

Hi Jon

I refer to your paper 'Democracy without Politics' and make the following points:

There is a reason that the slogan is 'Think Globally, Act Locally'. You appear to wish to reverse this to Think Locally, Build the Local Up to the National Sphere. This is pre-scientific thinking, although still adopted by courts and lawyers, which is discussed later.

You propose a system to 'quarantine politics from law making' to make 'democracy function properly'. You state politics is 'mainly directed at ordering social hierarchies'. I think the essential nature of the term 'politics' refers to *power* in general but that it is usually applied in the government context, which includes a long history of law making.

Apparently as a result of frustration with Labor Party branch meetings, you propose that laws should originate in public meetings at local levels of the parliament; initiated, advocated, debated and voted on by everyone actually attending local parliament meetings (p. 3). 'Proposals for laws that are successful at the most local level parliaments would proceed to higher levels of the parliaments, in turn, for debate and decision again, until they are either defeated or are passed at a level at which they become law' (p. 4). This system is developed from the particular to the general.

My argument against your paper, aside from it being pre-scientific in its approach, is that it also ignores history. It is impossible to separate current politics from the history of law making. Your proposal will hide power further, confuse everyone and be more costly than now. Local meetings are a good idea to discuss local issues. However, different people tend to come to each subsequent meeting and all may be comparatively ill-informed about any specific issue for discussion other than in terms of the way they see it in their local context. This is not a good basis for gaining stable government.

You say yours is a multi-disciplinary project based on legal scholarship (p. 9) but I see no evidence of scholarship in your paper because you do not appear to recognize the effects on current Australian institutions of the accretion of centuries of former English law and you ignore the law and behaviour of courts, other institutions and lawyers related to this.

How do you propose to do away with the effects of the legal past, which is maintained into the present in all existing legislation, which all are expected to observe? This process has been fiercely guarded since feudalism by courts, lawyers and others with vested interests in doing so. On page 21 you state you do not discuss the judicial arm of government. Why not? Courts and lawyers often have more influence than broader parliaments in my experience as a former NSW public servant. The protection of vested legal interests goes on forever, while public servants know that parties and politicians come and go and so can be confused and waited out. To protect their empires is often the main public service objective. Trained lawyers also tend to dominate parliaments.

Do you expect Australians to embrace the destruction of all existing laws via a Constitutional referendum so the new system you propose could be implemented from the ground up? Pigs might fly? How else is there to introduce your system?

On page 22, a heading entitled Participatory and Deliberative Democracy defines neither of these terms, which is highly problematic. It is pointless to reference books about deliberative democracy if you provide no idea of how 'deliberative' is defined in comparison with 'participatory'. Are they the same or different models? What is this continuum of 'participatory, representative or autocratic' democracy of which you speak?

On page 11, for example, you state that politics and reason are 'mutually-exclusive direct opposites'. However, in your paper it is not clear to me how far your proposed meeting system should support the concept of voting, to come to decisions about how to proceed.

One problem related to this is that you give no indication of whether you think that people DO vote or SHOULD vote according to what is in their **personal interests** or according to what they think is **in the interests of everybody in the meeting, the suburb, nation or the world**, irrespective of their personal interests. Surely you agree that this matters and so you should not ignore it. National governments ideally make decisions in the interests of all. Why are you so sure (p. 32) that local meetings would not simply keep voting to abolish taxes they would prefer not to pay personally? This has happened in the US and sent many state governments into debt.

On page 26, **for the first time**, you talk about the **functions** of the elected decision maker at local meetings. You state that the lawmaking function should be divided between this elected decision maker and all those who 'would propose legislation and argue for it', starting at local meeting levels which then progress up to and include the national level. The role of the locally elected 'decision maker' would be to:

- Hear debate, then
- Make decisions on proposed laws that were debated before them, and
- *If they wish*, (my italics) publish reasons for their decisions on/in an official website/Gazette

Anybody who makes decisions without giving a clear reason why they made them is likely to be an authoritarian, unaccountable enemy of rationality, in my view. (Lawyers and many others often do it.)

Do you intend that the decision maker's only reason is expected to be that a majority of people attending a particular meeting voted in a particular way?

If I was a decision maker and everybody at a particular meeting voted that the earth was flat, I would feel compelled to decide that it is round, while providing written and well documented reasons for this view and also noting that a large majority of people at the meeting disagreed with me. I would also try to give their apparent reasons for their disagreement as honestly as possible. Then wiser heads than mine (e.g. earth scientists)

would ideally be in a position to either confirm or deny what I had written. These more highly informed people would naturally be expected to give their own conclusions.

Where do you stand on such issues, which relate to the public interest in truth, as distinct from the proliferation of uninformed rubbish or lies driven by secret vested interests, some of which might already be very politically or economically powerful?

You appear to think that people talking face to face is the best way of making decisions but I find most face to face discussion frustrating because it is most often comparatively ill informed and ephemeral. I would hate to be a politician because one's chances of getting elected depend on constantly 'meeting and greeting'. I would rather stick pins in my eyes. How could I speak intelligently about the effects of adopting carbon trading schemes unless I or somebody else had undertaken a lot of prior research which would necessarily be written down? There is little reliable information contained in spoken exchange and I do not wish to be charming. Politicians do it as a part of democracy, which represents all the people, whether or not they have time to read and write much.

On p. 32 you state you favour the 'adversarial style of debate where arguments are made for or against particular proposals as the most effective and efficient way of making legislative decisions' because you think it focuses people's minds on what precisely is at issue'. This is true only if one already knows what is 'precisely at issue' before formulating a proposal to put to the meeting. One seldom does, which is usually the best reason for having a meeting to discuss things in the first place. To inform the meeting, it would be good to have a position paper written beforehand. Good luck with getting people who roll up to the meeting to read and recall it or anything else on the matter in hand. People's views about their local surroundings are likely to be their most informed views and they usually attend particular meetings because of a related bee in a bonnet. This is not to deny the vital importance of the local view, but to point out its limitations.

Local meetings may be a good idea. However, from many scientific perspectives, one cannot logically argue from the particular situation to make the general rule or law as you would wish to do. Like many people, you argue as if you wish you were a lawyer and your proposal reminds me a bit of the way courts operate – with people endlessly talking to a particular proposition in a highly specific adversarial context which is not informed by any broader knowledge of the broader consequences of the legal decision.

Most laws contain no clear aims (sometimes called 'objects' in law). However, clear aims and clear definitions which people can use to define and openly compare practice and evaluate the outcomes are important for good administration and research. Laws usually include interpretations instead of definitions. This predates the 18th century Enlightenment and the common dictionary definitions which are vital for testing democratic and related scientific understanding, classification and practice. Good outcomes, rather than uniform practice are what matters for good practice, whether these outcomes are expected to be guaranteed (as in bridge building safety) or can only be desired (as in better mental health). Local decisions are ideally made in the context of much broader understanding.

In this context note the vital contribution of Professor Christian List of the London School of Economics to the Sydney Ideas debate on ‘The authority of science: Is science just another voice in the policy debate?’ (8.4.2011). He contrasts the concept of aggregative democracy with deliberative democracy and prefers the latter. Deliberative democracy assumes the combination of belief and the desire to make rational decisions should drive development directions, rather than the aggregation of particular numbers being the main driver. List’s distinction between two democratic forms provides the capacity for belief and more scientific approaches to evidence to drive development regionally and universally. Local decisions ideally occur in this context. Ideally these decisions may vary from what might normally be expected by law, because of good reasons related to the specific local context. This variation is ideally justified in print and signed off. This practice provides accountability for decision and may be adopted more broadly later for some apparently good reason. (One should not blindly follow rules.)

In contrast to List’s view, Brown’s biography of Michael Kirby suggests we should see the UN and its instruments as baubles of English common law, which particularly suits our lawyers. Gaudron and Kirby apparently agree that a problem with the English legal system has always been that it ‘did not, at any stage, while England owned the common law descend to the identification of principle’ (Brown, 2011 p. 363). Kirby published lectures which repeated a 1922 description of the common law as ‘a monument slowly raised, like a coral reef, from the minute accretions of past individuals’. Kirby acknowledge this made for a ‘semi-chaotic, intermittent creation’ rather than ‘a perfect science’, but he still viewed a perfect science as possible and desirable. Kelly, a colleague of Kirby’s, suggested there was ‘more to life’ than ‘trying to make sense of a legal system that is inherently unscientific and absurd’. Kirby replied:

Dear David.....How dare you say law is absurd when it was you who taught me to treat is as a conceptual unity. (p. 363)

Lawyers appear as the richest and most powerful elite whose concealment, pretences, confusions and in-jokes corrupt all around them. As in an abusive marriage, they appear determined to be all we have to support us. One wonders about their effects on police.

In summary, like the lawyer, as distinct from the scientist, you appear unaware that logically one cannot move from particular knowledge to the general rule with any confidence. Acting locally does not put people in a position to act nationally and presumably globally. Because lawyers lack an administrative practice which would allow them to speak with more scientific and popular authority, they prefer the endlessly theoretical realm to testing judgment in regard to the outcomes of practice upon an individual or community. Local decision making needs to be conducted in the context of broader, more scientific and more historical understanding otherwise these local decisions will just keep going backwards and forwards, like the decisions made in courts.

I attach two papers which address a better way forward. Yours truly,
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President of Marxist Feminists for Our Monarchy (MAFFOR)

We love our current royal family but hate all lawyers of the realm and want openness not legal privilege because this legal control means that so many matters end up in court. We also want our royal family to give more of their lands over to the people for public parks, to encourage feudal rulers everywhere to take related decisions to green our nations.