

NIKO KOLODNY

## Rule Over None I: What Justifies Democracy?

Ordinary political discourse, at least in the West, scarcely questions that we are to live in a democracy, where social decisions will ultimately be controlled by some principle of “one person, one vote.” As fierce as debates over law or policy may be, those debates take place against a background assumption that, in the end, the question will be resolved by democratic means. If the question is not decided by popular referendum, then it is decided by officials, or their appointees, elected through a process that respects some recognizable form of political equality. Indeed, these offices and processes may depend on a constitution that is itself open to popular amendment. An alternative form of rule, where social decisions would be made by an unchosen class, whether defined by birth, or virtue, or training, is not so much as seriously contemplated.

I am grateful for written comments on this article and its companion (as well as on their distant ancestors) from Arthur Ripstein, Japa Pallikkathayil, Samuel Scheffler, Jay Wallace, Fabienne Peter, Adam Hill, Dylan Murray, Joseph Raz (and his seminar), Jerry Vildostegui, Amanda Greene, Alan Patten, Liz Harman, Peter Graham, Samuel Freeman, Joseph Moore, Mike Arsenault, Mike Diaz, Dan Khokhar, Dustin Neuman, Ben Chen, Nick French, Daniel Viehoff, and two anonymous referees for *Philosophy & Public Affairs*. I am also grateful for responses from participants at BAFFLE at Berkeley; Ronald Dworkin and Thomas Nagel's Colloquium in Legal, Political, and Social Philosophy at NYU; my graduate seminars at Berkeley in 2011 and 2014; Joseph Raz's seminar at Columbia Law School; a Political Philosophy Colloquium at Princeton; a colloquium at the Ohio State University; the Darrell K. Royal Ethics Conference at the University of Texas, Austin; the University of Puget Sound Undergraduate Philosophy Conference; the Ethicists Network Workshop at Princeton University; the Understanding Equality Conference at University College London; Chris Kutz and Sarah Song's Workshop in Law, Philosophy, and Political Theory at Boalt School of Law; a colloquium at the University of Colorado at Boulder; a colloquium at New York University; a colloquium at University of California, Los Angeles; a Moral, Social, and Political Theory Seminar and colloquium at the Australian National University; and a colloquium at Arizona State University.

Even in political philosophy, which is, as to be expected, more reflective, a commitment to democracy, thus broadly understood, often outstrips any explicit justification. Sometimes it is just assumed that our task is to construct a political philosophy for a liberal democracy, where some principle of one person, one vote is, like the injustice of chattel slavery, a “fixed point.” In *A Theory of Justice*, to take a signal example, John Rawls unhesitatingly includes rights of political participation in the list of equal basic liberties. But why rights of political participation belong on the list, alongside liberty of conscience and free choice of occupation, is never made entirely clear. His discussion of these questions in sections 36 and 37 remains, at least to my mind, one of the darkest corners of that great book.

Perhaps, though, little needs to be said. Democracy has a straightforward justification or, indeed, justifications. There is a powerful instrumental case for democracy. It seems plausible that, at least over the long run, democracy better secures individual liberty and broadly shared prosperity than the alternatives. Moreover, democracy seems to have more intrinsic virtues. It is a particularly fitting response to persistent disagreement. It treats people fairly. It does not insult them. It realizes a form of autonomy. It provides avenues for civic engagement. Indeed, where explicit justifications of democracy are offered—and there have been notable proposals in recent years—they typically rest, in the end, on one or more of these considerations.

However, I doubt that any of these considerations represents even a *pro tanto* justification of democracy of the right kind—at least not unless it rests on some prior, independent justification. Or so I argue in this article. My aim is to clear the ground for such an independent justification, which I sketch here, but explore more fully in the companion to this article.<sup>1</sup> This justification—which, I hope, will seem, once stated, not so much surprising as resonantly familiar—is that democracy is one constituent, and a particularly important constituent, of a society in which people are related to one another as social equals, as opposed to social inferiors or superiors. The concern for democracy is rooted in a concern not to have anyone else “above”—or, for that matter, “below”—us: in the aspiration for a society in which none rules over any other.

1. Niko Kolodny, “Rule Over None II: Social Equality and the Justification of Democracy,” *Philosophy & Public Affairs* 42 (2014): 287–336.

#### I. PRELIMINARIES: THE JUSTIFICATION OF DEMOCRACY

I begin, in these first few sections, by defining our topic. To “justify democracy,” as I will understand it, is to answer the following questions.

1. Institutions: Why should we want, or establish, or maintain democratic institutions? Why do we, in general, have reason to try, over the long run, to make political decisions democratically?
2. Authority: Why does the fact that a political decision was made democratically contribute, *pro tanto*, to my being morally required, as an official or a citizen of the relevant polity, to implement or comply with it?
3. Legitimacy: Why does the fact that a political decision was made democratically contribute, *pro tanto*, to its being permissible to implement it, even despite its treating me, as a citizen of the relevant polity, in distinctively “political” ways that, at least in other contexts, are objectionable, such as using force against me, threatening to use force against me, or coercing me?

It is a further question how these claims weigh against countervailing reasons. It is a further question whether others will be, all things considered, morally permitted to implement a given political decision, despite its effects on me, or whether I am, all things considered, morally required to implement it myself. While such questions—essentially questions about the limits to democracy—are well worth asking, they are beyond the scope of this article. Before asking them, we need at least to identify a *pro tanto* justification of the right shape, which none of the justifications we canvass does.

#### II. PRELIMINARIES: DEMOCRATIC DECISION MAKING

What is it for a political decision to be “democratically” made? As a more or less stipulated starting point, I say that a political decision is democratically made when it is made by a process that gives everyone subject to it equal or both equal and positive, formal or both formal and informal opportunity for informed influence either over it or over decisions that delegate the making of it.

This initial formulation leaves two choices open, which we might hope that a justification of democracy would help us to settle. A more

permissive, “equal” conception requires only *equal*, but not necessarily *positive*, opportunity. It treats lotteries as no less “democratic” than voting. By contrast, a “positive” conception requires both equal and positive opportunity.

A more permissive, “formal” conception requires equality (or equality and some positive measure) of only *formal* opportunity. Suppose that the relevant procedure is voting. Then formal equality requires, first, no unequal legal or structural barriers to acquiring relevant information or rationally influencing others’ votes or the decisions of delegates. This would be violated, for example, by “viewpoint” restrictions on political speech or unequal restrictions on political association. Second, it requires universal (adult) suffrage. This would be violated by property qualifications for the franchise, or a poll tax, or other prerequisites for voting that are unequally difficult or costly for some to meet. Such prerequisites include Jim Crow literacy tests and contemporary voter ID requirements (assuming, as seems overwhelmingly credible, that these do not protect against inequalities arising from fraud). Finally, it requires equally weighted votes. This would be violated by the scheme of plural votes proposed by John Stuart Mill. On this scheme, every citizen was to have at least one vote, but those with signs of superior intelligence were to have additional votes. Mill included as signs of superior intelligence a university degree and an occupation involving the supervision of others.<sup>2</sup> A formal conception thus requires, by stipulation, many of the institutions typically associated with democracy. It requires not only universal suffrage and equally weighted votes, but also, crucially, freedom of political speech and association. However, it is left open whether a formal conception requires other such institutions, such as majority rule or proportional voting. These issues are taken up in the companion to this article.

A less permissive, “informal” conception would require equality of *informal* opportunity as well. *Informal* opportunity consists roughly in the availability of resources, such as wealth and leisure, to apply to the legal or procedural structure to acquire information, to vote oneself, or to influence the votes of others (or the decisions of delegates).

2. John Stuart Mill, *Considerations on Representative Government* (1861), chap. 8.

### III. PRELIMINARIES: CORRESPONDENCE, INFLUENCE, AND SUBSTANCE

To keep our bearings, we need to distinguish between three kinds of interests that an individual can have in a political decision: interests in “correspondence,” interests in “influence,” and “substantive” interests.

One’s interest in correspondence in a decision is satisfied just when the decision is the one that matches one’s choice or judgment. One’s interest in influence, by contrast, is satisfied to the extent that the decision is reached by a process that is positively sensitive to one’s choice or judgment. On the one hand, one can enjoy correspondence without influence. For example, the dictator might impose the policy that, as it happens, one thinks best, even though he never asked one’s opinion. On the other hand, one can enjoy influence without correspondence. One might be outvoted in a fair election.<sup>3</sup>

Within the category of interests in influence, we can distinguish between interests in *absolute* influence and in *relative* influence. One’s interest in absolute influence is advanced to a greater degree insofar as a *wider range* of decisions is *more sensitive* to one’s choice or judgment. On the one hand, a system of decision by lottery (in which the decision itself, as opposed to the opportunity to make it, is selected randomly) would not advance anyone’s interest in absolute influence. On the other hand, one’s interest in absolute influence is advanced to a greater degree as the electorate gets smaller (other things equal), since this increases one’s share of influence over political decisions. The same happens as the state gets more powerful (other things equal), since this increases the scope of the political decisions that one influences.

One’s *relative* interest in, say, no less influence, by contrast, is satisfied just to the extent that decisions are *no less* sensitive to one’s choice or judgment than to anyone else’s. A system of decision by lottery would guarantee that, since it would not give anyone *any* absolute influence. And the size of the electorate and the power of the state would be immaterial.

Three forms of influence, each of which can be considered in absolute or relative terms, should be distinguished. One is *decisive* when, had one’s choice or judgment been different, the decision would have been

3. I am indebted here to the distinction between “power” and “political success” in Charles Beitz, *Political Equality* (Princeton, N.J.: Princeton University Press, 1989), chap. 1.

different. For example, under majority rule, one is decisive just when there is a tie or when one is a member of a majority that wins by a single vote. One has *control* over the decision if one's judgment or choice would be decisive over a wide range of changes in relevant conditions, including, especially, the choices and judgments of others. "Wide" is, of course, vague, but will serve our purposes. An effective dictator, for example, has control over decisions.

Some might say that one has influence only when one is decisive. But this hardly seems a conceptual truth. There is an intelligible notion of *contributory influence*, which might be understood on a model of applying a vector of force, which combines with other vectors to determine a result. The result is sensitive to this vector of force, and the vector remains the same in its "magnitude" and "direction," no matter what other vectors are supplied.<sup>4</sup> Images of placing equal weights on scales, or applying equal tension to a rope in a game of tug of war, suggest themselves.

Finally, I define substantive interests negatively. They are whatever interests in political decisions that one might have that are not interests in correspondence or influence with respect to those decisions. For example, one might have substantive interests in whether the political decision brings peace and prosperity, justice and liberty. It is a very broad category. One might fairly say that substantive interests are what political philosophy, for the most part, is concerned with.

#### IV. A MEANS TO SUBSTANTIVE BENEFITS?

So much for preliminaries. What is wrong with the simple, instrumental argument that democracy best serves the substantive good—that is, best promotes a just distribution of the satisfaction of substantive interests?<sup>5</sup>

4. I am indebted here to Alvin Goldman, "Why Citizens Should Vote: A Causal Responsibility Approach," *Social Philosophy and Policy* 16 (1999): 201–17.

5. Many of the interests invoked to justify democracy seem ultimately to be substantive interests, traveling under other names. Take, for example, the interest in "equitable treatment" described by Beitz, *Political Equality*, chap. 5; and the interest "in protection from cognitive bias" described by Thomas Christiano, *Rule of the Many* (Boulder, Colo.: Westview Press, 1996), chap. 2; and Thomas Christiano, *Constitution of Equality* (Oxford: Oxford University Press, 2010), chap. 2–3. At least this much seems true of these two interests: if a political decision is substantively best, then these two interests are satisfied; everyone is treated equitably, and there is no cognitive bias.

On the one hand, democracy may be said to achieve this by arriving at decisions that identify what would best serve substantive interests. Perhaps more heads directly addressed to the question “Which decision would best serve substantive interests?” are better than one. Or perhaps, since each person is the best judge of her own substantive interests, each should confine herself to the question “Which decision would best serve *my* substantive interests?” Democracy then aggregates answers to that question in such a way as to ensure that the decision best promotes a just distribution of the satisfaction of substantive interests. On the other hand, democracy may be said to best serve substantive interests by making institutions more efficient. Perhaps democracy is especially transparent or energizing. Perhaps it facilitates peaceful transfers of power, or prevents descent into “extractive institutions.”<sup>6</sup>

If this is right, then we should accept the following:

*Reliability Thesis:* As things actually are, or could reasonably be expected to be, some democratic procedure of decision making is *more substantively reliable* than any nondemocratic procedure. That is, there is some democratic procedure such that if people, in general, try, over the long run, to follow it, then substantive interests will be better served than they would be if people were to try to follow any nondemocratic procedure.

The word *try* here is crucial. Tautologically, the procedure of implementing the decisions that would produce the substantively best results would produce the substantively best results. But given inevitable disagreement about which policies are substantively best, it would be a recipe for gridlock if everyone *tried* to do this. It is very plausible that a procedure whose “decisions” were less ambiguous would lead to substantively better results. And the Reliability Thesis claims that, among such less ambiguous procedures, some democratic procedures lead to the substantively best results.

The Reliability Thesis is certainly plausible. Still, it leaves us with two problems. The *Bridging Problem* is the perennial difficulty with “indirect” or “two-level” theories, like rule utilitarianism. Why does it follow from the fact that it will have good effects if people, in general, try, over

6. See Daron Acemoglu and James Robinson, *Why Nations Fail* (New York: Crown, 2012).

the long run, to follow some democratic procedure that any particular decision that might issue from that procedure is authoritative (roughly, morally binding) or legitimate (roughly, permissible to implement)? Suppose someone could bring about substantively better results by disregarding the democratic decision. What reason does she have against this? The Reliability Thesis may answer Institutions: whether to establish and sustain democratic institutions in general and over the long run. But it is less clear how it answers Legitimacy or Authority, which have to do with the normative standing of particular decisions that issue from those institutions.

The second problem is that, even if it is only hypothetical (and admittedly clichéd), we can imagine that the will of a benevolent dictator, or the calculations of a bureau of technocrats, would be more substantively reliable. But there seems to be a familiar “democratic” objection to such procedures. It is often said that such procedures are ruled out by an *Equality Constraint*, which would say, roughly, that if a procedure gives anyone a say, it should give everyone an equal say. The Equality Constraint, in essence, requires democracy on at least the equal conception. Accordingly, the hard part is explaining the Equality Constraint. It cannot be explained by substantive interests, it seems, because precisely what the Equality Constraint constrains is what such interests, if left to themselves, would recommend. So it looks like the Equality Constraint must be explained by some interest in correspondence or influence.

#### V. A RESPONSE TO DISAGREEMENT?

At this point, one may be tempted to think that we do not need to identify any interest in correspondence or influence in order to solve the Bridging Problem or to support an Equality Constraint. It is enough simply to appeal to the phenomenon of disagreement. “You cannot just *unilaterally* implement the substantively best decision,” the thought might run, “because people *disagree* about which decision *is* substantively better. You would be begging the question.”

Why does disagreement matter? To be sure, because of coordination failures or active conflict, one will often bring about substantively worse results if one tries to implement a substantively better decision (strictly speaking, one that, if all tried to implement it, would be substantively better) than if one tries to implement a decision that most



others “agree with”—in at least the minimal sense that they will in fact try to implement it.

But, first, the decision that most others “agree with” in this thin sense need not have been arrived at democratically. They may, for example, just be habituated to follow where the strongman leads.<sup>7</sup> And, second, unilateral implementation need not *always* have substantively worse results. One might have access to special levers, or “choke-points,” that allow one to produce substantively better results even when one goes against the collective tide. For example, one might *be* the strongman.

Alternatively, it might be argued that it is somehow unfair simply to implement a substantively superior decision, if others disagree that it is substantively superior.<sup>8</sup> Some worry that such arguments will be self-defeating. What if the appropriateness of democratic procedure, or the very ban on controversial considerations, is also controversial?<sup>9</sup> And some worry that lotteries might be fairer in such contexts than voting.<sup>10</sup>

But the deeper problem comes earlier. What is unfair, in the first place, about implementing decisions that can be justified only by considerations with which others disagree? Presumably, the unfairness would consist in not giving some interest, or claim, its due. But what interest? The substantively best decision, by definition, gives everyone’s substantive interests their due. So it must be, it seems, some interest in correspondence or influence that is not given its due. But then the

7. Or as Richard Wollheim, Christian Barry, and Gerhard Øverland imagine, they may be implementing a decision that they only mistakenly think is the democratic one. Richard Wollheim, “A Paradox in the Theory of Democracy,” in *Philosophy, Politics, and Society*, ed. Peter Laslett and W. G. Runciman (New Haven, Conn.: Yale University Press, 1979), p. 83; and Gerhard Christian Barry and Øverland, “Do Democratic Societies Have a Right to Do Wrong?” *Journal of Social Philosophy* 42 (2011): 111–31, at p. 113.

8. Despite other marked differences, this rough idea is common to Peter Singer, *Democracy and Disobedience* (Oxford: Oxford University Press, 1973); Jeremy Waldron, *Law and Disagreement* (Cambridge: Cambridge University Press, 2001); Christiano, *The Constitution of Equality*; David Estlund, *Democratic Authority* (Princeton, N.J.: Princeton University Press, 2009); Scott Shapiro, “Authority,” in *The Oxford Handbook of Jurisprudence and Philosophy of Law*, ed. Jules Coleman, Kenneth Einar Himma, and Scott Shapiro (Oxford: Oxford University Press, 2012), pp. 382–439.

9. Christiano, in *Rule of the Many and Constitution of Equality*, argues that Singer’s view is vulnerable to this sort of objection. Estlund, *Democratic Authority*, pp. 60–61, takes care to ensure that his own view avoids it.

10. See Estlund, *Democratic Authority*, pp. 78–82.

question is what that interest is.<sup>11</sup> Citing disagreement does nothing to advance our understanding.

#### VI. AVOIDING SUBJECTION TO POLITICAL DECISIONS WITHOUT ACCEPTANCE

Political philosophers often claim, or imply, that we have an interest in avoiding subjection to political decisions without our “acceptance.” This interest might be compared in its structure, and perhaps even in its basis, to our interests in avoiding subjection to surgery without our consent. The idea is not that subjection with our acceptance is somehow a good. Surgery is not, simply in virtue of being consented to, a good thing for the consenter. The idea is rather that, if we give our consent, then we avoid some bad of, or waive some objection to, subjection without our acceptance. This interest in avoiding subjection to political decisions without our acceptance is clearly an interest in a certain relationship between our choices or judgments—our “acceptance”—and political decisions. So perhaps it is the interest in correspondence or influence we are looking for.

However, the interest in avoiding subjection to political decisions without acceptance admits of two broad interpretations, neither of which is very helpful. On one interpretation, it is an interest in avoiding subjection to political decisions without *actual consent*. The trouble is that this interest is usually taken to support a *prohibition* on implementing political decisions without consent. On the assumption that if any political decision is implemented at all, then everyone is subjected to it, this would amount to giving each individual a veto over whether there is any political decision at all. This might well count as a form of equal

11. For Waldron, *Law and Disagreement*, the interest is in a kind of *respect* for one’s capacity to think about what rights one has, a capacity that, he claims, is a precondition of having rights at all. I consider arguments of this kind in Section X.

Christiano appeals to several “interests in judgment,” which support a “publicity” requirement, which in turn prohibits us from unilaterally implementing the substantively best decision in the face of disagreement. These are the interest in protecting against cognitive bias, the interest in being at home in the world, the interest in learning the truth about justice, and the interest in moral personality. For the reasons explained in notes 5 and 17, and in Sections IX and X, I doubt that these interests can justify democracy directly. And, although the matter is complicated, the publicity requirement, as far as I can see, justifies nothing beyond what the interests in judgment justify directly.

influence over political decisions. But it would be a highly limited form, ruling out the vast majority of recognizably democratic procedures.<sup>12</sup>

Perhaps because this first interpretation is so constraining, many favor a different interpretation of the interest. The interest is in avoiding subjection not to political decisions that one has not actually consented to, but instead to political decisions that one *could not hypothetically endorse*. This would presumably be an interest in correspondence, rather than influence; the process by which the decision is reached does not matter, so long as the content of the decision stands in the right relation to the contents of one's attitudes. Such an interest might be said to underlie John Rawls's "Liberal Principle of Legitimacy" and principles that it has inspired, which have become almost orthodox among (especially American) political philosophers.<sup>13</sup> Despite important differences among them, these "acceptability" principles (as I will call them) hold, roughly, that it is impermissible to subject an individual to political treatment (for example, coercion, force) unless there is a justification of that treatment whose premises she could accept as reasons, either on the basis of her "common human reason," as Rawls himself argued, or compatibly with her religious convictions, moral outlook, or philosophy of life, insofar as these are not unreasonable, as others argue.

However, whereas the former, actual consent interpretation seemed too constraining, compatible with only one, extreme conception of equal opportunity to influence, this latter interpretation seems too permissive, compatible with many nondemocratic procedures. After all, in principle, a nondemocratic decision (that is, one not reached through democratic processes) can have a justification that everyone could accept in the relevant sense. Moreover, the democratic decision, if any, on that occasion can lack such a justification.<sup>14</sup>

One might reply that, while this is possible in principle, democratic procedures are at least the most reliable route to satisfying the relevant

12. Compare Robert Paul Wolff, *In Defense of Anarchism* (New York: Harper and Row, 1970), chap. 2.1.

13. See John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993); Joshua Cohen, *Politics, Philosophy, Democracy* (Cambridge, Mass.: Harvard University Press, 2009); Thomas Nagel, *Equality and Partiality* (Oxford: Oxford University Press, 1991); Judith Thomson, "Abortion," *Boston Review* (1995); Estlund, *Democratic Authority*; and Jonathan Quong, *Liberalism without Perfection* (Oxford: Oxford University Press, 2011).

14. Compare Estlund, *Democratic Authority*, p. 92.

acceptability principle.<sup>15</sup> Granted, the most reliable way to satisfy the relevant acceptability principle may well be to arrive at decisions on the basis of open debate in which those who will be subject to, and who will be involved in implementing, those decisions offer one another public justifications. But this argues only for public debate of a certain kind. It does not imply that the final decisions informed by that public debate must be reached via equal opportunity to influence. They might be reached instead by a “consultation hierarchy,”<sup>16</sup> with autocrats using public debate as an indirect mechanism of consultation, and subjects using it as a forum for the mutual display of commitment to the relevant acceptability principle. The autocrats would review the public debate to test whether policies would be acceptable to the subjects consulted, choosing for implementation only among policies that do satisfy it, and then reinforcing the message, already conveyed by the public debate itself, that the policies selected had such justifications.

#### VII. INTERESTS IN CORRESPONDENCE? DESIRES FOR POLITICAL DECISIONS

Perhaps, though, we have a more demanding interest in correspondence: an interest not simply that political decisions be hypothetically acceptable to us, but also that they match our actual attitudes, such as our desires or preferences, with respect to those very decisions. This might suggest the following justification for democracy: equal and positive opportunity for influence over political decisions is the best means to achieving a just distribution of the satisfaction of these more demanding correspondence interests.

What, however, are these correspondence interests? Some believe that, as a general rule, we have an interest that our desires be satisfied. So too we have, as a special case, an interest that our desires for certain political decisions be satisfied.<sup>17</sup> But I doubt that we have an interest, in

15. Compare Laura Valentini, “Justice, Disagreement, and Democracy,” *British Journal of Political Science* 43 (2013): 177–99.

16. In the sense coined by John Rawls, *The Law of Peoples* (Cambridge, Mass.: Harvard University Press, 2001) and anticipated in *Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971), § 36, as the “forum of delegates” from which the executive “discerns the movements of public sentiment.”

17. I interpret the “interest in being at home in the world” of Christiano, *Constitution of Equality*, as having a similar structure—as is strongly suggested by the claim that its satisfaction is what persistent minorities are deprived of, on pp. 92, 226–27.

general, that our desires be satisfied. It is tautologous that we have interests that our substantive interests be satisfied. And that we desire something may be an indicator that we have a substantive interest in it. But pursuing this line would just take us back to the instrumental argument of Section IV: that democracy best serves substantive interests. And even granting that we have an interest that our desires be satisfied in general, why focus, as this argument does, on a just distribution of the satisfaction of desires for political decisions in particular? Why single out a particular class of desires for justly distributed satisfaction, instead of seeking the justly distributed satisfaction of all desires, regardless of object?

Even granting that we have an interest that our desires for political decisions be satisfied, why suppose that democracy is the best means to a just distribution of the satisfaction of such interests? Perhaps the idea is that if we follow, say, plurality rule, then everyone will get what she wants a fair share of the time.

But this idea does not survive scrutiny. First, it is commonplace to cite the possibility, or indeed actuality, of persistent minorities, who are consistently outvoted. They do not get what they want a fair share of the time. Second, almost as commonplace is the observation that fulfillment of interests in correspondence, whatever they are, may well come in degrees. Alternatives to plurality rule may allow for greater expressions of "intensity of preference." But again, these will be at best imperfect measures. Third, granted we need some mechanism to reveal what people's attitudes are, in order to know which decision will correspond with those attitudes. However, this mechanism of revelation need not involve any influence over the outcome. The fact that I voted for a decision is an indicator that my attitudes are favorable toward it, that I abstained an indicator that my attitudes are less favorable toward it, and that I voted for some alternative an indicator that my attitudes are less favorable toward it still. But, in principle, other indicators may be as good. My sibling's vote, for example, might be at least as reliable an indicator of my attitudes as my vote. Similarly, an appropriately selected statistical sample of voters might be at least as reliable an indicator of attitudes in the population as a tally of all votes. If so, then a system that allowed my sibling to "virtually represent" me, or consulted only the votes of a statistical sample, might be no worse a means to a fair distribution of

correspondence-interest satisfaction. But it would not be democratic in our sense, since it would not give all equal opportunity for influence.<sup>18</sup>

While these three complaints are more or less familiar, there is a further problem, which is generally overlooked. There are two ways to satisfy someone's interest in correspondence. One way is for others to implement the decision that matches his attitudes. But another way is for him to revise his attitudes to match the decision that will be implemented. So the question arises: Who bears what responsibility for satisfying his interest in correspondence? Only others? Or can he be asked to do his part too? Suppose that others, who favor the substantively best decision, have taken great pains to give him a route to satisfy his correspondence interests. They have furnished him with sound, accessible arguments in favor of that decision, on the basis of which he could revise his attitudes accordingly. If he refuses to take that route to satisfy his correspondence interests, then why does he retain a claim on others to provide him with a second route, namely, by implementing the substantively inferior decision that he favors? Why are they not entitled to say that they have done their part? At that point, why is the fact that his correspondence interest goes unsatisfied, even if regrettable, not his (as T. M. Scanlon puts it, "substantive"<sup>19</sup>) responsibility?

#### VIII. ABSOLUTE DECISIVENESS, OR CONTROL?

Let us turn then from interests in correspondence to interests in influence. We can rule out an interest in absolute decisiveness or control over political decisions on structural grounds, without even asking after its substantive content. Even if there is some interest in absolute decisiveness over political decisions, democracy extremely rarely satisfies it. Moreover, even in those singular cases in which one does enjoy decisiveness, one can hardly be said to enjoy control. One's decisiveness depends, precariously, on the choices of many others. Indeed, if individuals had interests in control, then that would seem to argue not for democracy, but instead for a lottery for control. That would seem the

18. Compare Estlund, *Democratic Authority*, pp. 76–78; and Harry Brighouse, "Egalitarianism and Equal Availability of Political Influence," *Journal of Political Philosophy* 4 (1996): 118–41, at p. 120.

19. T. M. Scanlon, *What We Owe to Each Other* (Cambridge, Mass.: Harvard University Press, 1998), chap. 6.

appropriate way to distribute a scarce, indivisible resource among people with equal interests in it.

Here, as at similar junctures in democratic theory, the *Appeal to the Collective* suggests itself. Although democracy does not give individuals some good (here, absolute decisiveness or control), it does give the collective (“the People”) that good. My reservation about this is not metaphysical: it is impossible for the collective to be in control, perhaps because it has no identifiable “will.”<sup>20</sup> My reservation is normative. I assume that the justification of democracy must rest on the interests or claims of individuals. This follows not only from the general view that it is the claims of individuals that fundamentally matter, but also from more specific intuitions about, for example, Authority. Intuitively, other individuals have a claim on me to implement the democratic decision. I would be wronging *those individuals* in failing to do so. The difficulty, then, is, first, that it is obscure what individual interest is served by a collective’s enjoying control. And, second, even assuming that some individual interest is served by a collective’s enjoying control, it is not clear why the collective must be democratic.

To illustrate, suppose the suggestion is that when one “identifies” with a collective to which one belongs, one, as an individual, somehow vicariously enjoys the goods the collective enjoys. Not an easy thought. But even if we think it, actual identification cannot be sufficient, since people actually identify with ruling families and charismatic dictators. Presumably, it is normatively appropriate identification that matters. The thought is that one has reason to identify with democratic collectives in particular. But why? Because democratic collectives, in particular, respect some interest that one has? But then we are back to the question of what this interest is. Or is the thought that, whether or not one identifies with the collective, one *is* a member of the collective, and so vicariously enjoys the goods it enjoys, only if one in fact has equal influence? But it is not clear why equal influence should be a necessary condition of membership. And if it is a necessary condition of membership, then it becomes obscure why anyone deprived of it should care. If I lack equal influence, the thought runs, I am not a member. But if I am

20. See Joseph Schumpeter, *Capitalism, Socialism, and Democracy* (New York: Harper and Brothers, 1950); and William, Riker *Liberalism against Populism* (San Francisco: W. H. Freeman, 1982).

not a member, why care whether I lack equal influence? After all, I do not care particularly whether I have equal influence with individual Botswana over the government of Botswana. And a sufficient reason for this is simply that I am not Botswana.

#### IX. EQUAL OPPORTUNITY FOR POLITICAL ACTIVITY?

So our search seems to have narrowed to some interest in relative or absolute contributory influence or relative decisiveness. But what might this be?

Many activities that give meaning to our lives are “influence dependent”: that is, they are possible, or valuable, only if they flow from our own judgments and choices. We have an interest in influence over these activities, because such influence is a necessary constituent of them, or of their value. Such activities arguably include expression, religious observance, personal relationships, the bearing and rearing of children, and, more ambitiously, living one’s life as a whole.

Taking up this last possibility, one might argue that one has an interest in being the “author” of one’s own life, which requires that one likewise be the author of certain central features of it, such as one’s career, or one’s choice of spouse. One such feature, one might less plausibly continue, is the political decisions to which one is subject.<sup>21</sup> The difficulty is that this would seem to require *control* over political decisions. After all, if one merely shared contributory influence with millions of other people over *other* aspects of one’s life—such as one’s choice of career or spouse—one would hardly count as the “author” of one’s life.

Instead of seeing *control* over political decisions as a prerequisite for a kind of *global autonomy*, one might instead suggest, less grandiosely, that *some influence* over political decisions is part of *one particular influence-dependent activity*. Alongside other influence-dependent activities, such as expression and religious observance, it might be said, we should count “political activity.” This is the activity of bringing one’s own convictions to bear on political arrangements, by

21. Shapiro, “Authority,” suggests that democracies “give expression to, and create opportunities for the exercise of, the individual’s autonomous capacities,” where “autonomy” is understood as “the power to control one’s life.” My criticism here owes much to Christiano, *Rule of the Many*, chap. 1.



participating in the procedure by which political decisions are reached and subsequently implemented.

We should pause for a paragraph to distinguish political *activity*, which constitutively requires influence, from political *reflection*: the activity of merely reflecting on what political decisions should be or, more abstractly, on justice itself. Political reflection, crucially, does not require influence. Indeed, reflection on justice is largely reflection on decisions over which we have no influence, because they are historical, or insulated from popular influence, or both. (Consider reflection in civics classes or law schools on the justice or injustice of US Supreme Court decisions reached prior to the expansions of the franchise brought about by the fifteenth and nineteenth amendments.) For precisely this reason, I find it unpromising to appeal to the value, instrumental or noninstrumental, of political reflection to justify democracy, as some appear to have done. For instance, Rawls appeals, in this way, to citizens' interest in the "adequate development and full exercise" of their capacity for a sense of justice,<sup>22</sup> and Christiano appeals to what he calls the "interest in learning the truth about justice." Even if one has less political influence than others, one can enjoy as much opportunity for political reflection, provided that one has the same access to relevant resources, such as education, information, argument, and time.<sup>23</sup>

Returning to political activity, thus distinguished from political reflection: Joshua Cohen suggests that the case is "analogous to a central point that figure[s] in the case for private liberties," such as freedom of conscience:

22. John Rawls, *Justice as Fairness: A Restatement* (Cambridge, Mass.: Harvard University Press, 2001), p. 45.

23. It might be said that if one has less influence, then one will not have the same access. This is because people who aim to sway votes will have less incentive to provide one with access. This is questionable even as it stands, given the difficulty of restricting access to resources for political reflection to only those with influence. The disenfranchised, for example, can no more easily escape campaign advertisements during election season than registered voters. This argument thus raises no barrier to selective disenfranchisement, so long as the relevant resource providers cannot cheaply exclude the disenfranchised from the provision of resources to the enfranchised. In any event, even where this particular incentive is absent, the same access can still be provided to those with less influence through other channels. Nothing stands in the way of providing the same education and leisure time to those with no, or less weighty, votes.

A characteristic feature of different philosophies of life is that they each give us strong reasons for seeking to shape our political-social environment: for exercising responsible judgment about the proper conduct of collective life. . . . Common ground among these competing, reasonable philosophies is that citizens sometimes have substantial, sometimes compelling reasons for addressing public affairs.<sup>24</sup>

In a similar vein, Ronald Dworkin suggests, we should make “it possible for [each person] to treat politics as an extension of his moral life.”<sup>25</sup>

Just as someone denied opportunity to worship according to his or her own lights is denied a foundational part of religious life, so someone denied opportunity to bear witness to his concept for justice, as he understands what the concern requires, finds his political agency stultified. . . . But the demands of agency go beyond expression and commitment. We do not engage in politics as moral agents unless we sense that what we do can make a difference, and an adequate political process must strive, against formidable obstacles, to preserve that potential power for everyone.

If we have an interest in political activity, then we have an interest in some positive, absolute influence over political decisions, as a constituent of such activity. Here we can distinguish two different interpretations of the interest in political activity. On the first, “individualist” interpretation, which Cohen’s and Dworkin’s remarks most naturally suggest, the interest is precisely in bringing one’s individual convictions to bear on political decisions, just as one might bring one’s individual convictions to bear on one’s personal religious practice, expression, or associative choices. The point is to have one’s “moral life extended” through, or to see the imprint of one’s convictions in, political decisions. On the

24. Joshua Cohen, “Reflections on Habermas on Democracy,” *Ratio Juris* 12 (1999): 386–416, at pp. 406–7. See also Joshua Cohen, “Money, Politics, and Political Equality,” in *Fact and Value*, ed. Alex Byrne, Robert Stalnaker, and Ralph Wedgwood (Cambridge, Mass.: MIT Press, 2001), pp. 47–80, at pp. 72–73. Josiah Ober, “Natural Capacities and Democracy as a Good-in-Itself,” *Philosophical Studies* 132 (2007): 59–73, suggests that a suitably updated Aristotelian “philosophy of life,” to use Cohen’s phrase, would have this implication.

25. Ronald Dworkin, *Sovereign Virtue* (Cambridge, Mass.: Harvard University Press, 2002), pp. 202–3.

second, “participatory” interpretation, the interest is instead in participating in an intrinsically valuable, usually collective activity of making political decisions. In participating in that activity, one will be bringing one’s convictions to bear on political decisions, but that is not the point of participating. The point, instead, is just to play one’s part in a valuable, collective activity, as one might play on a team, or perform in an orchestra, or paint one’s part of a joint mural. What sort of influence is required for political activity? While Dworkin suggests that it requires decisiveness (“making a difference”), mere contributory influence might well be enough, especially on the participatory interpretation.

In general, others have claims on us to provide them with opportunity, justly distributed, to pursue other influence-dependent activities, such as religious observance, expression, and association. Presumably, this is part of the argument for familiar liberties of conscience, expression, and association. Since political activity is an influence-dependent activity relevantly like these, perhaps others likewise have claims on us to provide them with opportunity, justly distributed, to pursue political activity. How do we provide them with this? The answer might seem to be by seeing to it that decisions are made by positive democratic procedures, by implementing those decisions, and by bearing their effects. That way, everyone has opportunity, justly distributed, to bring their convictions to bear on actual political decisions. But then democracy would be justified.

There are, however, three problems with this line of argument. The first is that it gives us no grounds to distinguish between opportunity for political activity qua citizen and opportunity for political activity qua official. Presumably, we think everyone qua citizen should have equal opportunity for political activity in a much more demanding sense—standing equal availability of the activity (as with religious observance)—whereas we think that everyone qua official should have equal opportunity for political activity in a much weaker sense—equal chances, given a certain level of native aptitude, in competition with others (as with other careers). But what justifies treating these forms of political activity differently? Surely, just as contributing to a “grassroots” effort for the election of a candidate, as one citizen among others, is a valuable activity, so too is working for the passage of legislation as a successful candidate. Without a principled distinction, we seem pressed either to assimilate opportunity qua citizen to opportunity qua official,

which would license fair competition for voting credentials, or to assimilate opportunity qua official to opportunity qua citizen, which would seem to rule out representative institutions.

Having raised this problem, however, we will set it aside and focus exclusively on opportunity qua citizen. The second problem that we face is a structural problem for any interest in absolute influence. If we have an interest in absolute influence, then why not distribute opportunity for influence unequally so long as this increases the opportunity of the worst off? Why suppose that a *just* distribution of opportunity *to satisfy interests in political activity* is an *equal* distribution of opportunity *to influence political decisions*?

Start with informal opportunity. A just distribution of informal opportunity for religious practice does not require equal informal opportunity for religious practice. Against a backdrop of an otherwise just distribution of wealth, for example, it is not objectionable for some group to have greater informal opportunity for pilgrimages than another group. By analogy, it would seem, a just distribution of informal opportunity to satisfy the interest in political activity need not be an equal distribution of informal opportunity to influence political decisions.

It might be replied that unequal informal opportunity for religious practice is just, when it is, only because the inequality works to the advantage of the worst off. Unequal informal opportunity for political activity, however, can never increase the informal opportunity for political activity of the worst off. Political activity, unlike religious practice, it might be said, is a zero-sum game.<sup>26</sup>

Why should this be? Suppose that, from a benchmark of equality, giving some people better informal opportunity for political activity than others have would lead to an overall increase in wealth and leisure. This possibility, in the present context, is not some abstract curiosity. It is precisely the trade-off that we face if we accept, for the sake of argument, that some nondemocratic procedure, such as Mill's plural voting scheme, might be more substantively reliable. Presumably, this increase in wealth and leisure could be redistributed to those with the least of

26. See Rawls, *Political Liberalism*, p. 328, on the "limited space of the political process." See also Brighouse, "Equal Availability," p. 132; and Harry Brighouse, "Political Equality in Justice as Fairness," *Philosophical Studies* 86 (1997): 155–84, at p. 165.

such resources.<sup>27</sup> Why would this not thereby increase their informal opportunity for political activity?

The argument that it could not increase their informal opportunity for political activity—the implicit reasoning behind the “zero-sum game” idea—rests on a confusion. Perhaps it can be argued that from a benchmark of equality, increasing A’s informal opportunity for political activity to a greater extent than B’s will reduce the conditional probability of B’s achieving correspondence if B engages in political activity. But it does not follow from this that B’s informal opportunity for political activity is thereby reduced. First, even if the *conditional* chances of correspondence *if B engages* in political activity are reduced, B may have more chance to *satisfy the condition if he so wishes*—to engage in political activity if he chooses to—in the first place. For example, from a benchmark of equality, we might increase both A’s and B’s leisure time to devote to civic affairs, but increase A’s to a greater extent. Even if this means that if B devotes himself to civic affairs, correspondence is less likely, it may be the case that B is more able to devote himself to civic affairs. It is not obvious that this should mean a net decrease in his informal opportunity for political activity.

Second, B’s *relevant* opportunity for political activity is just B’s opportunity *to realize the values of* political activity. But *correspondence* may not be essential to *realizing the values of* political activity. For example, suppose I lose one tennis partner and gain another, more skilled tennis partner. My chances of winning have gone down, but have my chances of realizing the values of playing, if what matters is “not whether you win or lose, but how you play the game”? It is not clear that correspondence is any more essential to realizing the values of political activity than winning is to realizing the values of tennis. Perhaps it is enough merely to have contributory influence over the decision: to fight the (as one sees it) good fight, or to play one’s part in the decision-making process.

Setting aside inequality in informal opportunity, inequality in formal opportunity for political activity (such as Mill’s plural voting scheme) can also increase the formal opportunity for political activity of the worst off: as it were, the “absolute weight” of their vote. Granted, with other influence-dependent activities, it is hard to see how this can occur. How,

27. Consider the voucher scheme described in David Estlund, “Political Quality,” *Social Philosophy and Policy* 17 (2000): 127–60.

by giving less formal opportunity for religious practice to some, can we increase their absolute formal opportunity for religious practice? But political activity is special in this respect. If nondemocratic procedures are substantively more reliable, then they might increase the reach and power of the state. By increasing the reach and power of the state, they broaden the range of political decisions that the worst off can influence. This, by definition, increases the extent of their formal opportunity for political activity. New ways of bringing their convictions to bear on political arrangements become possible that before were not.<sup>28</sup>

The final, most important and specific problem is this. What would be required of us to provide others with the opportunity to engage in political activity is categorically different from what can reasonably be required of us to provide others with (to use analogies suggested by the individualist interpretation) the opportunity to practice their religion or to speak their mind, or with (to use analogies suggested by the participatory interpretation) the opportunity to pursue other valuable collective activities, such as team sports or orchestras, with willing participants. Providing others with the opportunity to engage in political activity requires, distinctively, that we become active or passive instruments of that activity: that we carry out or bear the resulting political decisions so as to consummate that activity. It seems doubtful that others' interest in other influence-dependent activities gives them a claim on us to "lend ourselves" in that way to those activities, even when our doing so is required for their pursuit of those activities. In order that someone has the opportunity to practice his religion, for example, he may have a claim on me to avoid interfering with that observance, to cede to him with a fair share of resources that he might use for his observance, and to tolerate the effects of his observance on the character of our shared culture. But no one, or at least no liberal, thinks that he has a claim on me to become an active or passive instrument of *his* religious observance. That is, if his religious observance has as a constitutive part some action of mine or treats me in the objectionable (for example, forcible, coercive) ways distinctive of political decisions, no one thinks

28. These sorts of trade-offs are embraced by Christiano, *Constitution of Equality*, pp. 104–6. Evidently, he sees his account as supporting an interest in absolute influence, although why this should be is unclear. See also Brighouse, "Political Equality in Justice as Fairness," pp. 166–67.

that his interest in it gives him a claim on me to perform that action, or endure that treatment. If nine Jewish men need a tenth, it is not as though they have a claim on me to make their *minyan*. The same is true if—to use analogies better suited to the participatory interpretation—eight players need a ninth for their ballgame, or three musicians need a fourth for their quartet. So why do others' interests in specifically *political* activity, by contrast, give them a claim on us to lend ourselves to *that* activity, when this is not the case for any other influence-dependent activity?

One answer is that political activity is simply more important or central than other influence-dependent activities, in such a way as to give others, in this unique case, a claim on us to lend ourselves to it, which they elsewhere lack. I cannot rule this possibility out, but I have my doubts. Many people quite reasonably find at least as much meaning in lives organized around family, professional, artistic, or religious activities as around political activity.

Another answer is that while there might be a social world in which no one is conscripted into anyone else's other influence-dependent activities, there is no realistic possibility of a social world in which no one is conscripted into anyone else's political activity. Assuming that it would be a disaster to have a procedure, such as a lottery, in which decisions are influenced by no one, we will be lending ourselves to *someone's* political activity. And if someone's interest in political activity will be satisfied, one might argue, then fairness requires that everyone's interest in political activity be satisfied. Yet fairness requires this only if the reason for giving that person the opportunity to engage in political activity is her interest in it. Fairness does not require it if the reason is something else entirely: if her having the opportunity is just a by-product. Suppose, for example, that while everyone has an interest in chopping down a tree, no one's interest is sufficient in itself to entitle him to an opportunity to chop down a tree. Nevertheless, the health of the forest requires that exactly one tree be chopped down, and by Forrester in particular, who will do it the right way. As a kind of by-product, Forrester will have the opportunity to satisfy his interest in chopping down a tree. But it hardly follows that everyone with the same interest must have the opportunity to chop down a tree. Similarly, even though their personal interests in it are insufficient to justify it, perhaps a phalanx of technocrats must be allowed to rule, because that would produce the substantively best

results. As a result, those technocrats will be able to satisfy their interest in political activity, just as Forrester will satisfy his interest in chopping. But it hardly follows that everyone with the same interest must have the same opportunity, if, as we are allowed to suppose, their having that opportunity will produce substantively worse results.

To be sure, this is not to deny that people have genuine interests in political activity. When people participate in elections, for example, they are not simply aiming to achieve an impersonally good result, but also pursuing a meaningful activity, in part constituted by their exercise of influence. Nor is it to deny that there are ways of providing people with some elements of opportunity for political activity that do not require becoming active or passive instruments of that activity. Suppose that other elements of democratic decision making are already in place: that is, that everyone stands ready to implement and bear democratic decisions. Then my giving someone access to, and resources to make use of, the democratic forum, for example, may be a way of giving them opportunity for political activity without lending myself to it. It may be analogous to providing others with the opportunity to proselytize (for example, space in airport terminals) in the religious case without somehow becoming an instrument of their religious practice. But this point does nothing to explain why I should stand ready to implement and bear democratic decisions in the first place, when a substantively better, nondemocratic procedure was available.

#### X. EXPRESSION?

In any event, the meagerness of the kind of absolute influence over political decisions that even positive democratic procedures give any one of us may lead us to conclude that influence matters only as a symbol. More ambitiously, one might claim that to deny anyone absolute influence is to express a negative judgment about him or her. Decision by lottery would somehow demean us all. Less ambitiously, and more plausibly, the claim would be that to deny someone as much influence as others have is to express a negative judgment. The relevant interest would be in relative influence, and the aim would be to establish an Equality Constraint. If someone is to have influence, then everyone should have equal influence, lest the inequality convey, or be taken to convey, something disparaging about those with less.



This expressive approach raises three questions. *What insult?* That is, what is the content of the negative judgment? *What objection?* That is, why is it objectionable? *Why democracy?* That is, why is democracy the only or best way to avoid it? Begin with the “What insult?” question. The answer most often found in the literature is that the *substantive interests* of those with less influence are less worthy of concern.<sup>29</sup> But this answer makes the expressive approach hostage to the fortunes of the instrumental argument of Section IV. Presumably, we express equal concern for substantive interests by using whatever procedure is substantively reliable. Everything then turns on whether democracy is that procedure.<sup>30</sup>

Next, one might say that the insult is that the target’s *basic, native capacity for moral or value judgment* is inferior. This makes the answer to the “What objection?” question plain enough. It strikes at the target’s very moral personality.<sup>31</sup> But at the same stroke, it makes the “Why democracy?” question unanswerable. The traditional arguments for property qualifications and Mill’s case for plural voting say nothing about anyone’s *basic or native* capacities. Instead, they speak to lacking relevant experience or education, occupying positions in society that make one susceptible to distorting pressures, or lacking the kind of stake in public affairs that fixes the mind soberly on the long term.

Well, one might say, the insult is simply that *the target would make inferior political decisions* to those of someone else, *for whatever reason*, whether native or not. But then the “What objection?” question becomes unanswerable. Messages to the effect that one person will make a worse political decision than someone else are pervasive in our culture, without seeming, as a rule, objectionable. Such messages are sent by ordinary disagreements over policy, deference to endorsements by newspapers and unions, debates over qualifications for office, differential grades in high school civics classes, and the selective hiring of political commentators.

29. See, for example, Beitz, *Political Equality*, p. 110; and Dworkin, *Sovereign Virtue*, p. 200.

30. Compare Richard Arneson, “Democratic Equality and Relating as Equals,” *Canadian Journal of Philosophy*, supp. vol. 36 (2010): 25–52, at p. 35.

31. See Ronald Dworkin, *Freedom’s Law* (Oxford: Oxford University Press, 1996), p. 28; Waldron, *Law and Disagreement*, pp. 238–39; Christiano, *Rule of the Many*, p. 74; Christiano, *Constitution of Equality*, p. 93; and Henry S. Richardson, *Democratic Authority: Public Reasoning about the Ends of Policy* (Oxford: Oxford University Press, 2002), pp. 62–63.

It might be replied that it is one thing to express such judgments with mere words, grades, and hiring decisions. It is quite another to express them by depriving someone of a vote. That is objectionably paternalistic. However, this reply faces a dilemma. In her definitive treatment, Seana Shiffrin argues that paternalism, to a first approximation, consists in A's actively substituting A's judgment for B's (that is, depriving B's judgments of effect, by taking the decision out of B's hands) on the grounds that A's judgment is superior to B's, where B's judgment concerns either B's interests or legitimate sphere of authority.<sup>32</sup>

The dilemma follows from this disjunction. With regard to Shiffrin's first disjunct, my grounds for substituting my political judgment for someone else's may not be that his judgment about his interests are inferior to mine, but instead that his judgment about the interests of others is inferior to mine. I might think that his decisions are based on a misunderstanding of, or failure to pay much attention to, the interests of others. (When I think that Rupert Murdoch would make bad political decisions, this is not because I think that he does not know where his interests lie.) In such cases, substituting my judgment for his is not paternalistic. To put the point another way, a benevolent despot could avoid paternalism by taking care not to make any decision on the grounds that a particular subject had an interest that that subject denied having.

With regard to Shiffrin's other disjunct, while it seems plausible that someone's equal opportunity to influence is part of his or her legitimate sphere of authority, this is precisely what we are trying to explain. Although denying someone equal opportunity to influence political decisions on the grounds of inferior judgment is indeed paternalistic, this very charge of paternalism rests on some independent entitlement, thus far not explained, to equal influence.

In any event, even if we had an answer to the "What objection?" question, the "Why democracy?" question would still loom. To begin with, there are any number of grounds for denying a person equal formal opportunity other than that she would make worse decisions. It might simply cost too much to get her to the polls, or print ballots she can read, or add enough benches to the town hall. Or, as a current conservative argument would have it, weaker identification requirements would

32. Seana Shiffrin, "Paternalism, Unconscionability Doctrine, and Accommodation," *Philosophy & Public Affairs* 29 (2000): 205–50.

expose us to the scourge of voter fraud. Moreover, we can deny suffrage to a certain person on no grounds at all—and so a fortiori not on the grounds that her decision making is inferior. We can permanently disenfranchise people at random: what we might call “suffrage by lottery.”<sup>33</sup>

When it comes to informal opportunity, such arguments are not mere philosopher’s hypotheticals. They are voiced by public officials. The line of recent Supreme Court decisions striking down limits on campaign finance and expenditure may well express an objectionable lack of concern about the inferior informal influence of all but the 1 percent. But these decisions cannot plausibly be taken to express the judgment that the 99 percent are inferior decision makers—only that the proposed restraints of political speech are intolerable.

It might be said that we have overlooked an obvious answer to the “What insult?” question: the insult is that those with less or no influence are not *equal citizens* or *full members of the political community*.<sup>34</sup> But this is either implausible or unhelpful.

At one extreme, we can view equal opportunity for influence as a purely arbitrary symbol of citizenship (somehow otherwise conceived): a mere historical accident.<sup>35</sup> But this is hard to credit. For one thing, it makes it a mystery why people have strived, and do strive, for equal influence in societies in which it had not, or has not, already acquired the status of an emblem of equal citizenship or membership. Why, for example, would it have been absurd to expect the women’s suffrage movement to have been satisfied by the US Supreme Court’s declaration in *Minor v. Happersett*, 88 U.S. 162 (1875) that, although it implied nothing about their rights to political influence, women were without question as much citizens as men?<sup>36</sup> And it would make the case for democracy implausibly precarious. Why not a concerted public information campaign to replace the vote with another, less consequential symbol: perhaps a flag sent to each citizen on his or her eighteenth birthday?

33. See Estlund, *Democratic Authority*, p. 182; Richard Arneson, “The Supposed Right to a Democratic Say,” in *Contemporary Debates in Political Philosophy*, ed. John Christman and Thomas Christiano (Oxford: Wiley-Blackwell, 2009), pp. 197–212; and Steven Wall, “Democracy and Equality,” *Philosophical Quarterly* 57 (2007): 416–38.

34. Dworkin, *Sovereign Virtue*, p. 187; Beitz, *Political Equality*, p. 158.

35. Dworkin, *Sovereign Virtue*, p. 201, for example, comes very close to suggesting that it is a historical accident that we reject Mill’s plural voting scheme.

36. For a similar criticism, see Brighouse, “Equal Availability,” p. 122.

Distancing ourselves from this absurd extreme, we can argue, more plausibly, that, first, there is a particular conception of citizenship or membership that we have reason to value (whether or not it currently prevails), and, second, that on that conception, it is explicable why a deprivation of influence would express that those deprived are not equally citizens or members. But then it is not clear that we are making any progress. Suppose we try to articulate a conception of citizenship that does not yet build in entitlement to influence, but that is such that a denial of influence would naturally express or be taken to express a denial of citizenship so conceived. We are, I think, more or less fated to recapitulate our earlier answers to the “What insult?” question. Is a “citizen” or “member” someone whose substantive interests are just as important? Then this is, in effect, our first answer: that the insult is that substantive interests are not as important. Is a “citizen” or “member” instead a competent decision maker? And so on.

#### XI. A SUI GENERIS INTEREST IN INFLUENCE OVER WHAT AFFECTS ONE?

At this point, one might be tempted to insist (as I did in ancestors of this article) that people just do have an interest in influence over decisions that affect their interests. In addition to having the tautologous interest in their interests’ being positively affected, people also have an interest in being able to influence decisions that affect their interests, independently of whether this influence positively affects their interests. This interest is not situated in a broader, independently recognized pattern of values. For example, it is not to be assimilated to interests in influence-dependent activities, or explained in expressive terms. It is basic and *sui generis*.

This would give us a straightforward justification of democracy. Since political decisions to which one is subject tend to affect one’s interests, the interest in influence over decisions that affect one’s interests would imply an interest in influence over political decisions. One might have hoped to say more about this interest, to situate it among other familiar interests. But perhaps this is all one can say.

In any event, the suggestion overgeneralizes wildly. Many nonpolitical decisions, in businesses, families, and churches, affect our interests. Yet we do not feel the same pressure for democratic decision making in such contexts. Moreover, many decisions that seem strictly private and

personal can affect the interests of others. I might be crushed if you refuse my nephew's marriage proposal, or Christ as your personal savior. Does it follow that I should have a vote over whether you do?

One might blunt the edge of this objection by arguing that one's interest in influence over a decision is proportional to its effects on one's interests.<sup>37</sup> Since your private decisions are likely to affect your interests more significantly than mine, you should have a greater say. But, still, is it plausible that I should have any say at all over whether you marry my nephew or accept the Gospel? Moreover, if we blunt the objection in this way, then we cannot explain democracy, understood as equal opportunity to influence political decisions, in terms of an interest in influence over what affects one's interests. For few political decisions do affect everyone's interests equally.

Of course, one might avoid this problem by insisting that people have a basic, *sui generis* interest in *equal* and positive influence over *specifically political* decisions. But *that* answer offers no articulate justification of democracy at all. It just posits an interest in positive democracy as such.

## XII. ESTLUND'S THEORY

Perhaps the most important and widely discussed recent attempt to justify democracy is David Estlund's, which weaves together threads from several of the preceding arguments. Analyzing his argument will help us to review some of the themes from this article and to orient us in a new, positive direction. Estlund's argument rests on an acceptability principle of the kind discussed in Section VI, which says, in effect:

*Estlund's Variant:* A decision to use coercion or force is *legitimate*—it is permissible to carry it out—only if it issues from a procedure that has a justification that no qualified judge could reject. The decision is *authoritative*—one is required to comply with it—if it would have been wrong to refuse to promise to obey the decisions that issue from that procedure. One reason why it is sometimes not wrong to refuse to

37. Compare Harry Brighouse and Marc Fleurbaey, "Democracy and Proportionality," *Journal of Political Philosophy* 18 (2010): 137–55, who argue "that power should be distributed in proportion to people's stakes in the decision under consideration."

promise to obey is that every justification for so promising is one that some qualified judge could reject.

Estlund assumes that any “invidious comparison”—any claim that the judgment of some is superior to the judgment of others—could be rejected by some qualified judge. And he suggests that the only procedures whose justification does not require invidious comparisons are universal suffrage, decision by lottery, and suffrage by lottery.<sup>38</sup> (Let us grant this, despite the doubt raised in Section X, that the reason for disenfranchising some need not be that their judgment is inferior.) Estlund then invokes something like the Reliability Thesis of Section IV to rule out decision by lottery: namely, that no qualified judge could deny that universal suffrage and suffrage by lottery are more substantively reliable than decision by lottery. Estlund’s Variant then countenances only universal suffrage and suffrage by lottery.

The question, though, is why Estlund’s Variant does not rule out democracy too. Why can’t every justification of universal suffrage also be rejected by some qualified judge?<sup>39</sup> Indeed, Estlund grants, his Variant may rule out every procedure, including universal suffrage. But it does not matter, he argues, because universal suffrage, along with decision by lottery, enjoys a kind of default status. It does not need to satisfy his Variant, because it does not “formally” and “permanently” subject some to “rule by others.”

Under unequal suffrage, some people are formally and permanently subjected to the rule of certain others. . . . As such, this additional element is itself subject to an extra burden of justification that universal suffrage does not incur, and if it cannot meet it, the default is the absence of that particular ruling relation.<sup>40</sup>

In other words, precisely because there is an objection to being formally, permanently ruled by others, Estlund’s Variant is more complex than it

38. Estlund, *Democratic Authority*, pp. 181–82.

39. For other criticisms of Estlund focused on this point, see Arneson, “Supposed Right”; and Jonathan Quong, “The Distribution of Authority,” *Representation* 46 (2010): 35–52.

40. Estlund, *Democratic Authority*, p. 37.

seems. It requires that procedures that involve formal, permanent rule by others be *absolutely acceptable*: that is, they must have a justification that *no* qualified judge can reject. However, it requires that procedures that do not involve formal, permanent rule by others be only *relatively acceptable*: that is, it must be the case that no qualified judge can deny that they are at least as well justified as every other procedure that either (i) does not involve formal, permanent rule by others, or (ii) is absolutely acceptable. Since, except for suffrage by lottery, all procedures that involve formal, permanent rule by others involve invidious comparisons, none is absolutely acceptable. This leaves only suffrage by lottery and procedures that do not involve formal, permanent rule by others. Since one is not ruled by others just when either one is in the majority or decisions are made by lottery, the only procedures that do not involve formal, permanent rule by others are (i) universal suffrage, which does not formally, permanently exclude anyone from the majority, and (ii) decision by lottery. Consequently, universal suffrage and suffrage by lottery are the only relatively acceptable procedures.<sup>41</sup>

This complex argument, however, is driven by a very simple idea: that there is some important objection to “rule by others.” But what is the objection? What is supposed to make rule by others so problematic as to impose on it a virtually insuperable burden of justification? And if we grant that there is such an objection, why do we need Estlund’s Variant? Never mind whether a qualified judge might deny it; the case for universal suffrage and decision by lottery over other procedures is simply that they free us from “rule by others.” Moreover, this objection to “rule by others” would supply a direct argument against suffrage by lottery, or against other selective deprivations of suffrage that did not rest on any claim of inferior judgment: namely, that, whether or not a qualified judge would find them insulting, those procedures subject those deprived of suffrage to “rule by others.”

41. This conclusion strikes me as too weak. For one thing, it is too hospitable to suffrage by lottery. For another, universal suffrage does not suffice for equality of formal, let alone informal, opportunity for influence. Estlund suggests that the argument can be extended at least to rule out plural voting (*Democratic Authority*, p. 219). But it is hard to see how, given how Estlund understands “rule by others.” In Mill’s system, an uneducated laborer, with fewer votes than an educated professional, is not formally, permanently excluded from the majority.

## XIII. SOCIAL EQUALITY

This is not to deny, however, that these ideas—that there is an objection to “rule by others,” and that this objection may underlie our commitment to democracy—strike a chord. In fact, they may seem so obvious and elementary that one may look right past them in search of some deeper, hidden justification for democracy. But if we paused to ask what they come to, what might we find?

My suggestion, which I elaborate in the companion to this article and only sketch here, is that insofar as we have ongoing social relations with others, we have reason to be concerned that these relations be on terms of equality. To be sure, we do not want to relate to others as socially inferior, but by the same token we do not want to relate to others as socially superior either. This concern for social equality is reflected in apprehension or hostility toward particular relationships of subordination, such as servitude and slavery, as well as toward broader social structures of hierarchy, such as caste or class.

When we analyze what relations of social superiority and inferiority are, I suggest, we find that a fair distribution of means, such as liberty and wealth, that one can use to pursue one’s individual plan of life is not sufficient to avoid them. Social inequality has to do, rather, with ongoing social relations marked by asymmetries in power, *de facto* authority, and “consideration”: roughly, certain kinds of responses toward one’s person such as courtesy and regard.

To be sure, these asymmetries need not be political. There can be asymmetries of power, authority, and consideration in the home or the labor market, and these too can be concerning. But avoiding asymmetries of specifically political power and authority is particularly vital to social equality. This is because of three features of political decisions: that subjection to them is not voluntary, that they are treated as having final authority, and that they involve the use of force.

If we have reason to avoid relations of social superiority and inferiority, therefore, then we have particularly central reason to avoid asymmetries of political power and authority. For this, merely having substantively reliable procedures, which achieve a fair distribution of means, is not enough. There is a clear sense, which even a child grasps, in which we would be socially subordinate even to a beneficent autocrat, no matter how reliably his administration secured a fair distribution of means.



My suggestion, then, is that if we try to come to terms with Estlund's suggestive, but gestural, objection to "rule by others," we find that it is at root a concern to avoid relations of social superiority and inferiority with other individuals, with whom we have a claim to stand as equals. And this concern, as I have suggested, implies a concern for equal opportunity to influence political decisions. My hope is that this supports an Equality Constraint—indeed, that it supports it directly, without getting mired in questions of what qualified judges could or could not accept. And my hope is that it also suggests an answer to the Bridging Problem, since it does not appeal to the long-term consequences of democratic procedures, but instead to relations that are instantiated in each application of those procedures.

There is much more to say. But saying more is not worth doing unless this appeal to social equality promises to avoid the problems that plagued the proposed justifications of democracy that we have considered. I close by suggesting how it might.

First, what matters for social equality is principally the distribution of power and de facto authority. The distribution of power and de facto authority is a matter of influence, not correspondence. A slave could enjoy regularly correspondence, in principle, especially if he had a masochistic streak. So this appeal to social equality does not rest on the claims, which we found hard to support in Section VII, that there is an interest in correspondence, or that democracy best satisfies this interest.

Second, what matters for social equality is not how much influence one enjoys in absolute terms, but instead simply whether one has as much influence as anyone else has in relative terms. This avoids the problems that arose in Sections VIII and IX for attempts to locate the value of democracy in some value of absolute influence. First, why should anyone care about the sort of influence that democracy offers, when, in absolute terms, it is like no influence at all, and miles away from anything like decisiveness or control? Second, if what matters is the extent of absolute influence, then why not allow inequality of influence, if that increases the absolute influence of the worst off? What accounts for the special pressure for strict equality in the political context? Third, we observed without comment in Section III that if what citizens have reason to value is absolute influence, then an increase in the size of the electorate (unless offset by an increase in the power or reach of political decisions) reduces the value each citizen enjoys. But, on

reflection, this is absurd. Population growth does not, as a kind of arithmetical truth, threaten what each of us cares about, insofar as we care about democratic rights.<sup>42</sup>

Third, social equality is realized just when one's *ongoing relations* with others are relations of equality. It is not sufficient for this that all had *equal chances* to "enjoy" relations of superiority. If you are my slave, we are not social equals, even if you are my slave because you lost a coin toss to decide who was to enslave the other. Accordingly, what matters is ongoing equal opportunity for influence over political decisions, not an equal chance for opportunity for influence. This explains why a denial of suffrage by lottery would still be problematic, even though it would not express that anyone was an inferior decision maker, or that anyone's substantive interests were less worthy of concern. The point is not that, in general, when we can distribute a good—in this case, political influence—in equal shares, we ought to do so, rather than distribute only equal chances of unequal shares of the good. The point is deeper: that suffrage by lottery does not give anyone a chance at the relevant good in the first place. The good in question is social equality partly constituted by ongoing equal opportunity for influence. A lottery gives no one, not even the nominal "winner," any chance of that.

Fourth, the appeal to social equality does not imply that if a decision has *an effect on my interests*, then I should have influence over it, let alone influence in proportion to its effects on my interests, as was suggested in Section XI. After all, *your* having exclusive influence over *your* decision whether to accept my nephew's marriage proposal does not tend to establish any relation of social hierarchy between you and me. By contrast, your having exclusive influence over political decisions that govern relations between you and me does make me your social inferior. Because political decisions are inescapable for all of us, are taken to have final authority over all of us, and use force against all of us, to deprive any of us of equal opportunity to influence them would amount to a kind of subordination. The fact that a given decision will otherwise have greater effects on my substantive interests than yours, or the reverse, is not

42. The contrary proposition has its advocates, however. See Robert Dahl, *Democracy and Its Critics* (New Haven, N.J.: Yale University Press, 1989), pp. 204–5; and Jean-Jacques Rousseau, *Social Contract*, 3.1, where he concludes "the larger the State, the less the liberty."

directly relevant. So it is not surprising, on this view, that influence over political decisions is not, in general, proportional to effects on interests.

Finally, the suggestion is that equal opportunity to influence political decisions is a constituent of, not simply a symbol of, relations of social equality. So we avoid the problems of the expressive approach. In particular, we avoid the “Why democracy?” problem: that depriving some of equal opportunity to influence political decisions need not express an insulting judgment, so long as it is manifestly motivated on other grounds. Nor, for that matter, is social equality merely a symbol of something else, or at least not of something that could be understood independent of social equality. Explaining why this is, however, is one of the many tasks left for the article to follow.