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# AGAINST A MINIMUM VOTING AGE

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*A minimum voting age is defended as the most effective and least disrespectful means of ensuring all members of an electorate are sufficiently competent to vote. Whilst it may be reasonable to require competency from voters, a minimum voting age should be rejected because its view of competence is unreasonably controversial, it is incapable of defining a clear threshold of sufficiency, and an alternative test is available which treats children more respectfully. This alternative is a procedural test for minimum electoral competence. A procedural test for minimal electoral competence also succeeds in fulfilling adults' duties to promote children's rational and moral engagement with democracy. A minimum voting age should therefore be rejected, all things considered. A procedural test for minimal literacy and independent voting is the most justified means to ensure competency from voters and to promote the democratic agency of children.*

*Keywords: child-citizenship, child-suffrage, minimum voting age, electoral competence,*

## **1. Introduction**

Defenders of minimum voting age argue that it is reasonable to require competence from those who participate in collective decisions that are enforced coercively. A minimum voting age is regarded as the most effective and least disrespectful way to ensure a sufficiently competent electorate. In this paper I argue that a minimum voting age should be rejected as a means of ensuring a sufficiently competent electorate. A minimum voting age relies on an unreasonably controversial conception of political maturity that would fail to win acceptance from all qualified points of view. Political maturity

also fails to provide a determinate threshold for sufficient competence. As age is a proxy for sufficient maturity, and as sufficient maturity is subject to vagueness, age as a threshold of competence should be rejected. A minimum voting age may remain justified in the absence of a less controversial, vague, and disrespectful alternative. I present such an alternative in the form of a procedural test for minimum electoral competence. This test avoids problems of reasonable rejectability and vagueness of political maturity, and is less harmful to the self-esteem of those less than minimally qualified. It also fulfils adults' duties of appraisal respect to children more effectively than a minimum voting age. It affords minimally competent children the opportunity to participate directly in democracy through voting. This is the most effective way of promoting the development of children's democratic agency. A procedural test for minimum electoral competence is therefore preferable, all things considered, to a minimum voting age.

I begin in section two by clarifying the nature of the argument in favour of a minimum voting age. Section three evaluates this justification, and finds the reasons taken in favour of a minimum voting age weaker than proposed by defenders. In section four I argue that respect for children requires their direct participation in elections. Section five sets out an alternative test to ensure that those children lacking minimal competence are excluded, whilst protecting their self-esteem. I conclude that, all things considered, we should be against a minimum voting age and in favour of a procedural test for minimum electoral competence.

## **2. *On the Nature and Justification of a Minimum Voting Age***

### *a. Democracy, Citizenship, and a Minimum Voting Age*

What kind of problem is posed by a minimum voting age? At first sight, it may seem a problem of democratic inclusion: is it justified to exclude minors from the demos?<sup>1</sup> Taken thus, a minimum voting age is part of the broader question of how a demos should be constituted. The constitution problem asks: which normative principle should govern the formation of the demos? Those whose interests are affected by a collective decision have a potent claim to inclusion in the collective.<sup>2</sup> Children's interests

are clearly affected by collective decisions, both as children (e.g. education and family policy), and as future adults (e.g. pension and environmental policy). A minimum voting age appears to create a boundary between children whose interests are affected by collective decisions and the collective that decides. Thus Richard Holt argues, 'I want the right to vote for people of any age. No one should be left out... If I am going to be affected by what you decide, I should have a say in it' (Holt 1974, p.118). Holt implies that a minimum voting age violates the all affected interests principle for the constitution of democracy.

A minimum voting age certainly creates a boundary to participation in democratic decisions. But on closer examination, a minimum voting age does not necessarily exclude children from the constitution of the demos. Rather, it assumes inclusion of minors in the demos, but excludes them from participation in collective decisions. The question of who should be included in the composition of the demos differs from the question of who should be included in the decision procedures of a collective. The former concerns whose interests should be considered in a decision, whilst the latter concerns who should participate in the decision. Holt elides this distinction by claiming that children should have a say in collective decisions because their interests are affected. Whilst a minimum voting age may exclude children from participation in a collective decision, their interests may be included in the decision. Children's interests may be incorporated in collective decisions by, *inter alia*, an extra vote for parents per child, children's commissioners, or most simply by the incorporation of children's interests into the deliberations and decisions of their parents and guardians.<sup>3</sup> Democratic incorporation has of course frequently proved malign. Forms of incorporation such as female coverture and the incorporation of slaves cloaked neglect and exploitation (E. Cohen 2005; Shklar 1991). However, neglect and exploitation are an abuse of incorporation, and not intrinsic to it. Incorporation requires acting on a person's best interests and not against them, and as such is benign. A minimum voting age does not necessarily exclude children from membership of the demos. A minimum voting age may provide children a say in collective decisions through the incorporation of

their interests by those who decide. Thus a minimum voting age marks a boundary within a demos, but not necessarily the boundary of the demos.

If a minimum voting age is not best characterised as a problem of democratic inclusion, then how should it be characterised? A minimum voting age places minors alongside those, such as resident aliens, who are resident within a demos but denied a vote. However, whilst minors and resident aliens may both experience disenfranchisement, the nature of the disenfranchisement differs. Typically, a minimum voting age applies to children who are citizens of a state. It assumes that minors are citizens, but disqualifies them from direct participation in collective decisions. Resident aliens differ as they may hold a range of entitlements virtually equivalent to those held by citizens (including the vote), but are denied status of citizenship. Neither aliens nor full citizens, children below a minimum voting age suffer semi-citizenship (E. Cohen 2005; E. Cohen 2009; Lister 2007). Thus a minimum voting age is less a problem of democratic inclusion, and more a problem of standing between citizens.<sup>4</sup>

*b. The Justification of a Minimum Voting Age*

A minimum voting age denies minors citizenship as equal membership. Citizenship as equal membership requires '... members treat each other as equals... with each member having the opportunity to participate on equal terms in the decision-making process...' (Mason 2011, p.268). Any inequality of standing amongst citizens requires justification. It is reasonable for a citizenry to require competency from participants in collective decisions that are enforced coercively. This is reasonable on two counts. First, individuals may suffer harm as a result of coercively enforced collective decisions. Therefore, it is reasonable to demand that those participating in collective decisions meet a threshold of competency that reduces the risk of harm to others (Brennan 2011, p.704; Christiano 2001, p.197). Second, it is reasonable to require that those participating in collective decisions be capable of responsibility for their choices. It is harmful to attribute responsibility for choices to persons incapable of responsibility (Beckman 2009, p.116; Schapiro 2003, p.576). The competency requirement justifies excluding unqualified citizens from participation in collective decisions.

Any implementation of the competency requirement must respond to three questions. First, how is electoral competence defined? Second, what threshold of electoral competence is required? Third, how is the threshold enforced? A minimum voting age is defended as the most reasonable response to these questions. Whilst details vary, defenders of a minimum voting age tend to agree that electoral competence involves a combination of epistemic and moral capacities that together constitute political maturity (Beckman 2009, p.91; Clayton 2006, p.193; C. Cohen 1975, p.461; López-Guerra 2012, pp.125–127; Rehfeld 2011, pp.143–146; Schrag 1975, p.453; Lau 2012, pp.3–5). A threshold of sufficient rationality and moral responsibility is required to participate in collective decisions (Chan & Clayton 2006, pp.554–555; Brennan 2011). Enforcement of a threshold through direct testing is regarded as problematic. Some children will reach the threshold of sufficient political maturity before they reach the age of majority. Age as a proxy for sufficient political maturity therefore denies competent minors their legitimate entitlement of equal standing as citizens. Defenders of a minimum voting age tend to agree that this is a wrong perpetrated against competent minors, but that it is justified all things considered.

Typically, four considerations are taken to count in favour of age as a proxy test which makes this wrong permissible. First, even if it was possible to replace the proxy test of age with a substantive test for relevant competencies in individuals, such a test would be susceptible to abuse and corruption. Notoriously, tests for supposedly relevant capacities have been used to exclude qualified persons from the electorate, and have served to legitimate injustices such as racial segregation in southern states of America prior to the 1964 Civil Rights Act and 1965 Voting Rights Act (Holt 1974, pp.129–130; C. Cohen 1975, p.454; Weale 2007, p.213; Overton 2007). Second, a substantive test would deny citizenship as equal membership to those who fail. This impaired citizenship risks significant harm to the self-esteem of those deemed failures. Defenders of an age test argue that in the course of a normal life all will pass the age test with no harm to self-esteem (Clayton 2006, p.187; Rawls 1999, p.196; C. Cohen 1975, p.455; Weale 2007, p.214). Third, age is a non-permanent feature of a person's identity. Consequently, discrimination on the basis of age will end eventually, unlike

discrimination on the basis of gender or race (Brighouse & Fleurbaey 2010, pp.148–9; Clayton 2006, pp.187–89). Fourth, age is a more transparent and publicly defensible criterion than contested notions of maturity or capacity. Consequently, a minimum voting age is the most legitimate criterion available for the constitution of the deciders (Brighouse & Fleurbaey 2010, p.149). Whilst competent minors suffer wrongful exclusion from the franchise, this is a justified means of enforcing the competency requirement, given that a minimum voting age is the least disrespectful test available. A minimum voting age therefore relies on an all things considered justification.

### **3. *Evaluating Age as a Proxy for Sufficient Political Maturity***

#### *a. Political Maturity as Unreasonably Controversial*

Legitimacy demands that principles for determining participation in collective decisions must be acceptable to all reasonable points of view (Estlund 2008, p.33). Any conception of political maturity would involve a substantive account of epistemic and moral expertise in order to determine a threshold for qualification. But neither epistemic nor moral expertise confer democratic authority. This commits the expert/boss fallacy (Estlund 2008, p.22). Democratic authority is constituted by consent and not expertise. Any substantive conception of epistemic expertise would also be open to the objection that it favoured the prejudices and biases of a particular demographic (Estlund 2008, pp.43–45). Similarly, any substantive conception of moral expertise would be unreasonably controversial. Amongst a group of reasonable citizens, a conception of moral expertise would rank citizens as more or less expert. This ranking would give those deemed morally better qualified good reason to ignore the moral reasoning of those regarded as less qualified. A conception of moral expertise would therefore be reasonably rejectable by the less qualified. In order to avoid such controversy and provide democratic legitimacy, a second order agreement on the nature of moral competency to which all assent would be required. As such an agreement depends on the mutual recognition of the competency of others, this negates a competence ranking. Thus a ranking of moral competence is

either fated to irresolvable controversy, or evaporation into equal respect for competence to ensure agreement (Christiano 2001, pp.212–214).

Political maturity involves a substantive conception of epistemic and moral competency. It would be reasonable for individuals to disagree about any given conception as a basis for participation in collective decisions. Political maturity is therefore unreasonably controversial as a property for determining participation in collective decisions. If a minimum voting age is a proxy for political maturity, and if political maturity is unreasonably controversial as a property for determining participation in collective decisions, then this counts heavily against a minimum voting age.

*b. Political Maturity, Vagueness, and the Sorites Paradox*

Political maturity is unreasonably controversial as a conception of electoral competency. A threshold of sufficient maturity is also rejectable because it is vague and entails a logical paradox. No one would deny that an 18 year old minus 1 day is not mature, nor an eighteen year old minus 2 days. So when does the notion of political maturity no longer apply? There is no determinate point at which we can say that an 18 year old ceases to be mature, and becomes immature. This lack of a clear point at which the concept of maturity no longer applies reveals that political maturity is a vague concept, subject to the sorites paradox. As such, we cannot provide a determinate threshold of sufficient political maturity.

The sorites paradox refers to a logical problem in the application of certain vague concepts. For example, we would not refer to one grain of wheat as a heap of wheat. But we would refer to 1,000,000 grains of wheat as a heap. We would also refer to 1,000,000 minus 1 grains of wheat as a heap. But as there is no clear point at which the subtraction of one grain of wheat makes the concept of heap inapplicable. We end up in the paradoxical situation where there is no point before we are left with one grain of wheat where the concept heap becomes inapplicable. Consequently we are logically compelled to apply the predicate 'is a heap' to an object that is not a heap: a single grain of wheat. By extension, as there is no determinate point at which the concept of political maturity becomes inapplicable, we are compelled by logic to say a 1 year old is politically mature. This is paradoxical



because the concept of political maturity does not apply to a 1 year old. Therefore, age is not a reliable proxy threshold because of the vagueness of its referent: political maturity.

A defender of a minimum voting age may recognise problems of vagueness and sorites paradox. They may maintain that a minimum voting age is nevertheless reasonable, given our preferences both to include all sufficiently competent children in the franchise and to maintain the quality of democratic decisions. Matthew Clayton defends a minimum voting age on such grounds by drawing on Warren Quinn's example of a self-torturer. Clayton claims that whilst political maturity suffers from vagueness, it is reasonable to pick a determinate age as a matter of maintaining the rationality of our preferences regarding the franchise. In Quinn's example, a person is attached to a device that causes an imperceptible increase in pain each time its dial is moved up a notch from 0-1,000 (Clayton 2006, p.195; Quinn 1993). The person is offered \$10,000 each time the dial is moved irreversibly upwards. Quinn argues that in each decision about whether to take the money and receive an imperceptible increase in pain, it seems to be rational to take the money as the cost is imperceptible. Over time, this person would be a millionaire in excruciating pain. This suggests a problem in rationality because whilst a person prefers both more money and pain on each individual occasion (he prefers 1 to 0, 2 to 1, etc.) he does not prefer great riches and unbearable pain to neither (he does not prefer 1,000 to 0). Quinn points to a problem in rational choice theory where transitivity of pairwise choices can produce intransitivity when iterated cumulatively over a large enough set when the cost of each pairwise choice is imperceptible (prefers 1 to 0, 2 to 1, but 0 to 1,000). Quinn argues that an agent must adopt a prior choice strategy that identifies the point at which transitivity of preferences is maintained, and at which he is in a better position than when at 0 with no extra money and no extra pain. But Quinn emphasises that this solution involves suspension of an important axiom in rational choice theory: that choosers do not readjust a prior choice strategy of identifying a stopping point in a series of choices, even if the readjustment would better fulfil a person's preferences.

Clayton argues that the problem of where to set a voting age is comparable to the case of the self-torturer. We may prefer to reduce the voting age from 18 years to 17 years and 364 days to include as many sufficiently capable children as possible at the cost of an imperceptible decline in quality of democratic decisions. However, each pairwise choice would take us cumulatively to a minimum voting age that would produce poorer democratic decisions, which we would not prefer. It is therefore rational to select a reasonable age in advance of each pairwise choice about age. This provides a determinate threshold for sufficient political maturity and maintains the transitivity of our preferences between pairwise choices of voting ages and quality of democratic outcomes. However, Clayton's borrowing of Quinn's proposed solution to the puzzle of the self-torturer fails as a defence of a minimum voting age.

Clayton's argument relies on a parallel between the puzzle of the self-torturer and the puzzle of a minimum voting age. In Clayton's version of the puzzle, our preferences regarding voting age and quality of democratic outcomes replace our preferences for money and pain. However, these preferences do not generate the same puzzle and we cannot therefore borrow the same solution. I take it that Clayton supposes that our preferences against pain are equivalent to our preferences against poor democratic decisions; and that our preferences for money are equivalent to our preferences for including all sufficiently mature in the electorate. However, these preferences are not equivalent to those in Quinn's example. They differ because age is a proxy for a property about which we have a direct preference: political maturity. Age is not the object of our preferences. As we have argued above, political maturity is a vague concept that is subject to the sorites paradox. This means that we cannot give a determinate quantification of political maturity. The predicate 'heap' may apply both to 1 grain and to 1,000,000 grains; the predicate 'politically mature' may apply both to a 1 year old and a 100 year old. The vagueness of political maturity makes it an inappropriate object for preferences about which we can make rational choices.<sup>5</sup>

Quinn accepts that preferences involving vagueness are not susceptible to rational choice, and do not generate the puzzle. The puzzle depends on the determinate measurement of preferences

between each pairwise choice of money and pain (Quinn 1993, p.202). The reasonableness of choosing a determinate amount of money and pain depends upon the quantification and comparison of determinate quantities of both. But there is no determinate quantification and comparison of democratic decisions and voting age because voting age is a proxy for the vague property of political maturity. The defender of the minimum voting age might respond by claiming that political maturity is not intrinsically vague. Once we disaggregate it into its component parts we can give determinate values to each such that age is given a determinate proxy value. This argument entails a direct test of the capacities that constitute political maturity. But as we have seen above, the nature and measurement of political maturity is subject to reasonable disagreement, and therefore no determinate value could acquire reasonable agreement. Defenders of age as an appropriate proxy for political maturity are therefore caught on the horns of a dilemma: either all determinate conceptions of political maturity are subject to reasonable rejection due to their substantive rational and moral content; or we cannot determine a threshold of sufficient political maturity because of its intrinsic vagueness.

This dilemma weakens significantly the weight of reasons in favour of age as a proxy test for a threshold of sufficient political maturity. However, we recall that the all things considered justification of a minimum voting age relied on a combination of arguments: the reasons in favour of age as a proxy test for sufficient political maturity; and the absence of an alternative test that is less disrespectful. In what follows I propose such an alternative test. The availability of a test that is less disrespectful than alternative direct and proxy tests changes shifts the balance of reasons against a minimum voting age.

#### **4. *Duties of Respect and the Enfranchisement of Children***

##### *a. Duties of Respect to Child-Citizens*

All things considered defences of a minimum voting age acknowledge that sufficiently qualified minors are treated disrespectfully, but claim that other electoral tests are worse. But what on what

basis are children owed respect, and what are content of duties of respect owed child-citizens?

Children are owed respect because, like adults, they are persons with the capacity for autonomy.

Whilst children might possess the innate capacity to develop autonomy, that development does not occur ineluctably: it requires formation. The child's autonomy must be encouraged and promoted, guided and advised. However, whilst the formation of the child's autonomy is promoted by an agent other than the child, the child contributes to this formation. The child's contribution is required because practical reasoning and behaviour must be personal and independent. The child's agency develops only through a child's own exercise of their capacities for choice. A conception of children's agency must therefore recognise its duality. On the one hand, children lack the full range of cognitive, volitional, psychological, and moral capacities that are regarded as sufficient to be fully autonomous. On the other hand, the acquisition of autonomy requires the exercise of these capacities in a progressively independent way by the child themselves.

Children beyond infancy will therefore develop their own interests and reasons progressively. Children's practical agency will of course be limited by ignorance of all the relevant facts and insufficient understanding of the consequences of their choices. But as agents able to form and express reasons, children are owed consideration of these practical reasons, alongside consideration of their interests. Such consideration of a child's practical reasons may be trumped by adults' views that the children's reasons are ill-informed or contrary to the child's interests. But the child's reasons are owed appropriate weight in deliberation. Thus adults and institutions are under a duty to recognise a child's emerging autonomy. Adults are required to regard the maturing autonomy of children with a combination of appraisal and recognition respect. Following Darwall's distinction, to pay someone appraisal respect is to evaluate positively either a person's character, or their proficiency at a skill or practice (Darwall 1977). To pay someone recognition respect is to constrain one's behaviour according to appropriate considerations that attach to facts about persons. Appraisal respect is owed to the child's accomplishments at acquiring the skills of moral agency. Appraisal respect is a scalar attitude, owed proportionate to the degree of accomplishment, and will therefore

track the progress of a child's autonomy. Appraisal respect is in this sense crucial to a child's moral development as it provides a practical pedagogical framework of assessment and accountability. The child's nascent agency requires due consideration by the adult and this consideration places moral constraints on the adult's behaviour toward the child. The clearest constraint will be on disregarding the reasons and choices of the child as not worth consideration. We can therefore see that it is a moral obligation, based on the recognition respect owed children, to give appropriate consideration to the child's progressive autonomy. Given that the child's progressive autonomy is owed recognition respect, the adult's contribution to the child's development will be informed and constrained by the child's moral agency; however, given that the adult is also required to appraise the development of the child's moral capacities, the adult will also provide guidance, appreciation, and criticism where appropriate.

Duties of recognition and appraisal respect are owed by adults to children directly in their interpersonal relationships, but also indirectly through institutions. Adults have duties of respect in their dealings with children, but also to create and sustain social, economic, and political institutions that recognise and promote children's autonomy. Children are owed these indirect duties of respect because the basic social, economic, and political institutions are pervasive in effect over children's lives.<sup>6</sup> Consequently, they form part of the background conditions for the development of children's autonomy. The indirect institutional duties owed by adults to children form part of the civic dimension of adults' duties of respect to children. Adults owe children recognition and appraisal respect through direct interpersonal duties, and indirect institutional duties. These indirect institutional duties apply to democracy.

*b. Duties of Respect and the Enfranchisement of Child-Citizens*

We recall that a minimum voting age is typically justified alongside the democratic incorporation of children's interests. As such, a minimum voting age goes some way towards fulfilling duties of recognition respect towards child-citizens. Democratic incorporation requires that adults include the

independent interests of children in their democratic deliberations and choices. Different conceptions of democratic incorporation will provide varying accounts of how children's interests should be recognised: whether imaginatively or through direct consultation. The moral effect should be the same however, namely that children's independent interests are recognised and included in democratic decisions. Thus a minimum voting age paired with a conception of democratic incorporation may, to a large extent, fulfil civic duties of recognition respect towards children. But a minimum voting age and democratic incorporation do little to fulfil duties of appraisal respect towards child-citizens.

Adults are obliged to include children in the franchise as a matter of appraisal respect. Moral and political agency is developed best through appropriately administered opportunities for its direct exercise. Adults therefore owe children the opportunity to exercise the capacities for democratic citizenship directly. As a matter of appraisal respect, these opportunities must be commensurate with their stage of development, and allow their capacities for democratic citizenship to develop progressively. Direct participation in democratic elections provides the most suitable opportunity for children to develop their capacities for democratic citizenship progressively. Voting in elections enables children to experience democratic citizenship directly, whilst providing an appropriate developmental framework for children's rational and moral agency.

Voting is appropriately developmental on three grounds. First, it allows children to develop the capacities for democratic citizenship through direct performance. Surrogate democratic practices such as voting for school councils or youth parliaments are inadequate because they fail to provide the same quality of experience as elections in the main polity. Children are given direct experience of democratic citizenship by engaging with the real questions facing a democracy and attempting to comprehend the issues and respond independently. Just as children develop morally by making progressively more demanding real moral choices, children will develop democratically by making real democratic choices. Second, voting in elections provides direct experience of democracy whilst simultaneously protecting the least qualified children from affecting electoral outcomes. This protects

children from being held responsible for decisions that may be beyond their stage of development. The Condorcet Jury Theorem shows that so long as the mean voter competence is better than random, adding voters who are less competent will in fact improve the quality of outcomes (Goodin & List 2001; Goodin 2003, pp.91–108; Goodin & Lau 2011; Olsson 2008). Indeed, Goodin and List show where there are multiple choices on the ballot, the quality of outcomes will be preserved even if voters who choose the incorrect option are in the majority. This is because those voting for incorrect answers will choose different kinds of incorrect answer, so there will not be a plurality for any one incorrect answer. Therefore, even if all enfranchised children always vote for the ‘incorrect’ option, this will not harm or the quality of a polity’s democratic outcomes (Goodin 2003, pp.98–99; Goodin & List 2001, p.283). But it will provide children with the opportunity to develop by making democratic choices directly. The third reason that voting is appropriately developmental is that it encourages children to begin reflecting on the quality of the beliefs that inform their electoral choices. As Goodin argues, participating in elections provides evidence that can inform the formation and revision of beliefs. As children begin participating in elections and making choices, they will be faced with comparing their choice with that of the majority. Any difference between the decision of the child and the majority acts as a prompt for reflection by the child on their choice. A discrepancy between the vote of the child and majority provides strong grounds for revising their preferences. Thus, democracy can act as a ‘Baysian persuader’ (Goodin 2003, p.110).<sup>7</sup> Participating directly in elections encourages children to clarify their choices, and makes clear the difference between their choices and that of the majority. Thus the Baysian dimension of democracy has an important pedagogical role which helps children develop their capacities for democratic citizenship. This pedagogical dimension of democracy helps fulfil adults’ indirect institutional duties of appraisal respect to child-citizens.<sup>8</sup> Voting provides opportunities to develop democratically through direct experience of democracy; in a context where the law of large numbers provides safety from responsibility for outcomes; and where the decisions of the majority provide a prompt for reflection and revision of children’s democratic choices.

A defender of a minimum voting age may accept that voting has pedagogical benefits, and that an age test fails to fulfil duties of appraisal respect to child-citizens adequately. However, they may maintain that, absent a less disrespectful alternative, a minimum voting age remains the most reasonable response to the competency requirement. But an alternative test is available that responds adequately to the competency requirement, and fulfils our duties of appraisal respect to children more fully. What would such a test consist in?

## **5. A Procedural Test for Minimum Electoral Competence**

### *a. Electoral Competence as Literacy and Independence*

Political maturity is reasonably rejectable as a basis for inclusion in the franchise because it is unreasonably controversial. This problem arises largely because the substantive conceptions of political maturity proposed involve a thick notion of epistemic and moral capacity: capacities such as knowledge of political parties; civic institutions; and moral values of freedom and justice. But political maturity is unreasonably controversial not simply because it involves a conception of epistemic and moral capacity, but because such conceptions are too thick. We may however define a thinner notion of electoral competence that is acceptable to all qualified points of view.

It is reasonable for members of modern democratic polities to demand that all voters be literate and capable of participating in collective decisions independently. Those who are illiterate face significant disadvantages in acquiring basic information on the salient issues. Lacking the capacity to acquire at least the basic information about electoral choices, it is reasonable to doubt they have the epistemic ability to participate competently in coercively enforced collective decisions. Being literate does not imply substantive knowledge of or expertise in any subject and thus avoids the expert/boss fallacy. Likewise, literacy is a generic competence that is not associated with the epistemic perspective or expertise of any particular demographic group and therefore avoids the demographic objection. As it avoids both the expert/boss fallacy and the demographic objection, literacy is acceptable to all qualified points of view as part of a conception of electoral competence.



It may be objected that literacy tests have a nefarious history. They were certainly reasonably rejectable as used in the southern states of the USA before reforms to election law and civil rights in the 1960's. However, these were tests conducted in conditions where black citizens suffered significant educational injustice and disadvantage. A test for minimal literacy must be acceptable from the point of view of justice as well as democratic citizenship. Consequently, a literacy test is only permissible given a just distribution of resources and opportunities for literacy.

Those dependent on others may be reasonably assumed to lack the capacity to form independent moral commitments. Their dependence makes them especially vulnerable to influence and manipulation by others. Consequently they lack the independence required to be held responsible for their electoral choices. The ability to make an electoral choice independently does not imply moral expertise. The ability to choose independently requires an individual to be able to identify, weigh, and adopt or reject reasons as considerations. But the ability to reason practically says nothing about the quality of the reasoning. Individuals may reason with varying degrees of expertise. Requiring independent choice ensures that individuals are not held responsible for decisions that were not their own either through duress, manipulation, or incompetence. A capacity for literacy and independence constitute a conception of electoral competence. These requirements for electoral competence are sufficiently thin to be reasonably acceptable by all qualified points of view.

*b. A Threshold of Minimum Literacy and Independence*

We recall that age as a proxy threshold of sufficient electoral competence was reasonably rejectable because of the vagueness of political maturity. Literacy and independence allow for more determinate and transparent measurement. The literacy required of voters can be tested by requiring they provide in person their name, address, date of birth, and sign to consent to the rules of the ballot.<sup>9</sup> The capacity for independent democratic choice may be tested by making voter registration and voting voluntary and private. A test of a voter's ability to provide their name, address, date of birth, and to read and sign a simple affirmation of the rules of the ballot is transparent and determinate. It is a

direct test for a property that is reasonably required of voters in modern democracies. It offers clear criteria for evaluation. The capacity to vote independently may also be tested directly according to a clear and determinate threshold. Personal voluntary attendance at a voter registration office with private registration sessions ensures independent ability to comprehend and consent to the rules of the ballot. Casting a vote in a private booth also confirms the independence of the elector. This does not guarantee the independence of voters' democratic choices. But it allows those who might be voting under duress or undue influence an opportunity for independent choice, and prevents those wholly incapable of independent choice from participating. Literacy and independence allow for determinate measurement, and so avoid political maturity's problems of vagueness

Age as a proxy threshold for sufficient political maturity was not only objectionable because vague, but because it failed to fulfil duties of appraisal respect to all children. A threshold of sufficient maturity for voting prevents children from developing their nascent democratic agency through the practice of voting. As argued above, adults' have duties of appraisal respect to allow children to develop the capacities for democratic citizenship. Fulfilment of these duties demands that all children capable of benefiting developmentally from the experience of voting be enfranchised. It seems reasonable to assume that those children who are incapable of completing a form asking for their basic details are not yet able to benefit developmentally from voting. Consequently duties of appraisal respect demand that the threshold of literacy be set low enough to include all those capable of benefitting developmentally from voting. Appraisal respect therefore demands that a threshold be set at the minimum level to include all children capable of benefiting developmentally from the experience of voting.

A defender of a minimum voting age may accept that voting provides developmental benefits, but argue that other considerations count against minimal electoral competence as a threshold for enfranchisement. First, they may object that the argument from the Condorcet Jury Theorem only holds if the mean competence remains better than random. Enfranchising minimally literate children will violate this parameter and therefore reduce the quality of democratic outcomes

(López-Guerra 2012, p.122). A minimum threshold of literacy and independence therefore violates the competence requirement. Second, those who are only minimally independent will suffer greater vulnerability to manipulation, and so may adopt the view of the majority uncritically. Democracy's Bayesian dimension may therefore threaten rather than enhance children's nascent independence (Goodin 2003, pp.122–123). These considerations count in favour of sufficient political maturity as a threshold for voting as it excludes insufficiently developed and vulnerable citizens.

Minimal literacy maintains the parameters of the Condorcet Jury Theorem. A requirement for minimum literacy is an effective means to ensure that mean voter competence remains better than random. Those who are not minimally literate are likely to pick randomly as they would be unable to read basic election literature and even to read the ballot sheet. Those who are able to complete a voter self-registration form and ballot paper have a minimum ability to identify and express a preference. Even those children who express poorly informed and transitory preferences exceed the requirement that a voter not pick randomly. By excluding those almost certain to pick randomly we protect the conditions for the application Condorcet Jury Theorem. Thus a test for minimal literacy ensures that less developed children benefit developmentally from participation in elections, whilst protecting them and the polity from any poor decisions they make.

Defenders of a minimum voting age worry legitimately that minimally literate and independent children may be easily persuaded to vote according to their parents' wishes. As mentioned earlier, adults have both direct interpersonal and indirect institutional duties of respect towards children. Children's entitlements to freedom from electoral manipulation are primarily a matter of direct interpersonal duties between adults and children. Adults have negative duties to refrain from persuading minimally developed children to vote according to the adult's interest. Adults also have positive duties to help the child develop an independent democratic point of view. Adults' indirect institutional duties of respect towards children can provide a partial response to the worry of child-voter manipulation.

A test for electoral independence provides minimum protection to children vulnerable to manipulation and easy persuasion by the majority. It is infeasible to guarantee all children's independence from manipulation by others, not least because it would involve unacceptably invasive and costly monitoring of private lives. However, the procedure of self-registration excludes those who are most dependent on their parents and therefore most vulnerable to manipulation. Whilst the most vulnerable to manipulation may be excluded by self-registration, many children will continue to experience degrees of vulnerability to manipulation by adults. The privacy of the ballot provides protection of children from manipulation at the crucial moment of decision. Self-registration and private voting do not address fully the interpersonal aspects of the problem of minimally literate and independent children's vulnerability to manipulation. But they do provide a reasonable and feasible fulfilment of adults' indirect institutional duties of respect to child-voters.

Even if all adults behaved scrupulously towards children vulnerable to manipulation, minimally developed children may feel insecure about their own views when faced with an opposing majority. They may subsequently fail to develop their own independent point of view, being in thrall to the probable truth of the majority. Thus the persuasiveness of the majority may impede fulfilment of adults' duties of appraisal respect to children. But there are two reasons why the problem of the persuasiveness of the majority should concern us less as it applies to minimally competent children. First, as Goodin points out, votes are expressions of both epistemic and moral judgments (Goodin 2003, p.144). Consequently, the activity of voting will stimulate the moral aspect of children's democratic agency. As Goodin goes on to argue though, moral commitments are unaffected by the Bayesian aspect of democracy as these are not constituted by probabilistic judgments about evidence. Thus, children's moral independence is promoted by allowing minimally competent children to vote, whilst the majority's choice lacks moral persuasiveness. Second, the epistemic persuasiveness of the majority has a positive role to play for children pedagogically. The development of children's democratic agency will benefit from reflection on any disparity between their choice and that of a majority. The persuasiveness of the majority is therefore less a problem and more a further

consideration in favour of allowing minimally competent children to vote as a matter of appraisal respect. A test for minimal literacy and independent choice addresses concerns about enforcing the parameters of the Condorcet Jury Theorem and protecting those children who might accept majority decisions uncritically.

*c. Procedural and Substantive Tests for Electoral Competence*

Minimum literacy and independence offer a reasonably acceptable conception of electoral competence and a determinate threshold for its measurement. But it seems enforcing a threshold of minimum electoral competence would harm the self-esteem of those below the threshold. Does this mean a minimum voting age remains preferable, all things considered? We recall that defenders of a minimum voting age argue that it is less disrespectful than alternatives. The alternatives seem to involve a substantive test of the political awareness of a person, which results in a pass or fail outcome. However, we can distinguish two kinds of tests which work quite differently: substantive and procedural. A substantive test measures the performance of all those taking the test. A procedural test embodies the property being tested. An example might be an exam. The questions seek to measure the substantive knowledge of those taking the exam. However, the procedures of the exam are also a test. If the exam is held in a building with no wheelchair access, the exam tests the mobility of the entrants. Procedural tests are possible where those incapable of performing the procedure are unaware of this. For example, a company seeking an employee fluent in a particular language may offer a substantive language test to all candidates as part of an interview. Or they may advertise the post solely in the language concerned. Only those sufficiently fluent would be able to read the job advert, and those unable to speak the language would be ignorant of the advert.

Voter self-registration and private voting are a procedural test for electoral competence. Any prospective voter who is incapable of reading and completing a registration form and incapable of private voting would be largely ignorant of what they are incapable of doing. As those incapable of completing these tests would be ignorant of the test, they would not suffer harm to self-esteem. Their

ignorance preserves their self-esteem. A procedural test for minimal electoral competence protects the self-esteem of those incapable of performing the test.

It might be objected that such a procedural test may damage the self-esteem of those incapable of voter self-registration and private voting. The thresholds for literacy and independence may be higher than the threshold for awareness of being incapable of performing the tasks required. Consequently, some children may be aware of being incapable of, and therefore disallowed from, performing a task other children relatively close in age perform. However, a procedural test for minimum electoral competence is not preferable to a minimum voting age because it has no detrimental effect on any child's self-esteem. Rather, it is preferable because it is less harmful to children's self-esteem than a minimum voting age. As the threshold of the procedure is set so low, it affects fewer children who are less aware of the implications of the test than a minimum voting age. The defence of age as a proxy test for electoral competence relied on the absence of a reasonable and feasible alternative that was less disrespectful. A procedural test for minimal electoral competence is reasonably acceptable and determinate, and so enforces the competency requirement reasonably and effectively. A procedural test for minimum electoral competence also ensures that less developed children benefit developmentally from participation in election. Consequently, it fulfils adults' indirect duties of appraisal respect to children better than a minimum voting age.

## **6. Conclusion**

It is reasonable for a polity to demand that only competent voters participate in collective decisions that are enforced coercively. A minimum voting age suffers from the reasonable rejectability and vagueness of political maturity as a basis for granting suffrage. The proxy test of age also disrespects sufficiently developed minors. It remains preferred because an alternative seems absent. A procedural test for minimum electoral competence offers an alternative. Self-registration and private voting are procedural tests for minimum literacy and independent choice. Completion of a simple self-registration form and private voting are thin enough tests to avoid reasonable rejection by all

qualified point of view, and are determinate not vague. The minimal literacy and agency required to complete the procedure of voting also maintains the parameters of the Condorcet Jury Theorem. This ensures that children's votes will not affect the quality of electoral outcomes detrimentally. A procedural test for minimum electoral competence succeeds in excluding those who should not participate in collective decisions that are enforced coercively. It also fulfils indirect institutional duties of appraisal respect to children and promotes children's independent democratic agency. Voting is an effective way to promote children's democratic agency. It provides opportunities to engage directly in real epistemic and moral deliberation. Voting prompts children to make democratic choices, and creates feedback through the results of elections that facilitate children's reflections on their choices. A procedural test for minimum electoral competence also protects the self-esteem of those excluded. Lacking minimal literacy and independence they will be largely unaware of the nature of the electoral test, and their inability to complete it. As more acceptable, determinate, and respectful, a procedural test for minimum electoral competence should therefore be preferred to a minimum voting age, all things considered.

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<sup>1</sup> Robert Dahl and Albert Weale cast children's disenfranchisement in terms of the problem of the constitution of the demos: (Dahl 1989, p.129; Weale 2007, pp.207–217)

<sup>2</sup> For a canonical statement of the all affected interests view see (Goodin 2007).

<sup>3</sup> On the imaginative representation of others' point of view in democratic deliberation and decision see (Goodin 2003, pp.169–193). For an example of a defence of fiduciary representation of children's interests through a statutory ombudsman, see (E. Cohen 2005). On the role and history of children's advocates see (Flekkøy 2002).

<sup>4</sup> I leave aside the question of which children should be included in the franchise, and assume that the boundaries of the demos are established justly.

<sup>5</sup> I accept, for the sake of this argument, that we may be able to give a determinate measurement of the quality of our democratic outcomes according to some standard such as justice, truth, common agreement etc.

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<sup>6</sup> I follow Clayton's interpretation of Cohen's argument regarding the subject of justice: justice concerns those institutions and practices that are of profound importance over children's lives, not only those that are pervasive and coercive in effect (Clayton 2006, p.37) and (G. A. Cohen 1997)

<sup>7</sup> Bayesian reasoning refers to the process by which we update our beliefs in the light of new evidence. As Goodin argues, if votes are evidence of other peoples' rational beliefs, the decisions of the majority provide important evidence in the process of reflection and updating of our beliefs (Goodin 2003, pp.109–121).

<sup>8</sup> My focus here is on adults' indirect institutional duties of appraisal respect to child-citizens, and how the institution of voting fulfils these. I leave aside further discussion of the direct duties adults have towards the development of democratic citizenship in children, but it seems plausible that adults would have duties to promote the Bayesian role of democracy by encouraging discussion and reflection on a child's vote and the outcome of elections.

<sup>9</sup> Justice requires the polity to provide such forms in all languages spoken in the polity, as otherwise this would amount to a substantive test of expertise in a particular language.

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