mix, write about Aotearoa as if it were *sui generis*. As hard as it may be for some to accept, New Zealand is just another point in the spectrum of post-colonial democracies, and its issues are no more or less than in any other. As for the constitutional law experts, they are most useful in giving *ex post facto* interpretation to matters of legal import. In each case the focus is on the why and how of contemporary democratic practice in Aotearoa rather than the fundamentals of it.

Concern about the quality of democracy is not exclusive to Aotearoa.

Scholars have lamented the eroding quality of democracy in established countries (the USA and UK are glaring examples) as well as in newly democratic countries (the recent coup in Honduras showing that authoritarian legacies are alive and well over a decade after the ostensible transition to democratic rule). The concern is that any combination of electoral politics and constitutional rule now suffices as “democracy,” particularly when rooted in market-based economic systems. As Lenin pointed out, such democracies are “capitalism’s best possible political shell” because the emancipatory intent of democratic rule is undermined by legal sophistry and reified material hierarchies. It is elite rule by another name.

With that in mind, this essay attempts to deconstruct the concept of democracy in its basic dimensions. It does so as a primer rather than as a scholarly excursus, which among other things means that it will be devoid of citations. Instead, a short suggested bibliography is appended by way of reference.

#### *Procedural versus Substantive Democracy.*

To begin with, we must separate “democracy” into its procedural and substantive dimensions. Procedural democracy refers to the means (procedures) by which political power is acquired and maintained. Substantive democracy refers to the three levels where democratic societies are reproduced: institutional, societal and economic. I explain each in turn.

Procedural democracy is characterised by open competitive elections between self-constituted political actors awarded equal legal status and collectively organizing free from interference from the state, with an unencumbered right to vote shared by the entire adult population of citizens (and in the case of NZ, permanent residents). Elections are held at regular intervals, either chronologically pre-determined (such as in the USA) or within statutorily regulated temporal time frames (such as in NZ). This much is the obvious procedural minimum—there is more with regard to how the selection of incumbents of political decision-making positions is accomplished (i.e. things like party primaries and party lists). But the key points are the freedom of expression, preference and competition embedded in the concept of procedural democracy; and the fact that elections, in and of themselves, have no intrinsic worth. To wit: by themselves elections are just a procedure, or as a Chilean observer once commented, a type of “secular communion” held at regular intervals by the electorate to consecrate their commitment to the political form as well as to select those who shall temporarily rule.

That is where substantive democracy comes in. Elections without institutional, societal and economic underpinnings are all procedure and no substance. Ferdinand Marcos held (and won) regular elections, as did the PRI regime in Mexico for six decades and Brazilian military regime of 1964-1985. A host of contemporary authoritarian regimes hold regular elections as well, but the outcome is pre-determined: the ruling party always wins. Thus, what matters most for the constitution and consolidation of democracy is not holding elections per se, but the substantive reproduction of democracy in its institutional, societal and economic dimensions.

Institutional democracy refers to the organization of the state apparatus and collective actors, the rules that bind them, and the forms of interaction they engage. The guiding principle of institutional democracy is transparency, equality and accountability. Institutions, both public and private, big and small, operate in away that minimizes preferential bias or ascriptive intrusions in their governance and policy outputs. The notions of polyarchy and pluralism apply here. Good representation of the concept is the notion that "justice is blind" or that collective agents and public officials are responsible (effectively answerable) to their principals. Needless to say, even in an advanced liberal democracy like NZ, the reality is somewhat less than the ideal.

That may be due to difficulties at the societal level. Societal democracy refers to the inculcation of notions of consent, concession, compromise, common interest, equality, solidarity, individual and collective rights, mutual consideration, egalitarianism and legitimate exchange. This promotes general belief in tolerance, respect for difference, non-hierarchical outlooks and negotiated solutions in the pursuit of mutual second-best collective outcomes (as opposed to self-interested first choice maximization of opportunities). It also promotes a (relatively) high degree of public participation in politically oriented activity, whether it is measured by involvement in party politics, demonstrations, protests or hikoi as well as voter turnout. That is, civil society is independent and active, as opposed to controlled and contrived. This is what distinguishes democratic from authoritarian societies. Yet here too the ideal is not matched by reality even in the most mature of democracies, although it remains an aspiration.

Part of the reason societal democracy is less than perfect is due to failures to achieve economic democracy. At an economic level substantive democracy involves a general agreement within society that favours political guarantees for maintaining a minimum standard of living and just compensation for productive labour. It includes acceptance of minimum health and welfare standards for those who are structurally unemployable (i.e., through no fault of their own). The means of achieving economic democracy are much debated (for example, via "trickle down" market

effects or Keynesian welfare statism), but the fact of its necessity is not.

There is a fair bit of argument about what dimension should come first. Does procedural-institutional democracy precede societal and economic democracy (as liberal theorists claim), or, as Marxists argue, is the process the reverse? Can it be imposed by external actors, or is influence the upper limit of external democracy-promotion efforts? If so, which dimensions are best targeted? The degree to which a society has moved towards achieving procedural and substantive democracy helps distinguish between liberal, illiberal, exclusionary, delegative and radical democratic systems.

As an example, let us imagine that we can "score" democratic "quality" based on a continuum from least to most robust (please note that this is my subjective rating for heuristic purposes and does not use Freedom House or Transparency International scores). Generally speaking, arrayed on a scale of 1-10 (1=undemocratic; 10=democratic utopia), countries are considered democratic if they score above 5 on all dimensions (a minimum of 20 points). Moreover, that score is not static or immutable—it varies over time depending on socio-economic, demographic and political conditions. Thus, when I arrived in NZ in 1997 I scored the country as an 8 on a procedural level, 8 on an institutional level, 9 on a societal level and a 7 on an economic level. By 2007 my scores for NZ were 7.5, 7, 8 and 6 (a net decline of 3.5 democratic "value" points). In contrast, I had the US scored in 1997 as 6, 6, 8 and 7, moving to 5., 5.5, 7.5 and 6 under the reign of George W. Bush.

What should be noted is three things: 1) how long histories of liberal democracy do not translate into the ideal; 2) democracy can regress as well as progress in substantive as well as procedural terms; and 3) since that is the case, it is unrealistic to expect newly democratizing societies with long histories of political and social authoritarianism to be anywhere close for at least a generation, external assistance included.

### *Consent.*

One of the most undervalued concepts in the study of democracy is the notion of consent. Yet it is an absolutely vital aspect of social discourse. "Informed consent" is considered essential for medical treatment; sexual relations should be consensual; parents must sign consent forms releasing schools and sports organisations from liability in the supervision of children, citizens consent to the decisions of their elected representatives, etc. Even so, in the study of democracy the notion of consent is conspicuous by its undervaluation even if implicit in any discussion of the term. I shall attempt to address it here. In order to do that, I must explain the two forms of political rule, and they are not democracy and dictatorship.

The two types of political rule are hegemonic and domination. Domination is rule where the population acquiesces to superior force and the socio-economic dictates of elites. Hegemony is rule by ideological leadership and consent. Consent is the willing acceptance and subjective incorporation by subordinate groups of elite ideology, political authority and socio-economic institutions. Under rule by domination people do not necessarily agree with or accept the legitimacy of the political and economic elite--they just bow before their power. Under hegemonic rule people believe in the legitimacy of the elite ideology, its political institutions and type of socio-economic organisation. They actively accept the elite worldview.

Consider this parallel in family life: children raised in abusive households do not consent to the authority of their parents; they just acquiesce to their superior strength and physical control. That relationship ends as soon as the child is old and large enough to either leave home or physically confront the abusers. In "hegemonic" households, children consent to the authority of their parents because they believe that parents always have their best interests in mind. Hegemonic regimes have an element of coercion in them (such as the discipline of good parents), but it is not the majority basis of rule. Rather, is used as a disciplinary device against ideological transgressors (which is essentially what all criminal penalties are in democracies).

Dominating elites rule primarily rule by coercion and are not concerned about securing majority consent; hegemonic elites do. The good news for those interested in authoritarian regime demise is that rule by force cannot last indefinitely: you cannot coerce or repress the majority in the same measure over extended periods of time without ideological support or increased resistance from the population. Thus it is hegemonic rule that is the most durable.

Although all episodes of domination are dictatorships properly conceived, and all democracies are ostensibly hegemonic, hegemony can be achieved by authoritarians in specific instances. The key is to substitute rule by force with ideological leadership designed to secure consent over time. Thus, the Cuban regime in the 1960s and 1970 could be considered hegemonic; so can Singapore and the People's Republic of China. People believe in, support and approve of the authoritarian leadership's way of doing things and prefer not to have things change. Conversely, democracies can lose ideological support and the consent of the majority if they fail to deliver on popular expectations or if the leadership begins to rule in its own self-interest. At that point hegemony is lost and domination begins. This was seen in several Latin American countries in the 1990s (think of Peru under Alberto Fujimori as the salient case).

The key to securing and maintaining mass consent is to simultaneously meet popular expectations on the political, social and economic levels. Consent needs to be simultaneously reproduced on all three dimensions for hegemony to obtain. Although popular support may ebb and wane on any one dimension at a given moment in time, the aggregate must be maintained. Thus, for example, the economic reforms of the 1980s caused severe dislocations in New Zealand, but it did not fundamentally undermine majority support for democratic institutions or social mores. However, when a crisis on one level deepens and extends into the other two, then the possibility of an "organic crisis of the state" (to use Gramsci's term) becomes real. That is the revolutionary moment. In order to stave off that possibility, hegemonic regimes continuously engage in reform mongering, which is the proactive use of socio-economic and political reforms to address popular grievances and dissipate discontent before they become a matter of mass protest (and is the opposite of crisis management, which is reactive to public pressure).

The bottom line is that consent is given willfully, actively and freely. It implies (relative) freedom of choice in doing so on any intersubjective dimension. Acquiescence is unwillingly given, passive and a product of the fear of consequences. It implies limited or no freedom of choice. Majority consent is the basis of long-term rule; majority acquiescence is not. Of course, consent can be manipulated or, as Burowoy argues, manufactured. Parties, unions, firms and other collective actors frame/channel the hegemonic "debate" in ways that reaffirm rather than challenge the status quo. Through such agents elites may construct the terms of the "debate" in a way that clouds the nature of their relationship with subordinate groups or which diverts attention from the essentials of that relationship and towards incidentals like sports, popular culture, nationalism etc. But even if the debate does not "touch the essential" (another Gramsci phrase), it does not mean that it cannot be addressed should citizens demand it. That is why subordinate groups need to be autonomous and self-aware in the expression of their collective interests.

The most important aspect of consent, at least in terms of the construction of democracy, is its contingency. Consent is not given once, forever. It is, in reality, contingent on popular expectations being met over time. Think of it this way: most adults in their 40s will not consent to be paid the same salary as they were as teenagers in their first job. They expect more because of their experience, knowledge, discipline etc. Likewise, people living under hegemonic rule demand that their expectations be met at the political, social and economic levels. They want the political leadership to be responsive to their concerns; they want the social order to be peaceful; they want their material needs to be met. Moreover, what constituted the minimum "threshold" of consent in one era will not necessarily suffice to maintain it in the next. In most democracies today, people expect more out of life (and from the state) than they did in 1880 or 1980. Should their expectations not be met, then the slide towards organic crisis begins.

In democratic capitalism mass contingent consent is two-sided: capitalists consent to a restrained rate of profit and limits on their exploitation via the regulatory and fiscal intervention of a State ruled by majority-elected and responsive political classes (politicians and state managers); subordinate groups consent to the (structural) rule of capital in exchange for incremental increases in their standards of living and freedom of opportunity within the productive apparatus and social division of labour. Together, this dual consent constitutes the democratic class compromise that is, however implicit rather than formalized, at the heart of all democratic capitalist societies.

Thus the "matrix" of consent requires simultaneous reproduction of dual thresholds of consent on all three dimensions leading to a contingent class compromise over time—no mean feat, yet the basis for hegemonic rule in a democratic capitalist society.

That brings up a sub-set of the larger consent equation: delegation of authority. What exactly do people consent to when they delegate authority to elected officials and state bureaucrats? What does the act of voting give as titular rights to elected and non-elected authorities, and how much does it hold them responsible for their actions? How is the "power to decide" delegated, and what are the substantive areas covered by that (implied) delegation? This is important because governments claim "mandates," which presumably are based upon implicitly given consent (via the vote). But what are the outer limits of such mandates, at least in terms of what the voting population explicitly consents to?

For example, in Aotearoa do citizens delegate the authority to spying domestically as well as internationally, and if so, on what grounds and under whose authorization? Do they delegate authority to make economic policy or parts thereof without popular consultation? Do they delegate authority to politicians to set their own salaries and attendant perks? Do they delegate authority to send their sons and daughters in military service to foreign conflict zones in which there is no immediate national security threat? What is it, exactly, that people "delegate" to political elites in a democracy? Is it a delegation of broad government policy but not specific powers on more narrow issues, or is it *carte blanche*? Is acceptance of government edicts and laws a true reflection of the delegation clause inherent in the granting of mass contingent consent, or is it merely acquiescence? If not delegation-as-consent, are such edicts and laws legitimate?

There is more to the picture but for the moment this sketch will have to suffice. One thing to bear in mind is that the pursuit and maintenance of mass contingent consent is actually an argument in favour of

parliamentary democracy over its presidential alternative, and in favor of MMP over first-past-the-post, two-party systems. The reason is that parliamentary balances under MMP systems are (theoretically at least) more finely attuned to the fluid dynamics and complexities of reproducing a minimum threshold of mass contingent consent in heterogeneous societies in which individual and collective expectations often differ (when not counterpoised)

### *Uncertainty.*

The thing people fear the most is uncertainty. Bad or good, things that are known can be prepared for and dealt with. Things that are unknown can be ignored. But things that are known in the abstract but unknown in their specifics cause visceral angst in human beings. We know that we are going to die, but not how. We know that airplanes crash out of the sky, but not when. Many terminally ill people have noted that it is the uncertainty of their prognosis that is the hardest aspect of their condition, and that the final prognosis gives them the peace of mind to accept their fate. None other than Donald Rumsfeld draws the bottom line: There are known knowns and known unknowns, but the problem lies with the unknown unknowns.

People consequently spend their whole lives hedging against uncertainty. We cling to our parents at the sight of new and strange things, waiting for their reassurance that all is OK. We go to school and educate ourselves so that we can increase our career and income prospects. We form emotional attachments and enter into relationships in order to avoid the uncertainties of solitary existence. We buy insurance. We double-check our parachutes and bungee cords. We clean our guns, we check the oil and fluids before long trips--our lives are a long list of hedging against the uncertainties of the moment and the future. The point is simple: there is an innate fear of uncertainty inherent in the human condition, which we constantly try to overcome by imposing degrees of certainty in our lives.

That makes democracy a most remarkable (and some would say unnatural) form of political rule. As part of the quest for certainty, humans establish social hierarchies. Firms, schools, churches, unions, parties, even the family itself, are hierarchical organisations. Thus authoritarianism, as the ultimate political expression of social hierarchy, is also the ultimate guarantor of political certainty. As the saying goes, Mussolini made the trains run on time. Many have argued that authoritarianism (especially in non-Anglo Saxon societies) is the more natural form of political regime. Perhaps there is some truth to that. After all, under authoritarian regimes there is the certainty of punishment for voicing opposition, the certainty of favour given to allies and toadies, the certainty that you will not be bothered if you keep your head down and go to work or school, the certainty of imprisonment or death should one confront the hierarchical status quo. Authoritarians are all about certainty,



and in that measure they are naturally reassuring to a risk-adverse and uncertain public.

Yet, democracy is unique in that it takes what we fear the most--uncertainty--and turns it into the centerpiece of the political system. Elections are no more than institutionalised (if not ritualised) uncertainty. At the moment of ballot casting, no one knows the outcome. To be sure, incumbents may have an advantage over opponents, opinion polls attempt to semi-scientifically show clear tendencies among voting preferences, and electoral fraud abounds at all levels in many democratic regimes. These occur because contenders for elected positions are trying to achieve some measure of certainty over the outcome, which creates a whole industry of prognosticators and facilitators attempting to do the same for profit. In other words, the measure of a mature democratic system is the relatively high degree of uncertainty of its electoral processes (i.e. procedures for political leadership selection).

The more certain the outcome of any given election, the more undemocratic the political system in which it occurs (fully understanding that popular support in advance of elections can make outcomes all but certain--but the point is that we do not absolutely know that at the time our ballots are cast). But that still does not address the existential dilemma, which is that we want to have some degree of certainty about where our lives are heading, politically and otherwise.

The answer, as it turns out, is counter-intuitive yet simple. Institutionalised uncertainty in the form of regular free and transparent elections amongst a universally enfranchised adult population is not only a contradiction of the social hierarchies that are the organisational bulk of most human society. They are also a guarantee of accountability. That is the beauty of the mechanism, and why it needs to be protected. Hierarchy may guarantee some degree of certainty, but it reduces accountability in most instances. The duty of those at the top of social hierarchies is to themselves and other social leaders, and much less so to their subordinates. The reason? Hierarchical accountability leads to more certainty in decision-making, which makes for better inter-elite trust and bargaining (if not better outcomes for all). That is why genuine grassroots consultation in hierarchical social systems is an exception rather than the rule.

Uncertain electoral outcomes are what keep politicians honest and accountable. No matter what they do, they know that at regular 2, 3, 4 or 6-year intervals they will be held to account by the voting population. While they may try to hide their corruption and personal malfeasance, politicians ultimately have to deliver on the promises and behave according to popular expectations of office-holders (or at least disguise

their behaviour accordingly). It is the uncertainty of the electoral moment that hangs, like the shadow of the future, over present political decision-making; politicians need to think of the future electoral consequences of their current decisions. This may, from time to time, lead to sub-optimal policy outcomes since popular majority opinion may not always be informed on specific subjects (the despicable treatment of Ahmed Zaoui by the Fifth Labour government was due, in part, to its calculation that rough treatment of a Muslim asylum seeker would be countenanced by the New Zealand public in the wake of 9/11--and it was).

The larger point is that institutionalised uncertainty in the form of open and transparent elections at regular intervals is a hedge against unaccountability on the part of the political elite. Thus the siren song of politicians who say that is in the general interest for them to make policy unencumbered by popular opinion or who ram through policy without popular consultation must, at all costs, be resisted. Politicians may argue in favour of such powers on efficiency grounds, but in actual fact they believe that the public are either stupid or suffer from shortsightedness and political amnesia, thereby leading to no adverse electoral consequences and a reaffirmation of elitist policy-making in the event that their arguments prevail. The voting public must consequently run against instinct and embrace uncertainty when it comes to the political system and policy-making, since it is that embrace that promotes accountability from those chosen to lead it. Put another way, government assurances that it has the "best interests" of the nation in mind when it comes to policy should be subjected to the (ideological) reality of check of citizen remonstrance. That requires an interested, if not always informed electorate.

### *Entitlements.*

One of the most divisive issues in modern democracies is the notion of entitlements. In New Zealand the dividing line mostly centres on interpretations of Te Tiriti and its sequels. In this discussion I shall try to unpack the concept in order to phrase its importance to sustainable democracy in broader terms.

Let us first clarify what entitlements are not. Entitlements are not objective rights. Objective rights are universal standards guaranteed and enforced by the State. Contrary to what many believe and the desires of constitution-makers, they are not naturally given or divinely ordained. Rights are not "objectively" or materially inherent in the human condition (contrary to what theologians and natural law and capitalist theorists believe). People are born into social contexts in which the notion of inalienable or universal rights may or may not exist, and may shift depending on circumstance (think of the US government stance on torture under W. Bush). Individual and collective rights are not guaranteed *Deus ex machina* but by human invention. They are a human artifice encoded, enshrined or ensured by human instrument. Thus, be it the 1948 UN Universal Declaration of Human Rights or civil liberties statutes in any

given country, universal rights standards are effectively created by and enforced by States, which are also the primary abusers of individual and collective rights. Universal rights in principle are selectively upheld in practice depending on the disposition of States and the regimes that govern them. In reality they are not natural, innate, inherent or immutable, but instead are the intellectual product of human beings (elites, for the most part) acting upon notions of collective interest in specific historical contexts. In saying this I mean no disrespect to natural rights theorists and the human rights community (of which I used to be part). I am merely pointing out that the construction of "rights," universal or privileged (such as property rights) is just that, and not an act of God(des) or Nature.

They may overlap with universal rights and are often confused with them, but entitlements do not originate in the State and are not always universal or objective. Instead, entitlements are subjectively driven assessments of what is expected or "due" a person or group based upon their location in the socio-economic and political context. Such assessments are group and context specific in origins, although "outsiders" may believe in their validity. Thus, Kazak goat herders may feel that they are entitled to guaranteed pasture; Taiwanese teenagers may feel that they are entitled to MP3s; Cubans may feel entitled to first class health and education services; Singaporeans may feel entitled to cheap public housing and food; Argentines may believe that they are entitled to a daily ration of "*bife*" (steak); Tongan fishing villagers may feel entitled to a portion of any day's catch; Salafists may believe that they are entitled to religious freedom in Christian societies; Pashtun fathers may feel entitled to marry off their daughters as they see fit, and to kill them if they disobey; African-Americans may feel entitled to affirmative action; physically disabled people may feel entitled to accessible facilities; religious, ethnic and linguistic minorities may feel entitled to observe their differences in a preferential way; Maori and other indigenous groups in post colonial societies may feel that they are entitled to the land, sea and air that comprise the physical boundaries in which they exist, and to continuing the cultural practices of their ancestors. The point is that all people have a sense of entitlement to something, and that something is a product of historical events and political practice translated into current perspective, grievance, and approach, all subjectively assessed from the standpoint of the individual or group in question. Although they may be well founded and quite necessary for the people in question to lead fulfilling lives, and may in fact be universally shared, these notions of entitlements are not, by definition, rights.

Authoritarians do not worry about reconciling their political projects with notions of entitlement. They can recognize or disregard entitlements as they please, using force as the ultimate arbiter of disputes arising from differences over who is entitled to what. They can do the same for rights. In democracies however, particularly those in heterogeneous societies with past records of oppression, exploitation and expropriation,

addressing the issue of selective group entitlements is central to regime stability. That is where the so-called rights of the majority may run in conflict with the entitlements of minorities. Rights are always universal and State-granted; entitlements may or not be. The question in democracies is how to reconcile them.

Depending on the political strength of any given actor, selective notions of entitlement can be pushed onto the policy-making agenda. If successful, the promotion of entitlements can lead to legislative recognition, which in turn can lead to the treatment of entitlements as rights. The key to democratic stability is for selective entitlements to be accepted by the majority as if they were universal rights. That assumes majority consensus on the historical record that produces a shared definition and perspective on selected group entitlements as well as their means of achievement or redress. That is, above all, an ideological project.

Rights are defined, bestowed and enforced by the State, in a top-down process of elite attribution and mass application. Entitlements are construed "from below," originating in grassroots conceptualisations of what is (historically) due to or expected by a given group or groups. In the measure that selective notions of entitlement enter into the majority consciousness as reasonable and fair given a particular history and current context, they then have the chance to become part of the policy process. In the measure that they enter into the purview of the State (as the operational agent for the implementation of policy), they can become synonymous with the general interest. At that point they become synonymous with rights, which means that they are State-sanctioned and enforced. But however conflated their usage may become, entitlements can never be construed as rights unless they are universally shared. That is why debates on selective entitlements are so heated and divisive. Be it on matters of cultural identity, resource extraction or political representation, the conflict between selective entitlements and universal rights is a permanent feature of the social landscape in modern democratic societies.

I admit to not having a complete grasp on how to reconcile group entitlements and universal rights in a democracy. Yet it seems that it is one of the most important and intractable issues in the reproduction of the democratic form. Yet it is the resolution of the entitlements versus rights conundrum that lies at the heart of sustainable democracy in the early 21st century. And that, again, may be in the first instance more of an ideological project than a matter of policy.

#### *Contingency and self-restraint.*

In section two of this essay I mentioned the notion of contingent consent. I noted that consent is not given once, forever, but instead is contingent

on collective and individual expectations being met at the economic, social and political levels. In this section I shall attempt to broaden that notion.

Adam Przeworski pointed out that democracy is a contingent outcome of conflicts. No more and no less, "democracy" is a particular method for resolving political conflicts between competing groups and collective agents. There are other methods of resolving such conflicts, but those involve degrees of coercion, intimidation and imposition rather than peaceful resolution of competing interests (i.e., the authoritarian solution). Democracy is unique in that it is a political system and society that is based upon the contingent, amicable resolution of conflicts between collective and individual interests. It is therefore unusual in the sense that it has an institutional bias in favour of compromise rather than imposition. It is unique amongst social hierarchies because of its preference for the middle view, rather than elite preference or imposition. In New Zealand the bias is evident in the preference for state (via the courts) mediation over litigation when it comes to civil disputes, with mediators explicitly charged to find a "reasonable middle" to disputes unless there is obvious evidence of malfeasance by any party. However, the orientation towards peaceful or amicable conflict resolution in pursuit of mass consensus adds weight to the contingency of the resolution in question. Once again, we must unpack the term in order to understand its broader implications.

Democracy survives in the measure that it meets popular (not just majority) expectations. Expectations are a product of popular conceptions of entitlements and rights, often enshrined in law but always perpetuated in folklore and myth. The key for all governments is to manage expectations so that the political form can be reproduced. Authoritarian regimes reduce expectations (often to zero) in certain policy areas in order to satisfy those in others (if at all; in their most degenerate stage authoritarian regimes become mere kleptocracies, ideologically perverse fetishists or homicidal cliques, as the regimes led by Anastasio Somoza, Kim Jung-Il or Robert Mugabe attest). The difference is that democracies must satisfy popular expectations in virtually all policy areas, or at least convince the public that a commonly-recognized hierarchy of needs must be satisfied in order of priority, so as to reproduce mass contingent consent successfully. Everything political, in other words, is contingent in a democracy.

Democratic rule is contingent on popular expectations being met, and those expectations are raised or lowered by party promises while in government and opposition. In the measure that popular expectations of policy outcomes are broadly met, the government survives and the regime prospers. In the measure that popular expectations are not met governments fall and regimes are undermined. The reason for the latter is that, when confronted with repeated failures to meet expectations by

ideologically different governments, popular confidence in the regime type as a whole begins to diminish. If prolonged, such a loss of confidence can lead to withdrawal of mass contingent consent to the regime, as people do not differentiate between the inaction or failures of particular governments and the regime as a whole (this was seen in Latin America in the 1990s and led directly to the resurgence of indigenous socialism in that region in the 2000s).

Put another way: how many people, including those in the media, confuse the term "government" and "regime" when addressing issues of policy even during stable times? (another reason why conceptual precision should be a requirement in journalism as well as academic discourse). The result in any event is mass withdrawal of consent and a crisis of the regime. Hence, of all regime types, democracy is the most contingent on popular expectations being continuously met, which in turn forces political elites to frame policy debates in ways that allow them to do so. The more informed the public and the stronger the sense of entitlement and basic rights in society, the harder it is for elites to control the terms of those debate.

How then, can democratic governments continuously meet popular, or at least majority expectations with an eye towards peacefully resolving collective conflicts in order to secure ongoing contingent mass consent given any particular mix of perceived rights and entitlements? The answer lies at the heart of democratic society and is what distinguishes it from all non-democratic social hierarchies: self-restraint. Collective and individual self-restraint is the hallmark of "mature" democracies.

Contrary to economic logics that posit that the uncoordinated actions of self-interested maximizers of opportunities lead the market to clear in an equilibrated state, strategic interaction in democracies is predicated on the conscious adoption by collective actors (and individuals) of self-restraint when pursuing their interests. The use of self-restraint (or self-binding strategies) is done in order to pursue mutual second-best options rather than first choices, since the unfettered pursuit of the latter can lead to unbridled conflict that, although individually optimal for the victors, is collectively sub-optimal in terms of social peace and regime stability (as it is inherently unstable and prone to challenge).

In other words, democratic actors adopt mutual second best strategies that if individually sub-optimal are collectively efficient, in no small measure because they distribute the costs and benefits of solution sets in a fair and Pareto-optimal fashion (Pareto optimality is a condition whereby actors cannot advance their individual positions without jeopardizing those of other actors. Hence a solution is Pareto optimal when no actors can advance their positions without hurting others). Under some conditions

solution sets can also be Nash equilibrated in that all actors achieve their best possible collective outcomes given the presence of competitors. In terms of democratic collective action, the ideal solution set is Nash equilibrated and Pareto optimal.

Actors may use militant-moderate strategies to pursue their interests, in which they stake a militant position or demand in order to create space for the achievement of moderate compromises (as occurs in collective bargaining), but the objective is the moderate goal, not the militant demand. In adopting the mutual second best approach to strategic interaction, collective actors and individuals take into account the interests and strategies of other actors. The democratic "game," in other words, is coordinated, with actor coordination premised on mutual self-restraint.

Recall that capitalist democracy is itself a product of self-restraint and compromise on the part of capitalists and workers: capitalists consent to democracy and a reduced rate of exploitation, while workers consent to private ownership of the means of production and the universal logics of capitalist markets. Democracy is, in effect, a grand compromise born of collective self-restraint in pursuit of mass contingent consent. The problem is in the details, and the asymmetrical power dynamics that underpin arguments about detail.

The threat to democracy comes when collective actors and individuals abandon the practice of self-restraint. Often this is done because the actor in question believes in the superiority of its view on a given social construct or policy issue, but it can also be simply a matter of greed or ingrained authoritarianism. In New Zealand the political party that is the closest to this approach is ACT, which sees its market/libertarian/social authoritarian beliefs (there is a contradiction there) as superior to all other political views and thus not worth compromising. Most other parties, to include the Greens (the next most "principled" Party), understand the give and take needed for the collective mutual second best to obtain over time, but ACT remains zealous, some might say extremist, in its approach to policy-making. In the measure that it continues to do so it is, consequently, a threat to democratic stability.

As with the other concepts examined in this essay, there is more to the discussion of contingency and self-restraint in a democracy, particularly the macro-, meso- and micro-levels in which they are manifest and the tradeoffs that occur within and between each level. Suffice it to note here that the salient characteristics of democracies are their ability to inculcate in rulers and ruled the notion that self-restraint is an important ideal in and of itself, and that all political decisions and policy outputs must subject themselves to the contingency test that diminishes

uncertainties, upholds universal rights, satisfies entitlements, improves accountability and reproduces mass consent over time. In the measure that they do so, we can say that such democracies are "hegemonic.

### *Conclusion.*

From this discussion the question arises as to whether Aotearoa has achieved a measure of substantive and procedural democracy so as to be properly classified as truly "liberal" or mature. As was mentioned above, I ranked New Zealand relatively high on both the procedural and substantive dimensions when I arrived in the country, but have seen a backslide towards in the decade since my arrival. The retrograde move is clearly evident in political society, where the major parties have adopted US style attack politics that focus on issues of character and personality rather than policy (something amply evident in the tone of parliamentary debate). The acidic tone in politics is reflected in civil society and has been abetted by the inculcation of market-driven logics of personal and collective self-interest that have had a deleterious impact on notions of collective solidarity, empathy and compassion. Bullying shares space with charity in the national character, and if present in the past it now appears as the dominant approach to differences in perspective and power. To put it differently, civil society in New Zealand has been squeezed in an increasingly authoritarian direction from the top (political society) and below (the economy) thereby reversing a long tradition of enlightened and egalitarian approaches to social difference. When zero-sum replaces even-sum or positive-sum as the main approach to economic, social and political competition, then the outlook for democracy in Aotearoa is not good.

Perhaps it takes a foreign-born permanent resident to see the decline in the quality of New Zealand democracy most clearly. But even if that it is not the case, it remains the duty of fair-minded New Zealanders of all persuasions to redress that decline. Because in terms of democracy, Aotearoa is not quite there yet.

### Suggested Reading

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