

BEYOND THE BALLOT BOX

**Report from the Deepening and Sustaining Democracy in Asia
Conference, 11-14 October 2009**



The Centre for Bhutan Studies

Beyond the Ballot Box

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The Centre for Bhutan Studies
Post Box No. 1111
Thimphu, Bhutan

Telephone: 00975-2-321111, 321005

Facsimile: 00975-2- 321001

Email: cbs@druknet.bt

www.bhutanstudies.org.bt
www.grossnationalhappiness.com

CONTENTS

CONTENTS

i. Foreword		vii
ii. Acknowledgements		ix
iii. Introduction		x
iv. Opening Remarks	<i>Dasho Karma Ura</i>	xxi
v. Keynote Address	<i>Mr Ajay Chhibber</i>	1
vi. Keynote Address	<i>HE Jigmi Y Thinley, Prime Minister of Bhutan</i>	10
I. Foundations of Democracy		
1. Public Opinion, Happiness, and the Will of the People: Policy-making in a Democracy	<i>Dr Henry S Richardson</i>	25
2. Democracy and Difference: Going beyond Liberal Freedoms and Illiberal Order	<i>Dr Peter Hershock</i>	60
3. Constitutional Values and Rule of Law	<i>Geraldine Fraser-Moleketi</i>	101
II. Experiences in Democracy		
4. Democracy in the Non-West: Facts, Fictions and Frictions	<i>Dr Nitasha Kaul</i>	115
5. Constitution - the King's Gift: Defiling and Sanctifying a Sacred Gift	<i>Dasho Sonam Kinga</i>	134
6. Experience of Indian Democracy	<i>Pavan K Verma</i>	181
7. Grass Roots Democracy and Decentralisation	<i>Dr George Mathew</i>	189

III. Civic Rights and Participation

8. Women's Role in Politics - Quantity and Quality	<i>Sultana Kamal</i>	209
9. Civil liberties and Security	<i>Anthony Grayling</i>	229
10. Citizen's Assessment of Parliaments Performance	<i>Ahmed Mehboob</i>	237

IV. Election and Justice

11. The Majority Judgement: A New Mechanism for Electing and Ranking	<i>Professor Michel Balinski</i>	257
12. Happiness and Punishment	<i>John Bronsteen</i>	269

V. Accountability and Freedom

13. Voice, Accountability and Freedom	<i>Dr Sabina Marie Alkire</i>	292
14. Concluding Remarks	<i>HE Jigmi Y Thinley</i>	320
15 Biographies		373

FOREWORD

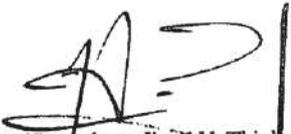
The Regional Conference on Deepening and Sustaining Democracy in Asia held in Paro, Bhutan, during October 11-14, 2009 was a landmark. Twelve countries from South Asia and the greater Asian region, eminent resource persons from the rest of the world, and representatives of media, civil society and the development community involved in the theory and practice of democracy benefitted from the exchange of ideas and experiences at this event.

The conference marked the beginning of a regional dialogue on how to collectively address the challenges of deepening democratic culture and maximising its dividends for development in harmony with the rich traditions and ethos of respective countries. With democratically elected governments in power in all South Asian countries, the region is now at a crossroads – take steps to sustain and consolidate democratic principles in governance, or face the risks of a roll-back of democracy.

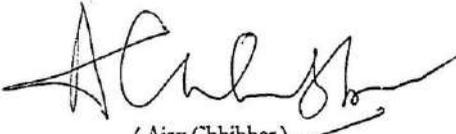
The rich mix of conference participants brought to the fore critical foundational insights and practical experiences and lessons in democracy. All participants agreed that the basic guiding principles of democracy – such as freedom of expression, inclusive participation and equal access to justice – are common to all. Each country must develop its own tools and mechanisms to put these principles into action. These perspectives have been documented in the present report, which serves as both a record of the proceedings of the Conference as well as the repository to the wealth of resource materials presented at this forum.

Asia has the promise of sustaining democracy with democratically elected Governments in all of South Asia and in many other parts of the region. The Paro Conference was a first step in the regional dialogue on democracy, which the participants felt should be pursued to carry the momentum forward with the Republic of Maldives agreeing to host the next conference in 2010.

It is hoped that the Report's insights will inspire greater appreciation for democratic values and principles and ultimately inform people's choices in the region and beyond.



(Lyonchoen Jigmi Y. Thinley)
Prime Minister of the
Kingdom of Bhutan



(Ajay Chhibber)
UN Assistant Secretary-General,
UNDP Assistant Administrator, and
Regional Director, Asia and the Pacific

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Royal Bhutan Police,
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Systemax Audiovisual

And a special mention to the Management and Staff at Zhiwa Ling Hotel, Paro and for the 16 graduates who worked as volunteer protocol officers for the visiting participants.

For a summary of each discussion during the Conference please visit the Centre for Bhutan Studies website www.bhutanstudies.gov.bt

The summaries were provided by the following rapporteurs: Stefan Priesner, Chenchu G Dorjee, Farhan Sab, Irman G Lanti, Phuntsho Raptan, Samuel De Jargere, Karma Wangdi, Surekha Subarwai, Naima Mohamed, Kuenzang Lhadon, Sumeeta Banerji and Tashi Dorji.

INTRODUCTION

The Royal Government of Bhutan, the Centre for Bhutan Studies and the United Nations Development Programme (UNDP), organised a three-day regional Conference on democracy entitled “Deepening and Sustaining Democracy in Asia” from October 11-14 2009, at the Zhiwa Ling Hotel, Paro.

The inspiration for this Conference emerged from discussions between the Honourable Prime Minister Lyonchhen Jigmi Y Thinley and Mr Ajay Chhibber, United Nations Assistant Secretary General and UNDP Regional Director for Asia and the Pacific. The Conference was held not only to mark the smooth and peaceful democratic transition of Bhutan in 2008, but also as a platform to share lessons and experiences among countries in the region to help strengthen, deepen and sustain the democratic culture and values in Asia.

Cabinet Ministers and Members of Parliament from 13 countries representing South Asian Association for Regional Cooperation (SAARC) and the Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation (BIMSTEC) groups as well as others, participated in the Conference. Representatives of non-governmental and civil society organisations from a number of Asian countries, United Nations and international organisations representatives attended alongside regional journalists and Bhutanese participants. Fifteen internationally acclaimed scholars and experts on democracy presented papers and animated the discussions on a range of topics. Specifically, these were:

- Foundations of Democracy
- Experiences in Democracy
- Civic Rights and Participation
- Elections and Justice
- Accountability and Freedom

These topics provided the opportunity to focus on the basic guiding principles of democracy – freedom of expression, equal access to justice,

and that each country should develop its own tools and mechanisms to put these principles into action.

Foundations of Democracy

The Conference began on a high note with two scholars, Professor Henry Richardson and Dr Peter Hershock, providing the philosophical underpinnings of the concept and foundations of democracy. They focused on the role of happiness in democratic policy-making arguing for the need of people to have the opportunity to form opinions about democracy that go beyond instant responses as in the case of opinion polls but through deliberative processes where dialogue helps people think things through. They also focused on practical intelligence, i.e. the constant opportunity to rethink our aims in the face of new obstacles. They also commented on the usefulness of happiness indices. While these are useful these should be seen as an input in the deliberative process, rather than a tool replacing disciplined deliberative processes. They also explored how Buddhist teachings could contribute to rethinking these issues. The discussions cantered on the importance of deliberation quality, democratic leadership, Gross National Happiness (GNH) as a new paradigm, democracy as an ends or as a means, the role of happiness, so-called Asian values, customising democracy, universality versus particularity, and the scientific approach to democratic practices, such as elections.

Geraldine Fraser-Moleketi (UNDP) spoke about the collectively responsibility of state and non-state actors to strengthen and enforce the rule of law. She dwelled on South Africa's constitutional experience and highlighted efforts to involve citizens and the balancing act to accommodate the views of multiple stakeholders in the constitutional process. However, the experience of democracy of several countries in the region has been mixed. Democracy has been thwarted and reversed but has repeatedly been reformed and rediscovered. The panelist from Nepal, Dr Narayan Khadka, was of the view that sharing democratic lessons and experiences would prevent roll back and the democratic deficit in emerging democracies. In sharing Nepal's constitutional processes the speaker emphasised that while constitutional values guide individual rights, it is a challenge when constitutional values interact with social, cultural, religious and ethnic values in a diverse society like Nepal. Interpretation of constitutional values such as

justice, freedom and equality differ among societal groups particularly between the elite and underprivileged, poor, marginalised and ethnic minorities. Discussions in the session focused on challenges faced in capturing the aspirations of people in the constitution making process, including limitations of identifying a representative group of citizens and balancing conflicting demands in a multi cultural, ethnic and linguistic society.

Experiences in Democracy

“Democracy cannot be imposed on any nation from the outside. Each society must search for its own path rooted in the culture of its people and in its past tradition”. (US President Barack Obama, in an address to the UN General Assembly, September 23 2009)

Experiences in democracy, notably in Sri Lanka, Bhutan and Thailand, animated the initial discussions under this topic. The Chairperson for the panel, the Honourable Tissa Karaliyadda from Sri Lanka, reflected on the recent events in his country, Sri Lanka, and the necessary ingredients for a deepened and sustained democracy. He also stressed that democracy is an ancient feature of Asian culture, deeply rooted in its cultures and societies, and that Asian Democracies can positively impact on global prosperity and peace. The keynote speaker, Dr Nitasha Kaul, argued against the notion of democracy being a Western concept. She presented some “facts, fictions and frictions” about democracy. She also traced the history of the democratic developments in Bhutan to the establishment of the Monarchy in 1907. An overview of the Constitutional review process, which the first elected Parliament undertook as it received the Constitution from the King as a “gift” was also presented by another speaker. The participant from Thailand, Ms Chompoonute Nakornthap, elaborated on his country’s 77 year-long process of democratic development with all its ups and downs: 18 Constitutions, 24 Coup d’états, and 27 Prime Ministers. She also highlighted the similarities between the Kingdoms of Thailand and Bhutan, emphasising the sufficiency economy and the GNH theories as developed by the Royal Heads of State.

The second day of the Conference continued on highlighting experiences in democracy with an overview of the process of democracy in Bangladesh, by the session Chair HE Mr Syed Ashrafal

Islam, from the introduction of the concept by the founding father of the country to the last election in December 2007, which ushered in the current government with a resounding majority after two years of military rule. The two keynote speakers, the Indian Ambassador to Bhutan HE Pavan K Verma, and Dr George Mathew, spoke about democracy in India at the grassroots and about the model of democracy that has evolved in India since independence from colonial rule. While India had opted for the Westminster model of democracy this has grown organically in the Indian milieu. It has become the glue that holds India together. The power has shifted from the political elite to the larger base of the country's poor who have exercised their power through the ballot box changing and removing political parties from power. The marginalised too are making their voice heard through the ballot box and now have leaders in power to represent them. India has also moved from a political system that was dominated by one political party to a shift towards coalition governments. The electorate has become more discriminating and has voted national and regional parties to power keeping their local interests foremost demonstrating that they can be voted out for non-performance. Today the Indian voter is demanding that leaders deliver on their promises.

Grass-roots democracy was legislated through a constitutional amendment in India in 1993 that mandates local elections in all Indian states every five years with one third seats reserved for women. This has transformed the decision making process in India from top down planning and implementation to a bottom up approach. Potentially, the performance of local governments could reflect on the prospects of the State government winning the next election and in turn the outcome of elections at the Centre. However, George Matthews also pointed out that progress in states has been uneven with some Indian states like Kerala having devolved more powers to local governments or Panchayats than others. There is still a need to devolve funds, functions and functionaries.

The panelists, Ms Lalita Panicker and Ms Champika Liyanaarchi, focused on the role of the media in a democracy and how in some countries market forces are driving editorial content shrinking the space for development issues. Concerns about importing models from other

countries were also expressed emphasising that unless there is a demand from within a model imposed from outside was doomed to failure. One panellist cited the Sri Lanka example of devolution introduced to deal with the insurgency in the north. The discussions also explored how Pakistan, Nepal and Indonesia were developing their own approaches to decentralisation and devolution.

Civic Rights and Participation

The Conference then pursued its agenda under the theme of civic rights and participation. The Chair of this session, Mr Pradeep Kumar Gyawali, spoke about the home-grown peace process in Nepal and its historic transition in multiple senses: from a monarchy to a republic, from a unitary to a federalised state, from a recent past of violence to peace and from poverty to prosperity. The role of civic rights and participation is crucial in this momentous process. The session then focused on the role of women in politics, not only in quantity, but also in quality. Women face many barriers to participate in politics, such as gender norms, lack of money, lack of time, political party structures, and exclusion from existing informal political networks. Pauline Tamesis (UNDP) summed up some of the options for overcoming these barriers in politics: voluntary or mandatory quota, establishing women's networks, equipping women elected in office to allow them to deliver, and reviewing electoral laws that may impact on who gets into office and who doesn't. The keynote speaker Sultana Kamal also stressed that quotas alone will not solve the problem. Many social, economic and cultural factors also need to be addressed in order to allow women to engage in politics. A change of mindset is fundamental. A lively discussion also took place on the role of women in Bhutanese politics, and young female students from the Royal Thimphu College participated in this debate.

The last session of the day pursued the discussion on the topic of civic rights and participation. The keynote speaker, Professor Anthony Grayling, provided an overview of the origins of civic rights in the European context and he then warned everyone against the danger of complacency about having acquired freedom. In any society, freedom comes with a price, i.e. eternal vigilance. It's important for citizens to keep watching and complaining. Without this civic engagement and vigilance, civic rights can wither away again. The session then focused

on experiences from Pakistan and Thailand in monitoring the performance of parliament (see www.pildat.org) and measuring the trust of people in democratic institutions. In Thailand, it's remarkable that over the last years the military has enjoyed more trust than any other democratic institution. Notably, politicians, parliament and cabinets score the lowest in these surveys. The panelist from Bhutan highlighted the recent establishment of a series of democratic institutions in Bhutan, and argued now for the need of a culture of democracy, civic education, critical thinking, and intellectual space in order to nurture the democratisation process.

Elections and Justice

On the last day of the Conference, it dedicated one session to elections and justice and another session to accountability and freedom. In the first session, the keynote speaker Professor Michel Balinski presented an emerging scientific (mathematical) approach to voting theory. Although several voting methods exist, notably first-past-the-post, two-past-the-post, Condorcet's method, Borda's method, and alternative vote, all these traditional methods do not work adequately; they often fail to elect the candidate that the voters want. A new alternative methodology was presented by one speaker whereby the voter would grade candidates on a scale from "excellent" to "reject". This new theory is not subject to the deficiencies of the other methods, prevents manipulation of the election and ensures an accurate election outcome in line with the electorate's wishes.

The second keynote speaker Professor John Bronsteen shared his views on the potential role of happiness in justice, notably by looking at some core legal procedures and questioning how they would be affected if determined by considerations of happiness. He expanded, for example, on the length of prison sentences, and their ineffectiveness to deter or to constitute retribution in the light of findings that (un)happiness in prison is not commensurate to the duration of the prison sentence. The speaker also spoke about the difficulties of ex-prisoners (socially, mentally, and professionally) post-prison sentence, and argued for better more humane ways of punishment. One of the panelists also highlighted the restorative dimension of justice (aside from deterrence and retribution), and focused in particular on customary justice systems and institutions. These forms of justice are often deliberative in nature

and may be more effective in terms of restoring peace and order. It's important to engage with these systems, and then to overcome existing deficiencies of patriarchy and gender inequalities such as honour killings.

Accountability and Freedom

The last session of the Conference explored the concepts of accountability and freedom. The Chair of this session Mr Adri Hadi (Indonesia) highlighted that there are many democratic success stories in Asia and invited participants to join in Indonesia's annual Democracy Forum, to be held in Bali on December 10th-11th, 2009. The first key note speaker Dr Sabina Alkire drew upon Amartya Sen's work on freedom, in particular his distinction of agency (the process aspect) and capability (the opportunity aspect). She also highlighted the work of the Sarkozy Commission, presided by Joe Stiglitz, which reviewed the definition of GDP. Its report describes 9 essential dimensions to be taken into account in terms of development, very similar to the GNH dimensions. The report has received positive feedback globally. In 2010, UNDP will dedicate a report to the 20th anniversary of the human development concept. This will be a good opportunity to review its definition. One of the panelists, Ms Raden Siliwanti, then presented the Indonesia Democracy Index. This Index arises from a nationally owned process for assessing and monitoring democratic governance within all 33 provinces in Indonesia. It aims to provide an inclusive and consultative framework for the systematic assessment and monitoring of democratic governance goals and targets expressed in Indonesia's national and regional development plans.

Another panelist, Ms Ati Nubaiti, spoke about the salience of the media in holding the government to account, but also cautioned about some of the pitfalls for the media, such as commercialisation, self-censorship, regressive laws on secrecy, etc. A journalist from the Philippines shared his experience about media literacy programmes for the public to enable them to better understand and use the media.

Summary of Key Messages

Democracy in Asia is both a quest and a struggle. It is a continuously evolving process of self-determination and therefore differs from country to country. It is not an end-product, but a process through

which peoples' participation in governing their own lives is affirmed. A process that is always fragile and needs to be constantly guarded. Democracy needs to be organically grown and should be rooted in the specific culture, history and values of the country. Ideas of how Buddhism can theoretically deepen democracy were articulated. It cannot be imposed from the outside and democratic principles provide the framework for countries to use as a baseline. It is not a perfect system but the only way we know of so far that values participation, rights, accountability and equity.

Alternative measures of development will allow a shift in development priorities and goals. For example, the GNH as a concept for setting development goals shifts the focus on economic growth as driver for development. Growth must be inclusive. Lessons can be learnt from Bhutan's vision and implementation of GNH.

Social exclusion, whether it be due from gender, race, ethnicity or economic status, are against democratic principles and should be addressed to fulfill the promise of democracy. Deliberate efforts need to be taken to ensure inclusive democracy, and Bhutan's 30 year transition process was also examined.

Civic participation is absolutely vital in expanding the base of democracy, as the highest measure of democracy is its measure of participation, and also to empower those without a voice, as democracy is based upon the conviction that there are extraordinary possibilities in ordinary people.

Corruption and inequitable access to rights and basic services are major challenges to democracies in the region. Decentralisation and local governance were cited as important mechanisms for ensuring that grassroots democracy builds the required demand for continued vigilance in the democratic order.

Women in politics and overcoming barriers to their participation are crucial to ensuring the vitality of democracy in the region. Quotas are only the first step, but whether or not to institute them will not be the important question, rather how this discussion will be conducted.

A truly democratic order is not just the electoral system. Rather democratic impulse permeates the society outside and inside the political sphere. Civil liberties are human rights (basic requirement), if we think about a regime of rights where there is a basic minimum. Some civic rights: right to vote, equality before the law, transparency, equality of opportunity (access to education and health care). Independent judiciary, rule of law and free press are important to ensure that civil liberties are protected. Three civil liberties that matter in a genuine democratic order, which are important to prevent misuse of arbitrary exercise of power or influence plus ensure the well-being of the communities are personal autonomy, privacy and freedom of expression.

Conclusions

Democratic experiment in Asia has gone through a tumultuous time. Since its introduction, democracy has been thwarted and diverted by many external and internal factors. The real challenges to deepening and sustaining democracy are how the conflicting values and aspirations of the people can best be managed given the process of change that societies are going through.

The Conference focused on democratic values - the means and ends; strengthening electoral governance and electoral processes, the role of civil society, social capital, the empowerment of women, the growing problem of corruption - as democracy without morality is impossible - the rule of law and role of the judiciary in strengthening democracy, bringing government closer to people and the decentralisation and local governance. As a result, all the participants were made acutely aware that democracy forever teases us with the contrast between its ideals and its realities, between its heroic possibilities and its sorry achievements.

As Asia's governments come in two broad varieties - young, fragile democracies - and older, fragile authoritarian regimes, it was suggested that the art of democratic progress is to preserve order amid change, and to preserve change amid order. One speaker noted the way people in democracies in this region think of the government as something different from themselves - and this continued to be a real handicap. And, of course, sometimes governments have confirmed their opinion.

It was revealed that in many cases, active citizens groups have declined, in favour of the pursuit of personal consumption and enrichment. It is very difficult to have a democracy without citizens and it is impossible to be a citizen if you don't make an effort to understand the most basic activities of your government. Unfortunately, large sections of Asian societies, which are poor, underprivileged, marginalised, and discriminated, do not understand freedom, justice, and equality in the same way the intellectuals, elites and the privileged class understand them. Meanwhile, big business lobby groups have taken over as the prime agents of influence on government.

Another element was the move by several Asian countries to take democracy to the grassroots to widen its base and to make it more inclusive and flexible. While some countries like India, Indonesia and the Philippines have a tradition of sub-national democracy, others like the Maldives, Bangladesh, Bhutan and Afghanistan are re-affirming their commitment to this approach. This forum provided an opportunity to share experiences and to learn from each others' successes and failures.

There was also consensus on the importance of devolving greater powers to local governments, to provide them with the necessary funds, responsibilities and human resources and to make them more accountable.

As a result of these fascinating sessions, it became apparent that democracy is on trial in all areas of the world on a more colossal scale than ever before, making the timing of this Conference crucial. As Noam Chomsky wrote, "In this possibly terminal phase of human existence, democracy and freedom are more than just ideals to be valued - they may be essential to survival..." And, as it was noted at the Conference, the most serious threat to democracy is the notion that it has already been achieved.

There was much debate concerning not just the fact of democracy, but the way in which democracy is exercised that ultimately determines whether democracy itself survives. Unfortunately, it became apparent that the right to be heard does not automatically include the right to be

taken seriously. As of now, it does not guarantee equality of conditions - it only guarantees equality of opportunity.

What emerged during the three day Conference was that despite many setbacks, disillusionment, hardship and slow progress, despite many failures and only limited successes, voters in the region are slowly realising that they can make their political and governmental institutions responsive and accountable, and keep them honest. No one else can. As these sessions reveal, democracy must also allow for compromise, for accommodation, and for the recognition of differences, not merely as tolerable, but as the essence of a rich and rewarding human experience, as it represents the inner soul of the people.

Participants were also made aware that although voting maybe the first duty of democracy, it certainly isn't the last. Democracy is not static. It is a process. It cannot abide apathy. For democracy to work it requires active participation, the individual commitment to a group effort, ongoing dialogue, unrestricted freedom of press and assembly and the free struggle of opinion – and that the best weapon of a democracy is openness. Furthermore, the rights of democracy are not reserved for a select group within society; they are the rights of all the people.

One common, crucial understanding arising from the forum is that more than ever before, there is now a global understanding that long-term social, economic, and environmental development will be impossible without healthy families, communities, and countries. Although the journey ahead is both challenging and formidable, Bhutan, with its emphasis on Gross National Happiness is well set for the future.

Indeed, in his concluding remarks, the Honourable Prime Minister stated that the Conference was “a celebration of the spirit of democracy, of the good and enlightened society that it is expected to promote – of the Gross National Happiness that it must help realise.”

OPENING REMARKS BY DASHO KARMA URA

I am very honoured to have the first few words at this Conference. Thank you all for making the effort to come to this event as a whole and particularly to this reception after such a long day, beginning, for some of you, at 3am to board your flights. I am very grateful for your attendance at this opening ceremony that must appear hectic to you, having coming from abroad and landing just over an hour ago.

This opening ceremony is also a dedicatory ceremony through which we both inaugurate and set apart for the next three days, committing ourselves to higher purposes, enduring impacts and beneficial results.

I feel tempted to say that the Conference is being held in the foreground of the famous Tiger's Nest, which is a very symbolic act to my mind. In the mid 8th Century, Guru Pema Jungney founded the Tiger's Nest. Guru was the first global figure in this part of the world to have connected parts of Central Asia, China, the Indian Continent and the Himalayas, by travelling part of the southern Silk Road – where monks, merchants and migrants walked. He was born in northern Pakistan, became the Abbot-Teacher of the Nalanda University, and later operated throughout the region from Pamirs to the Himalayas. He was the first concrete link among the SAARC region as well as the SAARC and Central Asia. So history is closer and more inspiring than we think.

The other reason why I want to mention the founder of Tiger's Nest and other similar sites, is that Guru Pema Jungney was also a pan-Himalayan figure with a divinely imparted sense of the need to commit to opening, educating and freeing ourselves and others in the broadest ethical sense of the term. These are ultimately one of the main reasons behind this Conference on Democracy. So this is a special moment when we dedicate ourselves today to commit to these universal values of democracy.

My other pleasure this evening is the honour of introducing two distinguished individuals: firstly, HE Ajay Chhibber and secondly, HE Jigmi Y Thinley.

HE Dr Ajay Chhibber

HE Dr Ajay Chhibber is the Assistant Administrator and Regional Director, UNDP Regional Bureau for Asia and the Pacific. He directs and manages the overall policy and programmes and operations of 25 country offices in Asia and the Pacific, which consists of more than 50% of the global population. He earned his BA from St Stephen's finishing as the Best All-Rounder, got his MA from the prestigious DSE and a Ph D from Stanford University in 1983 on a Stanford Fellowship.

Thereafter, his story seems to be one of aiming high in hope and work. He began his career in universities, teaching economics in St Stephen's in DU, and Georgetown University. For a year, he worked at the Indian Planning Commission, and then became a consultant researcher. In the early 1980s, he joined the World Bank, where animated by his commitment of time, energy and knowledge, he began to touch the lives of peoples in many countries from a number of senior positions he held in the World Bank between 1983 and 2007. In 2007, he switched over to the UNDP.

Ajay was the Director of the World Bank's Independent Evaluation Group, between 2003-2007, which reported directly to the Bank's Board and produced 15 country and thematic evaluations every year. Ajay was the lead author of the 1997 seminal report, 'The State in the Changing World' on the role of the government in economic and social development, that brought a major shift in the World Bank's approach to public sector reform and governance. He contributed critically to the earlier World Development Reports on Trade Issues in Agriculture in 1986 and the World Development Report on the Environment in 1992. These are documents which had huge positive ramifications in both realms of thinking and on the World Bank's operations.

Some of the countries on which he has focussed intellectually and which have benefited from his services as a World Bank economist are Turkey, Egypt, Western Africa, Pacific Islands, Indonesia, India, and Vietnam. He was crucially responsible for one of the World Bank's most successful and largest ongoing multi-billion IDA programme in Vietnam, that was launched while he was the World Bank's country director from 2006-2007.

Weaving many responsibilities seamlessly with writing, HE Ajay Chhibber has published extensively: five major books and some 30 articles, on such critical contemporary issues as agricultural pricing policies, food security and grain market, environment, poverty, public finance, inflation, banking, debt, private sector development, trade, governance and corruption, and natural disasters.

It must be his sensitive humanitarian ability to understand and act decisively during the disaster in Turkey in 2001, that Ajay Chhibber was awarded the Turkish President's Award for Best Project on Earthquake Response in Turkey. At that time, HE Ajay Chhibber was the World Bank Country Director for Turkey and Macedonia.

HE Jigmi Y Thinley

Gifted academically, HE PM Jigmi Thinley got his BA (Honours) from St Stephen in DU and MPA, Pennsylvania State University. As Bhutan was modernising its public administration, he became a civil servant in 1976 and, not surprisingly, he rapidly rose through the newly emerging administrative hierarchy.

In his long and distinguished and diversified career, he was progressively the Secretary of the Civil Service Commission, Director of Education, Jt Secretary of Ministry of Commission, Secretary of Ministry of Home Affairs, Minister of Home Affairs and Minister of Foreign Affairs. Simultaneously, he was the chair of many key commissions and committees, imparting visionary directions for many generations to follow. In between, and for several years, he was also Ambassador to the UN in New York, and Ambassador to the UN and EU at Geneva, from where he was also accredited to many Nordic and West European countries. During this period, his initiatives served to sharply enhance the presence of Bhutan internationally.

When the system of government changed, he formed a political party (DPT) and as its President, became the first elected PM in 2008. This was not a completely new responsibility for him: he had been twice PM on a yearly rotational basis before under a different system, when cabinet ministers took turn to be heads of government. Thus he brought experience and insight to the task of nurturing democracy and developing the country. He combines the present post as PM with

several other Chairmanship of important bodies such as NEC, GNHC, TCB, REC etc.

Our PM is a member of many professional bodies, and also abroad such as the Asia Society in New York and the Smithsonian Leadership Committee in Washington. I know that due to his present responsibilities at home, he cannot fulfil invitations to be member of many august organisations, for example, such as World Economic Council. The PM has been a sought after speaker in many well-known fora, and has given keynote talks in international gatherings, universities and other institutions across the world. In spite of his rich, packed and manifold responsibilities, he has found time to write and published several articles.

Not only in the nation, the PM's distinguished achievements have received huge recognition repeatedly from his Penn State University, which gave him the Alumni Fellow Award in 2001 and Distinguished Alumni Award in 2009.

For the precious, outstanding, fruitful services to the King, the country and the people, HE was bestowed by His Majesty the 4th King the honour of the Order of Heart Son of Bhutan in 1999 and by His Majesty the 5th King the highest civilian decoration, the Druk Wangyal.

KEYNOTE ADDRESS BY MR AJAY CHHIBBER

It is a distinct honour and pleasure to participate in this pioneering Regional Conference on Deepening and Sustaining Democracy in Asia. On behalf of all participants, I would like to extend my heartfelt thanks to our hosts for their warm welcome and generous hospitality.

Natural Disasters across the Asia-Pacific Region

Before we start on the theme of our deliberations, let me acknowledge the recent devastation and loss of life in our region. Over the past few weeks, Asia and the Pacific have been battered by a series of multiple disasters that have killed more than 1,500 people and affected upwards of seven million others. Typhoons ravaged through vast areas in the Philippines, Lao PDR, Cambodia and Viet Nam, producing severe floods. More unexpected floods wreaked havoc in India. Two strong earthquakes caused grave devastation and loss of life in Indonesia. Only a few days ago, more earthquakes shook the South Pacific triggering several tsunami waves that struck parts of the island countries of Samoa and Tonga. Information on the extent of damage and loss is still unfolding as assessments are under way. The UN Development Programme, along with other UN agencies, reacted quickly, immediately deploying crisis management teams to support governments in the aftermath.

Our host country, Bhutan, has not been spared by this wave of natural disasters. On 21 September, a strong tremor shook the eastern part of the country claiming lives and causing damage and destruction across many communities, some of them quite remote and difficult to reach. I would like to extend my heartfelt condolences to our gracious hosts – and indeed to all other countries in Asia and the Pacific affected by recent calamities – on the death toll and devastation suffered. My thoughts are with you at this difficult time as the UN system is working hard to assist the people affected across the region, together with the Government and other partners.

Going Beyond Elections as a First Step

As we deal with these disasters on the positive side we must recognise that this Conference is a celebration of an important milestone in Asia. For the first time, democratically elected Governments are now in place in all of South Asia and many parts of the rest of Asia, from the Maldives to Pakistan, from India to Nepal, from Bangladesh to Bhutan, from Sri Lanka to Afghanistan, from Cambodia to Timor Leste and Indonesia. We salute and congratulate the Royal Government of Bhutan and the Centre for Bhutan Studies for hosting this important event. It is a tribute to the significance of this time in the history of the region and to Bhutan's own democratic path that high level delegations from so many countries and so many distinguished experts, have come to Bhutan this week.

Today, we are at a crossroads for democratic developments in Asia. The region has made tremendous strides in economic and social progress under many different forms of governance. Multi-party elections have taken place in every country in South Asia over the last few years. This is a significant achievement. It is also a resounding call for all the elected governments now in power in Asia to fulfill the promise of democracy.

Some Examples

In 2008 alone, a number of significant elections took place in South Asia. These elections were a critical starting point for public participation and political engagement.

In Bangladesh, after two years of emergency rule and considerable uncertainty, parliamentary elections were held peacefully on 29th December 2008, returning democracy to the country, with a record turnout of 87% of the 80 million registered voters.

In Nepal, notwithstanding the violence, the historic Constituent Assembly election on 10 April 2008 turned a new page in the country's political history. A refreshing outcome of the election was that women comprised more than 30% of the elected members.

Similarly, the first-ever multi-party presidential elections held in Maldives on 28 October, almost one year ago, reflected the long yearning to embrace electoral democracy, with 87% of voter turnout. I

acknowledge here again His Excellency the Vice President of Maldives, who is an old friend a great leader of his country.

This year in Indonesia, over 125 million voters scattered across over 900 permanently inhabited islands went to the voting booth in the legislative and presidential elections in April and July 2009. These peaceful, free and fair elections were a testament to the remarkable political experiment unfolding in the world's fourth most populous nation.

In the spring of 2007, Timor-Leste held presidential elections with a sleight of 8 candidates and a voter turnout of almost 82%. Elections observers agreed that all these elections were generally free and fair without significant violence or irregularity.

In Pakistan, despite the violence and tragic assassination of the former Prime Minister Benazir Bhutto, free and fair elections have returned her party to power. While Pakistan deals now with a lot of challenges, it does so under a democratic system.

In the Kingdom of Bhutan, the first ever multi-party democratic elections took place on 24 March 2008 to elect a National Assembly. This transition to a constitutional monarchy was initiated 10 years ago (in 1998) by His Majesty the Fourth Druk Gyalpo, King Jigme Singye Wangchuck. This Conference is a testimony to the Royal Government's determination and resolve to pursue His Majesty the King's dream of a democratic Bhutan where all people are at the centre of decision-making.

At the UN, and especially at UNDP, we are very proud to have played a role in support of these democratic transitions. The more important discourse remains in answering the question, how can democratic processes be sustained over the coming decades to go beyond elections?

Deepening Democracy through Inclusive Participation

But, elections alone cannot equate with democracy. The roots of democracy need to be grown deeper. Democracy is a continuous process. Free and fair elections go hand in hand with efforts to provide everyday opportunities for people to participate in the decision-making affecting their lives, whether through civic engagement in political

parties, trade unions or civil society organisations, or whether through access to information, e-governance and independent media. Each can play a useful role in modulating the relationship between ordinary citizens and the Government and ensuring that the decisions that are made meet the people's needs. Through CSOs, citizens can also participate in the delivery of services to segments of the population that are difficult to reach or have special needs; they can also advocate on their behalf. The participation of women and of the most vulnerable segments of society, notably, youth, people with disabilities, minorities and indigenous people is crucial in the democratic process. Strengthening that role, also for the media, to participate in the policy making process and to monitor and to evaluate the implementation of these policies will also be central to deepening democracy.

If I may quote, Mahatma Gandhi, who said, "In true democracy, every man and woman is taught to think for himself or herself. Democracy must come from within"

Deepening Democracy through Responsive and Efficient Institutions

All the main democratic institutions – the government, the parliament and the judiciary – need to be responsive to the people's needs in order to deepen democracy. A democratically elected government does not fulfill its promise if it doesn't deliver the basic services to society, such as education, health and water and sanitation; formulate and approve sound legislation and ensure adherence to the rule of law. In this respect, it is important to determine the roles and responsibilities of all levels of government in the provision of services. It is also important to bring the governing institutions as close as possible to the people – through decentralisation and devolution of power – to make them accountable to the people. But the delivery of services may be compromised unless the rule of law is strictly adhered to with effective independent and honest judges upholding the rights of their fellow-citizens and members of parliament providing adequate oversight over the government's functioning.

Going Beyond National Level

Democracy also needs to go beyond the center. It needs strengthening of management of affairs at provincial, district, village, and municipal levels.

More countries than ever have elected representatives in addition to national parliaments. Local democracy is taking root in the region, for example:

Maldives is currently establishing elected Atoll and Island Councils.

Bangladesh made a recent decision to reestablish Upazila parishads (councils) with – so far – elected chairs – and already has democratic institutions at other levels.

Afghanistan had the first elections to Provincial Councils in 2005 with District, Municipal and Village Councils scheduled to follow.

The Kingdom of Bhutan established formal district and village governments with the 2008 reforms – building on Dzongkhag and Georg committees.

This adds to Fiji, India, Indonesia, Iran, Mongolia, Papua New Guinea, Philippines, Solomon Islands, Sri Lanka, Thailand, Timor Leste and Viet Nam which already have a tradition of forms of subnational democracy.

While getting democratic institutions in place is a first step, strengthening inclusiveness and accountability of subnational governments is at the core of sustaining democracy.

We also need to understand the way we design local democratic institutions. For example, how political parties function at subnational level, how electoral systems affect representation, and what roles are played by national MPs. In most countries, MPs remain closely involved in local development. In some cases this is an advantage; in others it can undermine local democracy. When some countries shifted to direct election of mayors and chairs of councils, stronger lines of accountability to the electorate were established. But the checks-and-balance were often weakened.

Much of the real impact of local democracy on development is determined by how we follow up on political decentralisation. It needs actual fiscal powers and changes to the management of civil servants. Local governments need the money and clout to deliver the goods and services for which they have been assigned responsibilities. While political decentralisation has been fast, fiscal and administrative decentralisation in Asia has, as a whole, been much slower.

Deepening Democracy through Fulfillment of Internationally Agreed Principles

Finally, electoral democracies cannot be sustained, unless they live up to a number of internationally agreed principles, in particular human rights, gender equality and accountability and transparency. All democracies should strive to promote, protect and fulfill our basic human rights, especially those that matter most for the poor. These include the right to food, the right to health and the right to education, but also the civil and political rights, notably freedom of expression and assembly, as all human rights are indivisible, interdependent and mutually reinforcing. In some Asian countries the judiciary has played a remarkable role in defending the rights of its citizens, for example in Pakistan, where the lawyers and judges took to the streets, or in India, where the judiciary is renowned for upholding economic, social and cultural rights. In other countries the full independence of the judiciary has not yet been achieved. The same can be said about the institution of parliament, which needs to be strong to provide an adequate counter-balance to the executive.

Many countries in Asia have established National Human Rights Institutions. I had the pleasure of visiting with the Philippines Human Rights Commission recently, led by a strong leader, which is doing excellent work in that country. But not all these institutions are truly independent, or well-resourced and staffed, working at the service of ordinary people.

At the regional level in Asia, the recent establishment of the ASEAN Commission on human rights is a welcome development, which hopefully will be fully supported by ASEAN member countries.

One of the most fundamental rights, is the right to equality before the law, and non-discrimination. With two thirds of the world's poor in Asia, i.e. people living on less than \$1 per day, and with women estimated to constitute 70% of those poor, the region has a major challenge to tackle. Only 7% of the arable land in Asia is owned by women, compared to 18% in Africa. Gender equality and women's empowerment are particularly important for a nation's well-being and in achieving the MDGs. Investing in women brings broad economic and social benefits. Devoting resources to women's health, for example, is one of the smartest investments any society can make. When women are healthy, they provide for their families. They contribute to their communities. They lift up entire nations. In terms of political empowerment, women in Asia struggle with low parliamentary representation - second worst in the world at 17% after the Arab States - and also male-centered political party cultures. Women suffer from unrepresentative electoral systems, gender-blind budgetary processes and greater vulnerability in times of political crisis. This trend exists with respect to women's participation and roles even at the local levels.

Corruption is well-known to be a devastating cancer undermining the efforts of governments to deliver services to the people. Electoral democracies are not fulfilling their promise, if the resulting government is mired with corruption. Anti-corruption policies are therefore an essential ingredient of any attempt to deepen democracy. Some countries, such as Indonesia, have made remarkable strides in fighting corruption through effective mechanisms such as the Anti-Corruption Agency KPK and the Anti-Corruption Courts, but more needs to be done to sustain these best practices and to ensure that all anti-corruption actions in South and South-East Asia are seen as credible efforts, not biased towards attacking political opponents or catching only the small fish. At the same time, it's also essential to free the basic social services of the State, such as policing, education, and health services, from the cost of corruption as it cripples the poorest segments of society and entrenches their poverty.

Bringing Back the Challenges and Lessons from Democracy to Countries in Asia

In sum, deepening democracy is about a multitude of actions promoting inclusive participation, strengthening responsive institutions

and upholding international principles. Discarding some of these building blocks of democracy will inevitably lead to setbacks. In many Asian countries, the democratic progress is still fragile and prone to reversal risks. The gains of electoral democracy will be lost if not substantiated with a broad-based commitment and action to uphold democratic principles.

The recent challenges of deepening democracy faced by countries like Nepal or Thailand have highlighted the quintessential importance of inclusive participation of all key actors along the political spectrum, and of resolving social tensions through debate and negotiation within the framework of democratic processes and institutions.

Allow me to quote the 2009 Nobel Peace Prize winner and President of the United States of America, Barack Hussein Obama, who recently addressed the UN General Assembly in New York. President Obama stated that: “Democracy cannot be imposed on any nation from the outside. Each society must search for its own path, and no path is perfect. Each country will pursue a path rooted in the culture of its people and in its past tradition”.

The main challenge now is to deepen democracy and to take it beyond institutional routines and elites. It calls for the democratisation of public policy making and creating social democracy to run alongside political democracy. Finally, it calls for a celebration of diversity within the different societies of the region. It requires the minimalist demand of instituting a democratic government that will not be undermined by authoritarian challenges, a functioning state that delivers benefits to people and can protect the rights of the weak, dispossessed, and oppressed, especially women and children.

It is in this context, that this regional Conference on “Deepening and Sustaining Democracy in Asia” is being organised by the Royal Government of Bhutan. This forum:

- Marks the smooth and peaceful democratic transition in Bhutan, and signifies the completion of democratic election processes in the whole of South Asia.

- It also provides an avenue to share the lessons and experiences among countries in the region as well as with other Asian neighbors to help strengthen, deepen and sustain the democratic culture and values in Asia.
- Our discussions will center on how to overcome these core challenges. Because the democracy a nation chooses to develop depends on its history and circumstances, countries will necessarily be “differently democratic”. But in all countries democracy is about much more than a single decision. It requires a deeper process of political development to embed democratic values and culture in all parts of society – a process that by definition must be always renewed.

Concluding Remarks

As mentioned at the outset of this opening address, today, we are at a cross-roads for democratic developments in Asia. Either democracy will thrive and deliver benefits for the people in terms of human development, or it will wane and turn into the victim of its own neglect of the people. The question is now: what path will Asia take? The decision is up to the governments and the people of Asia. It is the context for this very important Conference.

I wish you very fruitful and stimulating discussions over the next three days and look forward to hear from your experiences, insights, suggestions and recommendations for sustaining and deepening democracy in Asia and taking forward these historic times for the sake of our grandchildren’s children, to make sure that they can reflect upon these times as a turning point in the history of Asia.

Let me end with a famous but very appropriate quote from Sir Winston Churchill: “It has been said that democracy is the worst form of government except for all the others that have been tried.”

It is the discretion Asia takes with great vigour, because democracy is not a means, it is an end in itself.

KEYNOTE ADDRESS BY HE JIGMI Y THINLEY

The Royal Government, the people of Bhutan and I are truly pleased to extend to all of you a very warm welcome to the land in pursuit of Gross National Happiness or GNH.

We are especially honoured by the high level of official representation which include ministers, parliamentarians and senior government officials from a large number of countries.

We are equally enthused by the presence of many distinguished thinkers, academics, civil society leaders and journalists especially in light of the indispensable role of think tanks, academia, civil societies and the media in promoting good governance and ensuring democracy.

Beyond the importance you attach to the theme of the Conference, I consider the efforts you have made to travel all the way to the Kingdom of Bhutan to be a measure of your affection and support for our country as a newborn democracy.

I extend a special welcome and appreciation to HE Mr Ajay Chhibber, UNDP Regional Director for Asia and the Pacific. Inspired by the surge of democratic vigour and events in our region and mindful of the challenges faced by our countries, Ajay and I conceived the idea of the Conference a year ago in New York. We felt that such a Conference would provide a useful opportunity for various actors in our countries to share concerns, knowledge and experiences toward deepening and sustaining democracy.

Its realisation today is a source of satisfaction for both of us, and I thank him deeply for his encouragement and pivotal role in making it happen. I must also thank the UNDP offices in various countries for bringing many state and non-state actors to this Conference.

For Bhutan, this Conference is of special significance, a celebratory event indeed, as it is happening just a year after our country held its first parliamentary elections and enacted its Constitution to make it the

youngest democracy in the world. In a befitting manner, this Conference is being attended by members of the Bhutanese cabinet, parliament, civil service, judiciary, political parties, businesses, media, and NGOs. No sector of the society is irrelevant to a discussion on democracy, for democracy and good governance are not and cannot be the function of governments and politicians alone.

Being new to the ways of democracy, we look forward to interacting with all of you from outside and learning from you. I am hopeful that this Conference will enrich all of us with a deeper understanding and knowledge of democracy and how each of us can contribute to its growth and advancement in our countries.

Beyond the walls of this Conference hall, our people will be listening to the conversation we have here, as it will be broadcast later for the benefit of the public. There are also journalists from all the Bhutanese newspapers, and I know that they will share with our people the insights they gain from our deliberations. I am also certain that the journalists who have taken the trouble to come here from various other countries will ensure the reach of our endeavour to people beyond the borders of our Himalayan nation.

Bhutan became a parliamentary democracy in a way that is rare, if not entirely unique, in the history of democracies. Democracy for Bhutan, came not by the will of the people but by persuasion, persistence and sacrifice of a King who believed in the collective wisdom, the right and capability of the people to shape their own destiny. It came by virtue of our King's faith in the love of his people for their own country being no less than that of his own immeasurable devotion to his country.

It did not happen suddenly or impulsively. The transformation took place over a period of some thirty years, spanning the entire reign of our fourth ruler, His Majesty Jigme Singye Wangchuck. Legal instruments, institutional arrangements and administrative systems were methodically and meticulously put in place to support the progressive democratisation culminating in the parliamentary elections of 2008. These included a policy of decentralisation which placed decision making on local development matters in the hands of the

elected from the centre to the districts in 1981 and from there to the more than 200 local entities in 1991.

Among reasons why democracy in Bhutan ought to have an advantage in succeeding over other young or yet struggling democracies is because ours did not come by way of a struggle or through divisive forces, but through the most peaceful and orderly means overseen by our revered and trusted rulers.

There are no broken pieces to mend and yawning divides to bridge; no festering wounds to heal and psychological barriers to confront. Such a legacy is not easy to bear or sustain.

The challenge for the first democratically elected government is to ensure that not only must peace, stability and harmony be maintained but that democracy becomes the paradigm within which all our actions and pursuits are undertaken. It must serve to inspire and be the motivator for good governance and progress.

To this end, my government is committed to ensuring that our democracy takes root and that this transition is irreversible. Even though structurally, we have an ideal democratic architecture including a wonderful constitution, we are mindful of the all too familiar capitulation of elected leaders to forces of vested interests and resultant undermining of the laws and processes of democracy.

In the ultimate analysis, it is the people themselves who must dwell within the house of democracy or let it collapse. In truth, it is less a question of choice and more a question of capacity of the people to choose their representatives wisely and to hold them responsible and accountable.

Democracies fail not because of inherent flaws but because they fall into the wrong hands and the people are too feeble to exercise their power with firmness and unity. People in many developing economies neither understand the power and value of the vote nor are able to assume responsibilities that come with it.

Beyond the Ballot Box

Democracies go wrong not for want of good laws and systems but because of the lack of democratic culture and polity, which must sustain them. Promoting the development and nurturing of democratic culture where it does not exist is, I believe, the moral obligation of governments and leaders.

This is the biggest challenge and the most important commitment of my government. It is a commitment that succeeding governments must continue with, for raising consciousness and changing mind-sets and a way of life takes time and persistence.

As the first elected government, and in keeping with the vision of His Majesty the King Jigme Khesar Namgyel Wangchuck, it is my privilege to work towards strengthening the foundations of democracy just as it is the determination of my government to build structures and establish practices of good governance.

Although it can be argued that one is more important than the other, i.e., democracy and good governance, and that they can be realised separately, we have chosen to accept the two as being integral.

We have chosen to be led by the conviction that democratic values and processes must form the basis on which the elected shall employ the instruments of the state to serve the people. This is not to disrespect those who hold the view that the two are parallel tracks for the advancement of society and that good governance seen as the more important, can do without the other track, quite like the monorail.

In this regard, I even see the basis for a discourse on whether democracy is the essence of good governance or vice versa or that they are one and the same.

In the context of Bhutan, a country that is committed to pursuing happiness as the purpose of development, democratic practices must also be embedded in the overarching and inclusive development philosophy of GNH. I would like to later dwell a little on the relationship between democracy and GNH.

Global Trends Affecting Us

Allow me then to take a brief look at the broad global currents of change, the forces that have or will affect us in critical and profound ways. Even as we embrace democracies and, in so doing, must be guided by the will of our sovereign peoples, the trajectories of our inter-dependent nations cannot be set independently and will become increasingly common as dictated by the realities of a globalised world faced with common and increasingly basic challenges of security and survival. The fate of our nations will depend on how together we can creatively face these challenges.

If we glance back at the contours of the immediate past, we see that the last century has been one of titanic wars, struggle for military supremacy and the threat of a thermonuclear end. It was a century driven by production and proliferation of weapons of destruction; competition for market access and resource control.

Sadly, little has changed. Though the world is relatively more multi-polar now, we are far from reaping the so called peace dividends we once dreamed of. It was a century of heroic and humanistic struggles for freedom whereas conflicts now are mainly centred on challenging the coherence of nations. It saw a shift towards democracy which was accompanied by improvement in the living standards made possible by science and technology as well as the freedoms for broader social and economic participation. But it was also marked by explosion of population from two billion at the end of 19th century to 6.7 billion now. Of this, 800 million are malnourished, and by 2050, nine billion will crowd this small planet.

Societies in the developed world will age and most developing countries will become younger in the early part of this century. The aging societies in the North with a dwindling work force, will be demographically different from those of the south, leading to major contrasts in care-giving and medical care, not to speak of its new economic, social and cultural consequences.

How we can square such demographic and associated disparities between the two parts of the world is challenging from a GNH point of

view. Happiness, after all, is about joyful birth and parenting, meaningful and satisfying labour, aging with contentment amid security; and dying in dignified serenity. All these require a balanced and proportional age structure.

The last century was a century of free market and liberalisation that led to a surge in deregulation, privatisation and free trade. Unconscionable exploitation of natural resources, excessive production, wasteful consumption and pollution were the manifestation of the greed that powered our market economies. Although these have led to the highest level of aggregate wealth in the world, the absolute number of people suffering from poverty and vulnerability of all kinds are at a historic peak. Resultant collapse of biodiversity and climate change are, I believe, at the root of the increasing frequency and devastation with which natural calamities are exacerbating the plight of the poor and the vulnerable in particular.

Likewise, the unravelling of the global macro-economic system and the Asian financial crisis before they had affected all of us who are integrated through trade and finance. These serve as harsh reminders of the unsustainable nature of our way of life and the need for human society to reorient and realign its values and the means by which these are to be realised.

The last century was a century of urbanisation. From 30% of world urban population in 1950, it has increased to 50% now. We are resigned to the possibility that 70% of global population will live in cities in the next 40 years. But we need not accept that development means urbanisation. Urbanisation is the result of incongruent development and can be contained through localisation of production and scaling down of huge settlements. An urban future is not so radiant if we unflinchingly calculate the cost of dysfunctional aspect of cities, from slums to crimes. The negative consequences of urbanisation in terms of ecological foot print and carbon foot print are well-known, though not taken into account in policy making. Food that sustain urban populations travel perhaps the longest distance, leading to the longest food-miles. Food is too important not to be grown in a self-reliant way

and the quantities of waste production which cannot be metabolised by the ecology of the urban, are nothing short of horrendous.

Above all, the consequences in terms of breakdown of the social links and communal affiliations through urbanisation have been no less severe, resulting in lower level of happiness in urban areas. At least, that is the early evidence from GNH surveys in our country.

The last century was a century of amazing advancement in public health engineering and bio-science discoveries. But the treatments provided were more for non-communicable diseases wrought by unhealthy lifestyle. Our lifestyles, shaped by broader systems, have imposed a hidden cost on us. Roughly 64% of global mortalities are from non-communicable diseases. Some 450 million people - 12% of world population - suffer from mental health problem of one kind or another. Given that they are preventable and avoidable, it is a sad commentary on our society. It seems evident that people will slide into unhealthy lifestyle, imposed by wider systems, at a rate that will require increasingly more treatment of non-communicable diseases, including clinical depression, costing more and more. I dare hope that we can move from a century of treatment to a century of fundamentally happy and healthy lifestyle. This is no small aspiration because it will demand a big shift in work-life-leisure balance, which in turn will demand major changes in the structure and organisation of our economy.

All these problems that we have brought with us from the last century compel us to open up new vistas of thinking and action, rather urgently. Unless we change ourselves radically, this century may prove to be terminal for human beings as a society and as a true civilisation at the very least. Democracy in this sense, must entail responsibility beyond the provision of a framework for good governance of one's own country. Democracy and democratic societies must be capable of taking into account the larger interest of human society.

In this respect, I beg your indulgence as I share some of my views for your consideration in the context of finding better frameworks of governance and democracy that incorporate GNH.

Orienting towards GNH

I wish to take this opportunity to reflect and interpret democracy and governance in relation to GNH, rather than discussing elements of democracy on its own. We will have the next three days to explore conceptual and pragmatic limits of reforms and challenges in governance.

I wish to, however, connect democracy to happiness as an inclusive goal. Of all the forces that changed human society in the last century, there were two principle drivers. First, the last century was driven by the forces of democracy. Second, especially the last half of the century, was a century of GDP fetish, whereby the progress of societies were conceptualised and measured by production and consumption of goods transacted in markets. This, ironically, came at the cost of what matters most: well-being and happiness.

The philosophy of GNH as conceived by our fourth King has guided our development process for almost four decades now. His Majesty Jigme Khesar Namgyel Wangchuck continues to inspire our country and those who are interested in GNH through his thoughts and public addresses on GNH that have kept alive a steady discourse here in Bhutan and around the world. The growing discourses on the subject have excited many leaders and countries especially in these difficult and uncertain times when the rationale for a paradigm shift is growing. But there are no doubt substantial challenges on its path.

Government policies, especially in democracies, must respond to deliberative preferences and choices of people. Whatever we call them – will, preference, choice – public success criterion has a major influence in shaping preferences and choices. We need to question whether those public criterion of success associated with GDP are serving us well, and whether they are orienting us towards good governance and development.

For far too long, GDP and the market have blinded us into thinking that they are the source of well-being and profound happiness. We have all succumbed to a culture of growth-mania. Our successes have been largely measured and communicated in purely economic terms.

Because of the application of GDP as the widespread criterion of success, we have been forgetful about what makes us happy, and what constitutes a happy life. This is now beginning to change.

Many academics, politicians, economists and ordinary people are not only beginning to see the disconnect between happiness and material wealth but agree on the unsustainable and dangerous path on which GDP led growth has set human society. The OECD secretariat is well advanced on a new criteria for promoting and measuring true human progress. And countries like Canada, Australia, the UK and most recently, France, have acknowledged the merit of GNH while attempting to incorporate its various elements in their public policy and programmes.

When states change the criteria for public success, define wealth in more holistic terms and give cause for public satisfaction with more sustainable and well being oriented programmes, people, I believe, will change their preferences, motives, and will.

The purpose of democracy and contents of development programmes will and must change as people consider happiness as their explicit goal in life. People will come to understand that happiness is relational rather than relative, and they will question the virtues of consumerism and will give up the self-defeating scramble for positional (status and material symbols of success) goods especially when corrected by institutions and laws. They will strike a balance between unreflective, fleeting pleasures, and deep satisfaction based on ethically legitimate reasons for happiness.

It is contested that the subjective nature of happiness cannot allow the concept of happiness to guide governance of any society.

Here, we must distinguish between subjective data and subjective interpretation of data as these are two entirely different things. Subjectively biased interpretation of data is unscientific in general just as in GNH. On the other hand, subjective data is the only data that can reflect first person account while subjective states are, by definition, not captured by objective data.

I would further argue that the category of subjective data, when appropriately elucidated, can be the primary information that represents reality of feelings and consciousness. There is no other way of knowing feelings and consciousness about happiness.

Such distrust of subjective data related to happiness can lead to negligence of happiness in governance and development planning. The process of governance disregarding subjective information can obscure happiness itself as an important object of governance. Information on the variability of happiness can be useful for evaluating various aspects of governance. Where deep unhappiness exists, surely something is wrong. We do not need to wait for a series of objective data, which by themselves cannot tell us the reality, which is ultimately subjective, of those who are suffering.

Let me finally conclude my statement. Democracies are seen as the best arrangement for protecting human freedom. The enhancement of freedom that lies at the heart of democracies begins with the idea that we have freewill and are guided by reasons. Free will and reason can be tapped to determine what we want to value and be. Giving happiness a larger focus in policy making does not conflict with rights and freedoms. Rather, in the context of GNH, a larger focus on happiness places what all beings value at the centre for policy making.

Public Opinion, Happiness, and the Will of the People: Policy-making in a Democracy*

DR HENRY S RICHARDSON

Democracy is a form of rule by the people. I begin by making a case for this fundamental proposition. I then look at two tempting ways of misunderstanding rule by the people—namely, thinking of the people’s views via the idea of opinion polls or via the idea of making the people happy. In a democracy, the people’s will must be continually forged through the democratic process. A difficult challenge to achieving democracy, so understood, is how to reconcile this insistence on rule by the people with governments’ reliance on complex, expert bureaucracies to do much of their policy-making work. I close with some constructive suggestions about how happiness indices might be used to guide policy-making in a way that aids democracy rather than furthering elite, bureaucratic rule.

Democracy as Implying Rule by the People

Any careful attempt to reconstruct the ideal of democracy, as it is currently understood, will disclose that it is a rich tapestry woven from many distinct threads. Although different nations, with their different traditions, will weave in other ideas as supplementary warp or supplementary weft, giving their own interpretation of democracy a distinct character, I believe—have argued at length elsewhere—that there are five central strands to the idea of democracy, strands that are necessary both to distinguishing democracy from other forms of

* I am extremely grateful to the Centre for Bhutan Studies and the Bhutan office of the United Nations Development Programme for inviting me to present these ideas at the Conference on Deepening and Sustaining Democracy in Asia, which was held in Paro, Bhutan on October 12-14, 2009. I learned a lot from my co-panelists, from the participants’ comments on my lecture, and from informal conversations at the Conference. I am particularly grateful to Dasho Karma Ura and Sabina Alkire for discussion of various of the ideas presented here.

government and to capturing crucial conditions of any legitimate government.¹

Let us begin, then, from the thought that the exercise of governmental power is illegitimate unless it is democratic.² To say this is not to imply that democracies can do no wrong, for it indicates only that democracy is an important necessary condition of legitimacy. Why is there any special issue about governmental legitimacy in the first place? The problem arises from how governments impinge on individuals' freedom. We do not need to agree on any controversial understanding of individual freedom to recognise that governments impinge on it. They do so by telling individuals what they must do—that they must pay certain taxes, refrain from doing certain things that damage the natural environment, obey certain trade regulations, and so on—and by credibly threatening them with sanctions if they do not obey. Importantly, these government actions do not merely limit people's options or shift their incentives: they also already restrict individuals' freedom simply by purporting to impose duties on them. Because governments thus impinge on freedom, they come under a special burden of legitimation.

The ideal of democracy answers to this burden, indicating how governments must be structured if they are to impose duties of this kind legitimately. "The basic case" for democracy, as we might call it, resides in the following thought: Democracy meets this burden of legitimation by combining two normatively significant ideas: (a) the idea that laws and policies must not be simply arbitrary but must be based on reasons, and (b) the idea that the process whereby reasons are brought to bear on lawmaking must be structured so as to assure equal concern and respect for each citizen. Utilising majority rule to yield a decision following an exchange of reasons is a saliently reasonable way to unite these two elements, and counts as a rudimentary idea of

¹ See Richardson, Henry S., *Democratic Autonomy: Public Reasoning about the Ends of Policy* (N.Y.: Oxford University Press, 2002). Parenthetical page references in the text will be to this book.

² The remaining paragraphs in this section are adapted from Richardson, Henry S., "Précis," *Philosophy and Phenomenological Research* 71 (2005): 187-195.

democracy.³ This basic case for democracy already limns a conception that distinguishes democracy from a pure monarchy (which contains no inherent check against arbitrariness) and aristocracy (which is incompatible with a fundamental commitment to respect for all as free and equal citizens).

This basic case for democracy is quite abstract – too abstract to describe a fully recognisable conception of democracy. It tells us too little about the processes wherein reasons are to be exchanged and whereby items for majority decision are to arrive on the agenda. To arrive at a more satisfactory interpretation of democracy, we need to enrich this basic lesson by integrating within it four important strands: republican, liberal-egalitarian, populist, and rationalist. These strands represent, respectively, the values of freedom as non-domination, equal basic liberties, and, in the case of the last two, respect for autonomy.

The modern national democracies have all been republics, forms of government that centrally rely upon institutional ways of separating powers and allowing checks and balances among them. Historically, not all republics have been democracies. The western idea of a republic originated in ancient Rome, where it was conceived as a “mixed” form of government, pitting the different classes of society against one another via differentiated ways of representing them and allowing them to contest decisions. Niccolò Machiavelli’s *Discourses* celebrated the ancient Roman republics as having helped preserve the “liberty” or “freedom” of the Romans by dividing rule in such a way as to help block domination by any one person or group.⁴ Many cultures have doubtless developed similar ways of institutionally dividing power. Among these, we could include the *gana-sanghas* of ancient India, into one of which the Buddha was born.⁵ As both of these cases illustrate,

³ May’s theorem indicates one way in which majority rule is saliently reasonable in such a context.

⁴ Republics, understood in this way as mixed constitutions, were celebrated by Niccolò Machiavelli as having helped preserve the “liberty” or “freedom” of the Romans: see his *Discourses on the First Ten Books of Livy*, Book I, chap. II and *passim*.

⁵ Cf. Sil, N. P., *Kautilya’s Arthashastra: A Comparative Study* (N.Y.: Peter Lang Publishing, 1989), p. 82.

having institutions for dividing and checking power does not imply that power is divided equally, that the people are widely enfranchised, or that the government lacks aspects of monarchy or aristocracy.

What, then, does the republican strand contribute to the ideal of democracy? Philip Pettit's work, which reconstructs the ancient Roman conception of republicanism, helps us understand what this conception adds to the ideal of democracy.⁶ Pettit's signal contribution to the republican tradition has been to articulate a systematic philosophical basis for it in its idea of freedom as non-domination. Both civic virtue and contestatory institutions are crucial means to seeing to it that no one may use governmental power to dominate others. On Pettit's illuminating analysis, this implies, more particularly, that by these means, governments are prevented from having the capacity arbitrarily to interfere with our lives, for one is dominated whenever another has such a capacity. Freedom as non-domination, so understood, is a value at the heart of modern democracies. It links up with the elemental idea of freedom at the core of the basic case for democracy, and does so in a way that aptly leaves open the possibility that democratic government might be legitimate. It will be, if there are reliable mechanisms assuring that its interferences with freedom are not arbitrary. But what does it mean for interferences not to be arbitrary?

To begin with, we should recognise that this issue about the meaning of arbitrariness here arises within the context of making law and making policy, and so presupposes the idea of the rule of law. In the famous chapter "Of the Constitution of England" in *The Spirit of Laws* (1748), Montesquieu described freedom from domination in terms that were rather too broad. "The political liberty of the subject," he wrote, "is a tranquility of mind arising from the opinion each person has of his safety. In order to have this liberty, it is requisite the government be so constituted as one man need not be afraid of another."⁷ Unfortunately,

⁶ Pettit, Philip, *Republicanism: A Theory of Freedom and Government* (Oxford: Oxford University Press, 1997).

⁷ Charles de Secondat, Baron de Montesquieu, *The Spirit of Laws*, translated by Thomas Nugent, revised by J. V. Prichard (London: G. Bell & Sons, 1914), rendered into HTML and text by Jon Roland of the Constitution Society and

however, no constitutional arrangement can suffice completely to erase the grounds we can have to fear others. What Montesquieu should be taken to mean is that the constitution should so restrain governmental power that no one should have to fear its arbitrary use. Yet again, no constitution can make us proof against the possibility that some rogue military officer will seize control, Dr Strangelove style, of some military units and use them in fearsome ways. So again we must set aside an overly literal or absolute reading of the relevant freedom from fear. What a constitution can do is to so constrain things so that no such fearsome actions can count as having the force of law. The constitution can limit what counts as even purporting to impose any duties on anyone. Thus, the central form of arbitrariness to be avoided is arbitrariness in purporting to impose duties on people.

Noticing this, we may say that, in order to be non-arbitrary, any government interferences must be guided by the public good. Yet this answer is not particularly informative, for the notion of the public good is too highly contested to be of much use. In searching for an adequate understanding of non-arbitrary interference, we are simultaneously searching for a viable conception of the public good. That is worth remembering, but it will not much help us towards an appropriate interpretation of non-arbitrariness. I have elsewhere pursued this question in depth; here, I simply summarise my results.⁸ I think that we ought to reject objectivist and welfarist interpretations of non-arbitrariness and instead adopt a more procedural, liberal interpretation. On an objectivist reading, interferences are non-arbitrary if they are based on sound reasons. Understanding an insistence on non-arbitrariness, as we are, as the central contribution of republicanism to democratic theory, we must reject this interpretation. There are two main reasons. First, an objectivist reading of non-arbitrariness would be compatible with a thoroughly undemocratic form of Platonic Guardianship by an epistemic elite. Accordingly, this interpretation of arbitrariness has no place in an effort to elaborate the ideal of democracy. Second, objectivism about the reasons for government action fails to take sufficiently seriously the deep

available at <http://www.constitution.org/cm/sol.txt> (accessed 11 November 2009), Book 11, chap. 6.

⁸ See my *Democratic Autonomy*, chap. 3.

disagreements about what is good and what is bad that are common in almost all societies and that may be expected in any society that properly respects individual freedoms. Whether a given proposed limitation of liberty by government is well-grounded in objective reasons is sure to be controversial in many cases. Accordingly, objectivist standards of arbitrariness are not well suited as a public basis for legitimising democratic legislation.⁹

Welfarist readings of non-arbitrariness are more promising. Three versions of a welfarist reading are worth taking particularly seriously: one that conceives the public good in utilitarian fashion as an aggregative function of individuals' welfare; one that insists, with public choice theorists or with Jürgen Habermas, on unanimity; and one that draws, like Jean-Jacques Rousseau, on a generality filter. Each of these suffers from a fatal difficulty. Here, I confine myself to stating what these difficulties are. A utilitarian reading of non-arbitrariness fails to rule out what would count, intuitively, as paradigm cases of domination, for it supports the idea of sacrificing the welfare of some for the benefit of society at large. Those, whose welfare is sacrificed, without their consent, are dominated by the majority even if, as a result, there is a gain in the aggregate happiness. What, then, about unanimity? The problem with a unanimity requirement is that it imports an unacceptable bias in favour of the status quo, blocking any legislation or policy that would change it unless all can agree upon it. Far from counting as a plausible implementation of the ideal of non-arbitrariness, a unanimity requirement perpetuates the arbitrarinesses (and injustices) of history that produced the status quo. As to generality filters—the third promising way of implementing a welfarist interpretation of the republican ideal of non-arbitrariness—there is a dilemma. Formal versions of a generality filter will be toothless, while

⁹ Does the Gross National Happiness approach, as it has been elaborated in Bhutan and elsewhere, avoid this problem? At this level, I am inclined to think that it does not. Note that the concern here is with determining which interferences with liberty may be legitimate. Hence, there will be a decrement on liberty on one side of the ledger, to be compared to an improvement in national happiness in some other respect. Whether a GNH approach is well suited to assessing such difficult trade-offs is something I will discuss further in the penultimate section.

substantive ones will be impossibly constraining. Formal versions simply demand that an argument for interfering be recast in terms that purport to appeal to general interests—just the mechanism that Marx saw at the root of political ideology. Substantive ones, which insist that the interests of each be met by every policy, are too limiting, for too many of the policies that we ought to pursue—in transportation, education, public health, and the like—will have losers as well as winners.

As I mentioned, the republican ideal of non-arbitrariness insists on some kind of connection between government interferences with liberty and the public good. The interpretations of non-arbitrariness that I have just quickly canvassed are also, implicitly, interpretations of the public good. Whereas Pettit himself seems to be drawn to some sort of welfarist reading of the public good,¹⁰ I have elsewhere argued against this.¹¹ Instead, I have argued for a distinctively liberal, proceduralist reading of the related ideas of non-arbitrariness and the public good, according to which “political power is nonarbitrarily used when it is constrained to operate within a set of fair procedures that respects persons as free and equals and provides adequate protection for their fundamental rights and liberties”. In other words, my claim about republicanism is this: The best interpretation of the republican ideal of non-domination—at least for purposes of capturing what republicanism contributes to democracy—is a specifically liberal interpretation of non-arbitrariness, one that emphasises the importance of governmental procedures unfolding in ways that respect certain basic liberties. These will have to include the political liberties, interpreted in a way that is sensitive to the ways that inequalities of wealth and of power can undermine what John Rawls calls the “fair value” of the political liberties. As he puts it, “[t]his guarantee [of the fair value of the equal political liberties] means that the worth of the political liberties to all citizens, whatever their social or economic

¹⁰ Pettit, Philip, “Democracy, Electoral and Contestatory,” in Shapiro, Ian and Stephen Macedo, (eds.), *Designing Democratic Institutions* (N.Y.: New York University Press, 2000): 115-144; Pettit, Philip, “The Common Good,” Dowding, Keith, Robert E. Goodin and Carole Pateman, eds., *Justice and Democracy: Essays for Brian Barry* (Cambridge, England: Cambridge University Press, 2004): 150-69.

¹¹ See my *Democratic Autonomy*, chap. 3.

position, must be approximately equal, or at least sufficiently equal, in the sense that everyone has a fair opportunity to hold public office and to influence the outcome of political decisions.”¹² The suggestion I am defending, then, is that the best interpretation of the republican demand for non-arbitrariness in any governmental imposition on liberty is one that insists that the laws derive from a process that respects the basic liberties of all individuals, including the fair value of their political liberties.

Let me review where my discussion has carried us thus far. Democracy on any understanding is rule of the people: this distinguishes a democratic constitution from a monarchical or aristocratic one. The basic case for democracy articulates this fundamental idea. Beyond this, integrating some understanding of the public good within our understanding of the democratic ideal is necessary to articulating how democracy is also a form of rule for the people. My contention is that a liberal-republican interpretation of the public good gives us a useful sense in which democracy is rule for the people, one that incorporates the important republican ideal of non-domination.

As you see, I am being guided by Abraham Lincoln’s pithy characterisation of democracy as “government of the people, by the people, for the people.”¹³ Missing from my reconstruction, so far, is what is at once the most distinctive and the most elusive element of democracy, so characterised: the notion of rule by the people. Widely shared values dictate that legitimate government in general, and democracy in particular, must be a form of rule by the people, and not simply a kind of benevolent rule on their behalf. One of the great attractions of democracy is that it allows the people an active hand in law-making, rather than simply generating laws (via non-monarchical and non-aristocratic processes) that promote the public good. The normative importance of this active role for the voices of the people may be confirmed by contrasting democracy with what would be, in other ways, a fair procedure for controlling lawmaking, namely a purely random one—one that selected either policies or, alternatively,

¹² Rawls, John, *Political Liberalism*, rev. (ed.) (N.Y.: Columbia University Press, 1996), p. 327.

¹³ Abraham Lincoln, Gettysburg Address.

weekly rulers, or a random basis. Whatever might have been said in ancient Athens, a form of rule that relies in such a central way on random devices is no longer an acceptable interpretation of democracy.¹⁴

Why not? We may concede that random selection of rulers or of policies is impartial and so is, in one way, fair. By such means, political processes may be made relatively impartial in their responsiveness to individuals' well-being. What random processes do not at all succeed in implementing, however, is the equal agency of each citizen.¹⁵ In a democracy, citizens are to be agents of their collective action, not merely the passive beneficiaries of government's efforts on their behalf. Only when citizens do play an active role in governing themselves does their regime count as a case of rule by the people; and only then is it a democracy in any complete sense.

In reconstructing the ideal of democracy, then, we must strive to explain how it can be a form of rule by the people. Call this "populism." Any serious interpretation of rule by the people must accept populist talk of "the will of the people." Talking this way does not entail any metaphysically dubious propositions about the body politic. We do not have to think of the polity as a person in order to speak meaningfully of the will of the people. Yet if we should resist the idea that the polity is a person, we should simultaneously avoid being driven to a form of methodological individualism that would neglect the importance of institutional forms. Kenneth Arrow's impossibility theorem showed just how hard it is to conceive of the popular will as an abstractly emergent property of the set of individual wills.¹⁶ As I have

¹⁴ I recognise that random selection of rulers was an important element in the democracy of ancient Athens. An important lesson of my characterisation of the ideal of democracy in the text is that this ideal has progressed considerably beyond this primitive starting-point.

¹⁵ Starting systematically with "Well-being, Agency, and Freedom: The Dewey Lectures 1984," *Journal of Philosophy* 82 (1985): 169-221, Amartya K. Sen has emphasised that we should recognise that agency has a normative significance parallel to that of well-being. See also Sabina Alkire's contribution to this volume.

¹⁶ Arrow, Kenneth J., *Social Choice and Individual Values*, 2nd (ed.) (New Haven: Yale University Press, 1963). As Michel Balinski's contribution to this volume

argued at length elsewhere, the will of the people, we must recognise, arises, it at all, not as some abstract “function” of individual wills—as envisaged by Arrow’s style of social choice theory—but as the concrete product of fair democratic procedures, as actually realised in, and distributed across, a broad range of concrete institutions.¹⁷ Popular sovereignty, on this proposal, is to be thought of as institutionally distributed. The point of speaking of the will of the people, on such an interpretation, is obviously not to put oneself in a position of criticising particular policies as diverging from the people’s will; rather, it is to enable to one to explain, more generally, what it takes for a government to be by the people.

On the republican-liberal-populist interpretation of democracy thus far reached, forms of collective reasoning might well be seen to be very useful. Collective reasoning is important as means of contesting

well illustrates, there are creative methods of voting that can circumvent Arrow’s paradoxes. I by no means wish to deny this. In the text, I simply wish to register some skepticism about any claim, on behalf of such a method, that it better captures the people’s will than some other method. My point is that there is no access to the content of the people’s will except via a legitimately established set of democratic procedures. Creative proposals such as Balinsky’s bear on how to design such procedures so that they are relatively immune to manipulation and so that they yield coherent results. Without actual democratic procedures that are at least somewhat conducive to coherent results, however, the people can have no will; and using different actual procedures their will will have different content. Hence, one should avoid claiming as a virtue of such a procedure that it better reflects or represents the people’s will, as if this could or did exist independently of any such procedure.

¹⁷ See my *Democratic Autonomy*, chap. 4. An implication of the interpretation of the will of the people offered here is that democracies cannot be founded in the first instance as expressions of the will of the people. Some have seen paradox for populist, deliberative democracy in this fact that democracies cannot be democratically founded: see, e.g., Michelman, Frank, “How Can the People Ever Make the Laws? A Critique of Deliberative Democracy,” in Bohman, James and William Rehg, (eds.), *Deliberative Democracy: Essays on Reason and Politics* (Cambridge, Mass.: MIT Press, 1997), pp. 145-71. I would prefer to say that populism, rightly conceived, does not imply that democracy must have a democratic basis: cf. *Democratic Autonomy*, pp. 67-8. Hence, on my view, there is nothing normatively suspect in the fact—if it is a fact—that Bhutan’s democracy was a gift from its king.

arbitrary policies and channeling popular input. Collective reasoning is hence a means to important democratic ends. In addition, however, there is a deeper basis for holding that a democracy must centrally involve collective reasoning, one that implies that collective reasoning is morally required, independently of anything else it results in. The basic case for democracy, from which I began, teaches that laws and policies must be based on reasons. As we go about ruling ourselves, a mutual respect for one another as free and equal citizens requires that we offer reasons to one another in support of the laws and policies that we each favor. A democracy needs to foster such collective reasoning, not merely as a useful way to achieve something else, but also as a required way of implementing the mutual respect of citizens as free and equal individuals. Call this the “rationalist” strand of the ideal of democracy.

The ideal of democracy, then, has republican, liberal, populist, and rationalist strands. There is one more — an egalitarian strand — but I pass that one by here without further comment, as the first four suffice for purposes of this essay. Above, I have emphasised the importance of including the populist strand; but it is also important to note that this compound conception of democracy provides a principled basis for correcting and limiting the populist strand. To see how, consider the early, immoderate version of populist democracy put forward by Jean-Jacques Rousseau in his classic work, *The Social Contract*. In that work, Rousseau’s name for the will of the people was the *volonté générale*, the general will. He made two radical claims about the general will that have, ever sense, made students of democracy nervous about populism.¹⁸ The first is that obedience to the general will is perfect freedom and the second is that the general will is infallible.¹⁹ A sensible populism, even developed on its own, will simply refrain from making either of these two radical claims. A populism developed in combination with the other strands set out above will necessarily reject the suggestion that freedom boils down to obeying the will of the people. It is true that, in a legitimate democracy, citizens will not be

¹⁸ See, e.g., Riker, William H., *Liberalism against Populism: a Confrontation between the Theory of Democracy and the Theory of Social Choice* (Prospect Heights, Ill.: Waveland Press, 1988), esp. chap. 1.

¹⁹ Rousseau, Jean-Jacques, *The Social Contract and the Discourses*, trans. By G. D. H. Cole (NY: Dutton, 1973), I.vii, p. 177; I.viii, p. 178; and IV.ii, p. 250.

subject to domination, even when government restricts their freedom of action, for these restrictions will have arisen from a non-arbitrary process. Yet the basic case for democracy with which I began implies that there is a more basic sense of freedom that is in play whenever people's freedoms are restricted by legal restrictions, however just. Hence, no form of obedience is compatible with perfect freedom. Similarly, a populism developed in conjunction with the rationalist strand will necessarily reject the claim that the people's will can be infallible, and instead will insist that the popular will can make mistakes about what ought to be done. The reason for this in brief, is the following.²⁰ Offering one another reasons in democratic discussion requires that we take ourselves to be addressing a question that is subject to true or false answers, such as the question, "what should we do (about X)?" And human beings are always fallible about what is true or false. Hence, a rationalist populism cannot coherently accept the suggestion that any product of democratic deliberation could be infallible. It follows that Rousseau's immoderate claims about the will of the people are not only optional for a populist conception of democracy but are actually ruled out by the compound conception of democracy at which we have arrived.

To insist in this way on a sober and sensible understanding of the will of the people, however, does not make it easy either to explain what the people's will is or to figure out how to ensure that the process of policy making reflects the people's will. Before coming to the crucial, modern challenge to implementing the democratic ideal of rule by the people - namely, our unavoidable reliance on bureaucratic agencies to play a large role in lawmaking - I want to discuss two tempting but dangerous shortcuts that many democratic theorists take when talking about the will of the people. The first of these attempts to invoke the idea of an opinion poll, albeit of an idealised kind, to characterise the will of the people. The second invokes the idea of the general happiness to characterise the will of the people. I will argue that each of these shortcuts, though attractive, leads people seriously astray.

²⁰ Here I abbreviate the discussion of this point in my *Democratic Autonomy*, chap. 5.

The Subsidiary Role of Opinion Polls and the General Happiness

The mistakes I have in mind arise only when one fetishises either opinion polls—ordinary or idealised—or the idea of the general happiness, and thus takes one or the other of them as indicating more about the will of the people than it in fact does. Each of these ideas, in its proper place, is tremendously useful. The idealised opinion polls I will be discussing represent a real advance over ordinary opinion polls. Multidimensional assessments of gross national happiness represent a real advance over measuring progress in terms of gross domestic product. Understanding democracy as a form of rule by the people, however, implies that each of these ideas, useful as they are, should have only a subordinate place in democratic deliberation about what we should do. Well-conducted democratic deliberation, I will be suggesting, must be both rationally disciplined and practically intelligent. Taking opinion polls—even idealised ones—as indicating the content of the people’s will undercuts rational discipline. Seeing measures of gross national happiness as bypassing the need to forge the people’s will on specific issues is a threat to practical intelligence. The first of these ideas, I will argue, overlooks the fact that one who is not empowered to act cannot meaningfully form a resolution about what to do. The second of these ideas, I will argue, overlooks the fact that intelligently resolving what to do in any practical circumstance requires rethinking what one cares about. Those who elevate opinion polls to a central role in democracy implicitly rest too much hope in republican institutions, while those who elevate an appeal to the general happiness to the status of a fundamental standard of action rest too much hope in potentially elitist, technocratic solutions. I have nothing against either opinion polls or the idea of the general happiness, as long as these ideas are confined to their proper places. Those who are tempted to fetishise these ideas, however, rest more weight upon them than they will bear. We need to recognise that for democracy to be a form of rule by the people, the people must be empowered to decide policies via procedures that empower them to exercise their practical intelligence.

Opinion Polls and Republican Hopes²¹

Opinion polls, as ordinarily understood, are simply helpful tools for politicians seeking election or re-election and for lawmakers as they debate alternative policies. These perfectly apt uses of opinion polls are not worth debating in the context of a fundamental examination of democracy. I would not mention them, except that some theorists invest them with a greater importance. An unfortunate tendency to fetishise opinion polls is found, for instance, in James Fishkin's work on what he thinks of as "deliberative democracy." In his work, the principal tool is his trademarked idea of a "Deliberative Poll." To generate a Deliberative Poll, randomly selected groups of citizens are gathered for a day or two of discussion. The groups are provided briefing books and expert talks and are given opportunities to discuss matters among themselves. Fishkin administers questionnaires—one before the meeting and one at the end of it. The first such meeting to be nationally televised was held in 1994 in Manchester, England, where the issue discussed was how to respond to rising crime. As later analysed by Fishkin and his colleagues, this discussion led to a reduced willingness to impose harsh prison sentences, stronger commitment to the importance of defendants' procedural rights, and a diminished tendency to want to fight crime simply by adding more police officers.²² Now, these results are interesting and important; but precisely because they are, we must be cautious about what they indicate about the people's will. Here, the target of my criticism is the thought, latent if not explicit in the work of Fishkin and others, that the proper way to conceive of the will of the people for the purposes of normative democratic theory is to ask, what conclusions would the people reach if they were better informed about the issues and had the opportunity and motivation seriously to debate and discuss them?²³ I will call this

²¹ This sub-section summarises the main argument of my "Public Opinion and Popular Will," forthcoming in Kahane, D., et al., (eds.), *Realising Deliberative Democracy* (University of British Columbia Press, 2009).

²² Luskin, Robert C., Fishkin, James S., and Jowell, Roger, "Considered Opinions: Deliberative Polling in Britain," *British Journal of Political Science* 32 (2002): 455-87.

²³ Cf. Fishkin, James S., *The Voice of the People: Public Opinion and Democracy* (New Haven: Yale University Press, 1995), 162. I have presented this Counterfactual Question in a slightly more portentous form than Fishkin does

the Counterfactual Question. The point of addressing this question is not predictive, but prescriptive. “It has a recommending force,” as Fishkin puts it.²⁴ There is an unobjectionable and modest way of conceiving of its normative force and an objectionable and ambitious one. Fishkin is explicitly committed to the unobjectionable and relatively modest claim that, on a given policy question that has arisen (in, we presume, a legitimate political setting), his Deliberative Polls provide more normatively significant information than do ordinary opinion polls.²⁵ I have no quarrel with this relatively modest claim. Latent in some of Fishkin’s writings, however, is a stronger and more ambitious claim, to the effect that the Counterfactual Question provides a way of conceiving of the will of the people and that, correspondingly, Deliberative Polls provide a way of getting at the content of the will of the people. This is to think of the Counterfactual Question as having fundamental normative importance. That is a mistake.

The reason why this is a mistake is both simple and fundamental. True deliberation, as Aristotle taught, involves choosing among possible alternatives. Politics is proverbially honoured as being “the art of the possible.” Central to this art, however—as to any deliberation—is making difficult compromises. One must often be willing to give up some things that one cares about in order to achieve others. It is always very difficult for us human beings to make such choices. What is nearly impossible for us to do, however, is to make difficult choices in a situation in which we are not actually empowered to choose. To practice the art of the possible is to face the discipline of the impossible. Those answering a pollster’s question are not subject to this kind of discipline. To illustrate what I mean, consider how a question about going to war (or raising military spending) might interact—or fail to interact—with a question about cutting taxes. It is reasonable to think that one ought not to undertake a major war without being willing to

there by referring to “the people” instead of simply “people.” Given Fishkin’s insistence on gathering a statistically representative sample of the relevant population as participants in these deliberative events, it does appear that he has the people in mind, and not just any old group of individuals.

²⁴ Ibid.

²⁵ I will capitalise the term “Deliberative Poll,” using it to refer only to Fishkin’s trademarked version of this idea.

pay for it. It is generally irresponsible to make major new tax cuts when undertaking a major war. An opinion poll raising questions about going to war and about whether to cut taxes, however—even a deliberative one—introduces no serious practical pressure for those responding to avoid this kind of irresponsibility. Because those responding have no power—no responsible office—they are free to express mere wishes. The political process should not be guided by citizens’ mere wishes.

To be sure, the briefing materials presented to participants in a Deliberative Poll might highlight the irresponsibility of going to war while cutting taxes. Alternatively, some of the participants might mention this over the course of the weekend’s discussion of the issues. Even so, because of the lack of the kind of discipline that is enforced by being both empowered and required to generate a collective decision, the problem of irresponsibility remains at the collective level. To see this, consider a variant of Philip Pettit’s “discursive dilemma.”²⁶ Consider three people with the following preferences:

	Should we go to war?	Should we cut taxes?	Can we responsibly go to war?
Person One	Yes	Yes	No
Person Two	No	Yes	No
Person Three	Yes	No	Yes

In this situation, each individual has fiscally disciplined bottom-line views: none of them would wage a war without paying for it. It does not follow, though, that as a group they are fiscally disciplined. If the group is asked the question, “Should we go to war?” its majoritarian answer is that we should, even though a majority would cut taxes. The electoral sanction can pressure an actual legislature towards collective

²⁶ Pettit, Philip, “Deliberative Democracy and the Discursive Dilemma,” *Nous* (2001) Suppl. Vol. 11: 268-99.

discipline of this kind. Because it is not constituted as a body that will make decisions it will later be held accountable for, however, a sample of people gathered for a Deliberative Poll has no such incentive for collective discipline, whether fiscal or more broadly pragmatic.

A more disciplined approach to this particular pair of concerns could be added exogenously to the Deliberative Poll by the experts conducting it. They could ask, not “should we go to war?” and “should we cut taxes?” but “should we simultaneously go to war and cut taxes?” Yet there are two reasons this maneuver is inadequate. First, the discipline it achieves is supplied by the experts, not by the people. Accordingly, insofar as the process relies on such externally supplied discipline, it fails to give expression to the agency of the people, one of the values that lie at the core of populist democracy. Second, not even experts can foresee all of the ways in which individuals’ views about a given set of issues will need to be disciplined by the limits of what is possible. In order to achieve adequate discipline, pre-selecting a few foreseen trade-offs and building them into the questions that people are asked will not suffice. For a more fully disciplined outcome, there is no better route than actually empowering people to decide issues and then holding them accountable for their decisions.²⁷ This is what the institutions of electoral democracy do.²⁸

Even Deliberative Polls, therefore, lack the kind of inherent discipline, either individual or collective, that is necessary to converting mere wishes into a deliberative choice. Accordingly, informative as their results may be, these devices for sampling public opinion fall far short of expressing the will of the people—which, I am assuming, must be coherent. The same conclusion holds even more strongly of ordinary, random-sample opinion polls: they are not useless as indicating popular sentiments, but they do not begin to get at the will of the people. Formulating a will, in the requisite sense, requires being empowered to choose.

²⁷ I do not mean to suggest that empowering accountable decision-makers yields perfect discipline.

²⁸ I lack the space, here, to describe the place of representative, electoral institutions within the compound ideal of democracy that I have set out. I have attempted to make this connection in *Democratic Autonomy*, chap. 14.

Now, Fishkin recognises the importance of political power, but only in a negative way. Recognising how the exercise of power can shape and distort the agenda of public decision, he presupposes, as a necessary background for the operation of Deliberative Polls, a full set of republican institutions for dividing and checking power, so as to prevent any narrow faction from hijacking the political outcomes. What the point about discipline shows, however, is that any adequate implementation of democracy must go beyond this republican way of dealing with power, and find ways of empowering the people. Only if the people are empowered can they form a will, let alone express it.

What is seductive about the Counterfactual Question is that it seems to suggest a conception or interpretation of the will of the people, one that Deliberative Polls are well suited to approximating. What I have argued is that, useful as they certainly are, Deliberative Polls—and, a fortiori, ordinary opinion polls—do not begin to approximate anything like the will of the people.

The General Happiness and Practical Intelligence

Compared to the undisciplined expressions of wish that opinion polls pick up, ways of measuring happiness, such as the Gross National Happiness approach pioneered in Bhutan, represent an important improvement. Happiness, as assessed in ways sensitive to its multiple dimensions, is at least something that really matters. Obviously, a purely utilitarian approach to political rule, according to which a polity ought to do whatever maximises its citizens' aggregate happiness, completely bypasses democracy. I am not aware that anyone today defends this kind of unconstrained technocracy. More commonly, the idea of happiness—like the similar ideas about capabilities that underlie the human development index developed by Amartya Sen and Mahbub ul Haq—is appealed to as the proper basis for guiding the implementation of broad policy decisions taken by democratically elected legislatures. In this role, indices of national happiness, like indices of human capability, become bureaucratic tools for assessing alternative policies.

In this constrained role, that of shaping and informing administrative policymaking, appeals to happiness indices are, in my view, a big improvement over mainstream economic approaches, such as the

maximisation of consumers' surplus or of gross national product. In making this judgment, I take the proviso about this constrained role to be very important. The constraints of utilising either of these measures in this role crucially move us away from two of the idealisations that would otherwise make mainstream economists' measures more attractive: the idealisation of perfect information about options and the idealisation of the free market. In the economists' ideal world of perfect information, in which each individual has completely thought through all of his or her preferences, it would be much harder to claim that individual preference orderings—which is ultimately the informational basis of the mainstream economists' measures—fail to capture what really matters. Further, in an ideally free market, the mainstream economists' measures have the great advantage of being responsive to every individual's preferences—of achieving Pareto optimality—without ever having to make any controversial judgments about which citizens' preferences better respond to what really matters. From the standpoint of democratic theory, which must contend with the difficulties for legitimation that arise from diversity in individuals' conceptions of the good, this is a significant normative advantage. It is achieved, however, only because the ideally free market produces its Pareto efficient results automatically, "as if by an invisible hand," without any central judgments being made at all. But now, to return to the proviso: conceiving of either of these sorts of measure as being employed in any actual policy making process requires dropping the supposition that we are working in a situation of perfect information. And seeing either measure as playing a role in policy deliberations of any kind is to cast it as assisting a central policy process of making controversial judgments. Since the mainstream economists' measures thus lose their principal normative advantages when constrained to this role, it becomes correspondingly more attractive to turn to happiness indices, which offer a much richer and more reliable initial listing of the considerations that matter.

So in actual policy-making use, happiness indices are more likely, as I say, initially to capture values that really matter. Of course, at one level this is a trivial claim. Aristotle wrote that "verbally there is very general agreement; for both the general run of men and people of superior refinement say that [the ultimate end of human action] is

happiness, and identify living well and faring well with being happy; but with regard to what happiness is they differ....”²⁹ Some are tempted, still, to identify happiness with a single measurable quality, such as pleasure.³⁰ In my view, however, the human development index and Bhutan’s gross national happiness idea do better at representing the nature of happiness, considered as the ultimate end of practice (here, political practice), because they correctly represent its intrinsic multidimensionality. In common with Aristotle and his follower Martha Nussbaum—an ally of the human development approach of Sen and Haq—these approaches represent happiness or human well-being as consisting in multiple, incommensurable types of good.³¹ In my critique of the democratic relevance of the gross national happiness approach, I will be assuming that happiness or the ultimate end cannot be reduced to a single, measurable quality. This is an assumption that I cannot defend here.³² It seems, however, also to be an

²⁹ Aristotle, *Nicomachean Ethics* (W. D. Ross translation revised by J. O. Urmson), 1095a16-20.

³⁰ See the contribution to this volume by John Bronsteen, to whom I am indebted for lively conversations about the issues in this paragraph.

³¹ On the incommensurable elements of the highest good in Aristotle, see my article, “Degrees of Finality and the Highest Good in Aristotle,” *The Journal of the History of Philosophy* 30 (1992): 327-352. For Martha Nussbaum’s account of the incommensurable elements of the human good, see her *Women and Human Development: The Capabilities Approach* (Cambridge, England: Cambridge University Press, 2000).

³² What it takes to defend this assumption depends in part on exactly what one means by “incommensurability.” Somewhat idiosyncratically, I insist on distinguishing incommensurability from incomparability and define the former as obtaining (in a weak form) “if and only if all of the considerations for and against choosing any option in any situation may be adequately arrayed prior to the choice (for purposes of deliberation) simply in terms of the greater or lesser satisfaction of some single norm (or instantiation of some good)” (Richardson, Henry S., “Commensurability,” in Becker, Lawrence C. and Charlotte B. Becker, (eds.), *Encyclopedia of Ethics*, 2nd (ed.), Vol. I, p. 260). I go some way towards defending the incommensurability of values, so understood, in Richardson, Henry S., *Practical Reasoning about Final Ends* (Cambridge, England: Cambridge University Press, 1994). See also Martha C. Nussbaum, *The Fragility of Goodness* (Cambridge, England: Cambridge University Press, 1986), chaps. 2-4.

assumption of the approach whose relevance to democratic policy making I will be questioning.

There are two fundamental reasons to be careful about relying too heavily on happiness indices as a basis for policy making. The first is that it remains undemocratic, albeit less radically undemocratic than an unconstrained utilitarian approach. The second is that it blocks the collective use of practical intelligence. These two problems are deeply connected with each other.

Behind both of these problems lies the basic fact that it is impossible for modern legislatures to settle all of the important value conflicts that must be faced in order to carry out public policy. This is obvious regarding areas such as health policy, employment policy, or environmental policy. To explain the difficulty, I offer an example from U.S. transportation policy. In 1970, a U.S. congressman named Mario Biaggi introduced a small amendment to the gigantic Transportation Act of that year. The Biaggi Amendment simply said that “transportation systems shall be made accessible to the disabled.” The Act was passed by the Congress, signed into law, and transmitted to the Department of Transportation for implementation. Naturally enough, back in 1970, the bureaucrats in the Department of Transportation had no firm ideas about how to make transportation systems accessible to the disabled. This had not been done before. Initially, their economists, looking for the most cost-effective approach, suggested giving subsidies or vouchers to the disabled, enabling them to pay for individual van service to get them from one point to another. Before long, however, conversations with other government officials involved in early discrimination lawsuits by the disabled and their advocates realised that there might be some value in integrating the disabled into the existing system of buses, subways, trains, and airplanes—in “mainstreaming” the disabled, as we say, rather than isolating them to special vans for the handicapped. This mainstreaming approach is the one that the administrative officials in the Department of Transportation ultimately chose, leading to the system of ramps, elevators, and so on that are familiar to every traveler today. Now, this is a striking illustration of administrative discretion, but it also reveals a very pervasive fact about the division of labor between democratically

elected legislatures and the administrative agencies that implement their policies, namely that it is impossible for the legislatures to get very far in the process of working out the important value conflicts that must be faced in implementing public policy.

This background fact underlies both of the problems with any fundamental reliance on a happiness or capability index in policy-making, even one that is constrained to work within legislative decisions. First, because it will inevitably be the case that very important value conflicts remain to be worked out at the stage of administrative policy-making, it will be important to have democratic input at that stage. I will return to that point, below. Second, because these conflicts typically concern unsettled questions about our priorities, it is important to leave room for the operation of a flexible, collective, practical intelligence to work out how to resolve these questions, rather than requiring the process to use an index or metric that purports to have settled, in advance, the important questions about what matters. Characterising practical intelligence in this way as flexibly remaking our aims and ends in light of obstacles we encounter was one of the hallmarks of the great American philosopher John Dewey. As he wrote, “the doctrine that intelligence develops within the sphere of action for the sake of possibilities not yet given is the opposite of a doctrine of mechanical efficiency.... [O]nly by ignoring its primary function does [intelligence] become a mere means for an end already given.”³³ Because I find this account of practical intelligence persuasive, I am tempted to think of failures of this kind of flexibility as exhibiting a paradigmatic form of stupidity.³⁴

This point about the need for a kind of practical intelligence that flexibly refashions our aims in the face of the practical obstacles we face

³³ Dewey, John, “The Need for a Recovery of Philosophy,” in *The Political Writings*, (eds.) Debra Morris & Ian Shapiro eds. (1993 [1917]), pp. 6-7.

³⁴ This stupidity is even more markedly exhibited by approaches to policy-making that view cost-benefit analysis as providing an ultimate normative standard, as I argue in “The Stupidity of the Cost-Benefit Standard,” *The Journal of Legal Studies* 29 (2000): 971-1003, reprinted in Adler, M. D. & E. A. Posner, (eds.), *Cost-Benefit Analysis: Legal, Economic, and Philosophical Perspectives* (Chicago: University of Chicago Press, 2001): 135-167.

is a positive, constructive counterpart to the point I made about the absence of discipline that characterises even deliberative polls. Disciplining ourselves by truly facing up to the obstacles confronting us does not merely cause us to eliminate some wishes as being unattainable. Rather, it also spurs us to be creative about how we can at least to some extent attain ends we take to be worth seeking, although perhaps in forms we need newly to formulate. In implementing the Transportation Act of 1970, U.S. transportation officials did not push for a pure or unmodified form of mainstreaming that would have required making every single bus and rail car accessible to the disabled. Rather, what they determined was that each transportation system must be made accessible to the disabled. That is, they settled on making some of the buses and some of the rail cars (in each city and state) accessible to the disabled. In this way, they flexibly modified the pure aims that were theoretically suggested in order to come up with a policy that was feasible. In so doing, they worked out a compromise regarding what really matters.

Precisely because happiness indices, like capability indices, purport to capture what truly matters, any proposal that they be the basis for policy-making gets in the way of the kind of practical intelligence exemplified by my transportation story. In working out how to address the conflict between mainstreaming the disabled and the overall cost to society, the U.S. transportation officials involved were addressing unsettled questions about what really matters. Whether a disabled person is able to have access to mainstream methods of transportation really does, I expect, matter in an intrinsic way that is independent of his or her ability to get from place to place; but how this matters, and how to assess its importance in relation to the potentially huge costs to the public treasury of complete mainstreaming, were questions impossible to settle objectively in advance. After the work of these transportation officials, it is more settled now in the U.S. than it was before that - though unfortunately not due to a particularly democratic process of refining ends.

In addition to needing the discipline that comes only with empowerment, therefore, the will of the people needs to operate with the flexible intelligence that implies not being bound, in advance, to a

determinate purported index of what truly matters, be that an index of happiness or of human capability. A democracy needs to have room to work out, in a contextually specific way that responds to practical obstacles, what really matters. In a democracy—which, as I have insisted, is a form of rule by the people—the people need to have a hand in flexibly working out what matters for the case at hand. The continuing, public articulation of what matters is not a task that democracies can afford to leave to experts. Further, as my transportation story illustrates, this need for a democratic working out of what really matters is not confinable to the legislative stage of public decision-making. The resulting need to think of the democratic will as being forged also in the administrative agencies, however, raises a real challenge for democracy as such.

The Danger of Bureaucratic Domination

The principal republican device for curbing arbitrary power, namely the separation of powers, has been deployed in many places since ancient times, including the Roman republic. By allowing for a system of “checks and balances,” it was originally designed to prevent any one class from dominating. Modern implementations of this idea are often quite elaborate, and tend to include bicameral legislatures, periodic elections, and judicial review of legislation among their safeguards. Sometimes, as in the United States, it seems that these checks and balances have been taken too far, leading to paralysis. Nonetheless, in all democracies today, there remains a form of power that is inadequately subject to check, namely the policy-making power of administrative bureaucracies. As my story about the Transportation Act of 1970 illustrates, administrative agencies must inevitably make many important public decisions. In democratic countries, these agencies are typically under the nominal control of an elected chief executive. Yet these agencies are often so vast and their activities so multifarious that this control is very loose. The looseness of this control leaves open a practical danger of domination by the bureaucracies; and, independently of the practical problem, there is a theoretical problem about how to integrate administrative rulemaking into democracy, understood as a form of rule by the people.

As an historical matter, the reasons why democracies have tended to neglect the danger of bureaucratic domination are presumably very

complex. In Europe, presumably part of the reason is that the first social theorist truly to give prominence to bureaucracies, namely Max Weber, tended to praise them—arguing, for instance, that bureaucratic organisation lay behind the success of the great irrigation-based empires of the ancient Middle East—and also tended to suggest a scientific or technocratic model of well-functioning bureaucracy. On this model, the legislatures set the ends and the bureaucracies confine themselves to the technical task of selecting efficient means to those ends. As the example of the Biaggi Amendment makes vivid, this suggestion that all the serious work of setting public ends could be done in the legislatures is hopelessly naïve; but in putting forward this suggestion, Weber was fitting in with the main strand of Western republican thinking. In that tradition, republican institutions for dividing and contesting power were invoked in two main stages: first, against the great monarchs of Europe and, second, at the time of the founding of the American republic, against the danger of a tyranny of the majority. It is perhaps because republicans' worries were focused elsewhere and because early theorising about bureaucracy cast it in a positive light, then, that the danger of bureaucratic domination has been largely neglected.³⁵

The danger of bureaucratic domination is particularly important for emerging democracies. Consider the following description of Alan García's Peru: "Peru is considered a democracy because it elects a president and a parliament. In the five years after an election, though, the executive branch has been known to make 134,000 rules and decrees with no accountability to the congress or the public. After elections, no ongoing relationship exists between those who make decisions and those who live under them."³⁶ If this is how things go, then these superficial forms of democracy will indeed be a mere sham. Modern democracies cannot do without administrative rulemaking. Legislatures cannot be expected to develop the detailed provisions needed to deal

³⁵ There are exceptions, among which are Stewart, Richard B., "The Reformation of American Administrative Law," *Harvard Law Review* 88 (1975): 1669-813 and Lowi, Theodore J., *The End of Liberalism: Ideology, Policy, and the Crisis of Public Administration* (N.Y.: Norton, 1979).

³⁶ Hernando de Soto, "Some Lessons in Democracy—For the U.S.," *New York Times*, April 1, 1990, sec. 4, p. 2.

effectively with such topics as environmental protection and health care provision. Accordingly, ways must be found of reconciling administrative rulemaking to democracy.

Tendencies to bureaucratic domination are also found in certain Asian countries. This year's elections in Japan prominently featured this issue. Soon after the elections, the *New York Times* commented that "[c]ontrolling the bureaucracy was the signature campaign pledge of the Democrats, and one that found overwhelming support among voters fed up with the nation's insider-driven politics. But many former bureaucrats and political analysts are doubtful that the Democrats, as the inexperienced former opposition party, can make much headway against a force that has run this country for decades."³⁷ This comment highlights that there are two necessary steps, here: the first is to prevent the bureaucracies from obstructing democratically supported initiatives. The second step—a more ambitious one, yet one still required for full democratic legitimacy—is to arrange things so that the bureaucracies' decisions can rightly be viewed as contributions to forging the people's will. No nation that I am aware of does very well at this second task, but some do better than others.

An elementary requirement for making the first step is to be sure that administrative agencies are accountable to the legislature and to the public. The usual means for assuring this kind of accountability are extensions of the usual republican mechanisms to this new problem. Some of these subject administrative agencies to checking by other branches of government—for example, systems of regular legislative oversight of administrative action and avenues for judicial review of administrative rulemaking. Other such means of holding bureaucracies to account apply the constraints of the rule of law in a more general way, insisting, to begin with, that administrative decrees be made public.

As I argued at the outset, however, republican devices for protecting against domination are necessary, but not sufficient, for democracy. Administrative policy-making being so crucial to how modern states

³⁷ Fackler, Martin, "Fresh Off Victory, Japanese Party Flexes Muscle," *New York Times*, September 3, 2009.

rule, mechanisms must be put in place that help see to it that this aspect of state rule, too, can count as a form of rule by the people. As I have argued above, we must think of popular sovereignty as being institutionally divided and distributed. Here, the challenge is to conceive of ways that this institutional embodiment of the popular will can extend into the administrative realm. In this effort, the criteria of success are eminently contestable. In general, however, the aim is to assure the public, not merely a chance to contest and appeal administrative decisions they do not like, but meaningful input and influence in administrative policy-making from the outset.

Which mechanisms will work well for this purpose will vary, depending on a nation's constitutional arrangements, traditions, and laws. In the United States, a first step in the direction of public influence on administrative policymaking was taken with the Administrative Procedures Act of 1946, which, among other things, required that all administrative rules applying to members of the public and having the force of law had to first be subjected to a fairly extensive process for collecting public comments. This was, however, only a first step; for it is never precisely clear what the agency must do in response to the comments collected, besides "take them into consideration." The U.S. took an important further step with the Negotiated Rulemaking Act of 1990. For issues involving easily-defined "stakeholders," such as logging companies on the one side and conservationists on the other, this Act required that concerned members of the public be invited to participate in the drafting of administrative rules. For administrative-level issues that more broadly concern the public at large, better models of citizen input are found in the participative budgeting exercises in Porto Alegre, Brazil, and in the village panchayots of Kerala.³⁸ I will not attempt to offer any particular prescriptions about how best to secure public input and influence in administrative rulemaking. In this section, my aim has simply been to emphasise that adequately achieving democratic rule, which is a form of rule by the people, requires making some such innovative effort to involve the people in administrative

³⁸ Each of these innovations has received much attention by democratic theorists: see, e.g., Fung, Archon and Erik Olin Wright, (eds.), *Deepening Democracy: Institutional Innovations in Empowered Participatory Governance* (London: Verso, 2003).

polymaking. This point should be borne in mind as I turn to a more constructive examination of the role that a gross national happiness approach can play in facilitating democratic governance.

Gross National Happiness as an Aid to Forging the Will of the People

From my critical discussion, three desiderata have emerged that apply to any broad proposal about how policies should be made in a democracy. First, any policy-making process should throughout be disciplined, in the sense that its deliberations respect the limits of the possible, rather than being led off on tangents by mere wishes. Second, any policy-making process should also encourage a practically intelligent approach to public problems, one wherein public deliberations are flexibly open to refashioning collective ends and aims in light of unexpected obstacles. Third, any policy-making process should be designed so as to reduce the danger of bureaucratic domination, both by remaining accountable to the people and their democratic representatives and by providing mechanisms whereby agency decisions can continue to contribute to forging—or hammering out—the will of the people. I would like briefly to consider the idea of using gross national happiness as a policy tool in light of these three desiderata. In doing so, I will combine the second and third.

First, then, how can the idea of gross national happiness be a guide to disciplined policy-making? The reason that this is a significant question is that complete happiness for all is obviously an impossible wish. The careful elaboration of the many different dimensions of happiness, which is such a marked feature of Bhutan's version of the idea, only makes this point more obvious. The more distinct dimensions of happiness that one recognises, the more plain it becomes that each person will score significantly below the maximum score on a number of dimensions. Although a devotee of such a multi-dimensional conception of happiness might wish things were otherwise, there seems to be no escaping the need for theoretically formulating a more disciplined bridge between happiness's multiple dimensions and policy selection. Although I am sure that others have examined these issues much more thoroughly than I have, I will offer some brief thoughts about possible responses to this theoretical task in order to illustrate what I mean by a disciplined use of the idea of gross national happiness.

Let's thus quickly examine some possibilities: (i) More realistic than the idea of providing maximum happiness on every dimension to everyone is that of seeing to it that no one experiences a decrease on any dimension of happiness—a sort of extended Pareto criterion. Yet this way of linking happiness to policy is also plainly impracticable. As I have already mentioned, many clearly reasonable and needed policies have losers as well as winners. (ii) Perhaps, in any case, the idea of gross national happiness encourages an aggregation across individuals. On such an approach, within each dimension of happiness, we could look at the national average scores. Yes; and then what should we demand of policies? A close relative of the extended Pareto criterion would insist that policies aim to avoid a decrease in the national average in any of the dimensions. While this is an attractive aim, it seems obvious that there will be some situations—say because of an epidemic, an earth-quake, or a shortage of teachers, or simply for reasons of strategic planning—in which some dimensions will need to be given sufficiently high priority for a stretch of time that it is reasonable to accept backwards movement in the national averages for some of the other dimensions. (iii) A more substantive basis for developing a disciplined way of working with the idea of gross national happiness would be to draw on views about distributive justice. One currently popular idea about distributive justice is that each person should be assured an adequate minimum—a “sufficiency”—of the goods that matter, or at least of opportunities to achieve or access them.³⁹ Whether it is realistic to aim to bring every citizen to an adequate minimum level in each dimension of happiness would depend, of course, on how that minimum level is set.⁴⁰ (iv) Relatedly, especially in developing countries that face serious challenges in

³⁹ See, e.g., Frankfurt, Harry, “Equality as a Moral Ideal,” *Ethics* 98 (1987): 21-43; Anderson, Elizabeth S., “What Is the Point of Equality?” *Ethics* 109 (1999): 287-337; Crisp, Roger, “Equality, Priority, and Compassion,” *Ethics* 113 (2003): 745-63; and Nussbaum, Martha C., *The Frontiers of Justice* (Cambridge, Mass.: Harvard University Press, 2006).

⁴⁰ In *Frontiers of Justice*, Nussbaum suggests that the adequate minimums may be differently set by each nation and insists on maintaining the aspiration of securing an adequate minimum for each citizen on each important dimension—though she is talking about dimensions of capability, not of achievement or functioning.

securing an adequate standard of living for all their citizens, one might abstract away somewhat from this insistence on an adequate level in each dimension and instead set out to minimise poverty, multi-dimensionally understood. Such an approach has been developed by Sabina Alkire and James Foster.⁴¹ Their approach starts from the idea that there is a point of sufficiency in each dimension but then, instead of insisting on securing a sufficiency in every dimension for everyone, develops a rigorous way of defining poverty by counting in how many dimensions a person falls below the adequate minimum.

Reducing poverty is obviously not only a realistic but also an urgent goal. If we narrow down to this goal, however, we may be achieving discipline at the cost of excessively limiting our aspirations. The ideal of democracy itself illustrates that there are other concerns of justice aside from the eradication of poverty: it is important to both reduce poverty and avoid tyranny. In addition, even setting aside such constitutional concerns and sticking within the category of distributive justice as it arises within a legitimate constitutional regime, there is a lively debate between defenders of a “sufficientarian” approach and “prioritarians,” who would give priority to the poor rather than insisting on their reaching sufficient minima.⁴² More generally, we might seriously question whether justice of this distributive kind—whether sufficientarian or prioritarian—adequately captures the goals of policy. Other concerns that might matter at a level that might compete with distributive justice for our practical attention might include peace with other nations and the maintenance of national traditions.

⁴¹ Alkire, Sabina and Foster, James, “Counting and Multidimensional Poverty,” *OPHI Working Paper 7* (2007), www.ophi.org.uk. See also Alkire, Sabina, Santos, Maria Emma, and Ura, Karma, “Gross National Happiness and Poverty in Bhutan: Preliminary Explorations using Pilot Data.” [Cite?]

⁴² For citations to sufficientarians, see n. 40, above. On prioritarianism, see, e.g., Parfit, Derek, “Equality or Priority?” in *The Ideal of Equality*, (ed.) Clayton, Matthew and Williams, Andrew (London: MacMillan, 2000): 81-125; and Arneson, Richard J., “Luck Egalitarianism and Prioritarianism,” *Ethics* 110 (2000): 339-49.

About how a gross national happiness approach could contribute to a disciplined approach to policy-making, then, I simply conclude that there is an important need for theoretical work to articulate how policy should respond to variations in the multiple dimensions of happiness, as it is conceived on such an approach.

The remaining two desiderata, flexible intelligence and the avoidance of bureaucratic domination, come together to urge some caution in utilising happiness indices to guide policy-making. I have already argued that an elaborated account of the dimensions of happiness is in danger of being fetishised in a way that blocks flexible thinking. If it is policy-making bureaucrats who fetishise these indices, then that will tend to make them resistant to popular input, as they will think that they already know what the basis of their decisions should be and need only to ascertain the causal facts. Institutionalising inflexible thinking would thus exacerbate the danger of bureaucratic domination.

How can the idea of gross national happiness be put to work in policy-making while avoiding the twin dangers of stupidity and bureaucratic domination? One good way to do so, I want to suggest, would combine two features: (1) it would use such accounts of the many dimensions of happiness as a device for identifying value conflicts and (2) it would approach the identified value conflicts as occasions for articulating still more dimensions of happiness. Let me illustrate these points.

We have already seen this twin dynamic at work in my example of US policy about transportation for the disabled. In the case of the Biaggi Amendment, the initial dimension of value, set by the Amendment's language, was making transportation systems accessible to the disabled. This is already quite a specific dimension of assessment. As the possible conflict with not discriminating against the disabled revealed, however, it was not yet specific enough. The resolution of the issue involved an even more specific characterisation of what matters, namely: disabled people being able to have access to mainstream transportation systems in ways that do not stigmatise them as second-class citizens. The compromise language, here, about "mainstream transportation systems" and "stigma" indicates that this more specific and complex value is not merely a compound of access to

transportation and non-discrimination. It leaves aside some possible implications of such a compound (such as insisting on non-discriminatory access to each and every seat on each and every public-transport vehicle) while at the same time indicating what sorts of efforts should get priority (making each type of public transport accessible to the disabled).

Before I comment on the advantages of identifying value conflicts and further articulating dimensions of value in this way, let me give one more example, one more relevant to a country such as Bhutan. I have been addressing the idea of happiness indices in general. Impressively, Bhutan's development of the idea of gross national happiness emphasises, not the formulation of an index as such, but instead the distinguishing of the multiple dimensions of happiness. Bhutan's current set of Project Selection Tools, still under development, list hundreds of dimensions that matter to human happiness.⁴³ As a thoughtful groundwork for policy analysis, this is tremendously helpful. It provides the policy-maker with an initial approach that is sensitive and flexible enough to respond to all sorts of conflicts among various aspects of what matters. Precisely because this set of tools is so well articulated, however, one must be cautious not to cast them in the role of selecting policy. As finely-grained as this set of dimensions already is, there will always arise cases in which an intelligent approach to resolving a conflict between two or more of the dimensions of happiness calls for the policy-maker to make things more fine-grained still.

Here is an example of how this can happen. The current draft of the Project Selection Tools starts with eighteen policy areas. Within one of these, health, twenty-two indicators or sub-dimensions are

⁴³ These dimensions of happiness, which have been developed by Dasho Karma Ura and Dorji Penjore, are listed under eighteen main headings at <http://www.grossnationalhappiness.com/screeningTools/projectTools.asp> (accessed 20 November 2009).

distinguished.⁴⁴ Included within these twenty-two happiness indicators pertaining to health are the following four:

- a) cost of health care
- b) access to health care
- c) patients' waiting time
- d) patients' referral time

Indicators (a) and (b) pertain to access to health care, broadly understood, while (c) and (d) concern important aspects of the quality of health care. In an ideal world, one might imagine, one could offer public health care at low or zero cost and yet not force patients to wait significantly for their referrals or for their care. As people start to live longer, however, and hence start to have more complex medical needs, even the well-resourced and sophisticated medical systems of developed countries have difficulty keeping the waiting times down without imposing some limits on access, including fees such as co-insurance or office co-pays. Bhutan, I gather, is just beginning to have to face up to this kind of conflict between these different sub-dimensions related to health.

A tempting and natural response to this problem is to see it as calling for establishing a trade-off ratio, a set of weights to be applied to each of these sub-dimensions, taking the specification of these sub-dimensions as being fixed. This is not an unreasonable way to proceed but, precisely because it does take these goals or aims as fixed for purposes of deliberation, it runs the risk of an inflexible stupidity. In addition, whenever one sets out to try to establish weights of this sort, one runs into a problem of arbitrariness. This problem of arbitrariness is at least twofold: first, there is the fact that a very wide range of trade-off ratios will seem to be defensible: how is one to settle upon one of them without picking arbitrarily? Second, if we assume that, like the principal dimensions of happiness, these sub-dimensions of health are incommensurable,⁴⁵ then any superimposition of trade-off ratios will

⁴⁴ Dasho Karma Ura and Dorji Penjore, Project Selection Tools, <http://www.grossnationalhappiness.com/screeningTools/projectTools/09%20Health.pdf> (accessed 20 November, 2009).

⁴⁵ In the sense defined in n. 33.

necessarily distort the relations among the reasons that these sub-dimensions represent. One way this distortion is likely to show up is this: if we work out trade-off ratios with the particular sort of policy issue I have just mentioned principally in mind, and then attempt to utilize those same ratios in the context of a different policy problem, we are apt to find that the ratios do not generalise well in this way from one context to another. Trade-off ratios, then, are likely to presume and project a false generality.

But what can we do if we do not seek trade-off ratios? We can drop the assumption that the relevant (sub-) goals are fixed in their specification and can, instead, do what the US Transportation officials ended up doing with implementing the Biaggi Amendment, and seek to specify the relevant dimensions of happiness more finely still. This process of refining our goals, of course—as should be plain by now—should be one that is not only publicly open but also responsive to public input. Otherwise, this refinement of our public aims will again raise the chances of bureaucratic domination. In light of robust public input, however, we can well imagine a contextualised specification of the aims that matter, one that response to principled distinctions. I cannot take the space to walk through an imaginary course of specifying public ends in any detail. We can easily imagine, however, that a reasonable course of refinement might, for example, respond to a principle articulated through public discussion such as the following: frivolous visits to clinics should be discouraged in order to enable high-quality care for those who really need it. If people came to accept such a principle, then they might use it to guide them in further sub-dividing the relevant health dimensions, as follows:

- (a₁) cost of urgently needed health care
- (a₂) cost of health care that is not urgently needed
- (b₁) access to urgently needed health care
- (b₂) access to health care that is not urgently needed
- (c₁) patients' time waiting for urgently needed procedures
- (c₂) patients' time waiting for procedures not urgently needed
- (d₁) patients' referral time for urgently needed procedures
- (d₂) patients' referral time for procedures not urgently needed

Of course the distinction between what is urgently needed and what is not is too binary and crude: I have left things simple for illustrative purposes. Still, a listing of the relevant sub-dimensions that incorporates this distinction is, in light of the policy problem I mentioned, superior to one that leaves it out. One would not want to multiply sub-dimensions of assessment *ad libitum*, as things would thus grow needlessly complex. My suggestion, rather, is that one see conflicts that actually arise between dimensions, such the one that arises in facing policy problems about access versus quality, as providing occasions for further refining one's working sense of the dimensions of what really matters, from a public point of view.

Conclusion

Democracy cannot adequately be characterised by contrasting it with aristocracy and monarchy: it is not merely rule "of the people." To take the further step of instituting rule on behalf of, or "for the people" – say, by listening to opinion polls or making the happiness of the people the goal of lawmaking – still does not adequately institute democracy. As I have argued, there are two kinds of reasons for this. The first is that any democracy must also be a form of popular sovereignty, or rule "by the people." The second is that the will of the people – like any intelligent human will – can be developed and expressed only in conditions that empower it flexibly to remake ends and aims in the course of deciding what to do. These modes of ruling on behalf of the people omit that empowerment and hence create no scope for the people's practical intelligence. Allowing it sway in lawmaking is not easy. The challenges are multiplied by the need to extend the scope of the people's will to administrative policymaking. Through creative institutional restructuring of the law-making process, however, these challenges can be met. In intelligent processes of democratic law-making, refined indices of gross national happiness can play a very valuable role by helping identifying conflicts among dimensions of what matters and inviting public intelligence to help work out what to do in light of those conflicts. When used in this way as a catalyst for encouraging reasoned discussion among the citizenry, a gross national happiness approach can make a genuine contribution to democracy, understood as a form of rule by the people.

Democracy and Difference: Going beyond Liberal Freedoms and Illiberal Order

DR PETER HERSHOCK

The globalisation of democracy is among the most important historical developments of the past century. This said, much as the globalisation of markets has not brought about anything like global economic homogeneity, but rather a complex and uneven interplay of both integrating and fragmenting dynamics, the globalisation of democracy should not be confused with the worldwide prevalence of a single political system. While there may be family resemblances among the political systems of, for example, the U.S., South Africa, India and Thailand, these resemblances pale in comparison to their differences.

As globalisation and modernisation processes have become increasingly complex and reflexive, critical tensions have become manifest among distinct constellations of democratic values and principles as well as among their varying translations into practice. These tensions have taken the general form of contrasting theoretical dispositions toward liberalism and communitarianism, and more specifically as a practical antagonisms between, for example, the naturalist, universalist, and freedom-promoting democracies of the liberal Euro-American West and the culturalist, particularist, and order-promoting democracies of illiberal East and Southeast Asia (Bell, 1995; Parekh, 2000). At the basis of these tensions and challenges are a complex set of issues regarding difference itself.

It is now quite apparent that along any number of dimensions, contemporary globalisation processes are not only bringing about greater integration and commonality, they are also functioning as complex and often unpredictable magnifiers and multipliers of social, economic, political, and cultural differences. Making use Buddhist of conceptual resources, I want to examine the relationship between such differences and the tensions within and among contemporary constructions of democracy, particularly in light of the globally resurging political salience of religion and morality. More specifically, I

want to explore the merits of moving obliquely to the spectrum of liberal and illiberal constructions of democracy in the direction of seeing democracy as an equity-enhancing global culture of political diversification.

The Global Context

One of the generative insights of Buddhism is that our conflicts, troubles and suffering can only be positively and sustainably addressed on the basis of things ‘as they have come to be’ (*yathabhutam*), and not simply as they are at present. In short, histories matter. With this in mind, let me first trace out some features in the historical trajectories of modernisation, globalisation and democratisation that critically inform the distinctive tensions animating contemporary discourses on democracy.

Modernity and the Politics of Difference

Modernity has been widely acknowledged as emerging in association with a “cosmopolitan agenda” shaped by the values of universality, equality, autonomy, sovereignty and control (Toulmin, 1990). What has not been sufficiently appreciated, perhaps, is that the powerful appeal of this agenda and its core values rested on their utility as a response to deep and significant difference¹.

The intimate connection between modernity and difference is, perhaps, most clearly manifest in the global spread of the geographically bounded, multi-ethnic and multi-religious nation-state—a political institution that since its origins as a “battlefield emergency” amid cataclysmic social, economic and political circumstances has insured that modern societies have remained, at the very least, socially, culturally and religiously plural. But no less importantly, a key feature of the process of modernisation more generally has been the dissolution

¹ Indeed, it is misleading to speak of modernity in the singular. While some social and cultural differences were successfully submerged by the spread of modern ideals and institutions, they clearly were not entirely subsumed by these ideals and institutions, and the Western European cultural program of modernity and its core institutional constellations have *not* been definitive for all forms of modernity. In short, modernity has always been multiple. (Eisenstadt, 2000)

of traditional communities and their replacement by readily reconfigured collectives of individuals organised around shifting arrays of shared interests.

This “emancipatory” transformation of traditional communities into equality- and rights-demanding collectives of freely associating individuals has long been regarded a key factor in the rise of civil society and the emergence of Western democracies,² and has played a crucial legitimising role for classical liberalism and its assertion of the autonomous, rational individual as the basic unit of both ethical and political analysis. But modern individuation processes have also been inseparable from the rise of “disciplinary” societies aimed at consolidating new power structures and producing new kinds of populations suited to furthering the interlinked dynamics of nationalisation, marketisation and industrialisation (Foucault, 1995).

Modernisation and its central political institution, the nation-state, have thus always been characterised by a joint and often tense valorisation of both freedom and control (Wagner, 1994). And, not surprisingly, their utopian projects of opening new ways for being human based on new patterns of affiliation and aspiration have begged further questions about the direction of change connoted by progress—questions that have served to articulate further, ongoing tensions between universalist and particularist conceptions of the good life and human flourishing; between moral monism and moral pluralism; and between schemes for evaluating ideals and institutions on the basis of either an individualism rooted in the pre-supposition of an essentially common human nature or a culturalism that insists on the fundamental uniqueness of human communities.

Over the course of the 1960s and 1970s, these tensions came to be articulated with particular force. In part because of persistent structural inequalities aligned with such markers of difference as gender, ethnicity and race, and in part because of the ever more evident complicity of both capitalist and communist universalisms in the production of an

² This was a crucial part of Alexis de Tocqueville’s 19th century thesis regarding the rise of American democracy and has continued to be invoked to the present, most prominently perhaps in Moore (1966) and Rueschemeyer et.al. (1992).

“underdeveloped” Third World, the imagination of either modernity or the nation-state and citizenship in it as in any relevant dimensions homogeneous became critically untenable. Alongside postmodern and post-colonial oppositions to the hegemony of sameness, there emerged a politics of identity around the convictions that we are differentially embedded—socially, economically, politically, culturally and technologically—in local, national, regional and global dynamics, and that the disparities of opportunity and outcome resulting from such differences cannot (by those most adversely affected) and should not (by those more fortunate) be imagined away. Attention—and, indeed, compensation—is due those living lives of diminished vitality and possibility because of structurally ingrained patterns of exclusion.

Legal attention alone, of course, is not enough to redress past and ongoing injustices. If national community is to be more than something imagined, in addition to rights and recognition, respect is due to individuals and groups whose differences set them ‘apart.’ And to be fully effective, this respect cannot be given in spite of differences that mark certain groups and individuals—a matter, ultimately, of looking beyond their differences. Rather respect must be given to them as different.³ The resulting politics of recognition and respect (Taylor, 1994) thus demands more than the tolerance of differences. It demands in addition understanding and acceptance, at least in the degree required to include in a community of mutual respect all those who differ—whether because of their ethnicity, race, gender or religion, their sexual orientation, age, or disability, or even because of such seemingly elective categories of difference as lifestyle and affective citizenship (Mookherjee, 2005).

What we have seen over the past half century, then, is not only the philosophical and political ascent of difference, but in an important sense also a growing instability within and among the categories of politically relevant difference. That is, the categories of politically relevant differences are themselves undergoing significant differentiation at the same time that a shift has been occurring away

³ Critics from a range of perspectives have seen the politics of identity as erring in the tendency to essentialise differences rather than to understand them as arising in complexly dynamic ways.

from seeking the relationally thin accordance of recognition to seeking the relationally thick accordance of respect—a shift from laying claim to just compensation to commanding a voice.

As made evident by the degree to which differences have come to be articulated within and across national boundaries through media that foster the event-driven, adventitious formation of decentralised and yet potentially very large publics and affinity groups, this shift toward increasing differentiation, relational density and volatility is not an exclusively political phenomenon. On the contrary, it is characteristic of a multidimensional and potentially epochal transition taking place globally in the relationships among the social, economic, political, technological and cultural domains.

Complex Interdependence and Interpenetration

It is now generally acknowledged that, over the course of the past three to four decades, a profound transformation has occurred in how societies are dynamically organised. This shift has been variously described as, for example, the advent of a postindustrial world (Bell, 1974), the onset of the knowledge society (Stehr, 1994), as a transition from industrial to mental capitalism (Franck, 1999), and as the rise of global informational capitalism (Castells, 1996, 1997, 1998). Crucial to this transformation is a shift of dominance of “external” to “internal” or constitutive relations—the emergence of truly complex and global systems of economic, social, political and cultural interdependence and interpenetration.

A signal characteristic of this newly emerging global system of internal relations is that its constitutive flows are not primarily shaped by relatively stable natural and political geographies, but rather by the unpredictable curving of social, economic, cultural and political spaces as a global function of continually shifting attractors for and concentrations of attention (Franck, *ibid.*; Lanham, 2006; Hershock 1999 and 2006; Davenport and Beck, 2002). As in the past, maximising market reach and density requires the simultaneous production of both new kinds of goods and services and new populations in need of them. Now, however, as illustrated by the equivalent shares in the global economy of mass media and entertainment and the oil industry, economic growth is critically dependent on the fluid production of and

responsiveness to continuously differentiating flows of attention. In short, economic vitality, and by extension political legitimacy, has come to be a complex function of the unimpeded expression, recognition and respect of differing interests.

This should not be confused with the neo-liberal claim that free markets and liberal democracies necessarily go hand in hand and will best meet the interests of each and all—a that claim has been adequately disproven by the widening wealth and income gaps seen worldwide over the past quarter century, and by the market-enabled economic “miracle” of a recalcitrant, illiberal and techno-bureaucratic China. Rather, the point is that global economic vitality has come to be dependent on conditions that are conducive to voicings of the widest possible range of interests—conditions that depend in turn on the reflexive acceleration of the ambiguously emancipatory and disciplinary processes of differentiation and individualisation, the deepening interpenetration of the private and the public spheres, and the “democratic” realisation of a global communicative commons referenced by (but by no means limited to) the informational, commercial, financial, social, and cultural interchanges occurring via the Internet.⁴

The Network Society

Manuel Castells’ identification of this shift with the rise of a global “network society” and “global informational capitalism”⁵ is quite useful

⁴ The neoliberal position would be that this economically productive voicing of interests will prove conducive to the global dominance of democratic governments. Clearly, this need not be the case. Voices can be joined in deepening consensus or in sharpening dissenting views. A fully democratised communicative commons may result in politically productive conversations or in politically destructive Babel. This is clearly a concern in economically vibrant countries where there is a strong distrust of liberal nonchalance about political dissent. In such illiberal states, the Internet is seen ambiguously as economically indispensable and as opening a space that has the potential to support both populist nationalism and separatist opposition.

⁵ See Manuel Castells *The Rise of the Network Society, The Information Age: Economy, Society and Culture*, Vol. I. (Cambridge, MA: Blackwell, 1996); *The Power of Identity, The Information Age: Economy, Society and Culture*, Vol. II. (Cambridge,

in bringing this epochal shift in the interplay of economic vitality, political legitimacy, democracy and difference into critical focus. In contrast with hierarchies in which the value of any particular position is a function of its distance from the organisational center/top, the value of membership in a network is a function of the total number of agents or nodes involved—a value that grows equivalently and exponentially for all as new agents or nodes are added. Moreover, the direction of network growth is not centrally determined, but rather emerges as a function of the informational contributions made by/through all of its nodes. This can take the form of either negative feedback that stabilises the network's system of relations or positive feedback that accelerates certain types of interactions and amplifies differentiations occurring within that system. Networks grow—and evolve—through realising virtuous (not vicious) circles of interaction.⁶

Not without reason, many early theorists of the social implications of information and communications networks identified the advent and exponential expansion of the Internet with the opening of a new civil space suited to supporting the emergence of entirely new and truly global expressions of democracy. The now well known role played by the Internet in planning, carrying out, funding and gaining popular support for global terror forces a more nuanced appreciation of the political possibilities of networks. What can be said with confidence is: first, that beyond certain thresholds of interactive scale and scope, networked systems of global interaction begin serving as complex multipliers and magnifiers of difference; and secondly, that the non-linear logic of network growth means that these systems will be prone to accelerating and structuring the constitutive flows of globalisation in ways that unpredictably intensify and amplify both integrating and fragmenting potentials. That is, complex network systems are not only self-organising, they are novelty-generating. Networks both accelerate differentiation and accentuate uncertainty.

A critical implication of this is that the severe inequalities, conflicts and volatilities characterising contemporary globalisation processes cannot

MA: Blackwell, 1997); and *End of Millennium, The Information Age: Economy, Society and Culture*, Vol. III. Cambridge, MA: Blackwell, 1998).

⁶ Castells (1996), p.17.

be viewed as primarily caused by external factors, but by internal factors recursively amplifying in accord with values embedded in the attention-fueled structurations of negative and positive feedback through which global networks are now expanding and evolving.⁷ And so, while the overall trajectory of global dynamics over the last half-century has been toward increasing interdependence and complexity, these dynamics have been anything but continuous, exhibiting an ever heightening volatility and instability that ironically “comes from within rather than without.” (Taylor, 2004: 300)

Reflexive Modernisation and World Risk Society

Recent work on “reflexive modernisation” (Beck, Giddens and Lash, 1994) and the advent of a “world risk society” (Beck, 1992; 1999) are particularly useful in drawing out the implications of the heightened differentiation and volatility that characterise a complexly networked world. Reflexive modernisation occurs when the increasing scale, scope and complexity of modernisation, industrialisation and marketisation processes prohibit the externalisation of the environmental, health, social, economic and cultural costs of sustained growth. From this point, economic growth comes increasingly to depend on the ironic production of threats, risks and volatilities as a function of the successes, not the failures, of modernisation, marketisation and industrialisation, and in the face of which responsible decisions must nevertheless be undertaken.⁸

Under reflexive modernisation, the constitutive modern tensions between freedom and control come to have ever more highly individuated and differentiated impacts, as the threats and risks of

⁷ The notion of “structuration” had been forward by Anthony Giddens (19xx) as a way of signaling the interfusion of structure and agency in a world of complex change.

⁸ Human-induced climate change and variability resulting from fossil fuel powered industrialisation and transportation is, of course, the most prominent and “global” example of the scale of risks associated with reflexive modernisation, but mention also can be made of the threat of chemical and nuclear disasters like those that occurred at Bopal and Chernobyl, the potential impacts of the uncontrolled spread of bio-engineered organisms, or the economic ramifications of global financial crises like those in 1997 and fall of 2008.

continued growth percolate into virtually every aspect of life, along with ever expanding responsibilities for decision-making. This means that emancipatory freedoms of choice are vastly expanded. The construction of identity comes to be seen as complex function of both voluntary and hereditary affiliations, community comes to be seen increasingly as elective, and the optimal becomes ever more closely identified with the optional—all of which foster the emergence of difference-centered politics of recognition and respect. At the same time, however, there is also a disciplinary edge to expanding the range of individual agency and responsibility—a deepening of pressures for each individual to define the terms of his/her life, to challenge existing social forms (especially those related to work, family and gender), and to construct his/her own identities and life narratives under conditions of continuously heightening ambiguity, uncertainty and risk (Giddens, 1992). And, because the resources for making timely and apt decisions under conditions of complex change are not evenly distributed, this compulsion to choose easily leads to and sharpens the divisions between individuals and groups who are differentially affected by the risks and threats produced as a function of the “successes” of contemporary globalisation and industrialisation. That is, reflexive modernisation is inseparable from the production of both “reflexivity winners” and “reflexivity losers” (Lash, 1994: 127-135), raising new and politically potent kinds of equity issues.

Problems, Predicaments and the Aporia of Difference

Viewed through the critical lenses of global networks and reflexive modernisation, a disturbing picture comes into focus. A common set of conditions is now fostering both intensified differentiation among agents and interests, and the multiplication and amplification of risks and hazards that are increasingly global in scope and can only be successfully engaged through globally coordinated collective action. Engaging the dynamics of contemporary global interdependence and interpenetration is, then, to engage an aporia. On one hand, we are being faced with intensifying imperatives to more fully recognise and respect differences, going beyond merely tolerating difference and otherness to enabling them to matter more—not less—than ever before. On the other hand, we are being compelled to confront equivalently intensifying needs to join in ever more robust and sustainable forms of

global common cause, subsuming our differences within shared and deepening commitments.

Confrontation with this aporia marks an epochal transition. The severe inequalities, discontinuities and volatilities associated with increasingly complex networks of global interdependence and interpenetration, and the expanding hazards and risks produced by the successes of reflexive modernisation do not present us with problems to be solved, but with predicaments. Problems indicate failures of existing strategies and techniques to bring about desired ends. Solutions consist in the realisation of new means of furthering abiding patterns of aims and interests. In contrast, predicaments occur with competition and conflict among our own values, aims and interests. Predicaments must be resolved through realising both enhanced clarity and more thoroughly and deeply coordinated commitments. Predicament resolution entails a significant revision or reconfiguration of relevant values, aims and practices. The signal challenges of reflexive modernity and the rise of world risk society pose—in the most global and potent way—needs for an ethicisation of the public sphere.

This has not gone unnoticed. One of the most striking features of the last quarter century has been the resurgent political salience of religion and explicitly moral discourse, not in spite of, but rather as a function of contemporary globalisation processes and the pace and unpredictability of the changes associated with them (Taylor, 2004). This reunion of politics, faith and morals responds to a values vacuum—an absence in the public sphere of those qualities of commitment and ultimate concern that are expressed in a coherently integrated vision of the good. But, while religion and morality do afford substantial resources for making decisions and organising society in ways that express considerable depth and consistency of values, they do so in ways that are unique, even if ostensibly universal. Religions and moralities provide members of a given community with a common set of beliefs, practices and principles for decision-making that define organically singular ways of being in the world—ways that “we” do things. And while there are those who would will the world to be religiously and morally singular, it is not. Religion and morality can provide answers to the kinds of issues with which we are being globally confronted by

reflexive modernisation and the risk society, treating them essentially as problems, but individually they do not afford means to resolving them. The modern separation of religion and politics acknowledges the need for a difference-respecting approach to engaging the challenges facing pluralistic societies. As governments “by and for the people,” democracies are procedurally and substantively committed to addressing the “fact of plurality” characterising modern societies (Rawls, 1971), balancing multiple values, interests and needs. And as such, they are in principle well suited to the evaluative work of responding to contemporary, predicament-rich realities. In actuality, however, the effectiveness of contemporary democracies—whether liberal or illiberal—in addressing these realities in equity-enhancing ways is very much in question. This can be attributed in part to the links that now obtain between economic vitality and political legitimacy and the practical constraints they place on the democratic imagination. From a Buddhist perspective, however, the deficiency of contemporary democracies is not primarily a function of their responses to the “fact” of plurality, but rather their failures in articulating the value of difference as such.

A Buddhist Response

Among the core teachings of Buddhism are that, for the purpose of realising liberation from trouble and suffering, all things should be seen as arising interdependently, as changing, and thus as empty of any abiding essence. Put somewhat differently, relationality is more basic than ‘things’ that ‘are related’ and is irreducibly dynamic. Seeing this is to see that there are ultimately no intractable situations. Change is not only possible, it is already ongoing, and all that is in question are the extent and direction of change. Indeed, according to the Buddhist teaching of karma, there are no non-arbitrary limits to our own implication in how change dynamics are oriented. With sufficiently close and sustained attention, it becomes apparent that a continuously and finely tuned consonance obtains between our own values, intentions and actions and the patterns of outcome and opportunity we experience. Responsibility, in other words, is inseparable from possibilities for responsive redirection. Or more simply stated, all experienced realities imply responsibility.

Taken together, the teachings of interdependence, emptiness and karma disallow seeing the interdependence among economic growth, hazard proliferation and increasing volatility that characterises reflexive modernisation and world risk society simply as a problematic fact—a function of either historical accident or causal necessity. On the contrary, this distinctive inflection of global interdependencies is most effectively seen as a predicament-manifesting function of the complexion of norms and values inflecting contemporary processes of modernisation, industrialisation and marketisation.

Likewise, the heightening prominence of difference—exemplified, for example, by acute inequalities of wealth and power, and by the advent of the politics of recognition and respect—is not simply the latest factual expression of network-driven individuation processes; it evidences an ongoing collision among modern values, including those of autonomy, equality, individuality, universality and choice. Indeed, if relationality is ontologically basic, what we conventionally take to be differences are better understood and more aptly engaged as processes of value-inflected differentiation—processes in which we are unavoidably implicated and for which we are, in significant degree, responsible. We are, in other words, continuously in a position to respond to the troubling realities emerging with reflexive modernisation and global informational capitalism, and the aporia of difference with which they force ever-widening scales and scopes of confrontation.

Buddhism and Governance

There is thus at least a measure of conceptual alignment between basic Buddhist teachings and participatory approaches to government. And, indeed, there are many instances in the discourses of the Buddha when good governance is described as emerging through consultative processes that insure that policy making is informed by the widest possible range of interests and insights. The early Buddhist community itself was open to all, regardless of caste, class, ethnicity, culture and gender, and its emancipatory aspirations excluded none—an historical fact on the basis of which some contemporary Buddhists assert the basic compatibility of Buddhism and the substantive principles of democracy. And, the internal dynamics of the monastic community—

revealed especially in the Vinaya—have also been seen as prefiguring procedural principles embodied in modern democratic institutions.⁹

Here, I want to suggest a more critical perspective. To be sure, modern democracy in its various political and broader societal incarnations can usefully be seen as the globally preeminent system for responsibly enabling differences to make a difference—a response to the plurality characterising modern societies that systematically recognises and respects differences. This resonates well with Buddhism’s inclusiveness. And, informed by both substantive and procedural principles, democratic institutions can be seen as sustaining processes compatible with Buddhist commitments to integrating values and practices in ways conducive to the realisation of liberating relational dynamics by each and for all.

At the same time, however, the modern democratic distinction between and attempts to balance the interests of individuals and collectives do not articulate well with Buddhist teachings of the interdependence and emptiness of all things. From the perspective of a rigorously relational ontology, neither individuals nor collectives exist as independent entities, and it is likely that taking either as the basis for ethical or political analysis will have significant liabilities. This sheds considerable doubt on democratic procedures that would balance the plural interests in and of society through, for example, either voting-mediated competitions that assume the individual, self-interested agent to be politically basic, or technocratic conferences that take the (typically national) collective to be foundational.

Understanding the democratic process in more fully relational Buddhist terms suggests a need to subordinate efforts to quantitatively balance disparate interests within a population to realising qualitatively improved co-ordination among distinctively inflected patterns of relational dynamics. Yet, given the ways in which the political legitimacy of modern democracies is linked with industrial and market processes that are at once accelerating the production of globally troubling threats, risks, and volatility, and fostering continuous, network-driven differentiations of interests, the increasing

⁹ For a representative view of this sort, see Ratnapala (1997).

identification of the optimal with the optional, and the ascent of the instantly transmitted and answered message as the dominant medium of communication, questions must also be raised about the prospects for existing democratic institutions to generate and sustain the kind and quality of deliberation needed for them to function as more than problem-solving mechanisms.

In sum, if the intensifying predicaments with which we find ourselves globally confronted are an emergent function of conflicts within the matrix of modern and market values—including universality, autonomy, equality, independence, sovereignty, competition, convenience, choice and control—the centrality of these values in contemporary democracies should give us critical pause, as should the effectiveness of both liberal and illiberal democracies in generating and sustaining robust economic growth and hence the very processes driving the unpredictable and accelerating proliferation of threats, risks and globally intensifying predicaments.

Ultimately, the core constituencies of both liberal and illiberal democracies—autonomous and rationally self-interested individual agents and equivalently autonomous and interest-focused collectives—are results of these same processes, and serving their interests is thus itself ironically troubling. The “inconvenient truth” is that neither individually- nor collectively-grounded governments “by and for the people” and their attempts to optimally balance disparate interests may be conducive to realising the kind and degree of co-ordination and resolve (both clarity and commitment) needed to address the predicaments with which we are being ever more profoundly confronted.

Going Beyond both Liberal and Illiberal Democracy

In liberal democracies, interest-balancing is undertaken procedurally through insuring universal suffrage. Political offices are filled through “free and fair” elections, and the threat of a “tyranny of the majority” is met by institutionally-grounded and constitutionally-protected political, civil and legal rights aimed at safeguarding both private and public spaces for the expression of individual and minority interests. Liberal democracies assume that the individual is the basic unit of political analysis and that the autonomy of the individual is thus

sacrosanct. The primary responsibilities of the liberal state are to insure that all individuals can craft life plans in accord with values, aims and interests that they have freely chosen, and to insure that at least the possibility of a real plurality of voices is at all times guaranteed. In keeping with its core values of freedom of choice, equality, and a tolerance for difference, the liberal state is explicitly neutral with respect to the nature of the good life. Policies are determined (at least ideally) by constitutionally mandated processes of fair competition among contending views—a “market” approach to governance.

Within the West, this approach has come under considerable communitarian criticism that sees the liberal biases toward individualism, rationalism and proceduralism as politically deficient. The communitarian worry, expressed by both the political right (McIntyre, 1978) and left (C. Taylor, 1985 and 1989; Sandel, 1981) has been that stressing individual autonomy and equality threatens a reduction of democratic politics to a purely quantitative balancing act that results in policies bereft of any coherent and qualitatively rich vision of the common (e.g., national) good. In answer to what is experienced by many as a lamentable evacuation of values discourses from the public sphere and resulting political impotence when it comes to addressing many of the most confounding issues of the day, communitarianism calls for a passionate restoration of expressly republican civic virtues—the restoration of a relationally thick moral dimension to politics.

But outside of the arena of intellectual debate, passions often trump virtues. And as made evident in the populist rise of the religious right in the US and of Hindu communalism in India, political passions are often exclusively religious or communal. Real world politics are not only informed by rational deliberation and culturally neutral expressions of egalitarian values, but also by profoundly passionate conflict and contestation (Walzer, 2005). And as made obvious by the mobilisation of politicised forms of religious fundamentalism to fill the values vacuum afflicting many contemporary societies, communally addressing predicaments of increasingly global scale need not take either civil or non-violent form. Indeed, the political mobilisation of passion easily takes on an intolerant and totalising, if not totalitarian,

edge that is worryingly reminiscent of the kind of organic communalism that fueled Fascist Nazi aspirations for global dominance (Nancy, 1982)—a communalism that understood difference as a polluting potential for betrayal.

In sharp contrast, illiberal democracies recognise both the validity of communitarian worries about liberalism and the dangers of passionately constituted communalism. Illiberal democracies assume responsibility for insuring collective good, as it has been positively determined by the state. Taking society itself as the unit of political analysis, illiberal democracies reserve the right to intervene in the lives of the people to insure the harmonious development of society as a whole—a process that is corporately managed by a rationally motivated techno-bureaucratic elite responsible for insuring stability and growth. The assumption in illiberal democracies is that balancing the disparate interests within their governed populations is not to be entrusted to the quantitatively biased proceduralism of electoral politics. Rather, it is to be responsibly undertaken by the government on behalf of those populations. Conflicting perspectives can be expressed within government, but not in political opposition to it. Whereas liberal democracies insure the possibility of a plurality of politically salient values and interests within the state, illiberal democracies are inclined to insist on the right to the plurality of interests and evaluations of the good among states. Rather than appealing to a market-like mechanism of competition among views and values, illiberal democracies insist that government properly plays a “managerial” role with respect to difference.

Illiberal approaches to democracy are, of course, also subject to considerable criticism. Their denial of intelligibility to the notion of a “loyal opposition” inclines illiberal states toward the suppression of dissent, often in the form of imposing limits on freedoms of expression that cast serious doubts on the ability of illiberal states to understand and act in the necessarily plural interests of the modern societies they govern. In addition, the technocratic approach to addressing the kinds of challenges facing contemporary societies is itself not above reproach. The complexity of contemporary realities produces pressures to make use of “expert systems” in shaping public policy, but these technocratic

systems of expertise are also profoundly implicated in the dynamics of reflexive modernisation and the “manufactured uncertainties” in the broken light of which “there are no longer any clear paths of development leading from one state of affairs to another.” (Giddens, 1994: 185) Illiberal expert systems—not unlike religions and moralities—are well suited to problem solution, operating within a pre-existing set of parameters and values, but not predicament resolution.

There are appealing features in both liberal-market and illiberal-managerial approaches to evaluating and balancing conflicts among values and interests. And it is tempting to try judiciously combining the two in a “third stream” democracy that flows from a position somewhere midway between their spectrum-defining extremes. Let me here make use of Buddhist conceptual resources to advocate a more difficult approach that would eschew location on the current spectrum of views delimited by liberal and illiberal constructions of democracy and that would instead generate movement perpendicular or oblique to it. Moving in this new direction will entail going beyond recognising and respecting differences within societies and among societies to activating these differences as the basis for meaningful and mutual contribution—the realisation of greater relational equity through enhanced diversity.

To begin with, neither illiberal democracy’s particularist and culturalist biases nor liberal democracy’s universalist and individualist biases are conducive to the kind of open deliberation among value systems that is necessitated by such global threats and risks as climate change and instability. In taking pluralities of views and interests into account, both liberal and illiberal democracies are inclined toward treating differences, not as evidence of relationally significant differentiations, but as expressions of the absence of consensus generating common ground. As such, difference has typically been regarded as something to be disarmed or overcome—whether through compromise, assimilation or special accommodation. When this proves impractical or impossible, and where exclusion is for whatever reasons not an option, difference is regarded as something to be tolerated—that is, as something that can and should be ignored.

Crucially, when this association of difference with dissent and opposition is carried into efforts to balance plural interests and undertake apt evaluations of differing systems of values or senses of the good, there is powerfully centripetal pull inward toward the same. In keeping with their disparate emphases on the individual and the collective or nation as the unit of moral consideration, this resort to inclusion—what postmodern thinkers have critiqued as an “ethics of the same”—disposes liberal states toward some version of “moral monadism” and illiberal states toward “moral monism.”¹⁰ Neither is suited to realising the resolutely appreciative engagement with difference that is needed to address global predicaments—an engagement with differences and differentiation as practically crucial sources of value.

If predicament resolution involves reconciling conflicts among our own values, and if we live in increasingly differentiated societies, then all forms of exclusivity are ultimately counterproductive, as are any assumptions of uniformity, whether within or among societies. Ultimately, predicament resolution requires, not reassessing current practices, but undertaking more refined and critically resolute differentiation among values and how they are constellated and prioritised. This cannot be done if we insist liberally on the structural universality grounding moral monadism or illiberally on the substantial uniformity grounding moral monism. Either way, we effectively insist that there is something—structural or substantive—that is not provisional and cannot be changed. Especially in the context of the scales and scopes of predicament-resolution compelled by contemporary realities, and given the depths of the differences that

¹⁰ Moral monadism assumes the primacy of individually existing entities that nevertheless have a common moral/metaphysical structure—a “Leibnizian” view of the relationship between moralities. Every individual is likely to have distinct views and values, but having views and values is common to all and provides a procedural basis for bringing differences into accord. Moral monism assumes the primacy of independently existing cultural communities all the members of which have a common moral/metaphysical substance—a “Spinozistic” view of moral multiplicity. Morality is communally determined rather than individually, and while there may be significant differences between moral communities, there can/should not be any within them.

obtain among basic values and perspectives within and among contemporary societies, seeing difference as opposed to sameness is both ethically and politically crippling.

From a Buddhist perspective, the shortcomings of liberal/market and illiberal/managerial approaches to balancing interests within and among societies express a common failure to appreciate the ontological and ethical primacy of relationality. Each assumes the validity of moral and ethical responses to difference grounded on the ontological primacy of individual existents, seeing differences as essentially comparative facts, not as value-expressing relational qualities. In effect, this enforces an ethically and politically troubling distinction between facts and values, reiterating dualistic presumptions about the independence of means and ends, body and mind, matter and spirit, evil and good, and most fundamentally of difference and sameness.

The presumption of such dualisms is ultimately to assert the independence of reality and responsibility and to exclude from critical attention, in practice if not in principle, the dynamic, karmic interplay among values-intentions-actions and opportunities/outcomes.

In Buddhist terms, this is to dwell in *samsara*, the world of endlessly circulating trouble and suffering. In non-Buddhist terms, it is to deny implication in the threats, hazards and risks posed by contemporary realities—a denial through which these ironic consequences of our own “successes” will be further accelerated and amplified. Responding to the predicaments with which we are being globally confronted in ways that are conducive to realising liberating patterns of relationality can only be effectively undertaken non-dualistically.

Non-duality and the Politics of Variety and Diversity

Among the most adept expositions of Buddhist non-duality is that offered by the 7th to 8th century Chinese thinker, Fazang. Arguing that the opposition of sameness and difference blocks understanding of the interdependence and interpenetration of all things, Fazang makes use of a set of skillfully constructed metaphors to elicit insight into how all things can be understood as the same, precisely insofar as they differ

meaningfully from one another. Or, in a more ethically and politically charged phrasing: all things are what they mean for one another.¹¹

For Fazang, as for Mahayana Buddhists more generally, the realisation of non-duality is inseparable from the activation of unlimited skill (*upaya*) in expressing the liberating potential in any situation whatsoever—that is, skill in making a liberating difference. Buddhist practice is liberation from those habits of the heart, mind and body that lead us to differ from others in troubling ways and the realisation instead of capacities and commitments to begin differing in ways that initiate and sustain enlightening arcs of change. With significant implications for the politics of difference, this opens a space for realising that, far from being the simple and conceptually vacuous opposite of sameness, difference is itself significantly differentiated.

As a bridge toward the political rehabilitation of difference, we can distinguish between differentiation occurring as means-to (with the meaning-of) increasing variety and as means-to (with the meaning-of) enhanced diversity. Variety consists in the presence of multiple things, beings or processes: a qualitatively neutral fact of random, simple or complicated co-existence. Diversity consists in the emergence of a distinctive quality and direction of relational dynamics: a complex pattern of mutually reinforcing contributions to sustainably shared welfare. Variety occurs whenever we differ-from one another; diversity entails that in some significant degree, we are also differing-for one another. To use a concrete example: successful zoos exhibit great species variety; healthy ecosystems express vitally robust species diversity.

Liberal and illiberal democracies have in common a concern for protecting rights to differ-from one another—most fundamentally,

¹¹ Fazang is building upon the Buddhist logics that developed first in India and then came to China as part of the teachings of the Madhyamaka school, most crucially those of Nagarjuna and his exposition of emptiness or interdependence as falling outside of the claims that something ‘is’, ‘is-not’, ‘both is and is-not’ or ‘neither is nor is-not’. This “tetralemma” might be seen as a logical metaphor of non-duality.

respectively, as individuals and as collectives or states. That is, they are concerned with the conservation of political variety.

A Buddhist approach would build on these rights, however they are being actualised, with an eye to realising how we might best differ-for one another, skillfully activating our differences as the basis of mutual contribution along meaningfully shared arcs of appreciative change. A non-dualistically realised democracy must go beyond conserving political variety to enhancing political diversity.¹²

When how much we differ-from one another is of primary concern, conflict-resolution is naturally seen as a function of balancing interests. Conducted under the auspices of modern democratic valourisations of universality, autonomy and equality, this typically involves negotiating a stable compromise among all stakeholders, from the individual to the state. Balancing various interests entails weighing and then differentially weighting disparate claims to power—disparate rights and abilities for taking advantage of situational opportunities and determining situational outcomes. The liberal democratic ideal (yet to be realised) is for this process to eventuate in power being as equally distributed as possible among all individuals and freely associating groups within society.¹³ The illiberal democratic ideal (also yet to be realised) is for power to be distributed as equally as possible among all sovereign states and free associations thereof. Liberal and illiberal democracies—like universalist and relativist ethics—agree on the primacy of the value of equality and differ only in how they understand its proper scope. In both, “we” should all be treated the same, even though “we” liberally means “as individuals” and illiberally means “as communities/states.”

When how much we differ-for one another assumes priority, concerns about how to most fairly balance interests (an essentially quantitative endeavor) yield to those about how to best coordinate them (a

¹² This is not something evident in most democracies, even in famously multi-party systems like that of the U.S., much less de facto single-party systems like that of Singapore.

¹³ Constraints on what is possible, of course, come from many different directions, political, economic, social, cultural and technological.

resolutely qualitative one), and the pursuit of equality is subordinated to that of enhanced equity. Conceived, relationally, rather than comparatively, equity is not a measure of equality of opportunity, but rather an index of capacities-for and commitments-to acting in one's own interests, insofar as doing so is deemed valuable by others. That is, equity implies the presence of a certain quality and direction of relationships—a co-ordinative appreciation (both an adding-value to and valuing) of interdependence. Ultimately, there is no equity without diversity. Equity is not a relative function of the power to autonomously exercise freedoms of choice, but rather a relational function of strengths for relating freely.

Because diversity is an emergent relational quality, it cannot be either planned or imposed. Enhancing political diversity and realising greater equity are thus not easily reconciled with the kinds and qualities of agency and institutions consonant with playing the finite games of the politics of power—games that are played to be won, inevitably at the expense of those who lose. Realising heightened diversity and equity requires, instead, the kinds of agency and institutions expressed through a politics of strength, where strength is not the ability to determine or control how things are and will be (power), but rather that which is needed in order to play well the infinite game of according with one's situation and responding as needed to maintain and further the interests of all involved.¹⁴ Strength is in this sense, the means-to and meaning-of appreciative and contributory virtuosity.

Granted the modern, secular state's origins as a mechanism for balancing the interests of contending, often profoundly opposed religious and ethnic factions, it is not surprising that it has insisted on the valorisation of political variety. And since political variety secures for all the promise of equal rights for acting autonomously and exercising maximal freedoms of choice, it is also not surprising that the modern era has been dominated by national and international politics of power centripetally focused on answering questions of who is in control and to what degree. Whether the answers have been biased liberally toward guaranteeing variety within a given state or illiberally

¹⁴ I am drawing here on the distinctions between finite/infinite games and power/strength forwarded by James Carse (19xx).

toward attaining variety among states, the result has been a relationally thin pluralism that “works” in proportion to the extent and depth of tolerance practiced.¹⁵

This, however, also works against the emergence of diversity, bringing about conditions in which equity becomes an ideal for which no one is responsible, and thus a yet-to-be-experienced reality. Whether realised in liberal or illiberal terms, relationally thin pluralisms and their joint valorisation of autonomy and equality establish the plausibility condition for what I have termed moral monadism and moral monism—the conviction that how “we” do things is fundamentally natural and right. This conviction can take the form of assuming that there can and should be nothing but contingent differences of values among societies (a universalism that requires everyone to be essentially ‘just like me’), or the form of assuming that there can and should be no significant differences within society (the particularism of regarding no other society as being ‘just like ours’). Either way, the effect is a refusal in practice to responsibly engage value differences as both ethically and politically productive.

The politics of power and variety manifesting across the liberal-to-illiberal spectrum are, because of their biases toward disarming differences, impotent with respect to slowing the engines of inequity that have “succeeded” in consigning half of humanity to surviving on less than one per cent of the planet’s wealth and resources. The global resurgence, over especially the last thirty years, of openly religious political aspirations can be seen in part as a response to the social and cultural disjunctions induced by global network capitalism and its constitutive processes of modernisation, industrialisation and marketisation processes, and in part as a response to the failure of purely secular politics of power to address the profound conflicts over the meaning of the good that so powerfully characterise predicament-

¹⁵ Tolerance is, of course, a key modern value. Yet while tolerance is clearly preferable to intolerance within and among societies, tolerance translates practically into seeing differences as not making a significant difference. In engineering, tolerance defines the degree of difference that can be ignored, and more august rhetoric aside, this remains central to the moral practice of toleration.

laden contemporary global realities. The recognition that phenomena like world hunger and climate change are not problems that can be solved within existing frames of critical reference and existing hierarchies of values, suggests to increasingly large numbers of people needs for a restoration to the public, political domain of moral and religious sensibilities that modern secular states have by design relegated to the realm of the private.

Granted the Buddhist insight into the ontological primacy of relationality, there is nothing inherently troubling about contemporary intuitions that the modern distinctions between the public and private spheres, and between politics and religion, may have outlived their usefulness. However reasonable their origins, these distinctions, like that between reason and emotion, are artifacts, and as such are certainly open to critical review. But given the ways in which appeals to traditional moralities often have been generationally and gender biased, and the ways in which religious convictions have often tended to be divisive and easily used as rationales for violent stances toward difference, it is not clear that the values vacuum in contemporary politics is best addressed by granting morality and religion explicit and direct political salience.

Religion and Politics Revisited

From its inception, Buddhism has been sensitive to the relationship between the political and the religious. According to Buddhist lore, prior to the Buddha's birth as Siddhartha Gautama, it was predicted that he would become either a world-conquering political leader or a world-renouncing spiritual leader. That is, the complexion of factors that led to Siddhartha being born when, where and as he was opened paths for superlative achievements in either political or religious endeavors, but not both. Though intimately related, the priorities, purposes and practices of politics and religion are not identical.¹⁶

¹⁶ Those familiar with the history of Buddhist societies will know that some – for example, in Tibet – did not maintain a clear distinction between religion and politics. And, in all cases, there has been a need to articulate a specific relationship between the state and Buddhism—a relationship that has taken many forms in the various cultural and political settings into which traditions

This is a surprisingly modern perspective for a tradition originating 2,500 years ago. But as evidenced in the Buddha's interactions with various political leaders over the course of his teaching career, the Buddhist separation of "church" and "state" does not turn on the promotion of the secular state in response to religious and ethnic conflict—a strategy, finally, for disarming differences. In these interactions, the Buddha at no point recommends that his interlocutors reject their natal traditions or even place them in abeyance.¹⁷ Neither does he recommend regime change or argue on behalf of any particular form of government. Rather, his strategy is to guide political leaders toward seeing how existing political practices might be understood in new ways—that is, how existing practices might be enabled to mean something different.

Let me explore one such encounter in some detail to bring this strategy into clearer focus. In the *Kutadanta Sutta* (*Digha Nikāya* 5), the Buddha is invited to give counsel to a king who is planning to undertake a massive state-sponsored sacrifice, including hundreds of animals large and small—a ritual practice that was in clear violation of the basic Buddhist precept against killing. Yet, when he engages King Kutadanta, the Buddha does not condemn the planned state sacrifice, but rather skillfully conducts the king toward realising that the most effective and fruitful sacrifice is not that of offering the lives of other beings, or even replenishable fruits, fragrant oils or precious stones, but rather the letting go of ignorance and attachment to self.

The Buddha begins by invoking the analogous circumstances of a king in the distant past similarly intent on performing a great state sacrifice. This conversational gambit skillfully deflects Kutadanta from regarding the Buddha's perspective on sacrifice as directly contesting his own wishes and understanding of right rule. As the Buddha is noted as saying in the *Sutta Nipata's* "Chapter of the Eights," a primary cause of

have been transmitted. My point here is simply to draw out some of the implications of Buddhism for contemporary societies.

¹⁷ On the contrary, the Buddha often advised that his interlocutors remain rooted in their natal cultural soil and the traditions of their forebears as a means to guarding against delusion and established a basis for achieving relationally excellent well-being (*kusala* eventualities).

conflicts and enmity is the belief that “this is true, all else is false.” By taking a stand on some view, tradition, knowledge, virtue or ritual as the ultimate basis of what is proper and good, one invariably creates the conditions for disputation and conflict. Framing his remarks as a story about the past enables the Buddha to speak freely while at the same time avoiding an oppositional encounter with Kutadanta.

The king of old, like Kutadanta, does not fully understand how to perform the state sacrifice properly and invites the counsel of a religious virtuoso who first observes that the king’s domain is beset with thieves and that taxing the people to support the sacrifice with goods and labor would be ill advised. Instead, the king should first remove the root conditions for the rise of crime by offering seed stock to those who are farmers, tools to those who are craftworkers, capital to those involved in business, and proper wages to those in government service, each according to what is most apt for improved livelihood. By so doing, poverty is alleviated, crime is brought to an end, and society flourishes through heightening the capacity of each to contribute to the benefit of all. This accomplished, the sage then suggests a representative widening of the king’s circle of consultation, followed by instituting a series of practices that lead, step by step, from offering food and shelter to those in need to caring for teachers and healers, and finally to the “offering” of the king’s own ignorance. The consummate meaning of sacrifice is finally revealed as the sustained realisation of wisdom and compassion, and the skilled dissolution of the conditions for trouble and suffering for all.

Now, to be sure, this is a didactic tale that, while interpretable on a number of levels, is by no means a treatise on good governance and the proper interplay of politics and religion. Nevertheless, there are embedded in it several useful insights. First, the Buddha’s response to Kutadanta’s plan does not take the form of discrediting either Kutadanta as a political authority or his reasons for wanting to conduct the state sacrifice. That is, the Buddha refuses to assume the standpoint of one who is arguing on behalf of an alternative understanding of good governance. As the Buddha remarks in the Sutta Nipata, those who dispute others do so on the basis of thinking of themselves as “equal,” “inferior,” or “superior” to others – that is, as existing on some common

scale or spectrum of comparative evaluation. The wise refrain from such claims, eschewing any fixed preferences and any assertions about “this” being a truth and “that” being a falsehood. Thus avoiding conflict, they respond freely to the present situation as it has come to be (yathabhutam), in whatever ways needed to dissolve the conditions of suffering.

This joint emphasis on consultative governance and a non-confrontational and flexible manner of engagement suggest substantial alignment with the core principles of deliberative democracy—commitments to the respectful exchange of ideas (reciprocity); to transparency (publicity); to a concern for enabling the interests of all to be represented, including future generations (accountability); and to understanding moral and political principles as provisional or open to revision (Gutmann and Thompson, 1996). But whereas the aim of a deliberative approach to democracy is to insure a forum for debates about fundamental moral and political differences that result in mutually binding decisions grounded in mutually justifiable reasons, the Buddha’s modality of engagement is not oriented to realising consensus or informed consent.

As presently conceived deliberative approaches to democratic processes first bring into focus how much we differ-from one another in basic ways, and then go on to identify concrete prospects for compromise—the finite game of making of mutual concessions and promises. The Buddhist revision might be to suggest seeing political deliberation itself, not as a procedure for arriving at basic agreements, but rather as means-to strengthening creative capacities needed for each to contribute with greater distinction and virtuosity to the meaning-of benefits enjoyed by all. The true aim of deliberation is not to reify and find a position midway among all the interests and beliefs that happen to be constellated within a given situation—discovering a common point of reconciliation—but rather to point out away from the entire constellation, realising the emptiness (śūnyatā) of politics through what the Buddhist philosopher Nagarjuna terms a “relinquishing of all views.” The true meaning of deliberation, in other words, is not to arrive at mutually binding decisions, but to realise a liberating reorientation of relational dynamics.

The point here is not to redefine deliberation, but rather to engage deliberation as a metaphor in order to counter the reification of differences and the inequity-generating play of the politics of power. This is precisely the approach taken by the Buddha in his refusal to take up a position opposed to that of Kutadanta and his sighting instead along the king's line of interest in an unexpected direction, culminating in the conversion of animal sacrifice into a metaphor for sacrificing the sense of self as an independently existing entity and the desires and attachments through which such an entity defines and identifies itself in contrast with others. This use of metaphor is not simply a convenient rhetorical device. Rather, it exemplifies the distinctive epistemic character of Buddhist countercultural critique: the initiation of movement perpendicular or oblique from any point along a spectrum of currently contending views.

Metaphors function as conceptual cantilevers embedded in the familiar but extended into the unknown. That is, metaphors do not primarily function to refine (or fill in gaps and provide detail within) existing conceptual structures and experiential engagement. They establish points of departure into new dimensions of consideration and relationality. If, as contemporary cognitive science suggests, the conceptual systems through which we communicatively understand and engage the world and one another are ultimately metaphorical in origin (Lakoff and Johnson, 1980; 1999), shifting from literal to metaphorical engagements with, for example, political practices and institutions is a particularly effective way of eliciting meaningfully innovative departures from existing conceptual structures and the constraints they place on relational dynamics.

In the Buddha's conversation with Kutadanta, as elsewhere, the metaphorical turn signals an exceptional arc of change—an arc of movement in the direction of realising capacities for relating freely in any circumstances whatsoever and expressing therein superlative means-to and meanings-of liberating relationality. In early Buddhism, movement of this kind is called *kusala*—a term often translated as “good” or “wholesome,” but which actually means excelling rather than achieving a fixed quality—and is deemed crucial to the elimination of conflict. As made explicit in the *Sakkapañha Sutta* (*Digha Nikāya* 21),

conflicts are not eliminated by balancing competing interests or competitively reconciling opposing views, but by desisting from habitual and obsessive patterns of thought and action (*papañcā*), increasing kusala conduct and eventualities, and decreasing those that are akusala. That is, conflicts are ultimately resolved only through realising superlative or virtuosic relational dynamics, while at the same time disabling those that are not.

Importantly, the kusala/akusala distinction is not a contrast of “good” and “bad” patterns of values, intentions, actions, outcomes and opportunities. If the kusala is what is superlative and virtuosic, the akusala includes all that is ‘good,’ ‘acceptable’ and ‘ill.’ In short, kusala conduct cannot be prescribed, and in this sense exceeds the reach of any existing morality. From a Buddhist perspective, eliminating conflict ultimately means going beyond ‘good’ and ‘evil’ in the ongoing demonstration of appreciative and contributory virtuosity—the embodied activation of strengths for relating freely, even in the context of limited options for the exercise of choice. Ending conflict is not a function of finding a universally acceptable alternative to existing points of view, but of relinquishing all points of view in the expression of liberating potentials in any situation whatsoever. In Mahayana Buddhist contexts, this marks the joint realisation of improvisational genius (*upaya*) and superlative directional clarity or strengths of vows (*pranidhāna*)—not the power to choose among and determine situational outcomes, but rather the strength needed to continuously evoke enlightening opportunities therein.

The modern, secular state originated as a mechanism for unifying and balancing power relations among contending, especially religious and ethnic factions. “Church” and “state” are separated in the modern polity in order to insure the survival of both and the possibility at least of sustained pluralities of each. As evidenced in the early teachings of the Buddha, the separation of religion and politics opens the space needed for religion to critically respond to and perhaps reorient political conventions in a way that does not constitute a form of political contention or opposition. The Buddhist critique of politics is thus not a political critique that would invert or reconfigure power dynamics, or speak “truth to power.” It is instead an evaluative critique

that is nevertheless not moral—a critique that goes beyond the opposition of good and evil to elicit non-dual movement in the direction of the politically exceptional (kusala).

Such a critique, as I understand it, would point out from existing political forms toward a relational democracy in which the central values are not autonomy and equality, but rather diversity and equity, and in which freedom is not understood as a function of choice, but of the strengths needed to relate freely in pursuit of kusala eventualities. Such a democracy must “grow out of, rather than replace, the values of different cultures” (Tan and Whalen-Bridge, 2008: 3) while at the same time inducing and sustaining cultural differentiation: a democracy of continuously strengthening the resolve—the clarity and commitment—with which we differ not just from but for one another.

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Constitutional Values and Rule of Law

GERALDINE FRASER-MOLEKETI

At the United Nations World Summit in 2005, the world's leaders reaffirmed that "democracy is a universal value based on the freely expressed will of the people to determine their own political, economic, social and cultural systems, and their full participation in all aspects of their lives", and that "democracy, development, and respect for all human rights and fundamental freedoms are interdependent and mutually reinforcing".

Constitutions are the founding texts by which societies reflect these aspirations and values that they aim to achieve.

The focus of my address today will be on the Constitution, Constitutionalism, and Constitutional orders with an emphasis on the Rule of Law, and its role in strengthening and deepening democracy.

Constitutionalism and Constitutional Orders

The concept of "Constitutionalism" provides a set of values and principles, essentially indigenous, and in conformity with (and sometimes, hopefully superior to) the concepts, values, principles and standards set out in universal human rights and in international law. At the core of such values and principles is the rule of law.

While country contexts vary greatly, "Constitutionalism" embodies values such as voice, participation, representation, non-discrimination, transparency, accountability, the rule of law, separation of powers, judicial independence, and human rights, including the right to effective remedies, to enumerate but a few.

Moreover, the crucial task is to move forward from the values and principles that comprise "Constitutionalism," as set out in a Constitutional document, to the establishment of "Constitutional orders," i.e. the institutions and processes of governance that ensure the practice of Constitutionalism and that provide the actualisation and

realisation of the values and principles of Constitutionalism embodied in such document, most notably the rule of law and respect for human rights. Only then can a Constitution truly become a social compact between government and the governed.

I would like to simply restate the point made by the Prime Minister in his opening statement: we must not forget that solutions to the problems besetting democracies are more democracy, a deepening of democracy, and an increase in the quality of democracy – not an abandonment of democracy!

Rule of Law

The normative foundation for the UN's work on the Rule of Law is the UN Charter itself.

Promoting and establishing the rule of law is essential to achieve sustainable development, peace, and to ensure the protection of human rights of every individual. It is also a fundamental foundation for a strong democracy.

Historically however, the Rule of Law was not always associated with democracy, justice, or human rights. In colonial times, the Rule of Law was established to legitimise colonial power. We saw this in the instance of the Weimar Republic and in more recent history in the instance of South Africa.

A Constitutional order makes the difference between mere rule by law (such as prevailed in Germany under the Third Reich/Weimar Republic) and South Africa (under Apartheid), and the rule of law which respects, protects and promotes that most cherished of all human rights, the right to be human.

Establishing a Constitutional order becomes all the more challenging in societies where the need is for inclusive democratic governance, not only for majority groups, but also, importantly, for minorities and for vulnerable and disadvantaged groups as well.

Even today, laws can be the source of injustice and denial if laws do not meet the three core principles that are embodied in the concept of Rule

of Law – 1) no one is above the law, 2) all persons are entitled to equal protection of the law and 3) for every right, there must be a remedy.

For the UN today, the understanding and application of the Rule of Law is one that stresses and values the rights of the individuals – it is a principle that everyone, from the individual to the State is accountable to laws, which are publicly promulgated, equally enforced, and independently adjudicated, and which are consistent with international human rights norms and standards.

This is the fundamental concept that drives the work of the United Nations. In the UN Millennium Declaration of 2000, Heads of States and Government recognised their collective responsibility to strengthen the Rule of Law, and respect for all internationally recognised human rights and fundamental freedoms.

Inclusive Constitution Making

Allow me to highlight the experience of Constitution in South Africa. The Preamble of the 1996 Constitution states:

“We, the people of South Africa Recognise the injustices of our past
Honour those who suffered for justice and freedom in our land,
Respect those who have worked to build and develop our country; and
Believe that South Africa belongs to all who live in it, united in our
diversity.

We therefore through our elected representatives, adopt this
Constitution as the supreme law of the Republic so as to –
Heal the wounds of the past and establish a society based on
democratic values, social justice and fundamental human rights;
Lay the foundations for a democratic and open society in which
government is based on the will of the people and every citizen is
equally protected by the law;
Build a united and democratic South Africa able to take its rightful
place as a sovereign state in the family of nations...”

The South African Constitution - making process illustrates well the practice of inclusive Constitution making. The process leading up to the

Constitution's adoption consciously involved the citizenry of the country.

The processes in the lead up to the formation of the Constituent Assembly and adoption of "The Constitution of the Republic of South Africa, 8 May 1996" (Act 108 of 1996) was very important - some may argue an outcome in itself. Structures were established, which led to the adoption of the Interim Constitution, which took into account the realities that South African society confronted. Looking back, reaching agreement involved bringing all parties in the deliberative process, including the oppressors. All key stakeholders participated in the drafting of a new Constitution for purposes of conflict resolution as well as to ensure the longevity of the new Constitution.

The 1993 Interim Constitution was a power - sharing agreement. The basic rationale for power sharing was to prevent a counter - revolutionary threat to the new democracy from the bureaucracy and security forces. Concessions were made which was referred to as the "Sunset Clause" to ensure the commitment of these parties and bringing them into the power - sharing agreement (the Government of National Unity).

The South African power - sharing arrangement had a five year timeline (the much debated sunset clause) and indeed was replaced by a modified majority - rule democracy. Nevertheless, the culture of inter - group bargaining persists and is deeply embedded in many sectors of South African society, including its new political institutions.

The conscious involvement of the people has been crucial, as well as placing national interests above the individual interests. It required institutions and consultations to take this process forward. It could not have been achieved by an elite acting alone. No elite can enforce a Constitution, especially if they are not able to communicate and inform about the process.

The historical precedent of the elaboration of the so - called "Freedom Charter" (1955) proved very informative in this sense. Several of the older leaders in the early '90s still remembered the experience of how

the Freedom Charter was drafted through the involvement of 10,000 volunteers (in 1954) who went out all around the country to find out among people working in factories, hospitals, schools, and communities, what they believed had to be the basic principles and values for a free South Africa.

Similarly the proceedings of the 1996 Constitution - making were open and transparent with a very high level of public education on the issues and public input (via email, meetings, surveys, and contributions on the internet). Everybody was able to contribute and this resulted evidently in a text that resonated greatly with the general public.

The Constitution also included economic, social and cultural rights and ensured their enforceability by the courts. A Constitution remains a promise on paper, unless the judiciary is able to uphold the Constitution and enforce its applicability alongside the government.

Conclusion

In summary, past experience indicates that an inclusive Constitution - making process is beneficial to the legitimacy and longevity of the Constitution. When one group dominates the process, it fails to reach a genuine consensus among all significant political actors. On the other hand, inclusiveness should not compromise substantive agreement on key Constitutional principles.

It's important also to rely on technical expertise, especially from international experiences, to ensure that the Constitution benefits from the lessons learned from other Constitutions - making processes.

In closing, allow me to refer to some Buddhist thinking. His Holiness the Dalai Lama said that, "Modern democracy is based on the principle that all human beings are essentially equal, that each of us has an equal right to life, liberty, and happiness. Buddhism too recognises that human beings are entitled to dignity, that all members of the human family have an equal and inalienable right to liberty, not just in terms of political freedom, but also at the fundamental level of freedom from fear and want. Irrespective of whether we are rich or poor, educated or uneducated, belonging to one nation or another, to one religion or

another, adhering to this ideology or that, each of us is just a human being like everyone else. Not only do we all desire happiness and seek to avoid suffering, but each of us has an equal right to pursue those goals”.

It is not enough to rebel against the lack of justice; we should rebel against a lack of imagination. The most important thing to remember when confronted by scepticism and the sense of despair is that hope is the consequence of action, not its cause, and therefore, we should act in order to hope. By doing little things, we acquire the energy to do bigger things. The little thing may be Constitutionalism; the bigger things are its full realisation in society. It’s our sincere hope that conferences such as the one today may allow us to exchange and learn from each other, and ultimately contribute to gross national happiness.

Democracy in the Non-West: Facts, Fictions and Frictions

DR NITASHA KAUL

Introduction

Political systems, like other social institutions, are products of time and place. Democracy is one such system, one of many. Human history is as much a story of better or worse, as it is of more or less power - there is nothing more constant than change and nothing more potent in affecting change than the creation of teleological narratives which make the past seem inevitably to lead to the present and the present seem a mere stage in progression on to a future whose promise was ingrained in the past all along. In other words, when we tell the story of history (in a Whiggish manner) as a progressive dialectical unfolding - we are ignoring the necessary counterfactuals, the discontinuities. Let me explain.

In our times, the discourse of democracy by the end of the 20th century has acquired a universalist ethos and become associated with modernist notions of Progress and Popular representation. It is the ideal type against which the non-democratic systems are judged, evaluated and mostly found lacking. Moreover, there is a popular association of democracy with the West. The standard narrative of democracy, that begins with the ancient Athenian assemblies and is traced to the modern emergence of the West with the Enlightenment fostered political changes in Britain, France and over time the free-world domain with America at its head, is flawed for many reasons.

For the purpose of the discussion here, we need to be aware of assumptions, myths and forgettings through which 'democratic West' is imagined by its proponents as well as critics. This is because the biggest fiction around about democracy is that democracy emerged in the West (starting with ancient classical Greeks and later British parliamentary system) and then spread to the non-West through different waves of democratisation. Even though a range of scholarship has challenged this myth, for instance by pointing out to the Afro-Asiatic roots of the

Classical Greeks (Bernal's *Black Athena*) or the polyvalence of democracies as done recently by my colleague John Keane in *The Life and Death of Democracy*¹, the fiction of democratic West as a natural category which can then export democracy persists.

It forgets how the democratic West till recently did not see a contradiction between democracy within and exploitation, racism, and authoritarian rule abroad in their colonies. It forgets that ingenious experiments with violence to discipline, control, punish and exterminate subjected populations was not only a characteristic of non-democratic Western powers (say the genocide of Herero and Nama peoples by Germans in South West Africa at the start of the 20th century)² but also of democratic Western states (for example, the first concentration camps set up by the British during the Boer Wars in South Africa³, or Churchill's exasperation at the 'squeamishness' to use 'poisoned gas against uncivilised tribes' of Iraqi Arabs and Kurds - see <http://www.globalresearch.ca/articles/CHU407A.html> - or extensive use of torture by the French in Algeria). The only reason I mention these historical instances is to remind ourselves the chequered history through which democracies have emerged as well as functioned. Without going into the intricacies of the 'democratic peace' debate (the contestable idea that democracies do not go to war with each other in general), a study of history shows that there is no necessary connection between democratic political system within and a more peaceful foreign policy outside (see Rosato 2003).

The naturalisation of 'democratic West' today works by paying only tokenistic recognition to the revolutionary antecedents (for instance in

¹ Keane (2009) provides a comprehensive history of democracy, tracing three epochs - the period from 2500 BCE to 900 CE as the age of assemblies, the next ten centuries as the ascendancy of representative democracy, and the present as the beginning of an era of 'monitory democracy'.

² In the period 1904 to 1907, tens of thousands of Herero and Nama people of what is now Namibia were exterminated (starvation, poisoning) by German generals as they revolted against German colonial rule.

³ During the second Boer war (1899-1902) Kitchener instituted these camps, which included women and children. The Combat policies included scorched earth, poisoning water sources etc.

France or the United States), violent defeats (for example in Germany and Japan), gradualist compromises (Britain), or anti-colonial struggles (Ireland) through, in summary, the numerous struggles through which ordinary people forced the elite to share power. It ignores the corruption of democratic systems in the West through money, politics of fear, and a culture of conformity. The well-recognised and oft-commented upon practices of gerrymandering, pork barrelling, lobbying in the United States of America are often seen as inevitable. A recent survey of economists (Davis and Figgins 2009) across the range of political affiliations (democrat, republican and libertarian members of the America Economic Association)⁴ reveals that they have no great confidence in American democracy. The authors suggest that an appropriate story line for describing the survey results might read as follows:

Politics in America: A place where special interest groups exert influence over politicians who use creative public discourse with economically incompetent or ignorant voters in an effort to be re-elected, and where the eventual policy consequences are often not beneficial, except to special interests and politicians.

We have similar examples of corrupt practices in democracies elsewhere, as the 2009 Expenses scandal in the British Parliament revealed. Yet, there seems to be no strong will to bring about a change to the corruptions of the practices, what is often called 'democratic deficit', in the established democracies⁵. For the most part, the

⁴ See Davis and Figgins (2009: 3) for details: The survey was mailed to 1000 randomly-chosen members of the American Economic Association in late April of 2006. The survey was pre-tested among a small number of economists to assess the appropriateness of each proposition, minimise bias or ambiguity, and maximise response rate. Over an eight-week period, 302 completed surveys (and 87 undeliverable surveys) were returned, yielding a response rate of 33 percent, similar to many other surveys of AEA members. Of the 302 respondents: 87% were male, 13% female. 65% employed as university faculty, 13% in government, 11% in business or industry, 11% other. 47% received their highest degree prior to (or in) 1980, 53% after (or in) 1981.

⁵ A short-hand definition online: "A democratic deficit is considered to be occurring when ostensibly democratic organisations or institutions (particularly governments) are seen to be falling short of fulfilling the principles of the

population in the democratic West has been depoliticised as the revolutionary and radical spirit that had inspired popular struggles in the past has been subdued in the prevailing consumerist democracies. The lament about disillusioned voters or non-voters notwithstanding, the bulk of the system's desires and energies are invested in fostering a managerial and technocratic rule where the population, except for occasional voting, leaves all matters of governance to those in power while indulging in a culture of consumption. We also have examples of democratic politicians stoking fear and anxieties of the voters by making immigration and multiculturalism an electoral issue. The emergence, rather re-emergence of far right parties such as the BNP in the UK and their ability to transform the political agenda by allowing mainstream parties to adopt the far-right vocabulary in the name of containing the far-right parties, scavenges upon democratic mechanisms but subverts the democratic ethos of pluralism and tolerance.

This preface about the problematic association of the West and democracy does not imply that similar forces of depoliticisation do not exist in the non-West. It merely reminds us that democratisation - the process through which a democracy comes about and entrenches itself - neither natural nor inevitable but a product of love, tears, sweat and hard work. In fact, it is better to see it not as an end-product but a process through which peoples' participation in governing their own lives is affirmed. A process that is always fragile and needs to be guarded. A deepening of democratic consciousness, in my view, requires an awareness that is not exhausted by choices offered for capitalist consumption, or nationalist conformity since both may lead to the concentration of power in the hands of the few, unless the people are vigilant.

Facts

In this paper, I have chosen to structure my thinking around 'democracy in the non-West', but as stated at the outset, this gesture is not a validation of the commonly held association of the West as the natural home of democracy and the non-West as having a contested

parliamentary democracy in their practices or operation where representative and linked parliamentary integrity becomes widely discussed".

and varied relations with it. Categories of the West and non-West are not always as self-explanatory as they seem. I would defer to Derrida's formulation of the West as "the non-empirical site of a movement". The West and the non-west are not so much geographical or empirical sites, as they are terms within a discourse. What is seen or designated as Western within a certain discourse, is that which is privileged (and by which its 'other' is defined), is a function of power and history⁶. While critical and postcolonial scholarship, such as Edward Said's *Orientalism*, has gone a long way to deconstruct any notion of 'the Orient' (associated with large parts of the non-West), and reveal the politics of cultural constructions of spatial categories, the 'West' or even 'democratic West' as a cultural category remains popular. Thus, when I speak of the non-West, I am trying to reclaim a certain privileged position in the discourse of democracy for the non-West. The non-west is not only that which is defined by the experiences of the west; it exists within and alongside the west.

I have argued that the hegemony of democratic discourse is based upon a forgetting of its own history and politics, how it has come to be. This hegemony establishes itself through a particular narration of systematised, secularised, civic knowledge that manages to put forward its particularity as universalist and encourages all affected by it to re-read and re-present their own historical and cultural specificities as conforming. Liberal democracy, Radical democracy, Social democracy, Communal democracy, Cosmopolitan democracy, Asian democracy, Western democracy, Sovereign democracy, Participatory democracy, Guided democracy, Socialist democracy, Authoritarian democracy, Grassroots democracy, Islamic Democracy, Secular Democracy - most existing systems claim to be democratic in the sense that they are genuine representations of the political will of its constituent people. But what explains the hegemony of the democratic discourse? It is not the worldwide acceptance of democratic political machinery, leave alone a celebration of democratic values. Nor is it a direct product of Western dominance of the international order - the possible emerging

⁶ This refers to the poststructural deconstruction of binaries; what needs to be seen as 'outside' for the inside to make sense. The non-west is defined as the excessive 'other' of the west. This binary structuring of discourse leaves as unquestioned the defining privilege of the west.

powers and competitors like China and Russia challenge the Western prerogative of dictating policies in the name of democracy promotion, but they do not argue for any alternative systems. In fact, the resurgent Russia emphasises upon Sovereign Democracy while President Hu Jintao's keynote speech to the 17th National Congress of the CPC was peppered with the Chinese characters for democracy (Minzhu) more than 60 times. It is a complex suite of external and internal factors which explains democracy's attractions, one of which is the protean forms it can take (many scholarly writings on democracy and democratisation deal with this).

In the non-West, there is an important historical link democracy and nationalism, colonialism and imperialism. The process and project of nation-building in many countries in the non-west was shaped by anti-colonial nationalisms. In India, the demands for self-rule (*swaraj*) did not necessarily need to imply rule of the people (democracy); but they did, and this was the reason for the strong moral force of Indian anti-colonial nationalism, a moral force that came from the claim of indigenous representation. While we should be clear that colonial rule in any form cannot be democratic (so that an empire run by a democracy is as harmful as one run by old imperials), self-rule can equally be narrow in replacing one set of foreign elite by another set of indigenous elite, and without a commitment to open up the power-sharing and governance architecture to the democratic majority. In early 20th century China we saw the movement for Republicanism as not always coincidental with a desire for rule of the people through elections⁷. Political formations emerged that claimed to embody the popular will either through their vanguard role in the anti-colonial struggle or as the sole repository of wisdom to implement collective sovereignty or as the clearest expression of a putative national spirit. The virtues of responsibilities and duties were extolled over those of rights and entitlements.

⁷ Notwithstanding the San-Min Zhuyi Doctrine, or the Three principles of the People, developed by Sun Yat Sen/ KMT. These are Minzu, Minquan, and Minsheng: Nationalism, Democracy and People's Livelihood. For a general overview of the usage of concepts of republicanism and democracy in China over the period 1840-1924, see <http://www.xschina.org/show.php?id=4927> and <http://www.xschina.org/show.php?id=4928>

We should not underemphasise the rupture between colonial and post-colonial rule - decolonisation is a necessary precondition for democratisation. A massive change in expectations that took place at different points in time in different countries, but became stark everywhere with decolonisation was to do with the question of why pay taxes? Revenue and tax collections in the past were payments made to be 'left alone' - a farmer paid revenue to her landlord or a trader to the customs collector so that they be allowed to do certain things. However, with anti-colonial movements (the American Revolution and its 'no taxation without representation' is an early example) the expectations of and from the state shifted. By the middle of the 20th century, taxes are primarily paid not only to be left alone but to contribute in order to secure certain rights and entitlements from the state. At the same time, as plethora of examples from recent history shows, one needs to be sceptical of an easy equation of nationalism with genuine expression of democratic will. Postcolonial states, for instance in Indonesia under Suharto, often in the name of developmentalism (the idea that the state exists as a developmental actor), national unity and anticommunism, reneged on the democratic promises of the anti-colonial struggles and experimented with various forms of authoritarian and semi-authoritarian rules.

While the evolving norms of international society, international organisations, transnational movements, and global civil society may play a vital role in fostering democracy and even supporting the establishment of democratic political machinery, sustainable and stable democracy is dependent primarily on a deepening of democratic consciousness and values. A democracy is a skeletal democracy when it claims to represent the will of the majority through its political apparatus but does not have the widely shared consciousness that Legitimate Power exists to serve the people, that in lieu of legitimacy transferred up, people have the right to expect the system to work for their collective welfare. This transfer of legitimacy to rule from the collective to the few representatives is like a ritual that has to be performed regularly. For a democracy to function as itself, the legitimacy has to be renewed systematically and frequently, with the population having the right and the capacity to change who they choose for representation. In this sense, a one-party state cannot be

truly democratic unless there are real and meaningful alternative choices to the voters who can exercise them without fear and intimidation. These empowering and legitimizing aspects explain the attraction of democratic ideals in the face of numerous challenges it faces and the real and perceived problems associated with actually-existing democracies.

Different systems will claim to better represent and embody the political will of the people, but they might enforce the interests of certain elite individuals or groups or communities as the national interest and the nation's political will. The actually-existing democracies are not immune from this (see Cox 2008). But at a conceptual level, democratic system by requiring regular renewal of legitimacy and by offering the people opportunities to change those who represent and govern them, offers the best available opportunity for balancing impulses of liberty and egalitarianism in a society. In Parliamentary democracies, the Representative body (Parliament, Assembly) 'acts for' (*vertreten*) as well as 'stands for' (*darstellen*) the represented; democratic institutions. Moreover - and this is relevant in the context of legitimate power and representation - there are many reasons to see a semiotic continuity between the way in which the transubstantiation of power takes place from a collective body to its mise-en-abyme, in a theological and in a democratic context. In symbolic terms, just as an individual might choose to place their trust in divine beings to whom they pray in the inner sanctum of a temple, undertake pilgrimages, and in whose wise judgement they trust. Similarly, the individual chooses to undertake the ritualistic pilgrimage like act of voting every few years, and in the secret and sacred privacy of the voting booth, they cast their opinion and live with the consequences. But, the mechanism of accountability, change, and transfer of power is what makes a democratic system different ultimately. I do not intend to merely emphasise the libertarian aspect of democracy; in fact, the conspicuous characteristic of democratic values for me is an egalitarian impulse. Nothing could exemplify this more than the act of voting - at the precise moment when an individual voter presses a button or ticks a box to vote, she affirms herself as equal to everyone else.

Whether a system works or not for the people is not known from how power and authority is gained but from how it is lost, that is, the right of the people to reject those who govern them without risking the viability of the system. In theory, the strategic advantage of democracy as a system lies in the division of risk, the sharing of expertise, the lowered constraints on optimal decision making in an environment of increased policy complexity. In practice, however, this could very well lead to a division of responsibility and the competition for alternatives may encourage the pursuit of populist lowest common denominators. Therefore, the establishment of democratic institutions should be seen as a test of democracy and not the victory of democracy - a test that requires the inculcation of certain mode of thinking and behaviour about legitimate power. One that sees legitimacy and power as requiring frequent renewal and as ultimately residing in the ruled and not the ruler. Without democratisation - here conceived as the process of infusing a strong democratic consciousness amongst all - it is easy for states with skeletal institutions of representative democracy to turn quasi-authoritarian. Installing democratic procedures and institutions without democratic consciousness makes the system an easier prey to the corrupt influence of money, muscle or religious extremism. The relationship between a democracy and democratic consciousness is complex, but ideally, the latter should precede the former (in my work, I take the example of a transition most familiar to me, see Kaul 2008a-d. Elaborate my analysis on the Bhutanese context)⁸.

Fictions

The first fiction is that which I began with: the Fiction of the Democratic West, its teleological origins, and its natural affinity for democracy.

A related fiction is that of Export Packet of Democracy with its economic strings. This is a composite fiction that democracy can be exported in the manner of commodities, and usually is accompanied by the other desirables of capitalism, free market, secularism. To me, there is no prefigured mix of property rights, monetisation and commercialisation that needs to be a necessary component of democratic system. There are egalitarian and regressive impulses in

⁸ These remarks will draw upon a separate paper on Bhutan I have written for Stanford workshop on the monarchic transitions to democracy.

every social context and it is fallacious and detrimental to try and export democracy. The main problem with the notion of exporting democracy is that it uses the language of commodities and not of ideas. Ideas are fungible and contested, while commodities have a fixed identity. Language of 'exporting democracy' is politicised - it assumes that the exporter has democracy in the first place, that it possibly has a surfeit of it. It ignores the main strength of democracy which is that it renews the legitimacy of political rule through an interaction between the people and their rulers they themselves elect. Democracy in this sense is about self-determination and the fiction of export undermines the self-determination aspect of democracy (see Archibugi 2009).

The large literature on waves and reverse waves of democracy (Huntington), like that on stages of growth (Rostow), is often bolstered by mechanistic analyses which see countries as unified actors, and speciously cast historical developments in absolute terms (for an older comprehensive overview, see Diamond 1997). Many examples from around the world illustrate how democracy 'exports' become heightened in line with vested interests at specific points in time⁹. The toxic geopolitical legacies of grafting and imposition of democracy in large parts of the non-western world have set up perverted incentives which will take time to undo (Coyne 2008 provides an American argument against such exports, for a discussion in the context of Africa, see Mafeje 2002)¹⁰. In the cold war years in particular, much democracy promotion happened without context sensitivity of goals, or economic and political problems of the decolonised non-west, or a basic respect for human life or beliefs.

Another fiction is that of alluding to postcolonial or cultural difference as a reason for collective conformity over individual rights and to locate this difference in certain parts of the world. A criticism of the fiction of western export of democracy should not come from a native culturalist

⁹ These days, an updated discussion is that of East Asian exceptionalism (to the third wave of democratisation), and something at issue is the question of how and when overtly democratic changes will come to China, and to what extent is there an 'authoritarian resiliency'. See Yun-Han 2003.

¹⁰ For more on issues of democracy in Africa, see <http://worldviews.igc.org/awpguide/democ.html>

position (on this, I agree wholly with Sen 2006). The arguments made, most often in the case of the Middle East, that certain cultures (say Islamic) are incompatible with democracy or human rights associated with it. Islam and Democracy is a thriving arena of politics as well as scholarship and I don't have the space to go into it here. All I'd like to say is that cultures are not a stagnant product, cultures are organic and ever evolving, cultures are arenas of contestation and debate. If Islam and democracy were really incompatible, how does one explain thriving experiments with democratisation in Indonesia, Turkey or Iran but not in Saudi Arabia or Kuwait?

We saw this also with the debate over the so-called 'Asian values' where a certain discourse of conformity was prized over critical questioning. Without going into the conceptual, empirical and ethical dubiousness of such attempts (for critiques, see Lawson 1995, Tatsu 1999), we need to recognise that individuals and differences do matter in a democracy. While one can agree with former PM of Malaysia Mahathir's exasperation at Western modes of democracy promotion ('But is there only one form of democracy or only one high priest to interpret it?' - in Esposito and Voll 1996: 141), subsequent developments in Malaysia show how serious discriminations along religious, ethnic and individual lines get papered over in the name of community oriented democracy. Without fetishising either the sovereign individuals or the collective, there is the need for a democratic consciousness that guards against such forcible imposition of conformity in the name of culture, tradition or even nationalism. One that defends the rights of the Self as well as of the Others to be. It is easy to talk of a harmonious collective if one ignores individuals - it is more difficult but also more productive to construct a system that brings together a collective without suppressing the individuals.

Frictions

As I have argued elsewhere (Kaul 2009), being a democracy means a commitment to freedom of expression, but it also involves a certain level of commitment to individualism. Democracies reconcile values: procedurally, by elections and elaborate governance mechanisms through which administrative power can operate, and substantially, by facilitating discussion and allowing for individuals to have their say in the system. Post-colonial non-western democracies have had to define

the appropriate individual rights along with simultaneously structuring the expectations of a new people-state relationship. For instance, when India became free at the proverbial stroke of midnight in 1947, there was a desire to define its purity in opposition to the moral decadence of the colonising West. The postcolonial entity India, created with a rupture and greeted with rapture, sought to create unity in diversity by appealing to a sense of civic morality springing from emergent nationalism. But this civic ethic in India did not evolve alongside the coming-into-being of democratic principles at the level of the nation-state (unlike England, for example, where the two grew together). Democracy in India had to shoulder a greater responsibility (and this it is still remarkable) in bringing people and their conflicting views together. To put it simply, unlike places where the relationship between people and state and between people and people co-evolved over long runs of time, in postcolonial India, the relationship between people and state had to itself be the basis for developing the relationship between people and people. In such a scenario, when people feel disappointed in the expectations of their hierarchical relationship with the state, they try to forcibly replicate their values in the civic domain, and the people to people relationship becomes the target of a violence which is legitimised by claims to preservation of culture.

Democratic systems in the non-West face a number of challenges and a deepening of democratic system will require addressing these frictions. The list here is indicative and not exhaustive, and wherever possible I highlight examples of ways forward.

Many countries face the issue of indigeneity in one or another form. To the extent that this is a population group or demographic issue, it can partly be addressed over time by democratic change that gives a voice to indigenous groups (for example, the case of Shigeru Kayano, the Ainu leader in Japan). However, indigeneity is also about a way of life. Unlike the earlier pogroms of extermination that decimated the naive Americans, the aboriginal Australians, and many others, the question now is how to harmonise the desires and interests of disparate collectives of people, sometimes with irreconcilable worldviews? For instance, while for the modernist technocratic mindset, land is a resource available for exploitation, for many indigenous, tribal and

traditional communities land is not only a source of life and livelihood but also sacred. Struggles over land and environment, for instance in parts of India, is one of two different modes of being. One that has the weight of Science, Technology, Enlightenment, Market, and Developmental State behind it. On the other side of this rule by metaphors, there is the other argument which has the prior claims of history, tradition and sacrality of their lived environment. In this struggle between the People (represented by the elected government) and the Peoples (those who may be part of the electorate but see their primary identity as that of a distinct indigenous community), democracy faces a vital test. One interesting step¹¹ is that taken recently by Ecuador whose Constitution has a Rights of Nature (RoN) provision, so that nature is given legal rights and “any Ecuadorian citizen is now entitled to represent nature in a court of law in a defense of bio-integrity and a redefinition of wealth away from capital accumulation and towards bio-capital protection” (Hilton 2009, also Loudis 2008).

Then, there are the challenges posed by the need for international co-operation in the face of the global public goods (GPGs) provision. Moreover, the notion of ‘contested commons’, or strategic frontier zones such as air, sea, cyberspace are increasingly transforming the role and reach of the democratic state itself (see Sullivan and Elkus 2009). Domestically too, the questions of striking the right balance between environmental preservation and economic development (delivery of services, access to resources) become even more acute for non western democracies that often need to build appropriate long term domestic consensus on policy issues amid technological constraints and relative capital scarcity (see Lijphart 1999). The role of non state actors (NSAs) is an important one in deepening democracy and giving voice to those who may not necessarily be heard within the cacophony of politics. However, they are not elected or representative. Big powerful NGOs, especially when having access to foreign funding in otherwise poor developing countries, may distort democratic politics. These include secular developmental NGOs as well as religious organisations. The debate in Bangladesh over the influence on democratic politics of

¹¹ There are other precursors of innovative approaches to community development, such as Timothy Kennedy’s SkyRiver project which enabled a form of communication between remote native Alaskan villages.

developmental, often secular, NGOs as well as religious networks funded through money from countries such as Saudi Arabia is a case in point. A democratic system, unless checked by democratic consciousness, creates incentives for political contestants to focus on short-term private gains. Based on electoral calculations, especially in a system where Simple Majority is required and there are many candidates, politicians may invest more energy and resources in securing a cohort of assured voters than in promising change for everyone. In a society where identity politics along confessional, ethnic or sectarian lines, play an important role, we often find a spectrum ranging from outright violence between communities (recent reports tell us that Kikuyu and Kalenjin Kenyans are arming themselves for the 2012 elections, see <http://news.bbc.co.uk/2/hi/africa/8293745.stm> - a clear case for the significance of 'rule of law' to democratic processes) to politicians subtly playing vote bank politics. While beneficial to individual politicians and parties, vote bank politics is undemocratic for various reasons - it creates and reifies fissures in society; it takes the agency away from individuals and invests them in communities; it transforms, through recognition and competition, a fluid fuzzy community into a fixed one. As we have seen in India for instance, vote bank politics have led to various types of minority-isms as well as majority-isms, both detrimental to democratic politics.

When majoritarian rightwing nationalists argue that the majority identity group must have dominance in governance, they conflate political majority with cultural majority. The idea of political majority is fundamentally based on individual's choice in every election, while cultural majority is one that is based on communal politics. A healthy democracy is based on political majorities, people can change who they vote for and should not be subsumed under their cultural identity.

Faith and religion can be a source for aligning people's cultural values with the political system (see Gillespie 2008 for an argument about the theological origins of western modernity). For instance, one may argue that Islamic notion of *Shura* (translated as consultation, deliberation), rather than a liberal secular democracy, offers a way of reconciling democratic values with faith in Islamic societies. Or that faith-inspired notion of morality, community and compassion can make a democracy

more humane. But in a pluralist society, and most societies in the world are pluralist in one or the other form, democratic system has to ensure that is not dominated by only one set of values alone. Who takes the role of interpreting what the religion says? How can different faith-based values, be reconciled? How can one ensure that the tolerance, compassion and understanding aspects of a religion is 'allowed in' while intolerance, chauvinism or sectarianism is 'kept out'? Each democracy has to have its own debate on how to reconcile traditions, religious values, modernities, and differences. Bhutan is an excellent example of such a faith-based translation during the democratic transition.

Another crucial role is that of the educated elite¹² and the unelected wings of the government. Powerful civilian, military and intelligence bureaucracies have to be under strict control of the democratically elected government in order for democracy to be sustainable. As examples from Pakistan and from many other non-Western states show, democracy is fragile and prone to coups, interference and distortions. The vigilance against the dominance by unelected bureaucracies is required not only in new but also in established democracies. Note how a main plank of the victorious Democratic Party of Japan in 2009 was to tackle head-on the powerful bureaucracies. While elite rule may be more 'efficient' in dealing with a developing societies' problems, it cannot be acknowledged as authentically representative of people's desire. See Chua (2004) for a discussion of the Singaporean experiment with 'guided democracy'; a communitarianism without competitive politics.

While a positive nationalism - one that cultivates a sense of unity and harnesses peoples and communities' creative energies toward mutually agreed goals without suppressing their plurality - can consolidate democratisation, a negative nationalism - one that promotes xenophobic patriotism, instils a sense of pride in the Self by denigrating

¹² The educated elite in non western states - democratic or not - often has remarkably similar life pathways (institutional interaction and sociocultural encounters dictated by the sociological advantages of price discrimination), which may have the effect of insulating them from the real problems in their own societies.

others - has to be watched out for. The process of enemy-creation in politics is based on an intolerance that can easily be misused by the political elite to suppress dissent, individuals and groups all in the name of national unity within the country and even wage wars with the neighbours deemed as enemy. Wars and violence are corrosive of democratisation; in fact, they epitomise a failure of democratic values.

Even a one-party dominant state, unless checked by a thriving internal party democracy, a responsible but free media, an effective opposition, and a strong democratic consciousness in the wider population, can acquire powers to limit the democratic options for the people.

Finally, a remark about the culture of accommodation. As I have said before, the true test of a democratic system is not in how power is won but how it is lost. If the losers have strong doubts about the fairness of the electoral outcomes and feel that their only recourse is through protests, civic struggles and even violence, democracy is indeed weak. An independent body to plan, conduct and oversee elections is an important benchmark for a consolidated democracy (see Trebilcock and Chitalkar 2009). As the recent examples from Iran, Kenya, Mongolia, and Afghanistan show, where there is a lack of faith in the election body's neutrality and a strong suspicion of ruling party's manipulation, people's faith in the legitimacy of the government as well as the system is eroded. Democratic system per se offers no blueprint for stability. In fact, it often leads to an exaggeration of differences and rivalries and encourages a bitter struggle for power, thus leading to a disenchantment with the system amongst people. It is a democratic consciousness within the population as well as the rulers that deepens democratic system and makes it sustainable. It is as much the people's responsibility as it is the political class's duty to nurture and foster this consciousness.

Conclusion

Democratisation requires constant dialogue and exchange as well as continual imaginations, revisionings and translations of visions of a good society. This hard work of democratisation should not stop at the national boundary. Issues of justice, equality, and fairness do not get contained within bounded communities that are the present-day sovereign states. Democratic consciousness is about rights of 'I', 'You'

and 'Us' and a recognition that there is no moral justification behind the selective sympathy only for 'our kind' and its corollary of dehumanisation of 'other kinds'. The exclusive focus on I may lead to anomie, corruption, blindness to daily sufferings brought on the many by economic violence, in short, a lack of care for the not-Is. The privileging of 'Us' may contribute to the promotion of narrow sectional and parochial interests, and to sectarian and confessional violence, and to nationalist xenophobia. While democracy can and should be a mix of local grassroots empowerment and nation-building, it is the means to an end, that of world-building. One can only hope that the ends we are working toward is one of a democratic consciousness, compassion and humanity.

A democratic consciousness is one that accepts and celebrates the categories 'people' as well as the 'political will' as dynamic, always changing and often contested. Difference is not feared nor merely depoliticised and celebrated as a curio, but it is accepted as a fact of life which has to be accommodated into the political system. Dissent and constant questioning are not only tolerated but built into the evolving political culture. The health of a democracy comes from how differences are deal with and not by how sameness is imposed. It is a far more difficult responsibility to be a democrat than an autocrat or a technocrat. The exact mechanisms to incorporate differences and change within the system will depend on the context. Countries may learn about institutions for procedural democracy from each other, but as for the democratic consciousness, there can be no blueprint, only footprints.

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The Constitution – the King’s Gift: Difiling and Sanctifying a Sacred Gift

SONAM KINGA

To Question Or Not To Question, That Was The Question

When Bhutan’s first elected Parliament convened its session on 8 May 2008, the first debate centered on the question of either endorsing the draft Constitution intact or discussing the contents before promulgating it.

Many parliamentarians argued that the Constitution is a gift or *solera*¹ from the Fourth King of Bhutan, and hence, the question of questioning a gift by discussing its provisions is unthinkable.

There was however, another group of parliamentarians, who argued that discussing the Constitution would not undermine their faith in the King or Constitution. It would be better, they argued, to seek clarifications from the Chairman of the Drafting Committee on important provisions and take this opportunity to make improvements so that the Constitution need not be amended frequently in future. In order to suggest that the draft Constitution should be promulgated intact without making any amendment, the copies circulated to the parliamentarians that day were printed in gold. It was symbolic of the fact that a gift precious as gold should not be smeared by debates and amendments.

1 The word ‘gift’ may be a misnomer. There are different concepts of ‘gifts’ that connote different levels of relationship between those who give and those who receive gifts. Hence, choem (in Dzongkha, the national language) is a category of gift given to another person, friend or relative, who normally share the same social status. Chag jel (pronounced chan je) is a gift offered to person of a higher social status like an officer or a lama that one calls upon for various reasons. Phuelcha or buelwa is a gift offered to a person of very high social standing such as a king, minister or great Buddhist masters. Lastly, soelra is a gift granted by a high-ranking person to those inferior to him/her.

No one contested the idea of the Constitution as *soelra* from the King. What was contested however was the overwhelming argument that any change, amendment or improvement to the draft Constitution was already done with feedback received from the people of Bhutan through various means. First, all the households of twenty *dzongkhags* (districts) in the country were provided with a copy each of the Constitution. Second, the King and Crown Prince met the people of Bhutan during the public consultations on draft Constitution. Their responses, comments and feedback had been noted. Third, the draft Constitution was loaded on a website since 26 March 2005. Feedback and comments from readers have already been considered. Fourth, the Constitution was drafted by drawing upon constitutions of many countries. While 100 constitutions were studied, the drafting committee focused on 50 which were scaled down to 22 for deeper analysis.² Finally, members of the drafting committee were representatives of various social groups.

Those parliamentarians who wanted discussions and debates to take place with the possibility of some amendments considered that the best way to contest the above arguments was to argue for the need to seek clarifications from the Chief Justice, the chairman of the drafting committee, on important provisions of the Constitution which may later result in conflicting interpretations. Moreover, the parliamentary session was to be broadcast live.³ Therefore, the people who watched the proceedings would also benefit by understanding those provisions on which members seek clarification. As debates began, I said that there were important lessons learnt from the experiences of the last elections

2 Kuensel, 24 July 2008.

3 The National Assembly decided to ban the live broadcast of its proceedings from the third session of Parliament which began on 26 June 2009. However, the National Council decided to continue its live broadcast in the interest of transparency and accountability. There were resentments expressed against the ban. Only selected sessions like the Prime Minister's report on the annual performance of the government, presentations of the Public Accounts Committee, the budget presentation and any issue in a joint sitting would be broadcast live. Discussions on other bills and issues were to be reported by the media but not be broadcast live.

that needed to be considered. For example, I said that the Constitution provided for two rounds of elections to the National Assembly (NA). In the primary round, many registered political parties would contest. In the general round, the two parties winning the maximum number of votes in the primary round would contest for seats in the NA. However, there were only two registered political parties for the last election. So the primary round was not held. But the Constitution did not specify if the primary round should be foregone if there were only two political parties. It certainly states that two rounds of elections should be conducted. There was thus a need to rethink these issues. Initially, the Chairman of the drafting committee who presented the draft Constitution to the Parliament intended a two-three day discussions. It was mainly to provide clarifications and details on certain articles and clauses. Discussions nevertheless continued for three weeks as every article of the draft Constitution was tabled for discussion. Before we discuss if any amendment were made or not, we need to further investigate the idea of Constitution as a gift.

Source of legitimacy: king or people

The purpose of arguing that the Constitution is a gift from the throne was to locate and acknowledge the throne, particularly King Jigme Singye Wangchuck – the Fourth King of Bhutan - as the source of legitimacy of Bhutan's historic political reforms. On the contrary, the King had said that the Constitution should not be considered as a gift from the throne. "The Constitution should not be considered as a gift from the King to the people: it is my duty to initiate the constitutional process so that our people can become fully involved in shaping and looking after the future destiny of our country."⁴ Hence, from the very beginning, the King conveyed the idea that while he would initiate the constitutional process, it is the people and their representatives who would draft the Constitution. The King intended to locate the legitimacy of the Constitution in the people.

There was thus dialectic thinking in assigning the source of legitimacy for Bhutan's first written Constitution. The King located it in the people, and the people in the King. Let us analyze the process by which the

4 Kuensel, 30 November 2001.

King worked to embed the legitimacy for the Constitution in the people, and the people came to conceptualize the Constitution as the king's gift. The King had commanded the drafting of the Constitution on 4 September 2001 by issuing a royal decree or *kasho* to the government.

While His Majesty gave a broad directive, enunciating the basic and progressive democratic principles, Lyonpo Sonam Tobgye⁵ said that His Majesty was cognizant of the fact that the members of the drafting committee must be broad-based and that they must be elected so that there will be a voice of the people. "Consequently His Majesty commanded the Prime Minister to issue a directive to the 20 *dzongkhags* to elect one member each from every *dzongkhag* primarily or wholly for the purpose of drafting the constitution⁶ (*italics mine*).

When the drafting of the Constitution was inaugurated on 20 November 2001 in Tashichho Dzong, the seat of the Bhutanese state, there were thirty nine members. Among them, there were thirteen representatives from the government, three from the judiciary, two from the monastic community and twenty seven from the people. Among these twenty seven representatives of the people, each of the twenty Dzongkhag Yargye Tshogdu (DYT) in the country had elected a member. In addition, there were six councilors, who were elected members of the Royal Advisory Council (RAC). Each councilor represented a group of *dzongkhags*. Members of RAC were also members of the erstwhile NA.

The composition of the drafting committee was therefore, intended to constitute a popular body. With representations from the government and the monastic community, it became a broad-based committee. Such representations have been the hallmark of popular institutions like the RAC and the NA. However, it is important to note that the drafting committee was not a legislative body, and therefore, had no authority to promulgate the Constitution. But its broad-based representation

5 The Chief Justice of Bhutan. He was re-appointed as the Chief Justice of the Supreme Court.

6 Kuensel, 24 July 2008.

suggested that the Constitution was drafted by the representatives of the people.

The second important element in reinforcing the idea of the people as the source of legitimacy for the Constitution was the distribution of its copies on 26 March 2005 to members of Gewog Yargye Tshogchung (GYT) and DYT, civil servants, members of the judiciary, educational institutions, municipal corporations and the business community. Basically, every household in the country was provided a copy each. This was to set the stage for kingdom-wide public consultations. King Jigme Singye Wangchuck started it in Thimphu on 29 October 2005.

Later, the Crown Prince (the present King) continued the consultations. They ended on 4 May 2006 in Trongsa. In every public consultation, the people expressed their concern at the introduction of parliamentary democracy. In his national day address on 17 December 2005, the Fourth King said, "During my consultations on the Constitution in the different *dzongkhags* (districts), the main concern of the people is that it is too early to introduce parliamentary democracy in Bhutan."⁷ The King and Crown Prince conveyed to the people during these consultations that it was not early to introduce parliamentary democracy. Rather, the time was right to venture on historic political reforms. People expressed deep concerns on the political transition that was being initiated. However, as discussions on the draft Constitution started during these public consultations, people made suggestions or raised objections on different clauses of the draft Constitution.

The other important means of legitimizing the Constitution through popular participation was the idea of holding a national referendum.

His Majesty pointed out that the draft Constitution was not submitted to the National Assembly first because the people might not accept the decision of the Assembly as there would be only 100 *chimis* representing the *dzongkhags*. The Constitution of Bhutan would, therefore, be adopted by referendum, as has been the practice in Bhutan for all important issues, and then enacted in the National Assembly⁸ (*italics mine*).

7 Kuensel, 21 December 2005.

8 Kuensel, 23 March 2005.

The referendum however, was never held. Nor was the Constitution enacted in the NA. Rather, the public consultations came to be regarded later as a kind of national referendum. The concern was that the people would not endorse the Constitution and hence, parliamentary democracy. Similarly, it was felt that the NA would not approve the Constitution. Both these would be a major setback for the King's initiative to democratize Bhutan.

The idea that the Constitution has popular legitimacy was reasserted when it was finally signed and promulgated on 18 July 2008. The King said that the Constitution was placed before the people of the twenty *dzongkhags*. "Each word has earned its place with the blessings of every citizen in our nation. This is the People's Constitution."

The politico-official view nevertheless continues to project the Constitution and parliamentary democracy as *soelra* from the King. When the draft Constitution was first released for public distribution on 26 March 2005, representatives of various institutions and organizations received copies of the draft Constitution from the chairman of the drafting committee. Wrapped in colourful materials, the ceremony of distributing it was like that of granting a *soelra*.

The chairman said that the Constitution was a gift from the Golden Throne.

This constitution was given by the head of the state, the King of Bhutan, who enjoyed the absolute confidence of the people. This is truly unique in the sense of the Buddhist principle of detachment...The people of Bhutan did not want the Constitution, but His Majesty in his wisdom felt that it was necessary to have one for the benefit of our posterity.⁹

Lyonpo Kinzang Dorji, the Prime Minister of the caretaker government¹⁰ had also said that democracy was a gift from the golden

⁹ Kuensel, 24 July 2008.

¹⁰ A caretaker government consisting of three ministers was formed when other cabinet members resigned to form political parties in preparation for the parliamentary elections.

throne to the people.¹¹ Similarly, the Opposition Leader had always maintained that the Constitution should not be discussed but promulgated intact. "Like most Bhutanese I see the Constitution as a precious gift from a monarch to his people, unparalleled and unprecedented in the world."¹² The idea of Constitution and democracy as gift was also articulated by the present Prime Minister, when he was on his familiarization tours¹³ in different constituencies before formal campaigning for the last election began.

Beware of those that come to buy your vote. Your vote is a 'Norbu Rinpoche', a precious gem, a **once in a lifetime gift. His Majesty the fourth King has given you each a precious gift**, with the hope that you will use it wisely ¹⁴ (emphasis mine).

The discourse on Constitution and democracy as gift of the King did not take birth within the immediate context of introducing parliamentary democracy. Parliamentary elections of 2008 were preceded by 54 years of democratization process, of which 34 years were largely characterized by decentralization. Hence the people's idea of Constitution as their King's gift is in fact, an extension of similar discourse surrounding political reforms he initiated during his reign.

Changing with times - the rationale for democratization

When the King first commanded the drafting of the Constitution, many people were taken by surprise. The general response that continued to echo over the last few years was initially captured in a *Kuensel* story.

11 Kuensel, 1 August 2007.

12 Bhutan Observer, 18 July 2008.

13 As a part of the political process, the Election Commission of Bhutan allowed candidates for parliamentary seats and political parties to undertake visits to their constituencies long before actual campaigns and elections. They were allowed to introduce themselves and their parties but prohibited from campaigning.

14 Kuensel, 29 September 2007.

We have this unique system which works. Why do we need to change it?...Today we enjoy peace and harmony, stability and prosperity. Are you going to change it for better or worse?¹⁵

The King literally persuaded the people to accept democracy. It is important to identify the basic arguments he gave time and again for introducing democracy. The first and perhaps the most important argument is that the Kingdom must change with time.

It is important for all of us today to look into the future and to take the necessary steps to shape the destiny of our country...Bhutan must move with times to ensure that the nation not only overcomes all internal and external threats, but continues to prosper in an atmosphere of peace and stability.¹⁶

Obviously, the question was why change. The king argued that the inherent weakness of monarchy is its dependence on one person. The intentions of kings may be good but they could change. The need therefore, for institutions and political system that rest on the wisdom of all people rather than one person.¹⁷ That political system was to be parliamentary democracy expressed in a written Constitution. He argued that democracy was a viable political institution that could fulfil the aspirations of Bhutanese people. If democracy had not worked elsewhere, it was not because of its inherent weaknesses but due to abuses of it by those in power. Changing with time meant democratizing the political system.

The principles and goals of democracy are inherently good, and a democratic system is desirable for Bhutan. If the lessons of some democracies are not encouraging, it is not because the concept of democracy is flawed: it is because of mismanagement or susceptibility to corruption by those who participate in the democratic political systems in some of the countries.¹⁸

15 Kuensel, 12 April 2002.

16 Kuensel, 31 December 2001.

17 Kuensel, 1-7 December 2001.

18 Kuensel, 30 November 2001.

The essential argument was therefore, that Bhutan should not be deterred by the fact that democracy did not work in some countries. A key theme in the King's repeated public declarations was that the future of the country lay in the hands of the people. The people must shoulder the responsibility of shaping the country's destiny. Moreover, those in power must trust the people to undertake this responsibility. Thus, democracy was presented as means of enabling people to take responsibility for their collective future.

The other question was why introduce change now when people were apparently not ready for democracy. He reasoned that democracy is best introduced at a time when people enjoyed peace and happiness, when the kingdom's security was ensured and when the economic opportunities were growing. According to him, this was a time when people in all sections of society enjoyed a high level of trust. The security of the country was ensured and people enjoyed peace and stability. We must note here that security threats posed to Bhutan by 'anti-national' elements in the early 1990s and militant groups from India later were removed with the King personally leading the army to battle in December 2003. Bhutan also enjoyed close relation with development partners. Its relationship with India in particular had reached a new height. Bhutan's economy was growing and investments in hydro power projects would bring in major economic benefits. Thus, democracy was being introduced in an environment of trust, political stability, social harmony, economic opportunities and good relationship with other countries. The Constitution was being drafted neither under compulsion nor in a hostile environment of conflict among different groups.

A significant aspect of the introduction of democracy was the King's assertion that it was a culmination of decades of political reforms he initiated during his reign. Thus, democracy cannot be looked in isolation from his earlier reforms. His first address to the drafting committee provides significant insight.

It is my duty as King to strengthen the nation so that the people can develop in security and peace, and the nation becomes more prosperous and secure than before. During the past years of my reign, I have made constant efforts to empower the people by delegating authority, resources and responsibility to them. Reforms

on decentralization and delegation of powers have been a continuous process with the establishment of District Development Committees and Block Development Committees, and the devolution of executive power to an elected Council of Ministers.¹⁹

Desanctifying the gift; debates on the Constitution

Was the Constitution then passed intact in Parliament without amendment? No. The debates began with the proposal to change the title itself. The draft title read, 'The Constitution of the Kingdom of Bhutan.' In Dzongkha however, it read '*brug gi rtsa khrims chhen mo* or 'The Great Constitution of Bhutan.' Led by a Member of National Council (MNC), a few argued that it should be titled *dpal ldan 'brug pai rtsa khrims chhen mo* or 'The Great Constitution of Palden Drukpa.' Although Palden Drukpa is used as a synonym for Bhutan, it is also the other honorific name for Zhabdrung Ngawang Namgyal, who unified Bhutan as a political community between 1616 and 1651. The unspoken but implied objection from others was that this would not reflect the secular nature of the Bhutanese state that the Constitution claims to be. Incidentally, this was the title of the second draft of the Constitution circulated to the people. A Minister suggested that a subtitle should be considered to aptly acknowledge that the Constitution was a gift of the Fourth King. The title was however, not changed.

Like the debate on the title, many debates were held on different articles or sections of the Constitution. However, debates largely served to clarify doubts or reinforce understanding of these articles through the Chief Justice of Bhutan as an intermediary, who provided clarifications and reconfirmed certain interpretations. More than often, the debates did not result in amending any article or section. Take for example the debate on the required minimum foreign currency reserve.

According to Article 14 Section 7 of the Draft Constitution, a minimum foreign currency reserve that is adequate to meet the cost of not less than one year's import must be maintained.

19 Kuensel, 30 November 2001.

Addressing the house, Finance Minister Lyonpo Wangdi Norbu, said it was advisable to reduce the reserve period from one year to six months. One-year reserve period would slow down the developmental activities. "The money would remain unused affecting the economic development of the country."

He said the country had to borrow money from international financial institutions paying higher interest when there were huge imports to be made. Supporting the finance minister, the national assembly member from Kengkhar-Weringla Sonam Penjor said the one-year period was too long. He cited the example of India where the hard currency reserve period was as short as one month.

The works and human settlement minister said six months was reasonable. "Even the International Monetary Fund agrees to six months," he said.

But the opposition leader, Tshering Tobgay, was of the opinion that the one year reserve period was necessary for emergency situations and natural calamities. He said Bhutan largely depended on import and during emergency situations if there is money reserve the country does not have to depend on external aid.

The National Council member Kinley Tshering seconded the opposition leader. He said if there was enough money in the country there would be no problems.

Addressing the house, Chief Justice Sonam Tobgye, the Chairman of the Drafting Committee, said the one year period was reflected to safeguard the country's independence and resolve emergency situations. He also said it was to check the government from spending money for political gains. It is also to assure that the country need not go with a begging bowl, he said.

Since the house could not reach a consensus, it was decided that the Chief Justice would address the issue again on 28 May.²⁰

Later, the original article was retained that required a minimum foreign currency reserve to meet the cost of one year of import.

An interesting debate took place over the designation of the Chief Justice of the Supreme Court. Section 4 of article 21 states, "The Chief Justice of Bhutan shall be appointed from among the Drangpons of the

²⁰ Bhutan Observer, 23 May 2008.

Supreme Court...’ Many members of National Assembly (MNA) argued that the designation of the Chief Justice in Dzongkha which read as *‘brug gi khrims spyi blon po* or The Minister Chief Justice of Bhutan is incorrect. The contention centred on the word *blon po* or minister. The usage of the word minister for the Chief Justice derived from two facts. One, the Chief Justice was equated to the rank of a minister in order to suggest that the judiciary is equal to the executive in status. Two, this suggestion was symbolically reinforced by the orange scarf worn by the Chief Justice just as a cabinet minister does. The scarves are awarded by the King. The members argued that in the context of separation of powers among three organs of the state, the designation of the Chief Justice should not have any reference to a minister. Instead of *‘brug gi khrims spyi blon po*, he should be called *‘bbrug gi khrims spyi* - The Chief Justice of Bhutan. There was overwhelming support for this amendment among members of the ruling party. That day it was agreed that the designation would be changed. But the following day, the same MNA who strongly argued in favour of the change suddenly started to call for the reinstatement of the original title. The title was reinstated.

The other noteworthy amendment in the Constitution was the change in gender specific terms. In legal terms generally, the reference to the masculine would also mean the feminine. But the women parliamentarians argued that Bhutan’s Constitution should specifically mention both *he* and *she* or *his* and *her* instead of just *he* and *his*. In fact, one of the most protracted debates took place on this issue. They prevailed and the final Constitution as well as other laws passed by both houses of Parliament ensure that both masculine and feminine terms are included in them.

There were other sections where significant amendments were made. The most notable among them was the inclusion of an entirely new article under Fundamental Rights. It concerned the banning of capital punishment which was not reflected in the draft Constitution although the ban was already in force through a royal decree issued by the Fourth King. The new article proposed by the Foreign Minister was endorsed. As a new section, i.e. Section 18 of Article 7, it now reads, “A person shall not be subjected to capital punishment.”

Article 5 discusses the Environment. Section 1 states;

Every Bhutanese is a trustee of the Kingdom's natural resources and environment for the benefit of the present and future generations and it is the fundamental duty of every citizen to contribute to the protection of the natural environment, conservation of the rich biodiversity of Bhutan and prevention of all forms of ecological degradation including noise, visual and physical pollution through the adoption and support of environment friendly practices and policies.

I suggested that the clause beginning with '...it is the fundamental duty of every citizen to contribute...' should be deleted from this section and included as a new section under Article 8, which stipulates fundamental duties for Bhutanese citizens. The Chairman of the Drafting Committee agreed to look at this proposal. Later, it was retained despite support from some members. But the word environment was added to section 2 of Article 8 as follows. "A Bhutanese citizen shall have the duty to preserve, protect and respect **the environment**, culture and heritage of the nation." This section did not contain the word 'environment' earlier. The argument for this amendment was that this section makes preservation and protection of both culture and environment a fundamental duty for a Bhutanese citizen although both of them are specifically discussed under Articles 4 and 5 respectively.

Section 5 of Article 15 stated; "Representation to the NA shall be by two political parties established through a primary round of election in which all registered political parties may participate." I argued that this makes it mandatory for two political parties to be represented in the NA. Considering the results of the last election in which the ruling party won a lop-sided victory of 45 from a total 47 seats, it is not impossible for a political party in future to win all the seats. If the people votes overwhelmingly giving 100% of the seats to one political party, that electoral choice has to be respected. However, this section would make it look as if winning 100% of the seats is unconstitutional. The section required two political parties in the Constitution. Therefore, we need to re-examine this section so that even if a political party won 100% of the seats, it would still be a legitimate win.

In the end, the word 'Representation' in this section was changed to 'Election.' This ensured that after the primary round of election, in which all registered political parties may contest, two political parties would contest for the general round. Even if one party won all the seats, there would be legitimate basis for representation. Otherwise, the losing party in the general round may call for a re-election if this section made it mandatory for two parties to be in the NA.

By the end of the deliberations on the Constitution, debates have taken place on nearly fifty different articles and sections. Most discussions were intended to seek clarifications from the Chairman of the Drafting Committee who participated in the entire deliberation. As I indicated, there were however, some significant amendments made.

Through these amendments, the argument that it is inappropriate to question and amend the draft Constitution has been contested. It is important to note that amendments were proposed as much by some ministers as by other parliamentarians. Even if there were no amendment, the fact that the draft Constitution was discussed in Parliament made it appear as if the royal gift has been defiled. Among those who contested the idea of the Constitution as a gift by participating in the debate and even proposing amendments were also those who initially objected to the idea of proposing amendments. If the weeks of deliberation have defiled the Constitution, then the project of re-sanctifying it took place amidst sacred rituals and prayer ceremonies.

The gift is re-sanctified; signing of the Constitution

Soon after the deliberations on the Constitution were over, the Prime Minister made a statement in the Parliament to request the King to declare June 2 as the day for adopting and promulgating the Constitution. June 2 had been celebrated thus far as the Coronation Day of the Fourth King and also as social forestry day. It used to be celebrated as a national holiday. Many parliamentarians made impassioned submission to declare June 2 as Constitution Day and as a token of tribute to the Fourth King, the architect of the Constitution.

On May 30, the Chairman of the Constitution drafting committee conveyed the royal views to the joint sitting of parliament which stated that the country will celebrate Constitution Day dedicating it to the

Fourth King. The date would be proposed by the Prime Minister, the Chief Justice, and the Speaker of the NA, and approved by the King.

His Majesty the King said that he was touched by the desire of the nation's highest legislative body to dedicate the Constitution to the fourth Druk Gyalpo, the Father of the Constitution. But the signing ceremony need not be hurried. The Constitution, which was adopted for the present generation and for posterity, would be signed only once in the country's history. Therefore, the *gatoen* and *tendryil*²¹ must be well organized and all the people of Bhutan must share the spirit of occasion.²²

Since the Parliament would be in session for another month, the King advised that the Constitution signing ceremony be held toward the end of the session. There would be enough time to organize the historic event. He also advised the Prime Minister, the Chief Justice, and the Speaker to discuss the issue and propose a suitable date - either June 2 or November 11 - as Constitution Day or Democracy Day in honour of the His Majesty the Fourth Druk Gyalpo. Obviously the suggestion for June 2 was that of the following year, not the following week as the parliamentarians intended. The signing ceremony however, took place on 18 July 2008.

The King signed 'The Constitution of the Kingdom of Bhutan' at 10.06 a.m. on 18 July 2008 in the *kuenra* (assembly hall of the state monk body) of Tashichho Dzong. There were three copies of the Constitution, one of which was done in gold. The King signed in all of them. Following him, the Prime Minister led the seventy two members of Parliament in signing the Constitution. The Chief Justice signed last.

The day before the Constitution was signed, prayer ceremonies were organized in monastic institutions all over the country to solemnize the occasion. Before dusk, copies of the Constitution were taken inside the *goenkhang* of Tashichho Dzong and kept on its altar. This *goenkhang*, like others in all *dzongs* around the country, is a temple of Bhutan's guardian deities. In the early hours of the following day, two *thongdrels* or huge appliques of Guru Rinpoche and one of *neten chudrug* or the

21 Celebrations and prayer ceremonies.

22 Kuensel, 31 May 2008.

sixteen arhats²³ were unfurled from the walls of monasteries in the courtyard of Tashichho Dzong. Since the day was declared a public holiday, thousands of people had already started to flock inside the courtyard to receive blessings from the *thongdrels* and witness the historic moment. Later, copies of the Constitution were taken to the *kuenra* from the *goenkhang* escorted by Dorji Lopen, who is considered to be the second highest abbot of the state monastic community. They were placed on the *chhoethri* located in front of the altar of the huge image of Buddha Shakya Muni. Sacred national treasures and symbols such as Kutshab Ternga and Zhabdrung Khamsum Zilnon²⁴ were also installed in front of Buddha Shakya Muni image for the occasion.

Before signing the Constitution, the King addressed the congregation paying homage to his father, the architect of Bhutan's democracy. He said, "In our own country, many generations into the future, the

23 The sixteen arhats are bodhisattvas, who have fully mastered the Buddhist teachings and attained nirvana. During the first Buddhist Council in Rajgir - held three months after Buddha's parinirvana - they are said to have vowed to renounce nirvana in order to devote themselves to the liberation of other sentient beings.

24 The image of Zhabdrung Khamsum Zilnon is a very important and sacred relic of the state monastic community. Zhabdrung Rinpoche had instructed the artisan Trulku Zing to make this image from a mixture of many precious materials and medicinal items. A smaller image of himself which he had made and is said to have spoken was installed inside it. Its face was gilded with gold that was offered by the mermaid of Mo Chu river in Punakha. Zhabdrung Rinpoche consecrated and blessed the image. At the end of the consecration, he is said to have asked if it could serve as his representative when he was no longer alive. The image is said to have nodded. Therefore, the chin of this image is lowered towards the chest. Zhabdrung Rinpoche had told that the blessings of this image were equal to his own. It would be his representative after he was gone. Replicas of this image were later made and kept as sacred relics in different dzongs. After Zhabdrung Rinpoche had entered retreat, the tradition of taking this image during the biannual migration of the monastic community between Thimphu and Punakha, and of keeping it at the top of rows of monks seated for zhugdrel ceremony began. This image is retained inside a golden encasement and not opened for public viewing. But it was opened on the occasion of signing of the Constitution.

Constitution will continue to inspire our people as it stands testimony to a selfless and extraordinary leadership." The Constitution, which was discussed with the people, would thereafter be the root and foundation of all laws in the country.

After the King, Prime Minister, parliamentarians and the Chief Justice signed, a *zhugdrel* ceremony was held following which everyone recited a short prayer called *deshe tenpa*. The Constitution was then opened for public viewing. Thousands of people walked by, saying prayers and offering *nyendars*. The offering of *nyendar* or cash as token of worship was an interesting event. Generally, people offer *nyendar* to a lama after receiving his blessings or to sacred books like tantras and sutras and to sacred statues and images. Thus, the fact that the offering of *nyendar* to the Constitution was made possible indicates the reification of the Constitution as a highly sacred document. In the afternoon, the Chief Justice took the Constitution to the NA hall, located opposite to Tashichho Dzong, across the Wangchu river. The Speaker received the Constitution and placed it on the throne in the hall. Parliamentarians again recited *deshe tenpa* prayer led by some monks. This ended the historic signing of the Constitution. The Constitution has been sanctified.

Sanctity is tested

The signing ceremony has elevated the Constitution as a highly sanctified document. How this sanctified 'mother of all laws' guide the conduct of the new government became a hotly contested issue soon after. In his first state of the nation address to Parliament, the Prime Minister engaged the NC for having invoked the Constitution in assessing government actions and therefore, questioned its sanctity. The Prime Minister accused it of de-sanctifying a sacred document. He implied that NC would be implicated for failures of the government for repeatedly invoking the Constitution to assess government actions, and hence de-sanctifying it.

For democracy to succeed and to be irreversibly sustained, our polity must be guided and inspired by the Constitution **which was gifted by our Kings and sanctified by the collective wisdom of our people...**My government is committed to the further sanctification

of the Constitution. But this is likely to be thwarted if we liken it to a detailed manual containing prescriptions for every government action...There is danger in imposing upon ourselves rigid interpretation of the Constitution as is often the route taken by politicians elsewhere bringing about crises and destabilization. When we insist on questioning government actions on the basis of narrow interpretation or the absence of specific provisions in the Constitution, we are in danger of constraining government from acting; of not using the Constitution as a facilitator of good and responsible governance but for casting doubts and suspicions to make government weak and fearful...When the Constitution is unnecessarily invoked and tested, politics will, inevitably, shift from business of governance and legislation to that of wasteful semantics, confrontational debates and divisive ideological posturing. In the end, **we will trample the hallowed grounds that gave rise to the Constitution** and question the adequacy of the very document that is the paradigm for the conduct of our society...Tamper with the constitution once and we will have loosened the very foundation of our society and deprived it of its ultimate anchor and guiding light. We will be left with an ordinary document the validity of which will always be a suspect...If this were to happen then, we would have to share the moral guilt and regret of having caused the people to lose their faith in democracy and the Constitution itself²⁵ (emphasis mine).

Although the Prime Minister does not refer to the NC directly in this published document, he made references to the present NC during his oral presentation to the Parliament on 26 June 2008. Besides, there was no doubt to both the parliamentarians as well as to the people viewing and hearing his speech live on TV and radio that the NC was being implicated. He would later tell the MNC in a closed door meeting that he was appealing rather than chiding the councillors.²⁶

Nearly a year after the promulgation of the Constitution, the NC has raised serious concerns on some government decisions citing the constitutionality of these decisions. Besides legislation, the NC has the

²⁵Royal Government of Bhutan. 2009. The First Annual Report of the Hon'ble Prime Minister to the Third Session of the First Parliament on The State of the National (including legislative plans) (26th June 2009). pp. 81-82.

²⁶ Personal notes titled The Reality of Perception.

important mandate of conducting public review of policies and issues and scrutinizing state function.²⁷ It was in the exercise of this review mandate that the NC expressed its reservations on certain government decisions that would have far reaching consequences.

The first issue arose in the very first session of the NC. After the joint sitting of the Parliament concluded deliberation on the Constitution, the two houses convened separately to discuss other bills. One among them was the Budget and Appropriation Bill (BAB). It must be mentioned here that money and financial bills must always originate in the NA but the NC considers that it has the authority to pass them like any other bills. When this Bill was presented to the NC on 1st July 2008, the members realized that there was a huge budget without a 'line item' earmarked for the Ministry of Finance. Of course everyone suspected that the money was kept to fund the government's decision of granting Nu.15 million each annually to the ruling and opposition parties for a period of three years. That would amount to Nu.90 million. The other project of this hidden budget was to provide Nu.2 million annually to each of the 47 MNA as Constituency Development Grant (CDG). The money would be used by MNA to fund development activities in their constituencies that are not covered within 'normal budgetary framework.'

Once the Finance Minister acknowledged that the money was intended for these two purposes, the MNC objected on the ground that both projects would be unconstitutional. First, the Constitution clearly states that state funding of political parties was permissible only during election time when candidates are provided equal amount of state fund to ensure free and fair election and avoid undue influence of money power. Second, the sources of revenue for political parties were registration fees of members, annual membership renewal fee, and an annual voluntary contribution within the ceiling of Nu.100,000.²⁸ The

27 National Council of Bhutan. 2008. The National Council Act of the Kingdom of Bhutan 2008. p. 3.

28 According to section 64 of the Election Act of Bhutan, "No political party shall accept financial contributions or in kind contributions, other than those voluntarily offered to it by any of its registered members, of an amount or value exceeding Ngultrum 100,000/- per member in an election to National

Constitution, Election Act and the Public Election Fund Act do not mention anywhere that state funding of political parties after their election is permissible.

The NC objected to CDG by arguing that the job of parliamentarians is to make laws and review government actions, not involve in development activities. It is the responsibility of the central and local governments to involve in development activities. Besides, all funds should be channeled through the normal budgetary framework, not outside it. The CDG would bring undue advantage to sitting MNA in future election. This would defeat the very idea of free and fair election. CDG is unconstitutional since it becomes the medium for legislators to intervene in the executive's responsibility whereas the Constitution calls for separation of powers between the judiciary, executive and the legislator. Besides, the Constitution also requires local governments to be apolitical. CDG opens the way for MNA to intrude into the domain of local governments. The NC conveyed a message that it supports the entire government budget except for funds for these two projects.

Since the BAB was not approved by the NC, a joint sitting was convened under the command of the King. This is a parliamentary procedure required by the Constitution. In the King's *kasho*, four bills were to be deliberated in the joint sitting. They were the Election Bill, National Council Bill, Parliamentary Entitlement Bills and the National Budget and Appropriation Bill. Two *kasho* were issued separately for these bills.²⁹ Except for the BAB, all other bills were deliberated upon, voted, passed and later granted assent by the King. For example, the Parliamentary Entitlement Bill was passed "with 94% of the members endorsing the Bill by raising of hands..."³⁰ The National Council Bill

Assembly." Section 65 states, "The Election Commission shall review and revise value and amount stipulated in section 64 from time to time as it may deem appropriate." However, the Commission raised the ceiling retrospectively to Nu.500,000 recently.

²⁹ See Appendix 'C' and Appendix 'D', Resolutions of the 1st Session of the First Parliament of Bhutan, pp.287-288.

³⁰ Resolutions of the 1st Session of the First Parliament of Bhutan, p. 261.

was passed 'with the concurrence of all the members of Parliament...' ³¹ The Election Bill was passed with 47 members voting in favour and 21 against the bill. ³² However, the BAB was not presented. By then a new argument has developed among the members of the ruling party. They argued that according to Article 14.9 of the Constitution, it is only the NA that has the authority to approve the budget. The NC has no role in its approval. The NC argued that although the NA would originate and approve the budget, the Parliament (which includes both the houses and the King) must authorize the withdrawal of money from the Consolidated Fund as provided for in article 14.3 of the Constitution. Withdrawal must take place through the BAB. A budget is a financial plan of spending and expenditure as defined in the Public Finance Act whereas to appropriate is to authorize expenditure. Thus, the government needs an annual Budget and Appropriation Act passed by parliament to receive authorization of expenditure they have identified in the budget. In other words, budget and appropriation do not mean the same thing.

Before the debate on these two matters convened, the government has withdrawn the idea of state-funding for political parties. But they tabled the CDG as a separate issue on the agenda. This was not according to parliamentary procedure since the *kasho* did not and would not mention CDG specifically outside the BAB. The NC objected to this and insisted that the BAB must be discussed instead. As the debate protracted late into the night, many MNA supported the CDG while those of the NC continued to object. At one point, three members of NC said that even the procedure of using the CDG was unclear. The Speaker said that the procedure of utilizing CDG would be made available to parliamentarians in the second session of Parliament and ended the session by implying that the Parliament endorsed the proposal. Only the procedures had to be made clear now. The procedures were made available not in the formal session of the Parliament in its second sitting. Rather it was distributed and assumed to be accepted. The NC passed a resolution about the

31 Ibid, 251.

32 Ibid, 248.

unconstitutionality of CDG and submitted its views to the King as is provided under Article 11.2 of the Constitution.

Meanwhile, the government had appointed four political party workers as officials in the cabinet secretariat. The NC again objected stating that arbitrary appointment of party workers in a prestigious and high public office was against the principle of recruitment in civil service based on merit, open competition and fair selection process. Besides, the Constitution states that the civil service has to be apolitical. These appointments were seen as government patronage to their supporters. The NC debated on this and unanimously agreed that this also needs to be brought to the attention of the King. Later, a review report was submitted.

The Supreme Court had been established only recently. Article 21.8 of the Constitution states that ‘Where a question of law or fact is of such a nature and of such public importance that it is expedient to obtain the opinion of the Supreme Court, the Druk Gyalpo may refer the question to the Supreme Court of its consideration, which shall hear the reference and submit its opinion to him.’ Although both issues are with the King, it is clear that it is his prerogative whether to refer to the Supreme Court or not for its opinion. Meanwhile, the four party workers continue to work in the cabinet secretariat. The government has also decided to implement the CDG despite widespread public opposition to it.

Between October-December **2008**, many elected heads GYT and DYT had ended their three-year tenure. There are 205 GYT and 20 DYT in the country. Under the Constitution, the DYT and GYT would be dissolved and a local government called Gewog Tshogde (GT) and Dzongkhag Tshogdu (DT) would be elected in their place. The government however, issued an order in November 2008 instructing that elections be held to DYT and GYT based on their Acts passed by the former National Assembly in 2002. The instruction stated however, clarified that those who were elected would serve only for a few months since new elections would be called as soon as the Local Government Act was reviewed in line with the Constitution.

The National Council felt that if this election were held, this would not only violate the Constitution but confuse the people in the villages

thoroughly. It prepared a report and submitted to the King, the Prime Minister and Speaker of Parliament.

The main arguments of this report, which expressed serious concern over the constitutionality of the elections, were as follows. First, the two Acts on which this election would have been based were repealed in 2007 by the Local Government Act. Therefore, elections would be based on laws that no longer existed. Second, these Acts allowed only voters aged 21 years and above to vote whereas voters aged 18 and above voted in the parliamentary elections just a few months earlier. Third, these Acts would allow monks and religious personalities to vote whereas they were barred from voting in the parliamentary elections. Fourth, members of political parties would contest as candidates, which is not permissible under the Election Act unless they formally resign from their parties and complete a year.

The King issued a *kasho* ten days later to the ECB suggesting that the incumbent heads be allowed to continue till relevant laws are reviewed to harmonize them with the Constitution.

The recently announced Gup elections to be held as per Acts that have been repealed and which in fundamental ways are contrary to the provisions of the Constitution, will not draw any legitimacy even as in interim measure. Moreover, the cost of conducting new elections again after a period of a few months will cause significant financial burden to the exchequer and enormous inconvenience to the general public and the bureaucracy.

Thus, as a special case, it may be best to extend the terms of incumbent gups until the Election Commission of Bhutan completes the delimitation process by end-March 2009 and until relevant acts under which the elections are to be held, have been revised in accordance with the Constitution. At such time, the ECB may call and hold elections in keeping with the Constitution and all relevant laws under it. In so doing, we will have taken into account the immediate needs of local governance as well as the long-term interests of our People and Nation, and of Democracy.³³

33 Kasho (Royal Decree). Issued to the Chief Election Commissioner of Bhutan on 9 December 2008.

The Prime Minister had also submitted his concurrence to the King that this was an unconstitutional move.

It is these instances of the NC's position that the Prime Minister was referring to in his state of the nation address. Obviously he considered issues such as CDG and appointment of party workers in his office as constitutional. In his view, the NC had narrowly interpreted the Constitution and de-sanctified it. Rather than revere its sanctity, the NC had likened it to a daily manual to assess government action. The Prime Minister did not mention anything about NC's support to the government, which was extended by way of passing government bills, ratifying international conventions and protocols it has signed, and support to the Tenth Five-Year Plan. Hence, the charge of de-sanctifying the Constitution by reviewing government action based on its provision was repudiated by the NC.

His state of the nation address was delivered for two and half hours on Friday 26 June. There was no time for debate. Over the weekend, the Prime Minister left for a state visit to India. However, the NC agreed on a special session to discuss the Prime Minister's report on the very first day of its sitting, which took place on 1st July 2009. In that sitting, many MNC expressed their appreciation for the achievements of the government in its first year but challenged and condemned the Prime Minister's chastising of the NC. Each of his arguments was dissected and rebutted. The principle argument was that the Constitution has not been de-sanctified. Rather its sanctity has been reinforced by invoking its provisions to ensure that public policies are not conducted in violation of prevailing laws. Rather than lock up the Constitution as a sacred document, the NC argued that it is far better to use it as a manual in the conduct of our public life and policies. In the resolution passed that day, the NC rejected the Prime Minister's views and statements.

Conclusion

An important aspect of discourse on democracy in Bhutan hinges on the concept of it being a gift from King Jigme Singye Wangchuck as embodied by the Constitution. The central issue that concerned the parliamentarians before endorsing the draft Constitution was to either

pass it intact or debate on its provisions. This dilemma was posed by the moral issue of questioning a royal gift. The prevailing perception of the Constitution as a sacred gift that would be defiled by discussions and debates in the Parliament let alone by possible amendments was very strong. Nevertheless, debates and discussions did take place. Amendments were also made. The political space within which deliberations and amendments became possible by avoiding a moral question was provided by some important factors. First, the idea that the Constitution and therefore democracy was the embodiment of the will of King Jigme Singye Wangchuck was unquestioned. It was honoured. Second, the parliamentarians cast the debate within the perspective of seeking clarifications on important provisions and articles from the Chairman of the Drafting Committee. Third, the argument that once the Constitution was promulgated, it must not be amended for many decades made amenable the idea that this was the right time and opportunity to thrash out issues and propose possible amendments.

More than a year with the experience of parliamentary democracy, the Constitution as a gift of the King and a sanctified document became the context within which debates in the Parliament took place. Differences however, persist as to how that sanctity is to be preserved and honoured. But differences, parliamentarians agree, are crucial to activating democracy as much as resolving them within the framework of rule of law is a necessary component of consolidating democracy.

Experience of Indian Democracy

PAVAN K VARMA

To speak about the experience of Indian democracy without getting into the very, very seductive temptation of stereotypes is a challenge, and I think diplomats often tend to go into areas where even academics fear to tread.

The important thing is to understand that democracy needs to be analysed, for even though it may be based on certain universal assumptions, there is a context and a milieu which needs to be seen beyond stereotypes and platitudes.

If we can take into account the experience of democracy in the context in which it operates and was born, then perhaps we can see that even though all democracies serve a common goal, each democracy is worthy of being studied in terms of its own dynamics and in terms of the milieu that created it. The fact that democracy exists in India is not enough. The fact that democracy is exceptionally important in analysing where India will be tomorrow is equally self evident.

In this context, I will share with you an anecdote which I know to be true, but which some people consider to be apocryphal. An anecdote, which involved Indira Gandhi when she visited the Soviet Union, the then Soviet Union in 1982. In the Kremlin, in a conversation with President Brezhnev, Mrs Gandhi was speaking to him about the rather volatile insurgency that was going on in the state of Punjab - and President Brezhnev who was in a somewhat advanced state of senility had dosed off to sleep. At some point, very gently, the Foreign Minister Gromyko, in a whisper, woke up Brezhnev, and he asked: "What is she talking about? I can't understand a word of what she is saying". And Gromyko said, 'She is talking about the state of Punjab (where there is an insurgency). The moment the President heard this, with an expansive sweep of his hand, he very politely cut short Mrs Gandhi and said: "Your Excellency, how can you allow such things to happen in

your country? Look at the Soviet Union. In the last 60 years we have managed to survive without any of these problems.”

Brezhnev died in 1983. Mrs Gandhi was assassinated in 1984. In the next couple of years, the Soviet Union became 13 countries. The state of Punjab continues to be in India, and within the democratic set-up and framework that India provides.

The story has a simple lesson, which is, that in a country like India, with the kind of discrepancies that still exist, not only in terms of social status, but also in economic terms, democracy is an indispensable safety valve that provides people a stake in the system, and which keeps the water line of faith in the system marginally above that of despair. Therefore, it manages to hold together the country with its great number of diversities and great number of discrepancies together, and that is the glue that democracy provides.

That is what I meant by contextualising democracy and trying to go beyond the obvious understanding of why, in each case, democracy succeeds or fails and why in each case it acquires a local colour. Let me say that in the beginning when the British left, and left behind the notion of parliamentary democracy, it was an alien idea transplanted into our society. Indians like to believe that in some mythological past we were a great democracy and we lived in a republic where all people were equal. Verifiable, historical evidence says that for thousands of years, India was an exceptionally, stratified and hierarchic society, where hierarchy not only had social sanctions but also religious sanctions. Now, in such a situation the notion of egalitarianism, as contained in the concept of parliamentary democracy, was an alien transplant. How did it succeed in India? That's the question we most talk about without paying hundreds of tributes to our former colonisers for the great bequest they left to us and without paying undeserved tribute to ourselves for being democratic.

How did it happen? That requires analysis, because it is something that will be of relevance to all the democracies when they try to analyse the manner in which they formed their own democratic frameworks.

In my view, when the idea of egalitarianism, as contained in the notion of parliamentary democracy came to India, it was an alien transplant but it was not considered a sufficiently big threat to the established social systems of the past. If it was interpreted as a threat big enough, it would have created antibodies in the already entrenched and sanctioned structures of the past, including their non democratic elements, and would have been sundered and asphyxiated. The paradox is that India became a democracy not because there were democratic instincts within them at the time when democracy was introduced, but because the structures of the past were so strong that they did not consider the alien transplant to be strong enough to be subdued. And so, during a period of gestation, both the new transplant and the established systems coexisted. The second because it thought itself to be impervious to the democratic invasion, and the first because it was part of the democratic system India had pledged for itself.

It is not a coincidence that those who have been colonised by the French have a Presidential system and those who have been colonised by the British have parliamentary democracy. We take far more from our former rulers than we would like to.

So when that idea came, you had a situation where you had the established and entrenched system – and you had the new idea. The new idea existed because the Constituent Assembly of India, which consisted of a great many Anglophiles who believed that the Gothic façade of Westminster would be easily transplanted onto the red sandstone structures of New Delhi, thought that it should. But the social structures of the past were also strong. Both existed, not on a complimentary field, but on a field of coexistence where neither could prevail, but both could survive. And this continued for a period of time when it provided a vital gestation period for the new idea, to gradually, very gradually, grow roots within the system.

I must confess to you that initially the elite of India and the entrenched hierarchy at the higher levels of India looked not upon democracy, but on the machinery of democratic politics, as one more avenue of upward mobility. To become a Member of Parliament pole vaulted you over the

restrictive hierarchies of the past. It was another means of upward mobility, which they embraced.

In the initial period it was also true that we in India showed a high degree of tolerance towards the evolutionary distortions of democracy. We were tolerant towards its unethical manifestations. We didn't expect to elect angels. We realised that power politics would continue to embrace the machinery of democratic politics in an essentially undemocratic structure. But the important thing was, and that's the miracle of India, that the idea of democracy was provided with that vital gestation period and it grew roots; and what is important is that over a period of time – and that is what democracy does – it plants ideas in the minds of people who were expected to really just remain pliant communities in the hands of the entrenched elite. But somewhere, the idea of democracy, the longer it existed, began to plant ideas in those constituencies that were earlier expected to remain pliant constituencies of the entrenched.

And so gradually, even against those who were at the helm of this process, there occurred a genuine transfer of power. Gradually, very gradually, but definitely. And it happened, and you can see the manner in which it happened, that today, the poor and underprivileged vote in larger numbers than those in the middle classes and in the urban centres. And they vote because they want to take from the ballot box, from the system, that which it is not otherwise willing to yield. And they believe, through successive elections, that it is possible that they can actually make or break governments, without being necessarily, manipulated by those at the helm.

One of the things I believe in is that when a shift in power begins to take place it begins to definitely influence the way in which governments begin to work. It leads to concrete changes.

Let me give some examples. We were very lucky in having the father of the nation, Mahatma Gandhi, whose overt and passionate commitment to the uplifting of the poorest and the most underprivileged was beyond doubt. And so we had, in the Constitution of India, from the very beginning, a 22.5% reservation for scheduled (lower) castes.

Through the workings of democracy, through the actual empowerment, which is the spirit of the law rather than the letter of the law, the dispossessed and exploited were empowered. In 1965 only four or five percent of the highest echelons of government had representation from the lesser castes. Thirty years later, in 1995, that figure, had already grown to 26%. In Parliament, 106 out of 544 constituencies are reserved for the scheduled castes.

But in the latest Parliament, the number of those from these underprivileged communities is higher than that reserved for them. They have not only been winning in constituencies that are reserved for them, they have also been winning in constituencies that are unreserved. So that is the journey of democracy and it is reflected in the actual statistics, which are transparent and verifiable.

We spoke about women. In 1993, as a populist measure, prior to possible elections, the then Prime Minister announced a 33% reservation for women in all local bodies. The first candidates who were put up were wives, mothers, daughters, and sisters, fronting for the men. I am trying to make the contrast between intent and consequence, because that is the real dilemma of democracy. If we are merely mesmerised by the intent of the ideology, we are losing out on how democracies actually grow and mature and strengthen. But if you combine the two, another picture emerges. In that first election, women were fronts for their male counterparts; they were merely pliable accessories. But after five years of being in power, at the next election, some of them, said that they had quite enjoyed the process, and were not willing to front for the men.

So, what happened, beyond the drawing rooms and salons of Delhi and Bombay and the bigger cities, at the grass roots level, there was an unfolding of genuine empowerment, of women away from the lamp-lights of the media. At the grassroots level, and in a manner which is typically Indian, whereby democracy strengthened itself, not as one dramatic gift to the people, but incrementally, taking into account local context, working within the systems that prevail, and ultimately managing to prevail over them. Where women are concerned, that is how it happened.

Where minorities are concerned, again in the working of democracy, the first thing you have to understand about India is that it's a nation of diversity where there are people of all religions and some 120 million Muslims. The first letter that Jawaharlal Nehru wrote to the Chief Ministers of Independent India, was to say that co-existence in India between different religious communities is not an option but a compulsion. And the reason for that is very simple. It is because none of the minorities or the majorities are concentrated in one definable area.

Now, take the Muslims. Apart from Kashmir where they are a majority, there are 30 million Muslims in the state of UP. There are 15 million Muslims in Bihar. A quarter of Kerala is Muslim. A quarter of West Bengal is Muslim. Muslims constitute 11 per cent in Karnataka. They constitute eight per cent in Tamil Nadu. They are scattered across India. Now today, the manner in which Muslims vote, make them a significant density in as many as 125 constituencies out of 544. No political party in India can therefore afford to ignore a minority, because the manner in which that minority can vote can make the difference between the number of seats a political party aspires to get at the national level. So, the momentum of politics in a democratic framework means that the minorities cannot be ignored.

Today, most Indians want to swim away from the islands religious exclusivism to the dividends that the secular mainland can offer.

One of the unintended consequences of democracy is that the Banyan tree-hold of the Congress Party has splintered into what are now coalition governments in India. What has happened is that in a system of coalition politics, you have a government formed by several political parties, many of which are regional parties, and some of them don't even contribute more than two members to Parliament, and this is especially important where majorities are wafer thin. Smaller parties have, therefore, a tremendous importance, not only in terms of what they can contribute ideologically, but in what they can get in monetary terms. And so, their voice has to be heard.

I once remember, when attending a Cabinet meeting in the 90's, when the Prime Minister sat down and there were as many as 24

representatives of political parties, a Cabinet decision was held to ransom by a political party which had one member in Parliament representing a far flung state away from the centre. That gentleman said I cannot agree with this Cabinet decision, and the PM could not ignore what he said because his majority was not entirely beyond doubt in Parliament. I am not saying that all this is unblemished, and on occasion, good policies can be held to ransom by bad politics. The point is, the actual working of democracy is in pursuit of goals that might not have been intended on the original blue print.

Take the situation of castes. We have an entrenched caste system and is a favourite whipping horse of most commentators, especially from abroad. There is an obsession and rightly so. But in many instances the democratic process has turned the caste system on its head, because in Lucknow, the capital of the state of Uttar Pradesh, somebody told me he saw the unbelievable sight of Brahmins and Kshatriyas, who are at the top of the hierarchy, trying to fake scheduled (low) caste certificates in order to be entitled to job allocations. The Dalits in India have been exploited over the centuries, but in a democracy they also constitute a very significant numerical size and they have realised that in a democratic system they can leverage that numerical value.

Here you see Gandhiji's ideological commitment, internalised by a sensitive government in 1947 led by Nehru, but implemented and metamorphed, and transformed much beyond their vision by the real polity of political democracy. You cannot ignore the numerical majority of the Dalits and Muslims. Their viewpoint has to be taken in account. If someone said 20 years ago there would be a Dalit Chief Minister in India's most populous state of UP, you would not believe it.

Two new developments. And they are important. The first is, even though so much of the past continues to spin over into modern India, some things are changing, and one of them is the principal of accountability. Earlier, political leaders could almost take for granted committed constituencies based on caste, community, region, family, lineage, you name it. Today, the voter is saying, "I like you because you have the same surname as me, I like you because my father and your father worked together, and so on and so forth. But what happened to

that school you promised, what happened to the road, what happened to the employment you said you would give us?" India is changing: there are 100 million cable TV connections in rural India. And if one television is watched by five people, then 500 million Indians are watching television. Across the board, you can't take people for granted anymore. And that is showing in electoral results. In states, where Chief Ministers have performed better, in terms of the electorates expectations, they have bucked the old conventional wisdom of complacency, that if you win once you will be safe, because if you can't satisfy the expectations of the people, you will be thrown out a second time. This is an exceptionally significant change as it puts the fear of God into the hearts and minds of politicians. They have to perform, irrespective of what ancient connectivities they may invoke. If they don't perform, they will be defeated. That's very important.

The other development is accommodation and compromise. Over the years Indians have become exceptionally sensitive to power and hierarchy. And frankly, the political avenue, because it is the most important and powerful avenue to patronage and resources of the State, is highly coveted. And through that political avenue, the whole notion of accommodation and compromise essentially means that they will always stop in some manner and step back from the brink. If politics for them is the important goose that lays the golden egg, they will never kill the goose. And this ability to accommodate and compromise, even in situations where it seems almost unreachable, is a talent that has been honed by the democratic process.

There is much that is wrong with Indian democracy, even today. The use of money power, the use of muscle power, is often visible. Candidates are bought and sold. This is par for the course. But I must say, not out of diplomacy, but out of genuine conviction, that such aberrations are not the norm. And I believe today that democracy has become a way of life in India. It produces the largest number of politicians, elections and political parties. It produces more in this regard than the rest of the world combined.

Grass Roots Democracy and Decentralisation

DR GEORGE MATHEW

I believe that for any action you need a knowledge base. Without intellectual discourse and sharing of ideas that cannot happen. And in this region, especially for democracy and all aspects of democracy, the variables involved in it, decentralisation, grassroots democracy, a lot more has to be done. And this is timely, and I once again congratulate the government of Bhutan and the UNDP for this unique programme.

My thesis is that grass roots democracy is the base. At other levels of democracy you are electing members to the state assembly or to the parliament, I may even say this is a super structure. Without the base, the structure cannot exist. And the second point is that grass roots democracy ensures power to the people. In all the previous discussions we have had on democracy, we have realised that power is going somewhere else. And sometimes it is going disproportionately, and where are the people? And where should the power go? And emerging from that point is that every village, especially in our South Asia region, in Asia, must become a little republic.

I remember the famous saying of Mahatma Gandhi 'Graham Swaraj' and that is the basic principle. In my presentation the first few minutes is about basic principles of decentralisation. I will say a few words about the theoretical and principles of decentralisation and grass roots democracy and then go to the case of India.

What is happening in India is also a success story. Because yesterday in the last session there was a statement from one of the participants saying that we would like to hear some case studies as well. I thought this may be an important aspect. On the basic principles of decentralisation, you will agree with me that functional, financial and administrative autonomy should be given to local governments.

The second principle is subsidiary. All that can optimally be done at the lowest level should be resolved at that level. It must be done at that

level. Only problems and issues that cannot be resolved should be passed to the higher levels. These principles of subsidiarity are very basic when we discuss decentralisation. The point is, every local government, local body must have a “role clarity” and it must be complimentary between different levels, that its functions of different tiers should not overlap. If they do, there will be conflicts.

The other point is the uniformity of norms and rules. It cannot be that one has more roles and the other has lesser roles. A uniformity is very essential. And the most important thing is maximum, direct participation of people. And one more point, is accountability. That is a continuous social auditing, the people have to be audited - and then absolute transparency in governments. And sometimes we think that by validating some powers we are decentralising. It is not. It is really devolution of powers that is decentralisation. Sometimes many functions are there. We want to decongest it, so we give something lower. That’s not decentralisation. Decentralisation means the local bodies must have the power to spend money, the power to collect money. And they must have the discretion in spending the resources, and they must have the power to hire and fire and control the staff. And the staff must be under the local governments. And finally, the direct accountability of these local bodies to the people whom they are representing.

And nowadays, when we talk about decentralisation we may have local bodies, but they have no discretion in spending money. Only scheme-related expenditure are given to the local governments. Staff is on deputation and they have no control over the staff. And they have limited or no power to raise resources and they have no direct responsibility over local affairs and this is not decentralisation.

For name sake, we do all these things and say ‘Oh, we have decentralised the power’. Now having said this, I would like to bring your attention to a historic change in India in 1993. It became part of the Constitution. That was the 73rd year of the Constitution amendment act. Yesterday, I was very interested to hear one of the speakers say that in this kingdom, the Constitution cannot be amended for decades. But in India, we have already amended the Constitution more than 100 times.

That is what is happening. Power to the people at the local government was the 73rd Constitution amendment.

Very quickly, I will just point a few issues brought to the forefront by this amendment. Gram Sabha or 'village assembly' got Constitutional status. All the voters in a village can come together and they can take decisions. And there are tier systems in a village. The village, the intermediate level block - and then the district. And the states, which have less than a two million people have no intermediate Panchayats. And reservation of seats and leadership positions for scheduled caste and tribes. Scheduled castes are the former untouchables of India. And today, according to the population in their area, they get representation in the local government up to the district level. Not less than 33% seats were reserved for women in 1993. Every five years there will be election. If one state delays an election, then people go to the court - the Supreme court or any court - and then elections will be held.

Independent state election commissions for every state are appointed by the governor and President of India. State finance commissions are to be set-up every five years to review the financial condition of the local bodies. So, what is the final definition of a local government? Power to be devolved upon Panchayats, so as to enable them to function as institutions of self government. This is Article 243(g) in the Indian Constitution. And nobody can violate this. I have extensively quoted Article 243(g) and it lists these institutions of self-government, and what should they do. They should prepare plans for economic development and social justice and they should have the power to implement schemes or economic development and social justice. Economic development, just not for one section but with social justice. So this is very important in the Constitution.

In India we have about eight percent of the world's population of five billion. And there you cannot have a law just like that passed by the parliament. It needs special sanctions. So these Panchayats got extensions to these areas called scheduled areas, and with extraordinary powers.

The Graham Sabha, that is the village assembly, has to decide whether anybody can do mining in this area or whether the forest produce can be taken away by somebody; the tribal community has to decide and the village assemblies. The powers are given. It is extraordinary in many ways. There are a list of 29 subjects given to the Panchayats from agriculture to rural electrification and 18 subjects are given to the municipalities, from urban planning to the regulation of slaughter houses to tanneries. Today, in India, we have 543 district Panchayats. Please remember, one district in India has an average population of 2 million people. We have 6,094 intermediate Panchayats and almost 252,000 village Panchayats and the number of people they are electing: in one sense, at the village Panchayat level, each elected representative has a constituency of 350 people, which is roughly 70 families, making India the largest and the most intensive democracy in the world.

So there are more than 252,000 Panchayats and about 28 Lakhs, i.e. nearly three million elected Panchayat members. And now there is a decision in India that 50% of the seats must be reserved for women. So far, it has been not less than 30%, so in that case we will have about 1.4 million women getting elected. In urban areas, we have 107 city corporations, 1,443 town municipalities and more than 2,000 Nagar Panchayats. Nagar Panchayats are those rural areas that are being transformed into urban centres. So what has happened in our system?

The third strata elects nearly 3.2 million members and at the moment more than one million are women; 800,000 are scheduled castes and scheduled tribes. They are occupying positions. They are not just getting elected. One third of the presidents or chairpersons of all these must be by these scheduled castes, or tribes, or women. That is also remarkable. So the result is what I call, a widening democratic base. Indeed, the democratic base has widened enormously, enabling horizontal planning and implementation of development programmes. Why horizontal? Because earlier it was vertical - from top to bottom.

Just to show the present structure, the Union of India and all our 28 states and the two union territories elected only 7,943 members plus the 4,508 members at the state level. So today, the third stratum - the district and below - is now electing 3.2 million people. So here comes

the point. Earlier it was from top to bottom, union to states, districts to blocks, blocks to village. And we used to say PM, CM, DM-Prime Minister to Chief Minister to District Magistrate. That was the system prevailing. And with these radical changes that have happened, you can now see the arrow going up. Village assemblies at the bottom or meetings at the municipal level and then power goes up to the states and from the states to the Union of India. This is how real it is.

I tell you, if a state government is not regarding the local governments seriously or not giving them powers, the state governments in the next election will lose power. Several governments have lost power because they did not take it seriously. And the states are now supported by the Union. Today, we have coalition governments. Parties are state-based parties. And if one state, West Bengal, withdraws or Tamil Nadu withdraws, or Maharashtra decides that they don't want to be part of it, then the Union of India, the government has to fall.

So in other words, the whole structure, from top to bottom is now from bottom upwards. There is another figure in this. In 2001, the Prime Minister of India wrote a letter to the Andhara Pradesh Chief Minister. He made a very important statement: 'Consequent to the amendment Panchayats are visualised as the third tier of governance in our federal polity. Increase the participation hitherto to excluded sections of the population. Women's involvement in public life through elections which, I call 'a brave new world for women'. Developing the thinking that democracy at the grass roots level is a necessary condition for strengthening democracy at the State and National Level. Popularisation of concepts of decentralised planning and people's participation in development. It is mandatory that the planning must begin from neighbourhoods. From neighbourhoods to the village, Panchayats up to the district and then goes to the states. Thousands of elected members are getting training in local governance, democracy and development. The Government of India has to invest enormously, a lot of money at the sources for training centres. We have now state training centres. Every district must have a training centre.'

Local bodies are the nursery for future leaders. If you analyse the background of the present members of the parliament today, around

150-160 members of the parliament elected recently have a local government background. They were elected and came up like that. There are many success stories of women in local government and the voluntary sector/civil society coming to the fore for strengthening Panchayats, grass roots democracy

There is an increased concern about corruption and the use of public funds. People are saying, 'Why are you spending so much money for repairing this road, for building this farm road?' They are coming together and asking questions. And in various states of India, innovative ideas are coming forward to combat corruption. Social audits are a big concept. The people's Plan Campaign, which began in Kerala, the ombudsman - state and district - and then regarding the Hindi *jan sunwai* - which means 'public hearing'. People came together to listen to this and finally the governance thing is demystified. Indeed, the demystification of governance is very important in governance.

I will just quickly go through a SWOT analysis: Strength-Constitutional Status, Constitutional Status for Stability and Continuity, Timely election, Representation for weaker sections, Framework for 4 "Fs" - Functions, Functionaries, Funds and most importantly Freedom. And these are given to the local governments.

And the weaknesses: lack of awareness about rules, bye-laws etc, lack of public awareness and vigilance and lack of accountability. Decision-making not yet broad-based. Rules and procedures not adequately framed in mini states. Influence of elite in village planning - elite capture - that's a very important point. Lack of orientation of officials for working with local governments. The officials are saying we shall work in the state capital, in the national capital, not in the villages. Lack of political will of political parties.

And the opportunities. People's participation is providing good governance at the grassroots level. Involvement of people in their village development planning. Resource mobilisation, cash, the kind of labour for local development, increasing the sense of responsibility in people for managing their affairs and, most importantly bringing

administration nearer to people for good governance, and taking the government to the doorsteps of the people. That is the most important.

But threats still remain: resistance by the existing government and traditional village set up do not welcome not this kind of change. Disparities of caste, the highly stratified hierarchy of India, the class system, the gender mentality. All these are the serious threats. Resistance at the state and national level by political parties and political leaders to share power. It is in their hands to pass the Constitutional amendments, but today when it comes to implementation, it's met with a "No!" because it is taking away their power. Resistance from the rural elites and dominating class to share power with disadvantaged groups. This is a very grim a reality. I wrote an article recently called "Power to People and it's Enemies'. There are enemies to the power to the people. They are political leaders, administrations, landlords, feudal elements and even contractors. They don't want to deal with millions of elected people. They want to deal with a few people, where commissions can be exchanged, where corruption is very easy.

The UNDP HDR Report (2003) on MDGs has a very famous statement, I quote: "The risk is that the Millennium Development Goals will be undermined by entrenched groups that resist policies re-allocating resources to the poorest, most marginal members of the society."

This is very true in the case of local governments in India too. To my mind, the risk is that local governments are being undermined by entrenched groups that resist policies re-allocating resources to the poorest and most marginal members of the society. This is a huge challenge today.

After this very pessimistic note, I will offer you one case of success. This is a success story of a state, which has a population of 30 million people. In 1996, the Government of Kerala decided, that is, after three years of the implementation of the Constitutional amendment, to devolve 35% of its 9th Plan Outlay for projects and programmes to be formulated and implemented by local governments. They called it 'untied funds'. You don't have to write notes on this and that; you simply decide what you

need the money for, and here is the money and the plans to be implemented by local governments.

As a result, strong legislative entitlements were given to the local governments. Supremacy of the elected body established beyond doubt in Kerala. Direct government control drastically reduced. Well-defined functional domains were started. Responsible governance features such as transparency. The Panchayat has a Citizen's Charter and you cannot violate that. And there is a Code of Conduct. They introduced this as a big bang approach. Functions, powers and resources were transferred at one go, not by instalments and increments. And the government became a facilitator.

Participatory planning was most importantly an entry point and they had a wonderful campaign to create a demand factor for decentralisation and all these 4F's of the decentralisation - Freedoms, Functions, Functionaries and Funds - were fully realised. And besides that, the local governments had the freedom to decide local priorities and prepare local plans. There was a reduction of government control over the local bodies and the strengthening and setting up of independent institutions: State Election Commission, State Finance Commission, and Ombudsman. In Kerala, the Ombudsman is most powerful. You can send a postcard as your case will be taken up by the Ombudsman. Now they are planning to have Ombudsman in 14 districts of Kerala. And then, there is a State Development Council headed by the Chief Minister and District Planning Committee are fully functional.

Human Development Services (primary and secondary, health, and school education), Local Economic Development (agriculture and allied sectors, traditional industries), poverty reduction and social justice *a priority for* scheduled castes, tribes, women and children. All these have gone through local governments. Social Security (pensions, care for the disabled, children and the aged). I am very happy to say that the social security system in Kerala is one of the best in India). Infrastructure (roads other than highways and major district roads, schools, and hospitals). The principle of work and worker going together with

control given to local governments. Redeployment of surplus manpower from development departments.

At one time 1,912 clerks and 2,300 professionals were transferred to local governments. And the control over the staff is with the local governments. The chairman of the local government will be writing the confidential report for these officials.

And for funds, there are taxes. Tax on property, professions, entertainment, advertisement and services *under local taxes*. Recently, I visited a village Panchayat in Kerala and their income was two crore rupees. And the license fees and rent went under *non-tax revenue*. And the devolution: stamp duty and motor vehicle taxes collected by the state and afterwards is given to the local governments. Untied grants and scheme funds. The accountability system is very, very effective. Transparency, social audits, Grama Sabha is very, very punctual and active and they ask questions. The Performance Audit is there, the Local Fund Audit is there, the Ombudsman above all, and the Appellate Tribunals.

Administrative reforms I have just mentioned; achieving good governance through transparency and the right to information - that is one thing which happens in India. This has been a very revolutionary step. Citizens, NGO's and professional participation in the functioning of local governments. Reforming office management systems. The village Panchayat I recently visited in Kerala had nine computers. Experts sit and work and all the records of that village are on those computers. Simplification and modernisation using information technology.

The Women Component Plan. Every plan in Kerala has a 10% reserve for women. Then we have a programme called the *Kudumbashree* - (Family epicentre of village prosperity). That is a unique model of gender sensitive poverty eradication. *Kudumba means family, shree means development- 'how would you develop families'*. Then we have the Anti-Poverty Sub Plan, a special plan for disadvantaged groups.

We have new initiatives of asset management, the flow of funds to most backward areas, enhanced support to the poor, wider coverage of minimum needs for infrastructure, good, replicable models in different sectors. Local governments have become good contribution-mobilisers.

I conclude by saying: The spirit of People's Participatory Planning (PPP) in Kerala is the mobilisation and involvement of people in local governance, cutting across political parties. This is the interesting point as Kerala is a state where there are political parties fighting - we have at least 25 political parties - but once they are elected they decide what will happen for the good of the village - religion and caste for the common cause of development and good governance.

The PPP has been characterised as the second most radical movement in Kerala after the land reforms. Kerala is one state that has implemented the land reform in the best way possible. Everybody has at least some land in Kerala. The Kerala experiment has been viewed as a model worth replicating and emulating. I say this because if you come to India and go to the villages and many states, you will find a very negative picture. Then you would ask, 'What is this decentralisation? What is this grass roots democracy? This is not going to work.'

But I wanted to say 'someday it will work'.

(Transcribed)

Women's Role in Politics - Quantity and Quality

SULTANA KAMAL

That women will play a critical role in politics, in fact is no longer a matter of discussion. Struggles and movements for women's rights over many decades have marked women's political empowerment as a high priority. These took place mainly because it became evident that unless women have the right and power to contribute in policy making and to legislate for themselves, they will have to wait and depend on others to do it for them.

As long as women remained excluded from participation in Parliaments, from political processes, and therefore from making or amending legislation, they had to depend on male legislators' agreement to legislate in favour of women having the right to vote, to sit in parliament and to hold public office. This dependency on others' goodwill or agreeing to bring change to women's lives, as experience goes, failed to yield the desired results.

For in most cases, the analysis of the position of women from the others' point of view, particularly informed by patriarchal values, lacked a holistic vision which led to fragmental, partial and monolithic attempts to remedy the disadvantage, discrimination and exploitation suffered historically by women.

They failed to capture the multi-dimension of women's disempowerment. The nineteenth century witnessed the starting of women's struggle, mainly for economic liberation and for educational opportunities. Soon the realisation came that without a strong voice in the decision-making processes, no matter how much income a woman earned or how highly she was educated, exploitation of and discrimination against women would not see its end.

Rather, in many cases it was seen to widen the scope for treating women as more usable commodities. It is really in the next century that women began to think of asserting their demand for equal share and

equal recognition in policy making. Participation in civil society movements and mobilisations, demands for the right to vote, legal equality or the right to be elected to parliaments and governments were among the important aspects of women's role in politics.

Needless to say, even the passage to women's right to vote was not smooth at all let alone right to legal equality and right to be elected, which in many ways still remain dreams to be realised. In Margherita Rendel's words (*Whose Human Rights?* Trentham Books, 1997), "The ferocity of the opposition to women's suffrage and the lengths to which women had to go to secure the right to vote in Parliamentary elections reflects first of all the extent to which women were conceived of as non-persons ..."

She reminds us of the many means women resorted to for the restoration of rights which they believed were their due. These were civil disobedience, hunger strikes, go-slows, lobbying by individuals or groups, publicity stunts such as, to take an example from the British Society, hiding in organ-loft to shout "Votes for Women" at an important political meeting (Strachey, 1928/1978:311). Women of our region have no less significant examples to offer.

However, since the focus of my presentation is the interplay of quantity and quality of women's role in politics, I will try to look at the present situation of women in politics, and the role they are able to play in terms of numbers and substantial input in the given situation. Let me make it clear that though the position of women in parliaments and other legislative bodies will be given importance here, their role as voters is no less significant. Participating in large numbers with a critical mind in electing one's representative is, in my opinion, a vital role women can play and are playing in many countries. Bangladesh particularly has seen how women can out-vote the anti-women conservative fundamentalists from taking over power. I will not be surprised to see similar situations in other countries of the world.

To look into various average of number of women in parliaments as compiled by the Inter-Parliamentary Union on the basis of information provided by national Parliaments by 31 August 2009. They are:

World average: 18.6%,
Regional average:
Nordic countries 42%,
Americas 22%,
Europe (Excluding Nordic Countries) 19.4%,
Sub-Saharan Africa: 18.6%,
Asia: 18.3%,
Pacific: 15.2%,
Arab States 9.1%

The picture of the South-Asian Average is as follows:

Nepal: 33.2% (594:197),
Afghanistan: 27.7% and 21.6% (242:67 and 102:22),
Pakistan: 22.5% and 17.0% (338:76 and 100:17),
Bangladesh: 18.6% (345:64),
India: 10.7% (543:58),
Bhutan: 8.5% and 24% (47:4 and 25:6),
Maldives: 6.5% (977:5),
Sri Lanka: 5.8% (225:13)

Perhaps at this point it will not be too out of place for this Conference to take a brief, but a little more detailed look, into the situation of women in national parliaments and local governments in the SAARC Countries. The way they stand now in Bangladesh, out of a total of 345 seats in the national parliament women have been elected to 65 seats (20 elected through direct election, 45 to reserved seats). The 45 reserved seats are distributed proportionately among the parties sitting in the Parliament. The present Government has announced the plan to increase this number to 100 and hold direct elections. In the lowest tier of local government, one-third of the seats are reserved for women whereas in the *upazila* level, the post of the vice-chairman is again reserved for women.

Out of 545 seats in the lower house of India the percentage of women elected members is 59.11%. The present speaker of the house is a woman. Under the legislation to be introduced by India's newly elected Congress-led coalition government, half the seats in elected village councils and city municipalities will be reserved for women. At

present only a third of these seats in village councils are kept exclusively for women.

The National Assembly of Pakistan is the lower house. It consists of 342 members, 272 of whom are directly elected. 60 seats are reserved for women in addition to 13 women who are directly elected. The senate of Pakistan is the upper house of parliament. It has 100 members; 17 of these members are women.

Nepal has 197 women in the parliament of 594, whereas Maldives has four out of a total of 50.

Afghanistan has both lower and upper house and the number of women in the lower house is 67 out of 242, and 22 in the upper house out of 102.

2008 has been a historic year for Bhutan with the establishment of a democratically elected parliament, which is bicameral in nature of which the National Assembly is the most powerful having 47 members, and four of them are women.

It is interesting to note that four of the SAARC countries namely Bangladesh, India, Pakistan and Sri Lanka have had women heads of governments. Bangladesh enjoys the unique situation where both the position and opposition leaders have been women for about two decades, which as the public perception goes, is not likely to change in the near future. Amartya Sen writes:

India, along with Bangladesh, Pakistan and Sri Lanka, has had female heads of governments, which the United States or Japan has not yet had (and does not seem very likely to have in the immediate future, if I am any judge). Indeed, in the case of Bangladesh, where both the Prime Minister and the Leader of the Opposition are women, one might begin to wonder whether any man could possibly rise to a leadership position there in the near future. (Seven Types of Inequality, Human Rights Vision, issue No.22 December 08, 2001).

So much for the statistical picture of women's participation in politics. It still needs to be examined how effective women's presence has been in the parliament. To take examples from Bangladesh where the politics is essentially led by women, and especially now, when many of the important ministers as well as parliament leaders also happen to be women, has the general condition of women changed satisfactorily?

The obvious answer will be 'no'. This 'no' of course will have to be qualified by saying that the women of Bangladesh have become much more conscious of their rights now, especially at the grassroots level. Their participation in political processes is also much more visible. And I would emphatically say that the presence of a significant number of women in politics with two women leaders at the top has worked effectively to enhance the interest and confidence in women as political actors. It still remains to be said that despite all this, women by and large, are still kept out of the decision making process. Most of the women members in the parliament, particularly those who come through indirect election, are apprehensive of taking part in discussions that may hurt the feelings of the party leaders by whose grace they think they have gained their position. During the time of General Ershad, the 30 such women parliament members, because of this very character, were given the name '30 sets of ornaments'. The situation is changing gradually because of the present Government's commitment to women's empowerment.

The point I want to make here is that quantity of participation by women is not completely to be ruled out as that definitely gives them a sense of strength and solidarity, but at the same time it is important for them to go through proper processes, for example, through direct election with a defined constituency to get a stronger feeling of solidity of base. We notice a marked difference in the performance between the women members elected through direct election and those selected by nomination. More importantly, the mindset of the fellow political leaders and determination of the leadership to give support to women are extremely vital factors here. Creation of enabling environment is essential which needs to be observed and protected with a firm conviction. This is one of the necessary internal conditions to ensure quality participation of women in politics.

Other conditions have to be sought in the women actors' individual and personal capacity. In order to do so, an analysis of the ground realities of women's life is necessary. Let us take Bangladesh as a test case. Here we are confronted by the fact that with a very small exceptional percentage of the population, most of the women in Bangladesh live in extreme poverty. No doubt they are the poorest of the poor. They suffer from ill health, inflicted by low levels of literacy and rights awareness, without access to adequate information and oppressed by religious, cultural and other kinds of fundamentalisms, which may often lead to violent treatments meted to them. In their personal life, they are subject to discriminating laws and continue to be denied the right to seek remedy for family violence. This goes without saying, affects their general well being so much so that they seldom show enthusiasm in taking the benefit of the Constitutional guarantee of equality and equal opportunities given to them in public life.

The other consequence of this is that the political sphere remains under the dominance of few women linked to power through either family, business, finance or social position leaving out many of those who are genuinely politically committed. Therefore, the role these women tend to play is characteristically defined by the motivation for preservation and protection of their family, party, financial or class interests. Another important factor here is that since their power base is not sown in popular support, they suffer from a sense of insecurity, which works as a hindrance to their ability to deliver in the face of serious challenges posed by the societies like that of Bangladesh where democracy has not yet had a chance to work without undemocratic interventions; where divisions, discriminations, inequalities, lack of access to resources on the basis of class, creed, religion, ethnic identity and gender are stark realities. Amartya Sen in his 'Seven Types of Inequality' aptly names mortality, natality, basic facility, special opportunity, professional ownership and household as areas where women suffer inequalities, therefore, encapsulating the entirety of their lives. Sen goes on to establish,

"In some regions in the world, inequality between women and men takes the brutal form of unusually high mortality rates of women and a consequent preponderance of men in the total population."

He talks about 'high tech sexism' where modern techniques are used for sex determination to abort female foetus. There are situations where girls have far less opportunity of schooling than boys. This is true of higher education as well as employment. Demanding equality in property ownership may be considered sacrilegious and hence a punishable offence. Division of labour is very common in many societies and it is common to take it for granted that all household works are the responsibility of women. We are reminded by Sen that it is sometimes presumed that there are more women than men in the world, which may be true of Europe and North America having a female to male ratio of 1.05 (that is 105 women per 100 men). But women do not outnumber men in the world as a whole. In fact, there are only 98 women per 100 men on the globe. This 'shortfall', Sen informs, is most acute in Asia and Africa. For example, the number of females per 100 males in the total population is 97 in Egypt and Iran, 95 in Bangladesh and Turkey, 94 in China, 93 in India and Pakistan.

I cite the above information to submit that all these factors have a serious, direct bearing on women's role in politics. This may be illustrated by examples drawn from the Nordic countries, and perhaps some other countries of Europe and America where the situation of women enjoys a comparative advantage in most of the indices mentioned by Sen. One must, however, remember that all socio-economic-political and cultural conditions have to be conducive to generate and sustain a sense of participation as well as ownership in women's minds to enable them to contribute in public life. If the public sphere is reflected as predominantly a male domain and women are treated as intruders, which has been the case historically, neither the number nor ability of women will have any use there. To counter that, clear manifestation of the will of the society to ensure congeniality of environment must be evident in the policies and practices of the State, as well as in the municipal laws of the Countries. Rights and dignity of the people must be protected and perpetrators punished to help prevention of violence in due process. Role of the regional and international laws and treaties cannot be undermined either. CEDAW, Beijing Platform for Action, Vienna Declaration must be fully ratified and implemented to provide women with the required support. Regional networks and co-operation have no alternatives in taking the

strengthening process forward. All these may sound a little abstract in relation to women's performance as political actors, but the abstract and the practical is interwoven and will strengthen each other. I would also reiterate that gender and general concerns are not mutually exclusive as the socio-economic-political and cultural conditions of a country provide the material environment in which issues of peoples' rights and dignity are decided.

Gender is not only about women and democracy is definitely not exclusive of gender. To place the question of women's role in politics and to relate that to the concerns of quantity and quality, it is very important to resolve the relationship between gender and democracy. To experience the full benefit of women's role in politics, it has to be embedded in political stability, democratic practices, good governance, transparency and accountability as these are the most important determinants of human rights, justice and peace - the desired ultimate goal of any political activism where participation with adequate competence is equally important as participation in adequate numbers. To conclude, I will go back to Sen who so eloquently expresses:

“The expansion of women's capabilities (both quantitative and qualitative) not only enhances women's own freedom and well-being, but also has many other effects on the lives of all”.

In the end, I will congratulate Bhutan for entering the era of democratic rule. Though we all accept democracy is not the panacea for everything, we have not been able to discover a better system yet. I wish the Bhutanese people all success and hope the women of Bhutan will get the rights and dignity due to all human beings and that is the key to deepening and sustaining democracy in the world of which Asia will be a rightful owner.

Civil Liberties and Security

ANTHONY GRAYLING

Civil liberties exist to protect individuals against the arbitrary use of state power. They include rights to individual freedom, privacy, the secure possession of private property, the expression of opinion without prior restraint, and freedom to hold and exercise personal beliefs provided doing so does not harm others.

Central to civil liberties is the idea of a due process of law, consisting in a set of procedural formalities and restraints which protect the innocent, assure equal treatment to everyone, and require the authorities to show good cause why they exert state power over citizens, not least the powers of arrest and detention.

Tyranny exists wherever civil liberties do not exist. Think of a typical police state such as Soviet Russia in the period of its worst excesses, where men in leather coats knocked on doors in the darkest hours of night and took people away to torture and imprisonment without trial, or worse, because there was no regime of civil liberties, no institutionalised protection for human rights, to stop them doing it. The modern democracies of Western Europe are of course a long way from being tyrannies, but from Germany to Ireland too many of them are going down the alarming road of compromising civil liberties in the supposed interests of fighting terrorism and crime.

The price of liberty, it is said, is eternal vigilance. Authorities in all countries and at all times, even in Western democracies, find themselves inconvenienced by civil liberties because civil liberties make the job of policing society more difficult. In particular, and to the great irritation of governments everywhere, they interfere with the authorities' ability to detect, arrest, prosecute and convict bad people.

But there is a good reason why civil liberties make the work of the authorities more difficult in these respects, quite deliberately so: namely, to protect the great majority of people who are not bad. The

inconvenience of the authorities is the freedom of the people, and it is a price richly worth paying for all that matters to individual freedom and open societies.

The civil liberties which until now have served to define the open democracies of the Western world are taken for granted until something like the Criminal Justice Bill comes along to call them into question. People forget how very far from easy it was to achieve these civil liberties in the first place. It took centuries of hard and often bitter struggle to get them. Think of what had to happen in order for the ordinary twenty - first century Western citizen to attain the position of a free citizen protected in his rights by law. The process began in the sixteenth century reformation; first, the hegemony of a single church over the minds and lives of individuals had to be broken. Then absolute monarchy had to be challenged, and replaced by more representative systems of government.

Both processes were sometimes revolutionary but mostly evolutionary. They were plagued by setbacks, and made painfully slow and difficult by the reluctance of those in power, both ecclesiastical and temporal, to give anything away. Many died in furthering the cause of liberty - in fire at the church's stake, in chains in royal dungeons, on the battlefield. Their story is the story of the price paid for the civil liberties enjoyed today.

It is astonishing to think that the ordinary citizen of a democracy today enjoys rights, freedoms and possibilities that a few hundred years ago were only available to the very few: to aristocrats and senior churchmen. We are all aristocrats now in the degree of our liberties and opportunities, because we have replaced the rule of might with the rule of law. No arbitrary ruler can throw a citizen into prison at whim; there are institutions and practices that buttress the individual's liberties.

Among them is trial by jury, the need for proof to be brought before a court where it can be tested properly, and a presumption of innocence for anyone accused by the state committing crimes.

Any society which goes into reverse because it is facing hard times betrays the long history of struggle for institutions and a way of life according to ideas of rights and the rule of law. It betrays itself by betraying the principles on which it has come to be based. The test of a society's strength and maturity is whether it can stick to its principles in the face of difficult challenges.

The main point of civil liberties is to make, and to hold open, a space for individuals to choose their own way of realising what they choose to value, consistently with not harming others. The highest good for an individual is autonomy and the relationships freely nurtured within that autonomy. Without the protection of civil liberties, individuals are all too likely to have to live lives chosen for them by others.

Terrorist atrocities in the United States and Europe – the 9/11 attacks on New York and Washington, the London transport and Madrid train bombings – have hastened a process which had already begun in these advanced parts of the world: the process of eroding civil liberties by the increasing application of new and powerful technologies for surveillance of civil populations, for longer detention of suspects and easier criminal prosecutions, supported by laws increasing the powers of government and security services to do so.

In illustrating this point I shall use the example of the United Kingdom, which is the advanced democracy where surveillance has progressed further than any other, where the authorities carry out the most comprehensive centralized recording of personal data, and where the contrast between these developments and the liberties of a traditionally liberal society are especially striking. As a test case for the problem of the tension between questions of security and liberty, the United Kingdom is a paradigm.

The arguments in support of liberties - reducing security developments in all countries are various: illegal immigration, crime, the desire and in some cases need for greater bureaucratic efficiency, and the “war on terror” (a phrase now acknowledged even by governments as a mistake) have all been cited, and the terrorist atrocities just mentioned served as a powerful boost for the view that the rules of the game had

changed, in the sense that whereas talk of civil liberties has been all very well in a less dangerous past, it was no longer applicable.

This was exactly the message that Mr. Tony Blair, while Prime Minister of the United Kingdom, gave out quite soon after saying, in the wake of the London transport bombings of 7 July 2005, that “the terrorists will never change our way of life.” Shortly afterwards he proceeded to announce that our way of life was to undergo major changes in the direction of reducing civil liberties for the entire population so that the small minority of terrorists, criminals and illegal immigrants would be easier to detect. The chief proposed measures included biometric identity cards linked to a central computerised National Identity Register, and an extension of detention of suspects without charge or trial to three months. Sufficient commitment to the idea of civil liberties defeated this latter proposal in Parliament, but in a country where, once, a possibly innocent person could not be detained by the authorities for more than 48 hours without showing good cause to a magistrate, such suspects can now be held for a month.

But even before terrorism became the prime justification for such draconian measures, Britain had become the most watched country in the world, with closed circuit television cameras monitoring large swathes of public space. When this measure was first being rolled out there were no complaints; the cameras were regarded as doing – and more effectively – the job of policemen on the beat, and could be regarded as an enhancement of public safety.

But the conjunction of widespread CCTV monitoring with other policies at last began to prompt concerns. Suggestions were made that microphones could be added to the CCTV cameras to monitor conversations in the public spaces of British towns. As these words are written, measures are before Parliament for collection of electronic communications data – information on the senders and addressees of every telephone call made and email sent by every citizen is to be passed to government and stored. New and extensive powers have already been taken by government for the security services to access citizens’ private health, employment and banking records, and to eavesdrop on the content of communications directly. The wholesale

invasion of privacy represented by all these measures, from the CCTV cameras to the recording of personal communications data, constitute a massive change in the relationship between the citizen and the state, and turn the state into a snooper, a Big Brother institution, whose instruments of surveillance and control are premised on the idea that every citizen is a potential suspect, and must be treated as such.

The motivations for these developments, apart from the publicly stated ones of increasing security against terrorism and crime and combating illegal immigration, are twofold.

One is the fact that governing political parties believe that they must be seen by voters to be doing everything possible to combat terrorism and crime, so that they can be re-elected.

They see no votes in the statesmanlike alternative of reminding the public that civil liberties are precious and involve risks, and that security measures, though important, must not be allowed to compromise the long - fought - for and hard - won liberties that until very recently defined the modern Western world.

Moreover, full - time salaried legislators will, in the absence of better things to do, fill their time with passing legislation that supports the aim of being seen to be doing everything possible (and therefore mainly unnecessary) in the face of terrorism and crime: and the result will be laws that reduce civil liberties far more even than they are intended to do. For example: anti - terrorism legislation is now regularly used in Britain for such purposes as arresting demonstrators (two students reading aloud near Parliament the names of British military casualties in Iraq were arrested under this law), ejecting hecklers from party political meetings (a pensioner was removed under this law from a Labour Party conference for heckling the Prime Minister), freezing the assets of foreign banks (as in the case of branches of Icelandic banks during the 2008 credit crisis), and more. "Mission creep" and the doctrine of unintended consequences are making the new security laws a catch - all for control and suppression unimaginable even a decade ago.

But the principal driver of the new liberties - reducing measures is technology. The fact that electronic communications are wide open to monitoring and tracking - for just one example of the totality involved here: an individual can be located geographically by his mobile telephone signal, so not only what he is saying but where he is saying it is transparent to observers - has been the major factor in dismantling privacy, now a thing of the past. The gathering and examination of data by computer, "profiling" of travellers at airports, random visual and audio monitoring of the populace as it goes about its daily business, is all possible because of the already and growingly sophisticated equipment available to security services, licensed by government.

The biometric data identity card scheme is the classic example of how the new surveillance - state dispensation is being driven by technology - and by the commercial interests behind technology. The biometric data companies have persuaded the British government that they can provide a universal identity card scheme in which iris patterns, fingerprints, DNA, and all personal details from address and employment data to health and bank information can be instantly accessed by chip and reader device. The chip can be the size of a dot the size of a full - stop in this text (see the websites of the biometric data companies for this claim: it is in the public domain), and therefore if plastic cards are regarded as too insecure - easily lost, stolen or damaged - the full - stop - sized dot can be implanted under the skin of a wrist or in an ear - lobe.

The British government, in introducing legislation for a universal ID card scheme of this kind, attempted to deflect criticism by saying that the ID cards would in the first instance be voluntary, and that citizens would not be required to carry them at all times for production on demand by the authorities. These claims were not, because they cannot be, taken seriously: it is plain that a comprehensive ID card scheme would be pointless unless it was compulsory, and worthless unless every interaction between the state and the citizen were verified by the latter's proof of ID. So the question that this writer asked a British government minister, namely "What is the difference between a biometric identity device implanted under the skin of one's wrist, and a

number burned onto the surface of the skin of one's wrist?" becomes a particularly telling one.

For such a device – and we must speak bluntly about this, alas: such a device is used to keep track of cows and dogs, and in the form of a burned number on the arm was employed in the camps of the Holocaust – is equivalent to a motor vehicle license plate, for ease of tracking and monitoring, controlling and directing.

The period in Western history from the sixteenth century, when only aristocrats and senior clergy had any freedom and entitlements, to the late twentieth century when individual freedom, justice, free speech, privacy, democracy, and a due process of law protecting individual rights against the power of the state, saw a hard struggle to get these rights, in every case wrested with often bitter difficulty from the hands of privilege and power. These rights have been defining features of “the West” until very recently, and they are enshrined – or are meant to be enshrined – in the international codifications of human rights such as the UN Declaration and associated Conventions on human rights.

The rights to life, liberty, privacy, freedom of conscience, participation in the political process, and a due process at law designed to protect even the guilty individual from abuse and undue treatment, are marks of a civilized, mature society. It is the tragedy of our time in the West that this hard-won framework is being dismantled, quickly, heedlessly, for reasons of expediency, on the basis of over exaggerated fears, in the interests of managerial ideals of bureaucracy, encouraged by technology - producing companies who see vast profits in national schemes of surveillance and security.

Matters have already gone too far: but that is no reason not to protest, and to take action to reverse some of the worst features of what is in place and to come. In Britain, here used as a prime example of this disastrous process, a groundswell of opposition has been gathering momentum, and in 2009 has taken the form of a wide federation of interests in the Convention on Modern Liberty. The task of reclaiming civil liberties from the security state has begun; and one of its mottoes is

Beyond the Ballot Box

the observation of Benjamin Franklin, "Those who would exchange their liberty for security deserve neither."

Citizen's Assessment of Parliaments Performance

AHMED MEHBOOB

Just very briefly, PILDAT is an independent non-profit think tank dedicated to strengthening democracy and democratic institutions. There are three key areas of work relevant to the theme of this Conference: one is Parliamentary Strengthening, which is an area in which we have worked since 2001 in Pakistan, from which we have organised briefings and over 85 courses.

Secondly, we have also moved into the area of Parliamentary Performance Assessment and thirdly, since 2003, when democracy was restored in Pakistan, we have produced the Annual State of Democracy Report, which covers how democracy is progressing - or not progressing - in Pakistan.

Although most of our activities have been focusing on Pakistan, we have in recent years been establishing regional workshops on various parliamentary issues in Kabul and Islamabad. We hope to have a similar effort in other South Asian countries later on.

Very quickly, to put into context in Pakistan, we have a Parliamentary form of Government, a Bi-cameral Parliament, a Senate with 100 members, equal provincial representation, a National Assembly with 342 members, with 60 reserved seats for women and ten reserved seats for religious minorities.

The average size of National Assembly Constituencies is 300,000 voters, while the largest has over 600, 000 voters. We also have lowest average voter turnout (40%) in South Asia, which is one of the lowest in the world.

Performance

In general, the performance of Parliament is not very good. This is because people are disinterested in MP's performance in Parliament. Voters prefer, expect and value personal favours for getting a job or for

local development. MPs have certainly been solicited. Social calls at weddings and funerals by their MPs are very much expected by the voters, and if an MP doesn't turn up at a particular wedding or social event, it's something that is counted against him, and he will know about it at the next election.

So, there is no real incentive for MPs to provide a good performance inside the Parliament. Attending the social events and the personal favours are enough to get him or her elected in the next elections. At this time, a strong performance in Parliament is simply not considered a priority.

The Citizens Report, which we have initiated in 2003, is intended to basically involve citizens' interest in Parliamentary performance to create an incentive for MPs to improve performance their performance in Parliament. So that is basically the style we have employed to measure and report Parliamentary performance.

Another level of evaluating performance is at the individual level, a more sensitive undertaking, and which of course means stepping on many toes. We hope the criteria for this will be in place by March 2010, when the current National Assembly will be completing its two years.

The Parameters of Parliamentary Performance, which is used in our report, is based on the number of days the National Assembly met. It's a yearly report, but hardly has the National Assembly met more than the bare minimum number required of 16 days. The two day break in between the session is also counted in this, which we feel is unfair. We also observed the number of hours the Parliament has met in a day, and punctuality - the number of days a sitting started on time - which was very seldom adhered too.

How many legislations have been passed: for example, the 12th National Assembly, which completed its term in 2007. After five years, they passed just 50 Acts versus 121 Ordinances, which is a kind of law by Presidential decree; 197 acts of legislation were still pending at the completion of the National Assembly's five year term.

In comparison, the Indian Lok Sabha passed 248 acts in five years versus 34 Ordinances. We try to highlight and compare these with other systems. And nothing, really, activates Pakistan than trying to make an example of India. And, with these differences in the comparable number of Ordinances, we tell our fellow Pakistani Parliamentarians they are all doing very well.

Oversight

Continuing the parameters of parliamentary performance, there is oversight by committees, which is one way by which we measure the performance of both Parliament, the Parliamentary meetings the committees it has held, and how the observations are communicated to the executive; how many witnesses were summoned and asked to testify, the questions asked, how many experts testified, and how many reports were issued by the committee. This is what the many (55) standing committees we have attempted to undertake some in the National Assembly.

On the questions asked by the ordinary members, and too look at in another way - how many questions were actually answered. In the five year term, only 25% of the questions were answered. Another way of looking at it is how many times Quorum broke in the National Assembly. The answer is quite frequently.

In regards to transparency, half the Parliament gives out its own information, which was very little when it began six years ago. But now, on the NA website, it gives out much more information. But still, some information like individual attendance is still not available. So we look at the extent of the availability of information.

The Parliamentary Budget Process is a focus area, and in Pakistan, it is an especially very weak process, yet members are expected to prove the budget and put their names on it, yet have little chance of giving any input to the actual making of the budget. And they don't have enough time to analyse or provide informed input in the budget, because only 15 to 20 days are made available, yet the budget is a two-foot, high pile of documents, which they are supposed to read, and give knowledgeable input – that doesn't happen. And this is something we have noticed for many years. The Defense Budget is traditionally put in

the Parliament and only *one* figure is quoted, although there has been some improvement since last year, when some information was shared. However, there is growing complaint that more details should be shared with MPs.

As I said earlier, we try to compare the performance with other parliaments, and how the performance is changing from year to year, whether it is improving, or static, or going down. This involves the analysis of the quantitative data. We have been doing this since 2003.

Assessment Tool Kit

Last year, for the first time, we did an additional report, when the Inter-Parliamentary Union (IPU) introduced a Self Assessment Tool Kit for Parliaments themselves and for citizens. Two objectives were identified: to evaluate Parliament against international criteria, and identify priorities and means to strengthen Parliament.

The Tool Kit is based on 48 questions grouped under six broad topics. Each question is graded on a five-point scale. One of the frameworks is evaluation by a non government organisation, and that is the scenario that applies to us. We were happy with that and very recently the IPU requested the Pakistan Parliament to showcase that PILDAT report in Geneva, at the General Assembly on October 20 (2009).

Who participates in the evaluation process? This report is mainly from PILDAT researchers, but also included a 28 member group, which comprised 12 Parliamentarians from five political parties or groups, which was heartening even if they knew they might discover information that badly reflected on Parliament; two veteran Parliament reporters, three senior academics (professors), two senior journalists, two lawyers, one former military commander, and two PILDAT staff. It was quite a diversification of talent and experience.

The evaluation results of the representatives of the National Assembly scored an overall 55%. The weakest aspect of the evaluation was how far it was possible for a person of average means to get elected to Parliament. Many MPs laughed this question away, saying it was *impossible* for a person of average means to get elected to the Pakistani Parliament. It scored the lowest with 28% in the overall score.

One of the strongest aspects of the evaluation was the composition of the National Assembly of women, which represented 71%.

Of the oversight of the Parliamentary Oversight of the Executive, another touchstone of Parliamentary Performance, the overall score was 49%. The weakest aspect was the inability to scrutinise executive appointments, which in Pakistan at the moment, Parliament has no power to scrutinise - it scored 35%. The strongest aspect was the autonomy of the National Assembly, which scored 64%.

The third parameter was the Legislative Capacity of Parliament (53%), of which I already told you, a very small number of laws are passed. So the weakest aspect was the weak process to consult various interest groups over legislation (44%), and the strongest aspect was the satisfactory procedures for full and open debate on legislation in the Assembly (56%).

Transparency and Accessibility of Assembly scored (55%). People felt there was very little opportunity for citizens to have direct involvement in legislation (37%), while strongest point was the ample freedom for journalists in reporting on the Assembly procedures and its members (55%).

On the Accountability of the National Assembly, it scored the second lowest with 44%. The weakest aspect was the Transparency of procedures to prevent conflict of interest, and oversight of funding to candidates and parties were almost non-existent with the score of 39%. The strongest aspect was that members generally agreed with the observance of an agreed Code of Conduct by members with a 49 % Score.

The last parameter was on Parliament's Involvement in International Policy, which had the lowest score of 37 %. The weakest aspect was the non-existent Parliamentary oversight of the deployment of country's armed forces outside the country, with a 30 % score, while the strongest aspect was Pakistan's effectiveness in inter-parliamentary co-operation with a 48 % score, which was also the overall score for the Parliament as a whole.

So this is something that remains to be seen over the years to come as to whether Pakistani Parliamentary evaluation improves on this score, or it remains static. So this is basically the benchmark, the baseline for evaluation which will set the stage for future evaluations.

Recommendations

We have made the following recommendations to the Pakistani Government, the National Assembly and the Parliament based on our objective hard data.

1. Election spending limits be strictly enforced
2. Make Parliament's role effective in Budget Process
3. Parliament should scrutinise key appointments
4. Provide adequate and non-partisan research service
5. Institute a system of public consultation
6. Attract young people to work in the Parliament
7. Involve citizens in legislative process
8. Institute a system to check members' conflict of interest
9. Adequate oversight on funding to parties and candidates
10. Institute a system to monitor levels of public confidence
11. Parliament Committees on Foreign Affairs to be more pro-active

There are also some observations from the lessons we have learnt.

1. The Evaluation Report is meant for ordinary people; it has to be simple and free from complex analyses of academicians;
2. Criteria be objective such as Quantitative Data, Popularity and Performance may not be confused;
3. A majority party in an effective Parliament may lose election. A single international criteria of Parliamentary Performance may not work;
4. Each Parliament should set a criteria for itself and it should be evaluated against that criteria like the ISO 9000 system of Quality Certification.

Please see www.pildat.org for more details. A limited number of copies of the Evaluation Reports are available.

(Transcribed)

The Majority Judgement: A New Mechanism for Electing and Ranking

PROFESSOR MICHEL BALINSKI

Introduction

Today the practice of democracy implies the election of representatives. Electoral systems define how representation is apportioned among states and provinces according to their populations, and to political parties according to the votes they receive; they define how electoral districts are determined as a function of geography and population; and – when one candidate among several is to be chosen – they define exactly how voters express their opinions and how these opinions are amalgamated to determine who is elected. Each of these definitions is a “mechanism” – “a system of parts that operate or interact like those of a machine,” “an instrument or process, physical or mental, by which something is done or comes into being” (according to the *American Heritage Dictionary of the English Language*).

Across the years, different nations have adopted very different mechanisms. They are all pure inventions of the human mind. However, all of them are mathematical inventions: they transform populations or total party votes (numbers) into numbers of representatives; they partition nations, provinces or states (geo-metric figures) into collections of legislative districts; they amalgamate expressions of the opinions of each voter concerning candidates into the collective decision of the electorate. The mechanisms with which numbers are transformed, areas are partitioned, and opinions are amalgamated have properties that may be analysed mathematically: they may favour the big or favour the small, they may yield electoral districts that are “fair” or grossly unfair, they may elect the candidate preferred by the electorate or some other candidate.

Regretfully, democratic practice in almost all nations is firmly in the hands of elected politicians. They are at once the players and the referees of the electoral game. They regularly attempt to manipulate the

mechanisms in order to favour their re-election. Gross inequities are sometimes avoided via judicial rulings. But the fact is that there is today a growing body of knowledge – a theory of electoral systems – that has determined fair mechanisms to resolve most if not all of the problems that arise in the establishment of an electoral system. Although politicians have resisted recourse to this knowledge, slowly but surely it is beginning to spread, and it is inevitable that soon democratic societies will demand the use of truly fair electoral mechanisms.

This paper will address only one of these problems: How is one candidate among many to be elected or, how are several candidates to be ranked (the first designated the winner)? It is an important problem. There is a growing awareness that the mechanisms used to solve this problem – in the United States, in France, in the United Kingdom, and elsewhere – may not be electing the candidate preferred by the electorate.

Practice

First-past-the-post is probably the most used system for electing one among several candidates (United States, United Kingdom). Each voter expresses his or her opinion by naming exactly one candidate (or none). The candidates are ranked according to the number of times they are named, the winner is the candidate most often named. This is a very bad mechanism! The 2000 United States presidential election shows why (see Table 1). The mere presence of a minor candidate (Ralph Nader), who had absolutely no chance of winning, made Bush the winner instead of Gore: there is no question that the bulk of those who voted for Nader preferred Gore to Bush, but the method of election did not allow them to express it. Had Nader not been a candidate in Florida it seems certain that Gore would have had more votes than Bush, and so would have won Florida's 26 electoral votes, making Gore the winner with 291 electoral votes to Bush's 245. This is an instance of the famous *Arrow paradox*: an irrelevant candidate can change the outcome of the election.

2000 Election	Nation		Florida	
	Votes	Electoral Votes	Votes	Electoral Votes
George W Bush	50,456,002	271	2,912,790	26
Albert Gore	50,999,897	266	2,912,253	0
Ralph Nader	2,882,955	0	97,488	0

Table 1. 2000 U.S. presidential election

Two-past-the-post is used in France. Each voter expresses his or her opinion by naming exactly one candidate (or none). The candidates are ranked according to the number of times they are named, and if one candidate is named by more than 50% of the voters, he or she is elected. Otherwise, there is a run-off between the two candidates most often named to determine the order between them. This is another very bad mechanism! The 2002 French presidential election shows why (see Tables 2a, b).

Chirac	Le Pen	Jospin	Bayrou	Laguiller	Chévènement
19,88%	16,86%	16,18%	6,84%	5,72%	5,33%

Mamère	Besancenot	Saint-Josse	Madelin	Hue	Mégret
5,25%	4,25%	4,23%	3,91%	3,37%	2,34%

(Pasqua)	Taubira	Lepage	Boutin	Gluckstein
(0%)	2,32%	1,88%	1,19%	0,47%

Table 2a. 2002 French presidential election, first-round results (16 candidates, 72% participation), Pasqua not a candidate

Actual		No Taubira		Pasqua no Chévènement	
Chirac	Le Pen	Chirac	Jospin	Jospin	Le Pen
82,21%	7,79%	< 50%?	> 50%?	> 75%	< 25%

Table 2b. French presidential election, second-round results: actual (80% participation, left), Taubira not a candidate (centre), Pasqua a candidate and Chévènement not a candidate (right).

Jacques Chirac, the incumbent President, was the candidate of the Rassemblement pour la République (RPR), the big party of the “legitimate” right; Lionel Jospin, the incumbent Prime-Minister, that of the Parti Socialist (PS); Jean-Marie Le Pen that of the extreme right, Front National party (FN); and Francois Bayrou that of the moderate Union pour la Démocratie Francaise (UDF, the ex-President Valéry Giscard d’Estaing’s party). The others were candidates of the extreme right or the extreme left. France fully expected a run-off between Chirac and Jospin, and was profoundly shocked to be faced with a choice between Chirac and Le Pen. Chirac crushed Le Pen, obtaining 82.2% of the votes in the second round, but the vast majority of Chirac’s votes were against Le Pen rather than for him. The left – socialists, communists, trotskysts, . . . – had no choice but to vote for Chirac! His votes represented very different sentiments and intensities.

Most polls predicted that Jospin would have won against Chirac with a narrow majority; Sofres predicted a 50%-50% tie on the eve of the first round. Had either Chévènement, an ex-socialist, or Taubira, a socialist, withdrawn, most of his 5.3% or her 2.3% of the votes would have gone to Jospin, so the second round would have seen a Chirac-Jospin confrontation, as had been expected. In fact, Taubira had offered to withdraw if the PS was prepared to cover her expenses, but that offer was refused. It has also been whispered that the RPR helped to finance Taubira’s campaign (a credible strategic gambit backed by no specific evidence). Moreover, if Charles Pasqua, an aging past ally of Chirac, had been a candidate – as he had announced he would be – then he could well have drawn a sufficient number of votes from Chirac to produce a second round between Jospin and Le Pen, which would have resulted in a lopsided win for Jospin.

The moral of the story is this: Anything can happen when the “first-past-the-post” or the “two-two-past-the-post” mechanism is used! This is again nothing but Arrow’s paradox: the winner depends on the presence or absence of candidates including those who have absolutely no chance of winning. It also shows that the mechanisms invite “strategic” candidacies: candidates who cannot hope to win (or survive a first round) but can cause another to win (or to reach the second round) by drawing votes away from an opposing candidate.

Traditional Theory

Traditionally – in the common imagination and in the theory of voting – a voter is assumed to have in his or her mind a list of preferences over the candidates that is ordered from best to worst. Indeed, some countries (notably Australia and Ireland) ask voters to give their lists of preferences from best to worst. This reveals more information about voters’ opinions but also may falsify their intents. A voter who believes that there is only one decent candidate is unable to express this, and his second-ranked candidate will weigh as importantly as the second-ranked candidate of a voter who believes that candidate is excellent.

The great hope (since 1299) has been to choose a *Condorcet-winner*: a candidate who beats every possible opponent face-to-face. But there may be no Condorcet-winner, as is shown by the following example (where, for example, 30% of the voters prefer A to B and B to C):

30%	32%	38%
A	B	C
B	C	A
C	A	B

	A	B	C
A	–	68%	30%
B	32%	–	62%
C	70%	38%	–

Table 3. Condorcet paradox

The table on the right gives the scores in the head-to-head confrontations between pairs of candidates. This is an instance of the famous Condorcet paradox: A defeats B with 68% of the votes, B defeats C with 62% of the votes, and C defeats A with 70% of the votes.

Borda's method uses the voters’ preference lists. It assigns each candidate the sum of his votes against all other opponents, and ranks the candidates accordingly. In the above example, A’s “Borda-score” is 98, B’s 94 and C’s 108.

The following toy example is informative. It admits a Condorcet-winner, C.

5%	33%	34%	28%		A	B	C
A	A	B	C	A	_	38%	38%
B	C	C	B	B	62%	_	39%
C	B	A	A	C	62%	61%	_

Table 4. The method determines the winner.

With first-past-the-post, A is first, B second and C last, written $A > B > C$. With two-past-the-post the order of finish is $B > A > C$. With Borda the order of finish is $C > B > A$. In short, the method determines the winner. Moreover, it pays for voters to misrepresent their preferences. If, with first-past-the-post, the 28% vote for B instead of C, B wins which is better for them. If, with two-past-the-post, the 33% vote for C instead of A in the first round, C wins which is better for them. If, with Borda, the 28% vote $B > C > A$ instead of $C > B > A$, B wins which is better for them. This short discussion has raised difficulties that arise with different methods of voting: Arrow’s paradox, Condorcet’s paradox and the evident possibility that it pays voters to misrepresent their preferences. The fact of the matter is that this is an unavoidable conundrum of the traditional model. A reasonable method should: permit voters to list candidates in any order they wish; declare a candidate the winner if he or she is first on every voter’s list; and never change the winner when some “irrelevant” candidate enters the race or withdraws.

Arrow’s famous “impossibility” theorem shows that there is no method that can meet these three conditions.

A New Theory

So what is to be done? The problem of electing and ranking is vast. Nations, societies, unions and other large institutions elect presidents, senators, representatives, treasurers, judges, sheriffs, . . . ; juries (of 5 to 12) rank figure skaters, gymnasts, divers, wines, cheeses, . . . ; juries of companies rank employees (“forced ranking”); committees rank nominees for (Nobel, literary, scientific, . . .) awards and prizes; all kinds of juries rank universities, hospitals, restaurants, hotels, movies, beauty queens, muscle men, professors, students, dogs, pianists, flutists, marching bands, As Arthur Miller (the dramatist and one-

time husband of Marilyn Monroe) once quipped, "We're ranking everybody every minute of the day."

It is a curious fact that the theoreticians of voting - the specialists of the theory of social choice - have steadfastly analysed the problem in the same way since 1299 when Ramon Llull first proposed face-to-face votes between every pair of candidates. Since then voters and judges are assumed to rank-order the competitors from best to worst, and the problem is to find a rule or mechanism to amalgamate these into the rank-order of society or the jury. The fact is curious for two reasons. First, conceiving of the problem in this way leads to paradoxes, impossibility and incompatibility theorems (notably Arrow's, but many others as well): i.e., the model leads to an inconsistent theory. Second, voters and judges invariably do not have rank-orders in their minds: instead, they evaluate the merits of the candidates or of the performances of competitors.

"During the Middle Ages," Richard Feynman wrote, "there were all kinds of crazy ideas, such as that a piece of rhinoceros horn would increase potency. Then a method was discovered for separating the ideas - which was to try one to see if it worked, and if it didn't work, to eliminate it. This method became organised, of course, into science." The time has come to discard the traditional view, replace it with a more realistic one, and accept its logical implications. Pragmatic people - faced with judging figure skaters, gymnasts, wines, pianists, . . . , - have *all* invented their own *ad hoc* methods. Instead of rank-ordering competitors, judges assign them points and the points are used to determine the juries' rank-orders. The difficulty with their methods is that they invariably add or average the points to determine rank-orders, and this opens the door to strategic manipulation and outright cheating (by giving high points to favourites, low points to their opponents), as happened in the big scandal of the 2002 Winter Olympic Games in pairs figure skating. On the other hand, the points they use are invariably well defined and constitute what we - my colleague Rida Laraki and I - now call *common languages*: the meanings of the points are clear to everyone, though there may be disagreement on how many points a competitor merits. "Kenneth is an A+ student" is a meaningful statement (or was before the age of grade inflation). Told that "Sonja's free skating performance is worth 5.9" when the traditional "0 to 6"

scale was used – that “her skating skills component is 7.75” with the newly adopted scale – or that “Xu Sang’s inward flying 1½ somersault was a 9.0,” means something specific to figure skating or diving enthusiasts. Other everyday examples of common languages are the number of stars given a hotel or a restaurant. With this point of view Arrow’s theorem says: if there is no common language there can be no consistent decisions. This makes sense: imagine the presidents of China and the USA trying to reach a decision with no common language!

Majority Judgement

The *majority judgement*¹ is a method of voting and judging that emerges as the optimal method by the criteria of the traditional theory of voting – when the voters evaluate candidates (or judges evaluate competitors).

The majority judgement itself is easy enough to explain; indeed, its explanation has persuaded some pragmatists to accept it already. The basic point of view is that voters and judges do not vote: they evaluate candidates in a common language of grades. So, to begin, there must be a common language.

Large scale voting experiments were conducted in parallel with two elections, the 2007 French and 2008 American presidential elections. In one experiment members of a scientific society were invited to participate in an experiment conducted on the web. They were given the ballot of Table 5 (Dem. means Democratic, Rep. means Republican and Ind. means Independent). The common language of grades is: *Excellent, Very Good, Good, Acceptable, Poor, or to Reject*. Extensive statistical analyses of the results of the experiment in the French presidential election – where the common language was *Très bien, Bien, Assez Bien, Passable, Insuffisant, à Rejeter* and over 1,700 voters participated - shows that the language was indeed common in that it was used in the same way by the voters.

The ballot deliberately poses a clear and solemn question inviting voters to evaluate the candidates. The experiments show that voters have no difficulty in giving their evaluations: in the French election

¹ The idea of the majority judgement was developed in research pursued with Rida Laraki. Its theory and practice is fully explained in our forthcoming book.

there were twelve candidates, yet most voters filled out the ballots within a minute or a minute and a half.

Ballot: Election of the President of the United States of America 2008
To be the President of the United States of America, having taken into account all relevant considerations, I judge, in conscience, that this candidate would be:

	<i>E</i>	<i>VG</i>	<i>G</i>	<i>A</i>	<i>P</i>	<i>TR</i>	<i>NO</i>
Michael R. Bloomberg, Ind.							
Hillary R. Clinton, Dem.							
John R. Edwards, Dem.							
Michael D. Huckabee, Rep.							
John S. McCain, Rep.							
Barack H. Obama, Dem.							
Collin L. Powell, Ind.							
W. Mitt Romney, Rep.							

You must check one single grade or “No opinion” in the line of each candidate. “No opinion” is counted as *To Reject*.

E=Excellent; VG=Very Good; G=Good; A=Acceptable; P=Poor; TR=To Reject; NO=No Opinion

Table 5. Ballot, web experiment, U.S.A., October 2008.

The usual method (first-past-the-post) offers voters nine possibilities to express their opinions: to indicate one of eight candidates, or none. The majority judgement offers $6^8 = 1,679,616$ possibilities to express their opinions. Voters interviewed during the French 2007 experiment repeatedly voiced their appreciation for being able to adequately express their opinions with the majority judgement. They also distinctly liked the idea that each candidate, including the winner, receives a “final-grade” (the majority-grade, described below).

The results were:

	<i>E</i>	<i>VG</i>	<i>G</i>	<i>A</i>	<i>P</i>	<i>TR</i>
Barack H. Obama, Dem.	35.9%	32.1%	12.2%	8.4%	7.6%	3.8%

Hillary R. Clinton, Dem.	16.0%	29.0%	21.4%	16.8%	11.5%	5.3%
Colin L. Powell, Indep.	10.7%	22.1%	26.0%	26.7%	9.2%	22.1%
Michael R. Bloomberg, Indep.	3.1%	14.5%	24.4%	26.7%	9.2%	22.1%
John R. Edwards, Dem.	1.5%	13.0%	22.1%	30.5%	18.3%	14.5%
John S. McCain, Rep.	3.1%	7.6%	23.7%	21.4%	30.5%	13.7%
W. Milt Romney, Rep.	0.8%	7.6%	10.7%	27.5%	30.5%	22.9%
Michael D. Huckabee, Rep.	3.8%	3.8%	6.1%	19.8%	19.1%	47.3%

Table 6. Results, web experiment, U.S.A., October 2008

The *majority-grade* of a candidate is the middlemost (or median) of his or her grades. When there are many voters, a majority of voters assign a candidate at least his or her majority-grade, and also a majority of voters assign the candidate at most his or her majority-grade. For example, Clinton's majority-grade is *Good*: $16.0\% + 29.0\% + 21.4\% = 66.4\%$ assign her at least *Good* and $21.4\% + 16.8\% + 11.5\% + 5.3\% = 55.0\%$ assign her at most *Good*. It is *Good+* because the percentage above *Good* is greater than the percentage below *Good* (otherwise it would have been a *Good-*).

When there are eight candidates and six grades some candidates must be assigned the same majority-grade. How are they to be ranked? Suppose a is the majority-grade, p the % of grades higher than a , q the % of grades lower than a . Then the *majority-gauge* is $(p; a\pm; q)$, where $p > q$ implies a is endowed with $a+$, and otherwise it is endowed with $a-$.

Thus Clinton's majority-gauge is (45.0%, *Good+*, 33.6%). The majority-gauges determine the *majority-ranking*: the rank-order of the candidates determined by the majority judgement. Naturally, *a+* ranks higher than *a-*, which suffices to rank-order all the candidates except Bloomberg and Edwards who both have the majority-grade *Acceptable+*. If two candidates have an *a+*, then the one with the larger *p* ranks higher; and if two candidates have an *a-*, then the one with the higher *q* ranks lower. So Bloomberg with *p* = 42.0% ranks higher than Edwards with *p* = 36.6%.

	<i>p</i>	<i>a</i> ±	<i>q</i>
1st Barack H. Obama	35.9%	<i>Very Good+</i>	32.0%
2nd Hillary R. Clinton	45.0%	<i>Good+</i>	33.6%
3rd Colin L. Powell	32.8%	<i>Good_</i>	41.2%
4th Michael R. Bloomberg	2.0%	<i>Acceptable+</i>	31.3%
5th John R. Edwards	36.6%	<i>Acceptable+</i>	32.8%
6th John S. McCain	33.4%	<i>Acceptable_</i>	44.2%
7th W. Milt Romney	46.6%	<i>Poor+</i>	22.9%
8th Michael D. Huckabee	33.5%	<i>Poor_</i>	47.3%

Table 7. Majority-ranking, web experiment, U.S.A., October, 2008

It is easy to see that the majority judgement possesses many desirable properties. The Condorcet paradox is impossible for there can be no cycle of the type: candidate A leads candidate B, B leads C, and C leads A. The Arrow paradox is impossible as well: when a candidate enters the race or withdraws the majority-gauges of the other candidates remain the same, so the majority-ranking among them remains the same as well. The majority judgement also resists strategic manipulation. One or *all* of those who gave Clinton the grade *Very Good* (that is, above her majority-grade) cannot change her majority-gauge *except* to lower it (presumably not their intention since they gave her a higher grade than her majority-grade). Similarly, one or all of those who gave her *Acceptable*, *Poor* or *to Reject* (that is, below her majority-grade) cannot change her majority-gauge *except* to raise it (presumably not their intention since they gave her a lower grade than her majority-grade). And the same holds for all candidates. Although all strategic

manipulation cannot be eliminated, the majority judgement best resists it according to several different criteria.

The majority judgement is not an *ad hoc* invention based purely on intuition. It is the logical outcome of the search for an optimal method of election given that the merits of candidates (or competitors) are to be evaluated. The fact that it is widely and easily accepted intuitively attests to its robustness.

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- web-site:<http://ceco.polytechnique.fr/jugement-majoritaire.html>
- U.S. Patent pending for "The Qualified-Majority Judgement" (including the multi-criteria case).

Happiness and Punishment

JOHN BRONSTEEN

New findings in hedonic psychology have implications for punishment theory. Specifically, these findings suggest that criminals adapt surprisingly well to fines and even to incarceration, but that incarceration negatively affects post-prison life in ways that tend to be unadaptable. These results increase the difficulty of using adjustments in the size of a fine or the length of a prison sentence to tailor a punishment to fit a crime. Because such adjustments are our primary means of crafting proportional punishments, and because such proportionality is important to retributive and utilitarian theories of punishment, a problem with their effectiveness could necessitate a rethinking of penal assumptions.

A substantial body of psychological evidence suggests that there is no strong link between money and happiness.¹ For example, one longitudinal study tracked people over a period of nine years, comparing the happiness of those who lost at least half a standard deviation of their annual income to those whose incomes increased or stayed constant.² Not only was the former group not unhappier, it was actually happier (although not statistically significantly so).³ Taking a criminal's money via a monetary fine therefore is likely to inflict less harm than would be the case absent people's ability to adapt to such changed financial circumstances. Moreover, because such adaptation is

¹ For a review of the extensive literature, see Diener, Ed & Robert Biswas-Diener, "Will Money Increase Subjective Well-Being: A Literature Review and Guide to Needed Research", 57 *Soc. Indicators Res.* 119 (2002). The one major exception is that people living in poverty tend to be less happy as a result. Above the poverty line, money correlates only very weakly with subjective well-being.

² Diener, Ed et al., "The Relationship between Income and Subjective Well-Being: Relative or Absolute?" 28 *Soc. Indicators Res.* 195 (1993).

³ *Id.* at 209. Other studies have found positive but very weak correlations between happiness and income.

not anticipated,⁴ fines presumably inflict less harm than is expected by either criminals or policymakers. Increasing the amount of a fine thus may not meaningfully increase the degree of harm imposed.

The effects of adaptation on imprisonment are more complicated. Inmates do adapt to being in prison in much the same way that people adapt to disabilities,⁵ so lengthening a prison term does not increase the harm imposed by as large an amount as is expected.⁶ However, spending any time in prison has negative effects on life after prison that are not similarly mitigated by adaptation. Released inmates are more likely to be unemployed than they were before going to prison,⁷ are likely to lose social ties to family and friends,⁸ and are likely to contract a number of serious, chronic diseases.⁹ Unlike monetary losses and

⁴ See Wilson, Timothy D. & Gilbert, Daniel T., "Affective Forecasting: Knowing What to Want", 14 *Current Directions in Psychol. Sci* 131 (2005).

⁵ See Frederick, Shane & Loewenstein, George, "Hedonic Adaptation", in *Well-being: The Foundations of Hedonic Psychology* (Daniel Kahneman et al., eds. 1999), at 311-12 ("Although incarceration is *designed* to be unpleasant, most of the research on adjustment to prison life points to considerable adaptation following a difficult initial adjustment period.") For an early review of the literature, see Bukstel, Lee H. & Kilmann, Peter R., "Psychological Effects of Imprisonment on Confined Individuals", 88 *Psychol. Bull.* 469 (1980).

⁶ See, e.g., Flanagan, Timothy J., "The Pains of Long-Term Imprisonment", 20 *Brit. J. Criminology* 148 (1980); MacKenzie, Doris L. & Goodstein, Lynne, "Long-term Incarceration Impacts and Characteristics of Long-term Offenders", 12 *crim. Just. & Behav.* 395 (1985); Zamble, Edward & Porporino, Frank J., *Coping, Behaviour and Adaptation in Prison Inmates* (1988); Dhami, Mandeep K. et al., "Adaptation to Imprisonment: Indigenous or Imported?" 34 *Crim. Just. & Behav.* 1085 (2007).

⁷ See, e.g., Western, Bruce et al., "The Labor Market Consequences of Incarceration", 47 *Crime & Delinquency* 410 (2000); Kling, Jeffrey R., "Incarceration Length, Employment, and Earnings", 96 *Am. Econ. Rev.* 863 (2006); See also Pager, Devah, *Marked: Race, Crime, and Finding Work in an Era of Mass Incarceration*, (2007).

⁸ See, e.g., Huebner, Beth M., "The Effect of Incarceration on Marriage and Work over the Life Course", 22 *JUST. Q.* 281 (2005).

⁹ See, e.g., Schnittker, Jason & John, Andrea, "Enduring Stigma: The Long-Term Effects of Incarceration on Health", 48 *J. Health & Soc. Behav.* 115, 117 (2007); Massoglia, Michael, "Incarceration as Exposure: The Prison, Infectious Disease, and Other Stress-Related Illnesses", 49 *J. Health & Soc. Behav.* 56 (2008).

incarceration itself, unemployment and loss of social ties create persistent decreases in happiness that are not adaptable.¹⁰ Even a short prison term, therefore, has severe negative effects on happiness that may persist long after the inmate has been released.

These findings curtail our ability to make a punishment more or less severe by adjusting the size of a fine or the length of a prison term. Larger fines may well fail to inflict a meaningfully larger degree of harm than do smaller fines. And although longer prison sentences are presumably worse for the offender than shorter ones, they seem not to be as much worse as is believed: Our capacity to adapt to some things but not to others makes being in prison less bad, and being released from prison less good, than we expect.

The penal system relies principally on adjustments in the size of fines and the length of prison sentences to tailor punishments to crimes. And all major theories of criminal punishment consider some sort of proportional tailoring to be necessary. A standard utilitarian approach, for example, is to impose the least amount of punishment necessary to achieve a desired level of deterrence.¹¹ Imposing greater punishment than that would decrease utility both by harming the criminal more and by passing along to taxpayers the cost of, for example, keeping an inmate incarcerated. In addition, if prison is less painful than expected but post-prison life is worse, the punitive distinction between varying sentence lengths begins to diminish: a ten-year sentence is not nearly five times worse than a two-year sentence. This can greatly complicate efforts to achieve marginal deterrence by punishing worse crimes more harshly than minor crimes. More generally, if our primary means of adjusting the severity of punishment is less effective than it is thought

¹⁰ See, e.g., Lucas, Richard A. et al., "Unemployment Alters the Set Point for Life Satisfaction", 15 *Psychol Sci.* 8, 11 (2004); Frederick & Loewenstein, *supra* note 5, at 314-15.

¹¹ See Frase, Richard S., "Punishment Purposes", 58 *Stan. L. Rev.* 67, 68 (2005) (explaining that most modern systems set punishment "not only [by reference to] traditional crime-control purposes such as deterrence, incapacitation, and rehabilitation, but also a concept known as parsimony—a preference for the least severe alternative that will achieve the purposes of the sentence").

to be, that restricts our ability to meet the goals of utilitarian punishment theory.

Retributive punishment theory also relies on proportionality. It demands that only the guilty may be punished, that excessive punishment of the guilty is tantamount to punishment of the innocent, and that more serious crimes deserve and require more severe punishments than less serious crimes.¹² These demands, like the goals of utilitarian theories, are rendered more difficult to meet if we are less capable than expected of adjusting the severity of punishments by the traditional means of changing the size of fines and the length of incarcerations.

The foregoing discussion has associated the severity of punishment with the amount of harm imposed on an offender.¹³ Although harm is not the only way to measure the severity of a punishment, it is at the very least an important consideration. If we were insensitive to the harm imposed on offenders, then we would be less troubled by torture or by punishments whose severity seems radically out of step with that of the crime (e.g., life imprisonment for loitering). So long as we do care about the suffering visited upon offenders by punishment, we must take account of the unanticipated effects on that suffering of hedonic adaptation.

¹² See, e.g., Moore, Michael, *Placing Blame: A General Theory of the Criminal Law* 88 (1997) (“[R]etributivists at some point have to answer the ‘how much’ and ‘what type’ questions for punishments of specific offences and they are committed to the principle that punishment should be graded in proportion to desert . . .”).

¹³ See Kolber, Adam, “The Subjective Experience of Punishment”, *Colum L. Rev.* (forthcoming 2009), available at <http://ssrn.com/abstract=1090337>, at 5 (“[A] successful theory of punishment must take account of offenders’ subjective experiences when assessing punishment severity.”).

Voice, Accountability and Freedom

DR SABINA MARIE ALKIRE

Like all of the others, I want to thank the Centre for Bhutan Studies and the UNDP for all of their vision and their labours in bringing us to together for such a nourishing and enriching few days.

And I would like also to echo the comments of appreciation that they not only provided this forum, but also allowed time in which to discuss the ideas that have been presented. And so the process of this Conference has matched the topic and there has been a coherence between them.

One of the themes of those discussions around the last three days has been confusion and a feeling of being daunted or overwhelmed by the complexity and number of components of democratic practice.

So I'd like to begin with a note of encouragement. Last month, Lord Nicolas Stern delivered a presidential address to the European Economic Association and he argued that economists did not anticipate the financial crisis, in part because their minds were so compartmentalised – they could not see the whole. They also did not co-ordinate their research to build an economy that would not fall apart. Stern said that if you look at the giants of our profession, many of them strode across it. They made important contributions right across. You could see in conversations just how easy they found it to link up different parts of the economy. He argued that in order for economists to serve the common good, rather than bend to ideological whims, economists must again stride across many parts of the profession ranging from financial stability to poverty, to climate change.

Although I am an economist, I have found that here there are many present and future giants in democratic thought and process, and the kind of wide ranging conversations that we have had are actually a very healthy approach.

Beyond the Ballot Box

The title of my paper is Voice, Accountability and Freedom in the wrong order. It could also be called Listening, Neutrality and Freedom. For is it the ability to have a voice that we speak, even if you talk to yourself in the mirror? No, what people yearn for is to be compassionately heard, to feel that others trust us, that we have wisdom and insights to contribute.

And accountability, the checks and balances on power, occur because not only are we partly wise and insightful, we are also frail and prone to foibles. So, if we are honest with ourselves, we know we also subject to laziness and vice. Allowing others to align themselves with our better selves, to remind and call out of us the best that we can offer is another motivation for accountability, but has maybe not been expressed in that way before.

In the opening of this Conference, the Assistant Secretary-General Ajay Chhibber urged the participants here to go beyond elections in their understanding of democracy. In his presentation, and in the discussions that we have had since that time, we have discussed many democratic ideals, and many democratic institutions and I think we have well completed this charge to try to think through different aspects of deepening democratic ideals and institutions.

So in this last session I would like to attempt to deepen democracy in a different way. And one way is to try to connect it in different possibilities and ways to the normative objectives of society, and the second is to ask questions not about formal democratic processes or ideals, so much as informal democratic practice outside of those formal institutions.

And I frame this as five questions, because I hope that this will foster debate rather than provide any closure. And as it's not a mystery, these are the five questions:

First, is democracy a means or an end?

Second, is voice or 'agency' part of society's objectives? For the purposes here, I will frame these objectives as Gross National Happiness.

Third, does GNH include democratic practice or process freedom?

Fourth, will democracy engage the full voice and values of the people?

Fifth, why might citizens hold the democratic institutions to account.

I would like to take as my starting point, perhaps not to your surprise, the writings of Amartya Sen, who argues that freedom has two parts or two aspects. One relates to processes, and one relates to opportunities. I'll begin with the opportunities. He has also referred to this as 'capabilities'. What he argues is that when we judge social arrangements, when we judge societies, and political and economic systems, what we should look at in part, is the ability people have to enjoy freedoms they value and have reason to value.

The 'beings and doings' he refers to come from the functionings that Professor Grayling mentioned yesterday. As well-being and well-doing, they refer to things that people value and have reason to value. Things like being nourished, being able to visit your aunt, being able to eat rich sweets, being able to enjoy a higher education. The beings and doings are not limited, but they do have the qualification that they must be things that people value, in that if I do not value it, it is not a capability.

And second, they have to be functions in some sense that people have reason to value, that are responsible to value that are not divisive or damaging to others.

Sen argues that having the freedom to obtain these functions is important because let's say that last night you stayed in your hotel room and read a novel, and you were perfectly content to do so because you had decided that. But let's say that instead there was no transport, which there has been, or there was no opportunity to go out last night. There was a curfew. Then you may have also have stayed in your room and read your novel, but you would not have had the freedom to do

anything else. Sen argues there is an important difference between those two, and so focuses on making people free or able to do things that they value and retaining for them some sense of choice in the matter. This need not be an individual choice, because in many societies choices are made by communities or in discussion, but some level of freedom, individual or collective, is retained as an objective. So that's the opportunity aspect of freedom, which in a moment I will link to GNH.

The second is a process aspect. At one level, at the individual or personal level, this relates to what Sen has called 'agency' – people's ability to behave on what they value. This need not be selfish. I could act to save the seals, I could act to help the children in my community. The same concept of agency, as far as I could detect, was presented by the Prime Minister's speech on the first evening when he said that democracy in Bhutan came not by the will of the people but by the persuasion, persistence and sacrifice of their King, who believed in the rights and the capability of people to shape their own destiny.

And similarly, Ajay Chhibber quoted Gandhi who said that in a true democracy, every man and woman is taught to think for themselves and that democracy must come from within.

So this is taking the conversation away from democratic ideals and institutions and directing it towards the people. And thinking of people, whether they are civil servants, elected officers or citizens, as people who made a value of expressing their agency, acting and shaping their destiny.

Sen also articulates in his 2002 book, "Rationality and Freedom" that the process of freedom has many other aspects and in his book the idea of justice elaborates those a little bit more. For example, it includes democratic practice and institutions, so procedural freedoms on which a number of people have spoken have other manifestations beyond the individual as well.

What we have been discussing here very clearly relates to the process of freedom, so I thought I would summarise it in a quotation, which is

often repeated by Amartya Sen. "It is essential to see the public not merely as the patient whose well-being commands attention but also as the agent whose actions can transform society."

People have been discussing, and presenters and panelists and participants have disagreed as to whether democracy is a means or an end. So what I thought I would share with you, simply for discussion, and to stir the coils of your own thoughts, is one interpretation of Sen's work and how GNH, as a representation of certain capabilities and democratic practices, as a representation of agency would fit together.

For Sen, democracy has three values: the first is the instrumental value. The example, which I think everyone is familiar with, which was the basis of Sen's 1981 book "Poverty and Famine", is his articulation that because elected leaders know that they will come before the public at the next election, and because all the famines only affect a small proportion of people, they are profoundly disturbing to the wider population. Famines do not tend to occur in a democracy. Another reason for this is that democracy tends to allow a freedom of press, so there can be information sharing, which has not always occurred in some of the tragic famines, so the government actually knows the situation on the ground.

The second, Sen argues, is that democracy has intrinsic value, not at all times perhaps, but he argues that being able to do something not only for oneself but also for other members of society is one of the elementary freedoms, which people have reason to value.

And he points to the situation that was mentioned earlier in the conference - the emergency in India - as being a testimony to the commitment of people, including very deprived people, to their own political freedom.

The third value is one that is emphasised more and more in Sen's writings and which maybe also very pertinent here. It is what he calls the constitutive value. The basic idea is that in the give and take of reasons and opinions in hearing how a policy will affect members of our society - and exchanging those kinds of information - we shape one

another's values. We influence the positions other people hold because they did not realise, perhaps, before our conversation, how a policy would affect a different group, or they did not know a piece of information, that upon knowing it, shifted their view.

He gives the example of declining fertility rates in India, which had been much influenced by public discussion, on the bad effect on fertility rates on the community at large and particularly on the lives of young women. So the two aspects were public discussions of family planning, which led to reshaping the values around families and child bearing. And this was influenced by new information, learning about family planning, learning about declining infant mortality rates around the world, about over population, and about how alternative family structures can function economically and the strains they come under with too many children.

But this new information was complimented by a critical reflection on values, the values of having too many children in order to obtain status or labour force, and in the relation to the value of maternal health and enabling higher aspirations to one's children.

So these aspects of having new information, and critically reflecting on your values by being exposed to others values, whether they are of your own society or from abroad, are all aspects of the constitutive value of democracy. Sen says that you may or may not agree with the values that others put forward, but at least understanding and engaging them strengthens and deepens your own position.

So to summarise, both capabilities and agency – or democratic practise – at the level of people are ends, and in of themselves, they can be of intrinsic value. But they may also be means to other things. If you have good health, you can go to school, you can work in the labour force. If you have a good education, it's instrumental to having family planning or a higher degree of professional attainment. So clearly, both are means to themselves, and this creates a very messy situation because there is the requirement of trade off's between them. Sen argues that these trade off's are no embarrassment, and we should not be ashamed

of the need to make them. There is no perfect way to make them, but he argues that holding them both as intrinsically valuable is essential.

So, that's one view, and there will be others. What would the implications be for the relationship between GNH and democratic practise? One could conceive of Gross National Happiness as representing a set of capabilities that was desired, a set of freedoms that was desired for all people. All people may not take of advantage of them, but at least they would be available, real opportunities that they could enjoy, should they wish.

And similarly, democracy, provides a freedom to act as an agent. So in this view, there might be ends.

There are two further points that I wish to point out. The first is that agencies are intrinsically valuable. I observe that in the domains of GNH it includes good governance and this might be a domain that also refers to this ability of people to act as agents to shape their destiny. If that position were held it would not be in isolation. Looking at the human development reports from 1990 to 2009, we find only one year when political freedoms were not mentioned as part of the objective of expanding people's capabilities. So it might be that this democratic practice, whatever it is called, could be part of the domains of GNH.

Another example is the Sarkozy Commission whose report was a released a month ago. It was a commission in France that was chaired by Joseph Stiglitz, a Nobel Laureate and many mainstream economists were involved. It argued that GDP should not be the objective, not only for France, but for many of the other countries that participated in this commission. It argued three things: We need to refine GDP. We have to include the environment. We have to come up with better measures for the quality of life. Bhutan was acknowledged in that report.

They also came up with nine dimensions. The ninth dimension is different but the other eight are broadly similar and parallel to the GNH dimensions. The sixth they called Political Voice in Government and they described it as being an intrical dimension in the quality of life.

So in a sense, maybe democracy is not only an end in itself, but also a part of GNH. A third issue is when we go beyond the formal institutions of democracy to peoples' practice and how we understand that practice. As I mentioned at the beginning, the discussions to date in this event have focused on democratic ideals such as civil liberties or human rights as well as democratic institutions. I want to focus on how democracy is practised outside of the formal institutions of government, which is the ability of an active public to influence democratic institutions so they at least respond. This is not only about elections, but going beyond elections as how citizens between elections - and through other informal media - can take part in democratic debate and deliberation and influence.

So my question is whether GNH represents the objectives of society in terms of well-being or whether it would also have a process feature. I want to mention that in 2010, because UNDP is one of the participants in this group, a global report will focus on rethinking on human development. It is 20 years since the first human development report was launched and part of that rethinking involves a reformulation of the definition of human development. The original definition focused on enlarging people's freedoms. It talked about health, education, income and livelihoods, but is also talked about the ability to participate creatively as workers. It talked about social relationships, about cultural liberty, about the role of women, and many other freedoms. But in this rethinking of human development there are questions among many different communities as to whether this definition should be expanded to include a second clause that has to do with democracy. Human development would then be seen not only as a process of enlarging peoples' freedoms to do and be what they value in life, it would also empower people as active agents in the development processes. This is tentative, it's being discussed by other groups and it would be interesting to have your input. It is also meant to clarify that people and groups together must participate as agents to try and build up the common good.

So far, I have asked three questions that may seem quite abstract, but that maybe relate to how democracy relates to GNH at least

conceptually, and the motivation for doing so was to ask two further questions, which are more practical.

These last two questions are those to which I do not have answers, but I believe are critically important and would be good to discuss further. The first question is whether the standard democratic practises will create and revise political objectives, which Professor Richardson is his opening plenary, encouraged the revision and rethinking of objectives. If these democratic processes will create and revise objectives that are as good or better than GNH, I believe it is an interesting question, The Prime Minister said in his opening speech that the purpose of democracy and the contents of development programmes, will and must change as people consider happiness as their explicit goal in life. So, if the purpose of democracy is going to change because you have this wider set of ideals, and yet at the same time, there is a learning from other countries in Asia, and a learning from other experiences in democracy that maybe have different sets of objectives. So, the question is really how these two are going to come together.

And I would like to raise three challenges. The first is an “inadvertent ventriloquism”, the term comes from Robert Chambers, and it refers to work in the village level participatory processes of civil society. And what he observed is that when an NGO or health or education minister comes to a rural community, and asks what would you like, the people look at the car, and say what they think the minister would like them to say, so this destroys the process of engagement.

And the second challenge is that there are democratic cultures in terms of the appropriate topics to be discussed and what should be omitted categorically from the discussions of the public good. The boundaries of what is public and private vary across societies.

A Southeast Asian official in 1953 said to the US. “We asked you for hope, understanding and love and you gave us money and technology. Are these the things that account for your country’s greatness?”

So the question here is that there are certain topics such as economic or technological development that are appropriate to discuss, along with

financial stability and climate change. And there are other more behavioural, cultural and attitudinal values that are not appropriate, and with which we do not have good practises for discussing and yet which seem to have greater prominence here in Bhutan.

And the third challenge is simply a fact. In the 2005 census it showed that 55% of Bhutan's population is under 24. So many of the voices that will be trying to articulate the objectives will be from the younger members of this society. So the issue is how to include their voices, which may have a different formation, different reference points and different values than the one's that have been enacted at present.

As to how the content and purpose of democracy will change having a fuller objective rather than simply economic development, I have a couple of concrete suggestions. Clearly to learn from the deliberative processes, but also to learn from the more community level participatory processes.

I had the pleasure of working in Pakistan with Oxfam and was working on women's income generating projects. And the first time we asked the women about the benefits and impacts of the project, they told us how much money they had earned. They grew roses and stitched them together into garlands and sold those garlands at a 54% rate of return and they were able to buy milk, to buy shoes to send their children to school.

We also asked about different domains of life – skills, friendships, inner peace and aesthetic matters. Their responses were quite provoking. A 34 year old widow and a mother of two was very much excluded from the community because she was a widow. But, she said that having grown the roses, and they were used as acts of adoration, people changed their perceptions of her. They invited her into their houses and even bought the roses from her, and she told me the fragrance of roses was always on her clothes.

So having a wider set of curiosities and questions about what people do value and being a bit more proactive in the public discussions and perhaps a bit more structured have been some of the avenues that

participatory village level groups have done to try to create village development plans that carry the culture and the values of the people a bit more fully.

Another possible commendation comes from Sen's latest book "The Idea of Justice", where he argues that it is such a wrong understanding to see democracy as a Western concept. He gives many examples. I will only cite three here.

In the 6th Century the Buddhist councils in India provided the earliest open general meetings and settling disputes on different points of view on social and religious matters. The adherents got together to argue out their differences. Sen also advocated more study of the emperor Ashoka, who hosted the third and largest Buddhist council in the 3rd Century, but he also spent a great deal of his life trying to promote good and spontaneous behaviour in people towards one another and to encourage values. Clearly, many would have regarded him as too optimistic, but it is an interesting and quite a different model of democracy. Third and finally, Sen mentions the Constitution of 17 Articles that a Japanese prince Shatoku produced in 604, six centuries before the Magna Carta. The Constitution insisted that decisions on important matters should not be made by one person alone. They should be discussed with many. It also said that each person has a heart and that every heart has its own moments.

These are different, gentler and richer approaches to democracy. I know that Bhutan and all of the other countries here also have traditions that I am not aware of. But they might enrich other understandings of democracy very much so.

In regards to the processes of accountability. We heard from Dasho Kinley about the aversion and the shyness to the issues of protest and conflict and yet so much of the literature and the culture of democracy in other countries relies on and indeed celebrates conflict, as does Sen's argument that we need to rage to protest to power. So how do we understand that? We need to rethink accountability not just in confronting but more as clarifying and supporting. It is also a way that the youth and the media can be involved.

I hope that those five questions I have asked might foster more open debate and I would to close by motioning the Sarkozy Commission I referred to earlier. Joseph Stiglitz was surprised by the response and he wrote, "The work of our commission has not surprisingly struck a global chord." But he also acknowledged that even before we convened, Bhutan was creating a measure of GNH and Thailand is also developing a Sufficiency Economy.

As people have spoken of their confusion, there maybe confusion because there is a difficult task that has been chosen, and there's a commitment to undertaking it very seriously and thoroughly. But what I have tried to offer here is the perspective that this task of trying to deepen democracy in new ways is important for others. The Sarkozy Commission also had nine dimensions, but it did not mention a democratic process to create them or to promulgate them or to revise them. It was behind this group in that respect. So, as different democracies in South Asia learn how to respond to these vitally important questions, many others will learn also from you.

(Transcribed)

Concluding Remarks by the Honorable Prime Minister of Bhutan

The Conference on Deepening and Sustaining Democracy in Asia has come to an end.

I hope I am not alone in believing that it has been a successful one; a productive three day discourse on the subject of one of the oldest of human institutions.

Yet we continue to be perplexed and challenged both conceptually and in practice, by what it really means and how best it can serve societal interests. What we all seem to agree is that democracy everywhere is at risk and that it is an ongoing process along perilous paths, giving reasons for some to choose more alternative, 'predictable' options.

We spoke of liberal and illiberal democracy; of it being an end in itself while others think it is a process or form for the delivery of societal goods; we heard others insist on democracy meaning different things to different peoples and countries as may be dictated or shaped by the milieu and the context within which it must function.

We spoke of prerequisites to democracy and decentralisation; of serious flaws in our electoral systems and of separate spheres of democracy: social, economy and political. And of course, we even heard, rather disconcertingly, of the media being hijacked by consumerist considerations as well as of retribution for those who cannot abide with rule of law.

Democracy is what most of us have chosen and it is what we believe will continue to be tested and challenged by a host of external and internal factors and variables. There isn't a perfect democracy and probably will never be, at least, not of the kind that we can all accept as the perfect model. To each, its own, is what we generally must accept, it seems. But it is through common endeavours like this that we, as actors in our respective fields, can contribute to making our individual democracies function a little better and become a little more creative

and resilient against the day to day threats that democracy will continue to face not unlike any other form of human organisation. The range of topics we have covered in these three days has been impressive to say the least. Each one of the resource persons made excellent presentations and did not fail to stimulate and provoke a full range of thoughts and reactions from the panellists and from the floor. Chairing by the leaders of the government delegations was superb as were the remarks they made about their personal and national experiences. What was particularly noteworthy was the frank, uninhibited and the most cordial manner in which the prolonged deliberations took place both within the confines of this room and outside in the hallways and at the dining tables, and perhaps, in some of the local bars. All in all, it was a celebration of the spirit of democracy, of the good and enlightened society that it is expected to promote - of the GNH that it must help realise.

On the part of the organisers, we have agreed that this discourse must not end in Paro; that it is too important an undertaking to be terminated; that just as democracy is a dynamic process, our dialogue must be an ongoing endeavour. And so I am most pleased to announce that His Excellency the Vice President of the Republic of Maldives has, most graciously, consented to host the next conference on democracy in the mellow season of Autumn, 2010. He has given assurances that, unlike the Cabinet session which is being held under water this week in the island paradise, our meeting will be held on the firm surface of one of its many coral islands.

Allow me to conclude with my own vote of thanks to the many who made this event possible:

To Claire van der Vaeren and the UNDP, to Dasho Karma Ura and the CBS, to Dasho Daw Penjo and the Ministry of Foreign Affairs; to Dasho Chencho, the Governor of Paro and his colleagues; and finally, to the CEO and the management of Zhiwa Ling Hotel.

I wish you all Bon Voyage and Tashi Delek. It has been a great privilege for the Kingdom of Bhutan to have received you

BIOGRAPHIES

Adri Hadi

Adri Hadi, Director General, Public Information and Diplomacy, Ministry of Foreign Affairs, Republic of Indonesia

Ahmed Bilal Mehboob

The founder Executive Director of Pakistan Institute of Legislative development and Transparency (PILDAT), Ahmed Bilal Mehboob has over 20 years experience in senior management and advisory positions and over five years experience in design, planning and implementation of legislative strengthening projects, involving national and provincial legislatures.

His major area of work has been in the forefront of strengthening democracy and democratic institutions, and providing thorough leadership on crucial issues that affect democracy and political growth in the country. Mr Mehboob has developed and spearheaded a non-partisan political research initiative from the platform of PILDAT, and has facilitated the formation of dialogue and research groups on areas such as civil military relations and electoral reforms. He is widely respected as a commentator on political and legislative issues.

Currently, Mr Mehboob is leading a group effort to put together an indigenous framework for the assessment of the Quality of Democracy in Pakistan in line with the frameworks earlier devised by the Democracy Audit, UK and IIDEA, Sweden.

Ambassador Pavan K Verma

Ambassador Pavan K Verma, Embassy of India, Thimphu, graduated with a Bachelor's degree in History from St Stephen's College in New Delhi and joined the Indian Foreign Service in 1976. He has served as Press Secretary to the President of India, as Spokesman of the Ministry of External Affairs, as the High Commissioner of India in Cyprus, Director of the Nehru Centre in London, and Director General of the Indian Council for cultural relations in New Delhi.

A well-established writer, Ambassador Pavan K Verma has written over a dozen books. His first book on a contemporary subject was the "Great Indian Middle Class", which was followed by "Being Indian; The Truth about why the 21st Century will be India's". The first book is being translated into French. The second has been translated into several languages including Japanese, Spanish, French, Portuguese and Italian.

His last published work is a translated collection of poems on Gulzar, one of India's best known poets. For his contributions in the fields on diplomacy, literature, culture and aesthetics, Ambassador Pavan K Verma received an honorary doctoral degree from the University of Indianapolis in 2005.

Anthony Grayling

Anthony Grayling is a Professor of Philosophy at Birkbeck College, University of London, and a Fellow of St Anne's College, Oxford. He is a fellow of both the Royal Society of Literature and the Royal Society of Arts in the UK. He writes for many newspapers and magazines and is a columnist for The Times of London.

He has authored many books, the three most recent which bear on the topic of this Conference are "Towards the Light" - the history of the concept of liberty and its application in modern times (from the 16th century to the present); "The Choice of Hercules" - a discussion of humanist ethics and ideas of the good life, and "Liberty in the Age of Terror - on the tension between civil liberties and security concerns in contemporary Western democracies.

He often writes for *The Observer*, *The Economist*, *Times Literary Supplement*, *Independent on Sunday* and *The New Statesman*, and is a frequent broadcaster on BBC Radios 4, 3 and the World Service. He is the Editor of *Online Review* London, and Contributing Editor of *Prospect* magazine.

He is a past chairman of June Fourth, a human rights group concerned with China, and has been involved in UN human rights initiative.

Anthony Grayling is a Fellow of the World Economic Forum, and a member of its C-100 group on relations between the West and the Islamic world.

Ati Nubaiti

Ati has been a professional journalist at The Jakarta Post since 1992 and is presently one of the managing editors, which includes being responsible the newsroom, editing copy, supervision, planning and writing editorials and opinion pieces. Her extensive writing has focused on politics, labour, women, education, health, poverty, and the conflict areas of Aceh and former East Timor.

Ms Ati has participated in a wide range of international and local seminars as both a speaker and presenter. She attended the University of Indonesia, Faculty of Social and Political Sciences and majored in Indonesian Politics in 1987. Ms Ati is also the founding member and former president of the Alliance of Independent Journalists (AJI), and a founding member and former board member of Women's Solidarity (Solidaritas Perempuan).

Champika Liyanaarachi

Champika Liyanaarachi is the first - and so far the only woman - to be the editor of a daily newspaper in Sri Lanka. That paper is the Daily Mirror, the largest selling independent English daily in the country.

She also holds a Masters degree in Conflict Resolution from Colombo University, and is currently Director of The Commonwealth Journalists Association (CJA). She was awarded the Woman of Achievement in Media in 2004, presented by the Sri Lanka Chapter, Zonta International, Chicago, and also the Sri Lanka International Journalist award in 2008, presented by Mass Media Foundation, Sri Lanka for her contribution to the international media. She was also a recent panelist at the East West Centre Conference on The Changing Dynamics of Asia and Pacific, in Bangkok in 2008.

Chompoonute Nakornthap

Advisor to the Minister of Foreign Affairs, Thailand

Chulani Kodikara

Chulani Kodikara, is currently a research associate for International Center for Ethnic Studies in Colombo. Prior to that she was Secretariat for Co-ordinating the Peace Process and Deputy Director to the Secretary General. She made important contributions to strategy and policy discussions and papers, participating at negotiations with the LTTE, attending meetings with Norwegian facilitators, the Monitoring Mission and networking with civil society organisations, including women's organisation.

Ms Kodikara was also the Senior Programme Co-ordinator for the Muslim Women's Research and Action Forum in Colombo, which focused on issues concerning Muslim Personal Law in Sri Lanka from a gender perspective.

Dasho Karma Ura

Dasho Karma Ura got his BA (Honours) in Politics, Philosophy and Economics from Magdalen College, Oxford, and M.Phil in Economics from Edinburgh University.

He is a member of the Drafting Committee of the Constitution for the Kingdom of Bhutan, Board of Bhutan Broadcasting Service Corporation, and several other committees.

Dasho Karma Ura is currently the President of the Bhutan's main research institute, the Centre for Bhutan Studies (accessible at www.bhutanstudies.org.bt), and is the author of various articles and books.

Dasho Kinley Dorji

In 1986, Kinley Dorji, was instrumental in starting Khuensal, Bhutan's first national newspaper, of which he later became Managing Director, then Editor in Chief. He has a Master's Degree in Science of Journalism from Columbia University, New York and is now Secretary, Ministry of Information and Communication for the Royal Government of Bhutan.

Dasho Kunzang Wangdi

Prior to becoming the Chief Election Commissioner for Bhutan, Dasho Kunzang Wangdi was the Auditor General of the Royal Auditor Authority, the Director of the Royal Institute of Management and the Director of Ministry of Trade and Industries respectively.

Dasho Kunzang was educated at St Stephen's College, Delhi University, India where he gained a Bachelor of Arts (with English honours) and Penn University in the US, where he earned a Master's Degree in Public Administration. He is also board member of many prominent organisations in Bhutan.

Dasho Sonam Kinga

Dasho Sonam Kinga studied English Literature at Sherubtse College, Bhutan, and earned a Masters in Anthropology at Kyoto University, Japan. He began his career in the Bhutanese Civil Service as a Curriculum Officer in 1998, and later became a research associate at the Centre for Bhutan Studies.

He retired in 2004 to work for the Save the Children Federation for one year. In 2006, he founded and edited the Bhutan Observer, one of Bhutan's private newspapers. In 2007, he resigned to enter politics. He was elected from Trashigang district to the National Council, the upper house of the Parliament. His academic interests cover a wide range of issues - including the culture, history, Buddhism, society, economy and politics of Bhutan. Out of many publications, his latest book "Polity, Kingship and Democracy - A Biography of the Bhutanese State" (2009) is of particular relevance to this Conference.

Dasho Sonam Kinga is currently a PhD student at Kyoto University and a Member of Parliament.

Dr Borwonsak Uwanno

Prof Dr Borwonsak Uwanno, Secretary-General of the King Prajadhipok Institute, is a Thai legal expert and a former Professor of Law at Chulalongkorn University. He was a key figure in both the drafting of the 2007 and 1997 Constitutions in Thailand.

Professor Uwanno is keenly aware of the growing pains of democracy and has enormous legislative experience in one the youngest democracies in the world. Dr Uwanno has written that real democracy is about resolving the inequalities of economics and justice. In essence, the quest for a better life.

He was Deputy Secretary General to the Prime Minister (in General Chatchai's Government), Policy Advisor to the Prime Minister, Advisor to the Parliament, Expert of the Committee on the House of Representatives, Member of the Committee on Administrative Reform, Member of the Prince of Songkla University Council.

Dr George Mathew

Dr George Mathew obtained his PhD in Sociology from the Jawaharlal Nehru University, New Delhi. He was a visiting fellow at the South Asian Studies Centre, University of Chicago (1981-82), and Visiting Professor, University of Padova, Italy (1988). He was awarded the Fulbright Fellowship in the summer of 1991 to work at the University of Chicago. He has participated and presented papers in international conferences on political process and democracy, religion and society and human rights.

Dr Mathew is the Founder Director, Institute of Social Sciences, New Delhi. Presently he is specialising in the local governance, grassroots democracy, decentralisation and gender equity. He is a regular contributor to national dailies and his research papers are published in national and international journals and books. Dr Mathew has been serving on various committees and commissions constituted by Government of India, State Governments and international organisations.

Based on a true story, he produced the film: "Swaraaj: The Little Republic", which won the national award for the Best Film on Social Issues (2002) from the President of India for its strong depiction of women's empowerment in rural India.

Dr Henry S Richardson

Dr Henry S Richardson earned graduate degrees in Law and Public Policy at Harvard University before getting his PhD there (under John Rawls) in 1986. His work centres on practical reasoning in all its many guises: in the reasoning of individuals about their aims, in the democratic reasoning of citizens about public policy, and in our moral reasoning. Dr Richardson's initial work concerned the nature of individual reasoning.

His second book, "Democratic Autonomy: Public Reasoning about the Ends of Policy" (Oxford University Press, 2002), argues that democratic legitimacy requires that we rule one another by reasoning with each other, and developed an institutionally, concrete account of how this can occur.

Apart from the nature of democratic deliberation, Dr Richardson's work has been mainly as an editor and expositor. He is a co-editor (with Gerald Mara and R B Douglass), of "Liberalism and the Good" (Routledge, 1990), and (with Paul J Weithman) of "The Philosophy of Rawls" (Five Volumes, Garland Press, 1999).

Dr Richardson has held research fellowships sponsored by Georgetown University, USA, the Programme in Ethics and the Professions at Harvard University, the Woodrow Wilson International Centre for Scholars, the Alexander von Humboldt Foundation, and the National Endowment for the Humanities.

Dr Mohamed Waheed

Dr Mohamed Waheed was elected Vice President of Maldives on 28 October, 2008. He is the first elected Vice President of the Maldives. Dr Waheed is Leader of the Gaumee Itthihaad party, which formed an alliance with the Maldives Democratic Party (MDP) in September 2009. Dr Waheed's political career began in 1998 when he ran the first Western-style election campaign and won the parliamentary seat for the largest constituency in the country. Dr Waheed is an experienced international civil servant who has worked in headquarters, regional and country offices of the United Nations. Until July 2008, he was UNICEF Country Representative in Turkmenistan. He served UNICEF as its Representative and head of mission in several countries. These

include Acting Regional Director, UNICEF Regional Office for South Asia, Interim Representative of Afghanistan, Yemen and Montenegro, and Acting Representative in FYR Macedonia.

Dr Narayan Khadka

Dr Narayan Khadka, who has a PhD in Economics, is currently an elected member of Nepal's Constituent Assembly (National Parliament) Dr Khadka previously served as Chief Advisor to the Prime Minister of Nepal (1999-2000) and as Vice Chairman, National Planning Commission (2002), and is the author of over two dozen books and academic articles on political economy, international development and foreign policy.

Having been involved in Nepali politics in her early student life, Dr Khadka faced imprisonment several times during the *panchayat* rule of the king. She is a former Central Committee Member of Nepali Congress (D) and currently invited central committee member.

Dr Nitasha Kaul

Dr Nitasha Kaul joined the Centre for the Study of Democracy as a Visiting Research Fellow in 2007. She holds a BA with Honours in Economics from the University of Delhi (1997), after which she was awarded a scholarship by the UK Government to study for an MSc in Economics with a specialisation in Public Policy at the University of Hull (1998). She completed a Joint PhD in Economics and Philosophy from the University of Hull (2003).

Her research has always been inter-disciplinary, critical social theory and Dr Kaul delivered a lecture on 'Changes and Challenges in the Himalayas: A Case of Bhutan' at the Research School of Humanities, Australia National University in 2009; 'The Greatest Good of the Greatest Number: Bhutan's Transition to Democracy' in Lee Kuan Yew School of Public Policy, National University of Singapore in 2009, and 'Bhutan: Growing a Democracy' at a Loden Foundation Fundraiser, at the National Liberal Club, Whitehall, London, 2009.

Dr Peter Hershock

Dr Peter Hershock is Co-ordinator of the Asian Studies Development Programme at the East-West Centre Honolulu, Hawaii. He has earned a BA, Philosophy degree from Yale University and a PhD, in Asian and Comparative Philosophy from the University of Hawaii. He has focused his research on the philosophical dimensions of Chan Buddhism, and on using the resources of Buddhist thought and practice to address contemporary issues, including: technology and development, education, human rights, and the role of normative values in cultural and social change.

His books include: "Liberating Intimacy: Enlightenment and Social Virtuosity in Ch'an Buddhism" (1996); "Reinventing the Wheel: A Buddhist Response to the Information Age" (1999); an edited volume, "Technology and Cultural Values on the Edge of the Third Millennium" (2004); "Chan Buddhism" (2005), and "Buddhism in the Public Sphere: Reorienting Global Interdependence" (2006).

Dr Sabina Alkire

Dr Sabina Alkire is an economist interested in the ongoing development of the capability approach initiated by Amartya Sen. She is currently the director of the Oxford Policy and Human Development Initiative at Oxford University.

Her publications include "Valuing Freedoms: Sen's Capability Approach and Poverty Reduction", as well many articles on philosophy and economics.

Dr Alkire's research interests include value judgments in economic decision-making, the conceptualisation and measurement of individual agency freedoms (empowerment) - particularly in South Asia - and further development of the capability approach by the academic, policy, and activist communities.

Previously, she has worked for the Commission on Human Security, coordinated the culture-poverty learning and research initiative at the World Bank, and developed participatory impact assessment methodologies with Oxfam and the Asia Foundation in Pakistan.

Geraldine Fraser-Moleketi

Geraldine Fraser-Moleketi is currently the Director of Democratic Governance Group, Bureau for Development Policy UNDP New York. Before joining the UNDP, Geraldine served the South Africa Government for over 14 years in various positions, most recently as Minister for Public Service and Administration and Member of the South African Parliament. Prior to this, she was Minister of Welfare and Population Development. She has also served in a number of leadership roles within Parliament, including as Chairperson of the Sub-Committee on Rules of the National Assembly of the Parliament of South Africa. Geraldine has been instrumental in mainstreaming gender into government policies.

She led South African delegations to the Organisation for African Unity and Commonwealth Women Minister's meetings and chaired the Pan African Conference on Women's Development, Equality and Peace in Rwanda. Geraldine's leadership role stretches well outside government. She serves on many Boards, Committees and African Regional Institutions. She was awarded a fellowship to the Institute of Politics at the Kennedy School of Government and holds an MA in Public Administration from the University of Pretoria.

Hasbat Hulan

Since 2007, Hashbat Hulan has been a highly effective National Advisor to Millennium Development Goal Projects and Advisor to the Minister of Education, Culture and Science in Mongolia.

As Chairperson of the Standing Committee on Social Policy of the Great State Hural (Parliament) she served as team leader for several working groups that made many important amendments to Social and Health insurance and to various codes concerning Law, Education and Labour.

Hashbat Hulan has a Phd in International Relations from the Moscow State Institute of International Relations and has a wealth of legislative experience and a long and fine record in developing democratic governance indicators in Mongolia.

HE Dr Ajay Chhibber

HE Dr Ajay Chhibber is UN Assistant Secretary-General, UNDP Assistant Administrator and Regional Director for Asia and the Pacific. He earned his BA from St Stephen's finishing as the Best All-Rounder, got his MA from the prestigious DSE and a PhD from Stanford University in 1983 on a Stanford Fellowship.

HE PM Jigmi Y Thinley

HE PM Jigmi Y Thinley got his BA (Honours) from St Stephen in DU and MPA, Pennsylvania State University. HE was bestowed by His Majesty the 4th King the honour of the Order of Heart Son of Bhutan in 1999 and by His Majesty the 5th King the highest civilian decoration, the Druk Wangyal.

Lalita Panicker

Lalita Panicker has been the Senior Associate Editor at the Hindustan Times since 2007, after having worked for 13 years at the Times of India as Assistant Editor and then Senior Assistant Editor. Her current work focuses on the editorial and op-ed pages and involves commissioning articles, writing editorials and overseeing all opinions that go into the newspaper, including letters to the editor. She writes on a variety of subjects ranging from social development to politics and has tried to ensure that the issues which concern the voiceless do get editorial mention at a time when other newspapers tend to ignore them.

She has worked for National Alliance for the Right to Education, the Population Council in New Delhi and the National Alliance for the Right to Education and as a consultant to the International Aids Vaccine Initiative in New Delhi. Her work has entailed close interaction with senior officials of the prime minister's office, Ministry of External Affairs, Ministry of Information and Broadcasting, Human Resource Development and the Ministries of health, women and child welfare and education.

Lee Kwan Boon

Lee Kwang Boon is the Secretary- General of the UN Association in Singapore and has 15 years' experience of investing in public and private equities in several major financial houses. Kwang Boon has a long standing interest in the United Nations and its development. Mr

Boon is a firm believer that all who love peace and share the belief of a common humanity should support the United Nations and what it represents. He remains a passionate advocate for cultural understanding that crosses national boundaries. He is also a dedicated supporter of Bhutan, and promotes the informal Singapore-Bhutan Friendship Association.

Pauline Tamesis

Pauline Tamesis is the Democratic Governance Practice Leader of the UNDP Regional Center in Bangkok. Prior to joining the Centre, Pauline worked at UNDP Bureau for Development Policy in New York, as the Democratic Governance Practice Manager, overseeing the global democratic governance portfolio of UNDP. She served for 12 years as the lead Policy Adviser on Anti-Corruption, Accountability and Transparency in UNDP headquarters.

Pauline has 16 years of international development and financial management experience, with 14 years of diverse governance experience in technical/policy advisory and programme management, fund raising and knowledge networking. She has an MBA from Georgetown University, Washington, DC and currently covers the areas of democracy assistance, anti corruption, parliamentary strengthening and electoral support.

Professor John Bronsteen

Professor Bronsteen joined the faculty in 2005 from the University of Chicago Law School, where he had spent two years as a Bigelow Teaching Fellow and Lecturer in Law.

Before that, he was an associate at Goldstein & Howe in Washington, DC, and as a law clerk for Chief Judge Douglas Ginsburg of the US Court of Appeals for the DC Circuit.

Professor Bronsteen, along with Christopher Buccafusco and Jonathan Masur authored a research article entitled “Happiness and Punishment” in which they argued that in the fields of law, economics, and philosophy, the leading concept of human welfare is preference-

satisfaction – or getting what one wants. The article defines welfare as subjective well-being – or feeling good.

He has co-written a series of articles on happiness research and the law, and about how the new science of measuring happiness has not only transformed self-help, but could also well transform society.

To Professor Bronsteen and other like-minded scholars, knowing that people get it so wrong gives the law a new chance to get it right. He is also the author of a very popular book “Writing a Legal Memo”, which has proved to be an invaluable resource into the American legal system.

Professor Mark Mancall

Professor Mark Mancall is a Professor of History at Stanford University. A graduate of Harvard, Mancall has spent time in Helsinki, Leningrad, and Taiwan, becoming a scholar of diplomatic relations between Russia and China. His more recent academic interests include South Asia and Tibetan Buddhism. He pioneered coeducational housing as the Resident Fellow of Stanford’s first co-ed house and has been the Director of Stanford’s Program in Structured Liberal Education since its inception. He is now working for Royal Education Council, Bhutan and Stanford University in the US.

Professor Michel Balinski

Professor Michel Balinski was born “some 70 years ago” in Geneva, Switzerland, into a polyglot family. In 1954, he graduated from Williams College with a Bachelor’s Degree in Mathematics, followed by a Master's Degree in Economics from the Massachusetts Institute of Technology, and, in 1959, a PhD degree in Mathematics from Princeton University.

During his 40-year professional career, Michel Balinski has distinguished himself with an exceptional number of successful activities, beyond what a professor normally is paid for - research and teaching.

He founded the journal *Mathematical Programming*, which became a leading journal of the field. He served as president of professional

societies, visited an impressive number of international universities as a guest lecturer, and served as the System and Decision Sciences Chairman of IIASA, the International Institute for Applied Systems Analysis in Luxemburg near Wien.

Raden Siliwanti

Director, Politics and Communications, Ministry of National Development Planning, Republic of Indonesia

Renata Lok Dessallien

Renata Dessallien has served the UN for 22 years in Africa and Asia, mainly with UNDP. For the last eight years she has been RC/RR, first in Bhutan and currently in Bangladesh. Prior to that she was DRR in Myanmar and Mali, and ARR in Laos. In Bangladesh, she co-ordinates a UNCT of 13 members, collectively delivering about USD 280 million p.a. with total staff close to 2000. The team is known as a reform self-starter for having embraced a tailor-made “Delivering as One” strategy. The strategy is grounded on achieving the behaviours required for delivering more coherent UN results.

Renata takes special interest in democratic governance and in bridging the gap between theory and practice, a subject she has explored in both published and internal papers.

Sudharshan

Sudharshan currently works in justice and human rights, civil society empowerment and parliamentary reform, and provides policy advice to Country Offices on legal and judicial reforms and constitutions. He also conducts research on law and economics and provides guidance on access to justice and achievement of the MDGs.

Sudarshan has been with UNDP since 1991, and previously served as Justice Advisor at the UNDP Oslo Governance Centre. He has also served as the Senior Economist and Head of Public Policy Division at the Human Development Resource Centre, UNDP India, and was Governance Advisor at UNDP Indonesia.

Sultana Kamal

Sultana Kamal is Executive Director of Ain o Salish Kendra (ASK) Legal Aid and Human Rights Resource Centre in Bangladesh and a politician of broad experience. She was an adviser to the interim Caretaker government of Bangladesh under chief adviser and President Iajuddin Ahmed. Kamal, along with three other advisers, resigned after a series of disagreements, which included army deployment in the country, with the Chief adviser and President Iajuddin Ahmed. She took part in the Bangladesh Liberation War in 1971.

Sultana Kamal started her career as a teacher in the Music College. She passed the BCS Examination and joined Bangladesh Tobacco Company. In 1976, she joined an international voluntary service in Khadimnagar, Sylhet, and in 1978 completed her Bachelor of Law degree from Dhaka University.

She earned her Masters Degree in development studies in Women and Development, in the Netherlands. Until 1990 Kamal worked for the Vietnamese boat people in Hong Kong as a UN legal consultant, and then became a freelance Consultant on Law, Development, Women's and Human Rights until 2001. She was awarded the John Humphrey Freedom Award in 1996.