

Beyond the confusion of rights and democracy

– assessing Beetham’s democracy assessment.

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I

In the world of scholarly seminars and updated policy documents, democracy, ‘good governance’, human development, and even peace-making now seem to have been brought together in a happy joint family of ‘rights based’ fundamentals of life. Human rights and democracy moreover, tend to be seen as preconditions for peace and pro-poor sustainable development rather than at least partly an outcome thereof.

In reality though, a few problems remain. The causal relations in the rights based approach are notoriously vague. What really happens, or what might happen given certain conditions and interventions, are often intertwined with opportune ideas of what should happen or what should be done. If rights and democracy are prerequisites for most good things on earth, one would like to know what is needed to reach such a new equivalent of Rostow’s long abandoned ‘take off’ stage.

Remarkably moreover, studies of human rights, democracy, development and peace tend to remain separated, theoretically as well as institutionally, even in countries like Norway and Sweden where it is official policy to foster the connections in foreign aid and other relations.

One of the more crucial scholarly works, therefore, is the recent ambitious effort by David Beetham with Sarah Bracking, Iain Kearton and Stuart Weir, supported by

International IDEA,² to design and operationalise a universal and theoretically coherent as well as practically applicable framework for assessing the performance of human rights based democracy, *Handbook on Democracy Assessment*, The Hague: Kluwer Law International, 2002; (see also www.idea.int).

Theirs has not been an easy task. There are sharp conflicts between the rhetoric of rights based democracy, development and peace, on the one hand, and the actual positions, on the other. In reality it is not just that conservatives and radicals alike remain divided on the issue of whether the promotion of human rights should be held apart from democracy (since the former is deemed more universal than the latter) or kept together (since both are mutually dependent). Obviously many people also point to war as one of the historically most important factors behind democratisation (no matter whether they like it or not); at least when warriors have had to mobilise popular support and dictatorships have lost out. Consider, for instance, the Second World War, the anti-colonial wars of liberation, the cold war in eastern Europe, or, some say, today's Iraq, at least in its Kurdish parts. The even more common argument against the rights based thesis is that no matter how much we appreciate human rights, democracy and peace, they still require the altering of certain power relations through socio economic development. The chief economists, for instance, remain at the helm at the very same development aid agencies that say the new fashionable prayers, and there are few signs of anything like 'chief democrats'. Others maintain that enlightened elitist interventions in favour of constitutionalism, rule of law and tough measures against corruption must precede and can not develop simultaneous with more advanced human rights and democracy – since 'popular sovereignty' is bound to be either hijacked by scruple less rulers or abused by uncivilised masses. Even

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celebrated soft promoters of ‘good governance’ say that that does not necessarily call for democracy.³ Yet others advocate unspecified ‘cultural change’ against certain devastating features of ethnicity (in the South), religion (Islam), and personal rule (‘patrimonialism’ and ‘clientelism’ – not ‘leadership’ and ‘networking’), since otherwise ‘western’ rights and democracy would not be meaningful.

In fact, even those who anyway maintain that democracy etcetera can be crafted are not always in line with the rights based thesis. The dominant promoters, on the one hand, define human rights and democracy quite narrowly, giving priority to elitist negotiations, and enabling the oligarchy to retain its assets in increasingly privatised economies, while confining popular engagements to depoliticised civil society activity. In similar ways, the rights and democratic control of people on the ground tend to be set aside within elitist conflict management and peace accords, such as in South Africa, Sri Lanka and Aceh. The harshest critics of these practices, on the other hand, turn the coin upside down in favour of ‘substance rather than procedures’, passionately arguing that what really matter are socio-economic rights and popular involvement, thus neglecting the importance of rules of the game against the imposition of raw powers by the well endowed. Finally the scholars and activists who maintain that the state, parties, trade unions, and representative democracy have been so sidetracked by global neo-liberal post-industrialism and so dominated by the elite that one should rather opt for polycentric struggle via NGOs and social movements in favour of judicially guaranteed rights, extra-parliamentary pressure politics, direct collaboration with sympathetic lawyers and bureaucrats, and, most importantly, direct participation and self-management in civil society – these campaigners may

² The Stockholm based Institute for Democracy and Electoral Assistance

³ See e.g. Göran Hyden, Julius Court, and Kenneth Mease, *Making Sense of Governance. Empirical Evidence from 16 Developing Countries*, Boulder and London: Lynne Rienner Publishers, 2004, Ch. 1, e.g. pp. 23 and 26.

unintentionally undermine the basics of democracy.⁴ This is by having no firm answers to what people should be in control of what public matters and organs on the basis of what kind of political equality and engagement.⁵

Equally problematic, this state of affairs is also reflected in the available schemes for considering the dynamics and state of rights and democracy. The models tend to focus on separate, specific elements of democracy such as basic freedoms, human rights, the rule of law, elections, governance, participatory practices or civil society, the best known example probably being that of the Freedom House ratings. Aside from being unable to thus address the interconnections, these frameworks shape descriptive and often static measurements, rarely addressing the process of generating and implementing rights and so on, thus avoiding how the intrinsic elements of democracy relate to the various actors and conditioning factors. Moreover, the models that do try to consider actors and conditions, like the academic studies of development and democracy and UNDP's *Human Development Reports*, are usually too general and limited to simplistic indicators of democracy and development. Other approaches concentrate on social movements or NGOs with connections to widely defined human rights, but without making systematic links to the theory and institutional structure of democracy in general.

⁴ At least according to Beetham's widely acknowledged definition, to which we shall soon return: popular control of public affairs on the basis of political equality.

⁵ For instance: (a) What constitutes the *demos*? All citizens in a union like the E.U, in a country, in a district or municipality, in a village, in a fenced middle class neighbourhood, in ethnic or religious communities, in 'stake holder' civil society organisations' that somebody has identified, or only those people who attend meetings like participatory budget sessions? (b) What matters are public and what are private? (c) What are the instruments of popular control and what are the relations between them (such as between the legislature, the courts and the administration)? (d) What factors are intrinsic to what kind of political equality? Does political equality also call for social and economic equality or can we live with less, such as basic freedoms only or the additional will and capacity to use them? (e) What engagement and organisation is needed to generate and sustain democracy? Contentious politics or community co-operation with high density of 'social capital'? (C.f. John Harriss, Kristian Stokke and

II

In view of these disturbing tendencies, the Beetham-led attempt to design and operationalise a universal framework for assessing human rights based democracy is a path breaking step ahead.

The work generalises and expands on the experiences from the democratic audit in Britain (which has also inspired the Swedish, Danish and Norwegian research programmes on power and democracy). The major strengths of the assessment framework are its firm and theoretically rooted distinctions and connections between human rights and democracy, the aims and instruments of democracy, the intrinsic and conditioning factors of democracy, and the extensive operationalisations as well as guides to relevant sources. The chief weaknesses are that this format as so many others is limited to rather static descriptions of institutional performance without systematically considering their scope and at the expense of actors, mechanisms, and processes. Like other assessment schemes it also suffers from being both donor driven, rather than grounded among the people who actually fight for democracy, and dependent on databanks plus elite-level informants, who tend to be particularly insufficient in developing countries and have little grass-roots contact or understanding. Let me discuss these pros and cons in somewhat more detail and conclude with a few notes on possible ways ahead.

III

To begin with, Beetham et.al. do not accept the common remark that democracy is a contested concept that one can not agree on with unclear relations to human rights. Rather the authors argue convincingly that while the conditions and means of

democracy (such as different propelling forces and parliamentary versus presidential systems) and ideas of what to use democracy for (such as different types of social economic development) may be very contentious, there is a generally accepted meaning or aim of democracy in terms of 'popular control of public affairs on the basis of political equality' – which presupposes, in turn, seven principles, namely: everyone's right and ability to *participate*, the *authorisation* of representatives and officials and their *representation* of main currents of popular opinion and the social composition of people – in addition to being continuously *responsive* to the opinions and interests of the people and *accountable* to the citizens for what they have done; which in turn requires *transparency* and *solidarity* among the citizens and others who fight for democracy.

If this is accepted (and I have not come across any theoretically or empirically convincing counter arguments), the importance of *human rights* is simply that they are basic to most (if not all) of these values – while the values in turn are critical for the shaping and practicing of human rights. Democracy presupposes the basic and often constitutionally guaranteed freedoms and rights that aside from the freedom of information are best outlined in the international human rights conventions, including those on social and economic rights. Human rights in turn do not seem to be either given by God or an enlightened elite but call for democratically oriented struggle, government and administration; including firm distinctions between the decisions on legal rights and obligations in the legislature, interpretation of them within the judiciary and implementation through the administration. Human rights and democracy may not be separated, either theoretically or practically.

Another already widely accepted point of departure is Beetham's argument that the listed aims of democracy have to be promoted by a set of semi-universal means or instruments in order to generate the following:

- (a) Constitutionalism by way of the judiciary: Equal citizenship, rule of law, justice, civil and political rights, and socio-economic rights in terms of basic needs;
- (b) Popular sovereignty by way of legislative and executive government: Democratic elections, representation, and responsive and accountable government and public administration;
- (c) Civic engagement by way of civil society: Free and democratically oriented media, art, academia, associational life and other forms of additional popular participation, including consultation and various forms of 'direct democracy'.⁶

This may serve as a basis for the much needed specification of the various element of democracy, in contrast to the simplistic 'black box' studies that only consider variables such as free and fair elections. In fact, the major part of the handbook is the spelling out the detailed instruments, how they may be operationalised, and where relevant and reliable information is available.

Yet, advocates of deliberative and direct democracy could object to the relative importance attached to representative democracy here, and the inclusion of 'social and economic rights in terms of basic needs' too might be controversial. But representation and government are unavoidable beyond pure associational democracy and extreme forms of sectoral and geographical fragmentation of the *demos*;⁷ and 'basic needs' are necessary for all citizens to survive and form their opinions with some critical degree of independence from the dominant actors.⁸ Interestingly, the

⁶ These institutions tend to be defined broadly as the rules of the game, thus including constitutional as well informal arrangements. Conventions on democratic governance within civil society organisations for example, or that political parties should represent the opinions and interests of their constituents are also vital.

⁷ C.f. footnote 5.

⁸ In defence of certain colleagues, I think the argument that 'basic needs' are necessary for all citizens to survive and form their opinions with some critical degree of independence from the dominant actors has simply been so self-evident in countries with the most influential departments of political science that it has been taken for granted and left out, while it is not the case in the rest of the world.

latter were not deemed intrinsic in Beetham's essentially British based book on democracy and human rights from 1999,⁹ but now they are.

This does not mean that extensive social and economic rights are incorporated, only some very basic standards to guarantee survival and political independence. More advanced social and economic rights of the kind that human rights campaigners often suggest are not considered intrinsic to democracy but something people may use democracy to fight for. One could have asked for firmer distinctions in this respect, including, for instance, concrete examples such as the fact that even quite downtrodden though organised, well informed and reflective *dalits* (oppressed castes and tribes) in India can make reasonably good use of the available democratic instruments, or that history testifies to the dangers of putting at risk the practical chances of forming alliances among groups who are agreed on a reasonably meaningful democracy based on core human rights but do not all subscribe to the ideals of wholesale catalogues of rights or socio economic equality. But the indicated boundaries are clear enough.

Most importantly, then, these basic rights and institutions must not merely exist but also perform well. One of Beetham's crucial arguments is that one cannot assign democracy merely because some of its instruments, such as elections, are in place – it all depends on the extent to which such institutions do actually promote the aim(s) of democracy. A question must thus be formulated about existence and performance in relation to each and every right and institution.

This is not to evaluate whether these instruments are producing policies to our liking or not (the outcome) – only the extent to which each instrument fulfils its purpose of

⁹ David Beetham. *Democracy and Human Rights* (Oxford: Polity Press, 1999),

contributing to the democratic infrastructure (the output). For instance, to what extent are the institutions that are supposed to uphold equal citizenship really doing so?

A similar distinction is also useful in drawing a line between democracy support and partisan involvement in the internal political affairs of a country or organisation.¹⁰

IV

If this is all good, what are the weaknesses? At what points do we have to go beyond Beetham et.al? My answer is largely based on ‘practical’ experience. Having been involved in comparative case-study research of the pro-democracy efforts Indonesia for some time,¹¹ there was a request in 2002 from concerned scholars and activists to also develop a framework for a national wide general assessment from below of the problems and options of meaningful human rights based democracy after the fall of Soeharto, and then to carry out a solid national survey as quickly as possible. The thus formed team (which I have co-directed since) started off with Beetham’s model, then simply revising what did not work and adding what was found missing.¹²

To begin with it is essential to attach one precondition to Beetham’s list of rights and institutions that are intrinsic to democracy: whether there is correspondence between the official identification of the citizens and how people identify themselves in public matters – in our case as Indonesians or members of the districts rather than as members of a local or religious or ethnic community.

¹⁰ See Olle Törnquist, ‘ Repoliticisation of Democracy in Developing Countries: Reflections on an Emerging Trend’, Paper to workshop on *Supporting Political Party Systems*, organised by Sida and the Collegium for Development Studies, University of Uppsala, 13 October 13 2004, and forthcoming in an anthology from Sida and the Collegium.

¹¹ See e.g. Olle Törnquist, *Popular Development and Democracy: Case Studies with Rural Dimensions in the Philippines, Indonesia and Kerala* (Geneva and Oslo: UNRISD and SUM, 2002) and the most recent studies in S.A. Prasetyo, A.E. Priyono and O. Törnquist, *Indonesia’s Post-Soeharto Democracy Movement* (Jakarta: Demos, 2003).

¹² The concluding report will be launched on November 24, 2005; for early executive reports and more information, see www.demos.or.id. A briefer and more theoretically oriented essay on our approach and results is forthcoming in ‘*Democratization*’, mid-2006.

That said, the framework offered by Beetham and IDEA is very unwieldy, so the alternative framework that was created for the research in Indonesia and improved over the course of two rounds of survey interviews contains just 40 partially aggregated democratic rights and institutions rather than the formers tally of 85 instruments.

Third, detailed follow-up studies of the character and reasons for good or bad performance in terms of the institutional mechanisms and the balance of power are of course difficult to handle in a broad assessment. Some factors may be addressed by considering the answers to other questions. Poor institutional performance regarding the promotion of equal citizenship may for instance be combined with the performance of instruments to uphold the rule of law or prevent corruption. Yet other aspects, however, relate to the scope of the instruments and to the will and capacity of various actors to do something. This call for additional variables and indicators other than Beetham's performance, for a democracy to be meaningful, namely the instruments must have a reasonable scope and citizens must be willing and capable of promoting and using them.

In very brief conclusion, the alternative framework developed in Indonesia thus addresses the thirteen issues listed in box 1, only one of which is systematically but more extensively covered in Beetham's model (i.e. the second factor in the list regarding the performance of the rights and institutions).

BOX 1: <u>13 basic questions for assessing meaningful human rights based democracy.</u>	
<u>Factors intrinsic to democracy</u>	
● Political identity/ <i>demos</i>	1. How do people identify themselves in public matters (in our case as Indonesians or as members of districts, or as members of a local or religious or ethnic community)?
● Performance of instruments	

<ul style="list-style-type: none"> ● Scope of instruments 	<p>2. What is the performance of the 40 major instruments of democracy, and has performance improved or deteriorated, in our case since the 1999 elections?</p>
<ul style="list-style-type: none"> ● Actors' relation to instruments 	<p>3. What is the geographical and issue related scope of the 40 instruments of democracy, and has it improved or deteriorated, in our case since the 1999 elections?</p>
<ul style="list-style-type: none"> ● Actors' capacity to promote and use or abuse instruments 	<p>4. How do vital actors relate to the 40 instruments of democracy (promote and use, use only, sometimes use, bypass/abuse), and in relation to what instruments are they strong or weak?</p> <p>5. What do pro-democracy actors deem to be the pros and cons of working with the 40 instruments of democracy?</p>
<ul style="list-style-type: none"> ● Actors' capacity to read, adjust to and make use of structural and other conditions 	<p>6. In what spheres of the widely defined political landscape are the actors present?</p> <p>7. In what ways do the actors politicise issues, interests and ideas?</p> <p>8. In what ways do the actors mobilise popular support/involve people in politics?</p> <p>9. What strategies do the actors apply in making their way through or avoiding the political system?</p>
<p><u>Link to non-intrinsic conditions for democracy</u></p>	
<ul style="list-style-type: none"> ● Actors' capacity to read, adjust to and make use of structural and other conditions 	<p>10. What are the structural political opportunities for the actors?</p> <p>11. What sources of power do the actors rely on?</p> <p>12. How do the actors attempt to transform those powers into authority, legitimacy and thus political influence?</p> <p>13. What kind of values, ideas and experiences are the actors consciously or unconsciously guided by in their public activities?</p>

Finally, the efforts by Beetham et. al. does not really go beyond the donor driven assessments that rarely give priority to the views and priorities of the human rights activists and pro-democrats on the ground who are supposed to propel changes. Most of the sources that are recommended in IDEA's handbook, moreover, are clearly insufficient in developing countries where it is difficult to find relevant and reliable domestic research and data banks. The result is that the scholars and activists who like

to use the IDEA-scheme mainly have to compensate by adding their own estimates and conducting interviews with experts in metropolitan air-conditioned offices.¹³

In Indonesia, we tried to solve these problems in two ways. First, by revising and expanding Beetham's scheme by considering comparative cases studies of the experiences of democracy activists (inside and outside Indonesia) as well as the international and local arguments about the problems and options of human rights based democracy that should be brought to test. Second, by co-operating (while upholding our academic integrity) with major pillars of the democracy movement – thus being able to rely on the assessments regarding 331 basic questions by 798 experienced and reflective pro-democracy activists within the 14 major issue areas of contention in the 32 provinces. After all, these people should know best of the problems and options. Only with this framework and strategy at hand did we approach donors for funds. The concern among many colleagues that such informants would be prone to exaggerate the problems has been proven wrong. Many of their collective judgements have in fact been more balanced than those of media-hungry, top level experts and there is a high level of consistency within the material. Critical scrutiny and additional comments and improvements by more certified experts and leading figures have also been added in the discussion of preliminary results at central and local seminars.

IV

In conclusion, however, this is not to negate the qualities and importance of the *Handbook on Democracy Assessment* by Beetham et.al. Quite the opposite: it is to illustrate that we have been empowered with a theoretically as well as operationally

¹³ The character of the pilot country studies based on IDEA's scheme such as that on Bangladesh

solid framework for analysing the inter-relationships between human rights and democracy that may serve as a basis for improvements; improvements that may bridge the gap between studies of the state of human rights based democracy and the processes and actors involved, including the actors' actual relations to the instruments of rights and democracy with regard to peace and development.

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confirms this.