



Framing Democratic Proceduralism in Education Reform: No Child Left Behind and Common Core State Standards

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Abstract

This study aims to frame democratic proceduralism in education reform by deconstructing elements of democracy and civil society along aspects of legitimacy, representation, the discourse of liberty and naturalization, voting, and transactional discourse. This deconstruction is accomplished by providing a literary review of these factors and organizing aspects that are particularly relevant to education reform. Democracy in education reform is then explored through the relevance of market influence and the uptake of two recent education reforms, No Child Left Behind (NCLB) and Common Core State Standards (CCSS). Using the theoretical background constructed to frame legitimate democratic proceduralism, the uptake of this reform is then explored and critiqued. Overall this study explores the issue of democratic proceduralism in education reform, generates a necessary and robust theoretical background to frame legitimate democratic proceduralism, and finally evaluates how these procedures are utilized in the uptake of education reform.

Keywords: Education Policy, Democratic Proceduralism, Civil Society

Introduction

This paper aims to show the importance and necessity of legitimate democratic practice in education policy. This is shown by giving a background of research on how a robust civil society is contingent on an inclusive citizenship and further why the public sphere must be in balance with the state and market spheres. The democratic process of deliberation is presented as a representational, inclusive, and non-coercive democratic process. The process of deliberation is then used to investigate the uptake of No Child Left Behind (NCLB) and Common Core State Standards (CCSS). It is shown that neither policy initiative followed a deliberative process, and the implications that this might hold for future reform are discussed.

Background

Framing Legitimate Democracy

Legitimacy. Legitimate democratic practice with egalitarian goals must consider the voices of civil society to properly represent the needs and desires of the public sphere. This representation is necessary to solve issues through a legitimate process that considers plurality as a means within

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democratic proceduralism. Somers (2008) argues that the quality of democracy is contingent on socially inclusive citizenship comprising civil society and civil society's balance in accordance with the state sphere and the market sphere (p. 2). When civil society or any other sphere holds disproportionate power within democratic proceduralism, other spheres will not be legitimately represented. In such a case the weakest sphere's needs and desires will be imagined and predicted by the power holder based on presuppositions (not the actual voice of the constituents of the sphere). However, this disproportionate power holding has been historically maintained.

As spheres within this triadic system struggle for power, the public sphere has particularly faced the biggest risk of becoming victim to disproportionate power as it has been historically the most fragile sphere, and the sphere's contributions are often viewed as elective and not necessarily "right" based (p. 32). For egalitarian rights to be met, constant regulation within this triadic system is necessary to secure rights for civil society and maintain legitimate democratic proceduralism.

Representation. As each sphere needs substantive representation, the quality of the intragroup voices will provide democratic legitimacy to the sphere. According to Somers, citizenship is contingent on a number of factors, but with an egalitarian and socially inclusive democracy as a goal, citizenship must be recognized as a public good that contributes a necessary voice and meets both needs of citizenship rights: (1) be relational and inclusionary; (2) provide human rights to all (p. 8). Further, if citizenship is recognized in this way, as a public good and a beneficial contribution to civil society, then it must be noncontractual and absent of quid pro quos in order to ensure that the power of the public sphere is truly steered by the intragroup voices and not disproportionately influenced by outside spheres (p. 34).

However, voices are often actively excluded by coercive methods such as quid pro quos and a strict attendance to social contracts not related to the sphere itself. Members of civil society who are unable to provide a means to engage in coercion or meet social contracts can be excluded and further disadvantaged in the democratic process. This is evident now as students seeking the social contract of tertiary education are forced to invest more than ever before ("[Student loans owned and securitized, outstanding,](#)" 2019).

These quid pro quos can also be seen in education policy. When monetary contributions and market potential are valued over normative inclusion, egalitarian goals cannot be met. As a consequence, a very narrow voice is left to represent the public sphere, one that does not and cannot represent a deeply plural context. To counteract this active and present problem, Au and Ferrare (2014) describe an "accountability mechanism" for members of the public sphere to use as a tool to condemn illegitimate democratic practices and especially "the policy agendas of private individuals and organizations that seek to directly intervene in the system of public education" (p. 11). However, even with such a mechanism present, its purpose must be transparent and further insulated from market and government influence. In this way the public sphere must be granted its own authenticity and legitimacy. One way this authenticity can be created and fostered is through transactional discourse. One of the key reasons transactional discourse is essential to legitimate democratic proceduralism lies in the logic in which it operates, the "lifeworld." Chambers (2002) argues that the lifeworld is one of the key reasons that civil society operates differently than the state and market as "the lifeworld provides background against which all social interaction takes place" (p. 106). Because the process (the means) of deliberation challenges discrete and shared ideologies and further emphasizes un-coerced, other-regarded, reasoned, inclusive, and equal debate, it is able to lead participants to a shared and coopted end (Chambers, 2002, p. 93; Chappell, 2012, p. 7). This transaction is essential for participants to understand their own best interests as well as the best interests of others approaching the main criteria for legitimate democratic proceduralism: equity and inclusion within a pluralistic society (Chappell, 2012, pp. 48, 69).

Discourse

Liberty. Unfortunately, popular conceptions of civil society are deficient. The "discourse of liberty" often embedded in democratic societies alone is not enough to help tip the scales of the market

and government. Common conceptions do not create a realization of the complex discursive practices involved in how a democratic society operates nor does it emphasize the individual agency involved in the practice of democracy or the maintenance of liberty (Alexander, 2006; Somers, 2008). The most common conceptualizations of liberty are *Negative liberty*: freedom as non-interference, *Positive liberty*: freedom as self-mastery, and *Republican liberty*: freedom of nondomination. Although these concepts are often used to define “freedom” and clearly seen in preverbal cognition as embodied experience, they do not do well to explain the role of agency in liberty (Mackie, 2009). A lack of agency in the conceptualization of liberty does nothing to foster a formative concept of liberty. To extend the discourse of liberty towards formative egalitarian means, further concepts must be included: *Civil liberty*: “the right to do what one would will, except harm others;” *Civic liberty*: “the right to participate in the authoring of laws, collectively exercising the sovereign power;” and *Effective liberty*: “the actual capacity to exercise a given formal liberty” (p. 3). Specifically, *Civic liberty* and *Effective liberty* conceptualize a liberty that is beyond simply functioning within normative values. Within *Civic liberty* lies the “right to participate” and within *Effective liberty* lies the “capacity to exercise” constructing a concept of liberty that is contingent on the agency of the constituents.

Naturalism. Without a clear formative conceptualization of liberty to unite civil society through solidarity, civil society exposes itself to the class creations of the market and government (Gee, 2013). Alexander (2006) further emphasizes that civil society as a sphere of solidarity is contingent on civil discourse, the use of codes that contribute to the cognition of binary conceptions, essentialism. These socially established discourse codes contribute to social naturalism in which beliefs about what is possible in the world are cognized (and constrained). This can be seen on a variety of scales affecting “how we think and know about society as a whole ... [and] our perceptions of individual agency” (Somers, 2008, pp. 52-53).

At a national scale social naturalism can explain why faith is put into market fundamentalism. We see society as natural (and nature as self-regulating) and thus trust the means and ends that the “self-regulating” market provides (p. 52). At a local scale Marsh (2007) provides an example in which minority inclusion in a deliberative education council meeting was inhibited because of the social expectations of board members. The board members thought the use of “appropriate” discourse codes should be *de facto* by participation (in the deliberative process) and that members would have the ability to articulate their arguments from a “well-informed” perspective based on their own conceptions of professionalism. However, some of the minority group members struggled to provide an impassioned presentation of their views and felt unable to accomplish a move towards what was believed to be a “professional” discourse code despite successfully voicing their concerns in the target language (pp. 64, 65).

Inclusion and exclusion is thus embedded in the control of domain specific capital. Habermas (1996) explains that deliberation should be opened to all members of a state even those who do not have equal access to and control of cultural or domain specific capital. Deliberation should be moderated with the participants’ “willingness to ... take a universalist stand against open or concealed exclusion of minorities or marginal groups” (p. 376). If marginalized members or groups do not have (or are not believed to have) a specific set of capabilities or sufficient occasion to exercise them, then legitimate democratic deliberation cannot be accomplished (p. 358). Market naturalism works against these egalitarian values, and therein lies the need to see identity creation analytically as a form of naturalism that is created through the process of collaboration (emphasizing both means and ends), and specifically relevant here, deliberation (Philips, 2010).

Marsh’s (2007) example of micro deliberation in an education council describes an attempt at deliberative and inclusive meetings yet there were clear struggles. Chappell (2012) defines democratic deliberation as “un-coerced, other-regarding, reasoned, inclusive and equal debate,” and the most desirable form of equality and inclusion as “All those affected should have equal minimal rights/opportunity to participate” (pp. 7, 95). In Marsh’s (2007) example, not only did the moderators (the board members) hold disproportionate power within the deliberation process (not trusting the means of deliberation) they were able to narrowly suspend discourse code as legitimate (domain specific capital)

and actively delegitimized minority members' voices (despite having already been chosen as necessary participants). Such exclusion does not foster solidarity within civil society and further emphasizes class divides.

Voting

Not only does our normative conception of liberty and social naturalism undermine the democratic process, so does our most common realization of democratic proceduralism. Although the most common realization of democratic proceduralism is voting, it does not mean that it necessarily aligns with all legitimate democratic theory. This issue is addressed in Gutmann and Thompson (2004) and Chappell (2012). Chappell specifically describes three main problems with voting: instability, impossibility, and ambiguity (pp. 99-101). Specifically, relevant to this study are the problems: impossibility and ambiguity. It is impossible for any aggregative rule to satisfy conditions necessary for an honest choice as Chappell takes from Arrow's theorem (the most relevant conditions are presented):

universal domain: all logically possible preference orderings are allowed in voting; *weak Pareto principle*: if all individuals prefer x to y then society also prefers x to y ; *independence of irrelevant alternatives*: the social preference over x and y depends only on the individual preferences over x and y and not on preferences over other alternatives (pp. 99-100).

Aggregative methods are ambiguous as different counting methods can result in different winners, which would have no contingency on the "right," "better," or agreed upon decision (p. 101) and further in its current form fails to account for alternatives in the form of preferences (monotonicity). Aggregative methods also make big assumptions about the needs and desires of the public based on very simple choices that cannot possibly represent deeply plural contexts (Pareto efficiency). Although we often trust elites to make informed decisions for us, these decisions need to meet the needs and desires of all stakeholders.

Transactional Discourse

Far from the limitation an elected representative possesses to direct democracy, engaging in active discourse is inherently transactional and accounts for deliberation's ability to offer democratic proceduralism in highly plural contexts. Highlighting the importance of an inclusive and representational public voice, Abowitz (2013) outlines that:

...a transactional view of communication does not see the process as "pure" but as constantly moving through and in subjective interpretations and cultural contexts. In other words, what we express and hear in communication is always shaped and filtered by our cultural lenses, and our identities as people (p. 95).

Bowman (1996) further describes these constant ebbs and flows of transactional discourse as "ongoing cooperative arrangements" (p. 68). This transactional view of communication needs to be seen as normative if to follow egalitarian goals. Such a system would have to take into account held conceptions of liberty and agency as well as how social naturalism can play counter to the goals of solidary seeking transactional discourse.

Democracy and Education

Market Influence

However, even more pit-falls exist in the realization of egalitarian ends. More often than not, education policy makers are appointed by elected officials save even an aggregate vote from the public. Beyond this, recent education policy has extended its stakeholders into the market and has even including them in an unprecedented level of specific policy-based assessment and material creation. This can be seen in NCLB's use of ETS, a private non-profit that is often labeled as an international monopoly in the education market. Despite its non-profit status, their chairman (as of the time of publication), Robert S. Murley, is also on the board of directors of Apollo Education Group, Inc. whose history in the for-profit education industry is not absent of charges and investigations regarding religious discrimination,

inappropriate recruitment tactics, and financial misreporting by the Equal Employment Opportunity Commission, the U.S. Department of Education (Murguia, 2011), and the Federal Trade Commission (Bulton, 2016). It must be rigorously maintained that no matter how well intended private foundations are in their attempts to influence reform and generally engage in policy creation, they are not part of the public sphere and are often not held accountable for the results of their investments (Au & Ferrare, 2008). Market influence is all too often insulated from public scrutiny while their decisions often exclude public debate.

Au and Ferrare (2008) and Piller and Cho (2013) both show that neoliberal policy as a means in education policy investment often leads to ends that are not in line with public good. As a U.S. based case study, Au and Ferrare (2008) show how an elite group of wealthy individuals have a disproportionate influence on the charter school initiatives in Washington through direct investments or through investments in non-profit organizations like ETS. Further, in Korea Piller and Cho (2013) show how education policies based on economic insecurity have embraced neoliberalism with top-down policy decisions as a means of competing in national and global university rankings through the easily manipulated criterion of “internationalization,” one that has little to do with local deliberation (the proportion of foreigners among a university’s teaching staff, the number of international students, the number of exchange students, and the proportion of English-medium lectures). This lack of bottom-up decision making and local deliberation has led to a number of problems: fees linked to grades have resulted in student suicides, internationalization as a metric to rank universities has little to no connection to investments in local communities, and unregulated market fundamental university ranking systems have made competition more market driven than academic.

In both of these examples, clear and legitimate problems are being addressed by the market sphere although not always to positive ends in the public sphere. The pit-falls lie generally in the exclusion of the public in decision making and a lack of engaging deliberation. Market solutions have a clear divergence in their focus. In the U.S. privately owned charter schools have been shown to spend more on administrative costs and principles than public schools as well as spending less than public school on instruction and gifted and special education according to the Pennsylvania School Board Association (Levine, 2006; “*PSBA special report: Charter school revenues, expenditures and transparency*,” 2016). In Korea, economic insecurity has led to a more quid pro quo based university ranking system that can be manipulated along criteria that have little to do with academic success of students let alone local communities. This results in market powers severely regulating education and applying “free market” ideology in ways that are financially beneficial in the short term but lack awareness of the long-term costs (Piller and Cho, 2013).

With these national and global trends clearly rooted, how can the public sphere find a legitimate voice and engage in proper deliberation based decision making? Abowitz (2013) emphasizes that deliberation presupposes that legitimate democracy is not an aggregation of opinions “but [a means] of helping citizens find common ground about shared problems” (p. 75). This common ground can only realistically begin at a local level through the community to pursue a bottom-up approach and avoid non-representational, top-down decisions that are public-blind. Civil society must participate in legitimate democratic proceduralism so as to create a legitimate voice for representation.

Education Policy

Both NCLB and CCSS were wrought with market influence and further show very little evidence of having engaged the general public in decision making or at least including key stakeholders at grassroots levels. This lack of democratic process resulted in education reforms that in many ways continually ignored the needs of public education.

NCLB (implemented in 2001) created a marked shift towards contractual regulations implementing a system of standardized performance based assessments. If schools were unable to perform at the standard, they were penalized with federally mandated sanctions. This led to a “race to the bottom” as schools began to set their own standards, implementing easier tests to avoid sanctions and thus receive funding. This race to the bottom ultimately undermined the use of these standards per the original

sound bite tag of benchmarking goals towards “100% student proficiency” (Hess, 2014, p. 5). Overtly, NCLB expressed goals that generally follow the goals of public education with egalitarian aims such as Title I of the Elementary and Secondary Act under NCLB: “The Academic Achievement of The Disadvantaged.” However, the implementation and logistics of how these goals could be achieved was not left to local deliberation (U.S. Department of Education, 2004; Kornhaber, Griffith, and Tyler, 2014, p. 7). This lack of inclusion not only left communities behind but it also left them out of legitimate democratic practices and further pressured districts to “game” the high stakes system just to stay afloat (Arce, Luna, Borjian, & Conrad, 2005; Burch, Donovan, & Steinberg, 2006).

What led to CCSS, then, was largely based on post-NCLB state standards being inconsistent with career and college readiness. This was by and large due to NCLB’s harsh funding penalties (Eubanks, 2014, p. 25). Districts were forced to focus strictly on test preparation and implementation during the NCLB era. The concept of CCSS was thus a mix of a “race to the top” notion (supported by federal and private investments) along with a target towards increasing critical thinking development (p. 25). Again, at face-value, CCSS appears to be aimed towards implementing quality education that follows the goals of public education with egalitarian aims (as was NCLB). However, again and particularly important to illuminate here is what values were ignored in the development and promotions of CCSS and how these points have led to the ambiguity in its implementation, state dropout, critiques of its initial promotion, and reactionary reform planning (Eubanks, 2014, pp. 28, 30; Hess, 2014, pp. 3, 14-15, 16). Particularly, what was not valued and has continued to be devalued is again public inclusion in decision making regarding education reform. The following will show evidence that CCSS did not engage the public in deliberation in development or uptake, states were coerced into taking up the reform, strong private investments spearheaded the reform with deliberate public exclusion, and that this exclusion led to a range of negative effects such as a lack of understanding the reform, ambiguity in implementation, and state dropouts.

Egalitarian Critique

The public was excluded in many ways starting with the initial uptake of CCSS. Particularly, the new common core standards were “not adopted after deliberate evaluation or public consideration of their merits” and the “how” of implementation was never deliberated, leaving the mess of failed attempts at implementation motivating public concern and deliberation only after the fact (Hess, 2014, pp. 7, 10). As post-reform deliberation took place, false and exaggerated claims that were used to promote CCSS, such as “internationally benchmarked,” “evidence-based,” “college- and career-ready,” and “rigorous,” were not open to debate or deliberation nor were they held in any form of accountability (p. 6). Excluding key stakeholders, this policy initiative lacked the normative idea of communication as a transactional tool in the democratic process. Furthermore, the biggest investment pushing this support was not public, but singular, institutional, and market driven. Specifically, the Gates Foundation directly injected monetary investments “across the political spectrum, to entities including the big teachers’ unions, the American Federation of Teachers and the National Education Association, and business organizations such as the U.S. Chamber of Commerce” (Rycik, 2014, p. 52). This allowed the federal government largely coerced by the market to make unilateral decisions without considering the outcomes (Hess, 2014). These ramifications still include a maintained education gap without convergence on the standards despite being a main goal of the reform. Further, between 2009 and 2011 half of the states’ proficiency scores slipped while the others rose (Peterson & Kaplan, 2013, p. 45). Clearly, a continued ignorance of the real problems in U.S. public education like poverty, food insecurity, lack of access to books, libraries, and funding failed to be addressed with CCSS reform (Krashen, 2014).

As Au and Ferrare (2008) argue, often times private investments are well meaning and motivated by good intentions, but it is clear that these massive investments were not held accountable for their failures (as they continued to proceed) and do little to include substantive public engagement. What was lacking in the decisions supporting both NCLB and CCSS were that they were not steered by legitimate public engagement and deliberation. Advocates and investors failed to substantively include un-coerced stakeholders. This left the decision making process absent of public deliberation and further limited the

benefits of discursive transaction that could have led to many critical solutions to problems that persist in the U.S. public education system to this day.

Conclusion

Ultimately, this study hopes to illuminate how decision making in education policy has in recent history been taken up by framing decision making as a democratic process. This process if legitimate must be deliberative and transactional. The implementation of NCLB and CCSS did not follow a legitimate democratic process and thus failed to engaged the public in un-coerced, other-regarded, reasoned, inclusive, and equal debate (Chambers, 2002, p. 93; Chappell, 2012, p. 7). If we are to achieve an educational quality that is critical, engaged, and situated, then we must understand that “genuine learning is an act of affiliation that requires strong communities and educational practices that successfully connect students to these communities ... most visions of school reform undercut community” (Strike, 2010, pp. 2, 27).

Beyond this study, far more research is needed. There are many implications that suggest that standards, in general, provide more benefits to the market than the public (Rycik, 2014; Kornhaber, Griffith, and Tyler, 2014). Furthermore, investigations into how second language learners are represented in CCSS have found that standards are far less than adequate (Wang, Wolf, Huang, and Blood, 2014).

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