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CRITICAL COMMENTS

Can democracy go global?¹

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In his *Democracy across borders*, Bohman articulates an ambitious political proposal for a future international order. Perhaps its most salient feature is the promise of global democracy without a world government. Global democracy is usually associated with the ideal of a world community unified under a set of global democratic institutions. Fear of the totalitarian consequences that such a concentration of power would generate often leads even the staunchest cosmopolitans to limit their democratic aspirations to the national level and merely hope for the progressive implementation of the rule of law at the global level. In his book, Bohman tries to break with the widespread assumption that an increase in democratization across national borders must be purchased at the price of a concentration of power that dangerously increases the potential for political domination. According to Bohman, this assumption is rooted in a narrow understanding of the democratic ideal—an understanding that needs to be replaced by a more complex one. The traditional conception of the ideal of democracy is that of a self-legislating *demos* that is at once the author and the subject of the laws. This conception ties the prospects of global democratization to ‘the idea that the *demos* ought to be subsumed into a cosmopolitan hierarchy with a single *demos* at its apex’ (12). However, against the backdrop of an interpretation of the democratic ideal as the self-determination of a homogeneous people in a bounded political community, this way of organizing transnational or global institutions would necessarily amount to a decrease in democratic control, since it directly threatens the democratic self-determination of the (national) peoples. If these are the options faced by our democratic aspirations, it seems we are stuck between a rock and a hard place. In opposition to the traditional way of understanding the democratic ideal, Bohman proposes the ideal of a ‘transnational democracy.’ Although both conceptions of democracy share the aspiration of self-determination insofar as ‘the terms and boundaries of democracy are made by citizens themselves and not others’ (2), the latter does not share the

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more specific assumption that self-determination must be understood as the self-legislation of a singular *demos* based on ‘the unified will of the people.’ Paraphrasing Bohman, if democracy is self-rule, it is the rule of the many *demoi* and not of the single *demos*.

I share Bohman’s aspiration to extend democracy across national borders and, as such, am very sympathetic with the project of transnational democracy. Moreover, I also share his conviction that the traditional ideal of a self-legislating *demos* is not a helpful model for the project of a transnational democracy. However, looking at the specifics of his proposal, I wonder whether it succeeds in walking the fine line between rejecting what is problematic in the traditional democratic ideal and preserving what is needed for any ideal to count as democratic in a minimal sense of the term. Given the complexities of Bohman’s proposal and the limited space I have, I will focus my comments on this central, but admittedly limited question.

IT MAY BE TRANSNATIONAL, BUT IS IT DEMOCRACY?

Bohman’s polemic confrontation with the traditional conception of the democratic ideal turns around the proper understanding of the democratic requirement of self-legislation. At the center of this confrontation is a distinction between (what I will call), a thick notion of self-determination and a thin notion of non-domination. Whereas the thick notion of self-determination that underlies the traditional conception suggests the necessity of a single *demos* or a unified ‘will of the people’ possessing ultimate political authority in a bounded political community, the thin notion of non-domination undergirding Bohman’s transnational conception suggest that citizens are capable of exercising their political powers in a variety of overlapping *demoi* whose political authority is dispersed and distributed among the different political units at the national, transnational, and international levels. Under current conditions of an uneven globalization, the latter view is very attractive in its promise to *increase* the political power of citizens by allowing them to exercise popular control not only within their respective national units but also within each of the partially overlapping political units at the transnational level. This in turn would diminish domination across national borders. The aim is not so much to mimic national democratic institutions (i.e. a parliamentary system) at the transnational level, but to democratize each unit of political power by subjecting it to some kind of democratic popular control. However, this increase is admittedly purchased at a price. As Bohman points out, the aim of non-domination is comparatively modest. It does not coincide with ‘the inflated notion of popular sovereignty’ characteristic of the traditional conception of self-legislation: transnational democracy aims at achieving a ‘democratic minimum,’ that is, ‘a minimum set of political powers and conditions that would make it possible for citizens to not be dominated and thus be free to make claims to justice in unjust circumstances’ (35). In light of this contrast, the main difference between the national and transnational conceptions of democracy seems to be that, whereas the former conceives of citizens as a unified people striving toward the achievement of collective

political goals that reflect their cultural identity and historical aspirations, the latter has the more modest goal of achieving minimal conditions of justice (although, achieving that goal at the global level would certainly be anything but modest).

However, the contrast that Bohman actually mentions in this context is quite different and somewhat surprising. According to him, the achievement of a minimum of effective freedom is not the same as the achievement of 'popular sovereignty' in the sense of having 'a final say over each and every decision' (35). This way of contrasting 'freedom as non-domination' with 'freedom as self-legislation' is a bit puzzling, since it has nothing to do with whether citizens see themselves as part of a unified people trying to achieve collective goals, but with whether they have the final say over political decisions or not. It is hard to see how the latter feature can be an optional component of a conception of democracy. As Bohman himself points out in a different context, 'democracy is an ideal of self-determination in that the terms of self-rule are made by citizens and not by others' (45). Understood in a minimal sense, the requirement that citizens have some final say over some political decisions is *the* essential difference between democracy and non-democratic forms of political organization. As Bohman points out, even under the hardly ideal conditions of existing representative democracies at the national level, citizens have at least 'electoral sovereignty'—that is, 'the normative power to change representatives and officeholders and to express their consent to being governed' (66). Such a highly indirect and diluted mode of citizen control over political decisions is certainly not ideal, but it does meet the minimal threshold for a political system to qualify as democratic. There may indeed be different and better ways to guarantee a minimal threshold of popular control than general elections or referenda (which are indirect, centralized and episodic decision-making processes). However, what seems clear is that, *pace* Bohman's polemic dismissal of the traditional conception of democracy, a political system in which citizens are subjects to the law but *at no point* authors of the law is certainly not a democratic system, but rather something else. Since the requirement of popular control over *some* outcomes of the political decision-making processes is a minimal necessary condition for such processes to qualify as democratic, in evaluating Bohman's proposal for a transnational democracy we need to identify where the instances of effective popular control would be located.

At the center of this proposal is Bohman's highly plausible claim that freedom from domination requires a 'democratic minimum' of whichever political rights are necessary to establish practices of meaningful political activity. As he points out, 'democratization is thus political inclusion in the specific sense of the development of powers, statuses, and freedoms of citizens' (51). However, as Bohman himself points out, there is something special about political rights which distinguishes them from other human rights. Whereas human rights as such are supposed to be universal, political rights seem to contain a peculiar element of particularity: to the extent that they are spelled out in terms of more specific rights such as the right to citizenship, the right to vote and to be elected, etc., they presuppose that specific human beings are indexed or ascribed to specific political communities in which these rights can actually

be exercised. For example, even if the right to vote in elections were recognized as a universal human right, it does not mean that everyone can vote everywhere. At first sight, this seems to be an intrinsic feature of political rights, since they are rights to participate in social practices and social practices are in turn constituted by rules that determine the conditions of inclusion, participation, decision, etc. However, Bohman finds this feature of political rights ‘surprising’ and blames it, not on any intrinsic characteristics, but rather on the narrowness of the traditional conception of democracy as self-legislation. According to him, it is ostensibly this narrow conception itself that imposes the requirement of determining which citizens are supposed to have which political rights in which political communities. It is true that, in the various declarations of human rights currently available, political rights are expressed in terms that take the ascription of citizens to respective nation-states for granted. Indeed, this is a contingent and oversimplified way of dividing political space that needs to be made more complex if something like transnational democratization is to be possible at all. However, it is hard to see how citizens could participate and exercise control in political practices and institutions at the transnational level without some (equivalent) specification of who should have which statuses and powers at which institutions regarding which kind of political decision-making processes. That a monistic ascription of citizens to nation-states is not a necessary, let alone helpful way to specify all their political rights does not mean that citizens can have actionable political rights without any specific ascription whatsoever. Political rights which do not specify which powers and statuses their bearers have in which specific practices of political decision-making can hardly amount to anything more than mere ‘manifesto rights.’² Bohman’s proposal sidesteps this difficult problem, since its aim is ‘to make sense of *the universal character of political rights* and their relation to the claims of justice made by those who suffer from human rights violations’ (103; italics mine). But my impression is that he purchases this vision at a prohibitively high price.

GETTING TRANSNATIONAL POLITICAL RIGHTS ON THE CHEAP?

According to Bohman’s proposal, the most basic human political right is ‘the right to initiate deliberation. This freedom is the basis of what I call ‘the democratic minimum’ (5). It is worth noting that the *content* that Bohman ascribes to this right and with it to the democratic minimum is very ambitious. Firstly, not just any kind of deliberation will do. As he explains, ‘the democratic minimum permits meaningful political activity to emerge, since it attributes to each citizen the capacity to initiate deliberation and thus to take up the common activity of deliberating about common concerns, including the agenda of political institutions and the rules which guide political activity within them’ (47). This last remark points to another very important dimension of the content that Bohman ascribes to this right, namely, ‘reflexivity.’ This type of political deliberation must include the possibility of reflexive deliberation geared ‘to refashion the terms and rules of democratic governance itself’ (38). However, in contrast to other types of political rights, the most interesting feature of

this right in our context is that it can be realized universally and multiply. For example, if we compare it with a right to membership and participation or a voting right in specific institutions, the right to initiate deliberation does not require a specification of membership 'fixed' in advance and it can certainly be exercised across any borders. Since I am a strong defender of deliberative democracy, it may not be surprising that I find Bohman's ambitious interpretation of the content of 'the freedom to initiate deliberation' just about right. I share his conviction that citizen's political deliberation must be interpreted in an ambitious way and that it should not be reduced to mere contestation. The political deliberation of citizens should not be limited to the possibility of influencing or contesting the outcomes of political decisions, but should also include participation in shaping the political alternatives under consideration, the setting of the deliberative agenda and even the possibility of questioning the terms and rules of the democratic practices themselves. So, I could not agree more with Bohman's claim that 'to have powers of consultation and contestation falls well short of democratization' (52). However, I find his counter claim that 'the ability to initiate deliberation . . . provides the basic measure for the statuses of persons required for democratization' (52–3) quite troubling. It seems to me that Bohman overidealizes the actual powers of democratic popular control that the freedom to initiate deliberation can by itself generate without the crucial backing of additional political rights to membership, to participation, to vote, etc. in the decision-making practices and institutions that actually determine the issues under deliberation. I do not mean to suggest that, for this reason, the right to initiate deliberation is merely a manifesto right. Indeed, to the extent that it necessarily entails freedom of speech, it is currently unavailable to citizens of many countries and it would be a true achievement if it became universally recognized and respected, no matter under which division of political space. I would be the last person to question Bohman's claim that this right is an essential component of a democratic minimum. But as he himself recognizes, the 'democratic minimum' is not supposed to entail merely freedoms (important as they are), but also some 'powers and statuses' that would allow citizens to exercise effective control over (at least some) political decisions at the transnational level. What I miss in Bohman's proposal is the additional specification of some mechanisms that would transform deliberative freedom into effective control of the outcomes of some (transnational) political decision-making processes. This is certainly a very hard question to which we currently lack many (actionable) answers, so it would be pretty unfair to blame someone in particular for failing to accomplish something that we don't even know can be accomplished at all. However, the reason I mention is to call attention to the fact that any attempt to provide answers to this crucial question would require the kind of ascription of specific political rights to membership, participation, voting, etc. to specific groups of citizens that Bohman's proposal elegantly sidesteps by focusing on the 'universality' of political rights. In contradistinction to deliberation, which is not a decision-making procedure, no actual decision-making practice can leave the rules of membership, participation and decision unspecified (and this indeed requires the introduction of some element of particularity). The suggestion that this type of specification may neither be feasible nor needed when we think of

transnational political rights in combination with an overemphasis on the freedom to initiate deliberation as the key to achieve a ‘democratic minimum’ can have the damaging ideological effect of undermining the strong democratic aspirations that unmistakably drive Bohman’s proposal. Democratization of transnational institutions can neither come about nor should be identified with the tenuous and highly optional influence that public opinion may exercise on actual decision-makers.

I would be the last to deny the genuine value that citizen’s deliberation can add (in terms of increasing accountability, justice, etc.) to political decision-making practices and institutions. But this effective addition requires *some* fixed points at which public opinion has in fact the power to determine political outcomes. Driven by the example of the EU, Bohman’s proposal relies on the incipient formation of a European public opinion as a model for interpreting what popular control could mean at the transnational level. However, as Bohman is undoubtedly aware, the influence that the public opinion of European citizens has within national as well as across the national borders of the EU’s member states is a product of *two* factors: their freedom to initiate deliberation *as participants* in the public sphere, and their effective normative powers to determine some political decisions (through elections and referenda) *as citizens* (see 72). If one discounts the second factor, on which political accountability essentially depends, the distinction between ‘consultation’ and ‘deliberation,’ on which Bohman rightly insists, simply collapses. However minimal it may be, it is the actual decision-making power of citizens in democratic states that prevents their public deliberation to collapse into a mere ‘consultation’ factor that may or may not be reflected in the political decisions of the powers that be. The fair value of the freedom to *initiate deliberation* of decision-takers essentially depends on their power to force decision-makers to *listen*. If the freedom to initiate deliberation about transnational political decisions by ordinary citizens is supposed to translate into something more than a ‘consultation’ factor at best, it would have to be backed up with specific political rights of participation and decision in some of the transnational political institutions themselves. And this in turn would require the type of messy ascriptions of specific groups of citizens (of different countries) to specific institutions that Bohman’s proposal so far avoids. The provision of citizens with rights and powers merely to participate in an emerging global public sphere, however vibrant, simply will not do.

TRANSNATIONAL DEMOCRACY AS A REALISTIC UTOPIA: CAN WE GET THERE FROM HERE?

Before I finish my comments, let me try to rule out a possible misunderstanding. Since Bohman’s proposal is highly complex and his argument addresses many different questions at many different levels, the source of my misgivings may be misinterpreted or misplaced. I am entirely sympathetic with the privileged role that Bohman ascribes to an emergent global public sphere. In particular, I agree with his diagnosis of what could be the primary agents for a possible transnational

democratization, namely, democratic states and participants in transnational public spheres. Since I also agree that adopting a realistic perspective is crucial when articulating proposals for an ideal international order, I appreciate the need to show that we can get there from here by identifying currently existing elements with some promising potential, however weak they may be. But, if this is all true, then the fact that the available means around 'here' are not particularly utopian should not be blamed on those trying to make realistic proposals. In light of this, I hope my comments do not give the erroneous impression that I am simply blaming the messenger. From a realistic perspective, I agree with Bohman that, if there is any hope at all for a genuine transnational democratization, the formation of something like a global public sphere is one of the most essential practical *preconditions*. However, in moving back and forth between the realistic and the utopian, I see a danger in identifying practical *preconditions* with *sufficient* conditions for meeting a 'democratic *minimum*.' A vibrant global public sphere is indeed a precondition for the formation of anything remotely resembling global democracy. But, as we all would probably agree when it comes to evaluating existing nation-states, it is not itself sufficient to qualify a political system as minimally democratic. A political system based on a consultation hierarchy of the kind envisioned in Rawls's *Law of Peoples* that would allow its citizens to deliberate in the public sphere may qualify as decent, but it should not qualify as minimally democratic. In this regard, Bohman sends mixed signals throughout the book. On the one hand, his aspirations clearly convey that (some) effective popular control is needed at the transnational level. However, his polemic dismissal of the democratic aspiration of popular sovereignty and his overemphasis on deliberation to the detriment of effective participation in political decision-making institutions runs the risk of setting the bar too low for what I think should be the proper ideal of a transnational democracy.

NOTES

1. James Bohman, *Democracy across Borders. From Dêmos to Dêmoi* (Cambridge, MA: MIT Press, 2007).
2. I fear that Bohman's conception of a universal 'right to membership in the human political community' would suffer this consequence if it is not supplemented with the type of particularistic specifications that his argument seems to reject, but this is a complex topic that I cannot discuss in detail here.