Introduction: the dilemma

The idea that unelected political figures – the ‘unorthodox representatives’ of my title - may act as democratic representatives is a controversial contention in contemporary political life, including contemporary democratic theory. Among other things non-elective representation, both in single instances and as a more systemic practice, would appear to undermine the principle of political equality at the heart of modern ideas of democracy and democratic representation. If the idea is to be defensible, then arguably a minimum requirement would be that the principle of political equality must be manifest in certain ways, and to certain degrees, in the practices of non-elective representation. To simplify: in the absence of the formal equality (of votes) enacted through properly functioning, free and fair, electoral procedures, what (if any) alternative modes of enactment of political equality does non-elective representation enact, and what support could that lend to the view that such representation is reasonably called democratic? How can it be enacted in cases where the formal equality of equal votes is partly or wholly absent?

The paper pursues two main (and linked) argumentative strategies. First, in a more empirical vein, it explores in a stylized manner how political equality may be enacted in practices of electoral and (especially) non-electoral representation. Second, in more normative vein, it focuses more sharply on the requirements of democratic legitimation of representative claims, and in particular what role notions of political equality play. The suggested criteria of democratic legitimacy to apply to representative claims centres upon the actual acceptance of claims by appropriate constituencies, under certain conditions (Saward 2010). These are interpretive criteria – they require attention to the context of particular claims and systems of claims. The stylized empirical analysis can help us to provide texture to that process of interpretation – and in the present context in particular, help us to understand the place of political equality in those judgements.

More specifically, the paper will briefly consider (1) the roots of the argument in the notion of the representative claim; (2) the desired approach to the meaning and significance of the principle of political equality; (3) enactments of political equality in elective representation, non-elective representation, and the critical relationships of both mutuality and tension between the two; (4) the limits and possibilities for political and democratic theory to address inequalities in non-elective representation; and (5) the places of political equality in judgements of democratic legitimacy of representative claims.
The representative claim

The analysis is built upon the performative and constructivist definition of political representation as the contingent product of ‘representative claims’, defined as ‘a claim to represent or to know what represents the interests of someone or something’ (see Saward 201, 38). According to this perspective, representation exists primarily by virtue of its being done – practiced, performed, claimed. Representative roles and relations gain a presence in our politics because myriad actors make claims to speak for others (and for themselves). Representation is a performative product in two linked senses: it is performed in the theatrical sense (i.e. it is both done and shown to be done (Schechner 2002)) and in the speech-act sense (it is a speech or other act which establishes, or contributes to establishing, a state of affairs) (Austin 1975; Butler 1997).

The representative claim framework emphasises the situated or contextual dynamics of producing relations of representation. It stresses representation’s variability: it is a versatile phenomenon that can be formal and informal, electoral and non-electoral, national and transnational, potentially happening in multiple spaces and possessing many guises. Second, it stresses representation’s contingency and dynamism: there’s a lot ‘going on’ in representation, a constant process of making, receiving, accepting or rejecting representative claims. And third, this approach highlights representation’s aesthetic and cultural character: would-be representatives need to ‘make representations’ (in the sense of artistic portrayals or depictions, such as candidates for office constant use of phrases such as ‘hard-working families’, ‘strivers’ or ‘battlers’) of their constituents to try to get the latter to recognise themselves in the claims being made (Saward 2010).

Political equality

The idea of political equality is a multi-dimensional, complex and open-ended idea. There is no lack of work in political theory which (a) assumes that political equality has single clear meaning and application, or (b) renders its meaning and application straightforward by straightjacketing stipulative definition. For present purposes I reject both approaches – despite the fact that the challenge before us may be met much more readily by embracing one or both of them – for reasons that I hope to make clear below. It is better to embrace the multiplicity of the principle of political equality - a multiplicity of meanings and of ways in which it may be understood as implicated in the politics of representation.

Equality is often taken to be the foundational principle of democracy (e.g. Dahl 1989; Beetham 1999). More broadly, as Squires (2006, 472) comments, ‘[i]t has been suggested that political theorists tend to operate on an “egalitarian plateau” in which everyone accepts that citizens should be treated as equals’. Kymlicka (1990, 4), for example, cites Dworkin’s view that ‘every plausible political theory has the same ultimate value, which is equality’.1

1 Although the constitutive character of representation is prominent in recent accounts including those focused on judgement (Urbinati 2011), reflexivity (Disch 2011), and aesthetics (Ankersmit 2002), it has deeper roots in the account of Bourdieu (1991) and, according to Disch in particular, in Pitkin’s modern classic The Concept of Representation. Arguably, it goes all the way back to Hobbes: ‘For it is the unity of the representer, not the unity of the represented, that maketh the person one.’
Equality, however, has competitors in the claims made for it as democracy’s foundational principle. Or, more accurately, in alliance with or separate from other key principles, equality (whatever precise meaning is given to it) is far from alone as critical to the institutionalisation and practice of democracy. Consider an open-ended range of claimants to the mantle as the or a master principle of democracy: equality inclusion participation accountability freedom rights empowerment representation justice citizenship non-domination transparency deliberation decentralisation deconcentration authorisation autonomy independence responsiveness constitutionalism and majority rule.

Supposing that a case can be made for equality’s singular foundational status, perhaps by folding many other claimant principles under it in some plausible way. We would still be faced with the knotty challenge of deciding what sort of equality. This question is a well-known one in political theory, of course: ‘equality of what? (Dworkin), ‘Which equalities matter?’ (Phillips), and so on. But consider the (again, open-ended) range of possibilities: Equal rights protection by courts? Equal votes? Formal equality? Numerical equality? Equal opportunities to stand for office? Equality of resources that underpin citizenship capacities? Equal (negative or positive) freedom? Equal respect? Equal access to deliberation? To decision-making? Equal opportunities, even if this means unequal resources? Or any one of a range of further possibilities, in combination with some or all of the above, in a certain order of priority?

Faced with such diversity, the observer might choose a particular interpretation of the principle, argue for its primary status, possibly incorporating some of the alternative meanings and nuances into the preferred approach. That, certainly, is one way of doing political theory – a process of abstraction, stipulation, deduction, and normative application. I do not wish to argue against such approaches – there are great theorists, not least for example Rawls (1972), in whose hands such approaches have been brilliantly executed, extremely rich and highly influential. A second approach is to do more ‘grounded’ theory, regarding the meanings of key principles as gaining clarity through the ways in which they are institutionalised and practiced in a variety of political contexts. Rather than an approach prioritising abstraction, stipulation and normative application, a grounded approach emphasises enactment, interpretation and interpretive modes of assessment.

The idea that principles, such as political equality, gain their specific meaning and force through enactment (in political practices, be they institutionalised or non-institutionalised) is central to this second broad approach. It holds that that the meaning of, and justifications for, the principles can only be worked out through interpretation of their enactment (invocation, institutionalisation) in practices of politics and governance. Real practices give life to principles, put them to work, and in the process given them texture and meaning. In this sense, the names of the principles (‘equality’, ‘freedom’, etc.) are understood as convenient placeholders for a bundle of actual and potential interpretations. Specific and detailed meanings are enacted through institutions and devices that might embody and bring the principles to life. This approach, which I have elsewhere termed ‘reflexive proceduralist’ (Saward 2003), stresses how principles, institutions and practices are in a sense turned inward towards each other, gaining vitality and meaning from each other, as ideas and as concrete political practices, without reference to some philosophical ‘outside’ which can justify and define the principles independent of their practical enactment. A further element of this approach is that different principles in the processes of enactment ‘bounce off’ each other in the process of mutual clarification in context. For example, the ways in which freedom and rights may be invoked and institutionalised in a given political context will condition in turn, and in varied ways, how political equality and its importance may be
understood or defended in that time or place. Thus, insofar as there are external referents which contribute to the production of meanings, these may include other principles which have acknowledged resonances with the principle and traditions of democracy. A given set of democratic principles will be a dynamic rather than a static set because, in semiotic terms, the potential democratic principles and ‘democracy’ itself are both signifiers (of each other, in various ways) and signifieds. They operate within chains of signification (or meaning-generation) in which no privileged point of entry can be stipulated so as to dictate a final meaning or order of importance.

Denying credibility to strong appeals to foundational meanings with respect to democratic principles is important because it stresses the point that principles and practice of democracy are things that we conceive, make, argue about and revise – constantly – in part because their cannot be a final end, a grounding version of an indisputable principle to stop all legitimate dispute. It is unlikely any ‘higher principle’ will rescue us from interpretive overload; it is precisely the irreducibly multiple referents of the principle of equality in itself that leads us to ask more specific questions about its meanings.

With these principles, any effort to pin down a single, superior meaning – such as equality of voting power for political equality – may be reasonable, but will never be able successfully to exclude other credible meanings (and with them alternative devices and institutions designed to embody or realise the principle). Accordingly, and in line with my comments about the inward-looking and mutually implicative process of giving content to principles, we can say that democratic principles are primarily things that we do, rather than rights or statuses that are conferred. To act on a principle of equality is (contribute to an intersubjective process of) specifying its meaning, of giving it life and referents in specific settings. To question morally a taken-for-granted institution (such as a monarchy) is to ‘perform’ a principle, and in an important sense to re-create it by evoking it.

**Enacting political equality in elective and non-elective representation**

The principle of political equality can be, and is, enacted in a great variety of ways and institutions and in differing contexts. Formally equal voting in universal suffrage elections is a particularly distinctive, prominent and democratically important mode of enactment. Equal votes create a vital measure of equality of treatment and equality of opportunity. Voting rights symbolise an equal citizenship status regardless of social or economic status, and in practical terms they provide equal chances to influence the shaping of government. This form of enacting political equality is all the more profoundly egalitarian because of the regularity of elections, the publicity and general levels of debate they generate, and the levels of transparency of political actions and political actors that they facilitate. Stemming from the enactment of equality are other principles that are enacted through elections. These importantly include degrees and styles of popular control, evidence of consent of the governed for the government, and formal modes of authorisation and formal modes of accountability as part of their claims.

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2 Here I draw loosely on Judith Butler’s approach to ‘gender’. Butler writes that ‘ … the substantive effect of gender is performatively produced … gender is always a doing, though not a doing by a subject who might be said to pre-exist the deed … There is no gender identity behind the expressions of gender; that identity is performatively constituted by the very ‘expressions’ that are said to be its results’ (Butler 1990: 24–5).
However, the profound symbolising of equal citizenship in the institution of equal voting rights is one among many and various potential enactments of political equality. Equal votes do not guarantee equal influence through the use of the vote, for a variety of technical and other reasons. Equal votes certainly do not guarantee that larger and deeper socio-economic inequalities in society will be addressed effectively by elected political leaders. In these and related respects, there are serious limits to what can be claimed about the quality or effectiveness of the forms of representation which the entrenchment of equal voting rights can produce in a given context. But again, the persistence of such pervasive types of inequality can make the power of the symbol of the equal vote so much more important.

So political equality, both in a strong practical and a powerful symbolic sense, undergirds the strength of representative claims that election winners can make. The latter can claim to be occupants of powerful public office by virtue of the fairness embodied in the institutional enactment of equality through free and fair elections. It is therefore perfectly reasonable for election winners to claim to be representatives on the basis of the consistent enactment of political equality and the other core principles which accompany it.

We can summarise these points about electoral representative claims and their underpinnings by saying that free and fair elections enact a set of democratically desirable principles, not least principles of equality that are inflected through for example inclusion (universal suffrage), fairness (equal votes) and choice (majority rule decides).

But recognising the strengths of electoral representation should not prevent us from acknowledging how elections can, in some circumstances, act to restrict the nature and range of representative resources, perspectives and voices, and that these restrictions can be democratically troubling. A number of theorists have, for example, criticised features of electoral and legislative representation, mostly on the grounds of unjust historical and contemporary exclusions (Phillips 1995; Williams 1998; Mansbridge 1999; Young 2000). I have little argument with such views, which conclude with reasons why, and mechanisms by which, electoral and legislative representation of excluded or marginalised groups should be improved. Rather, I wish to deepen and extend this concern with exclusion by exploring the idea that the representative limits of electoral institutions by their very structure leave open the possibility for non-elective representative claims that can call on differing notions of interest and (not least) equality. These differing modes of operation may in some ways echo but in important other ways are distinct from electoral criteria.

A variety of non-elected actors claim to be representatives, and sometimes those claims have a resonance with their intended constituencies and audiences because they can sometimes do things that elective claimants cannot do (or not readily). Why do we sometimes listen to their claims? Often, it is because key principles that we understand as being core to elections can – in varied ways - be realised by unelected actors. This may not be true of all such principles (and their realisation even in electoral contexts, as we have seen, can be patchy) or indeed all such actors, but it can be true of a range of them. Consider a range of ways in which non-elective representative claimants may be able to practice or enact principles not least of which is political equality.

1. Unelected actors, being largely free from the more formal demands facing electoral candidates, can make representative claims which select quite particular aspects of the interests or characters of possible constituents. In short, they have in principle greater scope to be partial in the content and targets of their representative claims. This process can claim to be an alternative enactment of the principle of political
equality in that it can provide an outlet for neglected, or particularly intensely felt, preferences or grievances in particular segments of the citizenry.

2. Unelected actors can also make their claims on the basis of temporary issues, pressures or events. In this way, they may capture (or, they have the potential to capture) the ways in which the contextual shape and impact of equalities and inequalities may change rapidly.

3. Unelected actors are also not as bound in their claims or statements to specific political communities. Actors such as Oxfam or Greenpeace, for example, may make claims which traverse different countries or political communities, with a greater freedom than elected actors can. In this way, unelected actors may extend the scope of the application of principles of political equality, for example by picking up and claiming to speak for distinct inequalities which only become distinct or manifest when viewed from a transnational or unconventionally trans communal perspective.

a. In related ways, unelected actors have at least the comparative potential to open up new lines of representation of interests because they have to make their claims explicit. Because, generally speaking, they cannot rely on the electoral institutions in order to justify their representative claims more implicitly, the must openly and clearly appeal to their would-be constituencies. In this manner, they may prompt new levels of awareness – or at least the opportunity to consider new ways – of inequalities of interest which are dormant or potential in a given context.

In short, non-elective representation can potentially give us some of what elective representation cannot. In electoral representation, political equality is primarily enacted in formal, numerical terms. In non-elective representative claim-making, equality may variously and complexly be enacted through the offering of new claims responding to new inequalities whose existence can be made explicit. It may also be enacted through more nuanced claims about inequalities demanding attention with regard to particular groups of people; more ‘rapid response’ considerations of how issues of equality are affected by short-term, sudden; and may bring to political visibility more particular, perhaps eccentric or unusual claims about (in)equalities than electoral actors are constrained to recognise. More choice of representatives; more ways of being portrayed, or of identifying our selves and our interests; expanding (even complexly) relations of accountability and answerability in a system; more nuanced opportunities for representation. In short, we may summarise by saying that non-elective representative claims carry the distinct potential to bring to the fore additional, diverse and new opportunities for a range of particular inequalities to have enhanced political visibility. Novelty, diversity and opportunity resonate with ideals of political equality; or, more to the point, they enact (even if not strictly in name) features of or reasonably associated with political equality, without being reducible to the latter.

It is worth noting that there is a complex symbiotic relationship, on this account, between electoral and non-electoral modes of representation in the ways in which they may enact aspects of political equality. Both the strength and the limits of equal opportunities to authorise representatives by formal votes leaves scope for alternative (e.g. more diverse and particular) representative claims outside, or even in opposition to, those characteristic of electoral politics and governance. Often, such alternatives may trade in the notion of authenticity. Arguably, the attractions of both authorisation (as the currency of elective claims) and authenticity (as the currency of non-elective claims) as underpinnings of representative claims depend in part on the presence of the other. I can claim formal, electoral authorisation as a would-be trump of claims that lack that formal approval; I may claim a bottom-up authenticity as a would-be trump of a form of authorisation that is largely
elite-led, selective and reductive with respect to citizen interests. The potential strengths of each depends in key ways on its relationship of inbuilt tension with the other.

A politics of authenticity? Sorting out endstates

Informal politics – like non-elective and other forms of unorthodox representative politics – can be messy. Perhaps they do, as the discussion above has suggested, create more opportunities for more actors to claim representation, bring novel issues to the fore, and make new challenges in the name (among other things) of addressing social, cultural or economic inequalities, and so on. But insofar as they do these things, they do them in unpredictable, protean and unstable ways.

But, some would argue, the protean and unstable aspects of this uneven domain of representative politics can be rendered more consistent and stable, and more subject to rules which may satisfy some universal criteria of fairness and equality. In some ways, to some degree, it might be argued, we could formalise the informal in the name of political equality. We could take some of the advantages of electoral arrangements – equal votes for legal citizens, tallied in strict ways, for example – and construct broadly parallel or equivalent institutions to bring a more predictable and bounded sense of fairness and equality to informal politics. Where there are civil society discourses that require representation, we can create a Chamber of Discourses (Dryzek and Niemeyer XXXX). Where unborn generations can be said to have interests, we can alter parliamentary structures to grant them formal representation by proxies (Dobson XXXX). We can systematise the pluralistic world of interest group advocacy by granting vouchers (and equivalent to equal votes) to all citizens which they can choose to use to bolster material support for particular groups (Schmitter XXXX). Or we can move the defence of vital but under-represented interests into state bureaucracies, for example in the form of an Environmental Defenders Office (Eckersley XXXX). We can in such ways bring a due sense of authorisation to civil society representation or advocacy, by creating authorising and authoritative institutional procedures or structures.

The conception of political equality that underpins electoral politics is formal – with numerically measurable formality – opportunities to influence political agendas and to have an input into collective decision-making. Equality that can be calculated, which is distilled into a metric enabling calculation, has strong attractions. And these attractions can feed into a desire for varied forms of étatisation – creating state-supported, and thereby formal rule-bound, entities which co-opt emergent or troubling claims for representation, define and regularise them, and (on the face of it) ensure that they figure on formal political agendas. Notwithstanding these attractions, however, there are good reasons – crucially, themselves associated with political equality - for being cautious in making this sort of move.

First, authorisation is a political and a democratic good, but so is authenticity. Each is reasonably associated with the enactment of aspects of political equality and further principles resonant with the latter. The two operate in some tension with each other (Saward 2009), authorisation being particularly associated with electoral politics, and a hoped-for sense of authenticity from a more fluid and emergent non-electoral politics. The danger is that issues and actors whose claims are formalised or institutionalised thereby become removed from the complex, and often more visceral, bottom-up politics which may have helped to bring them to bring to prominence or visibility new or pressing inequalities in the
first place. We must be wary of the impulse to ‘engineer democracy’ (Blaug 2002) from the top down, as this is a strategy that can so easily challenge or undermine this valuable sense of authenticity. In their recent study of faith-based non-electoral representation, Lowndes and Chapman (XXXX) argue that ‘non-electoral representation holds out the possibility of ‘more’, ‘different’ and even ‘better’ citizen involvement in network governance’, not least through considerable support for the claims to authenticity, or at least for the potential for non-elective representation to achieve levels of perceived authenticity. Or take for example Aboriginal representation in Australia; Maddison (2012) notes how a series of formalised national elective representative bodies ultimately failed because ‘their representative legitimacy was undermined from the outset both by the fact that they were created and funded by government and by their lack of sufficient connection to, or representation of, Aboriginal communities and organizations’ (83). To adapt the key point above: non-elective representative claims – claims originating largely outside the state, ‘bottom-up’, conveying a sense of authenticity - carry the distinct potential to bring to the fore additional, diverse and new opportunities for a range of particular inequalities to have enhanced political visibility. Novelty, diversity and opportunity associated in distinct ways with non-electoral representative claims resonate with particular enactments of political equality; they enact (even if not strictly in name) features of or reasonably associated with political equality, without being reducible to the latter.

These arguments connect with wider considerations about democratic procedure and substance. For example, if democratic procedures are perceived to be insufficiently egalitarian in particular ways, we should attend to the relevant inequalities by building compensatory substance into the relevant procedures. For example, if wider economic or social inequalities prevent citizens who are struggling with poverty or a lack of educational opportunities from playing their role in participating in democratic procedures, then measures to equalise their political opportunities should be taken out of those procedures and addressed as a wider, independent matter of social justice, perhaps via constitutional rather than legislative means. Of course, justifications of aspects of welfare states have arisen from considerations like these, in many regions and countries. There is no denying the egalitarian force of such arguments in many contexts. However, there are balances of gains and losses in terms of democracy and political equality to be weighed carefully. As Fabienne Peter (XXXX) among others has pointed out, prioritising actions to address substantive social inequalities as separate from the democratic process – perhaps justified on the basis that addressing them is a precondition for realising the full participatory promise of such procedures – also diminishes the scope of democratic politics. The more issues or circumstances that are taken out of the purview of democratic procedures, even in the name of democratic equality, the narrower the range of issues that will be subject to democratic debate and resolution.

In sum: distinctive gains in terms of political equality are (complexly, unstably) associated with non-electoral representative claim-making. Some of these gains at least resonate closely with a sense of authenticity of claims made from civil society rather than from within the state. Arguments that wider social or economic inequalities (impinging on political equality) ought to be addressed separately from the democratic process, potentially undercutting the complex egalitarian potential of non-electoral representation, are double-edged – more formal equality may undercut opportunities for informal assertions of inequalities that are more novel, diverse and particular, and also more ‘felt’ in the sense that they arise from citizen action.
This section has discussed the complex play of political equality in electoral and non-electoral modes of representation. It has focused on evident tendencies in the enactment of political equality in different modes of representation. The emergence or not of such tendencies may or may not support the idea that representative claims have democratic legitimacy. The extent of the presence of democratic legitimacy in a given context, I argue, depends on what the relevant constituencies of citizens and others actually make of the claims made for and about them. Accordingly, I turn now to what can make unorthodox representation democratically legitimate – and what part may enactments of equality play in that?

**Representative claims and democratic legitimacy**

Democratic legitimation of representation is a contingent product of the complex political play of claim and reception, an account of which requires that we draw on different traditions of thinking about democratic legitimacy. Democratic legitimation is most readily considered in the context of electoral representation – free and fair voting is a relatively clear way for constituencies to signal acceptance or rejection of representative claims – but non-elective modes of representation may also achieve democratic legitimacy. The comments in this section pertain in principle to both elective and non-elective representative claims.3

On what I call the *procedural temporal* view, democratic legitimation is a situated state of affairs whereby an instance of representation is regarded as democratically acceptable by, or is not rejected by, an appropriate constituency.4 Pitkin’s non-objection principle is an important root of this point (see Runciman 2007), though acceptance is in principle more detectable and explicit than non-objection, and rejection likewise compared to objection. A range of norms may be used by members of an appropriate constituency. It starts with and from events, claims and phenomena of representation. And second, *substantive-snapshot* view, democratic legitimation is a specific normative standard derived from a context-independent theory of legitimacy, allowing for more or less acontextual answers to the legitimacy question – so long as our concepts and theories are sharp enough and applied appropriately. Such substantive criteria may be understood or applied as a ‘regulative ideal’.

We need to combine elements of both approaches. To the question ‘Are there actions which we can observe which infer or constitute legitimation?’ (Barker 2001), my response is that democratic legitimation of representation concerns on-going acceptance of representative claims by specific appropriate constituencies (the procedural-temporal) under certain conditions (the substantive snapshot). Thus, we work from a procedural-temporal view in the first instance – in this or that specific context, does the appropriate constituency accept representative claims made on its behalf? How does the degree of acceptance change over time? More substantive elements enter our considerations as we step back from the fact or otherwise of acceptance to examine the conditions under which acceptance is given or withheld. Here, less case-specific criteria enter our assessments.

As we work from the inside out – from the situated procedural to the substantive - we also move from a more specific focus on dyadic instances of representation to more systemic-3 Montanaro (2012) offers a detailed account of the democratic assessment of non-elective representative claims which resonates with features of the present account. Montanaro’s approach is more geared to dyadic relationships and discrete claims, where my present focus is also concerned with more systemic factors and, of course, shape-shifting representation.

4 For a definition of the ‘appropriate constituency’, see Saward (2010, 145-151).
societal considerations. Bearing these points in mind – parallel shifts from the inside out, from dyadic to systemic, from cases to conditions – how might we specify the guiding questions to assess the democratic legitimacy of representative claims?

1. For a specific dyad – a claim that A represents B - is there a sufficient degree of acceptance by the appropriate constituency?5
2. Are the conditions within which that acceptance is given conducive to open and uncoerced choices by member of the appropriate constituency?6
3. If we zoom out from specific instances and look at many such instances across society, to what extent are conditions conducive to uncoerced and open acceptance acts replicated across a diverse range of dyadic claims – at a systemic-governmental level or more broadly on a systemic-societal level? The observer’s priority even at this more systemic level should be on acts of acceptance or rejection by situated actors. This may necessarily involve detailed and perhaps difficult interpretations of specific cases where the relevant acts are not immediately detectable (see Scott 2012).

Moving further away from representative dyads, whether discrete or multiple, we may also reasonably argue that fast-track (or short-cut) judgements about the democratic legitimacy of representative claims on a systemic level may be made by applying further general conditions to supplement those of case-based open and uncoerced judgements. These further general conditions are defined by these additional questions:

4. To what extent is there a plurality of sites, moments or opportunities for representative claim-making and reception (the extent of openness to many claims and their contestation)?
5. To what extent is there uncoerced equal access to subject-positional resources for claim-making in the given context?
6. To what degree is there variation in the nature and bases of representative claims in the given context (the extent of openness to different sorts of claims, by different sorts of claimant)?
7. To what extent is there reflexivity, in the sense that claim-makers are responsive, and contestation is encouraged (cf Disch 2011)?

This set of more general conditions can reasonably be used as a second-best proxy for assessments of society-wide democratic legitimacy of representative politics. Plurality, equal access, variability and reflexivity are key democratic ingredients in fields or systems of representation. A number of commentators regard the promotion of similarly-conceived conditions as essential to the democratic or just character of representation (e.g. Hayward 2009, Jung 2009, and Garsten 2009). A greater prospect of democratic legitimation of a system of representation is broadly associated with: more representative claims of more types and styles in a context of open contestation in a dense but open-ended network of claims. Lesser prospects of democratic legitimation of a system of representation would be associated with: the dominance of a particular source or type of representative claim, with few openings

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5 The difficulties of specifying what a ‘sufficient degree’ may mean do not invalidate this approach. As a general guide, acceptance, or at least non-rejection, by most or all members of the appropriate constituency without undue burdens being placed upon dissenters is an appropriate starting point.

6 In practice we are dealing with a spectrum of possibilities here. A choice or acceptance may be uncoerced, but arguably none are entirely unconstrained in some way. Following Simmons’ discussion of consent, acceptance must be given intentionally and voluntarily, and without threats of violence or undue burdens (Simmons 1976, 276-7).
for new types of claim from marginalised interests, and little opportunity for contestation of claims. Where opportunities for open and uncoerced constituency assessment of representative claims are not available, a further reasonable proxy judgement is to favour actors working to bring those conditions about, and who base their representative claims on the fact they are fostering openness, plurality, etc.

With respect to normative criteria regarding the democratic legitimacy of representative claims, three main linked conclusions can be drawn (though it is clear that this is an outline argument, which needs further defence and development.

1. Political equality, in whatever specific guise, is not necessarily the core principle at play in the legitimation of representative claims. Its enactment overlaps in complex ways with other principles linked to inclusion, freedom and so on.
2. Formal political equality in terms of equal voting rights in particular is especially crucial to the legitimation of elective representative claims. In this respect, the procedural-temporal aspects of legitimation are especially pertinent to electoral claims.
3. There is considerable fit between the substantive-snapshot criteria of legitimation and the distinctive empirical features of non-elective representation. Recall that those criteria emphasise wider conditions of plurality, access and variation in representation of interests. While procedurally there are real challenges in meeting the first (and most significant) criteria – does the appropriate constituency accept the claims being made to represent it? – what we have seen is an initial indication that a vibrant and open non-elective representation can make a significant contribution to a system of democratic representation, not least through practices associated with political equality.

Conclusion

If we adopt a stylised empirical perspective, political equality is a protean or shifting presence in non-elective representation. Its enactment or presence in many instances of non-elective representation has a liminal or even subliminal quality. Insofar as it is enacted, it is often in the form of a type of absent presence through other principles such as political visibility and political opportunity. The subtlety and complexity of equality’s enactment in such contexts also requires that we observe it over time; for example, an increase in political visibility of previously marginalised political actors through the making of non-elective representative claims (Saward 2010) may not constitute a significant advance in political equality, but may create conditions in which hitherto unacknowledged political inequalities may be highlighted, and pressure mounted for them to be addressed, in open-ended time periods. Seen in this light, unorthodox (non-elective) representation is (a) less a manifestation of equality than a complex set of routes through which inequalities may be revealed (or at least claimed), and demanded to be addressed, where otherwise these claims and demands would not be made, or not be made with force, or be made but not heeded in ways that may render them effective, and (b) less an enactment of equality than of shifting sets of principles resonant in varied ways with equality.

From a normative perspective stressing criteria of democratic legitimation, non-elective representation may make a material contribution to features such as diversity, plurality and opportunities, goods that are associated complexly with political equality thought not reducible to it or neatly commensurable with it.
Political equality gains its meanings through practical enactment in politics and governance. In different contexts, it will be manifest and valued differently, for its own variations and its relations to other enacted principles. Elective representation’s enactment of formal and numerical equality is distinct, and resonates well with the key criterion for the legitimation of representative claims – a clear means of acceptance or rejection of such claims. Non-elective representative claims fare less well in terms of formal means to understand whether or not claims are accepted by their appropriate constituencies (voting is not involved). But the diversity, plurality and variety of representative claims supported by a vital system of non-elective claim-making, and the opportunities they provide to highlight social and political inequalities (among many other things), resonate well with further elements of the legitimation of claims, notably those centred on the wider conditions that makes the acceptance of claims especially meaningful. The story of political equality and non-elective representation is not straightforward; but there are initial grounds to argue that non-elective representative claims stimulate features in political life closely associated with democratically legitimate representation, some of which are associated with political equality.

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