

Reviews

In Defence of Procedural Democracy

Nadia Urbinati, *Democracy Disfigured. Opinion, Truth and the People*. Cambridge/Mass.: Harvard University Press 2014, 307 p. ISBN 978-0-674-72513-3.

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Political theorists today prefer to hide their own ideas in commentaries on or interpretations of other thinkers. As Hubertus Buchstein and Dirk Jörke note in a previous issue of *Redescriptions*, theorising on democracy has become unduly academic (2007, 181-83). Using parliamentary language, it has been excessively focused on debating motions already on the agenda, and has generally failed to consider the introduction of new items onto the agenda or question the fairness of procedure.

This new book from the Italian political theorist Nadia Urbinati, who teaches at Columbia University in New York, is definitely an exception to these current trends. Whereas her previous work, *Representative Democracy: Concept and Genealogy* (2006), was still largely a commentary on both early theorists of democracy (in the main text) and on contemporary debates (in the extensive footnotes), now Urbinati has changed her style. She offers us both her own theory of democracy and, based on this, an interpretation of its current tendencies of 'disfiguring'.

The book is a defence of a certain type of democracy, one that consists of a *diarchy* of will and opinion, which serves as the criterion for identifying and analysing three forms of disfigurement, which Urbinati calls epistemic, populist and plebiscitarian. Or, she has constructed – with the Weberian procedure of one-sided accentuation – an ideal type of a contemporary perspective on democracy. When interpreted in this sense, the diarchy itself leaves room for a wide range of variations and does not dictate any certain recommendations, as normative theorists tend to do. Rather, there is a tension between normative and ideal typical interpretations within the book, the former pressing for actual responses to the alleged 'crisis' of democracy, the latter retaining a greater distance and providing rather inspiring ideas for politicians.

Urbinati's book aims clearly at resetting the agenda of current debate on

democracy. This is quite visible in her situational analysis, which presents a coherent and well-argued view of the current ‘disfigurations’ of democracy. Furthermore, she boldly discards many aspects of traditional popular and academic debates: for example, the denominations ‘left’, ‘right’ and ‘centre’ hardly appear as analytical categories in her book. On the other hand, despite focusing on contemporary disfigurations of democracy, she does not seek to return to some past moment at which the political spectrum was divided clearly and unambiguously.

Three forms of anti-proceduralism

One of the book’s main points is that there is no single *malaise* in the current state of democracy, but three different disfigurations. These three are not *a priori* anti-democratic but, on the contrary, rather “possible radicalizations of one of the three roles of the forum of opinion that spring within representative democracy as its internal borders” (p. 6). Nor, if understood as ideal types, must they necessarily be exclusive: I guess that it will not be long before we hear of such oxymoronic expressions as ‘deliberative populism’ or ‘deliberative plebiscitarianism’. The diagnostic power of Urbinati’s perspective to identify and detect disfigurations of democracy in the contemporary world is obvious.

Urbinati’s point is that all three disfigurations illustrate a major current trend. In a key passage of the book she claims:

I would say that there are two views of democracy that confront each other in contemporary political theory and practice: one that holds political proceduralism as the best *normative* defence of democracy, in fact holding it to be the figure of representative democracy because it respects the diarchic character of this government, and the other that sees deliberative procedures and political contestations as instrumental to an end that transcends them in the name of truth or construction of a hegemonic people or the creation of ocular citizenship. Although different, epistemic, populist, and plebiscitarian visions are mirrorlike images that converge toward a view that denies the normative character of political democratic procedures and the form they take in representative democracy. (p. 8)

I take this to be Urbinati’s main thesis. In other words, a major strength of the book consists not just in identifying three mutually opposed disfigurations of the democratic diarchy, but in claiming that, despite their oppositions, they share common ground in their merely instrumental attitude towards democratic procedures. Urbinati’s original, justified, but currently unfashionable point lies thus precisely in her defence of democracy as a procedural regime.

I agree entirely: as with all regimes, democracy must be judged in terms of its procedures. No regime can in advance guarantee 'good results', or prevent paradiastolic devaluations of any results. To pretend anything of the kind would be paternalistic, a clear contrast to the use of open, contingent and controversial procedures in a world of plural and conflicting political agents. All outcome-oriented regimes are afraid of contingency and controversy.

For this review I read the book from back to front, first reading Urbinati's interpretations of the 'disfigurations' and only after that going back to the point of departure, the vision of a democratic diarchy of will and opinion. This is an indication of the strength of her critique; her 'positive' commitment is more doubtful.

In an ideal typical genre, the author must consciously operate with exaggerations, simplifications and summarisations. Urbinati, however, presents historical examples that illustrate the disfigurations of democracy. Here we must discuss the accuracy and appropriateness of these interpretations: if they are too sketchy or flimsy they weaken the plausibility of the type that they are intended to illustrate. Similarly we can ask whether the types of disfiguration are presented appropriately, as coherent enough internally and sufficiently different from each other. Related to all this is also the rhetoric of naming these disfigurations. Even if the names are contingent and conventional *par excellence*, they still have historical connotations and shape our manner of classifying the differences.

Plebiscitary audience democracy

One of the original aspects of the book is the distinction between populist and plebiscitarian critics of parliamentary and representative democracy. Many of the parties and movements that in journalistic language are called populist, such as the Berlusconi 'parties' or the 'True Finns', are for Urbinati plebiscitarian. In terms of her theory, the distinction is, however, quite obvious: "populism gives the People a political presence, whereas plebiscitarianism gives it a passive one endowed with the negative function of watching" (p. 172)

The fourth chapter, "The plebiscite of audience and the politics of passivity", well illustrates what Urbinati calls "post-representative democracy"; its ideal is transparency of power before a politically passive electorate (ibid.). The reason is less a "plebiscitarian transformation of parliamentary democracy", not in the classic Bonapartist manner but rather the decline of parties, the role of television and the increasing weight of the executive (ibid.). The origins of the system are in the ancient Roman tribunate of the *plebs*, of the plebeians' method of achieving a share of power in the aristocratic republic (p. 175-78).

Urbinati borrows from Bernard Manin the term ‘audience democracy’ (p. 216-17), which she sees reevaluated in plebiscitarian regimes. ‘Audience’ does not here merely refer to the rhetorical concept of the addressees of speeches and debates, but also to the theatrical character that reduces – via television above all – electoral and parliamentary forms of politics to a spectator sport. It blurs the distinction between ‘popular’ and ‘public’, and control of politicians is reduced to the ideal of ‘transparency’ (ibid, 174). Unlike John Stuart Mill or Max Weber, the plebiscitarian thinkers do not see citizens as ‘occasional politicians’, but as *ex definitione* opposed to politicians. In other words, the voter-spectators don’t want to become politicians themselves but are content to look at politicians in the same way as they watch shows in the theatre or on television, and to judge their performance as actors, not their political standpoints.

Presidential systems are classical *loci* of plebiscitarian politics, in which the political choice is reduced to acclamation - or not. Urbinati refers to recent US studies such as Green’s *The Eyes of the People* and Posner’s and Vermeule’s *The Executive Unbound* as examples of the “American Renaissance of Plebiscitarian Democracy” (subtitle on p. 196). The key point is “the Roman idea of candor... or the public exposure of the leader as a person to the people in the forum to judge him, and thus the people’s role as an audience that visually controls the appearance and performance of the leader” (p. 201). The ideal of transparency is thus a correlate of the spectator status of citizens, part of which is the tendency to reduce the vote to acclamation.

‘Audience democracy’ is in so far a strange metaphor as the theatrical public insists on visibility, “made in public”, as Urbinati paraphrases Carl Schmitt (p. 186). She also speaks of the “ocular public as a public, whose identity consists in judging according to the paradigms of fashion within which the subjective point of view becomes an embarrassing sign of anachronism” (p. 203). In consequence, Urbinati interprets Schmitt’s opposition to the secret ballot – unlike Mill’s – as a rejection of the idea of regarding voters as individuals; rather it is seeing the people as a unity, acting by acclamation only, in accordance with the Catholic doctrine (p. 183-85).

While the reference to Schmitt is central to the plebiscitarian tendencies in the US, Italy, France and so on, it is much less correct to count Weber among the ancestors of plebiscitarian democracy. Of course, Weber was keen to identify plebiscitarian tendencies not only in the US presidency but also in British parliamentary politics in the era of mass democracy, but he remained critical of them. Wolfgang Mommsen’s well-known interpretation, to which Urbinati is indebted, ignores the fact that Weber explicitly had a very ambitious concept of parliamentarism, both as a political regime (Weber 1918, 226-27) and as a methodological model for political debating, which he opposed particularly to the ‘rule of officialdom’ with its monocratic view of knowledge. How this knowledge could be controlled by parliamentary means is made explicit in

a few crucial pages of *Parlament und Regierung im neugeordneten Deutschland* (Weber 1918, 235-37), not intelligible without Weber's perspectivist vision of knowledge and his reinterpretation of 'objectivity' with Westminster procedure as the model (see Palonen 2010a). Weber's support for the directly elected *Reichspräsident* in 1919 does not remove the parliamentary responsibility of the government but rather serves, together with parliamentary government, as a complementary counterweight to bureaucratisation, which the party list-based electoral system in Germany rather strengthened.

Populism: the unification of the people

Urbinati's distinction between populism and plebiscitarianism is analytic and does not prevent the same politicians (Berlusconi) and theorists (Schmitt) from appearing in both chapters. Nonetheless, she justly insists on their difference. For her "a populist movement that succeeds in leading the government of a democratic society tends to move towards institutional forms and a political reorganization of the state that change, even shatter, constitutional democracy ... and transform election into a plebiscite of the leader" (p. 129). Many of the consequences of populism are rather similar to those of plebiscitarianism, but the political process that brings about these results is different. One of the main insights of the book is that while populism is based on a 'movement', plebiscitarianism is based on a politically passive audience, although they might support or oppose each other in practice.

The rhetorical strategies of populist movements are "simplification and polarization" that "produce verticalization of political consent" tending further to lead to "a deeper unification of the masses under an organic narrative and a charismatic Caesarist leader personating it" (p. 131). Populist anti-proceduralism "has the people, more than the democratic citizen, at its core" (p. 133). Urbinati sees populism as "'parasitical' on representative democracy", not "external" to it but as a "competitor" to it (p. 135). She calls the result of the successful populist transformations "a monarchic emendation of democracy" (p. 153), which among other aims seeks to dissolve "the plural, composite, and even conflicting" character of democratic 'people' into "a crowd with one voice, leader, or opinion" (p. 162).

Interesting in the chapter on populism is Urbinati's argument with the main contemporary left-wing defender of populism, namely with the recently deceased Ernesto Laclau. Her main point is the accusation that Laclau misread Antonio Gramsci's concept of hegemony. Urbinati, a former student of Norberto Bobbio, disputes the central thesis of Laclau's political thought, namely the aim of gaining hegemony for some good 'we'. She insists that Gramsci's

view was that “the unifying politics of hegemony contained a dangerous risk of power concentration” (p. 155). Her own proceduralist view of democracy is even more anti-hegemonic or dissensual: “Citizens acquire more voice as long as power is diffused and nobody can legitimately claim to represent them as a whole: this is the golden rule of democratic proceduralism that populism rebuffs” (p. 157).

Populists want to overcome the individuality and equality of citizens in debate and voting by means of “a more genuine identification of the represented with the representatives than elections allow” (p. 136), and through the polarization of “majority rule as a procedure for making decisions to the rule of the majority” (p.139-40). She seems to be tolerant of a dose of populism as a movement, but doubts even the Weberian view that a plebiscitary president could serve as counter-force to bureaucratisation.

Variants of unpolitical democracy

Nadia Urbinati’s reflections on democracy’s populist and plebiscitarian disfigurations can be expected to be welcomed by many contemporary scholars. Much less support is to be expected for her militant critique of ‘unpolitical’ or ‘epistemic’ democracy. This critique “includes both proposals of extending the domains in which non-partisan decisions are made and proposals that advance a conception of democratic authority that receives legitimacy from the quality of the outcomes that its procedures allow” (p. 81). She joins these proposals together, however, under the name of ‘unpolitical democracy’, on account of their common tendency “to neutralise that which makes democratic politics so characteristically associated with dispute, disagreement, deliberation, and majority decisions that are open to change” (ibid.). They share with plebiscitarianism and populism the opposition to democratic proceduralism.

Whereas Urbinati separates populism from plebiscitarianism, she subsumes under ‘unpolitical democracy’ historically different currents, such as ‘deliberative democracy’, the new constitutionalism, the ‘governance’ languages of expert powers and even the ‘republicanism’ of Philip Pettit. All of them share for her “a new wave of antiparliamentary spirit, with the argument that electoral and procedural democracy allows into politics partial judgments and electoral interests ... least conducive of steady, just and competent decisions” (p. 82-83).

In Urbinati’s terms “[d]iarchy is rendered as one between will and truth instead of will and opinion” (p. 83); *episteme* is supposed to replace *doxa* (p. 82). In accordance with these views, “political deliberation... has been countered with decisions by non-political actors, like judges and juries or committees of

experts, with the argument that this would protect the common good from the infiltration of prejudices, inaccuracy, and partisanship” (p. 83). For Urbinati, such views share with populism their being “equally impatient with the democratic diarchy and want something else besides majority decisions, party pluralism and the art of compromise” (p. 83-84).

In joining these heterogeneous strands of thought and policies together, Nadia Urbinati has identified the crucial similarity between a number of contemporary academic, legal and administrative fashions, namely their attempt to get rid of politics and, even more, of politicians. Such fashions tend to present themselves as participatory, deliberative, citizen-friendly and even democratic, but by aiming to reduce the contingent, contested and controversial, they are reactionary in the literal sense of trying to deny or overcome the experience of the politicisation of ever new aspects of human life and action. Urbinati’s major point is that procedural politics would be able to deal with the contingent and controversial without eliminating it, while the different factions of epistemic thinking do not have any instruments to deal with it, and therefore are obliged to denounce proceduralism *a priori*.

Considering the examples of unpolitical democracy that Urbinati presents, one cannot avoid the impression that too different views are included – at least they are ‘unpolitical’ in different senses. Interestingly, she refers to Thomas Mann’s notorious *Betrachtungen eines Unpolitischen* from the end of World War I (p. 84-89) and his identification of ‘political’ and ‘democratic’, and sees some parallels to it in the present situation. Unlike Mann’s aesthetic apoliticism, Urbinati sees ‘politics’ and ‘democracy’ as concerning the form of and the consequences to the regime, rather than any intervention in the private life of an artist.

Closest to Mann and political Platonism is David Estlund’s rejection of political proceduralism as nihilistic (p. 92, 96). His ‘epistemic’ critique of democracy is for Urbinati ‘more radical than Habermas and the deliberationists’ (p. 94) or Rawls (p. 100), all of whom leave some room for politics. Estlund is looking for procedures which “should produce correct decisions” (p. 95). Such an extreme view has a theological tone in that it assumes both some given and well-known ‘correct decisions’ and a distinct mechanism for achieving them. For Urbinati, such a view “clashes with democracy quite dramatically” (p. 97) because “democracy pertains to liberty, not truth” (p. 104).

With good grounds she finds it naïve to look for ‘correct decisions’ in everyday politics: “issues such as ‘What type of health care should we have?’ are decisions that are hardly definable as ‘correct’ because they are hardly solvable with one true answer now and for ever” (p. 105). Perhaps we could compare this epistemic view with the old doctrine of *Staatsräson*, as presented by Friedrich Meinecke, who assumes that for every state at any moment in time there exists the best possible solution, which only needs to be found (see Meinecke 1924, 1-3).

Two other alleged proponents of ‘unpolitical democracy’, Pierre Rosanvallon and Philip Pettit, are much more moderate and it is less clear whether they should be considered ‘unpolitical’. I at least have read Rosanvallon’s *La contre-démocratie* (2006) as another book presenting ideal typical thought experiments of *démocratie impolitique* (p. 110) that have currently been offered as counterweights to electoral, partisan and parliamentary democracy without necessarily committing to them, and in any case conscious of the dangers of such depoliticisation.

Philip Pettit himself advocates a ‘depoliticisation of democracy’, but it is unclear whether this has to do with his republican view on liberty. Pettit is a philosophical system builder à la Rawls and Habermas and he looks for perfect order, but when opposition to arbitrary power and contestation are parts of the system, they at least offer a lot of occasions for politicking. When Urbinati criticises ‘neo-Roman’ views as unpolitical (p. 116-20), she speaks only of Pettit and not of Quentin Skinner, who would never have spoken about the depoliticisation of democracy and whose ‘neo-Roman’ refers to the opposition between freedom and dependence in Justinian’s *Digest*.

Referring to experiments with ‘deliberative committees’, Urbinati offers, more specifically, “four doubts” on their role for democracy (p. 112). They are “examples of self-authorized representational forms”, for which “democratic legitimacy is felt as faulty, because it is unable to deliver decisions that are ‘truly above the will of all’, to paraphrase Rousseau” (p. 113). Secondly, they are assumed to bring about “a kind of statistically representative snapshot of the existing but latent preferences of citizens” (ibid) and are therefore increasingly used by governments. Thirdly, Urbinati quotes Bruce Ackermann’s view that “randomly selected bodies may become tools that elites can use to legitimate while bypassing electoral accountability” (p. 114). Finally “the formation of the agenda and the frame of questions to be discussed ... are ... the task of the mediators and organizers of the deliberative experiments” (p. 115).

Indeed, although the experiments are new, these arguments against their uncritical use are rather similar to the older criticism of direct democracy. To quote Weber again, in the *Wahlrecht* essay he writes that the *System der unmittelbaren Demokratie* in mass states is liable to lead *zur reinen Beamtenherrschaft* (Weber 1917, 187). Urbinati’s four points can be seen as a valuable updating of this thesis to include contemporary debates.

The three anti-procedural disfigurations of democracy could be reinterpreted in terms of rhetorical genres. For Urbinati, both populism and plebiscitarianism are examples of epideictic rhetoric, because in both cases the alternative is yes or no, acclamation or not – with the tacit implication that only ‘yes’ counts; ‘no’ means self-exclusion. But the same holds for epistemic democracy and other ‘unpolitical’ alternatives, which hide themselves behind abstractions such as truth, reason or the best results, without asking either who sets the

criteria or who decides the results. This depersonalisation is a key element in depoliticisation, which covers the rule of experts, specialists, officials, scholars or other surrogates for philosopher-kings, against whom withholding from acclamation is not even explicitly presented as an alternative. This is an extreme form of epideictic rhetoric, and even the ‘deliberative democrats’ are part of this epideictic genre; in contrast to the debating *pro et contra* of the deliberative rhetoric.

Opinion and procedure

The programmatic chapter on the ‘democratic diarchy’ includes Urbinati’s vision for a procedural democracy that combines opinion with will and is based in classical terms on *doxa* instead of *episteme*. This offers an ingenious setting. I sympathise with its political tone to a considerable degree and find many of Urbinati’s formulations excellent as interventions in the contemporary debate. Her interpretations of the means for controlling and dispersing ‘communicative power’ (p. 53-63) are thoughtful and worth closer consideration. The procedural ideal of *fair play* needs stronger guarantees than simply formal freedom of speech.

However, as a reviewer I must play *advocatus diaboli* and I will therefore focus critically on some of Urbinati’s key premises. Despite sharing widely her critical assessment of disfiguration and much of her political vision, there is still space for academic disagreements, which might have important political implications.

The construction of the diarchy of will and opinion illustrates how Urbinati’s argumentation resembles the older political theorising in grounding political argument on a philosophical anthropology. This was obviously the case with the authors she dealt with in *Representative Democracy*, and now she herself has adopted this style. It could be that in political theorising it is difficult to avoid some vision of what it is to be human, and also contemporary theorists such as Reinhart Koselleck explicitly have recourse to philosophical anthropology (see esp. the essays in Koselleck 2000). My question here is whether using Occam’s razor towards supra-political justifications of political theorising would be more appropriate.

The key concept of the book, opinion, deserves closer discussion. Urbinati uses “the words ‘opinion’ and ‘political judgment’ interchangeably” (p. 22), and connects both, with reference to Aristotle’s *Art of Rhetoric*, to “deliberative discourse” (p. 23). A core passage links the three concepts together: “political deliberation consists, properly speaking, in citizens making opinion concerning the course of actions it would be good for them to take or avoid taking. Free citizens make political judgment with the aim of convincing each other

to decide on something that pertains to the future and has only a verisimilar or probable character” (ibid.) Thus, ‘opinion’ has nothing to do with expressing ‘preferences in an opinion poll’ but refers to a stand in a debate, including trying to convert other debaters to it as well as being ready to change one’s stand as a result of the arguments presented in the debate.

Opinion refers to the Greek *doxa*, as a counter-concept to *episteme*, to something “uncertain and instable” (p. 29). Against Plato, Urbinati reevaluates *doxa* and sees in the concept a key justification of procedural democracy: “It is changeability, or its procedural organisation, in view of making changes possible, that makes democracy a government based on opinion. Democracy is government by discussion because it is government by opinion.” (p. 31). For Walter Bagehot the main argument is that “a government by discussion ... at once breaks down the yoke of fixed custom” (Bagehot 1872, 117). One needs to ask, however, whether discussions are based on opinions or do opinions presuppose discussion?

Urbinati paraphrases Aristotle’s view in *Art of Rhetoric* on the link between opinion, freedom and debate in the *polis*. “An open trial of opinions and disagreement is endogenous to the political life of the city. It is on what is open to rhetoric and opinion that we are invited to measure political freedom, and thus distinguish among the forms of government. Thus democracy is the government most friendly to public discourse.” (p. 33) With the sophist’s view of the presence of opposing reasons or arguments in mind, we can ask whether such a possibility of openness, change and disagreement is enough, or whether the procedure should rather be one that presupposes their presentation in order to understand properly the standpoints on the agenda.

These two comments indicate that we can at least ask whether the relationship between opinion and procedure is as close as Urbinati assumes it to be. What exactly does Urbinati mean by ‘procedure’, beyond the argument that it precedes outcomes in the understanding of democracy? There are several inter-related formulae in the book, but in a central passage she puts the point:

We may say that democratic proceduralism is in the service of equal political liberty since it presumes and claims the equal right and opportunity citizens have to participate in the formation of the majority view with their individual voices and their opinions; it is what qualifies democracy as a form of government whose citizens obey the laws they contribute in making directly and indirectly. Democracy provides each of its citizens the conditions, legal and political, thanks to which they can, if they so choose, participate in a broad and complex sense; by forming, criticizing, contesting and changing collective decisions in a climate of “tranquillity of spirit”, to use Montesquieu’s effective words. The normative value of democracy’s procedures resides in the fact that they make inclusion and control by the included in the process. Suffrage and the forum of ideas are intertwined powers and essential conditions of democratic liberty. (p. 19)

Summing up: ‘democratic proceduralism’ offers for Urbinati the necessary condition for freedom and equality in the formation of opinion. Such a view still leaves open the question whether opinion precedes debate, or vice versa. When procedures for conducting and regulating debates between opinions are not thematised, this might indicate the priority of opinion.

If we consider parliament to be the deliberative assembly *par excellence*, in which deliberations are regulated by detailed procedure, it is worth looking at what Urbinati says on parliaments. In her critique of the three disfigurements, their anti-parliamentary character is one of her main points. On parliament she writes: “The parliament, which is the core institution of a democracy based on election, presumes and entertains a constant relationship with the citizens, as single persons or political groups or movements, and opinions are the means through which this relationship develops.” (p. 22).

Here parliament is presented as a legislative rather than a deliberative assembly. Priority is given to elections rather than to the internal proceedings of the parliament. We could claim that voting is an institutional paradigm of opinion whereas parliament is a paradigm of the procedure of debating. In Urbinati’s view, opinion seems conceptually to precede debate, and parliament is an assembly of voting citizens, not an institution with a procedure of debating *pro et contra* as its core.

In a previous issue of *Redescriptions* I have spoken up for the opposite point of view, extending membership of parliaments on election day to the voters and the rules of parliamentary procedure, *mutatis mutandis*, to the electoral campaign (Palonen 2010b). The priority of opinion and procedure, elections and parliament, would be thus another topic worth further discussion within the horizons of proceduralist democracy.

My argument is that we should not regard parliaments as one type of representative and deliberative assembly among others but as a historical approximation to the ideal type of such an assembly. Parliaments, the British House of Commons being the earliest and most refined example, provide a paradigm or an ideal type for all proceduralist politics. This concerns the setting up, conducting and regulation of the debate as well as the parliamentary forms and practices of agenda-setting (see Palonen 2014). When Nadia Urbinati defends proceduralist democracy, this historical repertoire of parliamentary procedure for debate would be an important addition to her argument. When recognising that parliamentary procedures are always a matter of interpretation, we should also apply aspects of them to new topics (on the procedure of the European Parliament see Clinchamps 2006) as well as construct parliamentary analogies for judging the procedures of non-elected assemblies.

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