

CAN DEMOCRACY BE ACHIEVED UNDEMOCRATICALLY? AN EXAMINATION OF THE NEXUS BETWEEN PROCEDURAL AND SUBSTANTIVE THEORIES

BY

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ABSTRACT

The historical development of democracy reveals it as an institutional arrangement in which people articulate a vision of their values and cultural perspectives towards combating the challenges of governance. This vision of a people's values and culture permeates the character of democracy both in the Athenian democratic *polis* as well as in other societies that practice it. Democracy is thus the power of the people to govern themselves. It provides a framework in which the people occupy their space. They see themselves as being in charge, even if the charge is through their representatives. However, there is no clear-cut articulation of a logical congruence between the process (procedural) and the outcome or goal (substantive) of democracy. This lack of correspondence between the procedural and substantive democratic model has severely hampered its practice. Democratic practice, in many instances, reveals a consistent undermining of the procedural component of democracy, which ultimately impinges on the substantive democratic value. While the democratic process refers to the intrinsic value of democracy, the democratic outcome refers to the instrumental benefits of democracy. This prescriptive value is done through reflections on the dynamics of the relationship between the procedural and substantive democratic theories. This work is thus, a theoretical exploration of the nexus between the process and goal of democracy; leading to the conclusion that democracy should be achieved democratically and not undemocratically.

Keywords: Democracy, Procedural, Substantive, Prescriptive and Undemocratic

INTRODUCTION

The democratic wisdom of a well-polished governmental value that captures a universal interest, vision or gaze has become an indelible socio-political reality that will shape the governmental structures of societies for a very long time. The attractive credentials of democracy such as periodic elections (that ensure a peaceful transition of power), separation of powers, the rule of law, freedom of the press, civil liberties, etc. present democracy as a universally acceptable system of governance worthy of practice in all societies.

Despite the negative characterization of democracy by some scholars (Plato BK.VIII), the democratic system is fortunate to possess an adaptability capacity that is relevant to the existential condition of societies. It is noteworthy that democracy is so semantically elastic that it seems valid or reasonable to argue that every human society has had a form of democratic practice. Indeed, the elasticity and confusion that surround the theory of democracy make it imperative for further clarification of the concept. Democratic discourse often seeks to locate the power base in society, as those in office are different from those in power (Ake, 2000). Power relations are fundamental

because decisions about societal existence are determined by those in power. Those in office may also be in power, but sometimes, those in the office are representatives or agents of those in power i.e., those who determine the trajectory of events that society should follow. Usually, those who hold power are antagonistic to democratization because elites who hold political power do not willingly surrender power. Ake captures this narrative in his submission that “the basic paradox of democratization is that those who have power tendentially have no interest or inclination to democratize, for democratization entails the distribution of power against those who are in power and those who are privileged” (*Ibid.*). Despite this reality of power-play in the public sphere, the ideal holders of power in a democracy should be the people. Democracy, is, therefore, for this study, defined as people’s rule or rule by the people. This is clear in democracy’s etymology or root meaning as *demokratia* (*demos* or people) and (*kratia* or rule). The idea of people’s rule is, therefore, imperative in any proper conceptualization of democracy (Satori, 1987; Thompson, 1994; Owolabi, 1999).

The prescriptive character of political philosophy is adopted in our interrogation of the nexus between the procedural and substantive democratic model. By the prescriptive character of political philosophy, we mean that political philosophy places emphasis on what ought to be the case or what should be the case. We can differentiate this from what actually is the case. This is in line with the political philosopher’s major task “as a thinker of political ideas, to prescribe the ideal.” (Falaiye, 2012). This paper, is thus, not an examination of the existential context of democratic practices. This work embraces philosophy’s critical and rigorous tools (Olu-Owolabi, 2011) in examining concepts for a better appreciation of the theory of democracy. Adeigbo corroborates this position of the prescriptive value of political philosophy in his assertion that social and political philosophy is concerned with a view to defining the ideal (1991).

Furthermore, Omoregbe and Oyeshile add their voices to the basic character of socio-political philosophy. According to Omoregbe (2007), “Political philosophers are theoreticians, they propound theories of what a political society ought to be.” In a similar vein, Oyeshile observes that social and political philosophy critically examines problems affecting how society and politics are organised. This is done through two ways, “(a) through the analysis of political concepts and (b) through the prescription (normative aspect) of a just political order.” (2024).

The attempts to clarify the prescriptive nature of socio-political philosophy is with the aim of eradicating misconceptions that often arise in the assumption by some that an analysis of democratic theory should equally capture its practice. This is not necessary. In this study, I will consider some conceptions of democracy as a prelude towards examining the nexus between the procedural and substantive democratic theories.

PERSPECTIVES ON DEMOCRACY

The divergent conceptions of democracy hardly overlook the value of the idea of the people's right to govern themselves. Democracy can then be defined as a system of government in which the people govern themselves either directly or through elected representatives. The people, in most democracies, refer to adult citizens in society.

In ancient Athens, acclaimed to be the origin of democracy, the citizens realised the need to govern themselves in a manner agreeable to their social condition. Since the ancient Athenian experience,

democracy has become so fashionable that some scholars present it as the most credible form of government (Raphael, 1967; Usifoh, 1999; Oyeshile, 2024). Different regimes with different characteristics and procedures claim to be democratic. Democracy has thus assumed an *omnibus* status, so much so that it has become a legitimising seal that gives credibility to regimes: “If a government or state is thought to be undemocratic, it is subject to intense international criticism” (Wolf, 1996). It is this status of conferring legitimacy to governments that makes democracy a political virtue and a value that societies attempt to attain. Restating the prevalence of democracy further, Janda, Berry, and Goldman observed that “the term has become so popular that the names of more than 20 percent of the world's political parties contain some variation of the word democracy” (1997).

Owing to the polemics surrounding the concept of democracy, scholars have not agreed on its true essence. Democracy has been labelled as an ambiguous thing and an amorphous term (Dahl, 1991; Macpherson, 1992), with “enduring contradictions as a system of governance” (Bastian and Luckan, 2003). It has also been variously perceived as a means of securing freedom and an improved standard of living (Ogundowole, 1994; Ake, 2000; Themcani, 2005), a “confusing” term (Graham, 2006) that depicts “all that is bright and beautiful” and “a promiscuous and often purely rhetorical word” (Crick, 2002). Some scholars further argue that democracy has been elevated to an “honorific status” (Ake, 2000; Saliu, 2004; Owolabi, 2006) that is subject to universal acclaim (Hoffman and Graham, 2006) and confers legitimacy on governments (Alford and Friedland, 1985; Uzoigwe, 1989; Dunn, 1992). Notwithstanding the ubiquitousness of this concept and its assumption of diverse meanings to different scholars in varied climes and at different times, democracy still stands as a popularly acceptable governmental system in different societies.

Although it is generally regarded as a form of political practice that emanated from the Athenian city-state, democracy is more specifically postulated as a system of government that may have existed in all human societies. According to Nzongola-Ntalaja, “democracy is not an exclusive property of the West. Democratic norms and principles are universal, although institutional forms and procedures may vary through historical epochs and from one country to another” (2000).

Given these unabated unambiguous characterizations of democracy, there is the need for a delineation of the principle and practice of democracy. In what follows, I argue for a congruence between the procedural and substantive democratic models.

Theoretically, a democratic government should embody the principle that binds democracy as a concept. Some of these fundamental markers of democracy include:

- An opportunity for political participation either directly or through representatives periodically elected (Falaiye, 2012).
- The conduct of free and fair elections conducted under conditions of universal suffrage which ensures the existence of vertical accountability (Eme Awa, 1997).
- Accountability of governmental organs through the principle of separation of powers.
- Equality of all before the law.
- Respect for human dignity and worth.
- Democratic and pluralistic processes for enacting and enforcing laws.

- Freedom of all qualified persons to participate in electoral processes.

PROCESS AND GOAL: THE DILEMMA OF DEMOCRACY

Democracy presents established processes for arriving at political decisions and the transition of regimes. Historically, Athens provides us with classical manifestations of democratic practices. In Athens, however, it is observed that the tyrannies of Solon, Peisistratus, and Kleisthenes gave impetus to Athenian democracy (Athenian Politeia, IV. 2. Trans. Andrews, A. (1959); Rockham, H. (1959).

To begin, the distinction between procedural and substantive democracy, or what may simply be described as the process and goal of democracy, is an exposition of the dilemma, irony, and complexities surrounding the principles and practice of democracy or what we call the reality of the democratic world. Procedural and substantive democratic theories have different conceptions in terms of the outcome or goal of democracy. The adoption of the best process towards the actualisation of a positive end may yield a different result from the goals intended by its operators. Owing to the seeming incongruence between procedural and substantive democracy, some have called for the elimination of the democratic process to realise a positive end.

Procedural democratic theory suggests that the government should be responsive to the wishes of the people if it follows the procedure for decision-making. The procedural theory is necessary to ensure a substantive theory that approximates the common good for society. To be sure, independent articulation of the two theories will result in an inadequate conception of the democratic theory. This does not necessarily follow that the outcome of democracy will be positive if the procedural and substantive issues are addressed. According to Rawls:

Clearly, any feasible political procedure may yield an unjust outcome. In fact, there is no scheme of procedural political rules, which guarantees that unjust legislation will not be enacted. In the case of a constitutional regime, or indeed of any polity form, the ideal of perfect procedural justice cannot be realised. The best attainable scheme is one of imperfect procedural justice (cited in Dahl, 1991).

But imperfect as procedural democracy may appear, it better approximates the democratic ideal by laying the foundations for substantive democracy. Procedural democratic theory serves as an essential component of the totality of a positive democratic outcome, projecting principles that describe how a government should arrive at decisions. Usually, the principles address three main questions:

- Who should participate in decision-making?
- How much should each participant's vote count?
- How many votes will the electoral process require to reach a decision? (Janda *et al.*, 1997).

All three issues are a necessary process for arriving at a democratic decision.

With respect to the first principle raised above, the procedural democratic theory proposes generally that all adults should vote. Moreover, universal participation entails a democratic system that does not exclude any adult from participation. This, however, is hardly feasible anywhere in

the world. All societies provide age specifications for a voting adult, with slight variations depending on a society's experiences. The minimum age for a person to vote is usually between eighteen and twenty-one years. The second principle relates to participant vote count. This expresses the principle of political equality. The ideal condition is based on the democratic principle of "One person, one vote". However, cabinet decision-making does not require adherence to the principle of political equality. The president's voice or vote may count more than that of the entire cabinet because they are there on appointment or in an advisory capacity. (*Ibid.*).

Per the third principle on the number of votes to reach a decision, procedural democracy prescribes that actions should be based on the decision of a simple majority of participants' desire. This principle of majority rule could default to plurality rule if participants divide over more than two alternatives without a simple majority:

...how many votes are needed to reach a decision? Procedural theory prescribes that a group should decide to do what a majority of its participants (50 percent plus one person) want to do. This principle is called *majority rule*. (If participants divide over more than two alternatives and none receives a simple majority, the principle usually defaults to *plurality rule, under which the group does what most participants want*)" (Janda *et al.*, 1997).

The above, in brief, are the guidelines and hallmarks of an ideal democratic process espoused by Janda *et al.*

The democratic procedural theory even goes beyond the "merely formal" nomenclature that is usually associated with it. The exercise of procedural rights requires the existence of all resources and institutions for its actualisation, and the absence of these become an annulment of the democratic process itself. Furthermore, the right to the democratic process is not "merely an abstract claim". Rather, it is a claim to both general and specific rights – moral, legal, constitutional – required to form opposition political parties. That authoritarian rulers bend every effort to destroy institutions necessary to sustain the democratic process reveals their awareness that the democratic process is not just formal but will structurally transform their regimes (Dahl, 1999).

The attempt to undermine the democratic process by some regimes is an attestation to the importance of the process. The democratic process is very significant "because it is also an important kind of distributive justice" (Dahl, 1991). It assists in the determination of the distribution of crucial resources of power and authority and other important resources.

The democratic process not only presupposes a broad array of fundamental rights: it is itself a form of distributive justice, since it directly influences the distribution of power and authority over the government of the state and, because of the importance of the decisions made by the government of the state, over other substantive goods as well (Dahl, 1991).

The democratic process bestows on the citizen an array of rights, liberties, and resources that avail them the opportunity to collectively participate, deciding on matters that affect fundamental aspects of their existence; as such, it is necessary to the goals of democracy: "the democratic process is not only essential to one of the most important of all political goals- the right of people to govern themselves- but is itself a rich bundle of substantive goods" (*Ibid.*).

From the discussion on procedural theory so far, another key issue that readily comes to the fore relates to the possibility of using democratic process to attain non-democratic regime. In other words, is it possible to use democratic means to bring about an undemocratic regime? Thomas Hobbes hypothesizes this possibility when he carefully articulates the emergence of the Leviathan, which the people democratically invited to provide a definitive solution to their security problems. The Leviathan has unlimited powers (except that he cannot instruct a participant to kill himself or herself) to secure peace and may terminate a citizen's life (if necessary) to achieve its objective (*Leviathan* Part II, XVIII).

The challenge here is that relinquishing the participatory power of the people to the all-powerful Leviathan or assembly is a democratic irony that leaves the people without a choice. In such a hypothetical state of nature where life is solitary, poor, nasty, brutish, and short, the people cannot lay claim to a democratic procedure. What we would have would be a minimalist conception of democracy, in a way. It is minimalist because it only recognizes the value of consent in a democracy (Ake, 2000:13). Consent alone cannot represent an adequate conceptualization of democracy. In consenting to or surrendering some rights to others, citizens should retain the power to be heard, and where necessary, withhold their support from an unresponsive regime. In Hobbes' democracy of consent without popular participation, the people merely express consent based on Hobson's choice (the choice of taking the primary option or nothing). Anything would have been enough to move out of the state of nature. Without a doubt, Hobbes' philosophy is a product of his social milieu, after the civil war experience in England.

Again, we are also faced with the dilemma of reconciling how a people who desire democracy will undemocratically bring about their desire. Dahl clarifies this thus:

If it's desirable that people should govern themselves democratically, then it cannot be desirable that it should be governed undemocratically. If people believe that democracy is desirable and justified, logically they can't simultaneously believe that it is undesirable and thereby justify the destruction of the democratic process (1991).

The paradox of the possibility of achieving democracy through undemocratic means is probably the result of separating the process from the goal of democracy. While we acknowledge that a dichotomy exists between procedural and substantive democratic theory, we really cannot leave out one for the other because one is dependent on the other to exist. If we imagine it as a metaphysically holistic system, the process and the outcome become part and parcel of the same reality. We, therefore, should not separate the becoming from the substance. The means ought to be consistent with the end.

In democratic theory, when the process is faulty it loses the possibility of a credible substantive value. The point here is that an authoritarian regime may, for instance, provide the people with the dividends of democracy, yet that does not accord the regime a democratic status. It is the view of democrats that humans can choose their representatives or participate directly in the actual democratic contest. Logically, it is difficult to affirm democratic desire through non-democratic means. Such a desire will throw us into a dilemma with perplexing complexities. It beats moral logic or reasoning that political expediency would force people who desire democracy to also demand an undemocratic means for arriving at their destination. It should be emphasized again that our arguments are theoretical reflections and not an examination of the concrete existential context in societies.

SUBSTANTIVE DEMOCRATIC THEORY

We shall now briefly evaluate the substantive democratic theory, which emphasises the substance of government policies. The substantive theory of democracy is the view that subordinates the procedure for arriving at decisions to the outcome or the resultant effects that emanates from the process. Here, the end is accorded a higher value than the means.

Most substantive theorists agree that government should guarantee civil liberties (e.g. freedom of behaviour, freedom of religion, and freedom of expression) and civil rights (e.g. power or privileges that the government may not arbitrarily deny to individuals, such as protection against discrimination in employment and housing) (Janda *et al.*, 1997). Nevertheless, substantive theorists hardly agree on issues of social rights:

They disagree sharply on whether a government must promote social equality to qualify as a democracy. For example, must a state guarantee unemployment benefits and adequate public housing to be called democratic? Some insist that policies that promote social equality are essential to democratic government. Others restrict the requirements of substantive democracy to those policies that safeguard civil liberties and civil rights (*Ibid.*).

In the United States of America, democratic theorists belong to either the liberal or conservative political camp. The Liberals advocate more government participation in guaranteeing citizens' social and economic intervention in the socioeconomic condition of their citizens while conservatives want a greater role for the market forces. However, the substantive democratic theory is quite difficult to apprehend, as "it does not provide clear, precise criteria that allow us to determine whether a government is democratic. It is, in fact, open to unending arguments over which government policies are truly democratic" (Janda *et al.*, 1997).

In some cases, philosophers who concentrate basically on the substantive democratic theory fail to articulate a balanced position. We observe this in the theories of C.S. Momoh and E.K. Ogundowole. According to Momoh, democracy is only a means to an end, it "is merely a system of politicking to plot or acquire and remain in power. It is not a system of governance and it cannot be equated with either good or bad governance" (1994). In *The Funeral of Democracy*, he remarks:

An unelected government that promotes populist programmes is democratic. A government that is committed to development is democratic. A government that fights corruption and installs integrity as a culture is very democratic. Especially in a multi-ethnic and multi-religious society such as Nigeria, a government that comes into existence based on the freest and fairest elections held and the government does not promote free enterprise and propagate tolerance, such a government is most undemocratic (1994).

Two major issues arise from Momoh's position. The first is a limitation of the essence of democracy to the ends of governance irrespective of the means. Thus, a military dictatorship can be democratic if it offers people the dividends of democracy. Momoh thus supports substantive democracy and rejects its procedural counterpart.

Significantly, Ogundowole corroborates Momoh's view in his critique of Obafemi Awolowo's insistence on the electoral process in an attempt to achieve democracy. He contends that

Pa Awolowo seemed not to have realised that any method, any means employed by the oppressed to secure his freedom, to redress his oppression, including the method of secession, is legitimate and hence democratic. Democratic because such is the only free and effective option in the circumstance open to the oppressed as predetermined by his oppressor (1994).

Further support for this idea by Momoh reflected in his observation that "a genuine philosopher, like a genuine individual, is a child of his experience, time and culture and all philosophizing takes place using these parameters" (Momoh, 1991). It is therefore opined that both Ogundowole and Momoh may have been influenced in their rather extreme views on democracy by the prevalent social context. *Colonial Amalgam* by Ogundowole and *The Funeral of Democracy* by Momoh are publications of 1994, shortly after General Ibrahim Babangida's unpopular annulment of the June 12, 1993, presidential election. The violence and general restlessness that the annulment caused could have been responsible for such a radical re-thinking of the meaning of democracy by both scholars.

The above notwithstanding, the positions of Ogundowole and Momoh may fail the test of critical democratic examination. While citizens may engage in some form of unsupportive activities such as demonstrations and industrial actions to press for political demands, unlawful actions, as specified in a society's constitution, cannot be elevated to the status of democratic practice. In the observations of Ogundowole and Momoh, then, any means may run contrary to the laws of the land and fall short of essential attributes of democracy.

Momoh's second view that democracy is only a system of politicking and not a system of government also demands critical examination. It reveals the narrowing of the governmental system to concepts such as federal, unitary, parliamentary, presidential, and other systems of government. Yet, democracy has also been characterised less polemically as a people's government with specific guidelines on its operation, especially adherence to the principles of the rule of law. The manipulation and altering of meaning by some does not align with its historical sense, which its Athenian documented interpretation and other democratic norms bestow on it. Democracy transcends its limitation to political formation (for instance, a unitary or federal system of government) and outcome. The concept is connectivity or a compendium of procedures for arriving at decisions. The difficulty we encounter here is holding on to a view and closing our eyes to another. Espousing this view further, Janda *et al.* inform us that:

There are two major schools of thought about what constitutes democracy. The first believes democracy is a form of government. It emphasises the procedures that enable the people to govern- meeting to discuss issues, voting in elections, and running for public office. The second sees democracy in the substance of government policies, freedom of religion, and the provision for human ends. The procedural approach focuses on how decisions are made; the substantive approach is concerned with what the government does (1997).

Momoh's position takes the life out of procedural democracy and concentrates solely on substantive democracy, thus presenting a limited version of the meaning of democracy, which is a totality of both procedural and substantive theories. So, both Momoh and Ogundowole argue for

the good end rather than the good process, jettisoning the maxim that says: *quod ab initio non valet, in tractu temporis non convalescit* (that which is at the beginning void or bad does not become well by the lapse of time). In other words, if the foundation is bad, the outcome, irrespective of lapse of time, is bad.

Therefore, to better comprehend the dynamics between the procedural and substantive theory of democracy, it is imperative to raise the following questions.

- Is it right to subscribe to an unconstitutional process in our desire for a positive end?
- Is it possible to achieve the common good for society through a process that is fraught with inconsistencies or unconstitutionality?
- Should we rather seek the common good through justifiable, desirable, and carefully articulated processes than counterpose the process against the goal?
- How do we resolve the procedural and substantive bifurcation of democratic theory and practice?

The procedural democratic perspective is also not without its merits and demerits. It has the advantage of setting forth some criteria for arriving at democratic decisions, but the issue of these criteria being capable of producing endless social policies, which may impinge on the rights of minority groups, cannot be overlooked.

An adequate democratic theory must, therefore, acknowledge the establishment of institutional means of effective and efficient participation in democracy. There must be ways of preventing the majority from dominating the minority, while the minority's interests must be safeguarded from majority domination. In the meantime, dissenting views should have proper channels for expression. Consensus should also be the convincing amalgamation of all views and should be a fair representation of the direction of the people or assembly. Above all, individuals and groups should seek ways of legally and responsibly pursuing goals within the socio-political spectrum.

Reaching the common good through a process fraught with inconsistencies renders the value of the goal questionable. It becomes more difficult to ascertain that inconsistent means will lead to an end superior to that which people attain democratically: "The democratic process ought not to be displaced by a non-democratic process unless (at the very least) a convincing showing is made that over the long run, the undemocratic process will be superior to the democratic process" (Dahl, 1991).

It is a different story altogether where the same process produces varying and even conflicting results. This is why solutions originating from external entities may fail to appreciate the peculiar circumstantial exigencies of a locality: "In the absence of a universally best solution, specific solutions need to be adapted to the historical conditions and experiences, political culture, and concrete political institutions of a particular country" (Dahl, 1991).

It is my position that societies should carefully weigh different options and engage in informed deliberations, subject to available information, to arrive at the common good. It does not necessarily mean the good in the perception of the totality of individuals and groups within a society, but the aggregate of agreeable legal standards of a society. Such a procedure should avail itself of clear and simple means to accommodate and, if need be, redress dissenting views. This

brings us closer to achieving the common good, which is the prerogative of societies to agree autonomously and democratically (Usifoh, 2018).

CONCLUSION

This work is a theoretical exploration of the possibility of achieving democracy through undemocratic means. It is the view of this paper that the value of democracy is enhanced when there exists a logical congruence between the procedural and the substantive democratic theory. This view is not a denial of concrete conditions whereby democracies are arrived at undemocratically or through undemocratic means. I, however, shun the Machiavellian propensity of arriving at a positive end through any conceivable means, irrespective of how much is achieved. Seeking a democratic end through an undemocratic means is inconsistent with the ideal we seek, and this has manifested in some abysmal governance in societies. We must attach significant value to the process that we hope will yield a democratic outcome. The procedural democratic theory is as valuable as the substantive democratic theory.

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