

RICE UNIVERSITY

**Democracy in the Real World:
Empirical Breakdowns in the Justification of Democracy**

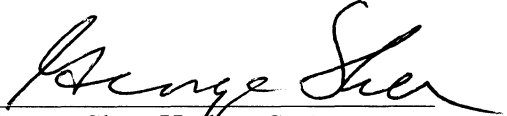
by


Danielle Marie Wenner

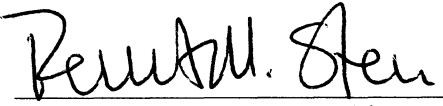
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ABSTRACT

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by

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Justifications of democracy rest in large part on unacknowledged empirical assumptions regarding the cognitive, informational, and behavioral capacities of individuals and voting populations. The goal of this project was to identify those assumptions and examine them in light of data from the social sciences. To the extent that these assumptions are undermined by empirical evidence, the normative legitimacy of democracy as a system of rule is weakened.

Theories of democracy were organized along a continuum from purely instrumental to purely intrinsic or procedural, and a representative sample of theories from along this spectrum were analyzed in order to identify their core empirical assumptions. Interest-based, deliberative, and egalitarian theories of democracy were each demonstrated to be predicated on substantive empirical assumptions which were contradicted by the available evidence. A sophisticated hybrid account incorporating aspects from along the spectrum of available theories was likewise demonstrated to be predicated on unsubstantiated assumptions regarding human capacities.

A concluding analysis of the circumstances which undermine the assumptions of democratic theory demonstrated the limited tractability of these circumstances, leading to my assertion that a new conception of what democracy is and what purposes it should serve is warranted, and that in the interim, contemporary attempts to justify the dissemination of democracy are undermined.

ACKNOWLEDGMENTS

This project never would have materialized were it not for a visiting professor named Stefan Sciaraffa and the seminar he taught at Rice University on democratic theory. Having burnt myself out on questions of distributive justice, I was in desperate need of a new direction and Stefan's class gave me the inspiration I needed to finally get excited about philosophy again.

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CHAPTER 1 INTRODUCTION

It is illusory to think that a satisfactory demonstration of the general superiority of democracy to its alternatives can ever consist of a straightforward axiomatic argument from unimpeachable premises to an “absolute” and “objectively valid” conclusion.¹

Everybody Loves Raymond (Democracy)

Democracy seems to occupy a privileged place in theoretical philosophy. Most of the philosophical debate about democracy tends to focus on questions regarding the scope of its legitimacy, or the nature of our obligation to promote democratic values in other states. Rare is the treatise which questions that legitimacy itself, or attempts to enunciate the foundations of such an obligation. There are great swaths of literature devoted to hammering out how to enunciate a human right to democracy, or how to show that the right to democracy is a second-order right, which only arises as a means to other rights. But there is little focus on the justification for a claim that such a right exists. There are even popular theorists who go so far as to insist that it is impossible to “force” democracy on a people, because until they are democratic, they don’t constitute a “people” in the right sense!² (One might worry what else we could justifiably force onto them, if this is the case.)

The common element across the literature, however, is a seemingly unshakable belief that democracy is just, that democracy is right. There is little attention devoted by these theorists to the question as to why that might be the case, and frequently when the question is addressed, it is done in a haphazard fashion, with lip-service paid to the importance of self-rule and the equality of citizens. However, if it is the case that we

¹ Dahl 1989, 102.

² Applebaum 2007.

have an obligation to promote democracy where it hasn't yet taken root; if it is the case that there is a right to democracy, be it a human right or derivative; if it is the case that absent democracy, a geographically-succinct and self-identifying group doesn't constitute a "people," then shouldn't we understand *why*? What is it about democracy which makes it legitimate? What is so important about democratic rule that many would identify it as a human right? And don't we need to be sure that democracy *is* legitimate, before we start to argue about whether we are *obliged* to spread it or whether people have a *right* to it?

My contention is that when we begin to plumb these important, foundational questions, we run into a significant body of evidence which vitiates those justificatory attempts which have been made to ground the legitimacy of democracy. Although there are theorists who have offered comprehensive accounts of democratic legitimacy, a survey of these accounts reveals that in each case, there are important empirical assumptions which ground the arguments, and that furthermore, those assumptions are greatly undermined by evidence from the social sciences regarding the behavior and capacities of individuals and of political bodies.

Defining Democracy

One's conception of democracy can be more or less demanding. Within the context of this discussion, I will rely on a rather minimal conception of democracy, so as to avoid limiting the scope of my arguments unnecessarily. Very broadly, I am interested in democratic decision-making procedures as used to reach binding decisions in a political context. Although nothing in the definition I shall rely on rules out the use of democratic procedures in other contexts – voluntary organizations, for example, or private

corporations – the context of democracy I am specifically interested in regards the use of democratic procedures to determine the structure and functioning of society, as backed by the use of law and the credible threat of coercion.

Democracy can be loosely characterized as consisting of a commitment to at least two basic principles, with a third falling naturally out of them. First is a commitment to popular sovereignty: the claim that the people are the rightful rulers of themselves. Second is the notion of political equality. This is a normative claim, that each member of society has an *equal* right to participate in the political decision-making process, but the equality in question can be interpreted as more or less substantive. For some democratic theorists, the demand for equality is merely formal, while for others it goes much deeper.³ Finally, falling out of these important commitments is the requirement of majority rule. Given the ideals of popular sovereignty and political equality, there must exist some legitimate means of adjudicating disputes between equal and autonomous agents over what their shared system of rules will be, and although proposals for how to implement majority rule may vary, majority rule as an ideal is an essential aspect of democracy.

One helpful way to bring out the important characteristics of democracy is to understand it in terms of its alternatives, in terms of what democracy is not. One potential alternative to democracy as I have described it would be a meritocracy. One form of meritocracy might designate a ruling class comprised of highly educated people to make all of the decisions for society, although meritocracy need not be so exclusive. An alternative conception of meritocracy might look very much like democracy: it could involve a large portion of the population voting in representative elections. Perhaps instead of counting each vote equally, however, we might conceive of a state which

³ Christiano 2008b.

heavily weighted the votes of highly educated citizens so that they would exercise more influence than the uneducated masses on political outcomes (an idea actually supported by John Stuart Mill.)⁴ Although this scenario shares some features with democracy, the weighting of votes importantly diverges from democracy's demand for equality, even when that equality is conceived of as merely formal.

Another alternative to democracy as I have defined it is a full and free franchise within a supermajoritarian framework. Within this framework, it might be specified that some number greater than 50% of the population (or their representatives) must approve new legislation. While an institution such as this would retain some of its democratic features – specifically the self-rule implicit in the franchise – it would nevertheless fail to respect equality in the requisite way. An example will help to explain why. Imagine such a society, in which a 75% supermajority is necessary to pass new legislation. Imagine further that there is a new law up for consideration which has 70% support, meaning only 30% of the population would prefer not to have the legislation enacted. Nevertheless, under the supermajoritarian framework, the legislation would not pass. Thus, the desires of that 30% of the population ultimately would have determined the political outcome, despite being significantly in the minority. The implication is that the votes of those 30% were given precedence over, or weighted more than, the votes of the other 70% of the population. This is again in contradiction to the commitments of democrats as I have presented them.

⁴ Mill [1861] 1977.

The Ideal and the Non-Ideal

Why does it matter if theoretical arguments for democracy depend for their validity on empirical assumptions which turn out to be false? The answer to this question brings out the distinction between ideal and non-ideal theory. Ideal political theory abstracts away from many empirical realities regarding individuals and groups, assuming both that individuals and societies will observe the principles of social cooperation, as well as that individuals and societies *are able to* function so as to observe social mores, reason morally, and engage in political cooperation.⁵ The value of ideal theory to the real world is questionable, however. For example, if the theoretical justification of democracy depends for its validity on an empirical claim which turns out to be false, that justification can't tell us whether democracy is justified in the real world – only that it would be justified *if* things were such that the empirical claim were true. As long as arguments for democracy rely for their validity on assumptions which turn out to be false, any claims to the legitimacy of spreading democracy, or forcing it on unwilling populations, are necessarily on far shakier ground. Take a thought experiment devised by Frank Jackson and Robert Pargetter:

Professor Procrastinate receives an invitation to review a book. He is the best person to do the review, has the time, and so on. The best thing that can happen is that he says yes, and then writes the review when the book arrives. However, suppose it is further the case that were Procrastinate to say yes, he would not in fact get around to writing the review. Not because of incapacity or outside interference or anything like that, but because he would keep on putting the task off. (This has been known to happen.) Thus, although the best that can happen is for Procrastinate to say yes and then write, and he *can* do exactly this, what *would* in fact happen were he to say yes is that he would not write the review. Moreover, we may suppose, this latter is the worst that can happen.⁶

⁵ Wenar 2008.

⁶ Jackson and Pargetter 1986, 235.

As the case is described, the best that can happen is that Professor Procrastinate can agree to write the review and then review it, but the worst outcome is that he agree to write the review and then not do so. And, it is stipulated, were he to agree to write the review, he would not do so – and so the outcome would be the worst possible outcome. This thought experiment is a particular case of a kind of problem that can be identified in ideal political theory:

Ideally, society ought to do (X & Y).

Society will not do Y.

Should society still do X?

In at least some cases, the answer to this last question will be, “no.” Specifically, to the extent that doing X in the absence of Y will have bad consequences, we might deny that society should do X.⁷ We might alter the example to derive the following, more explicitly relevant set of statements:

If society is X, then society ought to do Y.

Society is not X.

Should society still do Y?

Notice that as long as “society is X” is false, we no longer have an argument for the validity of the normative claim that “society ought to do Y.” Instantiating down to the case of democracy, then, if arguments for the legitimacy of democracy take a form in which a crucial assumption regarding the capacities of individuals or groups within the state plays a role in justifying the move to legitimacy, evidence which falsifies that assumption undermines any claim to democracy’s legitimacy. And if democracy’s claim to legitimacy is undermined, it looks like many of the projects of contemporary political

⁷ Estlund 2010, 8-9.

philosophers interested in the issues of justice surrounding democracy's dissemination may need rethinking.

Engaging the Empirical

Some space is devoted in the literature to attempts to engage with the kinds of empirical objections I will levy against the democratic theorist, but I have encountered no theorist who explicitly acknowledges the deep dependence of democratic theory as a whole on crucial empirical assumptions. This deficit is highlighted by the fact that often, in order to avoid an objection from one empirical direction, a theorist walks right into another one. For example, interest-based accounts of democracy are heavily dependant on assumptions about the rational utility-maximization of individual voters, an assumption which I argue in Chapter 2 is significantly undermined by data regarding the abilities of individuals to identify and pursue their interests. Problems such as this can to some extent be mitigated, however, by shifting focus away from subjective interest promotion to a more objective account of the interests of voters.⁸ With a more objective understanding of interests, procedural limits to the majoritarian power of government can be construed as an attempt to guide the decision-making process in a direction that will mitigate the worst potential impacts of irrational voting behavior. A move like this generates new problems, however: to the extent that focus is shifted away from majoritarian power and towards limits on the outcomes of democratic decision-making, it is those limits and *not* democracy which are serving the interest-promoting role which interest-based theorists claim for institutional democracy. If voters are sufficiently ignorant or incapable of promoting their own interests to justify external limits on the

⁸ Arneson 2003.

outcome of their decision-making, then the rationale for locating the decision-making authority with them in the first place is substantially undermined.

Similar stories can be told about other attempts to bring theoretical accounts of democracy into line with empirical evidence. We will see in Chapter 4 that even the most sophisticated accounts of democracy fall victim to this problem, demonstrating that in order to stand up to the damaging evidence, theories of democracy need to engage not only with one or two empirical worries, but be prepared to withstand an assault from the entire *body* of empirical problems which work to undermine justifications of democracy as a system of rule.

My intention throughout this project is twofold. On the one hand, the identification of the various empirical assumptions upon which democratic theories are grounded, as well as of the empirical circumstances which undermine those assumptions, is an important project in its own right and will take up the greater portion of this project along with an analysis of attempts to account for these empirical worries. However, there is a second question to address, specifically: In light of the degree to which major theories of democracy *are* undermined by empirical facts regarding the abilities and capacities of voting publics, can we justify our faith in democracy at all? To answer this question, we must examine whether the empirical findings are to any extent mitigable, or whether they represent deep and unchanging facts about the world in which a system of rule must be implemented. It is to this final question which I turn in Chapter 5.

The Method

It is not feasible to do a full analysis of every account of democratic legitimacy. Because this is the case, a method needed to be devised which would nevertheless generate results which were generalizable to the field of democratic theory as a whole. Otherwise, any argument that the theories with which I do engage are insufficient to overcome the empirical evidence would leave open the question as to whether democracy is legitimate given the current state of the real world.

In order to ensure that the arguments I present have the widest possible impact, it was helpful to consider justifications of democracy as organized along a spectrum from the purely instrumental to the purely intrinsic or procedural. At the fully instrumental end of the spectrum, arguments for democracy's legitimacy are based on the value of the outputs of democratic procedures. At the opposite end of the spectrum are intrinsic accounts, which argue that there is value in democratic procedures themselves. Theories which don't fit neatly into one category or the other can be conceived of as falling somewhere along the spectrum between the two. I proceed on the basis of the assumption that theories which fall into similar places along this spectrum are likely to be vulnerable to objections from similar empirical areas, and that therefore the arguments I present against those theories which I do consider can be generalized to the field of democratic theory as a whole. My analysis begins with fully instrumental accounts of democratic legitimacy.

Chapter Outline

Chapter 2: Instrumentalism

Instrumental theories of democracy can take several forms. Foremost among instrumental theories are those which claim that democratic procedures bring about the interest-promotion or preference-satisfaction of members of the population. In Chapter 2 I engage with instrumental accounts of this form, and argue that such accounts are predicated on important assumptions regarding the rationality of political participants. I engage with significant research from the fields of behavioral economics and psychology which undermine the vision of man as a rational utility-maximizer. In light of these objections, I go on to consider a revisionary instrumental account offered by Brennan and Lomasky which proposes that individuals are actually in large part fulfilling an expressive function when they vote. Although there is empirical evidence to support this interpretation, I argue that if voting is truly an expressive act, and not an act intentionally aiming at utility-maximization, then the normative basis for democracy is lost. I conclude this chapter with an examination of the conceptual problems demonstrated by Kenneth Arrow, Richard McKelvey, and William Riker, which ultimately doom any instrumental account which attempts to associate the value of the outcomes of democratic procedures with the inputs provided by citizen votes.

Chapter 3: Deliberation

Another prominent instrumental account of democracy claims that democratic procedures are the best way to generate good, or right, political outcomes. I construe this as an epistemic claim, and examine it within the context of a broader analysis of deliberative

accounts of democracy – accounts which occupy something of a middle ground between instrumental accounts on the one hand, and procedural accounts on the other – in Chapter 3. Specifically, I focus on the theories offered by Habermas, Cohen, and Gutmann and Thompson. I argue that deliberative democrats are committed to three important normative claims regarding the virtues of deliberative democracy: the above-mentioned epistemic claim that it produces superior political outcomes, that it is best able to promote the substantive equality of citizens, and that it is best able to respect the substantive autonomy of citizens. I cite empirical evidence regarding the epistemic capacities and pathologies of deliberating bodies which substantially undermine the epistemic claims of democrats. I go on to make the case that the deliberative democrat is committed to substantive claims regarding the equality and autonomy of individual members of a polity, and I rely upon data from the fields of moral psychology and behavioral economics to demonstrate that the kinds of equality and autonomy the deliberative democrat claims arise out of democracy cannot do so. I conclude by arguing that there is also a deeper, conceptual problem with the deliberative democrat’s claims to enhance the substantive equality and autonomy of citizens once we understand that she has committed herself to a notion of equality that must be construed as a certain type of equality of opportunity.

Chapter 4: Egalitarianism

At the opposite end of the spectrum from instrumental defenses of democracy are accounts which consider democracy intrinsically valuable because it embodies the basic moral equality of citizens. In chapter 4, I engage with what I have termed “egalitarian”

or “intrinsic” defenses of democracy. Beginning with purely procedural accounts, and progressing through the more sophisticated procedural accounts offered by Singer and Dahl, I argue that the problems of persistent minorities, the maldistribution of information, and the maldistribution of informational capacities work to undermine the normative value of procedural equality. I go on to consider Christiano’s more sophisticated account based on public equality. I argue that his turn towards deliberation ultimately commits him to the same kind of political equality cast in terms of equality of opportunity which the deliberative democrat was committed to, and that many of the considerations which worked against the substantive equality sought by deliberative democrats work similarly to abrogate the kind of hybrid approach Christiano proposes.

Chapter 5: Democracy in the Real World

In Chapter 5, I argue that the conclusions of the previous chapters severely vitiate the normative bases for democracy as a system of rule. I suggest that if it were the case that we could mitigate the kinds of empirical circumstances which work to undermine democracy’s justification, we might be able to at least partially salvage a defense of democracy. I go on to consider the extent to which such circumstances can be altered in democracy’s favor and, to the extent that they can be, whether attempts to bring about such changes would be justified. Relevant to this discussion are considerations regarding distributive justice and the presence of alternative forms of governance which could potentially be justified given an alternative set of empirical circumstances. Finally, I argue that to the extent to which the circumstances required for the justification of

democracy are not met in the real world, the normative validity of the intentional dissemination of democracy is undermined.

CHAPTER 2 INSTRUMENTALISM

John Stuart Mill maintained that “the ideally best form of government [is that which] is attended with the greatest amount of beneficial consequences, immediate and prospective.”⁹ That popular government was the best means to this end was the thesis of his *Considerations on Representative Government*. Alexis de Tocqueville similarly saw the utilitarian foundations for democracy when he noted that “the laws of democracy generally tend to the good of the greatest number, for they emanate from the majority of all citizens.”¹⁰ The putative connection between the outcomes of democratic decision-making and the benefits to its citizens has received much attention in the literature, both positive and negative. In this chapter, I critically examine what I dub “instrumental,” or “interest-based” accounts of democracy, focusing primarily on the commitments of such theories to the claims that individuals are able to both identify their interests, as well as to pursue those interests rationally in the market-place of voting.

Voter Interests

The simplest expression of the interest-based approach to democracy grounds the normative validity of democratic rule in the system’s ability to adequately take into account and promote the interests of its citizens. This kind of justification claims that overall, constituent interest-fulfillment is maximized when the collective decision-making procedures take the form of democratic majority rule. Because the interest-based approach claims that democracy is the system which *best* takes into account the interests

⁹ Mill [1861] 1977, 504.

¹⁰ de Tocqueville [1835] 2000, 222.

of its citizens, there is an implicit claim that the interest-based account *does* take into account the interests of its citizens.

The intuitive pull of such an account lies in the connection between the actions of citizens and political outcomes. Citizens are assumed to be in the best position to understand their own interests, and therefore to act so as to maximize their fulfillment. A further implicit assumption of such an account must therefore speak to what the citizen is engaging in when she exercises her democratic rights – specifically, what she is doing when she votes. If democratic majority rule is claimed to best promote the interests of citizens, the reason for this must be that citizens are defending or promoting their interests when they go to the polls – otherwise the causal connection between democratic rule specifically (rather than some alternative) and the individual’s interests is unclear.¹¹ We can therefore clarify the interest-based theory’s major justification through an elaboration of the central claim: Democracy as a system of rule is best able to maximize the interest-fulfillment of its citizens, because they are able to pursue those interests through the mechanism of voting.

This view of democratic voting is predicated on a characterization of the individual citizen as a rational interest-maximizer, where interests correspond to utility, measured in terms of wealth and other physical goods. This view is the foundation of the wide literature on so-called “social choice theory.”

¹¹ Riker 1982, 5.

Homo Economicus and Voter Turnout

The concept of the economic man finds its origins in an early essay on political economics by John Stuart Mill.¹² In *On the Definition of Political Economy*, Mill describes the economic man as man abstracted away from his social mores, and purely interested in maximizing his wealth by the most efficient means possible.¹³ Although Mill's original caricature was focused primarily on the key idea of producing and accumulating wealth and leisure, later iterations of *homo economicus* introduced the contemporarily more salient feature: that of *rational* decision-making based on the expected utility of the returns. The economic man has come to be regarded as the model of utility-maximization based on a rational cost-benefit analysis, factoring in such considerations as the probabilities of alternative outcomes, decisiveness, diminishing returns, and opportunity costs. Although *homo economicus* is understood to rationally pursue his economic and physical interests, there is still a subjective component to those interests insofar as different individuals will value different goods differently. While some may place a high value on modern art and works of philosophy, for example, others may find such goods relatively value-less and prefer to invest their resources in large-screen televisions or luxury cars.

This picture of economic man comes with some pretty hefty epistemic commitments. For example, standard economics assumes that all of those participating in market decisions know what they want, and the relative value of those goods for them in terms of opportunity costs.¹⁴ It assumes further that economic man has all of the relevant information regarding his market decisions, including an understanding of the potential

¹² Persky 1995.

¹³ Mill [1836] 1967, 321.

¹⁴ Ariely 2009, 49.

outcomes of each option.¹⁵ Not only is he in full understanding of the potential outcomes, but he also has a fair ability to predict the likelihood of each potential outcome's coming to pass, and thus is able to compute the expected utility as a function of the probability of the outcome occurring and its value should it do so.¹⁶ While this predictive power is not assumed to be perfect, the economic man is assumed to have a decent ability in this regard, and whatever mistakes in computation or prediction he does make are assumed not to be systematically biased in any way.¹⁷ The ultimate underlying assumption is that "almost all people, almost all of the time, make choices that are in their best interest or at the very least are better than the choices that would be made by someone else."¹⁸

Based on this interpretation of economic man as a rational utility-maximizer, Anthony Downs famously described the economic model of the rational voter. Assuming the costs of information-gathering and voting are nil, Downs hypothesized that the rational voter would compare the utility she would receive out of the alternatives she was presented with, and vote for the outcome that would provide her with the greatest amount.¹⁹ A more sophisticated model of the economic voter incorporates the predictive aspects of *homo economicus* and proposes that the rational vote would be that which takes into account the probability of it's being decisive.²⁰ When the cost associated with voting exceeds the expected benefit of the favored outcome multiplied by the probability of casting the decisive vote, the rational voter will abstain from voting at all. And of

¹⁵ Ibid., 317.

¹⁶ Kaplan and Kaplan 2009, 23.

¹⁷ Thaler and Sunstein 2009, 7.

¹⁸ Ibid., 9.

¹⁹ Downs [1957] 1985.

²⁰ Brennan and Lomasky 1993, 23.

course, in contemporary large-scale democracy, the probability that one individual's vote will be decisive is so small it approaches zero.

An important piece of evidence that voters are not rationally pursuing their interests when they participate in the democratic process, then, is the fact that they actually vote in rather high numbers. In a survey of 74 countries with major democratic elections, Mijeong Baek found a voter turnout range of between 33.15 and 94%, with a mean turnout of 65.8% and a median turnout of 68.33% (the United States was well below average with a turnout of 41.15% in the elections surveyed in 1998 and 2002).²¹

In seeking an explanation for the irrationally high voter turnout in democratic societies, a few competing theories are on offer. One account argues that voters may vote because they believe that there is a higher than negligible possibility that their votes could be decisive. In addition to the fact that any such belief on the part of voters would be erroneous, Brennan and Lomasky point out a deeper, conceptual problem with this explanation of the urge to vote. If it were the case that an individual who doesn't vote would have a reasonable probability of affecting the outcomes of an election if she *did* vote, this would seem to indicate that electoral outcomes would differ significantly from their actual outcomes were voter turnout increased. This, in turn, would greatly undermine the legitimacy of the *actual* outcomes of elections, if that legitimacy is based on the ability of electoral outcomes to best reflect the interests of individual citizens.²²

Another attempt to defend the rationality of voting is to argue that even if the probability of casting the decisive vote is very low, the stakes are high enough to warrant

²¹ Baek 2009, 388-9.

²² Brennan and Lomasky 1993, 179.

the effort *just in case*.²³ This approach argues not that the stakes are so high *for the individual*, but rather, that because the electoral outcome will affect *so many people*, this will compound potentially small personal differences into widespread effects to the population at large. The conclusion is that there may be a moral obligation to participate in voting, because so many could suffer if the outcome went “the wrong way.” This argument suffers from a similar problem as the preceding: “if the stakes are sufficiently high that individuals are morally obligated to vote even though the probability of being decisive is very low, then the expected cost of getting the ‘wrong outcome’ must also be high enough to cause alarm. In other words: if it is so manifestly clear that one ought to vote in the kinds of electoral situations that actually prevail (whether because one is likely to be decisive or because the stakes are so high), prevailing electoral situations must be held to be highly defective.”²⁴

A more plausible explanation of the seemingly irrationally high voter turnout in contemporary democratic elections might go something like this: individuals are doing something *other* than rationally pursuing their interests when they vote. It might be that they believe there is a civic duty to do so, or that they think that they are expressing some important symbolic right when they go to the polls, but they are not engaging in a cost-benefit analysis concerning the act of voting itself. We need not concern ourselves overly with what it is that they are doing with the act of voting; the important thing is that such a view could still be squared with the interest-based account. If it were still the case that what the voter was doing with the *content* of her vote was pursuing or promoting her

²³ Barry 1978, 39.

²⁴ Brennan and Lomasky 1993, 184.

interests, then an account of why she engages in the act of voting in the first place is no longer of primary concern.

Rational Ignorance

Such an approach faces a devastating problem, however. An important aspect of Downs' contribution to economic conceptions of democracy was a recognition of the costs associated with a voter rationally pursuing her interests in the democratic marketplace. In order to vote rationally (that is, vote for that option which has the greatest amount of expected utility, figured as the probability of its success multiplied by the amount of utility of that outcome), an individual must be *informed* about the available options. This means that Downs' original assumption that costs associated with voting one's interests are nil has to be revised. In fact, the costs associated with informing oneself are rather high. Informational resources are virtually unlimited, but the time and effort which a voter can devote to collecting and assimilating information is a severely limiting factor.²⁵ The vast amount of information available, coupled with the costs of obtaining it, understanding it, and reconciling it with the political information the individual already holds, combine to force voters to utilize only a fraction of the information available to them. The result is that voters must be selective about their information outlets. They have options to inform themselves via the media, for example, or from friends and co-workers, when out socializing or simply chatting over the water-cooler, but the necessities of daily life will almost certainly take priority, and opportunities to fully take advantage of the information that is available will be limited.

²⁵Downs [1957] 1985, 209.

As Downs importantly pointed out, however, all information sources are likely to have some inherent bias. News organizations are, ultimately, business. Our friends and co-workers are individuals with their own political opinions. But given the plurality of views around us, we are more likely to seek out information which if biased, conforms to the inherent biases we already hold.²⁶ This might be true for a couple of reasons. On the one hand, recent research conducted by the Pew Research Center has shown that the public perception of media outlets has drastically declined over the last 15 years. Not only do Americans believe more strongly now than ever before that the mainstream media outlets are biased and frequently present incorrect information; moreover, their perceptions of which *direction* the media is biased is strongly correlated to their own political views. That is, liberals are far more likely to perceive a conservative slant to media coverage, and conservatives the reverse.²⁷ A likely result of this is that individuals flock to those news outlets they perceive to be least biased against them – or in other words, those outlets most likely to be biased in the same direction as the individuals in question.

There is a deeper reason to accept Downs' argument that we tend to devote our limited information-gathering resources to sources which are biased in favor of our own inherent biases, however. This is because of the extent to which we identify with our political beliefs. The more energy and time we devote to informing ourselves politically, the more inclined we are to become emotionally invested in the issues of the day. And it turns out, we tend to make moral judgments about individuals based on their political beliefs, ascribing immorality or other negative character traits to individuals who disagree

²⁶Ibid., 230.

²⁷ Pew Research Center 2009.

with us politically.²⁸ The unfortunately predictable result is that we prefer to associate with those of similar political views, because we think they are better people, and we are more likely to flip to a news channel portraying a bias we agree with (although we may not interpret it *as* biased) than we are to befriend the local chair of the opposing party, or to turn on the news outlet that seems most biased against us, because we think these latter are disreputable and dishonest.

In addition, the rational voter will only actively seek as much information as she can obtain at less than the cost of the expected return of voting in her interest. If R_A^i is the expected value to i of an outcome of a , then the value to i of voting for a instead of for b can be expressed as follows:

$$Y^i = \begin{cases} R_A^i - R_B^i & \text{if voter } i \text{ is decisive,} \\ 0 & \text{otherwise.} \end{cases}$$

That is to say, i 's vote for a is only valuable to her if both (1) the outcome a is more valuable to i than the alternative outcome b ; and (2) i 's vote for a is decisive (absent i 's vote there is a tie, meaning i 's vote is the tie-breaker and ultimately decides the winner).

The expected instrumental value of a vote for a rather than b can then be expressed:

$$Y^i = h(R_A^i - R_B^i)$$

where h is the probability that i will be decisive (i.e., the probability of a tie among all other voters).²⁹

Each voter is only one among many, however, and as a result the value of h is very nearly zero. This means that the marginal expected utility return of a vote is also very nearly zero, and the *rational* voter will therefore devote no resources to informing herself about which voting option is most likely to further her interests. Rather, she will

²⁸ Berwitz and Sinrod 2006.

²⁹ Brennan and Lomasky 1993, 23.

rely on whatever information she happens upon incidentally in the course of her everyday life.³⁰ And as we saw earlier, individuals tend to associate with others who share their political biases, so any information she comes upon is likely to reinforce the opinions she already has, rather than challenge them.

The result is a phenomenon that Downs first referred to as “rational ignorance”: the rational utility-maximizer will not waste her scarce resources on educating herself about political policies which she will ultimately have little or no chance to influence. The empirical evidence bears this out: the average citizen in a democracy is indeed under-informed about the politicians and policies which affect their interests. Compiled evidence from surveys conducted over a period of fifty years in the United States showed that more than half of questions concerning the institutions and processes involved in the federal government could be correctly answered by fewer than half of Americans, including the ability to correctly define liberal or conservative, how many votes are needed to override a veto, or how long a House member’s term is. Barely a quarter (28%) can identify one of their state senators, and only 59% could correctly state whether their governor was a Democrat or Republican. Almost a third of Americans believe the constitution guarantees them a job (29%), and 45% incorrectly attributed the phrase, “from each according to his abilities, to each according to his needs” to the US constitution rather than to Marx and Engels, an especially poignant observation in light of the strong vitriol many Americans express about communism. During George H.W. Bush’s presidency, the one policy opinion he had that was most readily identifiable by American voters was that he hated broccoli, and this was one of only two issues stands of

³⁰Downs [1957] 1985, 245.

public officials over the last 50 years that could be correctly identified by at least 75% of the population (Bill Clinton's "Don't Ask, Don't Tell" policy was the other).³¹

These results are not spurious, either. In Delli Carpini and Keeter's review of fifty years of data, they found that "Americans are essentially no more nor less informed about politics than they were fifty years ago." Although there are increases and decreases in particular areas of political knowledge, the mean change across all of the observed data was less than 1%.³² Voting populations are persistent in their lack of political knowledge, which makes sense when we consider the likelihood of their informing themselves having any real impact on the outcomes of political decision-making.

The fact that the ideally rational voter, *homo economicus*, would not take the time to inform herself of the important consequences of the outcome of any election severely undercuts the normative force of any theory of democracy which locates its authority in the reflection of voters' interests in the outcomes of political decision-making. The value of democracy in such an account lies in the fact that this form of rule is in some way best able to promote and protect those interests. The unique means by which democracy is said to achieve this goal is through the input of the voters through the democratic process. If voters systematically fail to adequately inform themselves of which officials and policies are likely to further their interests, however, then it is unclear how this justification gets off the ground.

This problem is exacerbated by the nature of political knowledge. Many of the most important issues to be decided in the collective decision-making process are not only complex, but extremely technical. It is not at all clear that, even should a voter

³¹ Delli Carpini and Keeter 1996, 72-101.

³² *Ibid.*, 105-18.

devote a substantial amount of time to informing herself, she would be able to garner for herself a full understanding of even one of these complex issues without formal training, much less a detailed understanding of multiple issues which cross multiple technical and scientific fields. Additionally, there is evidence which suggests that those voters who actually devote time to trying to inform themselves politically (by watching the news, for example), are more likely to have erroneous beliefs about politicians and policy alternatives than those who don't.³³

That the level of political ignorance is justified on the basis of rational cost-benefit analyses and not the product of societal mores or educative conditions is a fact we should not overlook. The rationality of ignorance is a structural feature of any large-scale democracy, and therefore cannot be explained away as a consequence of some contingent feature of our institutional implementation. As long as democracy is utilized on a scale which all but prohibits the possibility of one voter determining an election's outcome, individual rationality will dictate a minimal expenditure on information gathering and processing. To dismiss this as a merely practical concern is to miss the point entirely. The less likely an individual's vote is to influence the outcome, the less likely she is to feel any sense of a tangible connection between herself and the decision to be made. As Schumpeter pointed out, this distance between the voter and the outcome motivates a reduced sense of responsibility, and a resulting absence of will. "Without the initiative that comes from immediate responsibility, ignorance will persist in the face of masses of information however complete and correct." It is not worth the time and effort for a voter to utilize the full capacity of her rationality in an attempt to influence the outcome of a political decision, so instead she takes the easier path and "yield[s] to... irrational

³³ Ramsay, Kull, et al. 2010.

prejudice and impulse.”³⁴ Any theory attempting to justify democracy on the basis of any part of the potential involvement of its citizens will have to contend with the unfortunate phenomenon of rational ignorance.

Homo Insensatus

Even if a voter had easy, or even costless, access to all of the pertinent information to determining her vote and the resources necessary to devote to incorporating that information and putting it to good use in the democratic marketplace, it turns out she would likely still be unable to rationally pursue her own interests. Man, it turns out, is not the rational animal *economicus*, but rather his irrational twin, *insensatus*.

Within the growing field of behavioral economics, much recent data has been collected in support of the claim that in fact, individuals’ judgments are susceptible to all kinds of irrelevant influences from their immediate environment, the context of decision-making, emotions, shortsightedness, and other non-rational sources.³⁵ These influences, moreover, do not operate in a random way – rather, individuals show systematic bias in their decision-making and judgment formation, including in the realm of politics.

Anchoring Effects

One way in which our decision-making process is systematically biased is through the manifestation of anchoring. Anchoring refers to the phenomenon of being influenced by our initial impressions or decisions thereafter: exposure to one stimulus or situation will

³⁴ Schumpeter 1950, 261-2.

³⁵ Ariely 2009, 318.

alter an individual's judgment of a scale or value regarding another stimulus.³⁶ What happens in these situations is that an individual begins from an initial value (the stimulus or situation she was initially exposed to), and adjusts that value in order to arrive at a response in a situation wholly unrelated to the initial stimulus. Generally, those adjustments are insufficient.³⁷ So, for example, in Tversky and Kahneman's classic study, subjects were asked to estimate what percentage of African countries were members of the United Nations. Before answering, a "wheel of fortune" was spun in their presence (a wheel filled with random numbers between 1 and 100). After the wheel stopped at a value, subjects were asked whether the correct answer was higher or lower than the value showing on the wheel. Finally, they were asked to give their estimate. The estimates were greatly affected by the number shown on the wheel. When the wheel landed on 10, the median estimate was 25. When the wheel landed on 65, the median estimate was 45. The effect of the anchoring was not reduced when subjects were offered rewards for a correct estimate.³⁸

This is all well and good when we're talking about the number of African countries in the UN, but it's not clear how such a bias might influence political reasoning. One possibility is that the anchoring effect can play a large role in the way voters perceive budget proposals and expenditures. Blackley and DeBoer, for example, observed that forecasts published by the U.S. Office of Management and Budget may be strategically used to anchor expectations regarding deficit spending and outlays, in order to manipulate the budget negotiation process. A higher *predicted* rate of spending serves

³⁶ Wilson, Houston, et al. 1996, 387.

³⁷ Tversky and Kahneman 1974, 1128.

³⁸ *Ibid.*, 1128.

to anchor expectations higher, so that the outcome of the negotiation process is likely to be higher, and vice versa.³⁹

The anchoring effect, like many cognitive biases, is pernicious and stubborn. It plays a role in qualitative as well as quantitative judgments,⁴⁰ and in experiments it persists even when subjects are warned in advanced that they will be primed, have the anchoring effect explained to them, and are asked to consciously try to avoid being affected.⁴¹

Loss Aversion, Framing, and the Status Quo Bias

A similar phenomenon involves an unsymmetrical aversion to loss. We are more negatively affected by the loss of a certain amount than we are positively affected by an identical gain. The result is what Kahneman, Knetsch, and Thaler called “the endowment effect,”⁴² which also leads to what Samuelson and Zeckhauser referred to as the “status quo bias.”⁴³ The endowment effect demonstrates that we attach a greater value to things already in our possession than we do to those same things when presented with an opportunity to acquire them. This was first demonstrated in a simple experiment: in a class of undergraduates, a number of coffee mugs were distributed among the students. Half of the students received mugs, and the other half didn’t. Those students who had received a mug were then asked how much they would be willing to sell it for. The students who did not receive a mug were asked how much they would be willing to pay for one. The result was that those students who received a mug wanted an average of two

³⁹ Blackley and DeBoer 1993, 220.

⁴⁰ Strack, Martin, et al. 1988, 434-7.

⁴¹ Wilson, Houston, et al. 1996, 397.

⁴² Kahneman, Knetsch, et al. 1991.

⁴³ Samuelson and Zeckhauser 1988.

times as much to sell their mug as students who didn't receive one were willing to pay.⁴⁴

This study has been repeated dozens of times, to the same effect,⁴⁵ and is such a natural aspect of our reasoning that it has even been shown to affect primates.⁴⁶

In order to understand the importance and relevance of this kind of bias, think about this phenomenon in the context of social programs and their costs, for example. Groups of society who are recipients of social aid are likely to value those programs to a far greater extent than are members of current non-recipient groups who are considering the extension of these programs to their own group or the continuation of these programs for those who already receive their benefits at the cost of a higher tax rate.

A more clear example of the political effects of risk aversion can be shown in the status quo bias: given a choice between maintaining the current state of affairs versus making a change, individuals disproportionately opt to stick with the status quo. This phenomenon is a subset of the framing effect, which occurs when “(often small) changes in the presentation of an issue or an event produce (sometimes large) changes of opinion.”⁴⁷ Quattrone and Tversky conducted a series of experiments at Stanford and UC Berkeley which demonstrated the strong effects of framing and the status quo bias. Their studies confirmed that people are risk averse in the domain of gains and risk-seeking in the domain of losses. As a result, the original status quo or starting point becomes irrationally favored regardless of its content. For example, the following pair of scenarios was presented to subjects:

Imagine there were a presidential contest between two candidates, Frank and Carl. Frank wishes to keep the level of inflation and unemployment at its current level.

⁴⁴ Kahneman, Knetsch, et al. 1991.

⁴⁵ Thaler and Sunstein 2009, 33.

⁴⁶ Kaplan and Kaplan 2009, 30-1.

⁴⁷ Chong and Druckman 2007, 104.

The rate of inflation is currently at 42%, and the rate of unemployment is currently at 15%. Carl proposes a policy that would decrease the rate of inflation by 19% while increasing the rate of unemployment by 7%. Suppose that as a citizen of Alpha, you were asked to cast your vote for either Frank or Carl. [65% chose Frank; 35% chose Carl]

Imagine there were a presidential contest between two candidates, Frank and Carl. Carl wishes to keep the rate of inflation and unemployment at its current level. The rate of inflation is currently at 23%, and the rate of unemployment is currently at 22%. Frank proposes a policy that would increase the rate of inflation by 19% while decreasing the rate of unemployment by 7%. Suppose that as a citizen of Alpha, you were asked to cast your vote for either Frank or Carl. [39% chose Frank; 61% chose Carl]⁴⁸

Obviously, in this pair of scenarios, the choices are identical – in each case, subjects are asked to choose between Frank’s policy of 42% inflation and 15% unemployment, and Carl’s policy of 23% inflation and 22% unemployment. The only difference is whether Frank’s policies are already in place, or Carl’s are. Another series presented identical options to subjects in which the only difference was whether unemployment was characterized as a percentage employed or a percentage unemployed with identical results: respondents overwhelmingly opted for lower unemployment rate when the options were “5% unemployed” versus “10% unemployed,” but favored the alternative option when as asked to choose between “95% employed” and “90% employed.”⁴⁹

Framing can play a large role in the way political issues are perceived. Recent polling data have shown this effect occurring outside of experimental situations, and in real-world political scenarios. For example, during the recent health care debate, a CBS and New York Times poll found that a majority of voters favored a public option when it was described as a “government-administered health insurance plan,”⁵⁰ while a poll conducted at the same time by NBC and the Wall Street Journal found significantly less

⁴⁸ Quattrone and Tversky [1988] 2000, 459.

⁴⁹ Ibid., 462.

⁵⁰ CBS News and New York Times 2009.

support for “a public health care plan administered by the federal government.”⁵¹

Another recent poll showed that when asked whether they supported “gay men and lesbians” serving openly in the military, more than 50% of Americans “strongly favored” the idea, but when the same question was asked using the term “homosexuals,” the proportion who strongly favored the idea shrunk to less than 35%.⁵²

The types of studies conducted by Quattrone and Tversky and others, along with recent polling evidence, demonstrate that context and framing both operate psychologically to sway the decisions of voters in an extra-rational manner that cannot be adequately accounted for in the model of individual interests or rational utility maximization. The mere turn of a phrase cannot affect the *actual* level of benefit or harm to citizens driven by policy outcomes, but that same turn of phrase can have a dramatic effect on the level of benefit or harm citizens *expect* or *perceive* to accrue to them as a result of the policy.

Optimism and Confirmation Bias

A similar phenomenon causes individuals to pay more attention to evidence which gives positive support to their previously held beliefs than they do to evidence which casts doubt on those beliefs.⁵³ The result is an unfortunate combination of optimism (or the “optimistic bias”) – individuals in general are more optimistic than rationally warranted about everything from their chances in life and the outcomes of their decisions to their evaluations of themselves and their beliefs⁵⁴ – and confirmation bias – individuals are

⁵¹ Hart and McInturff 2009.

⁵² CBS News and New York Times 2010.

⁵³ Kaplan and Kaplan 2009, 114.

⁵⁴ Schacter and Addis 2007, 1346.

more likely to believe evidence if it supports their previously held beliefs (and correspondingly more likely to ignore contradictory claims). For example, in one study a group of subjects who self-identified as either “conservative” or “liberal” were shown intentionally erroneous reports regarding several controversial issues, such as tax cuts and the wars in Iraq and Afghanistan. When they were later presented with indisputable evidence which contradicted the original erroneous messages, the subjects would continue to believe the erroneous information *if it conformed to their political orientation*.⁵⁵

This phenomenon is especially dangerous in light of other evidence which suggests that our judgments and experiences are affected by our expectations – for example, if I expect a dish to taste bad, because I know it has anchovies in it, then in all likelihood I will try it and find it disgusting. But if I try the dish first, decide whether or not I like it, and *then* you tell me that it has anchovies in it, there is a greater chance that I will have enjoyed the food.⁵⁶ Given that I disproportionately expect my judgments and beliefs to be correct (optimistic bias), then I am more likely to be confirmed in that view regardless of the evidence presented to me.

It is tempting to dismiss evidence such as that presented above, and argue that such experiments focus on decisions which involve low stakes. Perhaps if the experiments were conducted involving higher stakes decisions, participants would be more likely to demonstrate the kind of rationality which the *homo economicus* model, and consequently the interest-based account, is predicated on.⁵⁷ However, a meta-analysis conducted by Camerer and Hogarth found that higher economic incentives produced no

⁵⁵ McKee and Stuckler 2010, 937.

⁵⁶ Ariely 2009, 204-6.

⁵⁷ Thaler and Sunstein 2009, 76.

increase in mean performance on just these kinds of tests.⁵⁸ It might also be argued that participants in these experiments are not given adequate opportunity to learn, and that they would perform better were they able to conduct practice trials. As Thaler and Sunstein point out, however, the most important decisions which individuals make over the course of their lifetime are generally the same decisions for which few to no practice trials are available.⁵⁹ This certainly holds true for political decisions; not often are we given a “do-over” with regards to the outcomes of our political decision-making, and the consequences of one decision can be far-reaching and long-lived.

The fact that these kinds of bias operate at all levels of decision-making and preference-formation seems to suggest that individuals do not fit the traditional model of *homo economicus*. Framing and anchoring, confirmation bias, and the mere fact of which belief or judgment an individual comes by first can all alter the way in which she views the world, and consequently mold her preferences. The implication is that our preferences are not necessarily rationally derived, and are consequently not as likely to track our “interests,” even very broadly construed. Not only that, but the consistency with which these biases manifest themselves indicates that individual preferences are prime targets for manipulation by those who understand the functioning of these biases, a vulnerability which is especially relevant in the political marketplace.

For the interest-based account of democracy, this evidence presents a deep concern. The interest-based account argues that *because* individual actors are best suited to pursue their own interests, a democratic system of rule which leaves political decisions to the people will allow them to promote those interests within the political framework.

⁵⁸ Camerer and Hogarth 1999, 7.

⁵⁹ Thaler and Sunstein 2009, 76-7.

If individuals are in fact very poorly equipped to promote their own interests because their judgments can be easily swayed and manipulated by irrelevant considerations, then the interest-based account loses much of its normative bite.

One potential reply from the interest theorist might be to argue that for certain sorts of major political decisions, not much information is required, and so biases such as those in question would have little room to affect individual conceptions of how best to pursue their interests. Such a reply is misguided, however. Even the smallest of political decisions can have long-lasting and complex ramifications. And as the data show, the mere turn of a phrase can influence the way individuals perceive policy options and determine their preferences.

Alternatively, the defender of the interest-based account might argue that these data all show individuals are unable to rationally pursue their interests when it comes to individual issues, but in most contemporary large-scale democracies, citizens don't vote for policies, but rather for candidates and representatives. Although this is also true, it does little to alleviate the concerns raised by voters' rational inadequacies. If the interest account is going to track voter interests *on the basis of their votes*, then representatives can best be thought of as packages of policies. In choosing a package, the voters must be pursuing the *policies* which are best in their interests, or the interest-based account falls again.

What is potentially the most plausible reply from the interest theorist is that it may well be the case that individual voters are bad at promoting their own interests, but that any alternative system of rule must put the decision-making power in the hands of a person or persons, and whoever those people are will be similarly affected by the kinds of

cognitive biases demonstrated by the studies I've presented. Voters might be truly horrible at promoting their own interests, but who is to say that anyone else will be able to do a better job? This seems to do little to rescue the interest theorist, though. All this establishes is that *everyone* is bad at recognizing and promoting their interests. It still leaves open the question as to whether democracy might allow interests to be better promoted than some other form of rule.

Perhaps this reply could be buttressed by the additional claim that although all are affected by the kinds of rational biases I have highlighted, individuals are at least the most *motivated* to promote their interests, whereas there is at least room to doubt (probably substantial room) that someone else put in the position of ruling would be. Although this is a tempting move to make, I think it misses the mark twice. First, we have already seen that the individual voter's input into the democratic process is very unlikely to be decisive – the probability approaches zero. This fact alone undercuts any potential motivation individuals would have to defend their interests through the mechanism of voting. More importantly, while it may well be the case that individuals are most motivated to promote their own best interests, it is not necessarily so. The interest-based theorist's reply to the suggestion of, for example, a benevolent dictator has to refer not to the *motivation* behind the promotion of interests, but to the ability to do so. If I have more motivation to see my interests promoted politically, but am unable to do the promoting, then that motivation is not doing any work bringing about the maximization of my interest-fulfillment. My votes are unlikely to systematically track my interests, and as a result the interest-based account does not distinguish democracy as uniquely able to track interests via the mechanism of votes. Additionally, I would point

out that the ability to rationally pursue interests is not evenly distributed among the population. Just as we look at adults and consider them better able to understand and pursue their interests than children – despite their rational shortcomings – there are some adults who are simply less susceptible to the kinds of rational biases reflected in the results of the studies we have examined. This suggests that it is at least *plausible* that there is some system of rule which tracks interests to a greater extent than the full and equal suffrage of democracy.

A Dialectical Recap

The interest-based account of democracy locates the legitimacy of democratic rule in the claim that it is best able to take into account the interests of its citizens. Individuals are assumed to be in the best position to identify and pursue their own interests, and democracy allows them to do this in the political marketplace through the mechanism of voting.

The interest-based account relies for much of its force on the notion of the economic man, a rational utility-maximizer who relies upon cost-benefit analyses in order to determine what course of action will best promote his interests. Without the notion of *homo economicus*, the interest-based account would be lacking normative force: if individuals were pursuing not their own interests as they wandered the world, but instead pursuing all things purple, for example, then allowing them to vote would not be likely to promote their interests. It would be likely, instead, to promote a lot of purple things. Likewise, if individuals are pursuing their interests, but are not doing so in a rational way, the normative force of the interest-based account is again undermined, as this would

indicate the greater likelihood that someone other than the individual was best able to promote her interests.

The interest-based account runs into a hiccup, however, in light of the interesting result of living in a large-scale democracy: individual votes are highly unlikely to be decisive in the outcomes of democratic decision-making. If voters are truly rational utility-maximizers, then it seems like we have little ability to explain why they actually vote. One potential answer to this is that individuals are doing something other than pursuing their interests when they vote – practicing civic virtue, for example.⁶⁰ In this case, we could distinguish between the motivation for voting and the content of the vote, and we might say that although individuals are pursuing something other than their own utility when they go to vote, the content of their vote is still determined on the basis of rational cost-benefit analysis. If this were the case, then the normative force of the interest-based account could be salvaged. Even if it is something other than self-interest driving the individual to go to the polls, if she is then using the content of her vote to pursue her interests, and doing so in a rational way, it may still be the case that democratic procedures are best able to maximize the interests of members of the polity.

The second hiccup for the interest-based account is the phenomenon of rational ignorance. If a voter is truly rationally pursuing her interests, then in light of the cost of educating herself sufficiently to pursue her interests politically, and in light of the minute chance of her vote being decisive, she will not be *willing* to invest the necessary time and effort into adequately informing herself to ensure that she votes in her own best interest. What's more, even if she was, somehow, motivated to devote the necessary resources to

⁶⁰ We could square this with the account of rational utility-maximization if we postulated that an individual's interests could include her desire to be civically virtuous.

adequately inform herself, it turns out that she would be unable to do so. The invasive and all-present nature of several forms of cognitive bias indicate that she will be unable to rationally identify what her interests *are*, let alone deduce the best way to promote them within the political realm.

In light of the difficulties faced by traditional instrumental accounts of voting in explaining the phenomenon of high voter turnout despite a clear lack of decisiveness on the part of individual voters, Geoffrey Brennan and Loren Lomasky have proposed a revisionary account of how voters pursue their interests at the polls. It is to this account which I now turn.

Expressive Voting

Brennan and Lomasky argue that the motivational structure of *homo economicus* is not entirely dependent on utility defined as a measurement of wealth or other physical goods, as social choice theorists would claim. Rather, the utility function does include an argument representing utility defined as wealth, but likewise includes an additional, expressive argument.⁶¹ The voter is said to place a value not only on the potential outcome of a vote for *a*, in terms of the difference in utility between outcome *a* and outcome *b*, but also on *expressing a preference* for *a*, rather than *b*, in and of itself. Recall that the instrumental return of a vote for *a* construed merely as a utility function based on economic outcomes was expressed as:

$$Y^i = R_A^i - R_B^i$$

⁶¹ Brennan and Lomasky 1993, 15.

Where $R_A^i - R_B^i$ represents the value to voter i of voting for a rather than b . Recall that after the probability of voter i 's vote being decisive was taken into account, the *expected* instrumental value of the vote for a was expressed as follows:

$$Y^i = h(R_A^i - R_B^i)$$

with h representing the probability that i 's vote will actually determine the outcome of the election.

On Brennan and Lomasky's interpretation, however, there is an additional, *expressive*, return to voting, E^i , which can be expressed as:

$$E^i = L_A^i - L_B^i$$

In this expression, L_A^i represents the expressive value to voter i of voting for a .

Therefore, the *total* expected value, W^i , of i 's voting for a is the combined total of the value of outcome a to i (where this value is determined by the difference in utility to i between outcomes a and b) *and* the expressive value to a of voting for i :

$$W^i = Y^i + E^i$$

Therefore, the *rational* voter will vote for a over b if and only if:

$$hR_A^i + L_A^i \geq hR_B^i + L_B^i$$

where h is the probability that i 's vote will be decisive.⁶² That is to say, the rational voter will vote for a over b if and only if the expected utility of her vote (the chance of her vote being decisive times the value to her of outcome a actually prevailing) *combined with* the expressive value of her vote (the value she enjoys from actually voting for a , independent of the utility of the outcome) is greater than or equal to this same total for the alternative outcome, b .

⁶² Ibid., 24.

Brennan and Lomasky go on to argue that “the relative price of expressive elements in any act of choice, measured in terms of instrumental benefits foregone, is higher in markets than in electoral settings... All other things equal, the relative significance of expressive elements increases by a factor equal to the inverse of the probability of being decisive.”⁶³ Because in the market, our decisions are almost always decisive (that is, if *i* decides to buy something, she will end up going home with it), the role of the expressive element is minimal. However, in electoral settings the probability of decisiveness is very low, and therefore maximizing the expressive return comes at a minimal cost in terms of instrumental benefits foregone – since the decision would not have been decisive anyway, the voter is giving nothing up in voting on the basis of expressive reasons rather than instrumental ones, other than the costs associated with the act of voting itself. Electoral choice, then, will most often be driven by purely expressive or symbolic motivations, and not by considerations of individual interest-maximization.

This presents a problem for the interest-based approach to justifying democracy. Unless it is the case that a voter’s greatest expressive returns will always arise as a result of voting for the outcome which would also be in her best interests, broadly construed, then the normative validity of the interest-based justification for majority rule is severely undermined.

What Brennan and Lomasky ultimately argue is that it may be possible for there to be “merit goods” – goods which are under-consumed at Pareto-optimal levels. Such goods might include philosophy lectures or impressionist art exhibits, which we might presume are under-consumed, even in ideal markets. If merit goods are possible, then it must be because there is some sense in which the preferences which inform our market

⁶³ *Ibid.*, 24.

decisions can be wrong. The traditional assumption is that market preferences gain their normative force because they issue from the “uniquely legitimate fount of values, subjective determinations of individuals.”⁶⁴ However, this approach to the unique normative legitimacy of market preferences overlooks the possibility that individuals can have second-order preferences over their market preferences, and that these higher-order preferences may actually conflict with market preferences. In the case of voting, where one can vote in the direction of their higher-order preferences without thereby bringing about the costs associated with forgoing their market preferences, it may be that second-order, or what Brennan and Lomasky call “reflective” preferences, will more frequently come into play.⁶⁵

If this is the only way in which preferences expressed through voting may diverge from market preferences, then it may be possible to salvage the normative basis for democracy. Specifically, if voters are more likely to vote on the basis of their reflective preferences due to the indecisiveness of their votes, then perhaps they are acting more in their own interests than in those situations in which market preferences are the driving forces of their actions. “What one is likely to focus on in electoral choice is the virtue of x over y tout court – one expresses one’s assessment of the value of x qua x , with little hanging on that assessment apart from the assessment itself. Whatever grounds one might have for believing that x is to be preferred *in principle* are grounds that seem likely to secure one’s support in the electoral context.”⁶⁶ This might suffice if we were to construe individual interests more broadly, so as to include preferences based in moral considerations and not only those associated with personal wealth or utility.

⁶⁴ Ibid., 148.

⁶⁵ Ibid., 151.

⁶⁶ Ibid., 152-3.

Unfortunately, it is not necessarily the case that the preferences expressed in voting always mirror reflective preferences. Because costs are separated from choice in the act of voting, voters may be inclined to vote *less* morally than they would act in analogous market settings; “individuals may be induced to vote in a direction that *they themselves believe to be immoral* and of which they *reflectively disapprove*.”⁶⁷ This may be the case for two reasons. First of all, individuals are more likely to truly reflect and devote energy to decision-making when their actions are likely to make an appreciable difference to the outcomes and how they are affected by them. Conversely, in the voting situation, where their decisions are unlikely to be decisive, any reflection at all is likely to be minimal. Secondly, anonymity reigns inside the voting booth. As a result, individuals are able to express impulses they know to be immoral without the risk of retaliation or judgment. For example, a bar owner (we’ll call him Mr. Booze) may secretly harbor a deep-seated racism and hatred of Hispanics. Rationally, he knows this to be wrong (or at the very least unpopular), and he also knows that if he were to put a sign on his door advertising “Hispanics not welcome,” this would likely have an adverse consequence on the business at his bar. When it came time to vote, however, Mr. Booze might take the opportunity to vent his otherwise repressed feelings about Hispanics, and vote for the anti-immigration candidate without any concern about “being found out” or suffering the consequences such an expression would drive were it made in a more public setting. In market behavior, where actions are immediately followed by consequences, this is not the case. So while some individuals may be inclined to vote their conscience, rather than their own interests, others may be persuaded in the other direction. And if the democratic process drives voters to expressive extremes in both directions, then it is not the case that

⁶⁷ Ibid., 157.

it necessarily reinforces reflective preferences. It may also be the case that it undermines them.

At the end of the day, the causal connection between individual voters' interests and the outcomes of democratic procedures are too far removed to serve as normative foundation for majority rule. On the one hand, voters who vote with the intention of pursuing their interests may *intend* to do so, but this intention is not enough for them to in fact secure favored outcomes – not only is their vote not decisive, but given the prevalence of irrationality, they are likely to not be voting in the direction of their interests at all. On the other hand, voters who vote with the full knowledge that they cannot bring about favored outcomes, and so instead engage in expressivism at the polls, cannot be said to have intentionally brought about any outcome at all, since their votes were not made with the intention of driving an outcome!⁶⁸

Further Considerations

The traditional interest-based account of voting faces several problems. On the one hand, it doesn't look like rational utility-maximizers would vote at all, however we still see a level of voter turnout that is high in relation to this fact. On the other hand, if we concede that voter turnout may be related to something external to individual interest, but maintain that nevertheless the *content* of individual votes are motivated by rational utility maximization, the interest-based account still must contend with the fact that a rational utility maximizer would not devote any resources to informing herself politically, because she would be aware of the miniscule possibility of her vote having a decisive impact on the outcomes of democratic procedures. Finally, even if it *were* the case that

⁶⁸ Ibid., 171.

individuals were for some reason motivated to inform themselves politically, it turns out that most of them are not adequate to the task. A host of irrational biases obscure their true interests as well as their abilities to rationally pursue them.

The claim that interests do not play a decisive role in individual political preferences is borne out by the impact of candidate personality on the outcomes of elections and individual voter choices. Brennan and Lomasky cite several studies demonstrating the impact of candidate personality on electoral behavior, including a 1966 Stokes study which found that a candidate's personality had a greater impact on voting than either specific issues or party affiliation,⁶⁹ and a 1986 study which concluded that individual perceptions of presidential candidates were generally comprised of assessments of personality traits rather than issue positions or ideological considerations.⁷⁰

Obviously, character carries a lot of epistemic weight, or at least epistemic content. Perhaps it is the case that voters are able to use character schemas in order to determine the behavior of the candidate once in office, and perhaps they are able to do so with some level of reliability. If this were the case, then the fact that voters focus on character traits rather than on specific policy positions might buttress, rather than refute, the claim that individuals are rationally pursuing their interests through their voting.

As it turns out, this is not far from the truth. The same study demonstrated that although voter perceptions of candidates were widely formed on the basis of personality traits rather than issues positions, the character traits which were focused on were strongly correlated with important performance-related characteristics, such as integrity,

⁶⁹ Stokes 1966.

⁷⁰ Miller, Wattenberg, et al. 1986.

competence, and reliability.⁷¹ What this shows, however, is not that individuals are rationally pursuing their interests in the political sphere. In fact, it shows that individuals are not tracking their specific, policy-related interests at all. Rather, they are pursuing their interests only insofar as their interests are better promoted by individuals who appear to have “integrity, competence, and reliability” – *regardless* of their policy positions. Given that citizens track these personality features rather than particular policy preferences, we cannot ascribe to them the rational pursuit of their interest promotion unless we can demonstrate some *further* correlation between candidates with “integrity, competence, and reliability” and political positions which are in the best interests of a majority of citizens. This seems unlikely, as the implication would be that candidates associated with certain policy packages are *more* honest, competent, and reliable than candidates with opposing viewpoints. At least without further data to support such a claim, it must remain highly suspect.

A further problem confronts the interest-based theorist: if individuals really do vote on the basis of how political outcomes will affect their individual interests, then you would expect that the format of political advertising would better reflect that fact. That is, if individuals vote in order to promote their interests in political outcomes, then why doesn't the majority of political advertising focus on explaining to voters how certain policies or outcomes will increase their share of the pie? Instead, the political rhetoric we see during campaign times focus on abstract notions of the good, appealing to voters' normative conceptions, and less frequently on how policy options and party lines will impact individual citizens or groups.⁷²

⁷¹ Ibid., 528.

⁷² Brennan and Lomasky 1993, 97-8.

This is in line with the behavior we see regarding the most politically divisive issues. For example, no merely interest-based account of voter behavior could possibly account for the attitudes and strong emotions which accompany the abortion debate. There is no group to whose members we could ascribe a strong *personal* interest in the prohibition of abortion – the unborn, as the only “members” of society with a vested interest in this issue, obviously cannot vote. And yet, this issue has frequently taken over the political landscape with such a ferocity that we must be able to offer an account of *why*. The expressivist account is able to provide an answer: when individual members of a democracy participate in the political process, they are not merely working to promote their interests, they are expressing or promoting normative principles or ideals to which they subscribe.⁷³ We might make the same point with the current debate over homosexual marriage: there is no group of individuals whose economic or other physical interests will be harmed should homosexual marriage be permitted. Nevertheless, we see vociferous opposition to the prospect and countless state laws passed “protecting” the institution of marriage – suggesting that more than mere individual interests are playing a role in political behavior, a gap which needs to be filled.

An account such as the expressivist account on offer from Brennan and Lomasky can do something to quell these kinds of worries, but has a difficult time providing the normative foundation necessary for coercive authority, and so does little to aid the interest-based theorist in her predicament. And although there is not an overwhelming amount of robust quantitative data to back the expressivist claim, there is some anecdotal evidence which suggests that an account such as this one may not be too far off the mark. For example, if the public choice model is correct, and voters vote for the outcome which

⁷³ Ibid., 101.

is most likely to produce the most overall good *for them*, then it is unclear why the economic consequences of particular policy choices serve as such poor indicators of voter behavior.⁷⁴ In fact, Brennan and Lomasky cite a number of studies conducted using data from the University of Michigan's Survey Research Center, in which it has been found that there is virtually no correspondence between individual voting behavior and economic outcomes. Kinder and Kiewiet, for example, found that "voters are not egocentric in any narrow sense – they do not vote their *own* pocketbooks. Rather, their preferences follow a more collective reckoning."⁷⁵ Their findings lead them to conclude that voters act on the basis of "symbolic" politics – expressing grievances of the collective – rather than on the basis of personal interest. Similarly, Hawthorne and Jackson found that individual preferences regarding tax policies – the most clearly relevant area of policy to individual economic interests – were greatly affected by attitudes towards collective issues and "are not merely a rationalization for their own economic interests."⁷⁶ They go on to show that individuals with similar economic positions and prospects in light of policy options show widely divergent preferences across redistribution schemes and taxation structures.

One potential means of explaining this is to argue that individuals do not necessarily vote for their own, individual, interests, but rather in the interests of some group or party with which they identify. In this case, it may happen that some specific policy outcome which is in the group's overall best interest contradicts the individual's interest in that instant, but that overall the group's interests and the individual's are correlated strongly enough to warrant group identification. If this is right, however, the

⁷⁴ Ibid., 93.

⁷⁵ Kinder and Kiewiet 1979, 524.

⁷⁶ Hawthorne and Jackson 1987, 772.

interest-based theorist is left in the position of having to explain why individuals identify with the groups they do – why they do not form coalitions which *better* represent their interests.⁷⁷

Another possibility is to say that although some voters vote in their own interests, others vote to bring about some conception of the “common good.” This would be in keeping with the evidence presented above, namely, that many voters appear to be interested in collective issues rather than merely their own economic fortunes. Such a conception presents a problem, however, if it is acknowledged some voters *are* motivated to vote in the direction they perceive to be in their best interests (a claim which is also supported by the evidence above). The problem is that if some voters vote for what they see to be in the interests of the common good, and others vote for what they see to be in their own best interests, the outcome selected by the majority could very well be in neither the majority interest nor believed by the majority to be in the interest of the common good. For example, take the following scenario devised by Jonathan Wolff:

1. Suppose voters are choosing between A and B.
2. A is in the interests of 40% and B is in the interests of the remaining 60%.
3. Suppose among the electorate 80% believe B to be for the common good, while 20% believe this of A. Suppose also, that such belief is independent of interests: i.e. the A-believers and B-believers are spread evenly through the electorate.
4. Suppose, finally, that those for whom A is in their interests (the A-interest people) vote according to interest, while the B-interest people vote according to their ideas of the common good.

From these assumptions, we arrive at the disturbing conclusion that 52% of voters will vote for A, even though it is in the interest of only 40% of voters, and even though only

⁷⁷ Brennan and Lomasky 1993, 95.

20% of voters believe that A is in the interest of the common good!⁷⁸ This example, although clearly contrived specifically to make the point, still succeeds in making it: that we cannot depend on majority rule to produce either the outcome which best reflects the individual interests of the voters, *or* to produce the outcome which is in the interest of the “general good,” however conceived.

A final alternative would be to deny that the content of individual votes is ever determined by what voters perceive to be in their best interests, and instead argue that individuals vote solely upon the basis of what they take to be in the interest of the *common* good. If this were the case, then it might also happen that when everyone votes on the basis of the common good, individual interests are somehow maximized and we could still locate some normative foundation for the interest-based theory. If this is the case, we must ask what the common good is that individuals are voting on the basis of. On the one hand, the “common good” might simply refer to the aggregation of all individual interests. If that were the case, then the interest-based account would retain its normative force based in the interests of citizens. However, if we accepted the interest-based theorist’s major premise that individuals are best suited to identify and promote their own interests, it seems that this interpretation would imply that individuals should vote on the basis of their interests. This interpretation leads us back to all of the problems we have already enumerated.

On the other hand, it might be that the “common good” refers to some state of affairs which exists independent of, or in addition to, the interests of individual citizens. Such an interpretation might absolve the interest-based theorist from having to provide an account of how rationally abstaining, rationally ignorant, cognitively biased individuals

⁷⁸ Wolff 1994, 194.

are actually capable of identifying their interests and promoting them in the democratic marketplace of the voting booth, but it turns out that this option also does not work. This is because of the deeper, conceptual problem with any account of democracy which claims that the outcomes of majority rule in some way reflect the interests of voters or any other identifiable value – including the “common good,” however construed.

Deeper Problems

The interest-based justification cannot carry normative weight, precisely because of what has been shown in groundbreaking work done by Kenneth Arrow, Richard McKelvey, and William Riker demonstrating that the outcomes of majority rule decision-making are ultimately meaningless in terms of their relationship to the initial inputs (i.e. votes or voter preferences).

William Riker’s groundbreaking 1982 work demonstrated that for any system of voting, if it satisfied the basic requirements of procedural fairness, the outcome would be “meaningless.” This meaninglessness indicates that the outcomes of the voting system are unrelated to the interests of the members of society, as expressed through the voting mechanism. (An outcome would be “meaningful,” in contrast, if the outcome could be interpreted to be in direct relationship to the interests or preferences or intentions of the individual voters.)⁷⁹ Riker’s point that the outcomes of voting procedures are meaningless can be demonstrated with the help of the voting paradox. Imagine a set of alternatives (candidates, policy outcomes, etc.), x , y , and z . Now imagine that society divides evenly into three groups, with the following preference orderings across all of the options:

⁷⁹ Riker 1982, 115.

1. $x > y > z$
2. $y > z > x$
3. $z > x > y$

Now say that we have a method of determining outcomes which compares preferences orderings pairwise and takes the winner to be that outcome with majority support. So we compare outcomes x and y first: x wins because in two out of three cases (or two thirds of our population), x is the preferred outcome. Next, we compare x and z . In this case, z wins because z is preferred to x by two thirds of our population. It looks like our decision procedure has netted a winner: z ! But the observant will notice that this is not enough. For we have not compared z to y , and it turns out that two thirds of our population prefers y to z .

The problem the voting paradox generates is a cyclic majority: there is no outcome in this scenario which is not inferior to another option on two thirds of the population's view. The voting paradox shows the potential difficulties in settling on a proper democratic procedure: whichever pairwise comparison we choose to evaluate first, we will end up determining arbitrarily what the outcome will be. This is doubly dangerous when we consider the potential for agenda manipulation – the possibility that an individual or powerful group could manipulate the way in which decisions are made (for example, by altering the order in which we made pairwise comparisons) in order to control the outcomes. The voting paradox is but a symptom of a greater problem, however, which is that the outcomes of majority rule are themselves ambiguous. Whatever procedure is chosen for aggregation, we could produce a different result with a different procedure –even if we limit ourselves to aggregation rules which are procedurally fair. Given a set of voter preferences, a cardinal utility comparison

(Bentham winner) will diverge from the winner of ordinal pairwise comparison (Condorcet winner), which will again diverge from the winner of a Borda count, which assigns decreasing point-values to outcomes based on their preference ranking, with the lowest-ranking alternative scoring 0 for that voter.

Take the following example from Riker: Voters rank potential outcomes a through e in order of their preference, and the resulting distribution is as follows (with the cardinal utilities assigned to the various outcomes by the voters in parentheses):

Rank Order	Voter 1	Voter 2	Voter 3	Voter 4	Voter 5
1 (Highest)	a (1.00)	d (1.00)	e (1.00)	b (1.00)	b (1.00)
2	d (0.90)	a (0.61)	c (0.80)	d (0.90)	e (0.96)
3	b (0.60)	b (0.60)	a (0.70)	a (0.75)	c (0.70)
4	c (0.55)	e (0.59)	b (0.55)	e (0.74)	a (0.60)
5 (Lowest)	e (0.50)	c (0.50)	d (0.50)	c (0.50)	d (0.50)

Given this hypothetical distribution of preference rankings, outcome b is the plurality winner, as it occupies the highest ranking for 40% of voters (with outcomes a , d , and e tied for second with 20% each). The Condorcet winner, however, is outcome a : in a pairwise comparison with each of the other alternatives, a wins. Finally, the Bentham winner – determined by additive cardinal utility – is outcome d , with a total utility of 3.80 (outcomes b and e are tied for second with a total utility of 3.75 each).⁸⁰

This all seems a bit contrived, but in fact there is good historical evidence to suggest that the instances in which this problem has been relevant have not been

⁸⁰ Ibid., 36-40.

infrequent. Looking at the 39 U.S. presidential elections from 1824-1976, the outcomes of 14 of them (39%) could have been different if voters who had chosen the third place candidate had been forced to choose between one of the two who were more popular - a process known as “reallocation” which is frequently used in party caucusing in individual states. In another four elections in the same time span, a third candidate received 5% or greater of the popular vote. In these cases, the very presence of a third candidate may have motivated strategic voting on the part of many, in which case some meaningful proportion of voters may have voted against their primary preference – undermining the claim to unique legitimation for these outcomes, as well. This suggests that 18 of 39 U.S. presidential elections – 46% – may have turned out differently had we only utilized a different aggregation method than that which was actually used.⁸¹

Perhaps, however, we can distinguish between the different aggregation methods on the basis of which is more likely to satisfy the interests of more voters. What looks to be the best way to avoid the kinds of cycles referred to earlier is to limit the democratic procedure to simple majority voting over two alternatives. This form of simple majority decision has the important properties of monotonicity (adding a vote to a winner cannot make it a loser), anonymity (*who* cast which votes has no impact on the outcome), and neutrality (the aggregation rule is neutral between outcomes). As it turns out, simple majority decision across two alternatives is the *only* aggregation rule which can satisfy all three of these criteria simultaneously. Unfortunately, if we want a decision procedure that is actually responsive to the interests of voters, simple majority voting over two alternatives is the *least* likely to be the one that we want. Binary choices are the least

⁸¹ Ibid., 22-4.

representative of the interests of citizens, and any limitation of outcomes to two will, by definition, leave all divergent interests without any possibility of representation at all.

Once we move to three or more alternatives, however, we not only run into the kinds of problems highlighted above, but additional problems such as those demonstrated by Arrow and McKelvey. In the 1960's, Kenneth Arrow showed that when there are more than two options, no aggregate preference ordering can be obtained across individual voters when minimal requirements are in place, such as non-dictatorship and Pareto efficiency.⁸² Arrow designates several criteria which describe a fair voting procedure: universal admissibility (individuals may choose *any* of the possible preference orderings); Pareto optimality (if everyone prefers *x* to *y*, the outcome of the aggregation procedure may not be *y*); monotonicity (adding a vote to a winner cannot make it a loser); non-imposition (it cannot be the case that the outcome will be the same no matter what individual voters choose); independence from irrelevant alternatives (the same preference distribution will generate the same outcome on every iteration); and non-dictatorship (no one person's favoring *x* will result in *x* being chosen no matter what the remaining distribution of preferences is). *Any* method of aggregation which simultaneously satisfies each of these criteria will result in an intransitive ordering in the outcome of aggregation.⁸³

Further work in this area by Richard McKelvey demonstrated the highly disturbing fact that given a set of more than two policy alternatives, we can generate any

⁸² Arrow 1963.

⁸³ Many theorists have attempted to refute the relevance or importance of one or more of these criteria. Although such a discussion would take us too far off course, interested readers might look to Riker 1982, pp. 115-35 for a convincing defense of Arrow in the face of these objections. One important line of argument for our purposes is that which claims that the cyclic problem is not practically significant, as cycles are rare. Riker makes a convincing case that they may be rare regarding trivial issues, but are much more frequent on important, ideological political issues. These greater political questions are, of course, the very ones with the potential to affect the greatest quantity of constituent interest-fulfillment.

policy outcome included in the set, via a sequence of majority-approved decisions. What this means is, given some distribution of preference-orderings across more than two policy outcomes across the population, we can legitimately get to any set of policies included in the preference orderings from any other, with a series of majoritarian votes. This is a more damaging result of cyclic voting, and the implication is that policy outcomes are not at all constrained by the requirement that each policy change be approved by a majority of voters!⁸⁴ For the interest-based account, this means that the real interests of voters have no impact on the outcomes of majority-rule decision-making. Given a set of individual interests, any policy outcome can be reached if the steps are taken *in the appropriate order*. Moreover, this results shows that those who control the legislative agenda hold the *true* power in determining the outcomes of elections: strategic agenda-setting can determine the outcomes of majoritarian decision-making *a priori*.⁸⁵

Ultimately, then, democratic decision making cannot be said to best fulfill the interests expressed by voters at the voting booth, because the results of democratic decision making are almost always meaningless and arbitrary, determined by factors wholly external to the motivations behind individual votes – be they individual interests or the collective good. Even if the common good explanation for voter behavior could sidestep all of the objections raised on the basis of voter rationality and irrationality, it would still have to contend with the fact that democratic outcomes are ultimately arbitrary. Riker himself goes on to claim that in light of the meaninglessness of voting outcomes, the value in democracy is that it allows the population to occasionally oust leaders who have gone too far or overstepped their bounds. This is a weak foundation

⁸⁴ McKelvey 1976, 472.

⁸⁵ Coleman and Ferejohn 1986, 11.

upon which to base a system of rule, however, and it is unclear that such an argument uniquely grounds democracy as the correct choice out of the alternatives. Recent events in Egypt, for example, demonstrate that even a dictatorship can be overthrown when things have gone too far.⁸⁶

Alternative Construals of “Interests”

Given the myriad empirical and conceptual challenges to a justification of democracy grounded in the interests of citizens, it is not surprising that some theorists have attempted to characterize “interests” along alternative lines. For example, Richard Arneson agrees that majority rule is likely to protect the interests of more people than alternative systems of rule,⁸⁷ but his construal of interests is far more narrow than the social choice position I have so far considered. Rather than taking democracy to protect the broadly construed interests of citizens, Arneson focuses on the protection of fundamental rights. Democratic rights – such as enfranchisement or the right to stand for office – serve to protect the more fundamental rights which are taken by Arneson to be requirements of justice, such as freedom of speech, individual liberty, and certain egalitarian rights to material resources.⁸⁸ According to Arneson, the protection of these rights serves as “the most natural and compelling justification of political regimes of substantive constitutional democracy.”⁸⁹

Arneson’s argument is based on the central Millian tenet that one person does not have the moral right to exercise power over another. The exception to this rule is the case

⁸⁶ Al Jazeera 2011.

⁸⁷ Christiano 2003b, 7.

⁸⁸ Arneson 2003, 95.

⁸⁹ Ibid., 96.

in which A exercises power over B, but does so in the interests of B, or in furtherance of B's fundamental rights. Arneson argues that we cannot design a non-democratic means of identifying individuals who will reliably observe this maxim, and that therefore democracy is our second-best alternative.⁹⁰ Note the implicit instrumentality of this claim: democracy is justified as a system of rule *only* insofar as it safeguards fundamental rights to a greater extent than the alternatives available. And as democracies go, it is the constitutional democracy which is best able to protect democratic rights, and therefore the more fundamental rights which Arneson takes to be our basic interests for the purposes of justifying coercive authority.

The bulk of Arneson's argument, however, is in support of strong judicial review. Since the protection of fundamental rights provides the ultimate justification for democracy, the non-majoritarian operation of the judicial branch to protect those same basic rights is justified. Likewise, the limitations to majoritarianism based in a strong constitution are justified for the same reason. In order to make this argument, however, Arneson has to acknowledge that majoritarian rule endangers those fundamental rights, which he does: "the danger in majority rule is rights violations inflicted on minorities and the danger in any form of minority rule is rights violations inflicted on the majority. *Ceteris paribus*, the latter is worse,"⁹¹ but the former is still a legitimate concern, and grounds for constitutional protections and judicial remedies.

The force of this argument seems terribly misplaced to me. Ultimately, Arneson argues the following:

⁹⁰ Ibid., 99.

⁹¹ Ibid., 99.

1. Protecting fundamental rights is the most important function of a system of rule.
2. A democracy without constitutional and judicial protection is likely to endanger those rights.
3. A democracy with constitutional and judicial protection can better protect those rights than a non-democratic form of rule.
4. Therefore, democracy serves the most important function of a system of rule and is justified.

The disconnect is in the jump from premise (3) to the conclusion in (4). The fact that a democracy with constitutional and judicial protection can serve this function says nothing about the ability of democracy *simpliciter* as a system of rule to do so. And in fact, it is Arneson's own acknowledgment that majority rule *endangers* these fundamental rights which launches him on his defense of strong judicial review and constitutionalism. The correct conclusion must then be that constitutional protection and strong judicial review provide the necessary framework for a system of rule. The validity of *democracy* as the most justified system of rule is not spoken to. Thus it becomes unclear why pairing constitutional protections with this form of rule rather than with some alternative is the recommended outcome. Arneson claims that "no one has rights to placement in social roles that allow one to exercise power over other human beings without first obtaining their consent unless such exercise of power best promotes fulfillment of the fundamental rights of the people over whom power is exercised together with one's own fundamental rights,"⁹² however he nowhere backs up the claim that democracy is better able to limit power to these circumstances than potential alternatives.

⁹² Ibid., 96-7.

Hopes for the Interest-Based Theorist?

Given the evidence presented here regarding the abilities of individuals to rationally pursue their interests in the marketplace of ideas, it is not clear what other route the interest-based theorist could take. Any account of the legitimacy of democracy which grounds that legitimacy in the instrumental value of individual votes to the voters placing them will have to contend with the kinds of issues presented here.

Further, and perhaps more importantly, any instrumental account will rely for its validity on the value of the *outcomes* of democratic decision-making. Regardless of how we construe that value, then, the democratic process has to be producing outcomes which track *something*. But given the works of Arrow, McKelvey, and Riker, there is a great body of evidence demonstrating that the outcomes of democratic decision-making are not reflective in any meaningful way of the inputs. The end result is that the role of the voter in producing outcomes which are valid *on some instrumental basis* is minimal at best, and does not clearly establish democracy as the sole, or even the best, legitimate form of government. This is a concern which will persist no matter how we construe the instrumental benefit that democracy is intended to produce, and the implication is that interest-based theories of democracy which predicate legitimacy on the connection between voter inputs and democratic outputs must be abandoned.

In light of these difficulties, I now turn to the quasi-instrumental, quasi-intrinsic deliberative account of democracy, in order to determine if limits to individual rationality might be less damaging to such an account.

CHAPTER 3 DELIBERATION

In the previous chapter, I argued that instrumental accounts which predicate democracy's legitimacy on the idea that voters are able to pursue or promote their interests through their inputs at the polls are ultimately hopeless in light of the ways in which electoral outcomes can be manipulated to produce almost any results. However, interest-based accounts are not the only instrumental theories of democratic legitimacy. Perhaps the most widespread and popular account of democratic legitimacy, deliberative democratic theory relies for its validity on both instrumental and intrinsic considerations in equal parts. On the one hand, deliberative democracy is centered on the ideal of political justification, which is a procedural consideration that speaks more towards the intrinsic value of democracy than to the value of its outcomes.⁹³ On the other hand, the diverse body of deliberative theories all appear to rely crucially on certain instrumental claims regarding the types of outcomes deliberative democratic procedures are likely to produce. Because these instrumental benefits are argued to arise through the deliberative process rather than as a result of the act of voting, deliberative theorists escape the kinds of empirical challenges which proved so detrimental to interest-based accounts in the preceding chapter.

Although deliberative accounts of democracy can vary widely, part of the aim of this chapter is to identify what core features of deliberation are relied upon by all deliberative theorists. My intention is to identify the shared foundations of these accounts through a focus on the theories of Jürgen Habermas and Joshua Cohen, as well as a less thorough examination of other theorists from this school of thought. However,

⁹³ Cohen 2009b.

there is a larger question I am interested in throughout, and that is, to what extent do these core features of deliberation rely for their validity upon dubious empirical assumptions regarding the actual capacities of political citizens and deliberating bodies. In identifying the core substantive principles upon which this approach to democracy is grounded, I hope to show in what sense the deliberative democrat is predicating her account on implausible assumptions about the actual capacities of individual participants in political decision-making as well as those of deliberating groups more generally.

Deliberative Democracy

Theories of deliberative democrats vary; however, at the heart of deliberative theory is an acceptance of the core democratic principle that collective decision-making should be undertaken with the participation of all of those who will be affected or governed by the outcomes of the decision-making process, as well as a deeper subscription to the idea that such decision-making should be conducted on the basis of reasons and justifications which are given by and directed to participants in deliberation “who are committed to the values of rationality and impartiality.”⁹⁴ Precisely how theorists fill out this picture differs from one account to the next, however there are four core commitments upon which all claims to the legitimacy of deliberative democracy tend to rest, and it is these commitments on which I will focus my critique.

The most important characteristic of the deliberative conception of democracy, already mentioned, is what Gutmann and Thompson refer to as the *reason-giving requirement*. That is, in the course of collective political decision-making, citizens and their representatives should publicly base their positions upon reasons which all

⁹⁴ Elster 1998, 45-52.

individuals committed to deliberation are unable to reasonably reject. Political legitimacy is in large part predicated on the idea that laws must be justifiable to those who will be governed by them.⁹⁵ Deliberative democracy institutionalizes this ideal through the notion of political justification, cashed out by means of a deliberative *process* that involves public argument and reasoning among citizens in the determination of political outcomes.⁹⁶

The reason-giving requirement itself finds its normative foundation in the second commitment, to the democratic ideal of self-rule or political autonomy. The deliberative process is thought to promote and protect the autonomy of political subjects, by placing the focus of political decision-making on a reasons-based interaction among those who will be affected by political decisions. The deep commitment to political autonomy or self-rule is one characteristic of deliberative democracy that seems to be universally present across the varied accounts within this field. Consider, for example, the following excerpts from deliberative democrats of various breeds:

[T]he autonomy of citizens and the legitimacy of law *refer* to each other... The only legitimate law is one that emerges from the discursive opinion- and will-formation of equally enfranchised citizens. The latter can in turn adequately exercise their public autonomy, guaranteed by rights of communication and participation.⁹⁷

Beginning, then, from the formal ideal of a deliberative democracy, we arrive at the more substantive ideal of an association that is regulated by deliberation... that respects the autonomy of the members.⁹⁸

The moral basis for [the] reason-giving process is common to many conceptions of democracy. Persons should be treated not merely as objects of legislation, as

⁹⁵ Gutmann and Thompson 2004, 3-4.

⁹⁶ Cohen 2009a, 21.

⁹⁷ Habermas 1996, 408.

⁹⁸ Cohen 2009a, 28.

passive subjects to be ruled, but as autonomous agents who take part in the governance of their own society.⁹⁹

The basic appeal of this foundation in autonomy is the very same that grounds a commitment to democracy itself, the notion that political legitimacy is closely linked with self-governance. However, the autonomy the deliberative democrat wishes to promote is substantive, in line with the traditional Western conception of autonomy as being directed by one's own goals, desires, and characteristics which are not externally imposed, but rather are a manifestation of one's "authentic self."¹⁰⁰ That is to say, truly autonomous decisions are formed on the basis of reasons, without influence from external factors.

Two paradigm examples of external influences on autonomous decision-making are adaptive and accommodationist preferences. An individual would have adaptive preferences if her preferences were to change on the basis of changing circumstances without the agent deliberately contributing to the change in her preferences – for example, a woman who has accustomed herself to life in a society in which the systematic oppression of women is the norm may unconsciously revise her preferences in light of the social reality that certain options are unavailable to her. In contrast, she would have accommodationist preferences if she *deliberately* changed her preferences, but did so in response to a circumstance in which her initial preferences were unlikely to be met due to her being in a position of subordination. The popular example is that of a Stoic slave, who intentionally cultivates in herself preferences which will not be frustrated as a result of her station in life. Deliberative democrats argue that political deliberation minimizes the effects of such external influences, and fosters autonomy

⁹⁹ Gutmann and Thompson 2004, 3.

¹⁰⁰ Christman 2009.

through its recognition of all participants to the deliberative process as full members of equal standing within the deliberation. Adaptive preferences are thought to be eliminated through deliberation's requirement that all parties state their reasons for the policies they support. Since adaptive preferences are formed unconsciously and without a basis in reasons which can be expressed, the deliberative requirement of public reasoning discourages the formation or retention of such preferences. Likewise, accommodationist preferences are said to be addressed and minimized through the recognition of the deliberative capacities of all participants and a strong focus on equality within deliberation, thus neutralizing relations of power and subordination during the process.¹⁰¹

It may seem unclear in what way such power relations are "neutralized" through the deliberative process. The answer to this question resides with the third normative commitment of the deliberative democrat, which is a strong emphasis on a deep substantive equality. The deliberative process is intended to be one in which everyone can participate and have an equal ability to contribute to the outcomes of political decision-making. The reason-giving requirement plays a large role here, too: because deliberation is conducted on the basis of reasons, the types of influence which are often seen to undermine equality (such as money, political power, etc.) should not have the same pernicious effect that they can in the bargaining scenarios which characterize non-deliberative forms of democratic rule. Every participant in the deliberative process can offer reasons for or against policies, propose topics or issues for deliberation or legislation, and have an equal voice in the ensuing debate, and the results of the decision-making procedure must be capable of being justified on the basis of reasons which are

¹⁰¹ Cohen 2009a, 27-8.

accessible to all.¹⁰² Like the foundation in autonomy, the argument for deliberative democracy's respect for substantive equality is present across theorists:

Deliberative democracy requires a particular, relatively complex sort of equality. Given our stress on the uncertainty of outcomes produced by democratic arrangements, such arrangements obviously cannot require equality of outcomes. Democracy, then, requires some version of equality of opportunity. More specifically, democratic deliberation requires *equal opportunity of access to political influence*.¹⁰³

The discourse principle, which is supposed to secure an uncoerced consensus, can thus be brought to bear... through procedures that *regulate* bargaining from the standpoint of fairness. In this way, non-neutralizable bargaining power should at least be disciplined by its equal distribution among the parties. More specifically, the negotiation of compromise should follow procedures that provide all the interested parties with an equal opportunity for pressure, that is, an equal opportunity to influence one another during the actual bargaining, so that all the affected interests can come into play and have equal chances of prevailing.¹⁰⁴

In ideal deliberation parties are both formally and substantively *equal*. They are formally equal in that the rules regulating the procedure do not single out individuals. Everyone with the deliberative capacities has equal standing at each stage of the deliberative process... The participants are substantively equal in that the existing distribution of power and resources does not shape their chances to contribute to deliberation, nor does that distribution play an authoritative role in the deliberation.¹⁰⁵

It is important to see that the kind of equality at issue here is not the mere formal equality that characterizes the aggregation of votes, with one vote per person, which is often characterized by legislative bargaining, undermining any claim to substantive equality among citizens from widely disparate economic backgrounds. The deliberative process itself is argued to have a negating effect on the influence of inequalities in economic, social, and political power among participants, resulting in a system in which all

¹⁰² Ibid., 24-5.

¹⁰³ Knight and Johnson 1997, 280 (original emphasis).

¹⁰⁴ Habermas 1996, 166-7 (original emphasis).

¹⁰⁵ Cohen 2009a, 24 (original emphasis).

participants have an equal opportunity to influence the outcome of political decision-making, regardless of their social or economic position.

The final shared commitment among deliberative democrats is a shared belief in some kind of epistemic value to deliberation itself. This epistemic value is manifested in the production of substantively *better* outcomes. Although this is an aspect of deliberation to which theorists' commitments vary widely, most deliberative accounts affirm in some way that the outcomes of deliberation will actually be superior to the outcomes of mere procedural aggregation or bargaining, including along rational and epistemic lines.

The idea here is that the use of deliberation will generate better information or a better ability to use relevant information in the making of political decisions. Deigo Gambetta, for example, argues that deliberation can spur the imaginations of deliberators, leading to proposals involving new solutions to shared problems, and further, that deliberation “can render the outcomes of decisions Pareto-superior by fostering better solutions.”¹⁰⁶ James Fearon makes a similar claim when he argues that public deliberation can lead individual participants to share information they have which otherwise would not have come to light in decision-making, thereby broadening the epistemic foundation from which decisions are taken. He goes on to argue that conditions of rational discussion can help deliberating groups to break out of “bounded rationality” – the fact that we have a limited capacity to imagine new solutions to problems – and derive new or imaginative approaches to familiar issues.¹⁰⁷ Finally, Amy Gutmann and Dennis Thompson concede that “any adequate theory” of deliberative

¹⁰⁶ Gambetta 1998, 24.

¹⁰⁷ Fearon 1998, 45-52.

democracy must recognize an epistemic function to deliberation; a procedure which produced bad outcomes would fail to manifest the kind of equal respect required: “because the stakes of political decision-making are high, and deliberation is a time-consuming activity, a deliberative process should contribute to fulfilling the central political function of making *good* decisions and laws.”¹⁰⁸ Later I will discuss David Estlund’s argument that the theories of Habermas and Cohen are both implicitly committed to similar claims regarding the privileged status of the outcomes of deliberation.

Although theorists’ claims regarding the epistemic value of deliberation vary widely, the important thing to note in each case is that the outcomes of deliberation are claimed to be *better* in some way than political outcomes absent the kind rational discussion emphasized by deliberative theories. The superiority of outcomes is due to access to a wider base of information, or the use of a procedure which harnesses more imaginative power, or else due to reliance on a method of decision-making which is restricted to *rational* considerations.

Although deliberative theories of democratic legitimacy vary widely, I have argued that there are at least four core normative commitments to which all deliberative theorists ascribe to a greater or lesser extent. Because I do not have space to engage with all of the field of deliberative theory, the above commentary is intended to demonstrate that the objections I will raise in the remainder of this chapter are relevant to deliberative theory in all of its various forms. Given that the preceding has taken the form of a broad outline of the normative commitments of deliberative democrats, I would like now to turn

¹⁰⁸ Gutmann and Thompson 2004, 22 (emphasis added). The full context of this quote makes it clear that Gutmann and Thompson’s use of the word “should” here is normative and not merely predictive or descriptive.

to two specific theories. My hope is to provide a more comprehensive picture of deliberative democracy in order to give the reader a fuller understanding of the structure of deliberative arguments for legitimacy. The theorists I have chosen to discuss are the most influential accounts, and are thereby intended to be representative of the major streams of deliberative theories. That said, they are by no means intended to exhaust the theoretical possibilities open to deliberative democrats.

Habermas

Although historically, political deliberation finds support as far back as ancient Athens, discussion was traditionally confined to small subsets of the population, such as experts, the wealthy, or the most educated.¹⁰⁹ As a result, deliberation was tainted with a decidedly *un*-democratic connotation. It was not until Jürgen Habermas developed his discourse theoretic account of democracy that we saw a contemporary unification of deliberation and fully-enfranchised democracy.¹¹⁰

Habermas approaches his project with the goal of reconciling the normative and factual bases of political legitimacy. On the one hand, a theory of democracy must account for the fact that individual citizens within the state take the legitimacy of the political system for granted, and as a result generally obey the laws. On the other hand, mere *de facto* legitimacy does not provide a *normative* basis for the coercive enforcement of law. Therefore, an account of democracy must also provide a substantive basis for legitimacy. The discourse theoretic account Habermas offers is intended to meet both of these requirements.

¹⁰⁹ See, for example, Aristotle 1984, book III; Mill [1861] 1977.

¹¹⁰ Habermas 1996.

Habermas bases his discourse theoretic account on what he calls the *discourse principle*:

D: Just those action norms are valid to which all possibly affected persons could agree as participants in rational discourses.¹¹¹

The discourse principle is supposed to provide the basis for a political association among free and equal persons. Through the discourse principle, Habermas arrives at a procedural account of democracy: the institutional structure of decision-making, and the laws which it produces, must be capable of being generated through a certain kind of rational decision-making process which takes into account the equality and autonomy of all involved. The discourse principle embodies the requirement that institutional rules and legal norms are justified only if equal consideration is afforded to the interests of all who are involved, out of respect for their individual autonomy.

The discourse principle followed to its logical consequents generates a robust system of rights, the upshot of which Habermas argues is the legitimacy of democratic procedures. The basic right to the “greatest possible measure of equal individual liberties” is the only conception of general liberties which could be rationally agreed to by all of those affected, and robust due process rights would also be required in order to ensure that those liberties were protected. Membership rights in the political association are likewise necessary in order to ensure that the political decisions which are generated continue to be acceptable to all and that some individuals don’t find themselves arbitrarily excluded from the rights and benefits which accrue to members of the state.¹¹² These rights taken together, however, do not yet guarantee the *political* autonomy, or

¹¹¹ Ibid., 107.

¹¹² Ibid., 122.

self-rule, that is necessary to take into account the interests of all citizens. Therefore, a basic right to an *equal opportunity to participate* in the process of what Habermas calls “opinion- and will-formation” (the deliberative process itself) is also necessary.

It is in this sequence of rights generation that Habermas locates the normative basis for deliberative democracy as a form of rule. The deliberative aspect is essential, as it is through deliberation that the equality of individual interests is manifested. The focus on discussion is intended to reduce the impact of monetary and administrative power, since a deliberative consensus is required and sought, rather than a mere aggregation of votes in which a majority achieved through bargaining can prevail. The substantive equality of participants in a deliberative democracy is exemplified by the *ideal speech situation*, within which participants arrive at legitimate rules for society:

1. Every subject with the competence to speak and act is allowed to take part in a discourse.
2.
 - a. Everyone is allowed to question any assertion whatever.
 - b. Everyone is allowed to introduce any assertion whatever into the discourse.
 - c. Everyone is allowed to express his attitudes, desires, and needs.
3. No speaker may be prevented, by internal or external coercion, from exercising his rights as laid down in (1) and (2).¹¹³

Habermasian discourse theory offers a blend of actual normative constraints on legislation and hypothetical norms for the discursive process. On the one hand, the conditions of freedom and equality for citizens seem to be presented as substantive constraints on the actual generation of law, as when he states that “the only legitimate law is one that emerges from the discursive opinion- and will-formation of equally

¹¹³ Habermas 1990, 89.

enfranchised citizens”¹¹⁴ and that “the negotiation of compromise should follow procedures that provide all the interested parties with an equal opportunity for pressure, that is, an equal opportunity to influence one another during the *actual* bargaining.”¹¹⁵ Together, these conditions provide the normative foundation for a system of rule. On the other hand, the ideal speech situation and its attendant restrictions on the kinds of rules which can be generated require not that legislation *actually* be generated through the deliberative procedure, but only that it *could* be: “only those statutes may claim legitimacy that can meet with the assent of all citizens in a discursive process of legislation.”¹¹⁶ Habermas seems to be saying that the only limit to legitimate regulation is that it must be *capable* of gaining the assent of all citizens in a rational discursive process. The actual historical generation of the regulation does not, itself, play a justificatory role. So while deliberative democracy appears to generate societal norms that can meet the substantive requirement of the discourse principle, Habermas does not seem to demand that the deliberative process itself be present in an actual society; merely that the outcomes of whatever procedure is in place mirror the outcomes of hypothetical deliberation within the ideal speech situation.

What is the practical upshot for Habermas, then? What implications does this theory have for our actual political arrangements? It seems like the normative requirements can only be cashed out in light of some additional, practical requirement that our actual political system in some way approach the ideal to as great an extent as possible. In the absence of such a functional demand, discourse theory lacks the practical power necessary to a feasible political theory. While Habermas apparently lacks this

¹¹⁴ Habermas 1996, 408.

¹¹⁵ *Ibid.*, 166-7 (emphasis added).

¹¹⁶ *Ibid.*, 110.

additional element, Joshua Cohen has taken this approach one step further, and situated within the deliberative context a practical requirement of the kind we are looking for.

Cohen

While Habermas relies upon the ideal speech situation to evaluate the outcomes of deliberative democracy and their reasonable justifiability, Joshua Cohen builds upon this construct to propose an ideal deliberative *procedure*, which he argues must be imitated as far as possible by actual democratic institutions:

The notion of a deliberative democracy is rooted in the intuitive ideal of a democratic association in which the justification of the terms and conditions of association proceeds through public argument and reasoning among equal citizens. Citizens in such an order share a commitment to the resolution of problems of collective choice through public reasoning and regard their basic institutions as legitimate insofar as they establish the framework for free public deliberation.¹¹⁷

Whereas Habermas seeks to evaluate political outcomes on the basis of whether or not they *could* have been generated from within the ideal speech situation, Cohen's approach is much more grounded in reality: he wants to evaluate the legitimacy of political institutions insofar as they *actually* resemble the ideal deliberative procedure: "the ideal deliberative procedure is meant to provide a model for institutions to mirror."¹¹⁸ This procedure is characterized by four features. First, deliberation must be free in two ways: citizens must be bound only by the outcomes of their deliberation and any necessary preconditions for that deliberation, and they are free (and assume themselves to be free) to act on the outcomes of those deliberations. Second, deliberation should be reasoned in that all proposed outcomes should be backed by reasons and attacked by reasons – all of

¹¹⁷ Cohen 2009a, 21.

¹¹⁸ *Ibid.*, 23.

which are public in the sense that they are accessible to all. Third, the participants in the deliberation must be formally and substantively equal, in the manner outlined above. And finally, the aim of rational deliberation must be to arrive at a consensus. Even though a consensus may not always, or even frequently, be the outcome of deliberation, the fact of entering into deliberation with consensus as an actual goal will generate different outcomes than a mere aggregation of non-deliberative preferences (before or after bargaining), as the goal of consensus will motivate a discussion based on “a free and reasoned assessment of alternatives by equals.”¹¹⁹ Actual political arrangements are seen to be legitimate to the extent that they approximate this ideal.

One distinctive feature of Cohen’s deliberative account is his explicit emphasis on common good reasoning in deliberation as one of the primary features of deliberative democracy. Using Rawls’ notion of a well-ordered democracy, Cohen argues that political debate should be organized in a manner that recognizes the presence of alternative conceptions of the public good, and that because of this pluralism of views of the common good, political debate should not be conducted on the basis of self- or group-interest. Recall that one of the core commitments of the deliberative democrat is the reason-giving requirement, a commitment to public deliberation on the basis of reasons that are accessible to all political participants: “outcomes are democratically legitimate if and only if they could be the object of a free and reasoned agreement among equals.”¹²⁰ Additionally, deliberation should be conducted with the goal of securing agreement among all participants to the deliberation. Cohen reasons that if deliberators are truly committed to reaching a consensus, then they will realize that they cannot offer self-

¹¹⁹ Ibid., 25.

¹²⁰ Ibid., 23.

interested reasons for their political preferences. Citizens being limited in this way regarding the arguments they bring to public deliberation, the deliberative process will eventually function to shape the content of citizen preferences: “the discovery that I can offer no persuasive reasons on behalf of a proposal of mine may transform the preferences that motivate the proposal.”¹²¹ So while initially, individuals will attempt to offer public reasons for outcomes which are actually preferred on the basis of self-interest, the deliberative process will ultimately shape their preferences and common good reasoning will dominate both public deliberation as well as individual political preferences. The common good, then, ends up being comprised of precisely those interests and aims which survive the deliberative process because after reflection they are considered legitimate to appeal to in making claims on public resources.

This approach captures two of the most important aspects of deliberative democracy: that deliberation should be responsive to “no force except that of the better argument,”¹²² and that the parties to deliberation should be substantively equal in terms of the voice they have in the decision. That said, it is not an approach which is adopted by all deliberative democrats. This is, in fact, one of the ongoing disputes among deliberative democrats – whether consensus must be met on a comprehensive common good (what Gutmann and Thompson call a *thick common good*), or if there need be only agreement on basic principles along with a recognition of pluralism as intractable and a more modest goal of fair cooperation among competing conceptions.¹²³ Although his insistence on common good reasoning does make Cohen more vulnerable to certain objections to which other accounts are less susceptible, this aspect of Cohen’s theory is

¹²¹ Ibid., 25-7.

¹²² Habermas 1975, 108.

¹²³ Gutmann and Thompson 2004, 26-7.

not where I will focus my objections. Alternative conceptions of deliberative democracy which do not admit of this theoretical commitment should be equally vulnerable to the arguments presented below, especially insofar as they all espouse a commitment to the need for individuals to make arguments on the basis of reasons which all can accept – a commitment which is, as far as I can tell, universally accepted by deliberative theorists. The fact that I have relied upon Cohen’s account is due only to its being the most well known, and does not mitigate the impact of the empirical findings I present on the breadth of deliberative theories.

A Wrench in the Gears: The Empirical Realities

The ideal of deliberative democracy is complex, and involves many factors which must come together in order to manifest the reason, equality, and autonomy that are at the root of its intuitive appeal. The importance of these aspects of deliberative democracy cannot be overemphasized. The notion of autonomy takes on a more substantive meaning than traditional democratic conceptions of self-rule, for which a procedural voice might suffice. There is an implicit extension of the notion of autonomy to include the ability to partake in the deliberative process with other rational members of the political community in attempting to derive the shared rules for society.¹²⁴ The implication is that autonomy includes the ability to reason with others in a productive manner. On the other hand, equality also plays a central role in deliberative politics. The requirement that reasons be acceptable to all implies that both individuals and their interests are equal, such that each person’s ability to accept the rational basis for policy decisions plays a decisive role. The ability of each individual to take part equally in the deliberative

¹²⁴ Rosenberg 2007, 339.

process is also a pre-requisite for substantive autonomy: To the extent that any individual is able to exercise a less-than-equal say in the deliberative process, her political autonomy is compromised, demonstrating the interconnectedness of these key theoretical values.

What all of this implies is that although the substantive ideals referred to by the deliberative democrat can be discussed independently of one another, there is a complex interaction between all of the normative facets of this kind of theory. In the following sections, I have attempted to address first the epistemic claims made by deliberative democrats, followed by an analysis of the plausibility of the requirements for autonomy and substantive equality. When considering these components in light of empirical findings, however, it would be near impossible to completely separate them. It is often the case that the empirical evidence which undermines one of these important aspects of deliberative theory also speaks to others. (For example, concerns regarding the arbitrary influence of order of speakers on the outcomes of deliberation is mentioned primarily as undermining the claim that deliberation provides a privileged route to what is ultimately a better outcome for political decision-making. This same evidence also speaks importantly against the feasibility of individuals manifesting the kind of substantive autonomy demanded by the deliberative ideal.) Where possible, I have attempted to indicate where the data speaks to more than one of these important values of deliberation; however, it is entirely possible that in the complexity of the interactions between these aspects I have not highlighted all of the ways in which this evidence can be brought to bear. What is important to take away from the discussion is that the key components of deliberative theory, as an integrated whole, are undermined to a significant extent by the

empirical data regarding the behavior of groups involved in deliberation, as well as the apparent rational incapacity of many members of society.

Deliberative Pathologies

Across deliberative theories, there is either an implicit or explicit claim that the outcomes of deliberation will in some sense be *better* than the outcomes of mere aggregation or other forms of majority rule. Whether interpreted to mean that the outcomes will be more just, or more likely to promote the interests of society, or something else entirely, the claim is made that the outcomes of deliberation are more legitimate not only due to the procedural values of autonomy and substantive equality, but because they are substantively superior to the outcomes of other decision-making procedures. In fact, however, there is a great deal of evidence suggesting that deliberation as a form of collective decision-making is susceptible to a number of persistent pathologies which undermine this core claim.

Two of the better-documented forms of deliberative pathology are self-censorship, which leads deliberation towards uniformity rather than diversity in ideas (therefore limiting rather than increasing the epistemic content of the discussion), and what Irving Janis called *groupthink*.¹²⁵ Studies have shown that deliberating groups tend towards the correct decision only when a good number of the members of the group already tend towards that decision before deliberation. In an unfortunate manifestation of Condorcet's results, when the correct or more rational answer is in the minority at the beginning of deliberation, it is far more likely that the majority's incorrect bias will guide the group's collective decision, and no epistemic gain will be made from having the less

¹²⁵ Ibid., 336.

popular opinions voiced within the group. Deliberation actually exacerbates systematic bias, as when individual members of a deliberating group enter *into* the deliberation with a bias or erroneous position, deliberation often pushes them towards an even *more* biased or erroneous position than the one they began with. Especially when the discussion centers on brainstorming problems rather than problems which have clear, concrete answers – which are precisely the types of problems likely to be encountered in a political deliberation – deliberating groups far under-perform a mere statistical aggregation of the individual members' original preferences.¹²⁶

Studies have also shown that the order in which individuals speak within a deliberating group can have a significant effect on both the willingness of speakers to share information that others in the group don't have, as well as, consequently, on the outcomes of deliberation.¹²⁷ For example, if several members of the deliberating group express one position, individuals with an opposing position may be less likely to voice their dissent. Or, if they do voice it, they may not do so as strongly as otherwise. To the extent that deliberation is meant to produce “legitimate” or “superior” outcomes, it is unclear how to account for this strange phenomenon. If the order of speech can impact the outcome of deliberation in this manner, then the claim that the outcome will in some way be better than decisions made via other procedures seems to lose some of its force: If members had just taken turns differently, the result might have been radically different! This particular phenomenon also appears to undermine the supposed equality and autonomy of deliberation participants, since the arbitrariness of the order of speech can reduce the likelihood that an individual can effectively pursue her policy preferences.

¹²⁶ Sunstein 2006, 57-60.

¹²⁷ Austen-Smith 1995, 6.

This same arbitrariness also demonstrates the pervasive nature of external influences on rational preference-formation, which is in direct contradiction to the substantive autonomy deliberative democracy is argued to promote. Additional studies have shown that deliberation often leads individuals to agree to decisions which are in conflict with their considered judgments, decisions which they later come to regret, again demonstrating not only that the outcomes of deliberation may not be privileged, but that in fact they may represent the paradigm of non-autonomous decision-making for many members of the deliberating body.¹²⁸

Perhaps the most important pathology is the amplifying affect of deliberation. When the individuals who comprise a deliberating group suffer from systematic biases, these biases are amplified by the deliberative process.¹²⁹ Deliberation often pushes participants to even greater extremes in their views than those they started out with, causing group polarization instead of leading to considered consensus. This phenomenon is heightened when the deliberating group is composed primarily of like-minded individuals or persons who identify strongly with each other as members of a particular sub-group, such as a political party. In these cases, deliberating members who are not considered part of the “group” (the sub-group) have greatly reduced influence within the deliberative process due to a form of dissent-suppression, while polarization of the sub-group members becomes even more extreme.¹³⁰ Such data again suggests that deliberation results in a degradation of the potential outcome, rather than an improvement, but also speaks importantly against the potential of individual’s having a truly equal opportunity to influence the outcomes of deliberation. These amplification

¹²⁸ Ryfe 2005, 54.

¹²⁹ Sunstein 2006, 78-9.

¹³⁰ Sunstein 2003, 81-5.

effects can also compound the negative effects of rational bias: Framing issues (discussed below) can become more acute, leading to a more extreme and dug-in preference for the status quo, for example, or polarization can become more severe. And a commitment to a given policy decision, even in the light of evidence of its failure, can become more deeply engrained.¹³¹

Both the phenomena of sequence-affected outcome and the amplification of systematic biases indicate the ability for manipulative-minded individuals to have significant harmful effects on the deliberative process. Sunstein points out the possibility of “polarization entrepreneurs” who could be in the business of encouraging and reinforcing group identification with extreme views, so as to manipulate the outcomes of deliberation,¹³² a suggestion that is particularly cogent in light of current tendencies in mainstream American politics, where polarization is indeed seized upon and magnified in the service of a few individuals.

Despite these findings, we should question the relevance of studies conducted on small deliberative groups to the larger public sphere. The studies cited by Sunstein and others were conducted in small, face-to-face settings, whereas democratic deliberation takes place across the greater political community. David Estlund questions the generalizability of the results, therefore, and suggests that we shift our focus onto deliberation’s ability to lead to changes of perspective or to generate more accurate decisions.¹³³

The generalizability of results to larger groups appears to be less of an issue than Estlund presumes, however. We can see this by examining the specific differences which

¹³¹ Sunstein 2006, 79.

¹³² Sunstein 2003, 88.

¹³³ Estlund 2009b, 17-8.

exist between large-scale political deliberation and those smaller deliberative contexts which are the typical subjects of empirical research on group decision-making.

The first and most obvious difference is the number of participants. Estlund questions whether such a difference might mitigate some of the effects previously discussed. However, research into the effects of group size on deliberative interaction have shown that participation in a larger group actually amplifies many of the effects already addressed. For example, LePine and Van Dyne found that individuals were less inclined to voice their own opinions and perspectives in larger groups, both undermining deliberation's potential for epistemic gain, as well as exacerbating problems related to the equality of individual participants.¹³⁴ It has also been shown that as group size increases, individual members feel less responsible for the outcome of deliberation and are therefore less likely to put forward their own ideas, or to voice them strongly.¹³⁵ Group size turns out to be inversely related to the volume of new idea generation.¹³⁶ Such evidence suggests that as the size of a deliberating group increases, the role of dominant personalities will likewise increase, as more apprehensive members of the group feel pressure to conform. Group size will consequently have a *negative* effect on the epistemic value of deliberation, since new ideas are less likely to emerge. This despite the logical necessity that in a larger group there will be at least as many individual perspectives as in a smaller one, and likely far more.

The larger scale of political deliberation generates a greater necessity for organization in the deliberative process. The sheer number of participants indicates that some kind of grouping will have to occur in order for any other than a very few

¹³⁴ LePine and Van Dyne 1998.

¹³⁵ Latané and Wolf 1981.

¹³⁶ Burgoon and Dunbar 2000.

participants to have their voice heard. Even in Athens, a relatively small democracy by modern standards, it is likely that most of the public deliberations were dominated by a very small number of speakers, as there was simply not time or opportunity for every individual to have an input.¹³⁷ This limit seems naturally to suggest political parties, or else organization into community- or location-based sub-populations. However, as discussed above, the great extent to which individuals associate themselves with groups, the more extreme polarization tends to become. The establishment of such groups also limits the options available to those whose perspectives are not adequately represented in the existing conglomerates. They must either join a party as it already exists, sacrificing some of their considered viewpoints to the position of the group as a whole, or maintain independence and suffer from a marginalized impact on the outcome of deliberation.

Another salient fact regarding political deliberation on a large scale is that not all participants can participate *at the same time*. Given the size of the deliberating body in a modern political setting, one all-inclusive deliberative discussion will not be possible. Deliberations will need to be iterated across smaller overlapping sub-sets of the population in order to reach the level of inclusivity required by the deliberative ideal. Such iterations of deliberation, however, have been shown to increase the effects of polarization: the more times an issue is discussed and debated, the more extreme alternative positions tend to become.¹³⁸ Polarizing effects are likely to be further compounded by the need for some kind of centralized media to maintain the discussion, resulting in greater informational, and thus manipulative, power for those in control of the informative apparatus.

¹³⁷ Dahl 1989, 21.

¹³⁸ Sunstein 2003, 86.

Each of the above considerations suggests that the results of empirical studies on deliberating groups will generalize to the larger body politic. Not only do they demonstrate that deliberative pathologies will be exacerbated by an increase in the size of the deliberation; additionally the evidence demonstrates that the concerns outlined below regarding substantive equality and autonomy are compounded by the large scale of actual political deliberation.

Dennis Thompson tries a different approach to the empirical data regarding deliberation. He argues that the normative value of deliberation is not necessarily in its outcome. Rather, he would shift the emphasis to the procedural aspects of deliberation, and argue that it is the legitimating function of mutual justification that is essential to the deliberative approach to democracy. Equal participation, equal respect, and public-spiritedness play the justificatory role, and so the outcomes of deliberation, even when affected by the types of deliberative pathologies discussed above, are not the basis upon which we judge a procedure's success.¹³⁹ Below I will discuss the likelihood of substantively equal participation in the deliberative process, but what of Thompson's additional claim that the outcome of deliberation is not important? That, rather, the legitimacy of deliberation resides only in its procedural components? The claim that Thompson appears to be making is that the normative value of democracy resides only in the procedural aspects of its generation, and that there is, and should be, no appeal to what David Estlund terms *procedure-independent values* in the justification of deliberative outcomes.¹⁴⁰ If this claim is accurate, then objections from the direction of

¹³⁹ Thompson 2008, 504.

¹⁴⁰ Estlund 2008.

empirical data regarding deliberative pathologies become moot. The claim is therefore worth examining.

Estlund examines the notion of deliberative democracy as purely procedural in *Democratic Authority*. As I have done above, he focuses on Habermas and Cohen as paradigm instances of deliberative theory, and argues quite convincingly that despite their protests to the contrary, both of their theories do rely for normative force on procedure-independent values.

Habermas makes the claim that the only way to evaluate political decisions is to look at the procedures via which they were, or could have been, produced. It is the latter, hypothetical aspect which Estlund seizes upon. According to Habermas, political decisions are legitimate if they *could have been* produced by ideal deliberative procedures. This means that a political decision can not be evaluated on the basis of the decision procedure which produced it alone – it is quite possible that a decision which was *not* reached in accordance with procedural rationality might still be legitimate, because it *could have been*. As Estlund rightly points out, this amounts to a procedurally-independent means of evaluating political decisions. The normative basis for the justice of a political outcome is not the procedure via which it was reached, but rather whether it meets the hypothetical of potential production via a legitimate route, providing a “substantive procedure-independent standard” by which political outcomes are reached.¹⁴¹ The evaluation of outcomes would therefore entail a substantive account regarding what kinds of outcomes *are* capable of being justified on reasons which are acceptable to all, and seems to open the door to an objective account of what laws are legitimate. Such an objective standard, however, would undermine the procedural basis

¹⁴¹ Ibid., 88-9.

for legitimacy, and instead allow us to import our pre-conceived intuitions regarding the legitimacy of rule.

Cohen is unlike Habermas in that he insists that actual political decision-making should model the hypothetical ideal to the greatest extent possible. Given this, he is able to sidestep Estlund's critique of Habermas, since the actual procedure by which decisions are reached is essential to the legitimacy of the political outcome, and no hypothetical justification is used as a substantive normative criterion for the evaluation of said outcomes. However, for Cohen the procedural basis of legitimacy includes the requirement that any political decision must be able to be justified on the basis of reasons which can be accepted by all reasonable citizens, what Cohen calls the *principle of deliberative inclusion*. To fail to provide reasons which they can acknowledge as legitimate "is to deny them standing as equal citizens" and constitutes a "failure of democracy."¹⁴² In this way, Cohen, like Habermas, imports an additional constraint beyond the mere procedural. It is not enough that the ideal deliberative procedure was modeled to as close an extent as possible; in order to be legitimate the outcomes of such procedures must meet an additional, procedure-independent standard: that of being justifiable in terms acceptable to all reasonable citizens.¹⁴³

Thompson himself seems to commit himself to a similar claim in a co-authored work with Amy Gutmann. In *Why Deliberative Democracy?*, they argue that democratic principles have both procedural and substantive dimensions. Although it is the case that the substantive dimension does not necessarily have to be cashed out in epistemic terms, the legitimacy of deliberative democracy is heavily grounded in the substantive notions

¹⁴² Cohen 1996, 103.

¹⁴³ Estlund 2008, 91-2.

of autonomy and equality, and these criteria are used as external standards by which to evaluate the outcomes of deliberation. For example, Thompson and Gutmann suggest the possibility that a procedurally valid deliberation may generate an outcome which is supported by the vast majority but nonetheless can not be justified in terms that the minority could reasonably accept. Despite the procedural validity of this outcome's generation, they argue that the reasoning from which it arose "denies members of the minority group the status of free and equal persons."¹⁴⁴ They have made similar arguments regarding the inability of deliberative democracy to get off the ground as a purely procedural account elsewhere, and its need for additional, substantive principles.

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So although there does not have to be recognition of an epistemic component to deliberation, deliberative democrats do seem to want to be able to evaluate the outcomes of political decision-making on the basis of some kind of substantive procedure-independent standard. Although most theorists place some weight on the outcomes of deliberation in terms of epistemic value, those who do not devote a lot of attention to the epistemic facet of deliberation tend instead to focus the bulk of their justificatory energy on the theory's more central claims regarding equality and autonomy. It is these claims to which I now turn.

The Twin Towers of Deliberation: Equality and Autonomy

Recall that the deliberative process is argued to promote and protect a special kind of autonomy for citizens. Individuals are to take part in their own governance, and to have

¹⁴⁴ Gutmann and Thompson 2004, 103-4.

¹⁴⁵ Gutmann and Thompson 1996; Gutmann and Thompson 2002.

input into the deliberative process that is their own in a deep sense – that is, not influenced by external factors such as residing in a position of subordination, having access to less economic or social power, or manifesting adaptive preferences.

Complimentary to this is a strong emphasis on equality: citizens must have an equal opportunity to influence the outcomes of deliberation, and the outcomes of deliberation must be justifiable to all who will be governed by them.

What does an “equal opportunity to influence the outcome” really entail? If it means merely that everyone has the same chance to *participate* in the deliberative process, then it’s not clear what advantage to equality is gained over an aggregative approach to democracy: those with more privileged backgrounds and better educations are likely to be better at giving persuasive arguments and to have a greater impact on the outcomes of deliberation, just as in an aggregative approach they would be more likely to be competent at pursuing their interests electorally. It seems, then, that in order for deliberative democracy to be able to use equality as a point in its favor, a far more substantive conception of equality has to be playing this role. On the one hand, deliberative democrats must show that deliberation promotes or furthers the kind of equality they are interested in to a greater extent than other conceptions. On the other hand, it must also be the case that it is empirically and conceptually possible to establish the kind of equality that deliberative democracy requires to function the way its proponents claim it will.

Obviously, the demand for equality cannot be interpreted to require that all ideas and views be treated equally within the deliberative framework, since the very purpose of deliberation is to allow for the “force of the better argument” to win the day. However,

deliberative institutions should protect competing ideas procedurally – that is, ensure that as many views as possible have an equal opportunity to be brought to bear on the deliberation, and that all of the arguments are evaluated on the basis of the force of the arguments only, and not ignored or given less influence due to arbitrary inequalities between the participants proposing them. Essentially, there should be *ex ante* neutrality among alternatives, a neutrality that resolves into favor for one alternative or another only in light of the deliberative process itself.¹⁴⁶

This does not yet speak to the equality of the participants themselves.

Deliberative democrats argue that deliberation respects the equality of participants in a way that aggregational accounts of democracy do not. This is cashed out in terms of an equal opportunity to influence the outcomes of deliberation. And this seems to entail more than the *ex ante* equality of proposals: in order for participants to have a substantively equal chance to influence the outcomes, they must have an equal chance of producing suggestions and making arguments which will survive the deliberative process. Jack Knight and James Johnson make a plausible case regarding the kind of equality of opportunity that must be at play for the deliberative democrat: on the one hand, asymmetries in social and economic power must not give unfair advantages to participants, highlighting the need for procedural requirements regarding the resources participants are *allowed* to employ in the deliberative process. On the other hand, social and economic asymmetries must not put anyone in a position of unfair disadvantage in deliberating itself, highlighting the need for a social distribution that guarantees all the personal resources necessary for effective and persuasive participation in deliberation.¹⁴⁷

¹⁴⁶ Knight and Johnson 1997, 287-8.

¹⁴⁷ *Ibid.*, 292-6.

How we can guarantee the personal resources necessary for an equal opportunity to influence deliberation itself raises a host of questions in light of empirical data regarding the capacities of individuals. Leaving aside the direct influence of the distribution of economic goods on power dynamics within a deliberation, Knight and Johnson's account of politically relevant capacities describes three primary ways in which the equality of democratic deliberation may be indirectly undermined by inequalities of social power and resources. First and most obviously, there will be a basic discrepancy of cognitive capacities among participants in a deliberative democracy – it is a fact of humanity that different individuals have differing levels of rational ability. To the extent that some members of a polity lack the capacity to adequately express their political positions in the form of persuasive arguments, they will suffer an inequality in their opportunity to influence the outcomes of political decision-making.¹⁴⁸ Because of the emphasis on persuasion and public reason within the deliberative framework, even should an individual have a good, or valid, or “valuable” proposal – on whatever scale of value is appealed to – their inability to engage with other members of the deliberating group can adversely affect the chances of that proposal's adoption.

A second capacity relevant to the equal opportunity for political influence relates to what Iris Marion Young referred to as linguistic “cultural imperialism.” In order to be effectual in the deliberative process, disadvantaged and minority groups must be able to express their positions “in the language of the dominant groups in society.”¹⁴⁹ To the extent that they are less familiar with, or effectual in, the use of this dominant language, their ability to influence the political outcome will suffer relevant to those who occupy

¹⁴⁸ Ibid., 299.

¹⁴⁹ Ibid., 298.

more privileged social positions, allowing for social and economic disparity to impact the real opportunity individuals have to argue and persuade in favor of their preferred political outcome.

Obviously, we don't need empirical "data" to show us that individuals have widely varying abilities to engage in rational thought and constructive dialogue. The claim that people are unequal in this regard is fairly intuitive. But the evidence demonstrates more than a mere difference in intelligence level or ability to reason. There is a significant amount of empirical data which suggests that the ability to reason specifically on the basis of public (or publicly accessible) reasons is both uncommon and unlikely among individuals. The kind of functioning which deliberative democracy demands requires a "relatively high level of ability for perspective taking [sic] and coordination of divergent perspectives."¹⁵⁰ However, the bulk of research suggests that this ability – to reason in a manner that is accessible to other perspectives – is generally present only among those who possess an unusually advanced cognitive capacity, and that individuals in general do not manifest this level of "communicative competence." Rather, research such as Kohlberg's well-known explorations of moral development suggests that most people never develop post-conventional moral reasoning, and as a result have great difficulty shifting to perspectives foreign to their own. Additionally, this deficiency causes an inability to "critically reflect on the conventional social mores and categories they use to guide their judgments of what is right and wrong," as well as an inability to recognize or meet the need to present their own views in a manner accessible to those with differences in understanding.¹⁵¹ Rather, several studies have

¹⁵⁰ Reykowski 2006, 327-8.

¹⁵¹ Rosenberg 2007, 345.

shown that individuals placed in contexts of conflict are more likely to manifest individualistic motivations and attempt to “dominate” others rather than treat them, or the positions they come from, as equals.

What is perhaps most damaging to the deliberative theorist, however, relates to the ability to form *authentic* preferences – the third issue to which Knight and Johnson pay homage. The unequal distribution of resources within a society can motivate citizens to adopt new preferences which reflect the “diminished possibilities that... result from being disadvantaged by an asymmetric distribution of resources.”¹⁵² Preference-formation is often predicated on an unconscious desire to “reduce cognitive dissonance by adjusting to undue limitations in current practices and opportunities.”¹⁵³ Insofar as this is the case, preferences may be considered non-autonomously formed – that is, influenced by factors external to the individual – violating deliberative democracy’s commitment to autonomy in a way that also undermines claims regarding substantive equality: While all individuals may have some preferences which are influenced by external factors, if individuals in subordinate socioeconomic positions are forming their political intentions on the basis of those socioeconomic positions, their ability to have an equal *opportunity* to influence policy in a manner which reflects preferences which are independent of those socioeconomic positions is severely undermined.

Recall that Cohen argues that such accommodationist preferences will be addressed via the deliberative process and its implicit recognition of the deliberative capacities of all participants to the deliberation. If this is correct, deliberative democracy would not require this kind of equality to exist external to the deliberative process, as it

¹⁵² Knight and Johnson 1997, 298.

¹⁵³ Sunstein 1991, 21.

would foster and produce it through the deliberative process itself. How deliberation could have the impact Cohen claims for it is unclear, however. If accommodationist preferences are formed external to the deliberative process and then brought to the table by individual participants, this would merely imply that the accommodationist preferences are those which the participants are expressing and arguing on behalf of within deliberation – that the *accommodationist* preferences are those which are being accorded an equal opportunity to influence the deliberation. However, if individuals who are arbitrarily disadvantaged outside of the deliberative procedure are adopting and attempting to put forward preferences which are informed by that disadvantage, then it is unclear how the deliberative process is “neutralizing” the effects of social and economic disparities and furthering a more substantive political equality. This suggests that the kind of equality necessary for the formation of authentic preferences must exist *ex ante* – so that deliberative democracy must not only promote the equality of its citizens, but also must exist in a context in which a kind of substantive equality is already present. If we don’t have the requisite level of equality antecedently, then it does not look like deliberative democracy can function to produce the kind of substantive equality its adherents claim.

This need for a certain level of antecedent equality raises a deeper, conceptual obstacle to the realization of the kind of equality deliberative democracy assumes. Due to the pervasiveness of differences in capacities, in order to equalize the *opportunity* to influence deliberative decision-making, it would not be enough to simply equalize the social and economic resources of the individuals participating. Amartya Sen acknowledges this fact about egalitarianism in general – that we can’t be purely

interested in equalizing resources because ultimately, individuals have widely varied capacities to convert external resources into something more meaningful.¹⁵⁴ In the case of deliberative democracy, what is ultimately desired is an equal opportunity to influence the outcomes of political decision-making. It is plainly false that given the same resources, individuals would be able to manifest the same level of rational argument and persuasiveness, given the vast differential in natural capacities.

What Sen proposes for true equality, and what others such as James Bohman have taken up in applying substantive equality to deliberative democracy, is a capacities approach to equality, which focuses not on equal outcomes but on equal possibilities. The approach seeks to equalize the best outcome which each individual *could* attain, given their resources and natural capacities. In this way, the focus is shifted onto the opportunities individuals actually have, recognizing that some have a better capacity for converting resources into favorable outcomes. Applying this approach to deliberative politics, we wouldn't seek to equalize the actual results, because of the intuitive idea that individuals should be held responsible for decisions they make which influence their ability to participate meaningfully in the political decision-making process. Rather, in recognition that individuals should not suffer disadvantages due to *arbitrary* differences in natural abilities or social or economic starting points, Bohman suggests that what should be equalized in a deliberative democracy are individuals' abilities – conceived of as possibilities based on their social status, persuasive abilities, and so on – to influence the decision-making process, should they focus their resources and time there rather than on other pursuits open to them. Bohman argues that an approach which takes its lead

¹⁵⁴ Sen 1992.

from this kind of conception of equality would be more effective at meeting the “equality of opportunity” requirement of deliberative democracy.¹⁵⁵

The implicit problems with such an approach, however, are twofold. On the one hand, since we would not be seeking to equalize the actual impact that individuals have on deliberative processes, but rather their *potential* to impact deliberation, the causal connection between capacities and outcomes is not clear. Without the ability to determine the causal impact of one individual’s participation on the deliberation, we will not know what constitutes equal capacities, and are left without a concrete understanding of what is necessary to guarantee it. What this entails is that the kind of equality required by deliberative democracy will be difficult, verging on impossible, to identify and promote. What’s more, given that we are not in a position to judge the actual causal relationship between a member’s capacities and their actual influence on the deliberative process, it would be difficult verging on impossible to apply the capabilities standard as a criterion to particular institutional arrangements and thereby judge whether they are actually meeting the requirement.¹⁵⁶ Although this does not amount to an empirical criticism of deliberative democracy, it does highlight an equally important conceptual obstacle which the deliberative democrat must face.

In addition to this very difficult to enunciate, let alone achieve, notion of substantive equality which is at play in deliberative accounts of democracy, we must also return to the importance of autonomy. Recall that autonomy excludes the formation of preferences on the basis of influences external to our rational evaluation of the situation at hand. We took as our paradigm cases accommodationist and adaptive preferences;

¹⁵⁵ Bohman 1997, 325-37.

¹⁵⁶ Knight and Johnson 1997, 292-301.

however other external influences on our decision-making process are also capable of undermining our autonomy. The claim of the deliberative democrat is that the value of autonomy is an important normative basis for this approach to democracy, and that deliberative democracy is uniquely capable of providing citizens the opportunity to engage autonomously within the decision-making process due to its demand that decisions be made on the basis of *reasons*. What the evidence shows, however, is that the kind of reasons-based autonomous decision-making that deliberative democracy both demands and purports to achieve is not possible: external influences work to undermine the rational preference-formation of individuals in a number of ways and in a variety of different circumstances.

Situational factors, for example, have been shown to have an unreasonably large and seemingly arbitrary impact on rational preference-formation. Empirical studies have demonstrated that innocuous environmental factors can have inexplicably large impacts on our behavior. John Doris cites several studies in which it was demonstrated that minor daily incidents can cause individuals to behave in drastically different ways. In one study, for example, individuals who found ten cents in the coin return of a pay phone were much more likely to stop and offer assistance to an individual who had dropped a pile of papers on a city sidewalk than those who found no change in the coin return when they looked. In another study, subjects were asked to participate in some unpaid research regarding teaching methods, then told either that they were running late, were right on time, or were ahead of schedule. Along the way, subjects encountered an individual on the side of the street who was in obvious physical distress. While 63% of those who had been told that they were ahead of schedule stopped to help the man, a mere 10% of those

who were “running late” offered assistance.¹⁵⁷ In another series of experiments set up by Schnall, Haidt, et al., subjects were asked to make moral judgments regarding written descriptions of certain scenarios and public policies. Subjects who had to make these judgments while surrounded by filth – sitting at a messy desk next to a trashcan overflowing with greasy pizza boxes and used tissues, for example – were far more likely to judge an action or policy as “wrong” or “extremely wrong” than subjects who were administered the same questionnaire under “clean” conditions characterized by a clean desk and an empty trash can.¹⁵⁸

These and similar findings suggest that our decisions and judgments are inappropriately sensitive to situational factors which should not come into play in rational deliberation. Recall that the substantive notion of autonomy relied upon by deliberative democrats rests on the distinction between preferences and judgments which are truly “ours” versus those which are influenced by factors external to the individual. Our paradigm examples of this kind of external influence were accommodationist and adaptive preferences – preferences which are either consciously or unconsciously formed on the basis of the socioeconomic circumstances an individual finds herself in. Judgments or actions which are likewise strongly influenced by situational factors such as those in the studies Doris refers to similarly have their autonomous basis undermined.

Perhaps more damning is evidence that our preferences are also susceptible to framing effects which undermine the authenticity of considered judgments. To recap from the preceding chapter, framing effects occur when “(often small) changes in the

¹⁵⁷ Doris 2002, 30-4.

¹⁵⁸ Schnall, Haidt, et al. 2008, 1101-2.

presentation of an issue or an event produce (sometimes large) changes of opinion.”¹⁵⁹

Above I presented the following example from Quattrone and Tversky:

Imagine there were a presidential contest between two candidates, Frank and Carl. Frank wishes to keep the level of inflation and unemployment at its current level. The rate of inflation is currently at 42%, and the rate of unemployment is currently at 15%. Carl proposes a policy that would decrease the rate of inflation by 19% while increasing the rate of unemployment by 7%. Suppose that as a citizen of Alpha, you were asked to cast your vote for either Frank or Carl.

Imagine there were a presidential contest between two candidates, Frank and Carl. Carl wishes to keep the rate of inflation and unemployment at its current level. The rate of inflation is currently at 23%, and the rate of unemployment is currently at 22%. Frank proposes a policy that would increase the rate of inflation by 19% while decreasing the rate of unemployment by 7%. Suppose that as a citizen of Alpha, you were asked to cast your vote for either Frank or Carl.¹⁶⁰

When this pair of scenarios was presented to study subjects, responses overwhelmingly favored the status quo, even though in both cases the outcomes are identical: Frank’s policy of 42% inflation and 15% unemployment, versus Carl’s policy of 23% inflation and 22% unemployment. 65% of respondents chose Frank in the first scenario, while 61% chose Carl in the second. The full body of studies conducted by Quattrone and Tversky demonstrate that context and framing both operate psychologically to sway the decisions of voters in an extra-rational manner that cannot be adequately accounted for via public reasons within a deliberative context, and which clearly demonstrates the operation of external factors on the preference-formation of individual voters.

As mentioned earlier, there is also evidence that the order in which ideas are presented within a deliberating group can have significant effects on the sharing of information and the outcomes of deliberation. The kinds of arbitrary impact on the outcomes of deliberation that these and other studies highlight imply that deliberation as

¹⁵⁹ Chong and Druckman 2007, 104.

¹⁶⁰ Quattrone and Tversky [1988] 2000, 459.

a form of decision-making is hostage to factors external to the reasoning and preferences of participants, leaving no way to reliably determine whether a given arrangement actually treats alternative proposals equally or respects the authentic preferences of individual participants.¹⁶¹

Because it is impossible to judge the causal impact of individual's arguments on the outcomes of deliberation, it becomes near to impossible to judge whether substantive equality is being sufficiently maintained. This same inability makes it impossible to judge whether substantive equality is being maintained *better* than it might be under other institutional frameworks. Additionally, in light of the deep requirement of equality of opportunity to influence the outcomes of deliberation, it seems vastly unlikely that any instantiation of deliberative democracy that even closely resembles contemporary social reality will meet this criteria. Implicit in any claim that a deliberative framework could attain this standard of equality must be some fairly revisionist notion of what the social and economic distribution of society should actually look like. Add to this that evidence regarding the influence of external, and indeed arbitrary factors on the rational capacities of individuals who are party to a deliberation severely undermines claims that deliberation will in some way further the political autonomy of individual participants, and evidence of the pervasiveness of deliberative pathologies, and it seems that deliberative democrats have a large uphill battle to fight in proving their claims.

The Empirical and the Ideal

Although it is relatively clear how the foregoing empirical analysis works to undermine the deliberative theories of writers such as Joshua Cohen, Amy Gutmann, and Dennis

¹⁶¹ Knight and Johnson 1997, 291.

Thompson, who focus on the qualities and capacities of actual citizens in a deliberative context, the generalization of this critique to the vision of Habermas, decidedly more ideal in its structure, is less clear. It is important to remember that the theory on offer from Habermas is one of a hypothetical discourse process, predicated on assumptions not regarding actual deliberation, but an idealized deliberative situation. It is not the case, for Habermas, that legitimate law must have been produced by the appropriate deliberative procedures, but rather that it *could have been*. As a result, objections based on empirical findings which undermine deliberation in its actuality seem misplaced. What can the empirically-minded say to Habermas?

I think this question misses the mark. Habermas is only relevant to democratic theory insofar as he is either offering a justification of our current instantiation of democratic principles, or else is arguing in favor of some alternative arrangement to what we currently have. It is not clear that he's doing either of these things. Due to the hypothetical nature of his approach to deliberation, his argument does not serve to ground deliberative democracy as the only valid system of rule. In fact, any system would suffice, as long as the outcomes of that system were capable of meeting the requirements of the discourse principle. It is actually not clear that there is anything empirically relevant in Habermas's account, in which case his arguments are interesting, but do not speak to the question at hand. On the other hand, if he is offering some kind of empirical test of our political institutions, it seems likely that his recommendations don't go beyond what is on offer from Cohen or Gutmann and Thompson. If this is the case, then the above arguments make contact with him to the same extent to which they do more explicitly practical accounts.

What is Left?

In light of the preceding discussion, how damaged is the deliberative approach to democracy? Many of the studies cited were actually conducted with the hope of pointing to new directions in which to take deliberative theory, or perhaps new ways of implementing deliberation within a political community in order to reduce the effects of arbitrary external factors and deliberative pathologies on the outcomes of joint decision-making.¹⁶² New or inventive deliberative structures may minimize or even entirely alleviate the effects of deliberative pathologies on the feasibility of a productive deliberative process. My intuition is that this is unlikely, however. The unavoidable scale of political deliberation necessitates characteristics of deliberation such as political parties, representation, and iterated debates – each of which tends to compound rather than relieve the pathological pressure.

The evidence regarding the feasibility of manifesting a substantive equality of the kind that legitimate deliberative democracy demands is even more damning. The implementation of the kind of equality of opportunity that deliberation requires would verge on the impossible, as would any evaluation of the resulting institution in terms of whether they met their mark. The influence of external factors on the reasoning and preference-formation of individual participants further suggests that the kind of political autonomy in decision-making which the deliberative democrat wishes to promote is not grounded in a realistic understanding of the manipulability of average individuals. The persistence of the individual's inability to take the perspectives of other political participants and the incapacity of the average person to formulate or express her preferences in terms available to other perspectives suggests that deliberation conducted

¹⁶² For example, Sunstein 2006, Rosenberg 2007.

on the basis of mutually-available reasons is unlikely. These concerns are likely to persist however deliberation is structured: non-contingent facts about individual rationality and deliberative capacities will continue to undermine deliberative outcomes regardless of the institutional context.

Given the difficulty of fleshing out and implementing the kind of equality required to ground deliberative democracy, I will turn finally to egalitarian accounts of democracy, which focus their attention on the fairness of the democratic procedure itself. The hope of egalitarians is to avoid the kinds of critiques I have so far offered which focus their attention on the outcomes of political decision-making, and instead rely upon the egalitarian treatment of citizens within the democratic process.

CHAPTER 4 EGALITARIANISM

The previous two chapters have focused on accounts of democratic legitimacy which rely in part or entirely on the instrumental value of democratic procedures. What I called “interest-based” accounts grounded democratic legitimacy in the connection between the outcomes of democratic procedures and the interests of citizens. Deliberative accounts, on the other hand, rested in part on the claim that public deliberation on the basis of reasons can produce epistemically superior outcomes to mere aggregative procedures of decision-making. In each case, the instrumental claims of theorists were demonstrated to be predicated on erroneous empirical assumptions.

Deliberative accounts of democracy also signaled a turn towards procedural concerns, insofar as they claimed that the deliberative process embodied a certain kind of respect for the equality and autonomy of citizens. For the deliberative democrat, this claim is situated within a further instrumental claim – that deliberation can *promote* these important ideals. Egalitarian conceptions of democracy, on the other hand, are likewise grounded in a recognition of the basic moral equality between members of society, but eschew any claims regarding the kinds of decisions democratic procedures are likely to produce. Rather, given the persistent disagreement among citizens about how best to organize society, the egalitarian asks how we can resolve those disagreements in a way which takes the basic moral equality of citizens into account. The intuition is that the political decision-making process ought to be one which treats all citizens equally, and the egalitarian argues that democracy is uniquely capable of meeting this criterion. The problem for the democratic theorist then becomes how best to characterize the egalitarian aspect of democracy. In this chapter I look first at two simplistic egalitarian accounts and

at the conceptual objections to them which have already been adequately formulated in the literature. Then, I turn to more sophisticated egalitarian accounts of democracy in order to determine whether they can better withstand objections from the social sciences than their instrumental and deliberative counterparts.

Fairness as Pure Proceduralism

Perhaps the most intuitive way to resolve persistent disagreements is to devise a *fair* procedure. One might naturally argue that the best way to respect the basic moral equality of all citizens is to have a procedure for decision-making which is fair to everyone. Majoritarian democracy, construed as a system of decision-making which gives each individual one vote, appears to be procedurally fair. Therefore, democracy must be the most suitable decision-making apparatus.

We might describe this kind of defense of democracy as “pure proceduralism.” The pure proceduralist claim is that democracy is justified due to the procedural fairness of democratic procedures, and not due to any procedurally-independent standard such as the justness of the outcomes, or other instrumental benefit. Such an account might initially seem quite attractive: a procedural defense of democracy would not be obviously vulnerable to any of the empirical worries I have so far raised for interest-based and deliberative theories.

This is a little too quick, however. As David Estlund points out, the notion of fairness does not uniquely pick out democratic decision-making. If a couple are arguing over whether to spend their hard-earned savings on a vacation or on a new couch, for example, the epitome of a fair procedure for making the decision would be to flip a coin.

Yet no one would take seriously the suggestion that the best way to make political decisions would be to roll a many-sided die, or to use some alternative “fair” method of random selection.¹⁶³ The implication is that there must be some feature of democratic procedures in addition to their fairness by virtue of which they are preferable to these other fair procedures for political decision-making. An adequate account of democratic legitimacy must be capable of filling in this gap: what is it that makes democratic procedures *more legitimate* than a simple random drawing from a hat? The answer Estlund gives to this question is that we think that political decision-making needs to be sensitive not only to procedural equality, but also to the *distribution* of interests and preferences across individual members of the polity. What is needed in addition to fairness is what Estlund calls “aggregativity:” a sensitivity to the ends of those who had an input into the process, such that different decision outcomes reflect different distributions of voter ends.¹⁶⁴ Specifically, we think that the outcomes of political decision-making should be determined by the “cumulative impact of multiple inputs [and that] relevantly similar inputs should be considered cumulatively.”¹⁶⁵ In other words, if individual voters were to change their preferences, or if the distribution of preferences were to change such that the cumulative favor for outcomes shifted, these changes ought to impact the outcome of the procedure.

Fairness and Compromise

Peter Singer attempts to define a fair procedure in a manner which reflects the importance of aggregativity by shifting the emphasis from “fairness” *simpliciter* to fairness as

¹⁶³ Estlund 2003, 71.

¹⁶⁴ Estlund 2008, 66-83.

¹⁶⁵ Estlund 1990, 402-3.

compromise. The situations in which political decision-making processes are relevant are those in which there are persistent substantive disagreements about how to best organize our society and the rules which govern it. Although we often think of “compromising” as meeting in the middle or dividing outcomes evenly, but the types of substantive disagreement which are characteristic of political debate frequently involve various incompatible claims, and occur in scenarios where we cannot, for example, “split the difference.” For example, if a group of friends is divided on whether to spend the evening at the Ginger Man drinking micro-brews, or down the street at the Kelvin Arms enjoying good Scotch, a reasonable compromise might be to divide the evening and spend an hour or two at each. Political disagreements are not often of the kind that such a substantive compromise is a possibility, however. In this scenario, Singer claims that an alternative way to compromise is to divide the decision-making power equally instead, and this is what democratic procedures are meant to do.

To illustrate what he has in mind, Singer asks us to imagine a situation in which all of the members of our community have taken part in an equal majoritarian vote. Perhaps we were deciding whether to install a fountain in front of city hall or a small rose garden. After the vote is concluded, a member who found herself in the minority nevertheless still feels her favored outcome is superior. And so, rather than accepting that the majority voted for the fountain, she spends the town’s money and has a rose garden installed instead. In essence, she has acted on the basis of her own preference in a way which affects all of us, rather than accepting the decision which the majority made. According to Singer, we can interpret this member’s behavior as demonstrating that our dispute was not about the substantive issue upon which we voted (the fountain or the rose

garden), but rather about the decision procedure itself. Specifically: this member seemed to think that she should have a greater say in the outcome of our decision-making than any other member in the collective. Ultimately, then, Singer wants us to reconceive of fair compromise in a situation of incompatible substantive claims as a compromise on the procedure itself: each member of the collective wants most of all to make the decision herself. Since we cannot compromise on the issues, due to incompatibility and potential incommensurability, we must instead focus on those commensurable procedural claims upon which we *can* compromise. And the fairest compromise is to distribute the decision-making power equally.¹⁶⁶

Singer's fair compromise account suffers from the same inability to single out democracy as the more simplistic pure procedural fairness, however. As Thomas Christiano has pointed out, there are important differences between compromising on the substance of a disagreement and compromising on a procedure for settling the dispute. Singer suggests that because we can't always "find the average" across disparate policy preferences, that procedural compromise can serve as an adequate *stand-in* for substantive compromise. But his suggestion that it is, in fact, procedure which we are arguing about is simply false: If it were the case that the entire population always agreed, we wouldn't still argue over who should get to make decisions. We are interested in having an input, because we think the preferences of *that guy over there* are wrong! The problem for Singer is therefore that the two different types of compromise could result in different outcomes, and in most cases, they will. If, as seems natural, what we are truly interested in is a fair compromise which takes into account the *content* of individual positions, then it is not clear that democratic decision-making alone can fill that role, or if

¹⁶⁶ Singer 1973, 32-5.

it can fill that role at all. We might instead look to an independent arbitrator, for example.

Singer could perhaps anticipate this response, by saying something like the following: “sure, we could use an arbitrator instead, if we could only agree on who the arbitrator ought to be!” However, this reply points directly to the deeper problem with Singer’s move to procedural compromise. If the procedure itself is what we are compromising on, then just as we might disagree on who should arbitrate if we were using an arbitrator, we might likewise disagree about the fair way to compromise on our decision-making procedure: There could be more than one fair way in which to compromise on the decision-making procedure, and if we could not agree on which to use, then we would again need to compromise on the decision-making procedure for selecting the decision-making procedure. The problem here is *regressional*, so that procedural compromise is itself ultimately self-defeating.

This leads directly to the final reason why Singer’s account does not show that democracy uniquely satisfies his criterion of fair compromise: if our dispute is procedural, then giving everyone an equal say is *not* necessarily a fair compromise. What constitutes a fair compromise will be determined by our starting points. Singer’s fair compromise would only result in democratic procedures in the empirically contingent circumstance in which all individuals initially want to make the decision for everyone themselves. But this is not necessarily the case. We can imagine a situation in which a good portion of individuals would prefer that Derrick rule, while each of the remaining individuals wanted the ruling power for themselves. In this situation, a “fair” compromise might result in a division of power which gave to Derrick a great deal of

influence, and to each other individual a share of the remainder. Looking at it another way: if a good-sized minority of individuals began with the preference that political power should be shared equally, while a majority each preferred their own rule, then democratic procedures involving “one person, one vote” would not be a fair compromise. That would instead be giving the minority what they wanted, at the expense of the majority’s preferences.¹⁶⁷ In order to maintain Singer’s argument, there would need to be good empirical reason to believe that each individual wants to determine the outcome on each separate vote, and the facts seem to suggest otherwise. Individuals often have some issues which they feel more strongly about than others, and often will get involved politically only when those issues are at stake. This fact alone suggests that it is not the case that each individual *always* wants the procedure to be such that she gets to decide for everyone.

Equal Consideration of Interests

A more plausible means of establishing that democracy uniquely reflects the principle of equality is to argue that it accords equal consideration to each person’s interests in the political decision-making process, through its central features of equal enfranchisement and majority rule.¹⁶⁸ Each individual is accorded an equal chance to express her preference, and therefore to pursue her interests, through the franchise, and each vote is given an equal weight. If each individual’s input counts equally, the decision by the greater number of individuals should have a greater impact on the results than the

¹⁶⁷ Christiano 2003a, 42-3.

¹⁶⁸ Sadurski 2008.

decision of the few.¹⁶⁹ The result is that a simple majority carries the day. To allow a minority, of any size, to dictate the outcome would be to give the interests of those in the minority a greater weight than the interests of those in the majority.¹⁷⁰

There is an important unstated assumption in this type of account, namely, that having an equally counted vote is equivalent to having one's interests given equal consideration. This assumption is comprised of two crucial claims. The first is that voting is akin to expressing or promoting one's interests. I have already taken up this claim in chapter two. Here I would like to focus instead on the second, more substantive, claim: if getting to vote implies getting to promote one's interests (which for the sake of argument I will here grant), then getting an *equal* vote implies that one's interests will be given *equal* consideration.

In fact, however, this is not always the case. This is clearly demonstrated by the problem of persistent minorities, that is, "group[s] of persons who are consistently members of the voting minority over a series of votes."¹⁷¹ The interests of those who are consistently members of the minority are in fact *never* represented in the voting outcome, indicating that they are *not* given equal consideration. Consider an example first devised by Lani Guinier and later expanded by Steven Lee: A group of children are out of school for the summer, and each day they get together to play a game. Each day they vote on what game to play, and each day a majority (say six out of ten) vote for baseball, while the rest vote for soccer. Given the majoritarian voting rule of "one person, one vote" then each day, the children will play baseball. But this shows that "one person, one vote" as implemented across *multiple votes* does not necessarily treat all individuals' interests

¹⁶⁹ Saunders 2010, 115.

¹⁷⁰ Dahl 1989, 138.

¹⁷¹ Lee 2001b, 262.

with equal regard. Were we to consider the interests of each child *equally*, we would be likely to recommend that they play baseball three days out of every five, and play soccer on the other two.¹⁷²

Or take a more substantive example: the political strategy of gerrymandering in representative democracy, which involves the reapportionment of voting districts in such a manner as to ensure that your party (or group, or interest) represents a majority of votes in as many districts as possible. If successful, gerrymandering can ensure that a particular political bloc remains in power continuously, effectively negating all of the political influence of those outside of the bloc. For example, in what Michel Balinski calls “tailored districts” in the United States, incumbent congressional candidates are almost assured of re-election (over 98% won in 2002 and 2004, and over 94% in 2006).¹⁷³ Other political strategies can have similar results: for example in the U.S. south, after the 1965 Voting Rights Act was passed, many southern states changed their electoral procedures from district-based elections to at-large voting. As a result, the influence of black voters could be nullified, since 51% of the voting population could determine the outcome of 100% of the elections.¹⁷⁴

One might object that these are contrived instances – situations in which the majority have conspired to *keep* the minority from having an equal say in a manner that is patently undemocratic. In fact, the objection might continue, it would be in keeping with democratic principles of equality to legislate *against* precisely this kind of interference with voting procedures, when the motives are transparently the effective disenfranchisement of a minority group. But a majority does not have to intentionally

¹⁷² Lee 2001a, 127-8.

¹⁷³ Balinski 2008, 97.

¹⁷⁴ Guinier 1994, 7.

create their persistent status in order to limit the effectiveness of the minority's votes. In fact, the majority could be acting in good faith upon principles which it believes are in the interests of the minority as well.¹⁷⁵ Take our initial example of ten children deciding how to spend their summer days. The six in the majority may even, on occasion, concede and play soccer, because they themselves think it unfair that the minority never get their way. But this would not solve the problem of persistent minorities for democracy, since in this case it would not be the democratic procedure which was taking into account the minority's interests in this scenario, but rather the good graces of those in the majority.¹⁷⁶ The problem is not only that this minority is a minority at this time, but also that as a *persistent* minority, they have no effective means of ensuring that the majority will even *consider* their interests, much less take them into account.

Another reply might be to say that the objection from persistent minorities misunderstands what is supposed to be distributed equally in a democracy: it is not that each individual should have an actual equal influence on the outcomes of political decision-making; rather, it is that each individual should have an equal *a priori* chance to influence the outcomes of political decision-making. Persistent minorities don't violate this requirement, since absent any knowledge regarding the distribution of interests throughout the electorate, each member of the minority has just as much chance as each member of the majority of casting the decisive vote on each iteration.¹⁷⁷ Such an interpretation would rob democracy of its unique ability to satisfy the equal consideration of interests requirement, however, in much the same way as the fair compromise and pure

¹⁷⁵ Christiano 2008a, 290.

¹⁷⁶ Lee 2001b, 263.

¹⁷⁷ Beitz 1983, 72-4; although Beitz himself appears to abandon this line of reasoning in later works. See, for example, Beitz 1989, 155-8.

proceduralist accounts. If all that was implied by “equal consideration of interests” was an equal *potential* influence, then the alternative political arrangement of each individual writing her preference on a slip of paper and having a winner drawn out of a hat would satisfy it. In that situation, too, each member of the electorate has an equal chance as every other of casting the decisive vote. In order to retain aggregativity, the principle of equal consideration of interests needs to be interpreted to require that interests have an equal actual, rather than potential, influence on political outcomes.

The phenomenon of persistent minorities appears to undermine the move from equal consideration of interests to democratic decision-making, then. One suggested solution to this problem is to abandon the representative scheme currently used in the United States in favor of proportional representation. By eliminating the “winner-take-all” approach to local and state elections, the potential for gerrymandering is at least negated.¹⁷⁸ This approach has little impact on the substantive impact of persistent minorities in representative democracy, however: given a minority’s persistent status as such, the proportional representation scheme merely replicates the problem at the legislative level: now, the persistent minority will be the minority’s representatives in the broader legislative body.¹⁷⁹ Alternative suggestions have focused on altering the majoritarian scheme in favor of supermajoritarianism. Unfortunately, such an approach violates the principle of equal consideration of interests to the same, or an even greater, extent than the presence of persistent minorities.¹⁸⁰

¹⁷⁸ Guinier 1994, 16.

¹⁷⁹ Lee 2001a, 134.

¹⁸⁰ If each individual’s input is to count “equally,” then more individuals should have a greater impact than fewer. Were a supermajoritarian scheme to be implemented, this would entail that a minority would have the power and ability to block decisions agreed upon by the majority – thus imbuing each member of the minority with a greater than equal share of the political power.

Dualistic Democracy and Persistent Minorities

So far, the accounts we have evaluated in this chapter have been monistic in their focus on the egalitarian nature of democratic *procedures*. According to the more simplistic procedural accounts, the validity or justice of political outcomes are evaluable only insofar as they were or were not produced in accordance with fair democratic procedures. More sophisticated accounts look to whether or not procedures provide equal consideration to the interests of individual citizens. This is in contrast to the instrumental accounts we saw in chapter two, which evaluated democratic procedures solely on the basis of their ability to produce desired outcomes. In each case, then, it looked like theorists were interested only in the procedure, or else only in the outcome. Like deliberative theorists, Thomas Christiano has rejected this dichotomy, arguing instead for what he calls an “evaluative dualism” with respect to democratic authority.¹⁸¹

On this account, democratic decision-making is the embodiment of the equal consideration of interests in that it provides each citizen equal political resources, conceived of as an equal say in the decision-making process. However, equality of political resources is not the only value procedures must respect. According to Christiano, respect for the basic moral equality of citizens requires not only that individuals’ interests are treated equally via the equal distribution of political resources; it must also be the case that individual interests are *seen* to be treated equally. Each individual has a fundamental interest in her equal status being manifest to herself and other members of society publicly.¹⁸² In filling out what is entailed by the public acknowledgement of the equal status of each member of society, Christiano points out

¹⁸¹ Christiano 2004, 268.

¹⁸² Christiano 1994, 186.

that much political disagreement focuses on exactly what it means to treat people equally. Some members of society believe that equal treatment requires the respect for equal basic liberties and strong private property rights, for example, while others believe that to treat everyone equally requires a more egalitarian distribution of resources than tends to occur under *laissez-faire* economic systems. Because of the persistence of such disagreements (in fact, such disagreements comprise the bulk of our political disagreements), there is no way to settle on an interpretation of equal treatment which will satisfy everyone: to structure society around some particular understanding of equality would be to privilege that view unjustifiably, and thereby to publicly treat the adherents of opposing views as less than equals. But we must be able to see that the political process itself holds the interests of all in equal regard, and democratic procedures provide a way for us to make these decisions which does publicly take into account the beliefs and preferences of all. According to Christiano, we should understand justice as the public realization of the equal advancement of interests, and democracy as the system of rule required by this conception of justice: “Democracy is required by justice understood as the public realization of equal advancement of interests.”¹⁸³

That said, however, there are certain outcomes of political decision-making which clearly and publicly do *not* respect the equal moral status of persons or the principle of equal consideration of interests, regardless of the procedure which produced them. Procedures which will predictably result in such outcomes cannot be just, but what about procedures which tend to embody public equality, but nevertheless sometimes produce outcomes which clearly disrespect the equal moral status of persons? For example, what

¹⁸³ Christiano 2004, 269.

about the fact that adherence to democratic procedures – which otherwise appear to publicly respect equality – can generate persistent minorities in certain circumstances?

This, Christiano wants to say, is why we can introduce procedure-independent standards and place substantive limits on the outcomes of democratic decision-making procedures. Although persistent disagreement about the nature of equality and how best to manifest that equality in the structure of society prevent us from justly *dictating* specific substantive political outcomes, we are capable of identifying some outcomes as clearly in violation of the principle of equality. In these cases, we not only *can* legitimately limit the outcomes of democratic procedures, *we ought to*. But in doing so, we are not necessarily constraining “democracy,” as properly understood. These limits, Christiano thinks, are a natural upshot of the very foundation of democracy in the public realization of equality, and therefore do not constitute external restrictions. Rather, insofar as democracy is correctly understood as the decision-making procedure which arises from the principle of public equality, it is only justified to the extent that these limits delineate.

The challenge of persistent minorities to democratic procedure is a deep one. A group which rarely or never gets the outcome it desires through democratic decision-making will be substantially alienated from the rest of society. The effect of persistent minority status is that one’s policy preferences (construed as a reasonable proxy for interests) are never respected in political outcomes. Given this fact, and given the fundamental interests which individuals have in being able to have a say in how their

political world is organized, when a persistent minority exists democracy can be seen publicly to not recognize and affirm their equal moral status.¹⁸⁴

In response to this problem, Christiano proposes what he calls the “minimum outcome standard.” The general idea is to identify a minimum level of preference-satisfaction (as a proxy for interests promotion) below which it would be unjust to allow an individual or group of individuals to fall. This minimum outcome standard can be used to constrain the outcomes of democratic decision-making in such a way as to ensure that even those who may find themselves members of a persistent minority are still having their interests (using the practical substitute of preference-satisfaction) taken into account. This minimum standard is a means of attempting to respect the democratic procedure while simultaneously demonstrating a public regard for the interests of all citizens. Because democratic procedures find their justification in the public regard for the equal moral status of citizens, this threshold standard functions to ensure democratic legitimacy by accommodating the very interests which are at the foundation of the ideals of the democratic procedure itself.¹⁸⁵

Equal Political Resources and Equal Consideration of Interests

Christiano’s dualistic account of democracy appears to provide the procedural account with just the substantive tools it needs to sidestep objections from the existence of persistent minorities. However, his hybrid account looks to remain vulnerable to the following objection: The account assumes that equal political resources in the form of an equal say are sufficient for the publicly equal consideration of interests, once the

¹⁸⁴ Christiano 2008a, 291-6.

¹⁸⁵ *Ibid.*, 297-8.

minimum outcome standard is reached for all individuals. However, while the minimum outcome standard may be sufficient to ward off concerns specifically related to persistent minorities, it leaves concerns regarding the vast discrepancies in political knowledge across the populace unanswered. The fact that each citizen is guaranteed a *minimum* in terms of preference-satisfaction does not speak to that citizen's interests being given public, equal consideration in the political decision-making process.

One reply to this might be to argue that the principle of equality does not require that individuals' interests be given actual, fully equal consideration in the process. It might be the case that once individual interest-fulfillment has reached a certain threshold, citizens are equal enough in the relevant way for public equality. Such an attack has been levied against egalitarianism generally by Harry Frankfurt, who argues that “[w]ith respect to the distribution of economic assets, what *is* important from the point of view of morality is not that everyone should have *the same* but that each should have *enough*.”¹⁸⁶ While a full examination of this claim with regards to economic egalitarianism would take us too far off course, I think it is important to understand that this type of sufficiency view of *political* power would not satisfy Christiano's principle of public equality, nor would it likely satisfy any conception of the principle of equality more broadly construed. This is due primarily to political power being a *positional* good.¹⁸⁷ An example might help to clarify. Imagine that you and four friends are trying to agree on what movie to see tonight. In an attempt to give everyone an equal say, the group decides to vote on it. But rather than giving each member one vote, the group decides that Anthony, Phil, Leslie, and Garret should each get five votes, while you will only get one. It should be

¹⁸⁶ Frankfurt 1987, 21 (original emphasis).

¹⁸⁷ Estlund 2009a, 246.

obvious that in this situation that your interests are not being accorded equal consideration – neither publicly nor otherwise. This is because the practical value of your political input is importantly determined by the comparative weight of the political input of others. So while we can leave it an open question as to whether a sufficient *economic* threshold would be enough to respect the equal moral status of individuals, it seems obvious that a threshold of *political* power would not suffice.

Given the implausibility of this response, we must consider the impact that discrepancies in political knowledge will have on political equality. It is a generally accepted fact that the vast majority of citizens within a democratic state are ignorant about affairs of state. However, in addition to the average low level of political knowledge across the state, it is equally the case that there is great inequality in terms of those who do have the information necessary to promote their own interests. The maldistribution of political knowledge is extreme, with a small percentage of the population having ready access to vast stores of political knowledge, while the majority of the population hold but a minute fraction of the total amount of political knowledge.¹⁸⁸ Data collected by Delli Carpini and Keeter over a period of fifty years in the United States suggest there is “substantial inequality in how much people know;” the mean within the best-informed 30% of Americans demonstrate nearly three times the amount of political knowledge as the mean within the least-informed 30%.¹⁸⁹ The disparities in political knowledge “rival those found in the distribution of income and wealth,” and the distribution of political knowledge closely mirrors social standing in that women,

¹⁸⁸ Converse 2000, 333.

¹⁸⁹ Delli Carpini and Keeter 1996, 154.

African-Americans, and the poor are generally substantially less knowledgeable about politics.¹⁹⁰

Discrepancies in political knowledge would not signify political inequality unless it were the case that political knowledge impacts the way in which individuals vote. But research has shown (what may seem obvious) that the level of information voters have can have a drastic impact both on whether they vote at all, as well as the voting decisions they take.¹⁹¹ Both misinformation and the lack of information cause individuals to vote differently than they would had they more, or more accurate, information, and uncertainty about candidate traits can cause citizens to vote differently than they would under more certain knowledge conditions.¹⁹²

The result of the maldistribution of knowledge is that a merely procedural equality ignores what Anthony Downs referred to as democracy's inherent foundations for power inequality. It is not only the case that there is this discrepancy of political knowledge, but that the discrepancy can be mapped with a fair degree of consistency to differences in social and economic status. Women, racial minorities, and blue collar workers know less about politics on average, and this pattern has been consistently demonstrated across a range of modern democracies.¹⁹³ Not only are these groups less knowledgeable in the political sphere, but the abstention rate is higher in these groups as well. With such groups, as well as individuals who systematically lack political knowledge, it is likely that when they vote they are doing so on the basis of faulty or incomplete knowledge regarding the policies and candidates they are selecting from,

¹⁹⁰ Delli Carpini 1999, 32-3.

¹⁹¹ Palfrey and Poole 1987, 530.

¹⁹² Bartels 1986, 722-5.

¹⁹³ Tóka 2002, 42.

implying that even should their “favored” outcome prevail, it is likely not the outcome that is actually in their interests and that they would have voted otherwise had they possessed a greater quantity of political knowledge. Given the extreme lack of political understanding in much of the voting population, in many instances a citizen’s voting in a way which does promote her interests will be the result of random chance, rather than due to any intentionality on her part.

This is supported by further research which has shown that the socially unequal distribution of political knowledge introduces a systematic bias into the results of electoral politics. Chronically under-informed groups demonstrate a larger gap between actual voting behavior and “fully-informed” voter behavior; when controlling for other factors, individuals who share key socioeconomic and demographic features (and who ought therefore to have similar policy preferences) vote differently based on how informed they are. Although the “most informed” of a given demographic will tend to vote in one way, those who are less informed tend to vote otherwise.¹⁹⁴ The clear implication of these data is that (a) political knowledge is mal-distributed across social and economic groups of society, (b) under-informed voters do not vote the way that they would were they fully, or better, informed, and that therefore (c) the electoral behavior of lesser-informed citizens conveys less information about their preferences than does that of the better-informed, and (d) their interests are consequently promoted to a lesser extent. And “[b]ecause the likelihood of being politically informed is at least partially determined by access to other economic and social resources, the public sphere often becomes a mechanism by which differences in economic, social, and political power are perpetuated and even exacerbated, rather than serving as an arena in which

¹⁹⁴ Tóka 2006, 23-5.

socioeconomic differences are discounted and in which citizens engage with each other on relatively equal footing (the underlying promise of ‘one person – one vote’ and other notions of majority rule).”¹⁹⁵

The Dissemination of Political Knowledge

As I have framed it, the objection to Christiano’s dualism is of the following form: equal consideration of interests requires both that individuals have equal political resources in the form of procedural equality, and that they are publicly treated as equals in the decision-making process. Procedural equality is limited by a minimum outcome standard, which operates to ensure that individuals’ interests receive at least a modicum of consideration (in the form of preference-fulfillment) in those instances in which there are “clear public failures to satisfy the basic interests.”¹⁹⁶ The minimum outcome standard, however, fails to take into account the inequality in political power which will naturally arise as a result of the maldistribution of political knowledge throughout democratic society. If I am consistently uninformed or under-informed politically due to my position in society, then I will be unable to make use of my procedural equality to the same effect as those who have access to better information, regardless of the presence or absence of a minimum outcome standard. This is because the minimum outcome standard does nothing to address inequality beyond the basic minimum. We cannot say that political inequality beyond the ability to gain the basic minimum is not important – if it were not, then we would be left wondering why we should have democratic procedures at all? If the minimum outcome standard already generates all of the equality we need,

¹⁹⁵ Delli Carpini and Keeter 1996, 9.

¹⁹⁶ Christiano 2008a, 298.

then everything else is extra and democratic procedures can be jettisoned. *Only* if we care about political equality above and beyond the ability to secure the minimum provided by the minimum outcome standard do we still have a justification for democracy on hand.

The objection as framed to this point does not do enough to undermine Christiano's position, however. Christiano acknowledges the problem that discrepancies in political knowledge generate for democratic equality, and as a result argues that the principles of equal consideration of interest and public equality require democratic institutions to take on the task of disseminating the relevant information widely, thus ensuring that individuals have the means of informing themselves of how to advance their interests politically. The justification for this rests in a clarification of just what is meant by an "equal share in the resources for deciding the collective properties of society." By "equal political resources," Christiano means to refer not only to each individual having an equal say through the franchise, but also having the requisite *opportunity* to inform herself both of what her interests consist, and of how to advance them politically. For this opportunity to exist, there must be a social mechanism for the wide dissemination of relevant political information to the citizenry.¹⁹⁷

The problem with this approach is that the mere dissemination of information in a manner which guarantees equal access is still insufficient to ensure the equal consideration of interests. There is not merely a social maldistribution of political knowledge, or access to political information, but rather a difference in the *capacity* to understand and apply political information in the pursuit of one's own interests. Philip Converse famously postulated a distinction between "elite" masses and "public" masses

¹⁹⁷ Christiano 2003a, 65-6.

on the basis of his groundbreaking 1964 research into voter understanding of political issues. The average voter (a member of the public mass) does not have the same kind of underlying belief structure which organizes the political knowledge and ideologies of the elite. Members of the public mass are characterized by response instability – inconsistency of responses to political questions across time¹⁹⁸ – whereas elites demonstrate a sophisticated understanding of political issues organized around coherent abstract ideologies. Public masses additionally show a lack of coherence across political issues, and many fall into Converse’s lowest category of political competence: “no issue content” – voters who demonstrate no competence regarding the significance of policies and how they interact on an abstract level at all. Since the kind of political sophistication which characterizes elite masses is more common in the upper classes, the distribution of elite and public masses roughly reflects socioeconomic divisions, with the upper classes garnering a greater ability to understand and manipulate political knowledge and, therefore, the lower classes.¹⁹⁹

In addition to Converse’s own quantitative research, there is a great deal of more recent evidence in support of his theory. Delli Carpini and Keeter cite several studies, each of which shows that the politically sophisticated demonstrate attitude or response stability. The data suggests that political understanding has a substantial impact on the extent of response variability in panel studies and is a strong predictor of response stability. On the other hand, “the ideologically illiterate show a pattern closer to that of the classic non-attitude holder than one might think possible in empirical research.”²⁰⁰ In other words, those without an abstract understanding of the ideological bases of various

¹⁹⁸ Iyengar 1973, 800.

¹⁹⁹ Converse [1964] 2006.

²⁰⁰ Erikson and Knight 1993, qtd in Delli Carpini and Keeter 1996, 232.

political positions subscribe to such a wide variety of inconsistent political opinions that they may as well be responding to the prompts randomly. Meanwhile, political elites manifest more stable attitudes, and have been demonstrated to be more likely to change their attitudes in response to critical information and less vulnerable to propaganda than the less attitude-stable public masses.²⁰¹

Research conducted by Robert Luskin showed that political sophistication of the kind at issue here is determined to a greater extent by the ability to assimilate and organize information and the motivation to do so than by access to adequate political information. Not only that, but education, traditionally considered a strong determinant of political sophistication, was shown to have little to no correlation to political sophistication, once other important variables are controlled for.²⁰² The implication of this research is that the mere provision of information – be it through a public educational system or other institutional arrangement – is insufficient to equalize the political sophistication necessary to productively navigate the political system in furtherance of one's interests and preferences, and therefore is insufficient to provide an equal distribution of the political resources necessary to drive the equal consideration of interests in a democratic state.

Deliberative Dissemination, Deliberative Consideration

To some extent, Christiano anticipates this problem. In acknowledging the potential for large discrepancies in political knowledge and specifying that democratic institutions ought to ensure wide dissemination of political knowledge, Christiano turns to the value

²⁰¹ Delli Carpini and Keeter 1996, 233.

²⁰² Luskin 1990, 347-51.

of democratic deliberation. Deliberation plays a crucial role in ensuring political equality in Christiano's imagined democracy, helping voters to learn about their own interests and the interests of others, deepening voters' understanding of conflicting notions of justice, and strengthening the social bonds which hold together a political society otherwise divided on the basis of persistent political disagreement.²⁰³ Given the considerable power differential which can result from the maldistribution of political knowledge and understanding, public deliberation should be structured so as to ensure an egalitarian distribution of what Christiano refers to as the "cognitive conditions for the effective exercise of citizenship," as well as of opportunities to influence the political agenda and garner the equal respect which individual citizens ought to hold for one another.²⁰⁴

Christiano's introduction of the deliberative aspect of egalitarian democracy is informed by his principle of public equality, much as his promotion of a minimum outcome standard is. Thus he says:

Public deliberation is one of the main cognitive conditions for effective citizenship. *It is the main process* by which citizens learn about the issues and alternatives facing society. In it citizens come to appreciate alternate conceptions of justice and the common good. Citizens also learn about the interests of other citizens and about competing conceptions of the available empirical knowledge within the society. Finally, they learn a great deal about their own interests and their ideas about the common good to the extent that people respond to their accounts of their interests and the common good.²⁰⁵

According to Christiano, absent the kind of knowledge and understanding provided by egalitarian public deliberation, individuals would be highly likely to have their interests publicly given less than equal consideration. Given that diversity and disagreement in society are persistent and frequently irreducible, and given that individuals have a

²⁰³ Christiano 1996, 84.

²⁰⁴ Christiano 2008a, 197.

²⁰⁵ *Ibid.*, 198 (emphasis added).

tendency towards bias in favor of their own interests, even when not intending such a bias, citizens can not rely on their own interests being taken adequately into account in the public deliberation unless they are afforded an equal chance and ability to participate in the discussion. Were that equal chance taken away, a citizen would have a good basis for complaint that her interests were not being given equal consideration, and that further, she was publicly being treated as less than equal.

Ultimately, Christiano is relying upon public deliberation to fulfill the last of his egalitarian needs: ensuring that each citizen has an equal *ability* to see that their interests are considered in the decision-making process. This equal ability is the natural upshot, or so Christiano claims, of having equal access to the deliberative sphere and being given an equal chance to participate in, influence the agenda of, and learn from the deliberative process – or at least, an egalitarian deliberative process is the *primary* means of ensuring this more robust form of equality of resources in the political process. On this account, deliberation is not an ancillary to democracy – rather, it is a fundamental part of the democratic procedure, a procedure which consists not only in majoritarian voting, but also in egalitarian public forums where individuals have the opportunity to persuade others to their way of thinking. Christiano envisions “a process in which individuals and groups advance proposals for the organization of society and arguments for those proposals... a society wide [sic] process that takes place over a number of years.”²⁰⁶ With the addition of deliberation to our conception of the process, “having an equal say” can be comprised of more than just getting to vote, and an individual’s opportunity to influence the outcomes of political decision-making can be seen to be more robust. What’s more, the influence between the individual and deliberation goes both ways. The

²⁰⁶ Ibid., 192.

individual is able to utilize public deliberation in order to promote her interests through rational persuasion, but on the other hand, deliberation is also supposed to help the individual to reflect on her own beliefs, critically evaluate her preferences, and form more fully elaborated and articulated desires regarding the social organization.²⁰⁷

The turn to egalitarian deliberation also bolsters Christiano's reply to the problem of persistent minorities. Although some individuals may find themselves consistently in the minority when it comes to the vote, the opportunity to influence the votes of others through the deliberative process indicates at least some ability to ensure that their interests are considered. After all, if those in the minority are capable of persuading (at least some of) those in the majority to their perspective, then they have the ability to change the outcome of the decision-making process based on their defense of their interests. And even if their efforts ultimately fail at persuading members of the majority, if the majority were at least willing to consider the arguments presented by those in the minority, it seems like we have to say that the interests of the minority were given consideration.²⁰⁸

This latter argument suffers from a fatal empirical contingency. While it may be the case that members of a minority perspective receive consideration of their interests in those instances of true deliberative exchange, it is also the case that there are many circumstances in which majorities will simply refuse to consider the perspective of the minority. It might be the case that the majority is so convinced of its epistemic superiority that it does not feel it has anything to gain from actually *listening* to opposing

²⁰⁷ Christiano 1996, 86-7.

²⁰⁸ Lee 2001a, 131-2.

viewpoints.²⁰⁹ It might be the case that society has been greatly polarized around a few central issues, to the extent that those most passionate about politics are the very same who are convinced of their ideology's superiority. Studies have demonstrated that in the contemporary political landscape, those who are most passionate about politics are also the most convinced that those of opposing viewpoints are not simply wrong, but immoral and untrustworthy as well²¹⁰ – suggesting that the most passionate, and therefore most politically-involved, are likely to be unwilling to take into account the arguments offered by their opponents. Finally, it might be the case that the minority represents a discrete racial, ethnic, religious, or other group towards which the majority feels a strong prejudice. In this case, it is very likely that the majority's bias will prevent them from taking seriously the minority's interests, so that even if the minority are able to engage in the deliberative process, it is likely to be to no avail.²¹¹ We might take as a contemporary example of this phenomenon recent debates regarding the building of mosques or other Islamic centers within the United States. In many cases, the public debate has centered on whether the construction of such centers is disrespectful to the survivors of terrorist attacks perpetrated by Islamic extremists, but many commentators, pundits, and lay citizens have shown themselves unwilling to consider the interests, indeed the constitutional rights, of Muslims to practice the religion of their choosing.

That said, it need not be the case that individuals are intentionally or maliciously refusing to take the interests of some into account through the deliberative process in order for it to be the case that the process is insufficient to protect the equal consideration of interests. Recall our discussion of deliberative democracy from chapter three. There, I

²⁰⁹ Ibid., 132.

²¹⁰ Berwitz and Sinrod 2006.

²¹¹ Lee 2001b, 265.

highlighted some of the problems which arise from claiming that deliberation promotes the political equality of participants – problems which speak just as forcefully against Christiano’s turn in this direction.

First and most obviously, Christiano’s account of deliberation as providing the “cognitive conditions” for effective equal citizenship still fails to take into account the wide disparity of rational capacities across democratic citizens. Even if we could ensure, through some institutionalized version of public deliberation, that the kinds of knowledge required for personal interest-promotion through political action were disseminated widely enough that all citizens had equal *access* to said knowledge, this would not address the vast differences in individual abilities to parlay that knowledge into persuasive participation in deliberation. Not only will there be a wide range of cognitive capacities among the population, there will also be a large difference in *persuasive* abilities, such that many, though knowledgeable enough about political issues, will not be well-equipped to get their positions heard, understood, and perhaps accepted by others. The implication is that it would not necessarily matter if those in the majority on an issue were handicapped by prejudice or simply closed-minded; even if they had open minds and a willingness to listen, some members of the polity would still be unable to get their perspectives across. Such differences in persuasive abilities could come down to linguistic differences – the effects of Iris Marion Young’s “cultural imperialism,” for example – or to disparities in more abstract abilities, such as arguing publicly on the basis of reasons which others can relate to.

We also saw in chapter three that political deliberation, rather than correcting for socio-economically-induced accommodationist preferences, actually exacerbates them,

by allowing individuals who are manifesting such non-autonomous preferences the “equal” chance to promote what they take to be their interests on the basis of them. In other words, individuals who are already at a socio-economic disadvantage may, in an attempt to reduce cognitive dissonance, form their preferences on the basis of that disadvantage, and then utilize the deliberative process to further preferences which they only hold due to the inequality which is manifested in society’s maldistribution of resources. In this case, the preferences which they are promoting the fulfillment of may not be in their interests at all. It seems that Christiano would have to accept that this is a problem, given his commitment to the idea that interests are components of well-being, are not equivalent to the satisfaction of preferences, and in fact can be attributed to individuals whether or not they recognize them as such.²¹²

Most importantly, Christiano’s turn to deliberation in service of his aim of equal political resources suffers from the same deep conceptual problem which plagued the deliberative democrat. In order to validate the claim that the process of deliberation enhances the political equality of citizens, especially those who don’t get their way in the outcomes of political decision-making, it must be the case that the outcomes of voting are actually causally linked to the deliberative process. That is, deliberation must have some *influence* on the way in which people make their electoral decisions.²¹³ We saw one problem for this above in reference to the problem of persistent minorities – that we could not say that the chance to deliberate meant that the interests of minorities were being given equal consideration if others in society were unwilling to even consider the arguments of the minority.

²¹² Christiano 2003a, 44.

²¹³ Lee 2001b, 265.

There is a deeper issue than this, however. Recall that in our initial discussion of persistent minorities, we saw that in order to retain aggregativity, the principle of equal consideration of interests needs to be interpreted so as to require that individuals' interests have an equal *actual*, rather than potential, influence on political outcomes. While this actual influence does not have to be cashed out in terms of the outcome matching the individual's vote based on her interest, it does imply that an individual's or a group's interests cannot be consistently or systematically outweighed by competing considerations. In chapter three, the equal opportunity for influence in deliberation was characterized as an "equal *a priori* chance" to drive the deliberative body's decision. Although an equal *a priori* chance was seen to be inadequate for equal consideration of interests in our discussion of persistent minorities, here what is at issue is not an equal *a priori* chance to have one's favored outcome *win* in the electoral process, but rather an equal *a priori* chance to influence the beliefs and perceptions of other parties to deliberation regarding the best way in which to organize society.

The deep conceptual problem, then, regards how to systematize an equal *a priori* chance to influence the outcomes of deliberation. In chapter 3, I argued that an adequate understanding of the equalizing function of deliberation requires that we take into account that individuals come to deliberation from asymmetrical socioeconomic backgrounds, and bring with them disparate capacities to argue persuasively in favor of their preferred political outcomes. A substantive account of equality of opportunity was necessary to ensure that there exists an *ex ante* neutrality among political outcomes before deliberation is entered into, and that the outcomes of deliberation are determined solely on the basis of "the force of the better argument." It was seen to be clearly false

that given the same resources (political or otherwise), individuals could manifest the same level of persuasiveness on behalf of their interests within the deliberative context. Therefore, an adequate account of equality of opportunity was shown to require that we take a capacities approach, focusing not on equal outcomes but on equal possibilities. We should seek to equalize the best outcome which each individual *could* attain, given their resources and natural capacities, and in this manner shift focus onto the opportunities which individuals actually have while recognizing that some have a better capacity for converting resources into favorable political outcomes. The implication is that we ought not to seek institutions which equalize actual political results, but rather those which equalize individuals' abilities – conceived of as possibilities based on their social status, persuasive abilities, and so on – to influence the decision-making process.

Recall, however, that because it is impossible to judge the causal impact of individual's arguments on the outcomes of deliberation, it becomes near to impossible to judge whether substantive equality is being sufficiently maintained in terms of capacities to affect political decision-making. Since we are, again, not seeking to equalize the *actual* impact that individuals have on the deliberative process, the causal connection between persuasive capacities and outcomes is not clear. Without the ability to determine the causal impact of one individual's participation on the deliberation, we are left with no concrete understanding of what is necessary in order to guarantee an equal *a priori* chance to influence the outcomes of deliberation. Further, since we are not in a position to judge this causal connection, we are left without the ability to devise an institutional arrangement which adequately takes into account this requirement for *ex ante* equality.

Nail, Coffin:

At the end of the day, Christiano's egalitarian account of democracy is a complex and sophisticated account of the legitimacy of democratic authority. At each stage, he correctly anticipates the type and direction of objections levied at democratic theories from the direction of empirical social science. However, at each stage he is likewise stymied by the plague of the democratic theorist: with each attempt to sidestep an empirical objection, the theorist opens herself up to objections from a different empirical direction. Christiano's retreat from proceduralism to a quasi-outcome-oriented theory, and his ultimate turn to deliberation demonstrate this point more forcefully than any theoretical story I could invent on my own: in recognition of the problem the phenomenon of persistent minorities presents for the procedural democrat, Christiano devises a way to incorporate outcome-based standards into his otherwise procedural theory. In this way, he can claim that no *true* democracy would permit such a thing to happen – a true democracy being one predicated on the equal moral status of individuals as cashed out in terms of equal consideration of interests. This move towards outcome-orientation fails to rescue Christiano from another familiar type of objection, however, based in the wide discrepancies of political knowledge observed across contemporary and historical democratic populations. In order to address these kinds of empirical worries, Christiano must again revise the standard proceduralist theory in order to take into account the value of deliberation as it serves to educate citizens and give some political clout to those who might otherwise find themselves without it. However, this final turn towards deliberation proves also to open Christiano to the most decisive blow of all: despite its hypothetical ability to increase the political awareness and efficacy of citizens,

true egalitarian deliberation proves to be an impossible conceptual standard to define, systematize, and ultimately realize. There is not, among citizens, an equal capacity to parlay access to political knowledge and deliberation into consideration of one's interests, and absent an understanding of the causal connections between the relevant capacities and the outcomes of deliberation, we have no way to determine what distribution of political resources would generate such equality. Ultimately, Christiano's ingenious turn towards the virtues of deliberation results in his theory's being tainted with the same vicious brush as the full-on deliberative democrat's.

CHAPTER 5 DEMOCRACY IN THE REAL WORLD

*Although strictly deductive arguments have a place in democratic theory, their place is necessarily a small one, and they are embedded in crucial assumptions with which strictly deductive argument does not concern itself and probably cannot handle successfully.*²¹⁴

I have evaluated justifications for democracy from across the spectrum of literature, ranging from instrumental accounts which base their arguments on the value of democratic outcomes, to what may be called intrinsic justifications, which look not to the outcomes of democratic procedures, but to the value of the procedures themselves. This analysis has also surveyed deliberative accounts, which display both instrumental and intrinsic characteristics, as well as the sophisticated hybrid account offered by Thomas Christiano. I have proceeded on the assumption that although there was not space to evaluate every possible justification of democracy, that an analysis of theories from across this spectrum would fairly represent the alternative approaches available to the democratic theorist, as well as the empirical problems to which they are subject. The evidence amassed in the preceding chapters demonstrate the difficulty with which the democratic theorist is faced when trying to formulate a principled defense of democracy. On each approach, the theorist is hamstrung by the various empirical realities regarding the rational and self-interested capacities of individuals and political bodies, and the distribution of those capacities across the population.

The conclusion one might draw from the preceding chapters is that none of the arguments for the legitimacy of democracy have any merit at all. After all, each theory was shown to rely for its validity upon empirical assumptions which were proven false.

²¹⁴ Dahl 1989, 8.

An outright dismissal at this stage would be too quick, however. If it were the case that some of the empirical circumstances which work to undermine one or more of the theories under consideration could be changed, then we might be able to at least partially salvage a defense of democracy. This consideration motivates a closer look at the nature of the empirical data which has been brought to bear, as well as at the circumstances those data highlight, in order to determine whether all or some portion of the empirical hurdles standing in the way of democracy's justification could be removed, or at least substantially mitigated.

To this end, it is a helpful heuristic to consider the empirical problems which have been levied against the democratic theorist as existing along a continuum between contingency and necessity. On one end of the continuum are phenomena which are (or which closely approach) *necessary*, given social or institutional features of democratic society. The research conducted by Kenneth Arrow, Richard McKelvey, and William Riker demonstrating the lack of meaning in electoral outcomes is of this type, and ultimately it is this non-contingency of the objections to interest-based theories which will motivate their abandonment.

At the other end of the spectrum, however, there might be empirical circumstances over which we have more control. For example, it might be the case that we could mitigate the effects of socioeconomic disparities by enabling a more egalitarian distribution of economic resources within society. That some of the empirical circumstances undermining the justifications for democracy which we have reviewed may be of this latter type suggests two further questions: to what extent can the problematic phenomena cited in earlier chapters be mitigated through institutional or

other measures? And to the extent that such mitigation is possible, would an attempt at such mitigation be warranted, or even just? In order to gain a better understanding of exactly what would be involved in any attempt to clear the way empirically for democratic legitimacy, it is worth a more in-depth look at just what kinds of empirical worries are currently standing in the way.

Instrumentalism

In Chapter 2, we saw that interest-based accounts face a number of objections based on the behaviors and rational capacities of voting publics. We saw that interest-based accounts which construe democracy as valuable because it leads to individuals' abilities to pursue their own interests (construed as utility-maximization) through the vote rest on the important empirical presupposition that individuals are able to identify and pursue their interests effectively in the first place. This presupposition was shown to be false, in that individuals are susceptible to several extra-rational influences on their preference-formation, and as a result their identification of their own interests is itself faulty.

Although the rational (in)capacities discussed in this context can be held to a greater or lesser extent by different individuals, the interest-based theorist also has to contend with the problems of rational ignorance and rational abstention from voting – problems which are far less contingent in nature. Given the necessarily large scale of democratic governance in contemporary contexts, it will always be the case that an individual's chance of casting the decisive vote in an election will be close to zero, and as a result she will have no rational *motivation* to educate herself on the issues, or indeed to vote at all, in the pursuit of her interests. Rationally, her time and efforts are better

invested in more direct means of pursuing her interests. The problems of rational ignorance and abstention are *structural* features of large-scale democracy, and therefore cannot be adjudicated in any manner that retains the core features of this form of rule.

Most importantly, however, we saw that interest-based accounts which claim that the outcomes of voting procedures track the interests of citizens (however construed) must fail due to the fact that the outcomes of democratic decision-making are not reflective in any meaningful way of the inputs – this is the important result which political scientists such as Arrow and McKelvey demonstrated in the 1960s and ‘70s. The implication is that the role of the voter in producing outcomes which are valid *because they track voter input* is minimal at best, and interest-based accounts are resultingly severely undermined. As stated above, the intractable nature of these problems indicates that arguments in favor of democracy from the instrumental end of the spectrum must be abandoned entirely.

Deliberative & Egalitarian Democracy

On the other hand, while these theoretical objections show the interest-based approach to justifying democracy to be hopeless, it is worth asking whether the deliberative or egalitarian conception might be salvaged, given the right circumstances. The evidence I have presented against each of these theories has shown that the theories hang on important empirical assumptions regarding the capacities of individuals and voting bodies, as well as assumptions regarding the *distribution* of those capacities. However, this evidence leaves open the question as to whether it may be possible to mitigate some of the effects we have seen, and in so doing, potentially validate either the deliberative or

the egalitarian approach to justifying democracy. Furthermore, if it is the case that we could mitigate some of the conditions discussed in the preceding chapters, we must ask the additional question as to whether we *ought* to do so.

A large portion of the body of evidence levied against the deliberative theorist regarded the kinds of pathologies which plague deliberative bodies: deliberation underperforms mere aggregation in brainstorming problems; deliberation can result in outcomes which individual participants later come to regret; the process of deliberation has a magnification effect on prior bias and drives the polarization of the participants, especially when parties to the deliberation identify *a priori* with specific subgroups within the deliberating body; individuals with dissenting positions often have their opinions suppressed if they are in the minority from the outset. Not only was there a great deal of evidence amassed against the epistemic value of deliberative processes, but it was further argued that the kinds of pathologies observed in the studies cited are similarly likely to manifest themselves in larger deliberating bodies such as characterize political debate within a typical contemporary democracy. In many cases, in fact, these pathologies are exacerbated by the greater scope of actual political deliberation.

The damaging nature of deliberative pathologies to the deliberative democrat is reduced, however, to the extent that the deliberative theorist is prepared to abandon epistemic claims regarding the outcomes of deliberation. As we saw in chapter 2, at least some theorists are willing to do just that. For example, Habermas characterizes democratic legitimacy as “conceived as procedural rationality and ultimately traced back to an appropriate communicative arrangement,” rejecting any external moral, and presumably epistemic, constraints on the legitimate outcomes of deliberative decision-

making.²¹⁵ Given that the bulk of the justificatory work in deliberative theory comes from the direction of equal respect and the equal ability to participate in the deliberative process, to jettison any epistemic claims would not appear to greatly weaken a deliberative theory.

That said, the deliberative theorist was also subjected to further critiques based in the unequal economic status of citizens, and that inequality's impact on the cognitive and persuasive capacities of potential deliberators. Similar objections were levied against the egalitarian theorist, based in the maldistribution of political knowledge and comprehension throughout the polity, and the resulting unequal distribution of political *influence* available to voters through the franchise as well as, in the case of Christiano, their participation in deliberation. Both deliberative and egalitarian theorists make claims regarding democracy's ability to importantly *equalize* something. The deliberative democrat, I argued, is committed to the claim that deliberation gives citizens an equal opportunity to influence the outcomes of deliberation, while the egalitarian claims that having an equal say in political decision-making respects the basic moral equality of citizens by ensuring that political decisions are based on the equal consideration of citizens' interests. In each case, however, it was shown that democratic procedures (whether inclusive or exclusive of public deliberation) are unable to guarantee the kind of equality promised given certain *ex ante* inequalities between individual citizens. What appears to be the most damning evidence against each of these theories, then, regards inequality: not only inequalities in wealth, but also inequalities of political knowledge,

²¹⁵ Habermas 1996, 453; although I make the argument in Chapter 3 that both Habermas and other deliberative theorists are committed to at least some procedure-independent standards for the outcomes of political decision-making. Cf. pp. 83-6.

inequalities of political sophistication, and the resulting inequalities in the ability to bring one's interests and preferences to bear on political decisions.

As we saw in Chapter 3, simple economic inequality can have a large impact, both direct and indirect, on the opportunity individuals have to influence the outcomes of deliberation. In addition to the direct role that economic asymmetry plays in ensuring that some segments of society do not have the resources necessary to adequately inform themselves and take time to participate, such disparities can also contribute indirectly to deliberative inequalities. For example, economic disparities can lead to the generation of accommodationist preferences by those in disadvantaged positions, or contribute to the kinds of social divisions in society which reinforce linguistic cultural imperialism, reducing the persuasive abilities of individuals who are not in the linguistic majority.

The challenge of economic disparity may not be especially destructive to democracy's chances, however. Although such inequalities threaten the ability of individuals both to form authentic preferences and to deliberate productively with other members of society, ultimately economic disparities can be resolved or largely reduced, if desired, through institutional redistributive measures, while the indirect effects could be at least partially mitigated through educational efforts which focus on both linguistic and persuasive competence. While the question as to whether such disparities ought to be resolved is a complex one and will be considered later, greater educational efforts might also provide a relief to asymmetries in political knowledge within society.

The Importance of Political Knowledge

The maldistribution of political knowledge was shown in Chapter 4 to be not only large, but consistently so. And although the distributional problems of political knowledge and political sophistication were not given a full treatment until the discussion of egalitarian accounts in Chapter 4, such asymmetries also manifest themselves in the abilities of citizens to navigate and adequately harness the deliberative framework in their favor, indicating that these inequalities weigh heavily against *both* the deliberative *and* the egalitarian democrat.

An individual's level of "political knowledge" can be measured by her ability to respond to factual prompts regarding the structure of government, how the state functions, the identities of contemporary politicians, and their substantive positions on political issues. In an evaluation of vast quantities of survey data, Delli Carpini and Keeter demonstrated that over the last fifty years, it has consistently been the case that a very small proportion of American society knows a great deal about politics, while the vast majority of the population know far less.²¹⁶ A greater breakdown of the data regarding the levels of political knowledge shows that certain demographic groups such as women and minorities consistently demonstrate lower-than-average levels of political knowledge, and that this is the case across a range of modern democratic societies.²¹⁷

Inequalities in political knowledge can impact the equal voice of citizens in a number of ways, in both deliberative and procedural contexts. Recall from Chapter 4 that level of political knowledge has been correlated with the level of political

²¹⁶ Delli Carpini and Keeter 1996, 154.

²¹⁷ Tóka 2002, 42.

participation.²¹⁸ Voters who have more information about the policies or candidates in question are more likely to participate in the decision-making process, indicating that those with more knowledge actually have a greater involvement, and therefore a greater *impact*, on the outcomes of democratic procedures. Given that the maldistribution of political knowledge is strongly correlated with membership in minority groups, the implication is that entire demographics of society can be left with less political influence than their counterparts, exacerbating already-existing inequalities.

Disparities in political participation are not the only manifestation of inequalities in political knowledge in a democracy. As discussed in Chapter 4, Gábor Tóka found in ten years worth of survey data that a lack of political knowledge systematically caused voters to vote *differently* than they would have had they had full knowledge, implying that voters' ability to effectively pursue their interests electorally is negatively impacted by knowledge deficits.²¹⁹ Additionally, in a comprehensive study regarding the effects of mass media on voter perceptions of issues and candidates, it was demonstrated that voters with less political knowledge are more susceptible to media suggestibility regarding the relative importance of different political issues, and therefore to agenda setting efforts.²²⁰ The implication is that those with greater political knowledge are less likely to have their political priorities supplanted by those with greater control over media outlets than those with less.

How damning is the maldistribution of political knowledge to deliberative and egalitarian theorists, though? If it were the case that we could substantially reduce the relevant types of inequality, evidence from this direction might be less damaging to the

²¹⁸ Palfrey and Poole 1987, 530; Lassen 2005, 103.

²¹⁹ Tóka 2006, 23.

²²⁰ Iyengar, Peters, et al. 1982, 854-5.

theories in question. As it turns out, the distribution of political knowledge within society is an artifact that we do have some control over. Although it is a necessary facet of specialization in a large-scale polis that only a limited number of individuals can enter careers which encourage and drive the acquisition of political knowledge – such as politicians, lobbyists, and certain types of educators – formal education may be able to fill in some of this gap. In Delli Carpini & Keeter’s exhaustive review of the literature, they found that the one variable most strongly correlated with level of political knowledge was level of formal education.²²¹ Although the impact of actual *political* education (in the form of having had a high school civics course or college-level training in the social sciences) was negligible, citizens with *some* college-level education, of any content, were shown to be far more politically knowledgeable than those without.²²²

We could speculate as to the causal explanation of this correlation, but the important lesson to take away is that there are institutional measures available for the greater distribution of political knowledge: specifically, the provision of greater access to higher education, or other measures intended to bring about the same results. In fact, deliberative democrats often argue that deliberation *itself* serves an educative function in the distribution of political knowledge.²²³ To the extent that this claim can be substantiated, it would prove a compelling point in deliberative democracy’s favor, although early research in this direction suggests that engaging in deliberation does not significantly impact knowledge levels, once extra-deliberative learning effects are controlled for.²²⁴

²²¹ Delli Carpini and Keeter 1996, 189.

²²² *Ibid.*, 191; 278.

²²³ Thompson 2008, 509; Christiano 2008a, 198.

²²⁴ Muhlberger and Weber 2006, 2.

The potential equalizing effect of institutional remedies on the maldistribution of political knowledge may be limited by more deeply engrained social norms, however. As discussed above, traditionally disadvantaged groups such as women and minorities consistently demonstrate lower levels of political knowledge than their majority, male counterparts. This may be because historically, women and minorities haven't had the same educational opportunities as their male, non-minority counterparts. On the other hand, it seems no large leap to conclude that this artifact of the distribution of political knowledge is at least in some part a manifestation of inequalities which have persisted for centuries and which continue to be propagated in social customs and traditional mores. In at least some cases, access to higher education for these groups may not be enough to mitigate political knowledge disparities, and to the extent that traditionally disadvantaged groups continue to struggle to gain equality along other dimensions, it is likely that the discrepancy in political knowledge along demographic lines will persist as well, continuing to undermine political equality.

The Importance of Political Sophistication

Even absent concerns regarding traditionally disadvantaged groups, however, the institutional provision of greater political knowledge is not sufficient for the kind of equality needed by either the deliberative democrat or the egalitarian. The problem once again devolves to the issue of political sophistication, a topic which has gained significant prominence in the literature. Broadly speaking, political sophistication refers to the intellectual capacity of an individual to coherently organize and integrate political information across a broad array of issues and topics. As we saw in Chapter 4, political

sophistication is often associated with ascription to a comprehensive and abstract political ideology.

One popular view of political sophistication characterizes it as a product of ability, motivation, and opportunity: in order to form a comprehensive and coherent understanding of the political world, individuals require not only political information (opportunity), but also the cognitive capacity to filter and process that information (ability), and the interest or desire to do so (motivation).²²⁵ Although various institutional measures may be undertaken in order to mitigate the maldistribution of political information, it is more difficult to motivate political interest across different personality types or to provide the intellectual capacity necessary to adequately process the kinds of knowledge that political efficacy depends on. Although Philip Converse was the first to systematize the vast social maldistribution of political competence through his discussion of public and elite masses, the impact of this maldistribution on theories of democracy has been a subject of much discussion. The most prominent line of reasoning has been to assume that political sophistication, like political knowledge, was mostly a product of education, or else arose directly out of political knowledge, and therefore the effects of maldistribution could be at least partially mitigated through greater institutional efforts.²²⁶ One origin of this assumption may be in the belief that political sophistication can be measured via “simple tests of factual information about politics.”²²⁷ Research by Robert Luskin has undermined this popular view, however, demonstrating both that the studies which claimed to establish the correlation between education and political sophistication

²²⁵ Luskin 1990, 335; Delli Carpini and Keeter 1996, 8.

²²⁶ See, for example, Converse 1974, 731-2. It is precisely this kind of assumption which motivates Christiano’s turn to deliberation in his sophisticated hybrid account.

²²⁷ Zaller 1990, 125.

were flawed, as well as that political sophistication is determined to a far greater extent by native intelligence and interest in politics – ability and motivation, rather than opportunity.

Although previous studies have claimed to demonstrate the presumptive relationship between education and political sophistication, Luskin points out that these previous analyses have relied on the use of unjustified composite variables in their models, failing to distinguish between education on the one hand, and important correlates such as political interest, occupation, and native intelligence on the other. When the variables are appropriately separated out and their correlations examined in greater depth, the result is a much more complex picture which shows a series of non-linear interactions between variables such as individual and parental interest in politics, intelligence, education, occupation, exposure to political information in the print media, and exposure to the print media in general.²²⁸

Luskin's research ultimately concluded that education has no statistically significant effect on political sophistication, once other variables are appropriately controlled for. Instead what he saw was that *interest* in politics was the most influential variable – with its effects compounded by high levels of intelligence and politically-impinged occupation (the extent to which an occupation is political, governmental, or conditioned by government policies). In addition, intelligence and occupation were the next most influential variables on political sophistication. Growing up in a politicized family was also shown to have a significant effect on political sophistication, an effect which was again amplified by politically-impinged employment.²²⁹

²²⁸ Luskin 1990, 334.

²²⁹ Ibid. 343-7.

Although Luskin's is not the only research to have demonstrated the lack of significant correlation between education level and political sophistication,²³⁰ these results are still counter-intuitive. It seems a small intuitive step from the claim that education can provide political *knowledge* to the claim that it can provide political *sophistication*. One might try to explain Luskin's results away by arguing that education's effects may be hidden in the effects of the other variables considered. For example, it might be the case that although education is not directly correlated with sophistication, the two are indirectly correlated: education affects occupation, and occupation affects sophistication. This explanation fails, however, because Luskin's study focused on the political impingement of an occupation rather its status features, such as income level or the level of education associated with it. As it turns out, the political impingement of an occupation is tied only moderately to education (a farmer who needs to know about different government subsidies, for example, is unlikely to have an advanced degree), so any hidden effect of education through this variable would have to be minimal. Another possibility is that education's effects are manifested through the correlation between intelligence and sophistication. This effect would likewise have to be small, however. Education and intelligence are correlated, but those with greater native intelligence tend to do better, and therefore go further, in school, implying that the direction of correlation is intelligence to education, rather than the reverse. And really, we can explain education's lack of influence on political sophistication with a bit of common sense: the fact is that in a democratic society, there is no dearth of political *information*. Citizens are barraged with it through the media, in every day conversation – political *information* is legion, whether it is obtained through

²³⁰ See, for example, Bennett, Oldendick, et al. 1979, Graber 1984.

education or otherwise. What is missing for many is the ability to *organize* the information, retain it, and make use of it. And as Luskin points out, these skills are dependent on ability and motivation, not access to information.²³¹

The maldistribution of political sophistication has wide-ranging implications for any claims to equality of political influence. Those who are politically sophisticated have been shown to be better at understanding and pursuing their interests politically,²³² a finding which undermines the idea that given equal economic and educative resources, individuals could equally pursue their political preferences. Additionally, political sophistication has been strongly correlated with actual interest and engagement with politics,²³³ indicating that those with greater sophistication are not only more *competent* in the utilization of political resources, but actually more inclined to make use of them – compounding the inequality of influence.²³⁴

Political sophistication's correlation to intelligence, interest, and occupation demonstrate why the unequal distribution of political influence is so intractable. While the equalization of education, and therefore of political knowledge, is perhaps feasible, or at least approachable, native intelligence is not a feature that we have great ability to impact. It will simply always be the case that some individuals are more intelligent than others. Similarly, due to the demands of modern society, it will never be the case that we can ensure politically-impinged employment for all individuals – or that we would even want to. It is simply the case that society *needs* individuals to work in contexts which are largely insulated from political concerns in order to survive; we thrive on the basis of

²³¹ Luskin 1990, 348-50.

²³² Converse [1964] 2006, 54-6.

²³³ Inglehart 1979, 378.

²³⁴ Luskin 1990, 333.

occupational specialization. The result is that there will always be individuals who do not have professional motivations spurring their political sophistication. If there is a way to mitigate the vast discrepancies observed in political sophistication, then, it looks like it would need to be through the generation of greater levels of political *interest*.

On the one hand, it is difficult to see how we could further *incentivize* interest in politics. It is already the case that large incentives accrue to political influence, given the breadth and scope of the results of political decision-making. The high level of incentive here goes far towards explaining the large role which corporations have found for themselves in the political decision-making process within the United States, for example.²³⁵ On the other hand, given the vast *size* of the polis in contemporary democratic states, it is also the case that *individual* participation is structurally disincentivized. As discussed in Chapter 2, as long as democratic decision-making is conducted on a scale in which the individual's chance of casting the decisive vote is nearly nil, it is actually far more rational for the individual to devote her time and attention to more direct means of pursuing her interests than the political.

Another approach to increasing political interest – and through interest, sophistication and political effectiveness – might be to attempt to create a greater culture of civic morality; an emphasis on the responsibility each citizen has to the promotion of a greater society. How we might go about making such an attempt is difficult to conceptualize, however, and ultimately such an approach runs into a similar problem as any voting based on individual self-interest does: An individual can still look at the

²³⁵ This example is not intended to make any claim regarding the appropriateness of corporate influence over politics, nor to make a claim that the influence of corporations on the political sphere is unavoidable. The example is merely used to show that, given the *opportunity* to have a large influence over the outcomes of political decision-making, it appears rational to do so, and the actions of corporations who are given this opportunity bear this out.

unlikelyhood of her vote being decisive, and ask herself, “Why should I bother? My investment of time and effort into informing myself and voting will still have an almost zero percent chance of impacting the outcome of the decision.” So even if the voter feels in some sense morally obligated to bring about good civic outcomes, she may realize that in fact the *electoral* outcome almost certainly is not causally related to her actions. If moved to act at all, then she will focus her actions on extra-political means of bringing about civic improvements. This highlights the problem with partial solutions, such as requiring by law that individuals vote. Even if such measures address voter apathy by drawing voters to the polls, they still do nothing to increase voters’ motivation to educate themselves such that they can vote wisely in pursuit of their goals. The resulting outcome may actually be worse than if those who were uninterested and uninformed about politics simply didn’t vote at all.

The Justification of Mitigation

The argument to this point has proceeded on the basis of several important claims: First, that justifications of democracy at the instrumental end of the spectrum are unable to overcome the theoretical problems highlighted by mathematician Kenneth Arrow and his ilk. Second, that the largest empirical problems plaguing the deliberative and egalitarian theories of democracy are those regarding or related to the unequal distribution of wealth, knowledge, and political sophistication throughout society. Finally, that it might be worth at least exploring ways in which we might mitigate these inequalities and thereby perhaps salvage democracy’s justification.

The preceding discussion suggests that although asymmetries in the distribution of economic and educative resources could be mitigated via institutional measures such as redistributive policy and greater investment in education, asymmetries in political effectiveness as determined by level of political sophistication are more intractable. The discussion to this point has so far left unanswered the question as to whether we would be *justified* in any attempt to implement institutional measures to combat the inequalities which have been observed, and consequently whether we would want to.

One consideration relevant to this question is *how successful* attempts to mitigate the types of inequalities which have been cited are likely to be. If it is the case that we are likely to only partially mitigate these kinds of inequalities, then the next question must be whether partial success in the endeavor would improve the situation or make it worse. This is a difficult question to address, and it's not clear that it can be answered resoundingly in one direction or the other. It seems from what has been said so far that partially mitigating economic and educational differences, if possible, would at least present some benefit to those who are currently disadvantaged along these dimensions. At the very least, such measures could bring about a greater level and extent of equality in political resources for those individuals who have a minimal threshold of cognitive competence. On its face, such an improvement would at least have the virtue of increasing the relative level of potential political influence of those members of society who currently suffer political inequality due to an economic or educative deficit. On the other hand, we can easily imagine a scenario in which the partial rectification of educational asymmetries could cause more harm than good. It might be the case that, given a little more political knowledge, individuals would be more inclined to vote,

because they were more interested or simply because they felt more competent to represent their interests. However, it might be the case that these individuals are *still* not politically knowledgeable or sophisticated *enough* to adequately pursue their political goals, and the result may be that their decision to engage in the political process where they otherwise would not have does them, or society, more harm than good.

What's more, the evidence does seem to suggest that a good deal of political inequality devolves to a type of inequality which can't be easily reduced by intentional measures: an inequality of political sophistication, based in large part on intelligence, interest, and occupation. Given that this kind of inequality cannot be reduced, it is unclear whether the costs associated with trying to equalize more basic economic and educative resources would bring about enough of a change to justify the efforts. This problem is exacerbated both by questions regarding the identification of the causal connection between the capacities of individual citizens and political outcomes, which I will address shortly, as well as by issues of justice, to which I now turn.

Specifically, we must ask whether it would be appropriate for us to take the measures necessary to bring about what change we can, *even* assuming that change would be effective. The primary empirical hurdles for the democratic theorist to cross all appear to be driven by considerations of equality – equality of economic resources, equality of knowledge and education, and equality of political sophistication. To the extent that such inequalities can be lessened, this would have to in large part consist of redistributive measures which either directly or indirectly funnel wealth from the better-off to the worse-off in society. Given that this is the case, there is a big normative elephant in the room: does an adequate conception of justice permit the kind of redistributive measures

which would be demanded in order to bring about a more robust political equality than what is possible given the current distribution of resources?

The answer to this question is too large to even attempt in this context, however a few comments may be appropriate. Although disputes about the correct account of justice in distribution retain a sizeable portion of the ongoing dialectic within political philosophy, to the extent that we are intuitively inclined towards democracy, this might influence what we expect justice to demand; if we're unwilling to give up democracy, this should be reflected in the principles of justice we ultimately accept. Additionally, although whether we think justice requires, or is even compatible with, the conditions necessary for the justification of democracy is too large of a question to answer here, we should keep in mind that if we accept the theoretical bases of the deliberative or the egalitarian accounts of democratic legitimacy, this entails acceptance of a respect for the basic moral equality of citizens. Both the deliberative democrat and the egalitarian claims that democracy is valuable *because* it respects this basic moral equality by providing citizens with an *equal opportunity* to influence the outcomes of political decision-making. If we accept that this consideration is enough to justify democracy as a system of rule, or would be if successful, then it is not a huge stretch to imagine that it would be enough to justify certain redistributive institutions within democracy as well. That said, such a move would require further argument that the considerations which motivate the egalitarian and deliberative accounts of democracy and the necessary redistributive institutions are somehow more important than, or sufficient to outweigh, other important considerations of justice such as personal property and individual rights.

So, at the moment the dialectic goes something like this: before we attempt to bring about the kind of equality necessary to get either the deliberative or the egalitarian theory of democracy off the ground, it would have to be shown to be justified to do so. Whether it would be justified to do so is a question which relies heavily on one's theory of justice, and until a theory of justice is hammered out it is unclear whether certain institutional arrangements involving the redistribution of wealth and resources would be justified or not.

There are at least two additional concerns regarding the just implementation of institutional remedies to the empirical factors undermining democracy, however. First, given that we have decisively demonstrated that the interest-based justification for democracy fails, even if we *could* fix things so that either the egalitarian or deliberative account could work, we would still only be part of the way there. It might nevertheless be the case that the maximization of individual preference-satisfaction is the most important role for a political system to fill. If this were the case, then even if we could bring about the appropriate egalitarian distribution to justify democracy on deliberative or procedural grounds, we still would not have shown that democracy is the correct system of rule. This is precisely because we have already determined that democracy *cannot* fill the interest-maximizing role that economic theorists claim for it.

In addition, even if it were the case that we could bring about the circumstances such that one or the other of these accounts worked *and* show that this approach is more important than the interest considerations of the economic democrat, that would *still* not be adequate to justify the economic and social changes necessary for democracy's legitimacy on these accounts. This is because there are alternative systems of rule which

may be justifiable, given certain untrue assumptions about society or individual members of society – alternatives such as meritocracy or supermajoritarianism, for example. It might be the case that we couldn't justify these alternatives democracy given the current empirical circumstances, but that certain changes to the real world would be sufficient to get a justification off the ground. If this were true, why should we work to change empirical reality so as to make democracy justifiable, rather than meritocracy?

Ultimately, then, even if it is the case that we can mitigate those empirical circumstances which are problematic for the democrat, there would remain a great deal of theoretical work to do in justifying such efforts rather than efforts intended to accommodate some other system of rule.

Democracy, Capacity, and Causation

To some extent, however, this dialectic presupposes too much. Even if we fully understood the issues of justice surrounding redistributive efforts and could adequately defend privileging these efforts over efforts to accommodate some alternative form of rule, there remains the conceptual objection which was raised in both Chapters 3 and 4 regarding the causal relationship between citizen capacities, on the one hand, and the opportunity to influence the outcomes of political decision-making on the other. Recall that I earlier highlighted two problems regarding any attempt to provide an equal *opportunity* to influence the outcomes of political decision-making through the deliberative process. First, respect for the moral equality of citizens in the deliberative process, it was argued, required not that individuals have an equal *actual* impact on the deliberative process, but rather an equal *potential* to impact the outcomes of deliberation.

This was because the outcomes of deliberation are intended to be responsive to the best reasons and arguments offered during the deliberative process. We would not want it to be the case that bad reasons had an equal impact on the outcomes of deliberation as good ones – we want our deliberators to be responsive to the quality of the reasons being offered. On the other hand, a merely formal equality of opportunity to *participate* in the discussion does not appear sufficient to substantiate deliberative democracy's claims to promote substantive equality. That said, absent an understanding of the causal chain between rational and deliberative capacities and the outcomes of deliberation, it is unclear how we could determine whether individuals actually had an equal opportunity to impact political decision-making. As a result, it is also unclear how we could understand what is necessary to guarantee such equality. Second, given that we cannot determine the actual causal relationship between an individual's cognitive, deliberative, and persuasive capacities and their actual influence on the deliberative process, it would be difficult (if not impossible) to apply the requirement for the equal opportunity to influence outcomes to an institutional structure and determine whether that structure is actually producing the type of equality required.²³⁶ While this does not imply that it is impossible to bring about the kind of equality needed to ground claims to deliberative effectiveness, it does show that we could never determine whether our efforts to bring about such equality had succeeded or not.

To some extent, the causal objection is not as forceful as it may appear at first glance. While we may never be able to flesh out the full causal chain between capacities on the one hand, and the outcomes of deliberation on the other, it does seem like we can generalize on some of the findings above to conclude that a greater equality of education

²³⁶ Cf. pp. 92-4.

would bring us closer to political equality than what we have now. Likewise, we can generalize that a greater economic equality would be more conducive to certain kinds of equality as well. We can make these claims, at least, even if we can't get too particular or agent-specific with the institutional solutions proposed. Also, we should keep in mind that the turn towards deliberation for Christiano, at least, appeared to be motivated primarily by an attempt to address worries regarding inequalities of political knowledge and sophistication. To the extent that these worries can be addressed externally to the deliberative process, it is less clear that objections based on the causal connection of individual inputs to deliberative outputs have any bearing on egalitarian justifications of democracy broadly, or on Christiano's account more specifically. The causal story outside of deliberation is rather clear, after all: one vote counts for one vote, and if the emphasis is taken away from political persuasion and placed instead on political efficacy through the vote, then to the extent that the individuals behind those votes have equal capacities to make use of them, the causal problem is avoided.

At the same time, however, the causal problem brings out more than just the difficulty of designing an appropriate institutional solution for the deliberative context. It highlights the epistemic problem which plagues any attempt to mitigate the effects of inequalities on political influence. Absent a settled understanding of the extent of justice's egalitarian demands, and absent a settled understanding of how to institutionally achieve the appropriate distribution of economic and political resources, we are left to fall back onto democratic procedures. Neither theorists nor citizens can come to agreement on the correct principles or institutions of justice in distribution, and the enforcement of a particular view looks to theorists and citizens both like an unjust (or unjustifiable)

imposition. It is an awareness of these kinds of epistemic shortcomings which prevents theorists such as Christiano from committing themselves to more comprehensive egalitarian schemes or more invasive limits on the outcomes of democratic procedures. The implication is that until such questions of justice are settled to some satisfactory degree, we are left not only with empirical circumstances which debilitate democracy's justification, but also without the necessary normative grounding for any institutional efforts designed to attenuate those circumstances.

This is ultimately the puzzle which plagues the democratic theorist; a puzzle which seems to manifest itself over again at each level. On the one hand are democratic procedures, and the considerations which serve to ground them. On the other are empirical facts regarding the various inequalities which plague our world – facts which also serve to undermine the very grounding of democratic procedures. Proposals to mitigate the circumstances which undermine democracy's validity are seen and portrayed as themselves being undemocratic, as they can often take the form of limits to democracy's outcomes. While democratic remedies are a possibility, such remedies are demanding as they require the majority of citizens to acknowledge that circumstances require rectification as well as to agree on a solution. Add to this that democratic majorities are always shifting: alliances change with the issue of the day. The implication is that even should a democratic majority settle on a conception of justice and make efforts to implement the kinds of institutional changes that could contribute to the amelioration of the empirical obstacles to democracy's justification, those efforts are likely to be overruled or replaced by the next majority as alliances shift with time. Absent attempts to legislate in a binding way, the likely result is that no effort is ever

given a chance to fully play out, and the empirical obstacles are never fully mitigated. Further complicating matters, it is not clear that binding legislation (that is, legislation which includes in itself an inability to be repealed or reversed) is not itself undemocratic, as it removes political power both from present citizens in the future, as well as from future citizens who haven't had a say in the current decision-making process. Ultimately, then, the puzzle takes the form of a paradox: in order to salvage democracy, it looks like democracy must be sacrificed. A theorist such as Christiano might attempt to bite this bullet, by building limits to democratic outcomes into his justificatory story for democracy itself, but he did not appear willing to go as far as would be necessary to get the grounding democracy requires, and it is not clear that any theorist would – or that what would remain at the end could still be termed democracy, even in the very undemanding sense of the word that I have been using.

The implications of the intractability of these problems are at least twofold. First, if it is the case that we are still motivated to salvage democracy, then we need to start thinking about either radically different approaches to its justification, or radically different conceptions of *what democracy is*. The organization of democratic defenses into a spectrum ranging from instrumental to intrinsic is intended to show that accounts at either end – and those in between – are fatally flawed with regard to their empirical assumptions. Although the work done by such theories may be valuable in explicating the justice of democracy in an ideal world, the circumstances we live in are far from the ideal, and those justifications fail to adequately normatively ground democracy in the real world.

Second, given that we are unable at this time to offer an account of the justification of democracy which is not vulnerable to this kind of objection, the efforts of contemporary western democracies to disseminate this form of rule to other nations are severely undermined. While it is unclear what the normative implications may be for those societies which voluntarily and with popular support move their political institutions in the direction of democratization, it is clear that attempts to foist democratic principles on societies which have not moved in this direction under their own impetus cannot be justified absent a more robust understanding of their justificatory foundation.

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