
The Democratic Boundary Problem

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I. Introduction

Who should be eligible to take part in which decision-making processes? The boundary problem, or the demos problem as it is also called, is a fundamental issue in democratic theory.¹ If nothing else, all the different notions of democracy have one thing in common: a reference to a community of individuals, “a people” who are, in some sense, collectively self-governing. Surprisingly, however, little attention has been given to this problem in the classical treatises on democracy. As Robert Dahl puts it, “how to decide who legitimately make up 'the people' ... and hence are entitled to govern themselves ... is a problem almost totally neglected by all the great political philosophers who write about democracy.”²

I take it that it is pretty clear that the boundary problem is not only a conundrum of philosophical interest but also a pressing practical political problem. For example, what is the relevant constituency for a democratic solution to the conflict in Northern Ireland? Should a treaty be approved by the citizens (or their representatives) of Northern Ireland alone or

¹ Robert Dahl (1989) refers to this problem as “the problem of the unit” (p. 193), “the problem of inclusion” (p. 119), and sometimes as the “boundary problem” (pp. 146-7). Robert Goodin (2007) calls it “the problem of ‘constituting the demos’”. Frederick G. Whelan calls it “the boundary problem” in his (1983) pioneering article on the subject, and so shall I. Goodin (2007), fn. 1, thinks that “calling it ‘the boundary problem’ makes the issue seem more a matter of geography than it necessarily is”. As should be clear below, I don’t conceive of the boundary problem as a matter of geography and I use the term “boundary” in its general sense, like, for example Frege (1903), p. 159, when he talks about concepts having “a sharp boundary” or as it is defined in Oxford English Dictionary: “That which serves to indicate the bounds or limits of anything whether material or immaterial; also the limit itself”.

² Dahl (1970), p. 60. Cf. Dahl (1989), pp. 119ff. When I first wrote on this issue back in 1996, this was also true of the contemporary debate. Although the literature is still scant, there has been a bit of an improvement since then in connection with the renewed interest in the feasibility and desirability of global democracy.

should it also involve those of the United Kingdom and the Irish Republic as well? The current treaty — “the Good Friday Agreement” — was put to a referendum in Northern Ireland and the Irish Republic whereas the citizens in United Kingdom were represented by their government. It is hardly the favoured solution for an old-style Unionist, he would prefer a referendum in the United Kingdom of Great Britain and Northern Ireland or perhaps only in Northern Ireland.³ Yet, such a referendum would not impress an Irish nationalist who would consider these boundaries arbitrary and illegitimate, nothing more than a kind of international gerrymandering. Still, both the Unionist and the Irish nationalist could be dedicated democrats in the sense that they think that a fair solution should be based on a democratic referendum.

It is perhaps not equally clear that the boundary problem raises problem regarding the justification and legitimacy of democracy. However, Frederick G. Whelan, in his pioneering paper on the boundary problem, claims that

... democratic theory *cannot itself* provide any solution to disputes that may – and historically do – arise concerning boundaries. It may not be surprising that democracy, which is a method for group decision making or self-governance, cannot be brought to bear on the logically prior matter of the constitution of the group, the existence of which it presupposes. Nevertheless, strong claims are frequently made for democracy, both by its philosophical advocates and by ideologues and activists of the modern world; democracy is commonly put forward as the sole foundation of legitimate government, and as the sole legitimate method to make binding public decisions of all sorts. The boundary problem does, however, *reveal one of the limits of the applicability of democracy*, and acknowledgement of this may have the beneficial effect of moderating the sometimes excessive claims that are made in its name.⁴

Likewise, Dahl stresses that “we cannot solve the problem of the proper scope and domain of democratic units from within democratic theory”.⁵ In this paper, I shall challenge

³ It is telling that in the referendum about the treaty, an estimated 96% of the Catholics supported it whereas only 52% of the Protestants gave it its blessing. See <http://www.svt.se/nyheter/bakgrund/utrikes/europa/nordirlandny2/fredsprocessen.htm> (25 februari 2005).

⁴ Whelan (1983), pp. 40, 42, my emphasis. Näsström (2003, 2004) repeats the same claim.

⁵ Dahl (1989), p. 207. In Dahl’s terminology, the “scope” of a democratic unit is the set of matters that are to be decided by it, and the “domain” is the set of persons who comprise it. Dahl (1989), p. 209 also claims that “in solving this particular problem [the problem of constituting the people] democratic theory cannot take us very

Whelan et al's conclusion and suggest that it is based on a failure to take into account an important distinction between two kinds of ways of understanding democracy. Moreover, I shall try to show that there are resources within the democratic tradition to solve the boundary problem.

Actually, the problem I have referred to above as “the” boundary problem is just one among a number of such problems. The perhaps most discussed boundary problem concerns people's capabilities as political agents, their political competence. In order to effectively further one's interests through democratic processes one must, arguably, possess a certain degree of knowledge and rationality. The question then becomes how we should decide the relevant political competence for membership in the political community. In practice, this minimal competence is often approximated by age, but one could ask which age is the appropriate one, and whether the same age limit is appropriate for all democratic processes, e.g., parliamentary elections versus local elections. Moreover, we could not only ask who should have a right to vote but also who should have a right to run for office, and whether these right go together (historically, this has often not been the case). Another boundary problem concerns beings that lack the capacity to take part in the democratic process but who are going to be affected by policies adopted and that could be represented by proxies, for example minors, future generations, and animals.⁶ Members of the two first groups are likely to have the same political competence as present people, but they cannot take part in the democratic process since they are simply not around.

I shall not discuss these problems here, but my suggested solution to Whelan's boundary problem --- Which people, given that they are politically competent and can take part, ought to have a right to take part in which decision-making processes? ---- has clear implications for how we should approach these boundary problems too.⁷

II. Normative Ideals and Decision Methods

Firstly, we need to consider an important but often neglected distinction between two ways of understanding normative theories which hasn't been observed sufficiently by some writers in the discussion of democracy. Among moral theorists, it is commonly acknowledged that one

far. Democratic ideas, as I have said, do not yield a definitive answer” and it cannot be solved even by “reasoned inferences from democratic principles and practices”. Cf. Barry 1991.

⁶ For a discussion of future generations in connection with the all affected principle, see Tännsjö (2005) and Bergström (2005).

⁷ For reasons that will become clearer below, I also think that the answer to problem of what kind of majority --- simple, qualified, or unanimity --- that should be required to pass, abolish, or amend certain laws, and of what kind of voting system that should be used --- direct democracy, representational democracy, plurality voting, Borda count etc --- is analogous to the answer I'm going to give below to the boundary problem.

needs to distinguish between normative ideals, on the one hand, and practical decision methods or rules for regulating social interactions (e.g., social norms, laws, institutions), on the other hand.⁸ Roughly, a normative ideal states the ultimate goal that that we strive towards, such as the just or good society (i.e., the considerations that ultimately make actions, policies, institutions etc, right, just, or fair), whereas a decision method is a strategy for decision-making which we use to achieve the goal specified by the ideal. We use the normative ideal, in conjunction with empirical considerations, to evaluate and rank alternative decision methods, social norms, laws, institutions, etc, for different situations and contexts, in respect to how well they would promote the ideal.

Take utilitarianism as an example. According to utilitarian ideal, we should maximise people's well-being, or expected well-being. Now, a common complaint against utilitarianism contends that it is self-defeating since it in many instances it is practically impossible to calculate the value of the outcomes of the alternative actions available to a person. Consequently, if we try to apply the utilitarian principle in every single case, we are likely to choose the wrong action since our calculations are bound to be wrong. This is, however, no argument against utilitarianism as a normative ideal but an argument against utilitarianism as a practical decision method. One can still accept utilitarianism as a normative ideal but hold that in practical deliberation, we have to rely on "rules-of-thumb" and approximations: help those that are in distress, be honest, do not break promises, obey the law, etc., on the individual level, and rule of law, democracy, independent mass media, and so forth, on the institutional level. Whether we should accept these practical decision methods, on the other hand, have to be judged against the utilitarian ideal in a "cool hour" when we have enough time and resources to evaluate the consequences of the general application and implementation of these decision methods relative to the goal specified by the ideal. Likewise for an advocate of equality of resources, well-being, power, etc, and other normative ideals.

There are two important lessons to draw from this example. Firstly, one can reject a theory as a decision method but still accept it as a normative ideal and *vice versa*. Secondly, even if we don't find a particular decision method satisfactory in regards to some case, it doesn't follow that it isn't useful in other cases. The utilitarian decision method, for example, might be a good one for some governmental bodies. Again, this has to be decided by evaluating the decision method against the ideal. A normative ideal, on the other hand, we expect to be applicable to any actions, rules, or institutions, that falls under its domain without exceptions.

⁸ See Bales (1971) and Danielsson (1974), pp. 28-9, for an excellent treatment of this issue. Danielsson and Tännsjö (1991) make the distinction in connection with democratic theory. See also Brink (1986), pp. 421-7; Kymlicka (1990), p. 29.

How does this distinction pertain to democratic theory? A theory of democracy can also be taken either as a normative ideal or as a practical decision method. As R. J. Pennock puts it succinctly in a discussion of Wollheim's paradox: "One must distinguish at the outset between democracy as an ideal and democracy as a practical device for approximating the ideal".⁹ Now, if democracy is taken as a normative ideal, it is justified by being in a reflective equilibrium with our considered judgments and intuitions about democracy and by satisfying other relevant epistemological and methodological criteria.¹⁰ Again, such a normative ideal need not be intended to be directly applicable to choice situations in the real world. Rather, we use the normative ideal, in conjunction with empirical considerations, to evaluate and rank alternative practical decision methods for different situations and contexts.

For those who study how democracy works in practice, it is probably more common to view democracy as a kind of decision method, as a matter of institutional arrangements.¹¹ Implicit in much reasoning about democracy, however, is also the idea that democracy is a kind of normative ideal. For example, it is presumed in much work in social choice theory and in many proud political declarations --- in the latter case often expressed in terms of justice and equality.¹² Although I shall not dwell much on the details of such a theory in this paper, I think that the most promising approach is to take democracy as a theory of just distribution of influence.¹³

III. Democracy as Decision Method and the Boundary Problem

Does Whelan discuss democracy as a decision method or as a normative ideal? Whelan's position is unclear on this issue. He sometimes writes like he has a normative ideal in mind, for example, when he talks about democracy as "the sole foundation of legitimate government". Someone who takes democracy as a practical decision method justified by a normative ideal doesn't hold that democracy is the foundation of legitimate government but that its legitimacy derives from the ideal. For utilitarians, for example, democracy (of some kind) is justified if and only if it maximises people's well-being as compared to alternative decision methods. For Rawlsian liberals, to take another example, democracy is justified

⁹ Pennock (1973), p. 88.

¹⁰ See Rawls (1971) and Tersman (1993).

¹¹ Schumpeter (1976) is a case in point.

¹² See Naess (1956) for a list of such slogans.

¹³ The best developed version of this kind of ideal in the literature is Brighthouse & Fleurbaey (2006). Two other examples are Danielsson's (1974) suggestion to take problems of preference aggregation, such as Arrow's impossibility theorem, as problems of just distribution of influence, and Cristiano's (1993, 1996) theory of democracy as an ideal of equal chances to affect the outcome.

(roughly) if it is the best decision procedure for the safeguarding of basic civil liberties, equal opportunity and the well-being of the worst-off. For Nozickian libertarians, democracy is justified insofar it respects people's property-rights, and so forth for other normative ideals.

On the other hand, much of Whelan's writing seems to concern democracy as a decision method. For instance, he spends quite a lot of space on discussing boundary principle based on territory, nationality, culture, or geography. These principles are quite obviously poor candidates for a boundary principle seen as part of a democratic ideal.

The territorial state principle is an illustrative example. According to this principle, we should just take existing territorial states as a given and include every person residing or born in a particular state in the democratic process governing that state. As Whelan himself points out, the territorial state principle cannot give any guidance in cases where borders of territorial states are in question. It falsely assumes that we can take boundaries between territorial states as something already fixed and undisputed. Needless to say, territorial disputes are frequent in human history and some of the most tragic and bloody conflicts in the present revolve around the issue of establishing the proper boundaries where no entrenched territorial boundaries exist.

Secondly, the territorial state principle has a very limited scope. Arguably, any social union, from the world community to the family, is part of the domain of democracy, i.e., are candidates for being democratically organised.¹⁴ The territorial state principle only addresses one particular boundary problem and leaves open the question of how to delimit participation in decision making procedures in other social unions.

Thirdly, even if we lived in the best of possible worlds where all territorial boundaries were settled, these boundaries would still be irrelevant and ad-hoc from a normative point of view. Suppose the U.S. Government decides to resume atmospheric nuclear tests and predicts that fallout would cause several deaths and injuries. The test would either be performed above the Nevada desert, where the fallout will only affect U.S. citizens, or next to the Mexican border where, because of wind conditions, it would only affect Mexican citizens. As good democrats, the U.S. Government arranges a referendum where, not surprisingly, the vast majority of U.S. citizens votes for the Mexican border alternative. This would not only be a democratically impeccable decision but also democratically better than performing the test above the Nevada desert, since according to the territorial state principle, the views of the Mexicans should have no impact at all on a decision made by the U.S. Government.

¹⁴ See Cunningham (1987), p. 51, for the same view.

The above example is of course just fictional but it is easy to find analogous real cases, for example the nuclear plant Barsebäck on the south coast of Sweden just across from Copenhagen. The choice of location for Barsebäck was under the democratic control of the Swedish people through their elected representatives in the parliament whereas the Danes didn't have any democratic influence over the choice. The same holds for the regulations regarding the maintenance of the plant and the eventual decision to close it down. Yet, the Danes have to carry most of the burden if an accident would happen. Given the territorial state principle, this is no problem from the perspective of democracy, a view few Danes would agree with, I surmise.

As these examples show, the main flaw of the territorial state criterion is that it is completely insensitive to who is affected by a decision. This will not suffice in a world where pollution, goods and capital move more or less freely over state borders.

The three other boundary principles mentioned above which Whelan discusses --- nationality, culture and geography --- share the same flaws as the territorial state principle. Since many of these problems are so obvious, it is hard to believe that anyone has seriously suggested them as a boundary principle for a democracy as a normative ideal and Whelan himself doesn't state clearly what he has in mind. However, Whelan's discussion of this topic becomes more interesting if we see it as a criticism of certain rules of thumbs for who should take part in which decision, that is, as partial boundary principles for democracy as a decision method. We can then see his criticism as an effort to point out when these rules are useful and when they are not. Moreover, I don't doubt Whelan's claim that these principles are commonly discussed among political scientists, geographers, and others, but it is quite likely that what these theorists had in mind was a useful rule of thumb for certain cases, not a general principle applicable in all cases.

There is, however, a problem for Whelan if his discussion is supposed to be about democracy as a decision method: his charge against democracy loses its force. If we take democracy as a practical decision method and again raise the question of who should take part in which decision procedures, it seems clear that this has to be answered by the normative ideal that motivated the choice of democracy in the first place.¹⁵ Again, if our normative ideal is utilitarianism, then the allotment of voting rights and the scope of democratic decision-making should be devised such that the total welfare is maximised, and likewise for other possible ideals. In other words, it is a misplaced criticism of democracy as a decision method that it "cannot itself provide any solution to disputes that may – and historically do – arise

¹⁵ Cf. Dahl (1989), Barry (1991).

concerning boundaries” since it never was supposed to do it by itself. Consequently, for Whelan’s challenge to have any bite, we have to take it to be about democracy as a normative ideal.

IV. Democracy as a Normative Ideal and the Boundary Problem

An intuitively attractive boundary criterion for a democracy as a normative ideal is the all affected principle: The people that are relevantly affected by a decision ought to have, in some sense, influence over it. It is perhaps implicit in the phrase “government by the governed” or as Lincoln once expressed it: “A government of the people by the same people.”¹⁶ I think it is fair to say that it is implicit in much reasoning in the democratic tradition and the few contemporary democratic theorists who explicitly take up the boundary problem endorse some version of this principle: “Everyone who is affected by the decisions of a government should have the right to participate in that government” (Dahl); “In a perfect democracy all who are thus affected [by a decision] play some part” (Cohen).¹⁷ In other words, the all affected principle seems to be entrenched in our idea of democracy – we don’t need to look outside democratic theory to find support for it.¹⁸ Thus, if the all affected principle can be shown to be a promising boundary criterion for a democratic ideal, then Whelan’s claim that democratic theory cannot in itself solve the boundary problem is put in doubt.

It is easy to garner intuitive support for the all affected principle. We do not think that the curriculum imposed by the School board of Waco, Texas, is any business of Icelanders since they are not relevantly affected by this decision. However, what kind of hair spray the teachers use in Waco is the business of Icelanders too, i.e., if the hair spray used destroys the ozone-layer. Another example is France's nuclear bomb testing in the Muroroua Atoll -- we think that the people of the Muroroua Atoll should have much more influence over a decision that affects their environment in such a fundamental way.

¹⁶ Lincoln in Message to Congress, 1861, quoted from Naess (1956), p. 285.

¹⁷ Dahl (1970), p. 64; Cohen (1971), p. 8. Cunningham (1994), p. 147, also seems to endorse the all affected principle when he says that “since democracy applies to any social environment in which the behaviour of some people affect affects others in an ongoing way, it is appropriate to extend . . . democratic decision making . . . beyond national boundaries to regions and to the entire globe.” See also Cunningham (1987), pp. 25-6.

¹⁸ Whelan (1983), p. 17-8 suggests that the all-affected principle “may even be derivable as a political application of [utilitarianism]”. According to classical act-utilitarianism, we have a duty to perform the act that maximise happiness. If we add the liberal assumption that people are the best judges of their own happiness, then we arrive at the all affected principle, or so the argument goes: An individual can defend and promote his own good by taking part in the decision that affects her welfare. I am sceptical about this argument. Maximised happiness can very well be obtained by excluding people from democratic procedures since what the excluded people lose can be outweighed by an increase among the included. Many contentious empirical assumptions have to be added to avoid this and similar conclusions.

It is interesting to note that if we see the all affected principle as part of a democratic ideal, then whether or not a decision is democratic, or whether it is more or less democratic, will depend on some conception of “relevantly affected”. Without a specification of what counts as relevantly affecting people, we cannot determine whether an institutional structure is sufficiently democratic or how it could be improved in that respect.

An important reason why many people would agree with the all affected principle is, of course, that it is vague. As others and I have stated it, it doesn’t say anything about what amounts to being relevantly affected or what it means to have influence over a decision. For the present discussion, I don’t think much more precision is needed but to forestall some possible misunderstandings, let me hint at what I think an analysis of these concepts would and would not look like.

A promising approach is to spell out “relevantly affected” partly in terms of people’s interests, in the broad sense of the term “interest”. If you fare better in respect to your interest in alternative A as compared to alternative B, then there is a prima facie case that you will be relevantly affected by the decision.¹⁹ The reason why the curriculum in Waco is no business of the Icelanders is that, arguably, their interests are not at stake in any important way. On the other hand, actions in Waco that have consequences for the global environmental situation might very well affect the interests of Icelanders too and thus they should have some influence over decisions of that kind.

As with any other normative theory, we would have to develop a theory of what counts as being relevantly affected by consulting our considered intuitions about which effects on people’s interest are of such significance that they should have say in the decision at stake, and when some people’s interests trumps other people’s interests. We would also have to consider what kind of influence that should be given in different situations. Sometimes it could be a vote, sometimes even a veto, sometimes only a right to participate in the deliberation, and so forth.

Much work of this kind has been done in respect to well-being and “the currency of egalitarian justice” and much in that discussion is surely relevant for the present topic. One might, however, think that one could just import an axiology from this area, such as Rawls’ “primary goods” or Sen’s “capabilities”, as an explication of “relevantly affected”. This I think would be a mistake. Our judgment about when people are affected by a decision in such a way that they should have influence over it is likely to be different in many respects from our

¹⁹ One might ask whether it is necessary that you are actually affected by the decision or whether it is enough that it is probable that you are affected. I shall sidestep this problem here.

judgment about when people's well-being is affected or what is the relevant goods for the state to distribute in an egalitarian fashion.

There are of course other ways of spelling out "relevantly affected" than in terms of "interests". A common suggestion is that those who are legally bound by certain laws should have the right to take part in making the laws.²⁰ This might very well be a better exegesis of, for example, the quote from Lincoln above. However, my tentative suggestion above concerns how the most reasonable explication of "relevantly affected" would look like. Clearly, the "legally bound principle" has too narrow a scope to be such a candidate. Although the Danes aren't legally bound by the laws regarding the maintenance of nuclear plants on the south coast of Sweden (just across from Copenhagen), they certainly, and justifiably in my view, would like to have a say in this matter. Moreover, the scope of "legally bound" is quite unclear. I'm in a sense legally bound by the laws of South Africa since I spend a fortnight there every year. Does that mean that I should have a right to take part in the South African elections?

It is important to note that the all affected principle will have very different implications depending on what explication of "relevantly affected" it is coupled with. Hence, whether it will be a radical or conservative principle is up for grabs. If "relevantly affected" is spelled out in terms of some list of negative rights, then it might come close to the right-wing libertarian camp (e.g. Nozick-style libertarianism) since people will be dictators on most issues. If it is spelled out in terms of people's interest, or in terms of negative and positive rights, then it will probably become more left-wing in its implications since, for example, the management of firms will become part of the democratic domain. This is a trivial but important point since many arguments against the all affected principle is actually arguments about how relevantly affected should be understood. Hence, much of the criticism of the all affected principle misses in this sense its target. Let me give two examples.

Robert Nozick argues against the principle that "people have a right to a say in the decision that importantly affect their lives" with a number of examples where the principle purportedly gives the wrong answer.²¹ Here is one:

If four men propose marriage to a woman, her decision about whom ... to marry importantly affects each of the lives of those four persons, her own life, and the lives of any other person wishing to marry one of these four men, and so on.

²⁰ See for example Beckman (2004) and Tännsjö (1991).

²¹ Nozick (1974), p. 268.

Would anyone propose, even limiting the group to include only the primary parties, that all five persons vote to decide whom she shall marry?²²

Nozick answer is a resounding “no” and I think most people would agree. This will not, however, worry a proponent of the all affected principle. She can happily agree with Nozick and argue that when it comes to such vital interests as to whom to marry, the individual should have a veto right. On the other hand, she would probably still think that the four suitors have a right to a say in the decision, that is, to exert influence on it, in the sense that they have a right to present their case, send flowers and poems, etc. To think that Nozick’s example is a decisive argument against the all affected principle is to make a double mistake. Firstly, the all affected principle is flexible since it can be coupled with different notions of “relevantly affected” and, secondly, “having a say” (“having influence”) need not to be equated with voting rights.

I would say the same thing about the counterexamples presented by Lars Bergström that evidently is meant to show that the all affected principle “is not very plausible”.²³ For example, he writes that “this can be seen if one tries to apply it to individual agents. Everyone makes a lot of decisions that affect the interests of other people. But hardly anyone would maintain that all these decisions should instead be taken collectively by all the people that are affected by them. This is not only impossible in practice. It is not even a desirable ideal that one should try to realize as far as possible. It does not seem to leave much room for personal decisions – except perhaps for very trivial ones. It would be a threat to individual freedom”.²⁴ Again, since individual freedom is quite a basic interest, a proponent of the all affected principle can happily agree that the individual should have most of the influence in many decision and even be a dictator about certain decisions, for example such decisions that concerns her human rights.

How to spell out “influence over a decision” is a tricky question which needs its own essay. A starting point, however, could be to analyse it in terms of whether an individual’s preferences ordering could determine the collective ordering in some possible situations. In a collective choice between option A and B, I have some influence on the decision if there is a

²² Nozick (1974), p. 269. Nozick (p. 269) also gives the following example: “Does Thidwick, the Big-Hearted Moose, have to abide by the vote of all the animals living in his antlers that he not go across the lake to an area in which food is more plentiful?”. I don’t find this example very counterintuitive, at least not if we suppose that the animals living in Thidwick’s antlers are conscious mentally competent beings and that it is a life-and-death question for them but just a matter of greener grass for Thidwick. In that case, it seems reasonable that the animals should have not only a vote but perhaps also a veto right against Thidwick’s proposed course of action.

²³ Bergström (2006), p. 7.

²⁴ Bergström (2006), pp. 7-8.

possible situation (i.e., a possible set of individual preference orderings of the involved people) where A will be the collective choice if and only if I prefer A to B.²⁵ Such an analysis have to be supplemented with an analysis of an individual's influence on other peoples' preferences and beliefs, and her influence on the agenda. For example, a person can have great influence on a decision by just being the kind of person that many people trust (e.g., an expert or a charismatic leader), or by having control over what issues that are discussed in the mass media, or by having control over which alternatives that are on the voting agenda.²⁶

V. Whelan's Objection

What is then the Whelan's problem with the all affected principle? He worries that the all affected principle "would require a different constituency of voters or participants for every decision."²⁷ Similarly, Dahl writes that the "logic of the [all affected principle] ... is that for every different set of persons affected there be a different association or decision-making unit."²⁸ In other words, the all affected principle demands what is practically impossible.

This is surely true about the all affected principle taken as part of a practical decision method but misses the target if we take it as part of a normative ideal. As with utilitarianism, the all affected principle might not be possible to use as an everyday decision method but it might still be correct as part of a democratic ideal. As such, it is part of an ideal that we use to evaluate the practical procedures that we implement in the real world in respect of how well they approximate the ideal. We will never be able to create a perfect democratic system but that is not an argument against trying to approximate it. To take an analogue example: It would be silly to criticise a criterion of "tall person" on the grounds that we cannot in practice measure length exactly. Although there is always going to be borderline cases, there are clear examples of procedures that are better and worse on the all affected criterion, as the examples used in this paper illustrates.

Whelan raises another problem that at first sight looks more damning for the all affected principle:

The deeper problem is that before a democratic decision could be made on a particular issue (by those affected), a prior decision would have to be made, in

²⁵ For more elaborate suggestions, see Penrose (1946, 1952), Shapley & Shubik (1954), Banzhaf (1965, 1966, 1968), Danielsson (1974), Goldman (1974), Morriss (1987), Arrhenius (2008a, b).

²⁶ See Arrhenius (2008b).

²⁷ Whelan (1983), p. 19.

²⁸ Dahl (1970), p. 64.

each case, as to *who* is affected and therefore entitled to vote on the substantive issue... And how is this decision, which will be determinative of the ensuing substantive decision, to be made? It too should presumably be made democratically --- that is, by those affected --- but now we encounter a regression from which no procedural escape is possible. Thus to say that those who will be affected by a given decision are the ones who should participate in making it is to attempt to bypass the crucial question, and to propose what is *logical as well as a procedural impossibility*.²⁹

These are harsh words but Whelan's reasoning begs the question. Why should we determine who is relevantly affected by certain decision by a prior democratic decision?³⁰ Why shouldn't it, as I suggested above, be determined by a theory of interests and an analysis of the consequences of different courses of action, policies, and institutional structures on people's interests?

Whelan seems to conflate two different issues: what makes an action or policy right and what justifies a theory. When we try to figure out which theory of democracy is the best one, and which conception of relevant effects is correct, we have to weigh the evidence for and against different theories – it is an epistemic question, not a moral or political one. I don't think any democratic theorist has thought that whether or not their theory is correct depends on people's opinions about it. Compare again with utilitarianism according to which an act or policy is right if it maximises people's well-being. No utilitarian, however, has ever made the absurd suggestion that what constitutes well-being should be determined by the utilitarian principle.³¹

Here's another but related objection to the all affected principle. Assume that you're the pivotal voter for the choice between two alternatives A and B, and that the choice will affect my relevant interests. It follows from the all affected principle that I should have some kind of

²⁹ Whelan (1983), p. 19, last emphasis mine.

³⁰ One might think that there is an obvious end to Whelan's regress: when everybody is included. This is, however, not true, since there is nothing that guarantees an expansion of the number of involved people for each step of the regress (I'm grateful to Wlodek Rabinowicz for pressing this issue). However, one might consider having a vote on what counts as being "relevantly affected" since this is bound to be an issue that reasonable people will disagree over. We could then use this notion of relevantly affected for any future decision. Intuitively, this is a vote that should involve everyone. Of course, this is impossible in practice, but it is logically possible and, more importantly, can still be an ideal that we should try to approximate, quite similar to the hypothetical consensus used in the contractarian tradition in political philosophy (e.g., Hobbes, Locke, Kant, Rousseau, and Rawls).

³¹ It might be that Whelan himself believes in a normative theory according to which a principle can only be justifiably implemented in a constitution via some kind of democratic decision. This is an untenable idea since it would imply that all decisions to implement democracy in undemocratic countries would be unjustified.

influence over the choice, which is fine. However, your choice how to vote will also affect my interest, since your vote will determine whether A or B is chosen. Hence, it looks like I should have an influence on how you vote, according to the all affected principle, which might seem counterintuitive. Moreover, should we then vote on how you should vote in the first vote? Again, the outcome of that vote might also affect me. Thus, should we also vote on how you should vote in the second vote? We seem to get an infinite regress again.

I think this objection can be met, however, by a reasonable theory of “relevantly affected”. Arguably, it is one of my fundamental interests, like freedom of speech, to be decisive when it comes to which alternative I vote for. Thus I should be a dictator on such issues. Moreover, it seems reasonable in a democratic society that people should have the right to influence other people’s voting behaviour by arguments and discussion, and that they in that sense should have influence over how other people vote. Again, we are not caught in a “logical as well as a procedural impossibility”, since whether there will be a regress or not depends on which theory of “relevantly affected” the all affected principle is combined with, and there seems to be promising candidates that stops the regress in the first step.

To sum up: If we take democracy as a decision method, then Whelan charge against democratic theory misses its target since it is not supposed to deliver any solution to the boundary problem. If we take democracy as a normative ideal, then there seems to be a promising candidate for a boundary principle: the all affected principle.

VI. Possible Objections

To forestall some possible objections, let me point out that I haven’t given a full-fledged defence of the all affected principle and of democracy as a normative ideal, just some intuitive support and, more importantly, a rebuttal of the criticism directed towards it by Whelan et al. We might, in the end, reach the conclusion that democracy is not an attractive normative ideal as compared to other such ideals – further inquiry has to determine this. However, the reason will not be that the all affected principle “propose[s] what is logical as well as a procedural impossibility” but that another normative ideal is more in reflective equilibrium with our considered intuitions. Notice also that democracy need not be our only ideal, we might have other ideals that the democratic ideal has to be weighed against in reaching a final theory of how a just or good society should look like.

Secondly, the all affected principle fits well with democratic conceptions that concern distribution of influence or power. It might not fit other conceptions very well, however. Consider, for example, the epistemic democrat. According to the epistemic conception of

democracy, one thing that makes democracy valuable is that it generates better decisions, that is, it is a better “truth-tracker” than alternative decision-making procedures.³² As was already shown by one of the leading French Enlightenment figures, marquis de Condorcet, if the independent voter is on average better than chance at getting the right answer, then, given some other assumptions, the more people that vote, the greater likelihood of the majority getting the right answer.³³

The all affected principle doesn’t fit very well with this conception of democracy. Rather, one could argue that inclusions and exclusions should be based on whether it is likely that the voter in question is better than chance at getting the right answer. If there is good reason to believe that the average voter will be better than chance at getting the correct answer, then we have a *prima facie* argument for including as many people as possible in a decision making procedure. If not, the argument works the other way, that is, as a reason for excluding people from the decision making procedure.

Alternatively, one could formulate an argument for representative democracy along the lines of the epistemic conception of democracy. One could claim that the average citizen will be better than chance in finding “epistemically” good professional politicians, but that the professional politicians are better truth-trackers when it comes to complicated political decisions since they will have the time and resources to inform themselves about the relevant facts. In other words, the criterion of inclusion and exclusions for the epistemic democrat has to do with what will generate the most accurate decisions, not with who is relevantly affected by the decision.

I find it more plausible to take epistemic democracy as practical decision method that is justified by an appeal to some normative ideal, such as the utilitarian value of reaching the right decisions in many contexts. Some might not agree, however. If so, then we have a normative democratic ideal for which the all affected principle is not a suitable boundary criterion but for which there is another promising candidate: competence at getting the answers right.³⁴

³² See, for example, Estlund (1990, 1993, 1997, 1998), List & Goodin (2001), Cohen (1986).

³³ Condorcet (1785), cf. Rabinowicz and Bovens (2003), Pettit (2001).

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