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Shaping language: What deliberative legitimacy requires

1 The requirement of legitimacy

As human beings, we each have our particular set of interests and views, of aims, belongings, and identities. At the same time, we all depend on others to realize or sustain them. Whether as individuals in groups, or as smaller groups in larger communities, we find, often enough, that we must act in concert with other agents with whom we are in some way also at odds. That is the human situation; decision-in-conflict (as we may call it) is a mandatory prerequisite to collective, collaborative action. Democracy is an attempt to acknowledge and manage that situation in the political domain in a fair and principled way. Democracy is shaped – in practice and in theory – as we strive to allow multifarious and multiply attached individual and collective agents to persist collaboratively in the tension-filled space between ineffective conflict-ridden anarchy and oppressive, soul-obliterating uniformity.

Legitimate decisions are central to the democratic mediation of this basic opposition between divisive conflict of view or interest and the shared need for common, coordinated action. *Legitimacy* ensures that concerted action is shaped and executed not principally through force, but by virtue of *acknowledgement*. Thus, the central function of political legitimacy is to confer a *normative* stamp; legitimate decisions-in-conflict *ought* to be respected. Determining the grounds of this normative feature is one central task of democratic theory.

It is possible to conceive the conceptual relations between legitimacy, political authority, and political obligation in quite different ways. So, for instance, whether legitimacy confers a *duty* (to obey) and, if so, a corresponding right of enforcement or coercion, is something on which theorists disagree. Even as to whether legitimate political authority requires a democratic political system is a controversial issue.¹

Presently, however, our concern is not with such foundational issues, but rather to see whether lessons from current understandings of democratic legitimacy may usefully be brought to bear on issues of language management (e.g. Spolsky 2009). What constraints might the aspiration to secure democratic legitimacy place on ways and means of managing language, as we do, for instance, by creating or revising an oral or written standard for a language? With this question in view, I propose

¹ See Peter 2012 for a very useful overview of extant positions. See Estlund (2008) for a seminal, systematic theory of democratic authority, in which a view of these connections is worked out in detail.

simply to take it for granted that a constitutive aim of democratic systems of governance is that their decision-making procedures secure a right to require compliance (Estlund 2008). Decisions-in-conflict that have this feature by virtue of the process by which they are made I will call democratically legitimate.² Given that language management situations typically call for decisions-in-conflict — both as to whether and how it should be exercised at all and as to the specifics of its execution — it is clear that the question of democratic legitimacy may be raised in this context.³

By stipulation, then, democratically legitimate decisions are outcomes to which we ought to adhere. It is the source and force of this *ought* that will be our theme, in particular as it applies in the context of language management. I will claim that in so far as we aim for democratic legitimacy in language policy, it is not sufficient that initiatives, such as the development of language standards, spring from a democratic process. The demand for democratic legitimization must inform the project of standardization itself, and will have consequences for how that work is conceived and carried out. In particular, the role of experts and expert knowledge will be constrained. That is my central claim. In its support, I will consider what I will call the hermeneutical dimension of political legitimacy. This dimension comes to the fore, I argue, in those relatively recent trends in democratic theory that we now commonly refer to as *the deliberative turn* and *the affective turn*. These trends are not, it should be stressed, on a par. The deliberative turn, now in its fourth decade, is massively dominant in democratic theory.⁴ Serving as a framework for much discussion and development, rather than as a label for any particular substantive position, it covers a great variation of work at very different levels.⁵ The affective turn is more recent and much more patchy. Yet the significance and relevance of emotion for politics — and in particular for the prospects of democratic governance — is a theme clearly in

² This means we will be making a number of assumptions that will largely go undefended. Central are the following: that political legitimacy is not merely a descriptive and explanatory concept (in the various senses first circumscribed by Max Weber), referring to certain perceptions of political authority, but rather a substantively normative one; that political legitimacy is tied intrinsically to the idea of democratic governance; and that political legitimacy entails at least a *prima facie* obligation for all parties to respect and adhere to the outcomes of the decision processes it founds. All three have been contested in the literature since Weber.

³ While language management covers many things, the paradigm case in view here is the development (or revision) of a norm for spoken or written language; a set of regulations determining what will count as the correct way(s) to speak or write a particular language. See Røyneland (this volume) for an account of contestation in the recent case of the revision of the *Nynorsk* standard. See also Oñederra (this volume) on the establishment of an oral standard of Basque.

⁴ That is not to say, of course, that the deliberative conception is without strong and persistent — and influential — critics. Dryzek (2010, 5–6) gives a brief overview of the main concerns and reservations.

⁵ See, e.g., Bächtiger (2010); Dryzek (2000), (2010); Parkinson (2006), Smith (2011); Smith (2009) for accounts.

the ascendancy as a focus of empirical and theoretical attention.⁶ This development is, as I see it – and hope to make plausible – a natural consequence of the deliberative turn itself.

Considering language standardization processes from the point of view of democratic theory will highlight the motivation that drives and connects these trends. Moreover, it will help us pin down constraints on such processes that the aspiration to legitimacy imposes. This task is our main concern, and my argument will center on the claim that we ought to regard language management as what I will call an essentially democratic process.

2 Legitimacy and democracy

In political discourse, the notion of legitimacy is applied both to decision-making processes and decision-making bodies. As our primary focus will be on the idea of legitimacy as it applies to the generation of decisions-in-conflict in the public sphere, relevant constraints will bear largely on institutional design. This means that both the set-up and composition of policy-making and public decision-making organs, as well as the procedures by which they work, will have to be kept in view. Still, at least one substantive assumption made here is worth noting. In response to a challenge to the legitimacy of a particular decision-in-conflict, we cannot *rest* on the authority of the decision-making body. A decision-making body *derives* its power to confer legitimacy on decisions-in-conflict *in so far as* it is a body of a kind which can reasonably be expected to produce decisions that ought, in the relevant sense, to be respected. Hence on the view we assume here, legitimacy attaches fundamentally to systems of decision-making, not to decision-makers. Nevertheless, in practice particular institutions will have systematically sustained legitimating powers. So, for instance, you might think that it is a very bad idea to raise property taxes, but you recognize, in light of the recent County Board decision on the matter, that you nevertheless now *ought to pay* those taxes at the increased rate. However, because not everyone respects what ought to be respected, legitimacy often confers, in cases where a common good at stake depends on general compliance, a right of *enforcement*. If you, resenting the Council decision, choose to withhold the property tax, it will be exacted from you. This right of enforcement, though, is also clearly derivative; its justification depends on the claim that the decision being enforced is one that *ought to be respected* in the first place. What secures this feature?

One tempting strategy is to ground the normative content expressed in the idea of legitimacy in a characterization of certain empirical circumstances; perhaps legit-

⁶ See, for instance, Demertzis (2012); Fleming (2013); Hoggett (2016); Morrell (2010); Nussbaum (2013); Thomson and Hoggett (2012).

imacy is simply a *function* of acts of acknowledgement. So one might want to say, for instance, that a governing body is a legitimate maker of decisions-in-conflict just in so far as its powers are in fact granted by the citizens under its jurisdiction. Legitimacy would then not depend on some mysterious non-empirical property, but on a particular set of facts, pertaining to the *investment* of authority in a governing power by those under its purview.

This approach highlights the important idea that the legitimacy of decision-making bodies is *granted*. But prospects for a reductive understanding of legitimacy in descriptive terms along these lines are nevertheless exceedingly dim. The justificatory claim behind any investment of political power in an institution will depend also on normative assumptions. It has been a main aim of democratic theory, in the contractualist tradition going back to Hobbes's *Leviathan*, to determine the constraints that settle how and under what circumstances consent of the ruled really may be taken to confer legitimacy on the exercise of political power. However, while Hobbes's own conception of the social contract requires mere consent, later discussion, centrally shaped in the past 30 years by the works of Jürgen Habermas (1992) and John Rawls (1993), tends to focus on the conditions required for consent to be freely and rationally given. Once the issue is framed in these terms, it will be clear that any plausible account of the legitimacy of decisions-in-conflict will have to invoke substantively normative constraints; the fact of assent, if it could ever be established, would never by itself confer legitimacy on a procedure for making decisions-in-conflict. We may still say that legitimacy is to be understood as a function of acknowledgement, but this is plausible only if one takes the idea of acknowledgement itself to be a fully-loaded normative concept, for instance by invoking norms of communicative rationality (Habermas) or the reasonableness of citizens (Rawls).

We may bring out the same point by noting the converse claim; while actual consent is not sufficient to secure legitimacy, neither is it necessary. For legitimacy may carry with it a right of *coercion* – as in the case of attempted tax evasion. In the case of language management, however, the recognition of legitimacy takes on a special significance. While the state has means of promoting a particular standard, for instance through education and directives, there are few coercive measures that may be imposed against a public that refuses to comply. As Haugen puts the point: “The planner proposes, but the community disposes.” (Haugen 1966: 24)

We have seen that the grounds that make acknowledgement of political authority appropriate in a given case are themselves irreducibly normative. But what sorts of grounds might these be? In the social-contract tradition in political theory, emphasis is placed on the *free* and *rational* consent of the citizens. Again, the issue is not actual consent, but whether the right conditions obtain such that legitimacy *ought* to be acknowledged. For Habermas, the central notion in this regard is the idea of communicative rationality as exchange free of domination and distortion.

Rawls holds a related view when he claims that decisions a system of political decision-making,

is fully proper only when it is exercised in accordance with a constitution the essentials of which all citizens as free and equal may reasonably be expected to endorse in the light of principles and ideals acceptable to their common human reason. (Rawls 1993: 137).

While there are important differences between Rawls and Habermas, both thinkers take rational deliberation to be the only possible source of legitimacy for the exercise of political power. They emphasize that all who are directly or indirectly affected by decisions shall have a real opportunity to make their claims count. In being rational, such deliberation is an *impartial* affair, issuing in impartial decisions. As impartial, based on noting but the quality of reasons put forward, such decisions are fair decisions. Legitimate political power rest on endorsement by reasonable citizens, then, who recognize its fairness toward the irreducible plurality of competing ends that is characteristic of a liberal society.

This basic fact of liberal society, the irreducible plurality of ends, is a central motivation for an account of legitimacy. Legitimate means of making decisions-in-conflict allow us to keep distinct the question whether we think a particular decision or policy is substantively right, and the question whether we ought to be bound by it. It is precisely by separating these two issues to a sufficient degree that democracy can work its mediating miracle. If procedural considerations are what confer legitimacy on decisions pertaining to contested issues, then this point is evidently assured; a challenge to legitimacy (and concomitant rights of enforcement and coercion) will be settled independently of the substantive assessment of any particular outcome. The wider and deeper the conflicts across which decisions must be made, the greater the need for a robustly outcome-independent measure of the legitimacy of particular decisions and decision-making mechanisms. So it is not at all surprising that actual disputes over the legitimacy of contested decisions typically are conducted in procedural terms. Plausibly, this evinces the general democratic presumption that the legitimacy of a decision procedure cannot be simply a function of the outcomes it produces. As pluralistic democrats we agree — in principle and across our substantive disagreements about what is actually desirable — that what we regard as a substantively less desirable outcome may still be a legitimate outcome, just as what we take to be a substantively good outcome in fact may be illegitimate.

However, while this distinction is critical and expressive of the very point of the concept of legitimacy, it nevertheless turns out to be difficult to make the case that the two questions are categorically disconnected. It is difficult to resist the idea that, at the end of the day, what confers legitimacy on a particular procedural framework or system of governance will involve a reliable tendency to produce substantively good decisions (cf. Estlund 2008 on epistemic proceduralism). Legitimacy, we might say, is sooner or later asked to prove itself in practice. But what will count as proof,

in a context of conflicting ends and values? The question points to a core issue of democratic theory in the liberal tradition. As we have seen, it is a central demand on a just state that it foster and accommodate a plurality of competing visions of a good life. And legitimate public decision procedures must be fair, in the sense that they remain impartial on such substantive value conflicts among its citizens. But then how are we to assess the outcomes of these procedures — by what general measure, other than by its faithfulness to fair process?⁷

Indeed, the liberal, pluralistic conception of democracy may be seen as founded on the rejection of the *epistocratic* assumption; that political authority ought to be placed in the hands of those with special knowledge, that is, of the elite with a grasp of “the procedure-independent normative standards by which political decisions ought to be judged.” (Estlund 2008: 30). For the pluralist democrat, there simply cannot be expert knowledge of ultimate ends. Yet, and on the other hand, a purely proceduralist case for democratic rule is difficult to make plausible. Liberal democracy must realize substantive ends of fundamental importance, ends weighty enough and universal enough to justify its claim to be the best form of government. Responding to this challenge, democratic theory performs a dynamic balancing act between the commitment to ends-neutral procedural considerations and the need for epistemically-founded justification — that is, justification aiming to establish the tendency of a given process or institutional arrangement to get the right, or at least the better, outcome.

3 Essentially democratic processes

In the previous section, I take no stand on how to balance procedural and outcome-oriented measures of political institutions.⁸ However, we can extract two points from the discussion that will be of immediate use.

The first concerns the development of the deliberative turn. The sketch I have offered suggests that we see it as a response to the basic challenge of justification of

⁷ All this, of course, can be true only within important limits. Though to articulate such limits of neutrality and toleration is evidently no easy task.

⁸ The paragraphs above dramatically compress a vexed issue central to discussions over the past 30 years (but going back to the very roots of democratic theory), regarding the relation between substantive and procedural assessments, between “forward looking” and “backward looking” considerations. I am sympathetic to Thomas Christiano, who contends, in “The Authority of Democracy”, that any plausible justification of democratic systems of governance will have to be what he calls “non-monistic,” recognizing that “these two dimensions of assessment are irreducible.” (Christiano 2004, 266). For a very concise, yet incisive discussion of the complex relation between proceduralist and epistemic values in assessments of democratic decision-making set-ups, see (Follesdal forthcoming).

democracy – as an attempt to make a substantive virtue of the impossibility of expert knowledge of ultimate, conflict-deciding ends. While this general avenue is well traveled, deliberativism, in its particular handling of the democratic commitment to pluralism, adds significant persuasive power in a direction that also chimes with the affective turn. (More on this below, in Section 4).

The second point matters to our immediate goal; namely, to find the right terms in which to frame the challenge of democratic legitimacy for language standardization processes. To see this, we must first note an important claim that Follesdal makes as he sketches an epistemic conception of democracy (Follesdal forthcoming). Even as we remain committed to a significant degree of pluralism of final ends (and so to a degree of proceduralism), we may still take it that *within* a complex democratic system individual components (institutions, policy instruments and decision-making arrangements of different kinds) to varying degrees may be assessable by more or less procedure-independent standards. The extent to which this is the case in a particular instance may well be an empirical question.

The point is worth illustrating – let criminal courts be an example. We agree that we want to minimize bad verdicts (*modulo* a different weighting of bad convictions and bad acquittals). Now, it would seem an empirical question whether and how lay participation contributes to the goodness of the criminal justice system measured by trial outcome. Are systems where court officials are elected, say, or where lay citizens participate on juries, or as lay judges on the bench, on the whole more or less reliable than systems where both direct and indirect citizen influence on the criminal justice system is much more curtailed? Is the tendency to err on one side or the other more pronounced in one system or another? If we were to find that strongly reduced lay participation and procedural influence in fact minimized bad outcomes, would not a relatively more epistocratic and less democratic system of criminal justice be exactly what justice requires? Of course, the point is limited to the degree of lay participation – that is, to representation of the citizenry in the judicial process. Under the imagined scenario, deliberative procedures *within* the judicial epistocracy remain in place. So there would still be a firm basis for labeling lay-free courts democratic, not only because of their critical role in supporting a democratic society, but also with reference to their internal procedures. Still, the point remains that a transition away from lay participation would be to curtail certain democratic features of the legal system.

The general point here is, as Follesdal notes, that institutions that themselves run on epistocratic, even authoritarian, principles may, by virtue of that very character, be reliable producers of desired outcomes, and *thereby* contribute essentially to “a political and legal order which *as a whole* merits the label ‘democratic.’” (Follesdal forthcoming: 3)

That is an important observation. Surely it must be granted that the relation between epistocratic processes and democratic legitimacy is complex, in just the way Follesdal claims. Yet, at the same time, it seems highly plausible that the ability of a

polity to maintain a fundamentally democratic character in part through the workings of internally non-democratically organized institutions and procedures in turn depends on the robustly democratic workings of some of its other institutions — including thoroughly democratic mechanisms for critically reviewing the workings of all its institutions. Let us now call *essentially democratic* those institutions, instruments and practices of governance that cannot be afforded indirect, instrumental legitimacy. However, as the example of the courts demonstrates, there is need for further specification; isn't the deliberative process of professional judges working out a verdict a democratic procedure, indeed a picture of deliberative democracy?

In reply I would urge that to eliminate lay participation in the criminal justice system in the way just sketched, and on the grounds imagined, would be to subject democratic participation to epistemic control and to restrict it on the grounds of epistemic distinctions. That may or may not be a reasonable thing to do — the point here is a conceptual one; it would be to deny that the criminal justice system is, in my terms, an essentially democratic institution. This is exactly what is at issue between those who argue that the justification of lay participation in the court system depends on its tendency to produce better outcomes, and those who argue that this misses the fundamental point of such participation.

Essentially democratic institutions, then, are those where democratic requirements cannot be made subordinate to independent outcome measures. More precisely, for such institutions and processes it is not possible to specify their ends in advance in such a way that participation may be restricted on epistemic principles. They are, as I will say, *inherently democratic processes*, in that entitlement to significant deliberative participation cannot be decisively settled with reference to knowledge or expertise but must also reflect the various interests that are at stake. So to confer legitimacy on their output, *essentially democratic institutions* must themselves be *inherently democratic* in their workings. Only then can they contribute to the fundamentally democratic character of the legal and political order of which they are a part.

From this perspective, the burden of the present argument must be that, contrary to the epistocratic conception of language management, the explicit, institution-backed shaping of language ought to be regarded as an essentially democratic task. The epistocratic claim, by contrast, is that, within a larger democratic order, the particular goods aimed for through for example language standardizations measures depend essentially on the exercise of a special kind of knowledge, rather than on political features of that process such as a requirement of wide and significant participation.

This is not to deny that epistocrats frequently concede the need for wider democratic representation and participation in a process aimed to work out a standard oral or written norm for a language. However, their characteristic view will be that this is a contingent and instrumental measure, rather than an essential feature. Representation is something that may be pragmatically required for the acceptance

of the proposal, rather than an intrinsic element of the process that inherently contributes to its quality. For the epistocrat, then, the goods aimed for in language management are in principle detachable from any extra-scientific political constraints imposed on the procedure itself. And that is the key distinction; the epistocrat may take language management to be important for a democratic society, but will not regard a process of standard determination or revision as itself an essentially democratic task. Hence, for the epistocrat, that process need not be *inherently* democratic. As long as the process is democratically founded and initiated, only epistemic challenges of the outcome can have real merit. What happens to be required for successful implementation is then a matter of *realpolitik*; it is contingently, and perhaps even adversely, related to the quality of the proposed norm.

In fact, language standardization development has, often enough, been driven by principles of (epistemic and social) authority rather than by principles of democratic participation.⁹ The emerging claim to be defended here, then, is that epistocratic language reform curtails democracy in significant ways, and that we should, as a matter of political principle, construe the issue of language standardization as an essentially democratic one, requiring real and significant democratic participation at all stages. The implication is that the very aim of such processes inherently requires a democratic procedure. But this is a strong claim. Evidently, it does not accord with historical practice. Many would still deny it. Why should we think it plausible? And what, anyway, might democratic participation amount to when it comes to determining standards for a language? These are challenging questions. In order to begin to address them, we will need to consider some key features of the deliberative turn.

4 Legitimacy and hermeneutic deliberation

“Deliberative democracy began,” according to Dryzek, “as a theory of democratic legitimacy, and remains so to a considerable degree.” (Dryzek 2010: 21) What, then, are the basic features of deliberatively conceived democratic legitimization? What demands are imposed on processes aimed at decisions-in-conflict? In this section I will briefly sketch an outline of an answer, involving two concepts central to Dryzek’s conception, *discursive representation* and *meta-consensus* (Dryzek 2010), in order to develop the idea of hermeneutic legitimation. That notion will then guide the argument of the final section.

A common feature of deliberative approaches is the expansion of the source of democratic legitimacy. A narrow, aggregative approach insists that legitimate deci-

⁹ For a detailed and comprehensive account of the interplay of language standardization with political ideology and economic processes, see Wright 2004, in particular chapters 2,3, and 4.

sions depend on fairness and impartiality in mediating the various interests and preferences at stake, but typically treats those as given input. Deliberativists, in the spirit of Habermas and Rawls, contend by contrast that legitimate decisions depend on the way that stakeholders come to form their views, their values, and their preferences with regard to a decision situation. Ideally, tolerant and inclusive public deliberation will allow options and positions to be formulated and vetted in the most rational way; even if there is no consensus, deliberation provides decisions-in-conflict with the strongest possible grounding, and the best reason for reasonable parties to abide by them.

The goal that such processes be as reasonable and rational as possible may lead one to look for ways of restricting the kinds of considerations or forms of persuasion that may be admitted to the table as suitable for debate in the public sphere. I believe, however, that attempts to specify a vocabulary or form of discourse for political deliberation is a dangerous tack to take – the risk of instituting a master discourse that is better suited as an instrument for some than for others seems to me an overriding concern. Thus I follow Dryzek, who argues that a critical aim for deliberative systems of governance is to ensure discursive representation, a conception that “emphasizes the *contestation* of discourses in the public sphere” (Dryzek 2010: 30, my emphasis), rather than their commensuration.

A discourse, in Dryzek’s terminology, is “a shared way of comprehending the world embedded in language.” A discourse can be quite specific and topical, for instance the discourse structured around particular activities such as fly fishing or literary criticism, or it can be highly general in scope, as when fundamental values of faith or particular moral commitment are at play. What gives unity and point to a discourse is a particular set of concepts, categories and ideas “that will always feature particular assumptions, judgments, contentions, dispositions, intentions, and capabilities.” (Dryzek 2010: 31) At its center is a “storyline”, embedding judgments of value and of fact, connecting them to particular practices, and entrenching not only inferential dispositions, but also perceptions of action alternatives and possibilities. Various discourses may be mutually reinforcing, they may be at loggerheads or at cross-purposes, or they may be so remote in theme and content as to be virtually independent. Clearly, there is no simple correlation between discourses and persons. Our subjective discursive repertoire will at any one time comprise an indefinite number, variously related, from the flexible to the virtually petrified, the ephemeral to the ingrained, from those we dispose over more or less at will to those that have us in their steely grip.

The pressing question then is how discourses may be brought to connect in a deliberative way, allowing a discursive movement toward legitimate decisions-in-conflict. What kind of connection, what kind of movement, could that be? Dryzek proposes various interesting strategies, including a Chamber of Discourses (Dryzek 2010: 50). But a key element to understanding how a deliberative connection can be made without assuming an overriding master discourse is Dryzek’s notion of meta-

consensus (Dryzek 2010: Ch. 5). The point of the concept is to preserve a commitment to basic pluralism, and to free the idea of legitimating deliberation from crippling demands for substantive consensus, while still providing a normative orientation for deliberative engagement across discourses. Domains of such meta-consensus are various, but each is a working out of a shared view of the shape and significance of disagreements and differences, be it values, beliefs, or preferences (Dryzek 2010: 85, 94).

The emphasis on meta-consensus offers a promising view of deliberation across competing discourses. While it will in many cases be hard to construct, and often limited in scope, where it is achieved it may offer a direction for productive investigation of the differences that are at stake. It will depend on the willingness to and the ability of deliberators to see things “from different perspectives,” that is, to exercise a capacity to bring different discourses to bear on the same issue. In a moment we will note some implications of this idea for deliberative practice. First, though, I should like to emphasize two important and distinctive features of the approach to deliberative legitimation that I am presenting.

The first thing to note, as Dryzek points out, is the crucial role of rhetoric:

Rhetoric is essential when it comes to communications between different elements in a deliberative system, because those elements will often feature differently situated actors, with different perspectives, subscribing to different discourses. (Dryzek 2010: 67)

So instead of abstracting out of each situated discourse its argumentative content with an eye to rational reconstruction in a neutral, overarching vocabulary, we need to engage the affective and cognitive particularity and distinctiveness of the various discourses and perspectives we hope to draw into deliberating interaction. Recognizing this fact, and asking what kinds of conditions bear on the prospects of successful rhetorical engagement, is characteristic of the affective turn in political theory. From this perspective, a key condition of deliberative success is the engagement of political emotion – hope, anxiety, solidarity, sympathy, hostility, identification – in the right sort of way. Political reason, as it comes to expression in deliberative engagement, is passion saturated; thoughtful emotion is what practical political reason amounts to.

A second point is that we utterly discard the idea of actual deliberation as an embodied variant of a process that could in principle be performed by one sufficiently well-equipped, knowledgeable and sensitive intellect. That idealized conception of deliberation – which in actuality dispenses with deliberation – is a hang-over from a Platonic conception of reason as grasping truths in principle already available to the sufficiently discerning rational mind. The contrasting historicist picture, to which Dryzek’s conception is hospitable, is that while political deliberation is guided by truth, it is only through actual deliberation involving situated, embodied contesting discourses that relevant truth-claims become available. The

idea is not that actual deliberation is the best way of discovering truth (though it often is), rather the claim is that actual deliberation *creates* the very possibility of making the particular truth-claims that play into deliberatively-grounded decisions-in-conflict. Deliberative reason, on this view, is in fact a historically self-creating endeavor. In this lies the hermeneutical dimension I earlier advertised. It recognizes that the central ideas we are pursuing – democracy, legitimacy, deliberation – are themselves signposts for work in progress, conceptions that are to be worked out and brought gradually into fuller being through deliberative work.¹⁰ I locate here what I take to be the distinctive approach to the theoretical challenge discussed in the previous section – that of mediating the procedural and the outcome-based perspectives on democratic legitimacy. The historicist picture insists in effect that working out the nature democracy, legitimacy and deliberation is a perpetual creative effort that itself should itself be treated as an essentially democratic process. In this manner, it brings into being its own measure.

My picture of a deliberative system as a hermeneutic enterprise implies that the legitimacy of decisions-in-conflict depends on our ability to involve in a significant way the various differently-placed discourses in which stakes are held and articulated. “A significant way” means that they be allowed to contribute to the understanding of the ends-in-view, as well as to the processes of working out determinate proposals, solutions and decisions. This imposes conditions of a substantive kind. While deliberative legitimacy cannot require or rely on consensus – it is in the nature of the enterprise that conflict and disagreement are likely to persist – we can ask for signs that the deliberative process has fostered a degree of what I call *rhetorical permeability* in the competing discourses. There must be traces of dynamic discursive interaction and change, for instance in the form and content of justifications of particular decisions-in-conflict and in the formulation and ongoing interpretation of the meta-consensus providing a working agreement for how to proceed in the face of competing discourses with their rival sets of values, of commitments, and concomitant action spaces. In the place of consensus, what we demand of deliberative processes is that competing discourses are represented in such a way as to keep other discourses within *discursive reach*. Discursive reach is a concept of intellectual and affective commitment, expressed in terms of a willingness to accommodate, to adjust, to stretch and to revise features of any particular discourse so as to make an increasing number of connections and cross-points and calibrations with competing discourses – not in order to magically create agreement, but in order to bring into being a common ground that will make conflict and disagreement more specific, more particular, more concrete, visible, tractable, and – perhaps – more manageable. The requirement of seeking and maintaining mutual discursive reach thus serves to facilitate the best possible compromise where that is possible, or the best

¹⁰ I am drawing here on Hans-Georg Gadamer’s (1991) conception of historicity.

possible account of decision-in-conflict where it is not and political authority has to be exercised. In any case, securing rhetorical permeability and maintaining the effort to keep competing discourses within mutual discursive reach require a significant degree of affective commitment. Scrutinizing argumentative claims continues to be important in all public deliberation, but without a significant degree of solidarity, a sense of mutual interdependence and shared purpose, and a modicum of reciprocal respect, our efforts to turn discursive representation into a source of legitimacy are likely to fail.

Aiming in deliberation for the kind of hermeneutically founded legitimacy I have just sketched is a high demand. We face, for one thing, serious challenges of scale when try to envisage how such deliberation could be fostered and made politically effective.¹¹ However, when we consider language policy – and in particular the sort of systematic work that is aimed at producing norms for spoken or written language – we will usually be looking at a delimited, more manageable process. Here there will be discussions and decisions as to whether there should be such a process, there will be decisions about how a proposal is to be developed, by whom, under what general constraints, how the outcome is to be assessed and, possibly, implemented. Concerning all these points, questions of democratic legitimacy may be raised, and the notion of hermeneutic legitimacy may usefully be applied.

5 Founding legitimate language standards

As Wright (2000) shows in detail, the transition from dialect continua to delimited national languages and the emergence of standard-determining mechanisms in early modern Europe was integral to the construction of the European nation state. This new mosaic of distinct, national languages (Wright 2004: 26; Wright 2015) was a key part of the formation of social and political orders that allowed the emergence, eventually, of the kind of democracy that we associate with the modern nation state (Wright 2004). But this linguistic transition itself was hardly a democratic affair. The construction of the European nation state demanded ideological resources, and ideologies of language were significant not only in their complex, facilitating interplay with technological development and political change, but also as catalysts for the sort of emotional engagement that reconstruction of our sense of community and identity requires. In many countries, organs of language policy – in particular, of standard determination – retain more than vestiges of the authoritarian, elitist,

¹¹ These issues are addressed by a number of writers. See for instance Dryzek (2010), Parkinson (2006), Rummens (2009), Smith (2009).

and repressive elements embedded in the picture of language that this phase of European history brought in its trail.¹²

The grip of tradition on current perceptions is incisively brought out by Wright, as she juxtaposes two contrasting perspectives on language policy and planning.

“Do we mean,” she asks, “that we wish to preserve an ideal system, a free-standing structure or do we mean that we are setting out to safeguard the rights of speakers to maintain their practices?” (Wright 2015: 114)

This distinction is critical, I think, to understanding some of the deepest and most confrontational disagreements that surround concrete efforts at shaping language through standardization. The first approach distinguished by Wright embodies what I will label the Platonic view of language. It is possible that this view may still have its useful domains of application, but it needs to be handled with great care and suspicion in the context of language standardization.¹³ Historically it is associated with the deep prejudice that some languages are better suited than others to express clear thought and rational argument – that some languages (or forms or variants) have an intrinsic epistemic goodness that others do not possess. While one may of course be a Platonist without taking this view, at least not in such an explicit and obviously pernicious form, Platonism about language does privilege the linguistic expert, with real knowledge of the language that is only imperfectly mastered by any particular user, and it encourages a hierarchical approach to different groups of language users. So the Platonist view certainly lends itself smoothly to the epistocratic view of language management. Language standardization on this Platonic-epistocratic view will have little concern for actual usage and will be, in large part, a matter of educating users about the real nature of the medium they rely on.

On the contrasting view, which I will label the dialogical view, ontological priority is given to the dynamics of linguistic negotiation.¹⁴ For those who identify with this approach, the question of language standards will at bottom be a pragmatic one – how will a standard (or a revised standard) serve various users, how will it affect the various ends and interests that user groups, large and small, and the general public of the polity, may have?

Clearly within both groups there is vast room for disagreements and conflicts. Platonists may differ significantly as to the nature of the abstract object under scru-

¹² Obviously there are exceptions, as we look to the mid-19th century and beyond.

¹³ We should not prejudge, for instance, the extent to which it may be useful in psychobiological investigations of our capacity for language as such, in a perspective of comparative psychology, along lines tracing back to Chomsky.

¹⁴ It dovetails with *semantic historicism*, a philosophical approach to meaning as something that emerges in the interaction of speakers practically engaged in communicative endeavors in a shared world. Recent sources of this view are, beyond the hermeneutic tradition of Gadamer, the philosophers Donald Davidson (2001) and Richard Rorty (1987). See Ramberg (2015) for an account.

tiny, and they may have very different views of the relation between such a structure and users' linguistic behavior over time. Dialogists may disagree profoundly not only about the specifics of language norms, but also about whether standardization is a good thing. Political disagreements, different foci of different user groups, as well as different understandings of how language actually serves the vast range of purposes to which it is put, will give competing views of language policy projects. However, these kinds of disagreement are exactly the kinds that are subject to processes of hermeneutic legitimation. Discursive representation structured to secure rhetorical permeability stands a good chance of allowing decisions at various points and levels to be worked out within the discursive reach of users situated differently and engaging different discourses in articulating their needs and concerns. At least among dialogists, then, a workable meta-consensus – perhaps simply expressed by that very perspective – might allow progress toward a more comprehensive and more informed understanding of the stakes of a wide range of users.

However, across the division expressed by Wright's dichotomy it will be much more challenging to generate a productive meta-consensus. A thin agreement on the need (or not) for norm revision may be possible, but as soon as the work is actually to be done, the great distance between the Platonic and the dialogical perspectives will impose deep challenges.

However, across the division expressed by Wright's dichotomy it will be much more challenging to generate a productive meta-consensus. A thin agreement on the need (or not) for norm revision may be possible, but as soon as the work is actually to be done, the great distance between the Platonic and the dialogical perspectives will impose deep challenges.¹⁵

They will have different ends-in-view, and will recognize different kinds of considerations as decisive for settling questions of principle and priority. In a politically governed process of reform, there would be a struggle first over the mandate and then over its interpretation that would be extremely difficult to resolve. And in particular there is likely to be insurmountable conflict over the role of users and the significance of users' voices in the deliberations.

I will end this section simply by suggesting how that issue looks from the dialogist perspective. It is a fundamental demand on any standardization project that it be grounded in users' needs, that it foster user confidence in and access to consequential deliberative participation in the polity. For the dialogist, this means that language standardization must be taken to be an essentially democratic process. The reasoning is straightforward. Given that our aim in such processes is not scientific understanding, but to make use of such understanding as we do have in an intervention in a fundamental human practice, then it is essential to bring directly into the process discourses that are used to express – not describe – the multifarious

¹⁵ For discussion of concrete examples of such difficulties, see Røyneland (this volume).

dimensions of that practice. As scientists we may come to know something about multidimensional user experience and behavior. We investigate, represent and model it in various ways, and it may be tempting to think that this knowledge, because it is capable of correcting folk-linguistic self-understanding along some dimensions, therefore constitutes superior knowledge in all relevant respects. That would be a serious error. If we mistake the resulting scientific discourse for the actual voices of diverse users, we are impoverishing the rhetorical resources that we need to engage in order to improve chances that standardizing effort are carried out with the right ends in view.

Expert knowledge of language structure and language history, of psychology and of sociology, will have an obvious and authoritative voice in shaping language norms. But there are dimensions of language experience that cannot be mediated through scientific abstraction without loss. Theories of language identity serve explanation and prediction. But outside the seminar rooms and the lecture halls, which is where language standardization takes us, theoretical categories in the service of science have no particular authority over the experiences and performances of language identity. Language standardization plays out in a domain where practice reigns supreme and the experience of users is decisive. User discourses must be made present and provided with the rhetorical means to gain significant access to deliberation—about ends, and about ways of realizing them. The prospect of deliberative success in this regard will depend in no small measure on the ability of those engaged in scientific discourses to make room, to offer access, to activate other discourses in their own subjective repertoires, that is to say, to ensure the permeability of the discourses they habitually rely on, so that space and access points become available for those who are not experts. That is what it takes for discursive authority to be shared. And this, in turn, is what legitimacy requires.

6 Concluding remarks

In this paper I have drawn on recent developments in our understanding of what democracy is and can be, and what it presupposes, to suggest what I sum up as a hermeneutical understanding of legitimacy. Hermeneutical legitimacy may serve as a norm for essentially democratic processes, in so far as it emphasizes rhetorical permeability and discursive reach. Hermeneutically conceived, reasonable deliberation across competing discourses will intertwine discursive and affective aspects in creative, reflexive, rhetorically flexible conversation. While this general ideal can be approximated in any number of ways in different domains and at different levels, it has, I have suggested, clear application in the area of language policy. Viewing language in dialogical terms and language management as an essentially democratic endeavor, we can take the norm of hermeneutic legitimacy as our standard of

inherently democratic management processes. A range of competing discourses must be engaged in the process of settling the ends-in-view of language management, and in the process of their realization. Limits to participation in any given process are not to be settled by epistemic principle, but by our practical efforts to form a meta-consensus capable of sustaining an effective working agreement across differently-situated participants invoking different discourses. This means, in short, that while language management requires access to scientific knowledge (of various kinds), it is essential that a wide range of voices and discourses is engaged in the determination of what, in the particular case, language is, what we want it to be, and how we best might go about realizing our ends.

What supports this view? A great deal of recent and current work within democratic theory is normatively engaged. As Graham Smith notes, “[w]hile there are differences in emphasis, arguably the dominant current within contemporary democratic theory is one that places a premium on increasing citizen participation.” (Smith 2009: 5) This is fundamentally a creative and experimental project of strengthening and expanding democracy in a world where the framework of ideals and assumptions undergirding the classical nation-state-based aggregative conception of democracy simply no longer applies. Rather, in this on-going process of renewal, Enlightenment ideas of nation states, of peoples, of belonging, of culture, of identity, of community, of ethnicity – and certainly of language – are being transfigured, transformed, and abandoned. The framework these notions once expressed can no longer serve a basic democratic commitment to expand effective, significant participation across social, cultural, economic, geographical and discursive gaps and barriers. New frameworks, new meta-discourses, new strategies and practices are being developed and tested at an unprecedented rate. Given the centrality of language to this creative endeavor, and to our very capacity for democratic governance, it would be deeply ironic if our language management practices did not reflect that same innovative, experimental commitment to participation and inclusion.¹⁶

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