

Democracy and democratization: O'Donnell's Critique of procedural democracy

To Guillermo O'Donnell, my professor and dear friend¹

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Abstract

O'Donnell outlined the foundations of a new framework for comparative theories on democratization based upon a critique of procedural democracy. His was, though, a subtle and nuanced critique. He accepted democracy as a political concept, thus rejecting any attempt to frame it on substantive terms. At the same time, he broadened the concept by anchoring it to the notion of the citizen as a moral agent, thus shedding light into the non-regime dimensions of democracy. Based on his idea of democracy as an open-ended concept, in this article I reflect on the consequences on the notions of democratization and the quality of democracy.

Introduction

In his 2010 book, just after discussing the shortcomings of procedural 'minimalist' definitions of democracy, Guillermo O'Donnell makes an intriguing comment:

"los esfuerzos para definir la democracia desde Schumpeter hasta Dahl proveen una importante base para pensar la democracia como régimen político; un tema que queda por discutir es si estas definiciones se refieren a la democracia tout court o sólo a un aspecto de ella, la democracia política". (O'Donnell 2010): p.29

Interestingly enough, O'Donnell does not systematically address this distinction between democracy "as such" and political democracy (or regime). He seems to imply that the latter is a species or an aspect of the former, the genre or totality. But we are kept waiting. For sure, he sharply criticizes narrow understandings of democracy that leave aside the complex interactions between the regime, the State and, crucially, the citizenry (composed of citizens as moral and political agents). Also, he strongly opposes the idea of democracy as an insulated, "free floating" political regime, underscoring instead the embeddedness of the regime within the power relations and the institutional configuration of the State. So, how can democracy "as such" --not only political democracy-- be defined? Would it include non-regime elements such as the State, or social equality, that authors prefer to keep analytically separate from democracy?

¹ I wrote this piece thinking on a long and winding conversation with Guillermo O'Donnell with the help of good Costa Rican coffee and some glasses of wine. I had the opportunity to discuss with him some of the issues I deal with in this paper but not to their fullest extent, something I deeply miss.

Citizen agency leads O'Donnell to a broadened the concept of democracy. Citizens wield power as they mobilize rights for many purposes, some of them outside the realm of the political regime. In doing so, they may democratize areas of the polity and society not directly related to the issue of selecting governmental authorities through free and fair elections. If this holds true, democracy's limits and borders can always be challenged by a diligent vector, the citizen-agent. Democracy is always on the move. Guillermo O'Donnell dealt with these issues leaving unsolved some of them, particularly the complex relationship between regime and state. Nonetheless, I think he outlined the foundations of a different way of understanding democracy and, thus, democratization, that have important implications for the ways in which comparative theories address these issues. What surfaces from the distinction between democracy *tout court* and political democracy is not a just a "broader" but, fundamentally, a distinct perspective on democracy.

Political Regimes Embededdness

When studying states with democratic regimes, what does one see: tango or intercourse? Are they one or two? O'Donnell clearly sees tango: when defining the state he amends Weber; when thinking of political democracy -or democracy as a regime--, he falls back and amends, modern procedural definitions of democracy. However, it is a very close tango, as the following paragraphs show:

"...cuando se lo concibe como aspecto de la teoría de la democracia, el estado de derecho ... debe ser considerado no solo como una característica genérica del sistema legal y del desempeño de los tribunales, sino también como el gobierno con base legal de un estado que alberga un régimen democrático ..." (O'Donnell 2010): p. 138 [my underlining]

"... el estado [es un] ... elemento co-constitutivo de la democracia política" [(O'Donnell 2010): p. 23]

What does a "state that houses a democratic regime" mean? Should we take the metaphor literally: the State only houses democracy? Or is it the case that the "house" is not only a passive receptacle to its more active tenant, but also the subject of continuous refurbishing and re-organization? If so, to what extent this refurbishing goes? Does it alters the house original design to such extent that one can speak of a "democratic state"? (As O'Donnell does sometimes).

However, tango does not seem to be the full answer to the question of how O'Donnell viewed the relationship between regime and state. After all, he posits that the State is co-constituent to political democracy, strictly speaking, one of its components. Yet to be "constituent" also has another meaning: something or someone that takes part of an endeavor though predating it (see pp. 43-44 in the same book).

Please look at his well known definition of a political regime:

"the patterns, formal and informal and explicit or implicit, that determine the channels of access to principal governmental positions; the

characteristics of the actors who are admitted and excluded from such access; and the resources and strategies that they are allowed to use for gaining access" (O'Donnell 2004):15.²

In his 2010 book, Guillermo adds an intriguing final clause:

"... y la identificación de las principales y más visibles instituciones del estado en el que ese régimen existe" (O'Donnell 2010): p. 33.

Political regimes, then, include some institutions of the State. O'Donnell seems inclined to broaden the concept of regime as a way shedding light on regime embeddedness. Unfortunately, we are left with an indeterminated proposition: "main" and more "visible" state institutions are adjectives, not a specification of attributes or components. The main candidates qualifying for these attributes are the institutions of the *Estado democrático de derecho* and the agencies for horizontal accountability if one follows his works since "Polyarchies and the Unrule of the Law..." (O'Donnell 1997)]. However, the purview of these institutions of the State exceed by far the organization of free and fair elections, the subject matter of a democratic political regime. They crucially impinge upon democratic governance during non-electoral times and help organize the structure of political power within the State apparatus as well as power relations within civil society broadly considered. In other words, as far as democracy is considered States do more than just tango with a regime.

These are important questions. At least since he elaborated the connection between democracy and human development --see his piece for our 2003 coedited book (O'Donnell 2003)³-- O'Donnell explicitly worked on the *problematique* of the embeddedness of the regime within the state, and the consequences for democratic theorizing. However, through the years he wavered. In his 2003/2004 books, he clearly endogenizes certain dimensions of the State within a prescriptive definition of democracy, and openly criticizes narrow, procedural definitions of it:

"La democracia tiene cuatro características distintivas en relación con otro régimen político: 1) elecciones limpias e institucionalizadas; 2) una apuesta inclusiva y (limitadamente) universal; 3) un sistema legal que establece y respalda -por lo menos- los derechos y libertades implicados por un régimen democrático; y 4) un sistema legal que prohíbe que cualquiera sea de legibus solutus. Las dos primeras características corresponden al régimen; las dos últimas al estado. Por lo tanto, las teorías sobre la democracia que se limitan al estudio del régimen sub-especifican erróneamente su tema." (O'Donnell 2003) : p. 73

In a 2007 piece, he still maintains that democracy is much more than a regime but is reluctant to redefine democracy so as to include certain aspects of the State.

² As the author notes, this definition amends slightly the one he and Schmitter put forward in 1986 (O'Donnell, Schmitter et al. 1986).

³ There is an English version, published the following year, that has some differences with the original Spanish (O'Donnell 2004). The origin of the book was a paper O'Donnell wrote for the *Programa Estado de la Nación* in Costa Rica to discuss the findings of the Citizen Audit of the Quality of Democracy carried out between 1998-2001 (Programa Estado de la Nación 2001).

Instead he prefers to raise a new criterion: consistency. One finds the same elements, but herein his previous strong push for endogenizing the State is absent. Now a certain kind of State (the "good State") is an anchor but not a dimension of democracy:

"La democracia incluye un régimen político pero no se agota en él... la democracia en su sentido pleno implica la extendida existencia de otras ciudadanías: civil, social y cultural. El régimen democrático no garantiza ... la vigencia de esos otros aspectos de la ciudadanía ... El Estado es el ancla indispensable de los diversos derechos de ciudadanía implicados y demandados por la democracia. Un "buen" Estado, es decir, un Estado consistente con la democracia, es un Estado que inscribe en su propia legalidad, implementa por medio de sus burocracias y, junto con una sociedad civil presente y activa, apunta a consolidar y expandir los derechos de ciudadanía implicados y demandados por la democracia ... los ciudadanos tenemos un derecho público e irrenunciable al Estado, pero no a cualquier Estado sino a uno consistente con la democracia, un Estado de y para la democracia." (O'Donnell 2007) : pp.26-27

For sure, this State "of and for" democracy is not inevitable by any means: it represents one of the many possibilities a State can organize and function, historically a rather unfrequent species. O'Donnell also calls this subtype a "Democratic State" [See: (O'Donnell 2007): pp. 49-53]. The question is, of course, whether the consistency criterion between a democratic regime and a democratic state implies a new and broader concept of democracy one which, by the way, would not only endogenize certain dimensions of the State but also, by implication, force us to reframe the study of democratization not only as the process through which a democratic regime is put in place but a democratic state as well. I will return to this issue later on.

If I revisit O'Donnell in 2003/2004 my answer would be an unqualified "yes". However, I am not so sure that O'Donnell 2007 is so enthusiastic. Therein he seems to be troubled by two not so harmonious propositions: on the one hand, democracy is more than a regime; on the other, the democratic state is "consistent" with (thus external to) a regime. Finally, O'Donnell 2010 scales back from his 2003/2004 claim. Under certain historical conditions, what the State does is to house a democratic regime, it is a necessary (external) condition:

"Específico ahora las características del estado de un país que contiene un régimen democrático ...: 1. Es la parte del sistema legal que promulga y respalda los derechos de participación y las libertades concomitantes del régimen; 2. es el subconjunto de burocracias encargado de implementar y proteger los derechos y libertades mencionados; y 3. Es la unidad que delimita al electorado -los ciudadanos políticos- del régimen. Las características 1 y 2 están implicadas por la definición de un régimen democrático; la característica 3 es una condición necesaria para la existencia de este régimen". [(O'Donnell 2010): pp. 82-83]

Despite different ways of framing the consequences of regime embeddness for democratic theorizing along the years, in O'Donnell's thinking one finds two

common threads: on the one hand, regime embeddness becomes an important theoretical problem to reflect upon because democracy has non-regime components usually overlooked by mainstream comparative theories of democracy. On the other, what pushes democracy outside the straitjacket of a regime is the fact citizens are moral and political agents, endowed with rights which have been enacted and recognized by the State after often conflictive processes. The exercising of an initially rather limited pool of citizen rights and freedoms is the vector driving the historical process of expanding the portfolio of rights attached to the legal definition of citizenship. Citizens use right to vote and to be elected to public posts to fight for, and acquire, new rights in areas of the polity that can be far removed from the regime, i.e., citizen participation in designing and approving public budgets (Wampler 2007; Talpien 2012). Democracy may go viral and beyond the outposts of the regime when citizens push it into uncharted territories.

Based on these understandings, O'Donnell asserts that democracy is an open-ended process. One can never fully predict where the journey of citizenship will carry it (O'Donnell 2010).⁴ What he also seems to assert is that political rights -- originally specified for the purpose of participating in the sphere of the regime-- are the gear-lever for enacting changes in other spheres. The right to possess rights is also a means to expand citizenship and, thus, democratize the State and society. The will and actions of the moral agent constantly reshapes the limits and possibilities of democracy. This theoretical insight opens to systematic study the somewhat uncharted territory of democratic experience beyond the regime without rejecting the importance of regime politics. However, it begs a question: does it involve a new prescriptive definition of democracy?

For O'Donnell, Schumpeterian and, particularly, Dahlian definitions suffice to specify what a democratic regime is (and ought to be) --although he demonstrates that these narrow understandings imply a certain kind of state and, in this sense, are less narrow than scholars usually take them for. But what about the specification of the non-regime dimensions of democracy? If one accepts that democracy can and usually goes beyond the contours of the regime, as O'Donnell does, does one need a new specification of democracy for the purpose of doing comparative theory and research? Here is where I find some hesitation in Guillermo. And, finally, if a new prescriptive definition is needed, how to avoid coming up with laundry lists that conflate different concepts (regime, state, society)?

This is not an scholastic question, although for sure one can easily turn it into one. It is a burning political issue for democratization studies. Since the mid 1990s scholars have identified many "diminished" types of democracy --polities that do not meet the conditions of a polyarchical regime (Collier and Levitsky 1997). In recent years there has been a growing concern on the raise of hybrid, or semi-democratic regimes (Mainwaring, Pérez-Liñán et al. 2001; Schedler 2006; Levitsky and Way 2010). Interestingly, polities with hybrid regimes can't be fully described only in terms of regime criteria. When a regime fails the full-fledged democratic

⁴ For a historical account of democracy as a journey, see: (Dunn 1992; Dunn 2005)

criteria test, one finds the inprints of an authoritarian organization and functioning of the State all over the place.

For sure, an authoritarian and aggressive State curtails citizens' rights and freedoms associated with regime institutions (i.e. electoral processes, accountability of elected officials) but it also does the same with non-regime institutions (for example, the institutions of the Rule of Law). Delegative or proto-authoritarian governments not only encroach democratized regimes, they also govern undemocratically. They shape the state for those purposes, enacting laws and reforming institutions abolishing judicial independence, horizontal accountability, and transparency. Russia and Venezuela are cases in point. Curiously enough, scholars use features pertaining to the non-regime organization and functioning of the State to describe hybrid regimes, but are wary to include issues of the organization and functioning of the State to describe what democracies are.

On the other hand, in real life full fledged democracies are never confined to the norms and institutions of a political regime. Of course, the dictum "no democratic regime, no democracy" holds true (O'Donnell constantly reminds us about it), but in all countries with a prolonged democratic experience, the genie is out of the bottle: democracy deeply shapes both how the State and society organize and function, although not through synchronized and harmonious paths. In many cases, these effects are not external links stemming all the way from the regime -- connections to be empirically assessed--, but endogenous as well. Citizen rights are the grammar of modern democracy, a force that has reshaped the state apparatus and governance and has introduced the language of political rights even in the far removed realm of the market (consumer rights, corporate accountability) alongside civil and commercial law. I shall return to this question.

No matter if one looks at hybrid, semidemocratic polities, or advanced democracies, the embeddness of the regime within the state calls up into question the "wall of separation" that mainstream comparative political science built between these two. Not so long ago Linz and Stepan posited that that the State matters for democratic regime consolidation, as one of the "interconnected and mutually reinforcing conditions" that must exist for democracy to be consolidated (Linz and Stepan 1996; Linz and Stepan 1996). Acknowledging the close relationship between Regime and State is always welcomed. In their view, however, interconnection remains an external link and this is not enough: certain non-regime features of the State are part an parcel of democracy without which the existence of a regime may be endangered.

As O'Donnell said (in 2003/4) some dimensions of the State not pertaining to the political regime are endogeneous to democracy. Nonetheless, endogenizing the State as a whole can be plainly wrong because many of its norms and institutions predate democracy and function with little connection to it. If both propositions are true, then where do one traces the boundary of what is "in" and "out"? In his more recent books O'Donnell keenly understood this problem and was uncomfortably dealing with it. Here (I speculate) originates the hesitations I highlighted in this section.

Thick democratization

Beforehand I spelled out a widely accepted proposition: no democratic regime, no democracy. Let me now put forward a second proposition: state and societies democratize in as much as political regimes democratize. And a third proposition: regime, state, and societies democratization processes are interconnected but rather distinct and somewhat independent historical processes.

The first proposition is important because, as O'Donnell and most political scientists agree, a political regime is the core of a polity to the extent that it deals to the question of who, and how can access to power (and be removed of it). From an O'Donnellan perspective, the second and third propositions also matter because they open fields of inquiry of the non-regimen components of democracy without giving up on the strictly political nature of democracy. The latter propositions keep regime, state, and regimes as different objects, each one with singular historical trajectories subject to the causal effects of particular (and not necessarily shared) constellations of factors. In addition, the propositions make room for acknowledging the (possible) reinforcing --but external-- effects among them. All in all, state and societal democratization imply expanding the root concept of democracy beyond the limits of a political regime while refusing redefining it on substantive terms, as certain social and economic outcomes (equality, development, and so on).

In terms of regime democratization, O'Donnell --with Schmitter-- wrote a seminal essay in the mid 1980s that opened a new field of research for political scientists (O'Donnell, Schmitter et al. 1986). The literature on transitions --the process by which authoritarian regimes were replaced by democratic ones-- flourished.⁵ Inevitable debates ensued on the drivers and assessment of country transitions, but there was a remarkable agreement on what a political regime is⁶ and the main attributes of the democratic subspecies.

In a democratic regime, free, fair, decisive and institutionalized elections are the way through government posts are filled, elected officials can be removed by the citizenry in subsequent elections, and citizens have the rights to hold public officials accountable on a broad range of issues.⁷ In this context, regime democratization meant the process by which a democratic political regime comes to being. However, what does state democratization mean? Or societal democratization? And more fundamentally, does it make sense to speak in those terms? Taking the cue from Guillermo O'Donnell, I happen to think it does make sense, although my way of approaching these issues is somewhat different to his.

Even though a regime's institutions are woven to the State --part and parcel of it--, regimes overflow the State and a State outstretches by far a political regime. My

⁵ By the early 2000s, debates on the shortcomings of the transitions literature ensued. See: (Carothers 2002; O'Donnell 2002). In recent years, the research on hybrid or semidemocratic regimes has underscored the difficulty of marking the end point of regime transitions.

⁶ Throughout his works, the Chilean sociologist Garretón has espoused a broad definition of the concept of regime. For an early example see: [(Garretón 1991) pp. 103 ss].

⁷ This is a fairly accepted albeit colloquially presented way of describing the concept of democratic regime. The emphasis on accountability is a nod to Karl and Schmitter (Karl and Schmitter 1991)

point is that certain institutions and organization of the State are "co-constitutive" of democracy, to use Guillermo's words, not because they pertain to a democratic regime as he seems to say in his last book, but because they comply with either of the following requirements:

- State norms and institutions which are inextricably imbricated with the process of enacting and enforcing the existence of free and fair elections, freedom and political rights, universal enfranchisement, accountability of elected officials --all of which are elements of the regime-- to such extent that without them the democratic regime flounders⁸. O'Donnell's "*Estado democrático de derecho*" is the case in point here. They are concomitant and joint conditions for the survival of a democratic regime.
- State norms and institutions whose structuring and functionings have been (re)shaped by constitutional and/or legal mandates originated in democratic decision-making. As a consequence, previously unchecked authorities are subjected to the purview of citizen scrutiny and participation. Segments of the State not inherently related to democracy are suddenly and thereinon woven to democracy as an upshot of the enactment of new citizen rights and state obligations: public budgeting must make room for citizen decisions; congress recognizes citizen initiative in the process of law formation; authorities are summoned to call public meetings before taking any decision on public utilities, and so on.⁹

Please note that none of these conditions refer to the existence of a functioning State as a precondition for modern democracy, something which is true, widely accepted and which I will not discuss here.¹⁰

That certain features of the state as a legal order and institutional apparatus are endogeneous to democracy is a proposition that, as we have seen before, Guillermo O'Donnell clearly espoused. Moreover, in 2007 he defined the democratic state (or the state of and for democracy) as:

"Un Estado que además de sancionar y respaldar los derechos de ciudadanía política implicados por un régimen democrático, por medio de su sistema legal e instituciones sanciona y respalda una amplia gama de derechos emergentes de la ciudadanía civil, social y cultural de todos sus habitantes."[(O'Donnell 2007): p. 31]

⁸ Norms and institutions that --in addition to ensure that laws effectively regulate social behavior-- enact and backs citizen rights and freedoms and prevents anyone from being *de legibus solutus*. (O'Donnell 2004): p. 33. In that passage, O'Donnell states explicitly that he is thinking of rights and freedoms "included in the definition of democratic regime". However, even if one think of political rights, some of them are not necessarily attached to a regime --right to elect and be elected, and concomitant rights. For example, citizen right to revoke mandates of elected officials (something different than "throwing the rascals out of office" through electoral means).

⁹ The point here is manifold. First, Congress creates new institutions that do not belong to the political regime but are tightly related to citizen political rights. The Ombudsman is exemplary of this process (for a nice analysis of the diffusion of this institution see: (Pegram 2011)). Second, Congress create new democratic requirements for policy-making that unleash new instances for citizen participation and/or remedy, as well as changes in decision making processes.

¹⁰ O'Donnell forcefully makes this point in his 2007 work (O'Donnell 2007).

In several of his later pieces, he labored mightily on this point, coming up with detailed lists of conditions that would specify a "democratic state" or a "state of and for democracy" from other types of non-democratic or partially democratic states. In his 2003/2004 books he focuses on the "*estado democrático de derecho*" and specify 17 conditions a state with democratic quality should abide. It is in his 2007 piece where he works this point with more depth, distinguishing four types of state: minimalist, functioning, adequate and democratic state (O'Donnell 2007) pp. 49 ss. For Guillermo, distinguishing these four types of state has a heuristic purpose -- classifying existing states into categories-- but do not amount to a theory of state democratization.

Where I part company with Guillermo is in the way he solves the problem: expanding the concept of regime so as to include other dimensions of the State ("*...y la identificación de las principales y más visibles instituciones del estado en el que ese régimen existe*"). I think this muddles the analytical differences between Regime and State.

Regimes deal with the question of access to power¹¹ while States deal with the question of exercising power to impose and regulate social order (Mazucca 2007) -- later on I will return to this distinction.¹² A State does that by wielding legitimate political power (Weber 1977; Schumpeter 1981; Raz 1990; North 1991; North 2001; Tilly 2003; Mann 2010).¹³ For sure, in a democracy authorities have been endowed with legitimate power by means of regime politics. However, certain ways of exercising power nullify democracy. At the extreme, one can think of an elected authority (selected by free and fair elections) who once in power decides to abolish future elections and perpetuate herself with the legal backing of a Judicial Power which she controls after packing the Supreme Court with cronies. Or think of a State in which authorities and public servants make blatantly illegal decisions and violate citizen rights with the connivance of the Judiciary, without citizens having any horizontal accountability means to check those behaviors.

Of course, Regime and States are deeply interconnected.¹⁴ Additionally, regimes are part and parcel of the State broadly considered. However, one must keep separated the regime and non-regime faces of the State because they relate to quite different functions. Thus, the point I made before: certain dimensions of the State are

¹¹ i.e. how actors can obtain political power (channels to power); which actors that may access these channels and have a say in selecting authorities, legitimate resources and strategies they may use, and so on.

¹² I find useful Mazucca's distinction between access and exercise of power. I do not agree with the theoretical consequences he draws from it, thus adapt it for my own purposes.

¹³ In the past decade scholars from different disciplines and perspectives have studied the development of the State in Latin America as a hindrance for democratization. See: (Grindle 1996; Engerman and Sokoloff 1997; López-Alves 2000; Centeno 2002; Gonzalez and King 2004; Thies 2005; Sokoloff and Zolt 2006; Besley and Persson 2008; Centeno 2008). Recent works have alerted about the institutional reforms that have modernized Latin American States in the past decades (Lora and Pianizza 2002; Schneider and Heredia 2003). Reflecting on a deviant case (Costa Rica), I highlight the importance of a robust state for Costa Rican regime democratization (Vargas Cullell 2012).

¹⁴ How institutions shape democratic politics and policymaking has been object of a series of studies sponsored by the InterAmerican Development Bank (Stein, Tommasi et al. 2006)

endogenous to democracy not because they belong to the regime but because the State as such is an object that can be affected by democracy inasmuch regimes can be affected.

From this perspective, regime democratization and state democratization are two different theoretical and historical objects:

- when looking at regime democratization one is trying to historize the ways in which free and fair elections and universal citizen enfranchisement came to being;
- when looking at State democratization one is looking at how political power has been tamed, subjected to the law and to public scrutiny in its everyday dealings with citizens, and most generally, with all the inhabitants living within the territory that the state claims as his.

If one can specify the conditions a regime must meet in order to be classified as a "democratic regime", one could do the same with a "democratized state" -- something that O'Donnell attempted since at least 2003. In both cases, parameters are non-taxonomic in nature allowing room for accommodating the vast differences existing between regimes and states all over the world. For example the requirement of "free and fair elections" does not stipulate any electoral system in particular. Instead, it sets up a general parameter that any electoral system claiming to be democratic must meet. From this perspective, the conditions (or parameters) of a democratized State do not meddle with the specifics of its organization and functioning, nor with the developmental consequences of public policies, but on certain requirements for the exercise of political power.

In his 2007 piece, O'Donnell lists 11 conditions of a Democratic State (O'Donnell 2007): p. 51. Some of them are cast in terms of "reasonable", "adequate", "sufficient", which does not help. Thinking of the previous distinction between non-regime norms and institutions inherent to democracy, and non-regime norms and institutions further democratized by democratic politics, I cobble up the conditions of a democratized State as shown in Table 1.

Table 1. Thick democratization

Democratization Type	Result	Description	Requirements
Regime	Democratic regime	Democracy as only legitimate means of selecting government	Free, fair, competitive, decisive and periodic elections Political freedoms and rights Universal citizen enfranchisement
State	Democratized State	Norms and institutions of the State ensure citizen agency over-riding competing sources of power structuring principles	Effective enforcement of rights Subordination of authorities to the law Horizontal Accountability ¹⁵ Opportunities for direct citizen participation in policy making
Societal	Democratized society	Mobilization of rights	Citizen support for rights and liberties Societal Accountability ¹⁶ Societal (private) institutions and groups subject to the law and to the exercise of political rights

Source: adapted with changes from (Vargas Cullell 2011): Table 1, p. 11

Regime democratization and State democratization pose different theoretical problems. In a regime that classifies as democratic, democracy does not share bed with authoritarianism. Democratic arrangements penetrate and reorganize all of its norms and institutions: either free and fair elections are the source of legitimate political power, or not; either citizen enfranchisement is (quasi)universal, or not. Of course, many regimes are not entirely democratic, and no real existing regime may entirely fulfil requirements (Dahl 1971; Dahl 1998; O'Donnell 2010). However, this is an entirely different issue and the subject of empirical research. From a conceptual point of view, the endpoint of regime democratization is a totally democratic regime --one that fully complies with the conditions.

When looking at state democratization, things are different. No modern State -- even the democratized State-- can be organized purely on democratic grounds. In highly complex and diversified societies such as the contemporary ones, monetary, fiscal, telecom or industrial policies can't be decided by citizen assemblies, by the demos at large (nor should be and/or is feasible). Bureaucracy can be subjected to public scrutiny, can be made accountable, but as such is organized on hierarchical principles based on expert knowledge. Hierarchy and expert knowledge are not

¹⁵ For a definition of this concept, see: (O'Donnell 1998; Mainwaring and Welna 2003; O'Donnell 2003).

¹⁶ Smulovitz and Peruzzotti coined this term (Smulovitz and Peruzzotti 2000).

democratic principles (Weber 1977).¹⁷ In all political systems, imposing order over a territory requires command and control relationships that are not abolished -- just tamed-- by democracy, what Mann terms "despotic power" (Mann 1984; Mann 2010). Many areas of civil, commercial, international and/or public law continue functioning with little if any connection to democracy. This is so because the State pre-dates democracy and its functionings cover many societal realms (economic, cultural, social) where political power is exerted for widely different purposes.

My point is that, in rigor, no such thing as a democratic state exists in the sense of a State organized solely by democratic principles. All what one may find is a democratized State, one shaped by the competition of different principles for organizing power relations such as democracy, bureaucracy, or despotic power. These principles contentiously cohabit in the legal order and institutional apparatus. In sum, the test for a democratized state is not whether its organization and functionings solely adhere to democracy but, essentially, if it contains norms and institutions that ensure that citizens can act as moral and political agents, keeping in check the non-democratic power relationships that also organize and crystallize in the State apparatus.

What about societal democratization? Things get even more complex here. In social relations, many ways of structuring power coexist: families organize kinship relationship based on patterns of authority that are not democratic in origin; markets organize power relationship between and within firms and consumers based on the mobilization of economic assets, and so on. Societal democratization does not vanquish these other ways of organizing power and authority between private persons and social groups, but penetrates and influences them, and can prevent these from encroaching the ability of citizens to act as political and moral agents.

Societal democratization has consequences for markets when "consumers rights" are enacted and enforced; or when stakeholders hold accountable managers on the grounds of transparency; or when firms actively involve in corporate social responsibility because they cast themselves as "responsible citizens".

Democratization affects the traditional institution of families when "children rights" are enacted and enforced, including sometimes the right to divorce from their parents. Even religion does not escape from the outreach of democratization, for example, when church hierarchies are held accountable to civil law, or when public displays of religious beliefs are regulated on the name of republican principles. Societal democratization shapes civil society not only enabling organized citizen to have a voice and influence policy-making, but also because it enforces transparency and accountability on social/private organizations. Finally, societal democratization helps the spread of citizen attitudes and beliefs that foster support for democratic practices and respect of rights and dignity of others.¹⁸ Table

¹⁷ For a nice, though dated compilation on the importance of bureaucracy as an institution, see: (Dalby and Werthman 1971).

¹⁸ In turn, markets, families, religion and other ways of structuring social life deeply affect democracy.

1 above specifies some of the non-taxonomic parameters for specifying societal democratization.

One final word. O'Donnell's critique on procedural democracy, and his thinking on the complex links between State and regime lead me to distinguish regime, State and societal democratization while --as we will see-- keeping democracy as political concept. I accepted the long agreed analytical separation between regime and State without jumping to a wrong conclusion: that democracy belongs exclusively to the realm of a political regime. Following O'Donnell, I accepted the intimate and complex interplay (embeddedness) of Regime and States, but I refused to blur the differences between them as the price for accepting that democracy exists beyond the borders of the regime.

As a consequence, democratization emerges as a thicker and fuller concept. It is not only the tale about how a regime democratizes, but also about how the state and society are democratized. In this sense, regime transition is just one dimension -- for sure, a crucial one-- but not the whole story.

Democratization as a thick concept allows us new avenues for comparative empirical research. Nonetheless, a different concept of democratization does not amount to a theory of democratization. A whole new array of complex issues rise:

- How does regime, state, and societal democratization interact? Which goes first?
- Are the drivers of regime democratization the same that push for State, and/or societal democratization?

Revisiting well known democratization cases and re-tell the stories may prove a useful starting point. Analyzing how a democratized State was built vis-a-vis the regime transition can shed light to processes we have been missing. King et. al. studies for US democratization path is a case in point -though we don't share the same theoretical perspective (King, Lieberman et al. 2009). As King and Lieberman stress "democratization is an open-ended process that can move along multiple possible paths toward (or away from) more democracy on multiple dimensions" [(King and Lieberman 2009): p.9]. Is more than regime replacement and can continue long after a democratic regime has been put in place (Parry and Moran 1994).¹⁹ One of the consequences of such a perspective is rejecting the artificial separation between regime transition (or democratization tout court) and democratic consolidation --the latter a concept that Guillermo O'Donnell forcefully disapprove of (O'Donnell 1996).

Take Costa Rica, my home country and one of the oldest and for sure the stablest Latin American democracy. Attention has been paid on how the regime first liberalized and finally democratized over a long period beginning in the late XIX century and ending in the 1970s (Lehoucq 1995; Seligson and Booth 1995; Lehoucq 1998; Wilson 1998; Programa Estado de la Nación 2001; Lehoucq and Molina 2004). However, very little is known about how the State democratized (Jiménez 1974; Programa Estado de la Nación 2001): when did the Judiciary finally emerged as a fully independent branch of the State? How did horizontal accountability

¹⁹ In this piece, Parry and Moran coin the expression "democratization of democracy".

institutions unfolded? And, thinking of societal democratization, when did a vibrant, democratically inclined civil society flourish? When trying to answer those questions one will certainly find insights as to what went first and how, or the consequences of regime democratization for state democratization and viceversa. Also, we may also find that types of democratization may have different time frames, i.e. State democratization may continue after a regime becomes fully democratic. In Costa Rica, there has been quite a robust process of state democratization in the past three decades well after the regime transition ended (Programa Estado de la Nación 2001; Wilson 2004).

Democracy and the Quality of Democracy

Democracy is the root concept of the previous considerations on thick democratization.²⁰ However, if democracy is not (only) a political regime, how can it be defined?²¹ Is there a way to accommodate thick democratization while retaining the nature of democracy as a political concept? How can one avoid the trap of expanding the concept without blurring the distinctions between society, state and regime?

Assuming O'Donnell's tenet about the central importance of citizen agency for democratic life, I understand democracy as a way for organizing power relations, more specifically, the structuring of societal power relationships based on the premise of the citizen as an agent (O'Donnell 2002; O'Donnell 2004; Vargas-Cullell 2008)²². This is an O'Donnellian in nature, non-taxonomic definition of democracy that highlights its open, historically changing nature since its invention more than two thousand years ago in a small city in southern Europe (Dunn 1992; Dahl 1998; Dunn 2005; O'Donnell 2010; Przeworski 2010).

In spite of its openness, the definition captures the fundamental difference which sets democracy apart from all other political systems through out history: the “*demos*” as the foundation of legitimate authority. In all political systems, rulers rule over people and democracy is no exception. However, democracy introduces a crucial change in both the nature and dynamics of the relationship between rulers (the powerful side) and the ruled (the weak side). While in non-democratic polities, the ruled are vassals, in a democracy the ruled enjoy substantial power, they are not at the mercy of the powerful. The power of the ruled stems from the fact that

²⁰ This section is based on forthcoming paper that will be published in Brazil (portuguese version) and Mexico (Spanish Version) in the course of 2012.

²¹ I do not accept the Dahlian distinction between polyarchy (real existing democracy) and democracy (as an elusive vision). My point is that real existing democracies and democratization exceed the contours of polyarchy.

²² An agent is someone capable of adopting decisions and act in consequence. Dahl's moral autonomy assumption states that all individuals are the best judges of their own interests and that differences do not justify guardianship (Dahl 1989). Thus, civil and political equality ensues. I must add that Dahl has some inconsistencies on this point: on a later book, he states that moral autonomy is not an assumption but a consequence of democracy (Dahl 1998). In sum, democracy is not consistent with any kind of legal definition of citizenship, only with those based on the explicit recognition of individuals as a political agent endowed with rights which in turn are based on the premise of moral autonomy[(O'Donnell 2010): pp. 47-73, 118-120].

they are citizens, political and moral agents wielded with entitlements (O'Donnell 2007; O'Donnell 2010; Przeworski 2010).²³ As Dunn reminds us, democracy stakes "the claim to be obeyed ... a demand to accept and even submit to the choices of most of your fellows citizens" [(Dunn 2005): p. 24]

In modern democracies, citizenship is a legal status that bestows to the bearer a bundle of rights and obligations to the adult population within a State (with some exceptions) based on the assumption that all individuals have capacity to act on their own –that is, they are moral and political agents, as O'Donnell pointed out. This portfolio includes freedoms to act as they see fit independently from the will of the powerful, as well as certain rights over them, through which the ruled have the capacity to resist, defeat or force concessions without de-stabilizing the political system. In short, democracy creates and institutionalizes the power from below, the power of the ruled.

However, democratic power relations do not abolish the power of the rulers, the power from above. As in all political systems, in a democracy power disparities are protracted, consequential and systematic. They spring up from substantially asymmetric endowments of assets and capabilities between individuals, organizations and/or social classes. Moreover, some dimensions of political inequality are legally enacted in as much certain individuals are bestowed with the authority to adopt collectively binding decisions. Although asymmetries are dynamic and not necessarily imply zero-sum games, a democracy without political inequalities has never been seen.

In a nutshell, in a democracy the weak exert (some) power over the powerful and at the same time, the latter retain the ability to govern. A conflictive and potentially fragile equilibrium inevitably arises fueled by the contradiction between the impulse of political equality ("power from below") and of political inequality ("power from above"). Given that the "power from above" is, no doubt, more powerful, in the absence of certain protections that must be effective, the impulse for political inequality would easily win.

All democracies thus enact a complex framework of norms and institutions to ensure that both sides –rulers and ruled- preserve their lot but, especially, to protect the weaker side, the community of citizens, from encroachment from above. This framework regulates both the access and the exercise of power and implies careful definitions about its legal and illegal uses as well as about the controls needed to prevent abuses²⁴.

A consequence of placing power relations at the core of the concept of democracy is that it can no longer be defined just as a political regime, a method to select rulers based on free and fair elections supported in turn by a bundle of rights and freedoms. As O'Donnell argues, such minimalist procedural definition leaves unexplained a fundamental part of democratic life: how democracy is capable to

²³ Przeworski rather prefers to cast this question as the "self government" ideal.

²⁴ As several authors stress these arrangements are historically contingent. For example: quasi universal citizenship and free and fair elections are crucial for modern democracy but not in Athenian democracy (Dunn 1992; Dunn 2005; Przeworski 2010).

ensure that rulers, once elected, do not abuse their legally authorized power to overrule the citizens (Bürhlmann, Merkel et al. 2007; O'Donnell 2007; O'Donnell 2010).

At the heart of the democratic power relations lies an act of partial delegation. The citizens, the source of legitimacy, delegate power to public authorities to govern in their name. This delegation is partial: the citizen-agent retains a substantial amount of power because she does not forfeit her rights. She always retains the ability to mobilize her rights as she see fit, within certain restrictions.

As I mentioned in the previous section, power²⁵ --the delegated and non-delegated one as well-- is exerted according to two sets of rules. The first one deals with the question of who can exert power, that is, who has access to power and how. The second set of rules norm the exercise of power, how power can be exerted by those who wield it. The interaction between the terms of power delegation and the rules to exert it leads us to the four dimensions of democracy. The first two basically pertain to the realm of the political regime, the last two to state and society.

The first dimension refers to the rules that norm the access to delegated power, the one vested in public authorities, as well as the rules that specify the means through which those who have been invested with authority relinquish it. In a democracy these regulations basically correspond to the electoral system, which in turn is grounded on constitutional rules that define the extent and limits of delegated power.

The second dimension refers to the rules that norm the access to non-delegated power, the one which citizens do not forfeit. This refers to the question of who enjoy the rights to have a say on issues of public interest, to elect those who will govern the polity or to be elected in government. In short, these rules specify who has been enfranchised as a citizen, a legal status which in modern democracies is supposed to be quasi-universal, and what rights such as status implies. Even though the portfolio of citizen rights were originally enacted for participating in the political regime, nowadays they broadly expand beyond the limits of the regime.

The third dimension refers to the rules norming the exercise of delegated power, the one vested in public authorities. It deals with the carefully crafted and complex set of rules that define the lawful uses of power by those invested with public authority, the unlawful exercise of it, and the sanctions for trasgressing these norms. Please note that the brunt of these rules apply to non-electoral periods, the time in which democratically elected governments are supposed to govern democratically. As Table 1 showed, this broadly covers O'Donnell's *Estado democrático de derecho* (O'Donnell 2001; O'Donnell 2004; O'Donnell 2007; O'Donnell 2010) but also the norms and institutions of the State that have been democratized by political decisions.

²⁵ Following Lukes I define power as a capability that enables an actor to provoke changes in a given situation, or resist them. Political power, a specific subtype of power, refers to the capacity to adopt collectively binding decisions for a society or a large segment of it --or to prevent somebody else from taking such decisions (Lukes 2005).

Finally, the fourth dimension refers to the exercise of non delegated power by citizens, which leads us to the question of how people engage in public life and mobilize their rights. As we know, people can choose to exert rights and liberties – or not to do so-, or (unfortunately) to exert them in ways that are inimical to democracy. Citizen engagement, of course, means involvement on issues related to the access to power (participation in electoral politics) and to the exercise of power (participation in governance and public policy making). This broadly refers to what I termed "societal democratization" (Table 2 below summarizes the four dimensions of power relations).

Table 2. Dimensions of power relations and democratic outcomes

Dimension of power relations	Outcome	
Access to (delegated) power	Electoral democracy	Democratic Regime
Access to (non delegated) power	Universal citizen enfranchisement	
Exercise of (delegated) power		Democratized State
Exercise of (non-delegated) power		Democratized Society

See Table 1 for definitions

Given that citizens, as agents, can mobilize rights in many ways and purposes, I define democratization as the open-ended process through which a democratic organization of power relations disseminate in a society (Whitehead 2002) (King and Lieberman 2009).²⁶ As such, democratization is a vector and implies examining historical trajectories which can have quite different time frames, sequences and convoluted "rythms". When studying democratization one focuses on change, on how a society goes from point A to point B, for instance, from an authoritarian system to a democratic one. As we have seen, democratization may refer to regimes, States, or society, not only to regime transitions.

Quality of democracy evaluates the outcomes of democratization at a given point in time. In particular, I understand it as the extent to which a polity meets certain attributes constitutive of the concept of democracy. When studying quality of democracy, I gauge the gulf between real outcomes and democratic parameters, how far democratization has taken a polity close to a democratic organization of power relations. These outcomes may vary a lot from place to place, and within a

²⁶ Grugel specifies it in terms of the introduction and extension of citizen rights and the creation of a democratic state (Grugel 2002). Grugel is right in criticizing "a minimalist definition" of democratization focusing on the establishment of elections and surrounding freedoms, and introducing the question of the State. However, he does not take into account that rights can be mobilized to democratize societal organizations as well.

given polity (See Box 1 for a brief literature review on the concept of Quality of democracy).

This is a non-normative way of defining quality of democracy. Although values and principles are woven into the fabric of democratic rules and practices, in contrast to Vargas Cullell, the Costa Rica's Citizen Audit of the Quality of Democracy, and Morlino in his various pieces, I do not conflate the quality of democracy with a good, virtuous system or citizenry (Programa Estado de la Nación 2001; Vargas Cullell 2004; Diamond and Morlino 2005; Morlino 2007; Morlino 2010).²⁷ My focus is on assessing democratic attributes rooted on a core concept of democracy. However, I deeply dissent from Levine and Molina's attempt to narrow down the quality of democracy to a minimalist procedural definition of democracy (Levine and Molina 2011). Seems to me that this approach misses fundamental dimensions of how political life unfolds under democratic systems. Although I concur with Bühlman et. al. in tightly anchoring quality of democracy to a “realistic” broader concept of democracy, I part company with their “embedded democracy” proposal which nonetheless fails to bridge the gap between comparative theory and the quality of democracy (Bürhlmann, Merkel et al. 2007)²⁸.

Box 1. Brief literature review on the Quality of Democracy

A growing body of literature on the quality of democracy has emerged in the past two decades²⁹. The seminal works of Beetham and colleagues (Beetham 1994; Beetham and Weir 1998; Klug, Starmer et al. 1998) opened the way to a spate of works quite disparate in terms of their approaches and outreach (IDEA 2001; Programa Estado de la Nación 2001; Altman and Pérez-Liñán 2002; Programa de Naciones Unidas para el Desarrollo 2004); see works on the edited volume by (Diamond and Morlino 2005)]. In the present decade there have been attempts to lay out the foundations of the quality of democracy perspective as a theory, concept and program for empirical research, cfr: (O'Donnell 2004; Vargas Cullell 2004; Hagopian 2005; Morlino 2007; O'Donnell 2007; Alcántara 2008; Vargas-Cullell 2008; Gómez Fortes, Palacios et al. 2010; Morlino 2010; Roberts 2010; Levine and Molina 2011). However, authors followed different avenues: some works paid attention to the quality of representation (Alcántara, Hagopian); others to the overall quality of political regimes (Altman & Pérez-Liñán, Levine & Molina), to attitudes and behavior (Gómez Fortes et al, Roberts), or attempted a multidimensional approach in assessing the quality of political life (Morlino, Vargas Cullell).

Beetham and colleagues' innovative initiative to audit democracy in the United Kingdom made two important contributions. First, they introduced a set of empirically appraisable

²⁷ There are important conceptual and methodological differences between these authors. However, they all agree that the quality of democracy is a normative concept derived either from certain values (Morlino), or from citizen aspirations participatorily agreed upon (Vargas Cullell).

²⁸ Bühlman, et.al. understand democracy as a closely interrelated complex of partial regimes (electoral, political rights, civil rights, power to govern and horizontal accountability) [(Bürhlmann, Merkel et al. 2007): pp. 14-21]. However, this is more a description of the “institutional architecture” components of modern constitutional democracy than a definition of the attributes of democracy which can be subject of an evaluation.

²⁹ Quality of democracy is an oft used expression in countless books and articles. However, it is seldom specified [i.e. (Lijphart 1999)]. In this paper I am interested in pieces aiming at systematically reflecting on and/or assessing the quality of democracy.

democratic standards, thus highlighting the evaluative nature of the quality of democracy perspective. Secondly, they broadened the scope of this perspective by going beyond a narrow understanding of democracy as a regime.

In 2001, the Costa Rican Citizen Audit further elaborated the idea of auditing democracy. It implemented participatory methods to set up and assess democracy standards, and applied an evaluative method based on the International Standardization Organization (ISO) experience. Borrowing from O'Donnell's theoretical works, it advanced a broad concept of democracy, one which includes some aspects of the state and society as constitutive elements. Quality of Democracy was defined "as the extent to which political life and institutional performance in a country with a democratic regime meets the democratic aspirations of its citizens" [(Vargas Cullell 2004): p. 96].

IDEA 2001's Democracy Report, Diamond & Morlino (2005), Roberts (2010), and Levine and Molina (2011) have been so far the most ambitious efforts to assess the quality of democracy from a comparative perspective. IDEA applied Beetham's democratic principles and set of requirements to the study of eight polities. Morlino and Diamond took a different stance: for them, quality of democracy refers to a "good democracy". They distinguished three meanings of quality for the evaluation of quality of democratic life (results, processes and contents). Analytically, eight rather overlapping dimensions are proposed, five of them procedural (Diamond and Morlino 2005; Morlino 2007; Morlino 2010). In a recent book, Roberts assessed the quality of democracy in Eastern Europe defining it as the degree to which citizens hold leaders accountable for their performance and keep policy close to their preferences (Roberts 2010).³⁰ Gómez-Fortes and colleagues break a middle path between Beetham's methodological proposal, and O'Donnell & Vargas Cullell in analyzing the quality of democracy in Spain (Gómez Fortes, Palacios et al. 2010). In contrast, Levine and Molina use a procedural definition of democracy as the departing point for their assessment (Levine and Molina 2011).

In such an incipient field as that of the Quality of Democracy, all these efforts open interesting research possibilities. However, still lack some basic agreed-upon theoretical understandings³¹.

end of Box 1

A non-normative concept of quality of democracy stems from broad concepts of democratization and democracy, both reaching far beyond a regime, though surely containing it. What is the value added of advancing these definitions when hundreds clutter the field? It builds upon O'Donnell's framework by placing power relations at the heart of democracy bringing in into the core concept of democracy the question of the exercise of power, that is, of some structures and functionings of the State and of the civil society. A broad concept of quality of democracy allows us to look not only at the outcomes of regime democratization but of state and societal democratization as well³².

³⁰ Bühlman, Merkel and Wessels outlined an theoretical and empirical approach (a barometer) for the study of the quality of democracy in advanced industrialized countries. However, the outcome of such an enterprise is still to be published (Bürhlmann, Merkel et al. 2007).

³¹ Most works have avoided the temptation to devise summary measures of the quality of democracy. Two exceptions are Altman & Pérez-Liñán and most recently, Levine and Molina, both of which present composite indexes for Latin American countries (Altman and Pérez-Liñán 2002; Levine and Molina 2011).

³² My root concept of democracy characterizes specific societal power relations, the substantive matter of which politics is made of. Undoubtedly, principles such as "citizen control", "freedom",

Democracy comes in many shapes and colors (presidentialist or parliamentary, federalist or unitarian, etc). A non-taxonomical definition tighted to a thick concept of democratization acknowledges the pivotal rol that the moral and political agency of the commons in energyzing democracy. It also clearly set clear analytical limits with respect to non-democratic and/or hybrid regimes (Levitsky and Way 2010). At the same time, it recognizes that democratization can change power relations in realms well outside the purview of the political regime without blurring the analytical distinctions between regime, state and society.

Final words

O'Donnell's critique of mainstream comparative theories of democracy and democratization leads to new avenues of theoretical and empirical research. Interestingly enough, he builds upon mainstream theories tenets (democracy as a political concept; central importance of political regimes) while discussing the failures of narrow procedural definitons of democracy.

Democracy emerges as a process powered by citizen agency, the accent being on democratization more than on prescriptive definitions of democracy. O'Donnell's sought to theoretically anchor the study of democracy beyond the confines of the regime by underscoring the close interconnection between regimes and States. However, throughout his works he left somewhat different answers to the original questions. In this article I spot his hesitations and try to build upon his framework a different way of understanding the connections between the concepts of democracy, democratization and the quality of democracy.

“political equality” or “accountability” matter in that they describe the democratic genus of power relations works. However, what brings in those principles together is how power relations are structured.

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