Designing institutions for global democracy: flexibility through escape clauses and sunset provisions

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Abstract

How can advocates of global democracy grapple with the empirical conditions that constitute world politics? I argue that flexibility mechanisms—commonly used to advance international cooperation—should be employed to make the institutional design project of global democracy more tractable. I highlight three specific reasons underpinning this claim. First, flexibility provisions make bargaining over different institutional designs more manageable. Second, heightened flexibility takes seriously potential concerns about path-dependent institutional development. Finally, deliberately shortening the time horizons of agents by employing flexibility provisions has cognitive benefits as it forces designers to focus specifically on issues of feasibility as well as desirability. I discuss a range of flexibility mechanisms and highlight the utility of sunset provisions and escape clauses. From this analysis, I build an argument for the usage of small-scale democratic experiments through which citizens (or their representatives) have a say in global policy making.

Keywords: institutional design; global democracy; flexibility; global governance; democratic experiments; deliberative democracy

David Miller has rightly suggested that the literature on global (or cosmopolitan) democracy is often divorced from the constraints of the real, political world.¹ But how can advocates of global democracy grapple with these empirical conditions? In this article, I focus squarely on the issue of institutional design. I argue that flexibility mechanisms—commonly used to advance cooperation in world politics—should be employed to make the project of global democracy more tractable. I highlight three specific reasons undergirding this claim. First, flexibility provisions make bargaining over different institutional designs more manageable. Second, heightened flexibility takes seriously potential concerns about path-dependent institutional development.² Finally, deliberately shortening the time horizons of...
agents by employing flexibility provisions has cognitive benefits as it forces designers to focus specifically on issues of feasibility as well as desirability.\(^3\)

Although I discuss a range of flexibility mechanisms, I limit my prescription to sunset provisions and escape clauses.\(^4\) The former set pre-determined dates for renegotiation, while the latter provide a costly option for temporary exit. These mechanisms heighten institutional flexibility and shorten the time horizons of contracting agents during the design process. From this analysis, I build an argument for the usage of small-scale democratic experiments through which citizens (or their representatives) have a say in global policy making. Democratic experiments, which have become increasingly popular at the domestic level, could include consensus conferences, educative fora, mediation, and stakeholder group engagement, inclusive standard-setting practices, participatory budgeting mechanisms, deliberative mini-publics (citizens' juries, deliberative polls), or direct citizen referenda.\(^5\) These experiments can be induced through a variety of channels including interstate agreements, the policy implementation of intergovernmental organizations (IGOs), or public–private partnerships.

From the outset, it is worth noting that I am not making a normative claim about which account of democracy (i.e. specific model) should be pursued at the global level. Although my argument for employing flexibility mechanisms leads to a prescription for small-scale experimentation, these institutions can and do rest upon different conceptions of democracy.\(^6\) Participatory budgeting, for example, tends to instantiate direct democracy, whereas citizen referenda embody representative principles.\(^7\) It is conceivable that a range of experiments which draw upon, and combine with, different democratic principles could be employed in the global arena. For expository purposes, I detail the utility of small-scale experimentalism by reference to a particular deliberative democratic institution. But this does not mean that a deliberative model is the most desirable way to engage the process of global democracy. Rather I employ a specific view of democracy as a tool to show how flexibility mechanisms can engender innovative (experimental) institutional measures at the global level.

This article proceeds in four sections. First, I give a brief explanation of the global democratic deficit and motivate the interest in designing global, democratic institutions. I discuss the current method of prescriptions in the global democracy literature, and I explain the importance of focusing upon institutional design. Second, I give an overview of different flexibility-enhancing mechanisms used in international cooperation, and center on escape clauses and sunset provisions. Next, I argue that flexibility mechanisms can help advance the empirical project of global democracy. I discuss three ways in which these flexibility devices make institutionalizing democratic mechanisms more plausible. Finally, this leads me to advance a program of small-scale democratic experimentalism. I apply my theoretical argument to an existing proposal in the literature: a deliberative global citizens' assembly (DGCA). I also suggest that flexibility mechanisms could be applied to a wider array of democratic experiments as a productive pathway for global democracy.
THE GLOBAL DEMOCRATIC DEFICIT AND INSTITUTIONAL PRESCRIPTIONS

There now exists a veritable ‘cottage-industry’ of academics and practitioners lamenting the democratic deficit of global governance which undermines the cosmopolitan ideal of equal personhood. Specifically, increased processes of social, political, and economic denationalization (typically called globalization) have had two prominent results. First, international institutions are not sufficiently capable of regulating the gamut of processes which escape the traditional confines of the nation-state. This is an issue of scope. Second, international institutions do not operate according to democratic standards. This is an issue of procedure. As such, international organizations (IOs) are unrepresentative, and actors within these institutions and networks are not accountable to those affected by policy. Despite the undeniable domestic democratic benefits of some transnational activity, national governments (and thus their citizenry) still lack democratic control over intergovernmental and supranational governance structures such as the World Trade Organization (WTO) or the International Monetary Fund (IMF). Although not everyone is in one mind as to the extent (or even veracity) of the global democratic deficit, the current state of global affairs is both undemocratic and in need of recalibration.

This deficit has spurred interest in the application of democratic standards beyond the state. Although ‘democracy’ etymologically means rule by the people, this basic interpretation is essentially contested. As Bexell, Tallberg, and Uhlin state, ‘normative democratic theory is not a unified approach but consists of several different […] models of democracy’. David Held has cataloged 11 of these ‘models’, including representative, participatory, and deliberative. Models instantiate different normative principles such as equal protection of interests (representative), self-development (participatory), and/or subjective legitimacy (deliberative), and prescribe different institutions to uphold those normative values. Global democracy is usually conceived as a project of inducing different models beyond the state. In these instances, models are generally couched as normative and institutional ideals which should be emulated as closely as possible. This is true for deliberative conceptions, cosmopolitan prescriptions, as well as world government proposals.

Although most global democrats have had a tendency to think in terms of models, their deployment is not without complication. First, models of democracy are assumed to fit together holistically. Given that the global arena is a context in which democracy has never been substantially exercised, and that models of democracy have been developed within the confines of national polities, advocates cannot know in advance which models will be most productive. Relatedly, and most importantly for this article, thinking in terms of models of democracy tends to come at the expense of a nuanced analysis of the process of institutional design. As Adrian Little and Kate Macdonald have recently noted, ‘much of the literature on global democracy has been preoccupied with debates about whether global democracy is desirable, and if so, what models of global democracy should be supported’. These authors subsequently emphasize that models distract from the transformative
processes that democratic practice can entail. Although scholars have begun to turn their attention toward potential pathways for global democracy, specific analysis of institutional design remains scarce.

Instead of taking a specific model of democracy, defending its normative import, and extrapolating an institutional scheme which should be developed at the global level, I take an alternate tack. I begin my substantive analysis by asking how the design of international institutions can be productively approached. I examine the importance of flexibility mechanisms for international cooperation and then link these points to global democracy. Having established an approach which incorporates these ‘positivist’ insights, I argue that democratic experiments provide a suitable vehicle to incorporate flexibility mechanisms. These institutions can be grounded in different models of democracy, and their justification is dependent upon the specific issue and context at hand. The experimental approach enables the trial and error of different democratic institutions to determine how flexibility mechanisms induce institutional innovation. This is beneficial because, as Dryzek succinctly notes, ‘experimenting with what democracy can mean is an essential part of democracy itself’. Over time it might become clear that certain models are more suited to the global arena or certain issue-areas, but the process of design is an essential component of this determination.

Before moving forward, a point of clarification is in order. Proposals for global democracy—now a staple of international normative political theory—represent a functional response to the democratic deficit. However, it is not immediately clear why (rational) international policy makers would adopt democratic mechanisms. There are many potential answers to this question, and I note two. The first is an instrumental consideration: international institutions are becoming increasingly politicized and require ‘sufficient stocks of legitimacy’ to avoid widespread resistance. As this resistance undermines the authority upon which IOs rely for day-to-day functioning, democratic mechanisms may help gauge (or even foster) stocks of sociological legitimacy. The second point is an institutional one: IOs are increasingly ‘opening up’ to a variety of transnational actors in both formal and informal terms. The evolving trend toward access and participation by non-state actors appears to be diffusing in interesting ways. As this occurs, international actors (bureaucrats, state leaders, etc.) will be increasingly interested in the formal design of democratic mechanisms.

FLEXIBILITY MECHANISMS IN INTERNATIONAL COOPERATION: ESCAPE CLAUSES AND SUNSET PROVISIONS

Institutional design is an important aspect of any political project, and global democracy is no exception. Despite this, advocates have not fully explored connections with the literature on institutional design and cooperation from international relations (IR). Before I outline three reasons that global democrats should focus on flexibility, it is important to stipulate what flexibility mechanisms
are, how they are employed in international cooperation, and elaborate the importance of escape clauses and sunset provisions.

To do this, I draw upon recent work which focuses upon the rational design of flexibility mechanisms in different IOs. There are many flexibility-enhancing devices available to international institutional designers. For instance, agreements can contain withdrawal (or opt-out) clauses which allow contracting parties to exit an agreement permanently. Alternatively, agreements can be designed with fixed durations. At the end of that duration, agreements can either be abandoned or restarted. Particularly sophisticated agreements may contain amendment provisions in which a quasi-legislative body attached to an IO can alter the distribution of gains ‘mid-stream’ to correct for shocks or distortion. This article focuses on two other flexibility agreements: escape clauses and sunset provisions. An escape clause is any provision which ‘allows a country to suspend the concessions it previously negotiated without violating or abrogating the terms of agreement’. Sunset provisions, which are distinct from limited duration agreements, set pre-determined dates for renegotiation of an agreement.

Over the past 15 years, much theoretical and empirical work has discussed how and why IOs are designed to enhance flexibility for contracting parties. Koremenos, Lipson, and Snidal have argued that designing flexible institutions is the rational response to uncertainty about the state of the world. The greater the uncertainty surrounding the distribution of gains and losses from an international agreement, the more likely the institution will contain flexibility-enhancing devices. Koremenos has undertaken much analysis linking flexibility with uncertainty. In one theoretical paper, Koremenos argues that international agreements are deliberately designed with limited duration as a type of flexibility. The ‘timeline’ (i.e. expiration date) of an agreement is rationally selected so that contracting parties—typically states in world politics—can determine how much value each party actually derives from an agreement as opposed to ‘noise’ from the international environment. States can thus learn to update their position if and when subsequent negotiations occur. In a different paper, Koremenos formally demonstrates that states rationally renegotiate more often when: (1) renegotiation costs fall, (2) the variance of shocks increases, and (3) risk aversion increases. Flexibility, on this account, acts as a sort of insurance policy where rational states can guard against unintended or inequitable outcomes of the agreement.

Most work in IR analyzing the role of flexibility provisions has focused upon international and preferential trade agreements. Rosendorff and Milner argue that escape clauses are efficient at equilibrium given the problems of domestic uncertainty that state leaders face when negotiating international agreements. For escape clauses to be effective, though, there must be some cost attached to their usage, otherwise states might use them every time there is an exogenous shock which threatens their gains. In a slightly different vein, Krzysztof Pelc argues that escape clauses can become an accepted norm of an agreement. Pelc shows that the formal usage of escape clauses in the GATT/WTO has declined and ‘appeals to exception’ have risen. These appeals rely upon a norm of justification in which states can
demonstrate that a severe and unforeseeable exogenous shock to domestic affairs has made temporary escape from an agreement imperative. This demonstrates both the learning and cooperative potential of escape clauses.

Elsewhere Pelc has forcefully argued that binding overhang—the gap between applied duty levies and the maximum duty level negotiated under WTO accession—creates a type of flexibility for states. However, binding overhang is a double-edged sword for states with a lower applied than bound rate: they are better able to deal with exogenous shocks to the prices of imports, but trading partners are wary of creating agreements with states that have too much overhang. The discussion of escape clauses highlights that there is always a balance to be struck with the institutional design of flexibility: too much flexibility and international agreements will become ineffectual; too little flexibility and states will renege or break the agreement when times get tough.

Trade is not the only area in which escape clauses and sunset provisions are contained within international agreements. For instance, the International Air Transport Association (IATA)—an aircraft price-setting body—allowed ‘exit’ during the one-year period of renegotiation when sunset provisions kicked in. Similarly, the International Coffee Agreement (ICA) contained sunset provisions for regular renegotiation, and it was indeed renegotiated roughly every 5 years after inception. In the field of climate change, the UN Framework Convention on Climate Change (UNFCCC) and the Kyoto Protocol contained provisions (Articles 25 and 27, respectively) that allowed withdrawal with one-year notice. Moreover, Kyoto used successive 5-year commitment periods which acted as sunset provisions for the renegotiation on emission-reduction targets. Perhaps most notably, the International Criminal Court (ICC) contains Article 124, an escape clause that could be exercised by any contracting state to temporarily (or, indeed, permanently) exit the agreement within the first 7 years of the Rome Statute.

It is thus clear that escape clauses and sunset provisions are an important and vibrant aspect of world politics. But are they useful for global democracy, an area in which designers might want to lock-in a specific model of democracy which cannot be simply renegotiated or exited? The answer to this question hinges upon the approach to thinking about global democracy. I am not concerned with inducing a certain normative goal per se. Instead, I ask how flexibility mechanisms might be beneficial for the purpose of building global democracy, and then prescribe an innovative pathway which builds upon this empirical knowledge.

**BARGAINING, PATH DEPENDENCE, AND COGNITION**

The following three subsections discuss how flexibility mechanisms facilitate international cooperation. In each part, I also emphasize how gaining purchase on the design process bears upon global democracy. The following analysis might be of interest to cooperation scholars broadly, but the argument is geared toward a global democratic application.
Bargaining: The shadow of the future and sovereignty costs

First and foremost, sunset provisions and escape clauses make initial agreement more tractable. Predominantly—and this is a core claim of this section—escape clauses and sunset provisions are useful because they shorten the time horizons of contracting parties. Time horizons (what IR scholars often call the shadow of the future) describe the length of time into the future that agents are preoccupied about achieving goals. In formal game-theoretic terms, time horizons describe the length of a repeated game. Although some scholars stress the negative implications of time horizons on public policy, they can also have positive implications for design.

Neoliberal institutionalists such as Robert Keohane and Robert Axelrod initially suggested that a long shadow of the future makes international agreement more likely because iterated interactions (games) reduce transaction costs, create trust, and help to channel credible information. While this logic is useful to describe the on-going enforcement of agreement, it fails to take due consideration of the bargaining phase, the period during which much institutional design takes place. James Fearon succinctly demonstrates that long time horizons can foster self-enforcing agreements. However, a long shadow of the future makes reaching an agreement more difficult by increasing the distributional effects of the initially selected equilibrium. As the shadow gets longer, and the discount rate approaches zero, there is no difference between conceding today and conceding tomorrow. In other words, a long shadow lowers the costs and raises the benefits for states to hold out in the bargaining phase. This has the effect of undermining the possibility of initial agreement.

Koremenos has shown that the flexibility granted through periodic renegotiation (sunset provisions) allows contracting parties to reconcile the promise of long-term payoffs with Fearon’s distributional concerns. States deliberately create agreements with escape clauses and sunset provisions to make initial cooperation more plausible, as well as to enhance learning over time. Just as importantly, escape clauses and sunset provisions shorten time horizons but still allow contracting parties to care about long-term payoffs. As Koremenos, Lipson, and Snidal argue, ‘[E]ven trial-and-error experiments can be rational and forward-looking’ when combined with flexibility mechanisms. Given that cooperation and learning are both central to institutional design, this incudes the process of global democracy which comprises both short- and long-term goals.

Certainly, the design of global democracy would not contain the same distribution of fiscal gains and losses that a trade policy might entail. However, there are reasons to think initial negotiation could be difficult. First, states in world politics are typically wary of paying ‘sovereignty costs’: the ceding of domestic control to an international or supranational body. Second, international bureaucrats are often reticent to give up control of institutional procedures within IOs. Finally, the general issue of uncertainty often makes actors favor the status quo over institutional change (a core claim of prospect theory). Overall, the important point to stress is that flexibility mechanisms make the usage of international institutions more feasible by mitigating distributional concern and heightening recalibration. This is obviously
important because the introduction and usage of global democratic institutions hinges upon some form of initial agreement.

**Path dependence: Institutional inertia and unintended consequences**

Shortening time horizons through sunset provisions/escape clauses has another salient benefit: it alleviates concerns over path-dependent development which can entail unintended, sub-optimal, and even pathological complications. Path dependence signifies the importance of historical timing for institutional development. Systems that exhibit path dependence are stochastic and non-ergodic by nature. Essentially this means that path-dependent processes are non-deterministic and also historically contingent. Once a critical juncture is reached (a moment in which exogenous forces create room for, or even induce, change), a branching process begins. Steps in a particular direction result in institutionalization which becomes locked-in. Subsequent choices are constrained by the prior sequence of events, with earlier events being increasingly important. These ensuing developments can take the form of either positive or negative feedback.

The connections between path dependence and the shadow of the future are quite clear: states hold out under a long shadow because they realize that the moment of design frames the subsequent distribution of gains and losses in a self-reinforcing manner (i.e. that states which ‘gain’ from an agreement will continue to do so by utilizing these advantages in the next bargaining phase). Shortening time horizons through flexibility mechanisms makes initial agreement easier and allows actors to undercut unintended problems by allowing recalibration and exit. This is important because, due to uncertainty inherent in anarchy, world politics often generates unforeseen complications that inhibit meaningful cooperation and the attainment of desirable outcomes.

Despite the importance of path dependence, the issue has been relatively neglected by normative political scholars interested in global democracy. When the concept is discussed, work has been quixotic. Robert Goodin suggests that the Reform-Act model of democracy (parliamentary voting) came very late in the history of democratization within the state. Prior to this, democratization occurred through a broadly two-step process: first was curbing the arbitrary exercise of power (typically wielded by a sovereign); and second was rendering power-wielders accountable to someone or another. Goodin contends that once these steps are initiated the sphere of accountability basically only ever expands and virtually never contracts. Thus, steps toward democratization are path dependent. We see almost identical logic from Kevin Olson when he discusses the paradox of constitutional democracy. Constitutional reforms within the bounds of the nation-state have, according to Olson, ‘tended to bring more and more people into a reflexive relation with the base of their own political agency’. Olson describes this process as a legal-political ratcheting effect, analogous to a mechanical device that allows motion in one direction while preventing movement in the alternate direction. Olson maintains that
political inclusion and agency within a constitutional order is path dependent because inclusion generates agency, which in turn puts a wider range of issues on the agenda, thus opening the path for more inclusion in the future.

There are (at least) three problems with this optimistic reading of democracy-building that suggests path dependence is important to the design process. First, the claim is subject to empirical contestation. It is possible to think of many examples when democratic rights and institutions have been introduced and subsequently lost. Failed states, the disenfranchisement of African Americans in the United States, and the removal of transnational access rights in some IOs (the International Whaling Commission, for instance) decry this empirical claim. Indeed, the global democratic deficit only exists because citizens have lost democratic standing as transnational (even supranational) sites of authority bear upon their lives in direct and problematic ways.

Second, the argument is also theoretically problematic. Path dependence suggests that initial steps are locked-in over time. If these steps are actually undemocratic, then we may see a cycle of technocracy and elitism take hold at the global level. The claim of Goodin and Olson has an almost teleological flavor in which democratization occurs as a matter of course. This seems to undervalue the importance of designing democratic institutions. After all, if democracy is a natural ratcheting outcome of political contestation, why bother with the fastidious task of design? Global democrats should place emphasis on the issue of institutional design upon which the quality of democratic practices ultimately hinges.

Third, institutional developments are always subject to unintended consequences and often pathological outcomes. Michael Barnett and Martha Finnemore describe how IOs develop strong bureaucratic pathologies which diverge from the initially intended goals of the designers and become sub-optimal over time. Similarly, Darren Hawkins et al. discuss how principal-agent relationships generate agency slack that bureaucrats can utilize to carve out policy space in ways that support their own mandate or interests. These bureaucrats are, almost by definition, not subject to direct democratic accountability or curtailment. Moreover, unintended outcomes with deleterious effects are often locked-in place through path-dependent feedback mechanisms. This is true even in the context of democratization. Egypt, Venezuela, and Russia are all examples of states with parliaments established at critical junctures in time. These parliaments have become a part of the domestic system, but are actually used by military, bureaucratic, and political elites as a way to manipulate resources and limit opposition parties. These parliaments manage to survive through self-reproduction by locking in formal institutions and rules even as they lose public support and are actually employed for quite undemocratic ends.

These concerns over path-dependent ramifications can be minimized through the usage of escape clauses and sunset provisions. If states (or other agents) are able to exit or renegotiate agreements, then trial and error and institutional change become inextricably linked. When states or other contracting parties need to renegotiate the democratic institutions (as sunset provisions explicitly require), those agents will endeavor to learn from previous experiences and find new methods of effective
problem solving. Thus, states are able to learn from past mistakes and establish alternate, more beneficial, modes of social cooperation. Escape clauses and sunset provisions thus undercut complications over path-dependent institutional development. For these reasons, global democrats should care (as IR scholars do) about the role of flexibility within institutional design.

A cognitive issue: Construal level theory and time horizons

By shortening the time horizons of contracting parties, flexibility provisions alter the cognitive processes through which actors think about the future. This enables designers to keep focused on the institutional realization of specific targets. As I am interested in making design more feasible, the cognitive process of agents is crucial. This section explains the psychological mechanisms at play in shortening time horizons and links this to global democratic design.

In its most basic form, prospect theory accounts for human choice under conditions of risk and uncertainty. Very roughly, it claims that rational individuals are risk-averse in the domain of gains, and risk-seeking in the domain of losses. Although highly illustrative, prospect theory fails to account for issues of cognition under different time horizons. The length of an actor’s time horizons alters how much an actor values the future and is willing to sacrifice current utility for future gains. The less the future weighs, the higher the discount rate, and the shorter the time horizons. As such, the construal level theory (CLT) has become prominent in psychology and economics. Recently, this work has begun to filter into IR scholarship. For example, Ronald Krebs and Aaron Rapport argue that CLT can shed light on several features of IR theory, such as cooperation theory, preventive war, and coercion.

The general claim of CLT is that actors evaluate options differently depending on their time horizons. The longer the time horizons (i.e. the further away an event in terms of temporality), the harder it becomes to evaluate that event. Accordingly, distant events tend to be analyzed in very abstract terms and are colored by favorable bias. For instance, when an event is a long way in the future, actors prefer choices with large potential payoffs but low odds over safe bets with low payoffs. Conversely, when outcomes are immediate, actors prefer sure bets with low payoffs over long odds with high payoffs. Very similarly, people judge long-term threats as unlikely to materialize, whereas close events come with high probability of exaggerated threat. The longer the time horizons, the more actors believe that they can ‘manage’ a threat.

The upshot of current work on CLT is that when time horizons are short, individuals engage in more concrete construal of feasibility. Agents with short time horizons are more receptive to revising their subordinate goals as new information comes to light. Agents with long time horizons tend to value abstract normative goals at the expense of feasibility. Long time horizons thus engender a lack of focus on contextual details, and an overly optimistic disposition that the future can be brought
about in line with abstract targets. For instance, eating unhealthy food normally has a long time horizon associated with it because bad health and obesity take many years to develop. Long time horizons give people a chance to engage in overly optimistic assumptions about the future. In this case, a long time horizon allows people to eat bad food precisely because it is possible to go to the gym and run a lot during that time to undo the initial decision, even if this is an unrealistic assumption for most people (i.e. does not accord with their past experiences about their commitment to exercise).

Broadly, CLT highlights the importance of short time horizons and, by extension, the utility of flexibility mechanisms. This information is pertinent when thinking about institutional design. A short shadow forces designers to construct viable and realistic targets which enhance cooperation. More narrowly, it makes sense for the project of global democracy to use escape clauses and sunset provisions as a way to shorten time horizons of designers. Short time horizons put the focus on the feasibility of attaining goals. Conversely, long time horizons entail overly optimistic assumptions about the possibility of attaining future gains in which agents are actually willing to sacrifice gains made in the short term for long-term abstract goals that have considerably less chance of materializing and ignore the threats of pursuing those goals.64

Current prescriptions for global democracy (which are cashed out in terms of models) are accused of being overly idealized. This criticism usually means that normativity is being preferred over feasibility. CLT explains why models tend to focus on normativity over concrete steps for institutional design. Take, for instance, David Held’s version of cosmopolitan democracy which seeks to build a model of global representation by employing familiar domestic institutions such as parliaments, courts, and a constitution of law. Held’s model comes with a series of short- and long-term targets that aims toward a complete model of cosmopolitan democracy that he calls ‘embedded utopianism.’65 These steps, as Barbara Buckinx argues, ‘are not subjected to a reassessment in view of relevant real-world constraints’.66 By asking how the design project of global democracy can be tackled, I am specially looking at how real-world constraints can be overcome. Because the design process generates new information and knowledge, renegotiation and exit will and should alter how we think about the future. The task is then to come up with institutional structures which can uphold these flexibility mechanisms and advance global democracy in a productive manner.

DEMOCRATIC EXPERIMENTS IN WORLD POLITICS

Democratic experiments are well suited for amalgamation with flexibility mechanisms. There are several reasons which lead to this argument. First, democratic experiments are increasingly employed within the nation-state, but in widely varied contexts. This contextual malleability is important for global application. Moreover, this domestic usage comes with a socialization effect, insofar as national and
international leaders who commission global democratic experiments are more accustomed to their deployment. Second, experiments are also structurally malleable devices because they have relatively low start-up costs, thus implying low levels of sunk costs. Renegotiation and temporary exit simply heighten institutional flexibility making initial agreement easier, and giving contracting agents a chance to alter institutional design as time goes on.

Third, democratic experiments are just that: experimental. These devices are designed to be issue-specific institutions which are supposed to engender learning and cooperation under conditions of pluralism. Democratic experiments are often established as one-off events and practitioners constantly tinker with their design. This makes experiments more prone to combination with flexibility mechanisms. Finally, to reiterate a previous point, experiments instantiate different democratic models. Their global utilization allows theorists to explore how different models apply beyond the state. In the case that some models perform sub-optimally, then flexibility mechanisms help to counteract potential distortions.

Of course, some global democrats might suggest that flexibility provisions could be employed to attain their respective model. This is certainly a valid point. However, it is also problematic. Models tend to assume a composite set of institutions that renegotiation and exit may well detract from. The previous section has demonstrated the theoretic importance of fostering short time horizons for initial agreement and on-going cooperation. Parliaments and courts, alternatively, rely on long time horizons to secure on-going compliance and to create precedent of rules. Flexibility—in the form of sunset provisions and escape clauses—undercuts these goals by fostering short time horizons. Ultimately, though, my argument for small-scale experimentation might just be one way to pursue a pathway for building global democracy. It has, though, taken due consideration of constraints implied by institution building in world politics.

In this final section, I focus upon the application of escape clauses and sunset provisions within a DGCA as one element of a broader experimental approach to global democracy. Subsequently, I briefly describe alternate proposals and institutions which could benefit from the prescription offered. As mentioned in the introduction, democratic experiments could be an intergovernmental (treaty) creation, the policy product of a pre-existing IO, or the advent of a public–private partnership. In all cases, the melding of democratic experiments with flexibility provisions heightens the empirical feasibility of the proposed institutions and thus advances global democracy.

A deliberative global citizens’ assembly

John Dryzek, André Bächtiger, and Karolina Milewicz have recently advocated an alternative to a popularly elected global assembly (PEGA). Their proposal is fairly simple: global democracy should commence through a deliberative forum, namely a DGCA. Such a body could be quite extensive or issue specific.
Participants would be recruited via random selection, with around 1000 persons involved in deliberation (roughly 1 representative per 7 million people). Drawing upon deliberative theory and experiments in that field (most notably deliberative polling), Dryzek et al. suggest that a deliberative forum would help increase learning and understanding of cross-cultural views and thus would be a more inclusive institutional body than a world parliament.

This project of a DGCA is grounded in the ‘more general—and increasingly popular—idea of deliberative democracy’. It would operate in the sphere of communicative action and help propel a deliberative system at the global level. For deliberative democrats, political legitimacy is generated to the extent that those subject to a collective decision have the right, capacity, and opportunity to participate in consequential deliberation over the outcomes. A DGCA would increase deliberative capacity of individual citizens and world politics by including otherwise excluded voices, creating a forum for authentic deliberation which exhibits reciprocity, and provide consequential uptake by linking deliberative outcomes to sites of public power. The more inclusion, authenticity, and consequentiality derived by an institution, the more democratic.

Dryzek et al. explicitly provide pragmatic reasons why a DGCA could be launched. They contend that the United States and China, as we have seen at the COP15 Climate Summit in late 2009, are disinclined to yield power or sovereignty to a transnational legal body. However, Dryzek et al. maintain that the United States, along with China and other authoritarian states, would be ameliorated by a DGCA. The random selection and deliberative nature makes a DGCA less objectionable to the national leaders because it poses less of a direct threat to established political structures and hence entails less sovereignty costs. Moreover, problems concerning how and why citizens vote in a global parliament are removed under a DGCA because it is primarily a discursive body. Of course, at the global level, not all people can deliberate in a single institution simultaneously. Rather, these deliberative criteria must apply to deliberators who are included in, and act as representatives during, the DGCA.

This type of experimental proposal certainly warrants further analysis. However, the proposal skirts over several important (design) issues. First, it is not entirely clear who would create such an institution. It could conceivably be established by states in a stand-alone treaty, through an IGO or IO, or a public–private partnership where funding comes from a variety of sources. At some stage, though, building a DGCA requires the agreement of nation-states and/or national leaders. To obtain electoral rolls, make meaningful contact with citizens of states, and even acquire funding for rolling implementation, national leaders need to ‘come to the table’. Moreover, for deliberation to be consequential—i.e. to create a connection between deliberative outcomes and public policy—a DGCA requires some minimal level of national agreement to have leaders listen to and enact the conclusions.

Second, Dryzek et al. argue that ‘[A] DGCA could be framed in a much more flexible fashion’, and employed for specific issues rather than as a long-term schematic. This is surely a correct sentiment. However, the actual codification of
rules which this entails is not discussed. The usage of a DGCA would be more plausible, effective, and desirable if ingrained with escape clauses and/or sunset provisions. Escape clauses and sunset provisions would allow nation-states to sign up to the institution for short periods of time, make a credible commitment, and accept the institutional structure while having a chance to renegotiate the design at a later date. The short-term nature of the agreement also means that kinks in the initial usages could be ironed out over time. Thus, the institutional choice is locked-in but only in a provisional sense. This provides flexibility and revisability as advocates learn which issue-areas are responsive to discursive arguments (perhaps climate change) and those which require a more hard-lined institutional approach (perhaps international security issues). Academics, practitioners, policy makers, and state leaders would learn about how publics are formed and reformed through discursive engagement on specific issues, and flexibility provisions would enable future institutional and normative recalibration as expectations change.

Shortening the time horizons of contracting agents for a DGCA would also keep attention on the issue at hand. With respect to CLT, short time horizons give agents incentive to focus on attainment concrete targets rather than abstract values. For example, if a DGCA was convened in the area of climate change, the short time horizons built into the institutional design would encourage planners (those running the experiment) to set realistic agendas and prompt participants to cooperate on reaching tangible recommendations or targets (say, percentage reductions in CO₂ emissions for developed and developing states in the next 5 years). Short time horizons do not mean giving up on the long-term orientation of global democracy. In fact, it is quite the opposite: institutional experiments such as a DGCA would add weight to the growing calls for democracy in the global space without being tied to the success or failure of one DGCA experience.

A DGCA could also incorporate escape clauses. As Rosendorff and Milner, and Pelc note, for escape clauses to be truly effective they need to be relatively costly. Such costs could include (1) public naming and shaming of those states which employ ‘temporary exit’ without appropriate reason giving; (2) no stake in the outcome of the DGCA decision for an exiting state; and (3) restricted bargaining position in the (re)negotiation of the next DGCA design. If developing states thought that a DGCA was being coopted for hegemonic, elite, or corporate interests, they might have two available options. The first would be simply to exercise their escape clause. Additionally, if a sufficiently large bloc of states were in agreement that the institution had become deleterious, then a high threshold (say, 60% of the world’s states) could trigger a dissolution and immediate renegotiation of the design. Escape clauses and sunset provisions thus help tie leaders to the experimental process. Because there are sanctions for exiting the process, a DGCA also augments accountability of these leaders. In other words, DGCA representatives would be accountable to nation-state leaders, but nation-state leaders would also be accountable to the outcomes of the DGCA.

This focus upon renegotiation contains deliberative democratic benefits. If, as Dryzek et al. maintain, a DGCA would be one aspect of a deliberative system in the
realm of communicative action, renegotiation (a discursive interchange) should be desirable for such an institution and the overall project of building democracy beyond nation-states. A DGCA could involve citizens in direct deliberation over the issues which affect their lives. Although only 1000 or so individuals could partake in each DGCA, the concept of discursive representation helps instantiate self-rule through representation of discourses in the public sphere rather than individuals themselves. All of these points suggest that a certain type of democracy can be attained through experimentation when combined with flexibility provisions. Contracting parties and participants can engage in cooperative problem solving on distinct topics in ways that encourage learning and institutional recalibration over time.

Alternate democratic experiments: Proposed and existing

A DCGA should be just one element of a wider system of global democratic experimentalism. International political theorists, international lawyers, and global justice scholars have all put forward experimental institutional remedies for the undemocratic and unjust nature of world politics. For instance, Robert Goodin and Steven Ratner suggest convening Global Citizens’ Juries to provide direct democratic input into the content of *jus cogens*. These citizens’ juries, comprising around 20 individuals in high-quality, small-scale deliberation are interesting proposals. However, noting potential concerns over financing, Goodin and Ratner suggest that piggybacking on major international sporting events will help attain internationally representative samples of citizens. The concern over selection bias is quite obvious: only those citizens wealthy enough for international travel are then participating in the ‘democratization of international law’. I would maintain that IOs and even states would be more likely to convene these experiments (and thus provide funding to avoid the selection bias problem) if escape clauses and sunset provisions are included in the initial institutional proposal/design.

Similarly, in the field of intellectual property rights (IPR), Thomas Pogge has described a ‘Patent 2’ proposal to increase access to life-saving drugs that are needed by millions of (typically poor) individuals. Pogge rightly notes that the current IPR system grants drug companies a monopoly on existing patents and discourages the creation of new drugs needed by the global poor. Pogge suggests leaving the current system (Patent 1) intact, but creating a global fund financed by states (Patent 2) in which drug companies would forgo Patent 1 benefits but obtain financial reward through reimbursement of the Patent 2 fund in proportion to the positive impact of the drug innovation on global disease. In a very similar vein, Allen Buchanan, Tony Cole, and Robert Keohane propose a Global Institute for Justice in Innovation (GIJI) which would be created and financed through intergovernmental agreement. The GIJI would use its financing to help diffuse innovations of drugs, technology, and other inventions to international audiences.

Although there is not space for a full exploration, I would argue that these institutional schemes—as desirable as they might be in their own right—would be
much more plausible with sunset provisions or escape clauses (and neither proposal
discusses the potential benefits of flexibility mechanisms). Moreover, in terms of
creating a more democratic world, a provisional approach to these institutions is
prudential and desirable in case unforeseen circumstances enable major corporations
or powerful states to co-opt the institutions to further their own interests and power.
There is no a priori reason to think that IR scholars and political philosophers will get
the first prescription right every time.

Finally, some IOs already utilize democratic experiments in policy procedures. The
World Bank (through the International Development Agency) has aid programs
to reduce global poverty in around 80 states. The World Bank has moved away
from broad-based structural adjustment loans toward poverty-reduction strategy
papers (PRSPs) which encourage country-specific targets. Although PRSPs call for
governmental, stakeholder, and citizen involvement in the policy process, such
participation has typically fallen short. However, experiments such as ICT4Gov—a
pilot program in direct democracy being developed by the World Bank—are trialing
the usage of mobile phones in Western Africa (places as deprived as South Kivu) as a
means to foster citizen engagement in electronic participatory budgeting. Although
early results are promising, much more experimentation is required. In thinking
about diffusion of such participatory mechanisms to other IOs, advocates should
argue for the inclusion of escape clauses and sunset provisions in new institutional
and geographic contexts. These mechanisms will make initial cooperation more likely
(IOs will be more likely to agree to temporary agreements) and enhance learning and
cooperation over time through renegotiation.

CONCLUSION

Although scholars have begun to analyze some specific transformative pathways
toward global democracy, much work remains in specifying the mechanisms of
change and the causality of institutional development essential to the project of
global democracy. This article has focused on the junction of flexibility in
institutional design and global democracy. I have argued for a program of small-
scale democratic experimentalism combined with sunset provisions and escape
clauses to shorten the time horizons of contracting agents and participants. This
prescription helps advance the empirical project of institution building in three ways:
first, the prescription makes initial bargaining more tractable; second, it mitigates
concerns about institutional inertia which can remove institutions from their initial
task and generate counter-productive pathologies; and third, short time horizons
generate cognitive benefits which place focus on attaining concrete targets instead
of overly optimistic assumptions about future results. Experiments can advance
different models of democracy without assuming that any specific conception is ex
ante ‘correct’ for global democracy.

The commitment to experimentation also means that calls for global democracy
can grow even if certain institutions are unsuccessful. As actors in world politics
become increasingly socialized to democratic experiments, their usage will become more prevalent and effective. This does not seem true for world government or cosmopolitan models in which the failure of a set of core institutions (global parliaments and courts) would undo support in global democracy, reaffirming the long-standing view of Robert Dahl that democracy simply cannot go global. To be sure, my flexibility prescription is a double-edged sword. States might decide to abandon or renegotiate good democratic institutions. However, the learning capacity generated by democratic experimentation will mean the overall project is likely to continue gaining traction as publics are generated through democratic cooperation. By making the design process more tractable, we can subsequently think about the precise institutional forms that global democracy can take.

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NOTES

1. David Miller, ‘Against Global Democracy’, in After the Nation?: Critical Reflections on Nationalism and Postnationalism, eds. Keith Breen and Shane O’Neill (London, UK: Palgrave Macmillan, 2010), 141–60. For a similar criticism about democratic theory in general, see Ian Shapiro, The Flight from Reality in the Human Sciences (Princeton: Princeton University Press, 2005).

2. Paul Pierson, Politics in Time: History, Institutions, and Social Analysis (Princeton: Princeton University Press, 2004).

3. Although explained in more depth, the psychological mechanism at play here derives from the construal level theory. For an early analysis, see Nira Liberman and Yacoov Trope, ‘The Role of Feasibility and Desirability Considerations in Near and Distant Future Decisions: A Test of Temporal Construal Theory’, Journal of Personality and Social Psychology 75, no. 1 (1998): 5–18.

4. B. Peter Rosendorff and Helen Milner, ‘The Optimal Design of International Trade Institutions: Uncertainty and Escape’, International Organization 55, no. 4 (2001): 830. See the section on “Flexibility mechanisms in international cooperation” for a definition and discussion.

5. For a summary, see Graham Smith, ‘Taking Deliberation Seriously: Institutional Design and Green Politics’, Environmental Politics 10, no. 3 (2001): 77–89.

6. For a useful exposition of the normative underpinnings of different experimental designs, see Jan Teorell, ‘Political Participation and Three Theories of Democracy: A Research Inventory and Agenda’, European Journal of Political Research 45, no. 5 (2006): 787–810.

7. It is possible that referenda also embody direct democracy. This depends on what is being decided. If the referendum is to determine a specific policy, then it is closer to direct
democracy. If the referendum is to select representatives or is employed by representatives to determine the preferences of citizens, it is an instantiation of representative democracy. See Teorell, ‘Political Participation and Three Theories of Democracy’, 788–9.

8. See, for example, the 2010 special issue of this journal, “Book Symposium on James Bohman’s Democracy across Borders”.

9. Robert O. Keohane, Stephen Macedo, and Andrew Moravcsik, ‘Democracy-Enhancing Multilateralism’, International Organization 63, no. 1 (2009): 1–31. See also the ‘boomerang’ effect noted by Margaret Finnemore and Kathryn Sikkink, ‘International Norm Dynamics and Political Change’, International Organization 52, no. 4 (1998): 887–917.

10. For a counter-argument against the global democratic deficit, see Andrew Moravcsik, ‘Is there a “Democratic Deficit” in World Politics? A Framework for Analysis’, Government and Opposition 39, no. 4 (2004): 336–63.

11. Magdelena Bexell, Jonas Tallberg, and Anders Uhlin, ‘Democracy in Global Governance: The Promise and Pitfalls of Transnational Actors’, Global Governance 16, no. 1 (2010): 83.

12. David Held, Models of Democracy. 3rd ed. (Cambridge: Polity Press, 2006).

13. Teorell, ‘Political Participation and Three Theories of Democracy’, 787.

14. Jan Aart Scholte, ‘Reinventing Global Democracy’, European Journal of International Relations (forthcoming): 4. doi: 10.1177/1354066111436237.

15. Bexell et al., ‘Democracy in Global Governance’, 84. The deliberative model, more than representative or direct, tends to have a procedural flavor. However, the goal is still to induce subjective legitimacy through non-coercive argumentation between affected parties. This tends to take stakeholder forums, representatives bodies, and civil society as key institutional mediums.

16. David Held, Democracy and the Global Order: From the Modern State to Cosmopolitan Governance (Cambridge: Polity Press, 1995). See also Daniele Archibugi and David Held, eds., Cosmopolitan Democracy: An Agenda for a New World Order (Cambridge: Polity Press, 1995).

17. See, for example, Luis Cabrera, Political Theory of Global Justice: A Cosmopolitan Case for the World State (London: Routledge, 2004).

18. On this point of a contextual superimposition, see John S. Dryzek, ‘Two Paths to Global Democracy,’ Ethical Perspectives 15, no. 4 (2008): 471. See also the critique in Michael Saward, ‘Slow Theory: Taking Time over Transnational Democratic Representation’, Ethics and Global Politics 4, no. 1 (2011): 1–18.

19. Miller, ‘Against Global Democracy’, 141.

20. Adrian Little and Kate Macdonald, ‘Pathways to Global Democracy: Escaping the Statist Imaginary’, Review of International Studies, (forthcoming): 2. doi: 10.1017/S0260210512000551.

21. Little and Macdonald, ‘Pathways to Global Democracy’, 5.

22. I thank Jonas Tallberg for impressing this methodological point on me.

23. In this sense, I remain agnostic about which model should be aimed toward as an ‘end-point’ for global democracy.

24. John S. Dryzek, Deliberative Democracy and Beyond: Liberals, Critics, Contestations (Oxford: Oxford University Press, 2000), 135.

25. Michael Zürn, Martin Binder, and Matthias Ecker-Ehrhardt, ‘International Authority and its Politicization’, International Theory 4, no. 1 (2012): 69–106.

26. Jonas Tallberg et al., The Opening Up of International Organizations: Transnational Access in Global Governance (Cambridge, UK: Cambridge University Press, 2013).

27. Barbara Koremenos, ‘Loosening the Ties that Bind: A Learning Model of Agreement Flexibility’, International Organization 55, no. 2 (2001): 289–325.

28. Rosendorff and Milner, ‘The Optimal Design of International Trade Institutions’, 830.

29. Barbara Koremenos, Charles Lipson, and Duncan Snidal, ‘The Rational Design of International Institutions’, International Organization 55, no. 4 (2001): 761–99.
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30. Koremenos et al., ‘The Rational Design of International Institutions’, 773.

31. Koremenos, ‘Loosening the Ties that Bind’, 289–325. As I note below, this paper by Koremenos also discusses how limited duration enhances the prospects for international bargaining.

32. Barbara Koremenos, ‘Contracting Around International Uncertainty’, American Political Science Review 99, no. 4 (2005): 551.

33. Rosendorff and Milner, ‘The Optimal Design of International Trade Institutions’, 829–57.

34. Krzysztof Pelc, ‘Seeking Escape: The Use of Escape Clauses in International Trade’, International Studies Quarterly 53, no. 2 (2009): 349–68.

35. Although Pelc presents flexibility as one element of a rational design paradigm, his discussion of a ‘norm’ of justification as a core component of informal escape clauses highlights the ability of states to monitor and learn from agreement. Pelc, ‘Seeking Escape’, 367.

36. John E. Richards, ‘Institutions for Flying: How States Built a Market in International Aviation Services’, International Organization 55, no. 4 (2001): 993–1017. See the founding of the IATA, http://www.iata.org/about/Pages/history.aspx (accessed on February 20, 2013).

37. For a terrific discussion of flexibility in the climate change regime (complex), see Alexander Thompson, ‘Rational Design in Motion: Uncertainty and Flexibility in the Global Climate Regime’, European Journal of International Relations 16, no. 2 (2010): 280. Thompson distinguishes different institutions which encapsulate either adaptive or transformative flexibility: the former designates overall institutional change, whereas the latter designates an actor’s scope for flexible action. This, roughly, designates the difference between escape clauses (adaptive) and sunset provisions (transformative) in reaching agreement.

38. Melissa K. Marler, ‘The International Criminal Court: Assessing the Jurisdictional Loopholes in the Rome Statute’, Duke Law Review 49, no. 3 (1999): 825–53.

39. The work on bargaining is widely discussed. However, the relationship of path dependency and cognition to design is less well understood.

40. For the original reference in IR, see Robert Axelrod, The Evolution of Cooperation (New York: Basic Books, 1984).

41. See Paul Pierson, ‘The Limits of Design: Explaining Institutional Origins and Change’, Governance: An International Journal of Policy and Administration 13, no. 4 (2000): 478–9.

42. Thompson argues that the rationalist literature on flexibility has continued this preoccupation with explaining functional institutional outcomes rather than analyzing the rational decisions which occur during bargaining. Thompson, ‘Rational Design in Motion’, 291.

43. James Fearon, ‘Bargaining, Enforcement, and International Cooperation’, International Organization 52, no. 2 (1998): 269–305.

44. Koremenos, ‘Loosening the Ties that Bind’, 317–19.

45. Koremenos et al., ‘The Rational Design of International Institutions’, 766.

46. Beth A. Simmons and Allison Danner, ‘Credible Commitments and the International Criminal Court’, International Organization 64, no. 2 (2010): 225–56.

47. Tana Johnson, ‘Institutional Design and Bureaucrats’ Impact on Political Control’, Journal of Politics 75, no. 1 (2013): 183–97.

48. For a more in-depth discussion of path-dependent complications for global democratization, see Jonathan W. Kuypers, ‘The Limits of Design for Cosmopolitan Democracy’, Public Reason 4, no. 1–2 (2012): 28–47.

49. Paul A. David, ‘Path Dependence, Its Critics and the Quest for ‘Historical Economics’’, in Evolution and Path Dependence in Economic Ideas: Past and Present, eds. Pierre Garrouste and Stavros Ioannides (Cheltenham: Edward Elgar, 2001): 15–40.

50. ‘Early’ and ‘late’ are obviously relational concepts and can be judged with respect to the preceding critical juncture. ‘Earlier’ thus refers to a moment during or shortly after a critical juncture.
Robert E. Goodin, ‘Global Democracy: In the Beginning’, *International Theory* 2, no. 2 (2010): 179.

Goodin, ‘Global Democracy’, 179.

Goodin does not use the term path dependence. Rather, he refers to the process as an absorbing Markov chain. However, the fundamental logic is the same, as Paul David notes.

Kevin Olson, ‘Paradoxes of Constitutional Democracy’, *American Journal of Political Science* 51, no. 2 (2007): 330–43. The paradox of constitutionalism mimics the boundary problem in democratic theory: i.e. the founding moment of constitutional democracy cannot itself be democratic because the appropriate democratic procedures are not yet in place. Thus, democracy is both requisite for, and the outcome of, constitutional democracy.

Olson, ‘Paradoxes of Constitutional Democracy’, 338.

Michael N. Barnett and Martha Finnemore, ‘The Politics, Power, and Pathologies of International Organizations’, *International Organization* 53, no. 4 (1999): 699–732.

Darren G. Hawkins et al., eds., *Delegation and Agency in International Organizations* (Cambridge: Cambridge University Press, 2006).

Jack Goldstone, ‘Representational Models and Democratic Transition in Fragile and Post-Conflict States’, *World Development Report 2011: Background Paper*, https://openknowledge.worldbank.org/bitstream/handle/10986/9190/WDR2011_0005.pdf?sequence=1 (accessed on February 27, 2013).

Rosendorff and Milner formally show how escape clauses create more stable and cooperative regimes. Rosendorff and Milner, ‘The Optimal Design of International Trade Institutions’, 852.

Daniel Kahneman and Amos Tversky, ‘Prospect Theory: An Analysis of Decision Under Risk’, *Econometrica* 47, no. 2 (1979): 263–91.

Robin R. Vallacher and Daniel M. Wegener, ‘Levels of Personal Agency: Individual Variation in Action Identification’, *Journal of Personality and Social Psychology* 57, no. 4 (1989): 660–71. See also Kentaro Fujita et al., ‘Influencing Attitudes Toward Near and Distant Objects’, *Journal of Experimental Social Psychology* 44, no. 3 (2008): 562–72.

Ronald R. Krebs and Aaron Rapport, ‘International Relations and the Psychology of Time Horizons’, *International Studies Quarterly* 56, no. 3 (2012): 530–43.

For an article supporting this claim in terms of business strategy, see Scott Highhouse, Susan Mohammed, and Jody R. Hoffman, ‘Temporal Discounting of Strategic Issues: Bold Forecasts for Opportunities and Threats’, *Basic and Applied Social Psychology* 24, no. 1 (2002): 43–56.

Krebs and Rapport argue that this logic holds for consumers, citizens, and state/military leaders. I see no reason why the same cognitive disposition does not afflict academic theorizing in the vein of cosmopolitan and world government scholarship.

John S. Dryzek, André Bächtiger, and Karolina Milewicz, ‘Toward a Deliberative Global Citizens’ Assembly.’ *Global Policy* 2, no. 1 (2011): 33–42. Richard Falk and Andrew Strauss use the nomenclature ‘Global Parliamentary Assembly’ for PEGA.

Dryzek et al., ‘Toward a Deliberative Global Citizens’ Assembly’, 35.

See Thomas Risse, ‘Let’s Argue!: Communicative Action in World Politics’, *Comparative Political Studies* 42, no. 11 (2009): 1379–402.
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73. Indeed, sunset provisions would actually help induce renegotiation.

74. John S. Dryzek and Simon Niemeyer, ‘Discursive Representation’, *American Political Science Review* 102 (2008): 481–93. See also Nadia Urbinati and Mark E. Warren, ‘The Concept of Representation in Contemporary Democratic Theory’, *Annual Review of Political Science* 11 (2008): 405.

75. Robert E. Goodin and Steven R. Ratner, ‘Democratizing International Law’, *Global Policy* 3, no. 3 (2011): 243–4.

76. For a full description, see Thomas W. Pogge, ‘Human Rights and Global Health: A Research Program’, *Metaphilosophy* 36, no. 1 (2005): 182–209.

77. Allen Buchanan, Tony Cole, and Robert O. Keohane, ‘Justice in the Diffusion of Innovation’, *Journal of Political Philosophy* 19, no. 3 (2011): 306–32.

78. To be sure, these two prescriptions are linked more closely with the global justice literature. The fundamental point is that the use of flexibility mechanisms makes the realization of experimental mechanisms beyond the state more tangible. These examples surrounding IPR should thus be understood as illustrative, not substantive.

79. For a preliminary discussion, see Isobel Coleman, *Democracy in Development*, http://blogs.cfr.org/coleman/2012/06/19/ict4gov-improving-governance-through-technology/ (accessed June 22, 2013).

80. See, for example, Thomas Nagel, ‘The Problem of Global Justice’, *Philosophy and Public Affairs* 33, no. 2 (2005): 114–47 or Daniele Archibugi and David Held, ‘Cosmopolitan Democracy: Paths and Agents’, *Ethics and International Affairs* 25, no. 4 (2011): 433–61.